

**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 MALCOLM PLUMMER

I, MALCOM PLUMMER, of [REDACTED] [REDACTED] [REDACTED] say as follows:

1. I refer to my first witness statement dated 1st October 2018 (“**First Witness Statement**”) Unless otherwise stated or the context otherwise requires, any abbreviations shall bear the same meaning as in my First Witness Statement.
2. I make this second witness statement in response to certain new allegations made by Mr Jason Poon (“**Mr Poon**”) in his oral evidence to the Commission that concern me.
3. If I do not address any other allegations or matters raised by Mr Poon in evidence, 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.

Brand new allegation of “corruption”

5. I have been shown extracts of the official transcript of the evidence given by Mr Poon relating to a new allegation of “corruption”.
6. The relevant extracts are:

“Leightons engage direct labours or daywork labour from a third-party sub-contractor, and engaging them on site without any particular purpose, and the superintendents or the foreman is controlling this source of excessive labour, and

they would demand the sub-contractor to pay money to do the partial work of the sub-contractor being responsible. That's corruption." [Day 7:81:3-10]

"We are now here, a team of excessive labour is being engaged by Leightons and managed by their superintendent and foremen, always there, from 20 to 40 numbers of people; they always sat in the smoking house. And if a sub-contractor willing to pay that supervisor a certain amount of money, the sub-contractor is not necessary –" [Day 7:85:23 – 86:4]

"To reduce the cost of labour, first. And second, yes, there is no immediate and direct advantage to the corporation of Leightons, but on that level of superintendence, et cetera, they are achieving the time benefits of settling the things, the difficulties that they are encountering on site, with a double benefit on getting something in their pocket. The labour engaged by Leighton directly on site, I mean excessive labour, is not paid by them. It's not paid by the sub-contractor. It's paid by Leightons." [Day 7:87:4-13]

7. I do not really follow what Mr Poon is alleging. The direct labour that Leighton used was not assigned to a particular subcontractor. Instead, it was there to cover work that did not fall within a subcontractor's scope. The cost of the direct labour was met by Leighton, not the subcontractor. I cannot see how there would be an opportunity for a supervisor to use it to get money from a subcontractor. It does not make sense. This is the first time I have ever heard of this type of allegation. To the best of my knowledge, nothing like this ever happened on site.
8. I also understand that Mr Poon gave evidence (Day 7, 88:18 – 89:1) that he had a "heart-to-heart conversation" with me in which he "received a confession of the type of corruption going on" on site. This is absolutely false. It never happened.

Overlap with Mr Zervaas

9. As noted in my First Witness Statement, Anthony Zervaas succeeded me as Project Director for Contract 1112 after my retirement. Mr Poon has made comments regarding

whether there was any overlapping period after Mr Zervaas commenced in the role and before my retirement.

10. There was a period of overlap between me and Mr Zervaas. I do not remember exactly how long it was, but I believe it was around a week or so. In terms of the handover process, I recall that Mr Zervaas and I had a meeting in my office to talk through the project and the issues that I had encountered. I had a file that I kept in my office where I kept documents and notes relating to any issues. The majority were commercial matters. I do not recall there being any specific concerns regarding quality or safety that I needed to brief Mr Zervaas about.

Alleged conversation with Mr Poon about rebar cutting and remedies

11. I have read various extracts of the official transcript of the hearing (Day 7, 137:25 – 139:18, Day 9, 24:10 – 26:12 and Day 10, 126:21 - 130:4) regarding various allegations that Mr Poon makes about conversations with me around September 2015 and me and Mr Zervaas around September / October 2016 about threaded rebar cutting and remedies for such issues. I find his various statements somewhat contradictory and hard to follow.
12. Mr Poon first said that he did not talk to me about these issues, preferring to speak to Mr Zervaas. The reason for this was:

“They are very different. Malcolm is more senior in age. He's someone approaching a stage of retirement. When I told him anything about the site, he wouldn't descend to the level of doing something about it. Anthony gave me the feeling that he would try to resolve the problems. Very different.”

[Day 7, 139:11-16]

13. I agree that Mr Poon did not speak to me about these issues. As for his comments suggesting a lack of care about matters on site, I completely disagree. I discuss my supervision of the project in my First Witness Statement.
14. Confusingly, in the transcript on Day 9, Mr Poon said that he did in fact speak to me about these matters. He said:

“What I meant was I did talk to Malcolm Plummer and this was the first time that I mentioned the name Mr Malcolm Plummer and I agreed that Mr Malcolm Plummer is more senior in age and normally didn't respond that well. Well, that's -- for everything I told him, he responded like that. And he understood what I said and he would try to use his own ways to resolve things internally.”

[Day 9, 26:6-12]

15. This is not correct. I did not have any such conversation with Mr Poon. I would remember. It never happened.
16. I have also read part of the transcript of the hearing (Day 10, 126:21 - 130:4) where Mr Poon alleged that, rather than report alleged cutting of the threaded ends of rebar by Leighton staff to MTRCL, he “*chose to speak to Malcolm again*”. I understand that this was alleged to have happened around September 2015.
17. Mr Poon did not speak to me about cutting of the threaded ends of rebar then or at any time. Again, I would remember such a conversation. It never happened.

Dated the 7th day of November 2018

Signed: 
Malcolm Plummer

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