

## Development of a New Cruise Terminal at Kai Tak

### Summary of Market Feedback on Proposed Leasing Arrangements and Administration’s Response

A total of 16 written submissions have been received from terminal operators, port authorities, cruise companies, shipping agents, and Members of the Advisory Committee on Cruise Industry (ACCI). The proposed arrangements were also discussed at the ACCI meetings.

Some of the feedback sought more details on the proposed arrangement, such as maintenance responsibilities, insurance requirements, temporary supporting facilities, traffic arrangement and terminal facilities management etc., which would be stipulated in the future tenancy agreement.

Suggestions and comments on major areas, as well as our response, are summarised below –

Market Comments on Major Issues	Administration’s Response
<b>I. Basic Terms of Tenancy</b>	
<b>1. Length of Tenancy</b>	
<p>(a) The feedback generally considered the proposed lease term of 8 years with a break-clause at year 5 too short in view of the tenant’s investments in equipment, marketing and staffing etc. Also, during the start-up, it will take some time for the new tenant to grow the business and secure commitments from the cruise operators. For the tenancy to be viable, some suggested a minimum of 10 years tenancy, as well as an option to extend the lease term if the performance of the tenant is satisfactory.</p>	<ul style="list-style-type: none"> <li>● We note the market concern and are considering a longer tenancy term to enhance its certainty and viability.</li> </ul>

Market Comments on Major Issues	Administration's Response
<p>(b) A respondent, however, suggested that the Government should consider advancing the break option for two years (i.e. at the end of the third year of the tenancy) to enable early termination of the tenancy in case the operator underperforms.</p>	<ul style="list-style-type: none"> <li>● The Government will closely monitor the performance of the tenant to ensure that it meets the standards stipulated in the tenancy agreement, and comply with the provisions.</li> </ul>
<p><b>2. Rent</b></p>	
<p>(a) A respondent expressed concerns over the charging of the basic rent which will be calculated regardless of seasonal business fluctuations. Also, it suggested charging the turnover rent based on a percentage of net revenue of the Cruise Terminal instead of gross revenue.</p> <p>(b) A respondent enquired whether the amount of minimum basic rent and turnover rent will be negotiated with the successful tenderer, or be stated during the tender period.</p>	<ul style="list-style-type: none"> <li>● In Hong Kong, it is common for landlords to charge commercial rent based on gross revenue of the leased premises. The Government also adopts this charging method for many Government tenancies/contracts. For the off-peak season, the tenant could consider making the best use of the cruise terminal building for temporary non-cruise related uses (with prior approval of the Government).</li> <li>● We intend to require the tenderers to indicate the minimum basic rent and turnover rent in the tender submission.</li> </ul>
<p><b>3. Permitted uses</b></p>	
<p>(a) A respondent considered that most of cruise terminal operators possessed little or no commercial expertise in leasing commercial area. The respondent suggested the Government to consider separate leasing agreement for ancillary commercial areas.</p>	<ul style="list-style-type: none"> <li>● We note the concern but consider that the management of ancillary commercial areas and cruise terminal operation by one single tenant can achieve better co-ordination and enhance overall operation efficiency of the Cruise Terminal. We also note that many overseas cruise terminal operators are also</li> </ul>

Market Comments on Major Issues	Administration's Response
<p>(b) A respondent had reservation about the arrangement of holding temporary non-cruise related uses within the Cruise Terminal.</p>	<p>allowed to sublet portion of the cruise terminal for other commercial uses.</p> <ul style="list-style-type: none"> <li>● We intend to provide more flexibility to the tenant to maximize the use of the premises. The tenant can make its own commercial decision on any temporary non-cruise related uses, subject to the Government's approval.</li> <li>● We note that many overseas cruise terminals do allow non-cruise related uses within the cruise terminal, such as MICE, which should be complementary to the cruise terminal uses.</li> </ul>
<p><b>4. Alienation</b></p>	
<p>Some considered that the tenant should be allowed to assign or transfer within a Corporate Group.</p>	<ul style="list-style-type: none"> <li>● Similar to other Government tenancies, we intend to impose a restriction on alienation clause in this tenancy. We do not intend to allow the tenant to assign or transfer the tenancy to other party or within a corporate group.</li> </ul>
<p><b>5. Change in management team</b></p>	
<p>Some respondents commented that the landlord should inform the tenant of the reason for disapproving the revised management team and the tenant should be given an opportunity and adequate time to remedy the proposal.</p>	<ul style="list-style-type: none"> <li>● We note the suggestion which we will take into account when preparing the tenancy agreement.</li> </ul>

Market Comments on Major Issues	Administration's Response
<b>II. Operational Requirements</b>	
<b>6. Berths Allocation</b>	
<p>(a) Respondents in general supported adopting the proposed berth-allocation guidelines during the application periods when different cruise vessels have conflicts in booking berthing slots.</p> <p>(b) Some respondents considered that priority should be assigned to homeporting vessels instead of mega cruise vessels. One suggested that priority should be on first-come-first-served basis.</p> <p>(c) A respondent suggested that the berthing slots should be open for applications at a period earlier than the proposed 12-18 months in advance, so as to attract more cruise vessels to homeport at the Cruise Terminal.</p>	<ul style="list-style-type: none"> <li>● We note the market's expectation for giving priority to homeport/turnaround vessels, which is in line with international practice. We are fine-tuning the proposed berthing guidelines to encourage the development of Hong Kong as a regional cruise hub.</li>   <li>● We note that the industry practice is to allow for at least 18 months advance booking in the tenancy.</li> </ul>
<b>7. Berthing Fee and Charges</b>	
<p>(a) Respondents had no particular comment on allowing the tenant to determine the berthing fees and charges, except for a cruise operator who advised that the Government should control the fees and charges of the Cruise Terminal.</p>	<ul style="list-style-type: none"> <li>● In the face of the keen competition from the local and regional terminal operators, we see it more appropriate to allow the terminal operator flexibility in determining the fees and charges having regard to the market conditions.</li> </ul>

Market Comments on Major Issues	Administration's Response
<b>8. Security</b>	
<p>(a) Some respondents indicated that the provision of landscaped decks in the cruise terminal building may pose a security concern to the operation of the Cruise Terminal.</p> <p>(b) A respondent considered that the security personnel and machinery, which will incur significant investment in both procurement and maintenance, should be provided by the Government.</p>	<ul style="list-style-type: none"> <li>● We will take into account the concerns in the detailed design of the cruise terminal building. In addition, the terminal operator will be required to develop a security plan for the terminal taking into account the operation of the landscaped deck.</li> <li>● There are different models for security operation in cruise terminals worldwide. Some cruise terminal operators are required to provide their own security personnel and equipment.</li> <li>● We intend to provide some of the security equipment to the tenant for operation. A list of these equipment will be set out in the tenancy agreement. The tenant will be required to provide adequate security personnel to support the cruise terminal operation.</li> </ul>
<b>9. Traffic Management</b>	
<p>A respondent considered that the control of the traffic flow at the ground transportation area should be done by the Government.</p>	<ul style="list-style-type: none"> <li>● The ground transportation area is mainly provided for pick up and drop off of the passengers, visitors and crew. It forms an important part of the cruise terminal operation. We believe that management of ground transportation area by the tenant can achieve better co-ordination and facilitate smooth departure and arrival of passengers and visitors.</li> </ul>

Market Comments on Major Issues	Administration's Response
<b>III. Scope and Standard of Services</b>	
<b>10. Performance of the tenant</b>	
<p>A respondent suggested that the Government should set up a regular monitoring scheme to keep track of the overall services and performance of the tenant to ensure that it meets the standards as stipulated in the tenancy agreement.</p>	<ul style="list-style-type: none"> <li>● The Government will closely monitor the performance of the tenant to ensure that it meets the standards stipulated in the tenancy agreement. We intend to require the operator to submit an annual operation and maintenance report on various aspects including performance of service pledges, industry engagement activities, and other areas.</li> </ul>
<b>11. Promotion of Cruise Tourism</b>	
<p>(a) A respondent considered that the role of the tenant in attending the international conference should be defined clearly.</p> <p>(b) A respondent suggested a shared approach to “Promotion of Cruise Tourism” between the tenant and the Government.</p>	<ul style="list-style-type: none"> <li>● We expect the tenant to participate in the international conferences as a member of Hong Kong Tourism Board (HKTB) delegation and the tenant should provide necessary support and information to the delegation.</li> <li>● Whilst the HKTB would continue to promote Hong Kong as a regional cruise hub, we expect the tenant, as an important stakeholder of the cruise industry, to contribute by assisting the HKTB in the promotion through participating in international and regional conferences.</li> </ul>

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<b>12. Industry Engagement</b>	
A respondent commented that the Market Consultation Forum should be set up by the Government instead of the tenant.	<ul style="list-style-type: none"> <li>● The purpose of setting up a Market Consultation Forum is to ensure that the tenant will be able to meet market needs and stay ahead of market trends by engaging the industry.</li> </ul>
<b>13. Disclosure of Financial Information</b>	
A respondent had reservation on the disclosure of financial information such as costs and earnings to the public.	<ul style="list-style-type: none"> <li>● We do not intend to disclose the costs of the tenant to the public. We would strike a balance between transparency and the need to protect financially sensitive information.</li> </ul>
<b>14. Service Pledges</b>	
<p>(a) The industry in general welcomed the setting of service pledges to monitor the performance of the the operator A respondent, however, commented that the services pledges are not included in lease agreements overseas.</p> <p>(b) A respondent suggested a phase-in approach to establish service pledges</p> <p>(c) One respondent considered that it would be costly to fulfill the service pledges.</p>	<ul style="list-style-type: none"> <li>● The service pledges are an important consideration in evaluating the quality of the tender submission. We consider there is a need to set the benchmarks at the outset so that we can measure the tenant's performance against the benchmarks, and hold the tenant to its pledges.</li> </ul>

Market Comments on Major Issues	Administration's Response
<b>IV. Others</b>	
<b>15. Arbitration</b>	
A respondent proposed the Government to incorporate an arbitration mechanism into the tenancy agreement to resolve disputes.	<ul style="list-style-type: none"> <li>● We note the suggestion which we will take into account when preparing the tenancy agreement.</li> </ul>

**Tourism Commission  
Commerce and Economic Development Bureau  
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