

3 October 2017

The Hon Mrs Carrie Lam Cheng Yuet-ngor, GBM, GBS  
Chief Executive  
Hong Kong Special Administrative Region  
Tamar  
Hong Kong

Dear Chief Executive,

### **Submission ahead Chief Executive's Policy Address 2017**

On behalf of the Australian Chamber of Commerce in Hong Kong (AustCham), we welcome the opportunity to present the views of our members as you prepare to deliver your first policy address as Chief Executive. We value the close relationship enjoyed by Hong Kong and Australia and we deeply value your continued engagement with the broader international business community on issues of importance. As members of the wider community, we are an intrinsic part of the fabric of Hong Kong society which has thrived on the city's dynamism, on its can-do spirit and on its fundamental pillars of rule of law, of freedom of speech and of economic freedoms. It is these principles which have allowed our approximately 1500 members to continue to flourish and to be part of what makes Hong Kong one of the world's leading international cities.

Representing a broad spectrum of Australian, Hong Kong and international companies, AustCham has endeavoured to contribute to the economic, social and sustainable development of Hong Kong over the past three decades. We eagerly await your first policy address which will spell out the roadmap articulated in your manifesto.

We have a deep commitment to Hong Kong and its future and you have our full support in ensuring that Hong Kong's role as a major international city is maintained. The chamber – and our members – is keen to support and assist you wherever possible to deliver on this agenda. Hong Kong and Australia have long enjoyed a special and mutually beneficial relationship and we look forward to this relationship continuing long into the future.

We offer the following recommendations for your consideration and look forward to articulating these further through our ongoing engagement with you and your administration.

#### **1. Free Trade Agreement (FTA) between Hong Kong and Australia**

Hong Kong has long held the position of being an ideal business partner for many jurisdictions. Currently, Hong Kong has secured favourable trading arrangements through Free Trade Agreements with China, New Zealand, Chile and the European Free Trade Association. It is currently in negotiation with, amongst others, Australia.

AustCham fully supports an FTA between the two jurisdictions as we recognise the importance of this long-established two-way flow of trade of goods and services. An FTA would ensure that this mutually beneficial trading relationship would be preserved and granted certainty.

We have lodged our submission with the Australian Government in support of the current negotiations, a copy of which has been shared with your administration.

We strongly support the administration's approach and support the negotiation of additional FTAs with other jurisdictions to enhance Hong Kong's status as a leading global business partner. We also recommend that FTAs be negotiated in line with the Belt and Road initiative and the Greater Bay Area.

We particularly welcome Hong Kong's FTA with ASEAN which is evidence of the important role the territory has to play in its own right in forging bi-lateral relationships.

## **2. Double Tax Agreements**

Hong Kong currently has 34 double tax agreements in force and is currently negotiating double tax agreements ("DTA") with 14 other jurisdictions. We support the efforts made by the government in extending its DTA network as this will enhance Hong Kong's status as a global financial hub and attracting additional capital investment into Hong Kong.

We support a DTA with Australia and will continue our advocacy efforts on this with the Australia Government as this will bring meaningful efficiency and benefits to a large number of Australian companies doing businesses in Hong Kong.

We would recommend that the Hong Kong DTA network be extended to the jurisdictions within the European Union and those within Belt and Road initiative.

## **3. Belt and Road, Greater Bay Area and CEPA**

AustCham is keen to learn more about the two-way opportunities arising from the Belt and Road initiative, the Greater Bay Area and CEPA. We note that many of our member organisations would have a significant contribution to make in the areas of innovation, infrastructure development, project financing, cyber security, bio-security, governance and professional services.

The Greater Bay Area in particular is an initiative to which we are paying close attention and we keenly await further information regarding how our members can engage and contribute towards bringing this vision to life.

## **4. Investment into Australia**

With a significant number of large scale infrastructure projects underway and in the pipeline, combined with the nation's stable investing environment, Australia is also an excellent location for Hong Kong based investors looking to diversify. Recent high profile investments by Hong Kong based companies demonstrate the ability of such companies to meet the demand for capital from Australia. Such investments continue to strengthen and build even closer ties between the two important trade and investment partners.

The chamber is keen to explore further partnerships to meet the ambitious infrastructure agenda in Australia which can continue to benefit Hong Kong companies with capital to deploy into comparatively safe, predictable and transparent investment locations.

We value such two way flow of investment which is enduring, committed to jobs creation and results in positive mutually beneficial outcomes for both Australia and Hong Kong. Such opportunities are founded in collaboration, rooted in law and based on the true spirit of partnership.

We value our Hong Kong investors who have brought this partnership to fruition over the years and we will continue to work with Hong Kong to safeguard our respective well-earned reputations as good, reputable and transparent markets in which to do business.

## **5. Innovation**

The chamber notes the need for Hong Kong to foster a greater culture of innovation and applauds the administration for seeking to address this as a priority. This is particularly relevant in the FinTech sector but has application across all aspects of Hong Kong from a Smart Cities vision through to digitisation and provides an improved platform for start-ups to flourish here.

As a world-leading innovation hub, Australian businesses have much to contribute to this initiative in order to drive the level of creativity and entrepreneurship required.

If Hong Kong is to remain a competitive, world-class international city, it is essential that this is addressed; there is a perception that the territory is slipping behind on this important and critical measure.

We would urge the Hong Kong bureaucracy and the government to role-model innovation, digitisation and creativity best-practice in order to lead this cultural shift across the broader Hong Kong market.

We encourage the Government to lead Hong Kong towards a Smart City, by using evidence-based techniques to justify the best regulation, promote a truly positive environment for innovation, protect foreign investment, and ensure our people have the right to benefit from innovation in a free market.

We hope that Hong Kong will become a world leader in the regulation of innovative and disruptive products, not through prohibition, but through world-class regulation based on sound science.

Services and products that have benefits to the society, economy and public health should be overseen by the Government with appropriate regulations, therefore enhancing innovation and improving the quality of Hong Kong people's lives.

### **a. Research and Development Tax Concessions**

We believe that Hong Kong should look to implement research and development tax concessions to encourage innovation and research expenditure in Hong Kong, which will ultimately benefit Hong Kong in the long term. Many jurisdictions like Australia, Singapore and China have recognised the significance of research and development and its benefits and have provided tax concessions to grow this area.

Attracting research and development will also attract relevant ancillary services into Hong Kong as well as introduce specialists to further the enhancement of research and development. It is noted that many jurisdictions like Australia and China use research and development tax concessions to focus development within specific sectors – Hong Kong could look at focusing innovation into the financial services sector. In this regard, we would strongly support the government with the implementation of initiatives to promote research and development.

### **b. Investing in social infrastructure – construction industry practices**

With an ageing work force and with the 3rd highest construction costs in the world Hong Kong must not only increase the focus on innovation and productivity in construction but actively encourage and enable organisations bringing new technologies, systems and practices into Hong Kong. Options would include:

- Adoption of more collaborative contract arrangements such as target cost or alliance to better enable innovation during project delivery
- Mandating the use of BIM and Virtual Digital Construction at both the design and construction phase of projects
- Providing more facilities during construction do enable use of more pre-cast and pre-fabricated solutions
- Review the outdated standards and practices adopted in the delivery of government projects including Resident Site Staff (RSS) and government body approval processes

To that end, we welcome our recent engagement with the Hong Kong Government’s Construction Industry Council on this matter and look forward to bringing fruitful and meaningful engagement leading to initiatives being undertaken within the sector.

### **c. Improved Safety Legislation in the Construction Industry**

Hong Kong lags behind many first world nations in Safety Legislation including Australia and the UK. A lack of strong legislation is effectively allowing much of the industry to avoid investing in the right safety methods and cultures with the result being a continued unacceptably high death rate in construction. This rate may increase given the issues associated with an ageing workplace. This legislation should start in the planning and design elements of projects.

#### **d. Increased certainty in Government Capital Works Spend**

Filibustering in recent years has seen significant delays in the roll out of government capital works spending. The impact on the industry is significant including:

- Inability to accurately forecast pipeline, forcing companies to lay staff off
- International companies leaving Hong Kong and taking their innovative and efficient methods with them
- Hong Kong talent leaving Hong Kong to pursue opportunities abroad

#### **e. Alternate Procurement Approaches**

Hong Kong's procurement methods are dominated by fixed price arrangements that encourage low cost bidding. Such low cost bidding approaches to both the design and construction phases of project delivery foster the development of heavy, over designed and inefficient outcomes.

The use of alternative procurement methods including alliance, target cost and incentivised models in other jurisdictions including Australia foster the development of projects that are more efficient; faster, safer and cheaper to build; easier and cheaper to operate and maintain; offer better amenity to the end users; and ultimately at a lower total lifetime cost to the project owners.

### **6. Data sharing**

AustCham is keen to learn more about the administration's approach to data sharing provisions, noting the recent amendments made to CEPA. Data protection is critical to our member companies in terms of their commercial presence in Hong Kong and their ability to plan with confidence into the future. Our members are keen to understand how Hong Kong intends to manage data privacy protection under the one country, two systems framework. This is especially relevant as Hong Kong articulates its vision to become a data hub.

We are watching this issue keenly as open information and economic freedoms are critical to Hong Kong, particularly in its role as a financial centre. A large part of this success is attributed to the intellectual property protections which are core to the growth of knowledge industries and the continued success of Hong Kong.

We look forward to ongoing engagement with your administration on this important matter.

### **7. Talent/ Workforce issues**

#### **a. Education**

If Hong Kong is to maintain its place on the world stage, it must retain a deep pool of talent with proficiency in English. This is essential for any international business seeking to do business in the territory.

AustCham always welcomes continued investment in the education sector as we see the importance of a well-educated, trained and skilled talent pool for the city's sustainable development. We encourage the Government to continue to work with overseas investors and education providers to establish their presence in Hong Kong. For the international communities, AustCham applauds more international school places and for the local community, an improvement in students' English proficiency will help maintain graduates to better build the city as an international metropolis.

We do, however, note that the phasing out of government funding for the ESF school system is placing an onerous, and in many cases prohibitive, financial burden on a wide group of Hong Kong and international families who do not have the means to access the international schools system.

### **b. Raising the retirement age**

Hong Kong's ageing population is leading to a major demographic crisis and calls for urgent and immediate action by the Hong Kong government to address the financial burden of a retiring workforce on a shrinking working population.

We ask the administration to take a more proactive stance in encouraging the private sector to increase the retirement age from 60, noting that the retirement age in Australia will increase to **67 by 2023**. We acknowledge that the administration has begun phasing this in for the civil service but we believe the private sector has been slow to follow, requiring a stronger policy response by government.

Not only is Hong Kong currently creating a serious problem for the next generation, it is also losing thousands of talented, experienced, productive 60-year-olds who are being forced out of the workforce. This impacts Hong Kong across a range of critical sectors including (and not limited to) education and professional services at a time when we can least afford to do so.

### **c. Visa liberalisation**

AustCham raises concerns about the inability to access the best global talent pool and of fostering two way exchange of cultural and professional understanding created by securing short-term business visas. These impacts on the ability of members to bring experts with specific skills to Hong Kong on a short-term basis as consultants or contractors, or even to participate in conferences or regional meetings, as well as the ability to provide internships for students from Australia.

The Australia Government's New Colombo Plan, a signature initiative supporting Australian undergraduates to live, study and undertake internships in the Indo-Pacific region, has encouraged a two-way flow of talent between the county and the rest of the region. Hong Kong is one of the host locations of the Plan, with around 15 scholars coming to Hong Kong every year. The Plan has deepened the bonds of friendship and understanding between Australia and Hong Kong for several years, and will continue to contribute to improving both countries' education standards.

We look forward to more similar programs in the future, which encourage diversity and benefit societies in both countries. We believe more government support is needed from the policy perspective, say, reviewing the application requirements for different visa types for overseas talent and the ongoing restrictions of changing visa types.

In line with this, AustCham recognises the critical need to address the shortage of qualified medical staff particularly doctors and specialists which is creating a major problem particularly for the public hospital system. This extends beyond the issue of visas and calls for a liberalisation of Hong Kong's current closed medical profession to the detriment of the community at large.

Hong Kong's regional competitors are building sustainable pools of talent through tertiary institutions - often in partnership with overseas universities or corporates. Australia has a strong record in tertiary education and AustCham encourages the promotion of talent exchanges and partnerships between Hong Kong and Australia.

## **8. Smart City Development**

AustCham welcomes the initiatives that HKSAR has launched to take the city forward for smart development. We look forward to more financial support and tougher standards to develop smarter and greener buildings as well as increasing focus on energy efficiency in support of the recently published Energy Saving Plan. Generally, smarter traffic systems are needed, such as the Electronic Road Pricing (ERP), and smart meters for the city's three million electricity customers empowering them to reduce their demand and better understand their energy consumption. The electrification of transport should be continued to expand – more support should be raised for electric buses and commercial vehicles such as tax incentives. The Government also needs to develop and implement green labelling, green project accreditation schemes, and public listing for green sector companies, adding climate and environmental risks to the consideration of investment portfolios.

AustCham submits that the Government should make a more holistic approach with top-down policy framework to facilitate integration at the implementation level across different bureaus and departments.

## **9. Financial Services**

### **a. Banking practices/ease of doing business**

AustCham members continue to report serious difficulties in opening and operating bank accounts in Hong Kong. While we understand the very valid regulatory drivers behind the need to monitor asset flows, it appears that Hong Kong's major banks are applying the regulations to such an extent as to seriously hamper the smooth and efficient operations of Hong Kong businesses. The impact is felt more keenly by SMEs and would also be a deterrent to Hong Kong being able to attract start-ups in order to grow its knowledge and innovation economy. In addition, long-standing members of the Australian business community report serious ongoing concerns in this area.

Central to Hong Kong's economic prospects is our ability to nurture a new generation of enterprises. SMEs are the lifeblood of thriving economies. The Government must continually focus on the ease of establishing new and growing existing businesses, and provide the right policies that are conducive to success. For example, the Government should avoid the temptation to over-regulate. Dedicated support is also needed to cut red tape, avoid the huge difficulties in issues like setting up a first time bank account, broadening the tax base, double taxation agreements, and changes to the tax regime to encourage more start-ups.

## **b. Regional Headquarter Tax Concessions**

A number of jurisdictions across Asia Pacific have introduced regional headquarter tax concessions to attract multinational corporations. Singapore, for example, is a jurisdiction that has introduced regional headquarter tax concessions and has resulted in many MNCs establishing their regional headquarters in the city. Given Hong Kong's positioning as a global financial hub and its relationship with China, we see this as a prime opportunity for Hong Kong to follow a similar initiative and to attract MNCs and mainland businesses to establish their headquarters in Hong Kong.

## **c. Group Tax loss relief**

To remain globally competitive and as a way of modernising their tax regimes, many jurisdictions across Asia Pacific have worked on ways to attract capital investment of MNCs into their jurisdiction. By way of example, Singapore introduced group tax loss relief in 2003 to encourage investment and reducing the downside risk of business operations. It is noted that Singapore did not experience volatility in its tax revenue as a result of implementing group tax loss relief. Further, Hong Kong is an outlier compared to all other developed taxing jurisdictions that allow group tax loss relief or tax consolidation.

Currently in Hong Kong, tax losses within an entity of a group cannot be shared to other profitable entities within the group. These losses are contained within this entity until these losses are fully offset against future profits. This disadvantages groups in Hong Kong which operate multiple businesses through separate entities against those which operate multiple businesses in one entity. From a pure risk perspective, entities which operate multiple businesses in one entity are potentially exposed to greater business risk. Taxpayers may prefer to undertake innovation and entrepreneurial investments in separate legal entities in order to manage risk contagion. Nevertheless, corporate groups tend to evaluate the group's performance looking at the group consolidated profits.

We see that with the introduction of group tax loss relief would greatly enhance Hong Kong as a global financial hub and attract MNCs to operate in Hong Kong. It would also ensure that Hong Kong corporate groups are treated in the same manner as their counterparts in many other developed taxing jurisdictions.

## **d. Asset Management**

We strongly support the ongoing efforts by Hong Kong to grow its financial services industry. The asset management sector plays a significant role in the financial services industry and we need to ensure that Hong Kong remains globally competitive in this sector. Over the years, we have seen the government incentivise hedge funds into Hong Kong through tax concessions and we would welcome and support further enhancement of these tax concessions to develop this sector. Further incentives designed to attract successful asset managers to Hong Kong, especially those from China should be encouraged so that Hong Kong maintains its status as Asia's leading asset management hub.

As one of the world's largest superannuation markets, Australia could contribute significantly to this development.



#### **e. Private Equity Funds**

Being a global financial hub, we strongly support the initiatives that have been undertaken by the government to attract and grow private equity funds in Hong Kong. The extension of the offshore funds exemption to PE funds reflects the government's intentions to further promote this sector. We would encourage the Government to consider further enhancements to the current incentives so as to support the private equity funds sector and to encourage investment by such funds into Hong Kong companies. This would enable Hong Kong companies to attract much needed capital and investment from Private Equity investors.

#### **f. Venture Capital Funds**

Somewhat consistent with Private Equity Funds, to remain globally competitive and to encourage innovation, we would support any initiatives and incentives undertaken by the government to attract Venture Capital Funds and Start-ups into Hong Kong. Many jurisdictions such as the US, Canada and China have in place various initiatives to attract Venture Capital Funds and Start-ups. Aside from tax incentives, many jurisdictions have also introduced various programs to grow this emerging sector including the implementation of programs which increase the domestic talent pool. Given Hong Kong's infrastructure and geographical location, we strongly encourage that further supporting initiatives and incentives to be undertaken for Hong Kong to remain globally competitive as a financial services hub. These include incentivising MNCs to inject capital and investment into Hong Kong as well as provide a "level playing field" for those international businesses operating in Hong Kong.

### **10. Environment**

#### **a. Brownfield Development**

In order to protect our green field areas, including country parks, and avoid the need for unnecessary reclamation, the Government should prioritise the use of brownfield areas for development. It is understood that large banks of land are held indefinitely and the Government should consider a policy (as is adopted overseas), where the land should be developed within a certain period of time or the Government has the right of resumption.

#### **b. Renewable Energy**

The new Feed in Tariff as part of the new power companies' Scheme of Control Agreement is a good initiative to promote the use of renewable energy. However, the Government should consider ways to streamline the approvals process (e.g. through the Building Department) for private parties to install renewable energy equipment. At present the time and cost of going through this process could deter private involvement and affect the success of the FiT scheme.

#### **c. Waste Recycling**

Once the new waste charging scheme comes into effect, there needs to be a viable option for recycling. AustCham asks the Government to consider financial incentives and land access to promote the recycling industry.

We urge the adoption of a 2030 Carbon Intensity Target for Hong Kong and to lower carbon fuel mix for the electricity grid with more gas and nuclear power, coupled with incentives for locally distributed renewable energy in line with the community's willingness to pay, as well as for optimising the use of energy generated from waste. For example, the waste heat from industrial processes could be used for desalination at power plants.

As Hong Kong stands to run out of land fill space within a short time and pollution is at record highs, more transparent and aggressive waste management strategies should be adopted, including incineration with latest plasma technologies, recycling, redesigning charging schemes and regional collaboration.

Hong Kong's per capita water usage is unsustainably high. We believe there is a direct correlation between low water charges and high consumption and believe with some directed policies and initiatives the situation could be reversed. AustCham reiterates its call to consider implementing more realistic price signals and water consumption levels.

Biodiversity in Hong Kong remains one of the key concerns of Austcham. The Government had a public consultation regarding this, for which AustCham made a submission, and is drafting a strategic action plan to sustain and improve biodiversity in the city. However, the business sector remains lukewarm at best and still does not seem to make the connection or appreciate this rather-difficult-to-understand area. Much more education, specifically in helping companies appreciate the connection between business and effective biodiversity is needed. The chamber would actively support the Government in such an initiative.

## **11. Housing Availability and Property Affordability**

Owning their own home is now an unaffordable dream for many people in Hong Kong, which may breed disillusionment with our city and our traditional values. Hong Kong's average wage to house price ratio (x 15) is almost double the next highest in the world (Vancouver) and figures suggest that even a 40-year old highly qualified professional who is born in the city is not able to afford to buy his/her own home due to the high property prices. Furthermore, the size of units being planned is not sustainable for family life.

AustCham encourages the Government to bring forward proposals to increase the supply of both public and private housing and to assist the many thousands living in sub-divided flats and cage homes. We also suggest increasing the availability of private sector properties for rent, noting that Singapore has removed the property tax concession for vacant properties in 2014, but we understand this still applies in Hong Kong. Australian recently introduced a vacant property levy to encourage rental stock to be made available freely to the marketplace.

Moderate prices and rents for housing and property would also benefit the business prosperity of the city. Hong Kong's high land price and high rent may strongly discourage start-ups and innovation, and they are one of the biggest concerns in the decisions of relocating talent to Hong Kong as housing for staff consumes most of the operative capital of an SME. AustCham fully supports a series of government measures to cool the property market.

## **12. Commercial and Business Development**

Regional rivals and fast-growing competitors have invested heavily in building capability in areas in which Hong Kong has traditionally taken the lead, including financial services (Shanghai and Singapore) and government's support and help for small business start-ups (Singapore and Shenzhen especially).

To strengthen Hong Kong's position as an international financial hub, the Government needs to further develop the local bond market and develop opportunities for the city as a part of the Belt and Road initiative with practical support and guidance on how local companies can enter these new markets in Central and South-eastern Asia. AustCham fully supports the establishment of the steering committee for the Belt and Road and the Belt and Road Office. We believe Hong Kong can make full use of the dual advantages of 'one country' and 'two systems' to seize the historic opportunity of the Belt and Road as well as the Greater Bay Area.

To further promote social and economic development of the city and enhance our competitiveness, AustCham also supports Hong Kong becoming a member of the Asian Infrastructure Investment Bank (AIIB). It is estimated that in the next decade, the need for investments in infrastructure across Asia will amount to US\$10,000 billion, including that devoted to fields of power generation, highways, railways, ports, transport, telecommunication, and agriculture. Given the AIIB's prospect and plans, and with its advantage of "One Country, Two Systems", Hong Kong can leverage its sophisticated financial and professional services and its regional network to make the best possible use of the substantial opportunities ahead.

AustCham will continue to work closely with all Government bureaus and departments and support Hong Kong's sustainable development and prosperity. We appreciate the HKSAR Government's continuous efforts to better the city in which we live.

As members of the international business community we continue to promote the importance to Hong Kong of an independent judiciary, the rule of law, economic freedoms and freedom of speech. These are the principles upon which Hong Kong has flourished and is the reason it continues to be one of the world's great cities. We are honoured to have the opportunity to be part of this discussion and offer this submission for your consideration.

Yours faithfully



Andrew Macintosh  
Chairman  
The Australian Chamber of Commerce in Hong Kong and Macau

*cc: Finance Secretary Mr Paul Chan  
Secretary for Commerce & Economic Development Edward Yau 11*