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Dear Sir,

Compulsory Pilotage in Mirs Bay

Thank you for your letter dated 13 November 2018 to the Secretary for Transport and Housing on the captioned matter.

Consultation at the Legislative Council Panel on Economic Development

We consulted the Legislative Council Panel on Economic Development on 25 June 2018, vide LC Paper No. CB(4)1252/17-18(03), on the proposed amendments to the Pilotage Ordinance (Cap. 84) (the Ordinance) and the pilotage (Dues) Order (Cap. 84D). At the meeting, Members acknowledged the fact that the Government was legally obliged to implement compulsory pilotage in Mirs Bay. We also explained to Members that the ever-busier marine traffic in Mirs Bay would require us to implement compulsory pilotage in the region on safety grounds. Members supported our proposal to take forward the legislative exercise.

Legislative requirements

Under the Ordinance and its subsidiary legislation, visiting ships of 3 000 gross tonnage or over, ships of 1 000 gross tonnage or over carrying dangerous goods and gas carriers of any gross tonnage are required to be

under the pilotage of licensed pilots within the waters of Hong Kong, including Mirs Bay. In other words, it is a legal requirement to implement compulsory pilotage in Mirs Bay, the objective of which is to ensure the safe navigation of visiting ships as well as local ships in Hong Kong waters.

Although the then Pilotage Advisory Committee of the Marine Department (MD), having regard to the relatively light marine traffic in Mirs Bay as compared with that in other regions of Hong Kong waters and the remoteness of the area, decided to exempt vessels transiting Mirs Bay from the relevant pilotage requirement in 1998, the said 1998 decision was however subsequently found to be without legal backing. Our legal advice has confirmed that there is no provision in the Ordinance empowering the Government to exempt any area of Hong Kong waters from complying with this requirement. In the light of the legal advice, that is a need to resume compulsory pilotage in Mirs Bay as required under the existing legislation. To this end, we propose to establish three pilot boarding stations in Mirs Bay and to set the pilotage dues for the provision of pilotage service in the area.

Marine safety

Navigation risks in Mirs Bay

Your letter has suggested that there was no research or evidence to “substantiate the assertion of the increased risk of navigation”. We cannot agree to this. Regarding the marine traffic situation in Mirs Bay, it should be noted that the daily trips of ocean-going vessels (OGVs) has increased from an average of 17 in 1998 to an average of 36 in 2017, a growth of over 100%. In fact, as rightly pointed out in your letter, the size of vessels transiting Mirs Bay is increasing continuously and so is the associated navigational risk in this area. As an illustration, container vessels transiting Mirs Bay in 1998 had a maximum capacity of about 92 000 gross tonnage (GT), or about 8 000 twenty-foot equivalent units (TEUs), while in 2016 the maximum capacity of container vessels transiting Mirs Bay was about 196 000 GT, or about 20 000 TEUs. This clearly shows that the size of vessels transiting in the Mirs Bay waters has significantly increased over the past 18 years. Looking ahead, we see that deploying even bigger mega vessels is an increasingly common phenomenon in the maritime industry over the world. In addition, three additional Liquefied Natural Gas (LNG) receiving facilities are being progressively established at East Shenzhen in the proximity of Mirs Bay. To mitigate the navigational risk arising from the increasing vessel sizes and numbers as well as the presence of LNG facilities in the area, we have the responsibility to ensure that effective

measures recognised internationally to protect navigational safety, including compulsory pilotage, are properly implemented in local waters.

Function of the Vessel Traffic Service (VTS)

The VTS of the MD as described in your letter maintains surveillance over Hong Kong navigable waters so as to monitor and regulate vessel movements, as well as gives information and offers advice to mariners on the prevailing navigational conditions. However, VTS does not provide local knowledge, ship handling skills and emergency response assistance to ship masters in the same way that licensed pilots can provide. In other words, VTS will not and cannot replace the pilotage services provided by a licensed pilot. Moreover, it is not the intention of VTS to substitute pilotage services, nor can they replace the role and functions of pilotage services.

Good marine safety record in Mirs Bay

As your letter has rightly pointed out, marine safety record in Mirs Bay has been good over the years. Indeed, the excellent safety record of vessels transiting the area, including LNG carriers, is the result of the stringent traffic control measures and unfailing regulatory efforts of the MD, coupled with the vigorous design practices and operating standards carried out by the industry. When it comes to marine safety, we are not taking any chances. We need to be cautious and vigilant at all times. This is exactly why we see the need to implement compulsory pilotage in Mirs Bay as soon as practicable.

The contribution of pilotage towards marine safety in Mirs Bay

“Double pilotage”

You have suggested in your letter that our proposal would result in the need for both Hong Kong and Shenzhen pilots providing “double pilotage services for each vessel in Mirs Bay”. In fact, it is an international practice that pilotage service should be provided by locally licensed pilots whose competency is regulated by the corresponding administration. In Hong Kong, licensed pilots¹ are regulated by the Ordinance to ensure their competence. A licensed pilot, who is a master mariner familiar with the local marine environment and licensed under the Ordinance, advises the master of the visiting vessel on the safest navigational route within the waters of Hong Kong. The Ordinance expressly requires pilotage services within

¹ As defined under Section 2 of Cap. 84, licence means a licence issued under section 8(1), 9A or 25(2A) or renewed under section 9(2) or 9A (of Cap. 84) and licensed pilot shall be construed accordingly.

Hong Kong waters to be provided by licensed pilots, but not by pilots licensed outside of Hong Kong. Internationally, it is not uncommon for a ship passing through more than one jurisdiction to have pilots regulated by different administrations on board the ship, in order for a specific pilot to provide pilotage service as the ship sails over the waters of his port administration. For example, ships navigating through the American and Canadian waters in the Great Lakes region of North America will have to, as the ships sail through the respective waters of the two countries, engage pilots licensed in the respective jurisdictions for provision of pilotage services.

Safety of pilots and risks to vessels

Your letter suggests that the safety of pilots would be undermined and the risks posed to vessels would increase if pilotage services were made compulsory in Mirs Bay. Please rest assured that the proposed pilot boarding stations are carefully designed in consultation with the relevant statutory advisory committee, having regard to the usual shipping routes of OGVs and the marine traffic in Mirs Bay. Under our proposal, LNG carriers and container ships would not need to deviate from their usual routes for a pilot to board and disembark from the vessel in order to provide pilotage services. To shelter pilots from inclement weather and rough sea conditions during boarding and disembarkation, the proposed pilot boarding stations will be located in the part of Mirs Bay waters that are sheltered by the Dapeng Peninsular, protecting pilot vessels from prevailing easterly winds and waves which could be particularly strong in the region.

In fact, the transfer of pilots among vessels to provide pilotage service, as governed by the relevant regulations in SOLAS, is a ship boarding operation commonly found around the world. It is safe and has little impact on marine traffic when conducted properly. In the case of Mirs Bay, it could be conducted in the areas designated as pilot boarding stations where ship masters could safely slow down the ship while maintaining its manoeuvrability. To ensure that pilot transfer operations are conducted in a safe and orderly manner, the Vessel Traffic Centre (VTC) of MD provides traffic organisation service which regulates the sequence and separation of ships arriving at the pilot boarding stations.

Impact on the shipping industry

Representatives of liners proposed a pilotage due of around \$16,000 to \$18,000 per vessel, which was derived mainly based on the estimated time

needed for piloting a vessel through Mirs Bay as compared with that of other parts of Hong Kong. On the other hand, pilot representatives proposed that the pilotage dues for Mirs Bay be set at a level of around \$40,000 to \$45,000 per vessel. According to the pilots, the main reason for setting the dues at this level is the rougher sea conditions in and the more remote location of Mirs Bay, resulting in pilots needing to reach pilot boarding stations in Mirs Bay by tugboats. Having carefully considered the navigation safety in Mirs Bay, MD considers using tugboats for boarding and disembarkation of pilots the safest available means for pilots to provide pilotage services for the time being. The current proposal to set pilotage dues at around \$35,000 for a vessel of about 100 000 gross tonnage is in fact a result of MD's repeated mediation between pilots and liners. We are given to understand that the proposed pilotage dues represent about 1% of the total port cost of container vessels.

Operational and Procedural matters

Operational efficiency of vessels

As for the concerns on the operational efficiency of vessels using pilotage service in Mirs Bay as stated in your letter, since pilots would board and disembark from vessels at regular locations at an agreed time with the entire operation organised and monitored by VTC, the implication of pilotage service in Mirs Bay towards vessels' operational efficiency is predictable and indeed rather small. Similar transfers of Hong Kong and Shenzhen pilots have all along been taking place in the north-western boundary of Hong Kong off Shekou port safely and efficiently. It is also the common interest of both Hong Kong and Shenzhen maritime administrations to co-operate with each other to ensure navigational safety in their respective waters.

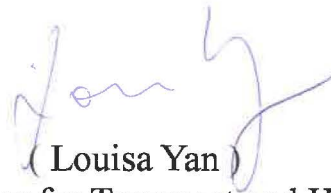
Implications on procedural matters

Your letter has also suggested that the implementation of pilotage in Mirs Bay would entail scheduling difficulties and potential delays to vessels. It should be noted that visiting vessels are currently required to apply for permissions to enter the waters of Hong Kong and Shenzhen and to report to the respective port administrations according to the regulations promulgated by each of the two port authorities. We do not see any reporting issues or procedural complexities arising from the resumption of the compulsory pilotage in Mirs Bay.

As for the concern regarding the adequacy of Hong Kong pilots in handing the traffic at Mirs Bay, the Hong Kong Pilots Association has confirmed that there are enough licensed pilots in Hong Kong to cater for the demand after resumption of compulsory pilotage in Mirs Bay.

We hope the above clarifies our position in implementing compulsory pilotage in Mirs Bay. In taking forward the proposal, we would continue to work closely with relevant stakeholders, with a view to addressing their concerns as far as practicable. I am sure you and your client will agree that ensuring and enhancing marine safety is of paramount importance to us. We look forward to working towards this common goal together with the relevant stakeholders in this regard.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Louisa Yan', is written over a faint, circular official stamp.

(Louisa Yan)
for Secretary for Transport and Housing

C.C.
LegCo Panel on Economic Development
(Attn. Ms Shirley Chan)