

LEGISLATIVE COUNCIL BRIEF

COMMISSION OF INQUIRY INTO THE CONSTRUCTION WORKS AT AND NEAR THE HUNG HOM STATION EXTENSION UNDER THE SHATIN TO CENTRAL LINK PROJECT : EXPANSION OF TERMS OF REFERENCE

INTRODUCTION

At the meeting of the Executive Council (“the Council”) on 19 February 2019, the Council ADVISED and the Chief Executive ORDERED that –

- (a) the terms of reference of the Commission of Inquiry appointed on 10 July 2018 (“the Commission”) be expanded to cover the construction works at the North Approach Tunnels (“NAT”), the South Approach Tunnels (“SAT”) and the Hung Hom Stabling Sidings (“HHS”) under Contract No. 1112 of the MTR Corporation Limited (“MTRCL”) under the Shatin to Central Link (“SCL”) Project (see location map at **Annex A**) as set out at **Annex B**;
- (b) the Commission be granted a further extension of time to submit its final report to the Chief Executive by 30 August 2019; and
- (c) Mr CHAN Chi King be appointed Secretary to the Commission from 1 March 2019.

PREVIOUS DECISIONS OF THE COUNCIL

2. On 10 July 2018, the Council ADVISED and the Chief Executive ORDERED, among other things, that –

- (a) a Commission of Inquiry be appointed under the Commissions of Inquiry Ordinance (Chapter 86) (“the Ordinance”) to inquire into the facts and circumstances

surrounding the steel reinforcement fixing works and any other works which raise concerns about public safety in respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under the SCL Project implemented by MTRCL (the Commission's terms of reference as approved on 10 July 2018 are at **Annex C**);

- (b) Mr Michael John HARTMANN be appointed Chairman and Commissioner and Professor Peter George HANSFORD be appointed Commissioner; and
- (c) the Commission should report to the Chief Executive within six months from the date of appointment (i.e. by 9 January 2019) or such time as the Chief Executive in Council may allow.

3. On 4 December 2018, the Council ADVISED and the Chief Executive ORDERED that the request of the Commission for an extension of time to submit its report to the Chief Executive by 26 February 2019 should be acceded to.

FURTHER DEVELOPMENTS

4. As there were missing "Request for Inspection and Survey Checks Forms ("RISC Forms") before the pouring of concrete for the NAT and the SAT, MTRCL issued non-compliance reports to the Contractor (i.e. Leighton Contractors (Asia) Ltd) in April 2018 and reported the incident to the Highways Department ("HyD") in June and July 2018. HyD has since asked MTRCL to furnish details.

5. On 20 December 2018, MTRCL informed HyD that in addition to missing RISC Forms, there were insufficient documentation for the NAT regarding a design change of some connections between reinforcement bars during construction from lapping of reinforcement bars to coupler connections, the extent of such change, and materials testing. MTRCL advised that they would make a proposal to verify the as-built conditions of the NAT and that they expected similar problems at the SAT.

6. On 24 January 2019, MTRCL informed HyD that they were unable to provide about 40% of the RISC Forms for the NAT. On 26 January 2019, MTRCL supplemented that some RISC Forms for the HHS were also missing.

7. During the meeting of the Legislative Council Subcommittee on Matters Relating to Railways held on 1 February 2019, MTRCL disclosed that only 27%, 37% and 64% of the RISC Forms for the steelworks could be found so far for the NAT, the HHS and the SAT respectively.

8. To date, MTRCL has not yet been able to provide full details regarding insufficient documentation for the construction works concerned, the extent and degree of this problem, and the implications of the incident for the commissioning, whether in its entirety or in part, of the Tuen Ma Line.

9. On 31 January 2019, the Chief Executive announced her intention to expand the Commission's terms of reference, subject to the approval of the Chief Executive in Council, to inquire into the irregularities that have recently surfaced in respect of the construction works at the NAT, the SAT and the HHS.

CONSIDERATIONS

10. The three works locations involved in the latest incident (viz. the NAT, the SAT and the HHS) are covered by the same works contract (i.e. MTRCL's Contract No. 1112 under the SCL Project) as the diaphragm wall and platform slab construction works at the Hung Hom Station Extension which are the subject of the Commission's ongoing inquiry. While the full facts of the incident have yet to be ascertained, the irregularities that have surfaced to date point to the need to look into the same systemic issues that the Commission has been concerned with under part (b) of its original terms of reference. Mr Michael HARTMANN, Chairman and Commissioner of the Commission, and Professor Peter HANSFORD, Commissioner of the Commission, are both well qualified to take on the additional task as they are already very familiar with matters concerning the implementation of the works contract in question as well as the overarching concession approach for

the implementation of the SCL Project. Expanding the Commission's terms of reference to cover the latest incident would enable a thorough inquiry to be completed within the shortest possible timeframe.

11. The expanded terms of reference of the Commission are at **Annex B**. The additional works locations and the related matters to be covered by the extended part of the inquiry are set out in (a)(2) of the expanded terms of reference. (b) and (c) of the original terms of reference have been retained as (b) and (c) in the expanded terms of reference and will apply to both the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under (a)(1) of the expanded terms of reference and the construction works at the NAT, the SAT and the HHS under (a)(2) of the expanded terms of reference.

12. The Commission is granted a further extension of time to submit its final report to the Chief Executive by 30 August 2019. The Commission may submit interim reports on any aspects of the inquiry as it may see fit under the terms of its appointment.

13. Following the expansion of the inquiry scope, there is a practical need for the continued provision of Secretariat support to the Commission to facilitate the early completion of the inquiry. The incumbent Secretary to the Commission, Mr CHAN Chi King, hitherto engaged on non-civil service terms under the established mechanism¹, has been appointed as Secretary under section 2(2)(c) of the Ordinance with effect from 1 March 2019 until the Secretariat of the Commission has fully discharged all its duties.

IMPLICATIONS OF THE PROPOSAL

14. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal has financial and civil service implications as set out in paragraphs 15 and 16 below.

¹ The Commission was originally required to submit its report within six months (i.e. by 9 January 2019) and was subsequently given an extension of time first until 26 February 2019 and then until 30 August 2019. Under the relevant arrangement, individuals may be employed on non-civil service terms at directorate level for a period not more than a year.

FINANCIAL IMPLICATIONS

15. Section 14 of the Ordinance provides that the cost of an inquiry conducted under the Ordinance shall be a charge on the general revenue. The financial resource requirements arising from an expansion of the Commission's terms of reference will depend on the approach to the inquiry that the Commission will adopt, the number of hearings it will conduct and the number of witnesses involved; it is not possible to give an estimate of the financial implications at this stage. We will seek to meet the funding required from existing provision. Should the need for supplementary provision arise, we will address it promptly in accordance with the established mechanism.

CIVIL SERVICE IMPLICATIONS

16. The Secretariat of the Commission, headed by a Secretary appointed under the Ordinance and staffed by a small team of civil servants, will continue to provide administrative support to the Commission until the completion of the inquiry.

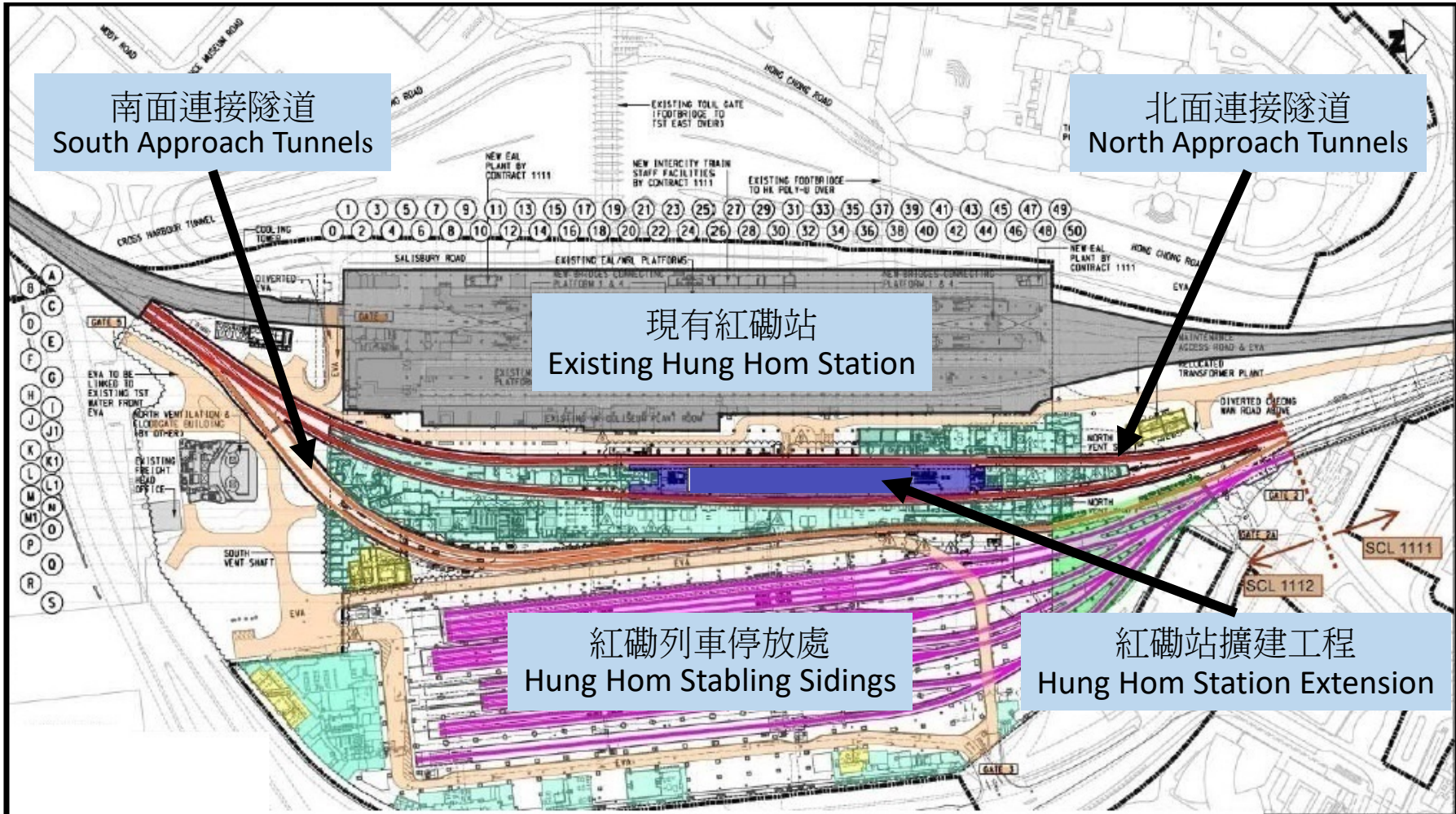
PUBLICITY

17. We will make an announcement by means of a press release. The expansion of the Commission's terms of reference will be published in the Gazette. A Government spokesman will be available for responding to media enquiries.

ENQUIRIES

18. For enquiries about this brief, please contact Miss Kitty CHOI, Director of Administration, at 2810 3838.

Administration Wing
Chief Secretary for Administration's Office
19 February 2019



香港鐵路有限公司沙田至中環線項目合約編號1112下的
北面連接隧道、南面連接隧道及紅磡列車停放處工程位置圖

Location Map Showing the North Approach Tunnels, the South Approach Tunnels and
the Hung Hom Stabling Sidings under Contract No. 1112 of the MTR Corporation Limited
under the Shatin to Central Link Project

**Commission of Inquiry into the
Construction Works at and near the Hung Hom Station Extension
under the Shatin to Central Link Project :
Expanded Terms of Reference**

Regarding the MTR Corporation Limited (“MTRCL”)’s Contract No. 1112 (“Contract”) of the Shatin to Central Link Project:

- (a) (1) in respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension,
 - (i) to inquire into the facts and circumstances surrounding the steel reinforcement fixing works, including but not limited to those works at locations that have given rise to extensive public concern about their safety since May 2018;
 - (ii) to inquire into the facts and circumstances surrounding any other works which raise concerns about public safety; and
 - (iii) to ascertain whether the works in (1)(i) and (ii) above were executed in accordance with the Contract. If not, the reasons therefor and whether steps for rectification have been taken;

- (2) in respect of the construction works at the North Approach Tunnels, the South Approach Tunnels and the Hung Hom Stabling Sidings,
 - (i) to inquire into the facts and circumstances surrounding any problem relating to the steel reinforcement fixing or concreting works, including but not limited to any lack of proper inspection, supervision or documentation of such works undertaken, any lack of proper testing of the materials used for such works and of proper documentation of such testing, and any deviation of such works undertaken from the designs, plans or drawings accepted by the Highways Department or the Building Authority;
 - (ii) to inquire into the facts and circumstances surrounding any works or matters which raise concerns about public safety or substantial works quality; and
 - (iii) to ascertain whether the works and matters involved in (2)(i) and (ii) above were executed in accordance with the Contract. If not,

the reasons therefor and whether steps for rectification have been taken;

- (b) to review, in the light of (a) above,
 - (i) the adequacy of the relevant aspects of the MTRCL's project management and supervision system, quality assurance and quality control system, risk management system, site supervision and control system and processes, system on reporting to Government, system and processes for communication internally and with various stakeholders, and any other related systems, processes and practices, and the implementation thereof; and
 - (ii) the extent and adequacy of the monitoring and control mechanisms of the Government, and the implementation thereof; and
- (c) in the light of (b) above, to make recommendations on suitable measures with a view to promoting public safety and assurance on quality of works.

**Commission of Inquiry into the
Diaphragm Wall and Platform Slab Construction Works
at the Hung Hom Station Extension
under the Shatin to Central Link Project :
Terms of Reference as Approved on 10 July 2018**

In respect of the diaphragm wall and platform slab construction works at the Hung Hom Station Extension under the MTR Corporation Limited (“MTRCL”)’s Contract No. 1112 (“Contract”) of the Shatin to Central Link Project,

- (a)
 - (i) to inquire into the facts and circumstances surrounding the steel reinforcement fixing works, including but not limited to those works at locations that have given rise to extensive public concern about their safety since May 2018;
 - (ii) to inquire into the facts and circumstances surrounding any other works which raise concerns about public safety; and
 - (iii) to ascertain whether the works in (i) and (ii) above were executed in accordance with the Contract. If not, the reasons therefor and whether steps for rectification have been taken;
- (b) to review, in the light of (a) above,
 - (i) the adequacy of the relevant aspects of MTRCL’s project management and supervision system, quality assurance and quality control system, risk management system, site supervision and control system and processes, system on reporting to Government, system and processes for communication internally and with various stakeholders, and any other related systems, processes and practices, and the implementation thereof; and
 - (ii) the extent and adequacy of the monitoring and control mechanisms of the Government, and the implementation thereof; and
- (c) in the light of (b) above, to make recommendations on suitable measures with a view to promoting public safety and assurance on quality of works.