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By FAX(2868 4643) & POST

Secretary for Transport and Housing
14-16/F Murray Building
Garden Road, Central
Hong Kong

5th January 2010

(Attn: Ms. Eva Cheng)

Dear Madam,

Re: Express Rail Link Alternative Proposal by The Professional Commons Limited

We act for The Professional Commons Limited (“our client”). Our client is a public policy think tank dedicated to research on public policies in Hong Kong. As you know, our client has recently conducted a study and published a public policy proposal regarding the construction of the Hongkong section of the Guangzhou-Shenzhen-Hongkong Express Rail Link (the “Proposal”). The Proposal was put together by a group of professionals who are experts on railway, engineering, planning, transport and other related professional fields. Our client publicly promotes the Proposal, as an alternative to the one currently suggested by your bureau, in the hope that both the public and the Government could determine which proposal is more cost-effective and serves better Hongkong’s long term interest.

However, we are instructed that in recent public statements issued by the Government, you and your officials had deliberately or inadvertently given several misleading statements to the public regarding the various features and details of the Proposal. They are as follows:

a) **Terminus Footprint**

The Proposal involves building a terminus at Kam Sheung Road which is smaller than that at the West Kowloon as proposed by the Government due to the ability of trains to pass to the south and to the depot without conflict with trains entering from the north.

However, the Government made an assumption, which our client strongly disagrees, that the terminus is of the same size as that at West Kowloon and hence needs a larger footprint and requires the realignment / diversion of the Route 3 Highway.

We are instructed that the above assumption is incorrect.

b) Need to divert Kam Tin River

When considering the alignment to the north, the Government assumed that the Kam Tin River needs to be diverted and hence requires resumption of new housing in Kat Hing Wai and Sha Po Tsuen. Indeed, when you study in details the alignment contained in the Proposal, you would notice that the aforesaid areas are avoided and does not require any major river diversion.

c) Kam Sheung Road Station

Although the Government was already told on 12 October 2009 that our client had proposals for both an underground and an above ground station, it was made clear that the above ground station was the preferred option and was the one being carried forward for more detailed development. However, the Government still presented our client's scheme with the arrival and departure concourses at underground only with a car park at sub-basement level inferring that this was how our scheme would be developed.

Had Government consulted our client further, they would have been advised that only minimal works would be underground with concourses and car parking either below or above the rail tracks.

d) Capacity for the Hong Kong Island Express

The Government's assertions are that the number of Airport Express passengers are proportional to the Hongkong International Airport ("HKIA") throughput capacity on the Airport Railway. This is misleading as the number of passengers on the Airport Express has remained roughly the same since the airport opening in 1998 notwithstanding the increase in HKIA throughput. The Government has thus given a misleading analysis of the capacity on the Airport Railway required for the Airport Express Service.

e) Train Graphs

At the Legco Railways Subcommittee ("the Subcommittee") meeting on 6 November 2009, the Government presented train graphs which showed a conflict of service with the number of trains proposed by our client. Nevertheless, these graphs failed to incorporate fundamentals of train scheduling utilising station dwell times. We are of the view that such failure of incorporation was a deliberate move to present a misleading picture to the Subcommittee. Our client has since produced train graphs, with the above fundamentals incorporated, to show that there would not be any conflicts. However, in an interview with the media on 31 December 2009, it is noted that the Director of Highways still repeated to the media that there would be 15 unresolvable conflicts in a 30-minute interval during the section between Kowloon Station and Hong Kong Station, which is untrue.

f) Protection of the Harbour Ordinance

A group at the Subcommittee meeting on 6 November 2009 relied on the "Protection of the Harbour Ordinance" ("the Ordinance") as a reason for requiring a very long span across the Rambler Channel for the Hong Kong Island Express. In that event, it is supposed that piers have to be constructed along the span. In an interview with the media on 31 December 2009,

this was taken up by the Director of Highways in his comments the Proposal. He said that a pier (or piers) in the Rambler Channel would pose difficulties. However, your Bureau or the Director of Highways should notice that principle and procedure are already laid down under the Ordinance for compliance and there is no suggestion that a pier or piers would not be accepted under the Ordinance since the Express Rail Link is considered by the Government to be a project of overriding public needs.

g) Construction Costs and Construction Programme

Due to those various incorrect or misleading assumptions made by the Government in respect of the Proposal, the Government accordingly made an incorrect estimate of the cost and time of construction under the Proposal.

In the circumstances, we are instructed to emphasize, which we hereby do, that as public officials, you or your Bureau should have a duty to present the Proposal to the public in a fair, non-biased and objective manner. Any misrepresentation or misleading comment about the Proposal made by your Bureau would tarnish and/or lower the professional image and reputation of our client as well as the individual professionals involved in preparing the Proposal.

We hereby request that you and your Bureau shall refrain from making any further similar misleading statements about the Proposal in all your future communication with the public and shall instruct your officials to do the same.

In the meantime, all our client's rights are reserved.

Yours faithfully,

Yip, Tse & Tang

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c.c. client