

**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**

SECOND WITNESS STATEMENT OF JUSTIN TAYLOR

I, JUSTIN TAYLOR, of 39/F Sun Hung Kai Centre, 30 Harbour Road, Hong Kong, say as follows:

1. I refer to my first witness statement dated 9 October 2018 (“**First Witness Statement**”). Unless otherwise stated or the context otherwise requires, the abbreviations shall bear the same meaning as in my First Witness Statement.
2. I make this second witness statement in reply to the following statements submitted to the Commission of Inquiry and to address any relevant matter raised in these statements:
 - (a) the witness statement of Mr. Aidan Gerald Rooney (“**Mr. Rooney**”) dated 14 September (“**Rooney Statement**”);
 - (b) the witness statement of Mr. James Ho (“**Mr. Ho**”) dated 14 September 2018 (“**Ho Statement**”);
 - (c) the witness statement of Mr Chan Kit Lam (“**Mr. Chan**”) dated 13 September 2018 (“**Chan Statement**”);
 - (d) the witness statement of Mr. Andy Leung (“**Mr. Leung**”) dated 14 September 2018 (“**Leung Statement**”); and
 - (e) the witness statement of Mr Lok Pui Fai (“**Mr. Lok**”) dated 13 September 2018 (“**Lok Statement**”).
3. Any allegations or matters raised in the statements mentioned in paragraph 2 above (or any other statements) which are not addressed in, or are inconsistent

with, my witness statements are denied. If I do not address any allegations or matters raised in other witness statements, it should not be construed as an admission on my part.

4. Unless otherwise stated, the facts stated herein are within my personal knowledge and are true. Where the facts and matters stated herein are not within my own knowledge, they are based on the stated sources and are true to the best of my knowledge, information and belief.

Allegations from MTRCL witnesses regarding the as-built drawings

5. Certain allegations are made in the Rooney Statement¹ and the Ho Statement² concerning Leighton's provision of the as-built drawings for the permanent works for the EWL Slab and NSL Slab.
6. In reply to those allegations, and as explained at paragraphs 30 and 32 of my First Witness Statement, MTRCL and Atkins are responsible for updating the drawings for the permanent works following an accepted design change. MTRCL and Atkins did not finalise the updated drawings for the permanent works for the EWL Slab and NSL Slab until September 2018. Consequently, Leighton was unable to prepare the as-built drawings for the EWL Slab and NSL Slab in June 2018 when MTRCL demanded them. Leighton is still waiting on MTRCL to formally issue the relevant drawings for the permanent works. Once Leighton receives the issued drawings, it will then prepare the as-built drawings.

Allegations from MTRCL witnesses regarding the Change

7. Mr. Chan alleges that at paragraph 52 of the Chan Statement that:

“LCAL / Atkins Team B should have submitted proposal for change in permanent works design to the Design Management Team and Atkins Team A

¹ Paragraphs 100, 103, 104, 107 and 108 of the Rooney Statement.

² Paragraph 78 of the Ho Statement.

for their review and approval, who would then issue working drawings for construction to LCAL. On this occasion, they failed to do so.”

8. Mr. Chan continues at paragraph 53 of the Chan Statement alleging that:

“...this kind of failure on the part of LCAL / Atkins Team B was persistent during the construction phase of Contract 1112. The Design Management team frequently had to chase them to submit proposal for changes in construction details. For example, in an email dated 19 October 2015 sent by Andy Leung to Justin Taylor and Rob McCrae... Andy Leung made the following complaint: “Justin, I have not received any proposals from you to incorporate the changes initiated by your team (e.g. those resulting from your TQs to Atkins) since the design coordination meeting last week...”³

9. In response to these allegations, MTRCL and Atkins were in fact well aware of the Change. Please refer to paragraphs 18 to 28 of my First Witness Statement. In particular, Atkins assisted Leighton to prepare the First Submission and the Second Submission, which were promptly sent to MTRCL by Leighton. Indeed, MTRCL also submitted the First Submission and the Second Submission to BD and, in turn, BD responded to accept the Change.
10. I should reiterate that, as explained at paragraph 33 of my First Witness Statement, the same people at Atkins were handling the work for MTRCL (i.e. as MTRCL’s DDC) and for Leighton. There was no practical difference between what Mr. Chan refers to as Atkins’ Team A and Team B. I should also clarify that there was no legal or contractual requirement for Atkins to use different teams, or to establish information barriers between such teams, in order to work as MTRCL’s DDC and for Leighton.
11. Mr. Chan has, by reference to an email sent by Andy Leung to me dated 19 October 2015, suggested that Leighton had persistently failed to submit proposals for changes to the permanent works design. That is, however, not

³ Contract 1112 refers to the main contract between Leighton and MTRCL on the Shatin to Central Link Project.

supported by the facts set out in the chronology at Exhibit “JT-2” of my First Witness Statement.

12. Further, as noted at paragraphs 29 to 35 of my First Witness Statement, I fully addressed Mr. Leung’s email on the same day. The complaints made by Mr. Leung at that time were factually incorrect. In summary, Leighton had promptly submitted proposals to MTRCL and could not be blamed if MTRCL and Atkins had not incorporated them into the drawings for the permanent works. As far back as July 2015, I had raised the fact that the drawings for the permanent works were not being updated by MTRCL and Atkins to reflect the TQs and DAMs.
13. My email to Andy Leung dated 19 October 2015 expressly referred at point 7 to the submissions sent by Leighton to MTRCL on 15 October 2015 for the EWL Slab (i.e. CSF 1112-CSF-LCA-DEM-002917, CSF 1112-CSF-LCA-DEM-002903, CSF 111-CSF-LCA-DEM-002908, which are produced and marked **Exhibit “JT-8”**). These submissions identified various discrepancies between Leighton’s proposed changes and the drawings for the permanent works (including casting the EWL Slab, diaphragm wall and OTE Slab monolithically as required under the Change). MTRCL responded to approve these submissions on 9 November 2015 (produced and marked **Exhibit “JT-9”**). In fact, Leighton had made the very submissions that Andy Leung was complaining about in his email. I note that MTRCL was supposed to issue a Drawing Issue Sheet No. 22 (i.e. in order to update the drawings in response to Leighton’s submissions) but it has not been received by Leighton to date.
14. Mr. Leung alleges at paragraph 51 of the Leung Statement that:

“I should also mention that I have reviewed the design reports on permanent works amendment submissions prepared by Atkins’ Team A for submission by MTRCL to the BD. Such permanent works design reports included a section on “Construction Sequence”, but none of them contained similar paragraphs as in Section 6.2 of TWD 004B3. Moreover, all working drawings issued to LCAI

showed that the steel re-bars at the connection between the east diaphragm wall and EWL slab were to be connected with couplers, and no demolition of the diaphragm wall (as suggested in Section 6.2 of TWD-004B3 Report in paragraph 49 above) was shown on those working drawings. In addition, LCAL did not make any formal proposals to MTRCL in relation to any demolition of the diaphragm wall.”

15. Leighton cannot be regarded as in any way at fault because the drawings in the First Submission and the Second Submission did not reflect the Change. Leighton understood from its dealings with MTRCL and Atkins that the design submissions for the Change should not include updated working drawings. For example, Atkins included the details of the Change in Section 1.3.5 and Figure 1.4 of TWD-004B2 in May 2015.⁴ However, it was agreed with MTRCL that TWD-004B2 would not be submitted to BD at that time. This is reflected in the emails exchanged between Leighton and Atkins from 23 to 27 May 2015, which state:

(a) *“Further to the discussion with Kevin [Yip of MTRCL] yesterday evening, for the initial excavation down to -0.5mPD, confirmed that we are not going to submit TWD-004B to BD for not to confuse BD and complicate the issue...”* (Email from Betty Ng of Leighton to Atkins dated 23 May 2015);⁵ and

(b) *“I [Edward Tse of Atkins] have spoken to him [Kevin Yip of MTRCL] and the approach is the same as you said...”* (Email from Atkins to Betty Ng of Leighton dated 27 May 2015).⁶

16. My understanding is that MTRCL did not want to submit drawings regarding the Change to BD because it was consulting with BD at that time to obtain acceptance of the as-built drawings for the diaphragm walls. This is noted at paragraph 73.1 of the Ho Statement. BD had rejected some of MTRCL’s

⁴ Please refer to Exhibit “JT-5” of my First Witness Statement.

⁵ Please refer to item #004-14 in the chronology set out in Exhibit “JT-1” of my First Witness Statement.

⁶ Please refer to item #004-19 in the chronology set out in Exhibit “JT-1” of my First Witness Statement.

submissions for the diaphragm walls (including those for Area C in May 2015), as noted in paragraph 32 of the Lok Statement.

17. I also expect that MTRCL was still deciding whether it was obliged to consult with BD in relation to the Change. As explained in paragraph 23 of my First Witness Statement, it was not clear to Leighton whether MTRCL, the person responsible for liaising with BD, considered that it was necessary to consult with BD in relation to, and obtain its acceptance of, the Change given that it was a minor variation of detail (i.e. substituting bars connected by couplers with continuous bars).
18. In this context, Atkins prepared the design submissions that Leighton sent to MTRCL to propose the Change (i.e. the First Submission and the Second Submission) and made the decision not to include the Change in the drawings. In my view, Atkins was simply following MTRCL's preferred approach to this issue (i.e. as communicated by MTRCL in May 2015). In any event, it is important to emphasise that MTRCL did not ask Leighton to update the drawings for the First and Second Submissions (even though it was fully aware of the Change) and proceeded to send those submissions to BD.

Allegations from MTRCL witnesses regarding the diaphragm wall

19. Mr. Leung alleges at paragraph 35 of the Leung statement that:

*"...LCAL did not make any formal proposals to MTRCL in relation to such changes to the permanent works design in accordance with the procedures described in paragraphs 20 to 22 above. Accordingly, these changes were not submitted to BD for acceptance in accordance with the consultation process and were not identified until the preparation of Certificate of Completion of Works (conventionally known as "BAI4 submission") which was submitted in January 2015 for the first batch of the diaphragm wall as-built drawings."*⁷

⁷ Please refer to paragraphs 20 to 22 of the Leung Statement.

20. In reply, I refer to the fact that drawings showing the rearrangement of the reinforcement detail at the top of the diaphragm wall were submitted under a Contractor's Submission Form ("CSF") on 23 August 2013.⁸ Subsequently, the rearrangement of the reinforcement in each individual panel of the diaphragm wall was submitted under separate CSFs.⁹ The first batch of CSFs was accepted by MTRCL on 29 August 2013.¹⁰ The rest of the CSFs were accepted by MTRCL several months later.¹¹

Allegations from BD Witnesses in relation to the Change being not minor and BD has not been consulted

21. Mr. Lok has made various allegations at paragraphs 68 to 71 of the Lok Statement. At paragraph 68(3), Mr. Lok alleges that:

"...Such changes to the accepted plans cannot be regarded as minor alternation of the main reinforcement of the platform slab which would affect the structural performance of the platform structure."

22. Mr. Lok reiterates this point again at paragraph 71, stating that:

"The partial demolition of as-built diaphragm wall and the alteration of the connection details is not a minor alteration. The alteration works could affect not only the distribution of load at the connection but also the structural integrity and safety of both the diaphragm walls and EWL slab. It is a major design change..."

23. Mr. Lok also states at paragraph 68(3) of the Lok Statement that:

"...MTRCL should have consulted BD on the design changes prior to site construction."

⁸ Please refer to item ##13-01 in the chronology set out in Exhibit "JT-1" of my First Witness Statement.

⁹ Please refer to item #13-03 to #13-13 in the chronology set out in Exhibit "JT-1" of my First Witness Statement.

¹⁰ Please refer to item ##13-02 in the chronology set out in Exhibit "JT-1" of my First Witness Statement.

¹¹ Please refer to item #13-14 to #13-24 in the chronology set out in Exhibit "JT-1" of my First Witness Statement.

24. My view is that the Change is a minor change, as it did not affect the overall stability of the structure. As a result, MTRCL did not need to consult with BD prior to the construction of the Change. Please refer to paragraph 24 of my First Witness Statement.
25. In any event, as noted in 25 and 26 of my First Witness Statement, BD received the First Submission and the Second Submission and accepted the Change.

Conclusion

26. Other than noted in my First Witness Statement, I repeat that:
- (a) Leighton should not and cannot be blamed for failing to update the final as-built drawings;
 - (b) Leighton submitted the required proposals to MTRCL in relation to the Change;
 - (c) The Change was considered by all parties to represent a minor alteration;
 - (d) Both MTRCL and BD were well aware of the Change; and
 - (e) In any event, it was MTRCL's responsibility to inform and consult BD of any changes to construction detail.
27. Therefore, Leighton has done nothing wrong in relation to the Change and should not and cannot be criticised.

Dated the ^{18th} day of October 2018.

Signed: _____

Justin Taylor