

**COMMISSION OF INQUIRY
INTO THE CONSTRUCTION WORKS
AT AND NEAR THE HUNG HOM STATION EXTENSION
UNDER THE SHATIN TO CENTRAL LINK PROJECT
("the SCL Project")
("THE COMMISSION")**

(formerly 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)

**OPENING NOTE
BY COUNSEL FOR THE COMMISSION**

Procedural and Timetable Matters

A. Original time-table

1. By an email of 5 July 2019 (09:16) to all parties in the Original Inquiry ("COI 1") and the Extended Inquiry ("COI 2") [OW1/291], the parties were informed of further hearing dates for the Inquiry:
 - (i) **23-27 September 2019** (Monday to Friday). Substantive hearing to hear expert evidence in relation to structural engineering ("SE") issues (COI 1 and COI 2).
 - (ii) **4 October 2019** (Friday) & **8, 10 and 11 October 2019** (Tuesday, Thursday and Friday) - morning only for 11 October 2019. Substantive hearing to hear expert evidence in relation to project management ("PM") issues (COI 2 only).

(iii) **16-18 October 2019** (Wednesday to Friday). Substantive hearing to hear closing submissions by the parties (COI 1 and COI 2).

These dates were set following informal consultation with the parties' Counsel.

B. Initial Events after the Holistic and Verification Reports

2. The Holistic Report [**OU5/3229+**] and Verification Report [**BB16/9952+**] were published by MTRCL, with the approval of the Government, and provided to the Commission and the parties on 18 July 2019.
3. By letter dated 31 July 2019 [**AA1/187-195/COI 2**], the Commission explained its preliminary view that SE expert evidence might not be necessary in relation to the subject matter of **COI 2**.
4. On 7 August 2019, the parties in **COI 1** were directed to indicate whether they wished to file further SE expert evidence in relation to matters in the Holistic Report and if so, which topics they intended to cover by such further SE expert evidence. Given that the substantive hearing was due to resume on 23 September 2019, it was expected that all further SE expert reports (if any) should be submitted to the Commission no later than 13 September 2019 [**OU5/3354-3355**]. This was followed by a letter dated 10 August 2019 [**OU5/3420**], with a further direction that the parties should, apart from setting out the topics to be covered by their SE expert evidence, indicate the specific issues in relation to each topic in the Holistic Report a party intended to raise, provide reasons therefor and explain how the Commission might be assisted

by such evidence.

C. The Parties' responses

5. By Messrs O'Melveny's letter of 7 August 2019 [OU5/3380-3409][AA1/199-228], Leighton made an application to file a series of expert reports in COI 1 and COI 2:

(i) In COI 1, reports from:

- (a) Mr. Nick Southward COI 1 Report (SE Expert Evidence).
- (b) Mr. Barrie Wells COI 1 Report (Stat Expert Evidence).

(ii) In COI 2, reports from:

- (a) Mr. Nick Southward COI 2 Report (SE Expert Evidence).
- (b) Mr. Barrie Wells COI 2 Report (Stat Expert Evidence).
- (c) Mr. George Wall Report (PM Expert Evidence).

6. By letters written respectively on 8 and 9 August 2019 to Messrs O'Melveny [OU5/3416-3417] [AA1/231-233], Leighton was requested to identify the SE issues and amplify the reasons for its application to adduce statistical expert evidence (“**Stat expert evidence**”). This was particularly important as Leighton was the only party in COI 2 seeking to adduce SE expert evidence at that stage. All the other parties indicated that they had no intention to adduce SE expert evidence in COI 2. Messrs O'Melveny responded on 16 August 2019 and provided the requested Lists of Issues and explanation for COI 1 [OU6/3735-3739] and COI 2 [AA1/236-250].

7. In the meantime, both MTRCL [**OU5/3424-3425 and AA1/234-235**] and the Government [**OU5/3426-3427 and AA1/251**] submitted that given Leighton's position, they should be allowed to file responsive SE expert reports rather than filing their SE expert reports at the same time as Leighton.
8. In relation to Stat expert evidence, the Commission considered Leighton's application and made directions on 25 August 2019 [**OU6/3921-3923**][**AA1/266-269**] for such expert evidence to be heard between 23 and 27 September 2019. It has also, on 27 August 2019, made directions to take the evidence of Mr Dean Cowley on 23 September 2019. Mr Cowley is a witness of Leighton in COI 2. His witness statement was referred to in Leighton's Closing Submissions in respect of COI 2 and was only adduced on 19 July 2019, after factual evidence on COI 2 had been completed. The PM expert evidence in COI 2 remained to be heard in October 2019.
9. Given the possible number of statistical experts and SE experts, the short space of time for the experts to prepare the SE expert reports, and, as explained in emails of 25 August 2019 [**OU6/392-3923**][**AA1/266-269**], the fact that the Stat expert evidence would assist and inform the work of the SE experts and should therefore be heard first, the Commission varied and extended the time-table of the Inquiry hearing. The Commission concluded that it was clearly unrealistic to complete the expert evidence and closing submissions by October 2019 as originally planned. Before further dates were fixed, attempts were made to ascertain the parties' availability through their

respective counsel. The exercise, however, was not entirely successful as some of the parties did not feel able to fully co-operate. However, in fixing further dates, the availability of the parties was taken into account as far as possible, but inevitably compromises were necessary.

D. Directions

10. On 21 August 2019, the Commission gave directions with regard to the filing of PM expert evidence (COI 2) [AA1/261-262]. On 25 August 2019, the Commission gave directions with regard to the filing of Stat expert evidence (COI 1 and COI 2) [OU6/3921-3923] [AA1/266-269]. To date, the following PM expert reports and Stat expert/factual reports have been adduced:

COI 1:

- (i) Report of Barrie Wells dated 13 September 2019 (Stat/Leighton)[ER1/Tab 10]
- (ii) Report on Statistical Analysis dated 13 September 2019 (Stat/MTRCL) [ER1/Tab 11]
- (iii) Report of Professor Yin Guosheng dated 16 September 2019 (Stat/Government) [ER1/Tab 12]

COI 2:

- (iv) Report of Steve Rowsell dated 23 August 2019 (PM/Commission) [ER1(COI 2)/Tab 1]
- (v) Report of George Wall dated 20 September 2019 (PM/Leighton) [ER1(COI 2)/Tab 5]
- (vi) Report of Steve Huyghe dated 21 September 2019 (PM/MTRCL)

[ER1(COI 2)/Tab 6]

(vii) Report of Barrie Wells dated 13 September 2019 (Stat/Leighton)

[ER1(COI 2)/Tab 2]

(viii) Report on Statistical Analysis dated 13 September 2019 (Stat/MTRCL)

[ER1(COI 2)/Tab 3]

(ix) Report of Professor Yin Guosheng dated 16 September 2019

(Stat/Government) [ER1(COI 2)/Tab 4]

11. The following directions were subsequently made by the Commission on 27 August 2019 [OU7/9687-9690][AA1/271-274], namely that:

(i) **23 - 27 September 2019 (5 days)** would be used for the hearing of statistical expert evidence (as well as Mr. Cowley).

(ii) **4, 8, 10 and 11 (am) October 2019 (3.5 days)** would be used for the hearing of project management expert evidence (COI 2).

(iii) **2 - 10 January 2020 (8 days)(with 4 January also reserved)** would be used for the hearing of structural engineering expert evidence (COI 1 and COI 2).

(iv) **20 - 24 January 2020 (5 days)** would be used for the Hearing of structural engineering expert evidence (if necessary) or the hearing of Closing Submissions (COI 1 and COI 2).

(v) **29 - 31 January 2020 (3 days)** would be used for the hearing of Closing Submissions (COI 1 and COI 2)(if necessary).

- (vi) **10 - 12 February 2020 (3 days)** would be used for the hearing of Closing Submissions (if necessary).
12. On 29 August 2019, the Commission gave directions with regard to the filing of SE expert evidence (COI 1 and COI 2) [OU7/9691-9692][AA1/277-278]. Leighton's SE expert evidence was to be filed on 30 September 2019. The responsive SE expert evidence of MTRCL and the Government and the SE expert reports of the Commission (COI 1 and COI 2) are to be filed on 6 December 2019.
13. On 10 September 2019 [AA1/313-318], the Chief Executive extended the date for the submission of the Final Report of the Commission until 31 March 2020.
14. Leighton sought an extension of time for filing its SE expert evidence on 17 September 2019 [OU7/9951-9952][AA1/330-331]. The Commission granted approval on 20 September 2019 such that Leighton is now to submit its SE expert evidence on 11 October 2019 [OU7/9968-9970][AA1/347-349].

23 September 2019

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