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**(By Fax : 2877 5029)**

20 October 2017

Mr CHUI Ho-yin, Alvin  
Assistant Legal Adviser  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr CHUI,

### **Road Tunnels (Government) (Amendment) Bill 2017**

Thank you for your letter dated 7 September 2017, seeking our clarification on matters in the captioned Bill relating to the conveyance of dangerous goods in Government tunnels. Our response to your two questions is as follows.

#### *Question 1*

At present, the Tate's Cairn Tunnel By-laws (Cap. 393B) provide an exemption from prohibition against vehicles conveying dangerous goods of Category 2 and 5 of the Schedule to the Dangerous Goods (application and Exemption) Regulations (Cap. 295A) under emergency situations with the permission of the Tunnel Manager. Similar legal provisions were also found in the by-laws governing other Build-Operate-Transfer ("BOT") tunnels, namely Western Harbour

Crossing (“WHC”), Tai Lam Tunnel, as well as Cross-Harbour Tunnel (“CHT”) and Eastern Harbour Crossing (“EHC”) before their takeover. When CHT and EHC were taken over by the Government, the provision to allow passage of dangerous goods of Category 2 and 5 of the Schedule to Cap. 295A under emergency situations was not reprovisioned under the Road Tunnels (Government) Regulations (“the Regulations”) (Cap. 368A).

Currently, the supply of dangerous goods to the Hong Kong Island is by means of seaway with the dangerous goods vehicles conveyed by vehicular ferries. There is no alternative road-based means to transfer necessary dangerous goods which are classified as Category 2 and 5 of the Schedule to Cap. 295A (such as medical oxygen, liquefied petroleum gas, diesel fuel and petroleum) to the Hong Kong Island under emergency situations (for example, if the vehicular ferry pier in North Point is damaged and cannot be used) other than using WHC, which requires the prior agreement of WHC franchisee. This greatly constrains the Government’s ability to respond to unforeseen incidents and emergencies. Therefore, we propose, in Clause 6 of the Bill, to amend regulation 11 of the Regulations so that the exemption for vehicles conveying dangerous goods of Category 2 and 5 of the Schedule to Cap. 295A under emergency situations be retained and extended to all Government tunnels. The exemption will only apply to emergency situations (e.g. when transport by seaway is not workable), and the permission will be granted by the Commissioner for Transport with necessary conditions imposed.

Dangerous goods of Category 1 of the Schedule to Cap. 295A are classified as “explosives and blasting agents”. They are prohibited from being conveyed into any of the Government tunnels under the Regulations or any of the BOT tunnels under the respective by-laws. Only fire services vehicles, ambulances, police vehicles and vehicles used for defence purposes may be exempted in the course of urgent duty. For safety reasons and given that there is no specific need as in the case for dangerous goods of Category 2 and 5 as elaborated above, we do not seek to change the existing requirements in the Regulations.



*Question 2*

Conveyance of dangerous goods of Categories 3, 4, 6 to 10<sup>1</sup> of the Schedule to Cap. 295A in Government tunnels (other than CHT and EHC) is currently not subject to restriction. For CHT and EHC, regulation 11A of the Regulations confers power on the tunnel operators to grant permission and specify the hours for the conveyance of dangerous goods of Categories 3, 4, 6 to 10 of the Schedule to Cap. 295A. This is because CHT and EHC are road harbour crossings. Unlike other land tunnels, they do not have open-air alternative routes and any traffic incident in either of the road harbour crossing will cause more serious traffic congestions on their adjacent trunk roads. Hence there is a need to restrict the conveyance of dangerous goods of Categories 3, 4, 6 to 10 through CHT and EHC except under permission and in specified hours. Since Tate's Cairn Tunnel is a land tunnel, we consider it more appropriate to follow the arrangements for other Government land tunnels and hence have not incorporated the power prescribed in by-law 19 of Cap. 393B into regulation 11A of the Regulations.

Yours sincerely,



(Adrian LAM)  
for Secretary for Transport and Housing

C.C.

Department of Justice (Attn: Mr Manuel NG) (Fax: 3918 4613)

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<sup>1</sup> According to the Schedule to Cap. 295A, these categories of dangerous goods are corrosive substances (Category 3), poisonous substances (Category 4), substances which become dangerous by interaction with water (Category 6), strong supporters of combustion (Category 7), readily combustible substances (Category 8), substances liable to spontaneous combustion (Category 9) and other dangerous substances (Category 10).