

**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**

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**Rules of Procedure and Practice**

(made at the Preliminary Hearing on 24 September 2018)

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1. The Commission's proceedings will address the matters set out in its Terms of Reference stipulated in the Gazette Notice No. 5166 dated 13 July 2018.
2. Parties permitted to participate and/or be legally represented at the Inquiry will be referred to hereinafter as "the involved parties" or "involved party".

**I. General**

Public hearings

3. Unless otherwise directed, the hearings of the Inquiry will be open to the public.

### Prohibition on photograph, audio/video recordings without the authorisation of the Commission

4. Without the authorisation of the Commission, no photographs may be taken or audio/video recordings made in the Hearing Room, the hearing transmission gallery, hall area or any other areas in the former Tsuen Wan Law Courts Building (“the Building”) used for the purposes of this Inquiry.

### Language

5. The proceedings will be conducted in English, although witnesses may give their evidence in any language or dialect of their own choice. Testimony given in a language other than English will be translated into English. The Commission will provide simultaneous interpretation services when appropriate.

### Access to documents

6. The Secretariat of the Commission has compiled, and will update regularly, an index of documents and materials provided to the Commission for the purposes of the Inquiry. Any involved party who wishes to gain access to such documents or materials may apply in writing to the Secretariat of the Commission. At its discretion, the Commission shall determine whether or not, when and to what extent access may be permitted, and what conditions, if any, should be imposed upon the grant of such access. Given that access may be restricted and conditions may be imposed, documents and materials

provided to an involved party shall not be disclosed or disseminated to other involved parties or unrelated persons without the consent in writing of the Commission.

7. If access is permitted to any involved party, only soft copies of the documents and materials to which access has been permitted by the Commission will be provided. The cost of obtaining such copies shall be borne by the party obtaining such copies.

#### Use of materials provided by the Commission

8. All materials supplied by the Commission to any of the involved parties shall be used only for the purposes of the Inquiry. Public dissemination of any of such materials shall not be allowed until and unless they have been adduced as evidence and expressly referred to in the Inquiry.

## **II. Standing**

#### Written witness statements

9. Insofar as not already provided, the involved parties and other parties or individuals who have been directed by the Commission to provide written statements shall provide such statements by the date specified by the Commission, subject to applications for extension of time as approved by the Commission.

10. Any involved party who wishes to provide responsive written statement(s) to a statement provided by another involved party, other party or individuals, shall apply in writing to the Commission within 14 days from the date when soft copies of the documents and materials are provided under paragraph 7 above, and a draft of its proposed responsive written statement(s) shall be provided to the Commission with the application. Unless directed by the Commission, any further written statement(s) which is not responsive in nature will not be permitted.
11. Any involved party who wishes to adduce expert evidence on any issue relevant to the Inquiry must make an application to do so on reasonable notice to the Commission, and any such application shall be made to the Commission through its solicitors and accompanied by the provision of 3 copies of the written report signed by the expert concerned together with a soft copy. If the Commission grants any such application, it will give directions as to when the expert is required to be called to give evidence at the Substantive Hearing. The Commission will not grant any such application if it is not satisfied that the evidence to be tendered is independent expert evidence.

The participation and legal representation of other parties

12. Any party (apart from the involved parties), who wishes to (1) participate in the Inquiry (if leave to participate has not yet been granted by the Commission); (2) call any witnesses; and/or (3) adduce any witness statements and/or materials for the purposes of the Inquiry,

shall apply in writing to the Commission within 7 days from today (ie. by Tuesday, 2 October 2018).

13. If the Commission decides that an application referred to in paragraph 10 above be granted, the party in question shall (unless otherwise directed by the Commission) provide the witness statement(s) of the witness(es) to be called and/or material(s) to the Commission within such period as the Commission may consider appropriate.

### **III. The hearing procedure**

#### Opening addresses

14. Counsel for the Commission may make a written and oral opening address. Counsel for the involved parties may make their own opening addresses provided an application to do so (enclosing a written opening address which should not be longer than **20** pages and provided in font size 14 with single spacing and no footnotes other than for document references) has been made within 21 days from today (ie. by Monday, 15 October 2018). If the Commission accedes to such application, the oral addresses will be made immediately after the address of Counsel for the Commission. The Commission may determine the sequence and length of such oral addresses.

#### Evidence

15. The Commission notes that section 4(1) of the Commissions of Inquiry Ordinance, Cap. 86 provides that in conducting the Inquiry, it may:

*“(a) receive and consider any material whether by way of oral evidence, written statements, documents or otherwise, notwithstanding that such material would not be admissible as evidence in civil or criminal proceedings.”*

### The examination of witnesses

16. Oral evidence will be given under oath or affirmation.
17. The procedure by which the Commission will receive oral evidence is as follows:
  - (1) The Commission shall determine the sequence in which oral evidence be given in the Inquiry.
  - (2) Counsel for the Commission will lead the evidence of witnesses called by the Commission; Counsel for any involved party may apply to the Commission for leave to question a particular witness and the Commission will determine the sequence of cross examination by those Counsel whose application for cross examination has been granted; Counsel for the Commission may re-examine the witness.
  - (3) Unless otherwise directed by the Commission, Counsel for an involved party may lead the evidence of witnesses who testify on behalf of such a party, after which Counsel for the Commission may question such witness. Thereafter, Counsel for other involved parties may apply to the Commission for leave to question such witness and the Commission will determine the sequence of cross examination by those Counsel

whose application for cross examination has been granted. Finally, Counsel for the involved party leading the evidence of the witness may re-examine such witness.

- (4) Unless otherwise directed by the Commission, insofar as any witness wishes to adopt his or her witness statement as his or her evidence (with or without modification or elaboration), the contents of his or her witness statement are to be read out either by the witness or by his or her counsel.
- (5) At any stage of the Inquiry the Commission may ask questions of any witness.
- (6) The Commission may give directions to each party limiting the length of examination of witnesses and submissions.
- (7) The Commission shall inform all involved parties as and when the witness statements and/or expert reports of the witnesses to be called by the Commission become available.
- (8) The Commission may recall any person who has given oral evidence to answer further questions.

“Witnesses” referred to above shall include factual and expert witnesses.

#### Closing addresses

18. Counsel for the Commission and Counsel for the involved parties may make written and oral closing addresses. The Commission may

determine the sequence and length (both written and oral) of such addresses.

### The Substantive Hearing

19. The Substantive Hearing of the Inquiry shall commence on 22 October 2018 at 10 am in the Building.
20. The Substantive Hearing shall, subject to any adjournments that the Commission may consider necessary from time to time, continue until 16 November 2018 and shall resume from 26 November 2018 until 21 December 2018 (on a provisional basis).
21. Unless otherwise directed, the Substantive Hearing will be held from 10 am to 1 pm and from 2.30 pm to 5 pm every weekday. The Commission may consider the Substantive Hearing being held on Saturday mornings during the periods mentioned in paragraphs 19 and 20 above.
22. There will be a Real-time Transcript Streaming (“Transcend”) of the Substantive Hearing. Any applications for subscriptions to Transcend should be made in writing to the Secretariat of the Commission within 14 days of today (ie. by Monday, 8 October 2018), stating how many subscriptions are required and undertaking to pay the costs thereof. To view the real-time transcript during the Substantive Hearing, subscribers will need to use their own laptops or notebook computers and make arrangement with the service provider directly.



23. An electronic bundle has been and continues to be prepared for use at the Substantive Hearing. This will be managed by the Secretariat. All involved parties should be able to read pages in the electronic bundle during the course of the Substantive Hearing on monitors provided by the Secretariat.
24. Seating arrangements in the Hearing Room during the course of the Substantive Hearing will be determined by the Secretariat on a day to day basis. Seating for Counsel and Solicitors for the Commission will be fixed throughout the Substantive Hearing but the representatives of the involved parties will be allocated seats depending upon the witness giving evidence, those parties who have been granted leave to cross-examine the witness and any other factors that the Secretariat deems relevant. The Commission expects the parties' representatives to fully co-operate with each other in respect of the seating arrangements in the Hearing Room. Within 7 days of today (ie. by Tuesday, 2 October 2018), each involved party should nominate a single contact person and send his/her name, post title, name of firm, telephone number and email address to the Secretariat. The Secretariat will compile a contact list and use the list for disseminating messages in relation to seating and other hearing arrangements during the course of the Substantive Hearing.
25. At the discretion and determination of the Commission, each involved party may, subject to availability, be allocated a lockable room within the Building for its use for the duration of the Substantive Hearing.