

**COMMISSION OF INQUIRY INTO THE CONSTRUCTION  
WORKS AT AND NEAR THE HUNG HOM STATION  
EXTENSION UNDER THE SHATIN TO CENTRAL LINK  
PROJECT APPOINTED PURSUANT TO SECTION 2 OF THE  
COMMISSIONS OF INQUIRY ORDINANCE (CAP 86) ON 10  
JULY 2018**

**2<sup>nd</sup> WITNESS STATEMENT OF LEUNG MAN HO**

I, LEUNG Man Ho (also known as Jonathan LEUNG), Government Engineer/Railway Development(1) of Highways Department (“**HyD**”) of Upper Ground Floor, Ho Man Tin Government Offices, 88 Chung Hau Street, Ho Man Tin, Kowloon, do say as follows:-

1. I head the Railway Development (1) Branch of Railway Development Office (“**RDO**”) of HyD since 1 December 2015. I am the same Leung Man Ho who gave a statement dated 7 September 2018 [G3/2075-2087] for HyD to the Commission of Inquiry into the Construction Works at and near the Hung Hom Station Extension under the Shatin to Central Link Project (“the **Commission**”).

2. I make this 2<sup>nd</sup> Witness Statement pursuant to the request of the Commission set out in a letter from Messrs. Lo & Lo to the Department of Justice (“**DoJ**”) dated 4 April 2019 (“**NAT Letter**”) regarding the works of the North Approach Tunnels (“**NAT**”). I understand that the Commission has also requested the Government to give evidence regarding the works of the South Approach Tunnels (“**SAT**”) and Hung Hom Stabling Sidings (“**HHS**”) respectively, in two other letters from Messrs. Lo & Lo to the DoJ also dated 4 April 2019 (“**SAT Letter**” and “**HHS Letter**” respectively). Save where otherwise appears, the facts deposed hereto are within my personal knowledge or are derived from office files and records and sources to which I have access, and are true to the best of my knowledge, information and belief. Save as otherwise specified, this statement adopts the same abbreviations and nomenclature used in those letters. Further, for the purpose of this witness statement, I rely on the chronology of events (“**Chronology**”) updated up to 8 May 2019 to be provided by the Government.

3. The evidence requested in the NAT Letter relates to the following three issues: (i) three defective stitch joints (the “**Stitch Joints**”) were found at NAT (“**Issue 1**”); (ii) non-compliance issues at the NAT Shunt Neck (“**Issue 2**”); and (iii) lack of RISC forms, inspection and supervisory records and deviation at NAT, SAT and HHS (“**Issue 3**”).

4. This statement provides my answers to (i) Questions 7-9 (which deal with the role and work of PYPUN-KD & Associates Limited (“**PYPUN**”)) in the NAT Letter, and (ii) Questions 25-26 in the NAT Letter. In relation to the other Questions in the NAT Letter, I understand that other Government officers will provide witness statements to assist the Commission.

### **Role and work of PYPUN**

5. The role and responsibilities of HyD, as assisted by its Monitoring and Verification (“**M&V**”) Consultant i.e. PYPUN, under the “check the checker” approach have been set out in paragraphs 16 to 22 of the witness statement of Mr. CHUNG Kum Wah (former Director of Highways) [G3/2063 to 2065].

6. The M&V work carried out by PYPUN in relation to the works of NAT, SAT and HHS is, by and large, the same as that for the Shatin to Central Link (“**SCL**”) Project as a whole, the details of which have been described in paragraphs 17 to 22 of my first witness statement [G3/2079-2081]. Apart from supporting HyD in monitoring the work of MTR Corporation Limited (“**MTRCL**”) as the project manager, PYPUN also assists the BO Team<sup>1</sup> in respect of the compliance with the Buildings Ordinance (Cap. 123) and other relevant ordinances, regulations and standards (see Clause 4.1(d) [G9/7654] of the M&V Consultancy Agreement dated 20 August 2012 [G9/7638-7753] (“**M&V Agreement**”)). I understand that the relevant officer(s) of the BO Team will provide statement(s) to address the M&V Consultant’s role in this aspect.

7. As part of its scope of work, PYPUN has been carrying out

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<sup>1</sup> Staff from Buildings Department are seconded to HyD to form a BO Team. The BO Team provides advice on the building safety standards, practices and procedures of the Buildings Department.



monitoring on MTRCL's work through review of project documents and necessary site inspection, identification of and provision of advice on key issues of the SCL Project on cost, programme and public safety (see Clauses 4.1(b) and 6.3 of the M&V Agreement [G9/7654 and 7660-7661]). PYPUN also submits progress reports and attends progress meetings with HyD on a monthly basis (see Clause 9 of the M&V Agreement [G9/7668]). Among other works of Contract No. 1112, the NAT, SAT and HHS are covered by PYPUN's public safety audits [Item 20a of Chronology]. Having said that, the M&V work follows a risk-based sampling approach. In this respect, PYPUN makes reference to the risk registers provided by MTRCL under various works contracts and then formulates its own risk register which is reviewed and if necessary, updated at a quarterly interval. PYPUN prioritizes its M&V work with reference to its updated risk register.

8. The three issues in relation to the works of NAT, SAT and HHS identified by the Commission were not discovered by PYPUN and as such they were not mentioned in PYPUN's monthly progress reports and progress meetings until they were reported by MTRCL. Regarding the Stitch Joints and Shunt Neck of NAT (Issues 1 and 2), PYPUN was not responsible for the day-to-day supervision of the execution of works on site, even though it carried out site visits regularly to monitor the works progress.

9. The construction of Stitch Joints (Issue 1) and Shunt Neck (Issue 2), and non-compliance in relation to RISC forms (Issue 3) were not considered by MTRCL and PYPUN as high-risk items when compared with other more challenging and onerous tasks in Contract No. 1112 at that time. Hence, these issues were not included in the risk registers provided by MTRCL as well as those prepared by PYPUN.

10. After the discovery of the three issues, PYPUN was involved in the subsequent investigation work. These included following up the Stitch Joints and Shunt Neck issues of NAT. For instance, after MTRCL had reported in its SCL Project Reports submitted on 31 January 2018 [DD1/38.112] and 28 February 2018 [DD1/38.118-38.121] that water seepage was found at the Stitch Joints, PYPUN carried out site inspection in respect of the Stitch Joints on 14 March 2018 [Item 5 of Chronology].

PYPUN also provided comments on the incident reports and remedial proposals submitted by MTRCL on the Stitch Joints and Shunt Neck issues. In addition to regular monthly site walks, PYPUN has been conducting site inspection twice a week of NAT, SAT and HHS since March 2019 to ascertain any sign of distress in the structure of the NAT, SAT and HHS [Items 143a, 149, 151, 158, 163, 168, 171, 176, 184, 188, 193, 201, 204, 211, 213, 217, 230, 231 & 233 of Chronology].

11. On Government's request vide its letter dated 1 February 2019 [DD3/1178-1180], MTRCL has undertaken to investigate Issue 3 and to produce investigation reports on NAT and SAT/HHS by end February and March 2019 respectively. However, MTRCL's submission in relation to NAT on 28 February 2019 [DD3/1227-1249] did not satisfactorily address HyD's concerns, and to this date HyD has not yet received any investigation reports on SAT/HHS from MTRCL. Due to the lack of timely response from MTRCL on details of its investigation and the need to obtain an early preliminary view on the issue of lack of RISC forms, HyD had to task PYPUN to conduct on-site checking of the RISC forms for the works at NAT, SAT and HHS. Inspection commenced on 10 April 2019 [Items 194, 197, 200, 202, 203 & 205 of Chronology] and PYPUN will produce a report upon completion of such exercise. PYPUN has been carrying out investigation of the three issues since discovery of the same, and so far, PYPUN's performance has met the requirements of the tasks as assigned by HyD.

12. The Commission in paragraphs 447 to 450 of the Interim Report (**"the Interim Report"**) has pointed out that there is room for improvement in PYPUN's M&V work. In fact, after the discovery of the non-conformities at Hung Hom Station Extension, the frequency of PYPUN's site walks has been increased from quarterly to monthly for some critical contracts (PYPUN carried out 72 site walks between 8 August 2018 and 28 February 2019). HyD has been reviewing PYPUN's work and will continue to do so by taking into account the recommendations set out in the Interim Report and any other recommendations that the Commission may make in its final report.

13. Having said the above, one must not lose sight of the fact that MTRCL is the Government's appointed project manager for the SCL

Project. As the project manager, MTRCL receives substantial project management fees (of about \$8 billion) from the Government. We have a legitimate expectation that MTRCL should perform its project manager role in a competent and professional manner. It is obvious that one of the key duties of MTRCL is to ensure that its contractor (i.e. Leighton Contractors (Asia) Limited in the present case) carries out the works in accordance with the contractual requirements and in compliance with the Buildings Ordinance and other relevant ordinances, regulations and standards. Against the above background and under the “check the checker” arrangement, the Government maintains a high-level supervisory role and PYPUN, the M&V Consultant, assists HyD in monitoring and verifying that MTRCL complies with its obligations in the entrustment agreements. In this respect, PYPUN’s work includes site inspections and review of various reports and submissions by MTRCL.

14. Without fully ascertaining the real cause(s) of the issues and the surrounding circumstances, it is difficult to provide a thorough assessment of the effectiveness of PYPUN’s role in the discovery of the issues (which should not be considered purely with wisdom after the event and benefit of hindsight). In light of the Commission’s findings in the Interim Report, HyD will work closely with PYPUN so that its M&V work under the M&V Agreement [G9/7638-7753] could be further enhanced in future.

#### **Other Matters under the Expanded Terms of Reference of the Commission**

15. Whilst the three issues at NAT, SAT and HHS will be further examined under the expanded Terms of Reference of the Commission, they have revealed the deficiency on the part of MTRCL and the contractor concerned in relation to site record keeping and documentation for the construction works, management of design changes, adequacy of site supervision and follow-up of non-conformance reports. These coincide with the Commission’s earlier findings in relation to the construction work of the station box structure of Hung Hom Station Extension, which included a number of deficiencies identified in the oversight and inspection regimes under Contract No. 1112.



16. The Commission has put forward recommendations to promote public safety and assurance on quality of works, covering enhancement measures to MTRCL's project management system and the Government's monitoring mechanism. The Government attaches great importance to these recommendations. The Government is following up on these recommendations and, in consultation with relevant stakeholders, exploring ways to implement them. In fact, some of the above-mentioned Commission's recommendations have been implemented through HyD's enhancement measures since the discovery of the issues at Hung Hom Station Extension as follows —

- (a) on project supervision, upon the request of HyD, MTRCL has started to report non-conformance statistics to the Project Supervision Committee (“PSC”) chaired by the Director of Highways since August 2018 [G9/7242-7248]. The PSC has kept under review MTRCL's systemic issues relating to site supervision and communication. The BO Team also attends PSC meetings regularly to report, inter alia, on matters relating to : (i) MTRCL's compliance with the building safety standard under the Buildings Ordinance; and (ii) progress of plan submissions and appropriate follow-up actions;
- (b) regarding M&V work, the frequency of the site walks by PYPUN has been increased from quarterly to monthly for those active sites of some critical contracts; and
- (c) regarding site supervision, HyD's in-house staff has started carrying out independent surprise checks on active sites to verify MTRCL's compliance with its site supervision plan. Further, MTRCL was demanded to consider improvement measures on site supervision and communications of the SCL Project.

17. I confirm the contents of this witness statement to be true to the best of my knowledge, information and belief.

Dated this 10<sup>th</sup> day of May 2019.

  

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LEUNG Man Ho