

**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**

THIRD 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**”) and my second witness statement dated 18 October 2018 (“**Second 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 third witness statement in reply to the second witness statement of Ho Hon Kit dated 16 October 2018 (“**Mr. Ho’s Second Statement**”).
3. Any allegations or matters raised in the statements mentioned in paragraph 2 above (or any other statements) which 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 regarding the Change

5. As a general comment, I note that the stated approach of BD to building development and approval processes is reflected in the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers ADM-19, which states: “*The Buildings Department*

(BD) is committed to adopt a totally positive attitude towards building development. Its mission is not to find faults in a building proposal but to facilitate building professionals in the approval process whilst ensuring public safety and health”.

6. In paragraph 15 of Mr. Ho’s Second Statement, he refers to Leighton’s position that the Change was minor and therefore did not need to be submitted to BD for acceptance. Mr. Ho states that this contradicts with the fact that MTRCL notified the Change to BD. There is nothing contradictory about this position. There is nothing to prevent MTRCL from consulting with BD and obtaining its acceptance of minor change of construction detail. The fact that MTRCL notified BD of the Change does not mean that it was necessary to do so. Equally, the fact that MTRCL submitted a *minor* change BD (i.e. as is the case for the Change) does not somehow make it into a *major* change.
7. Mr. Ho’s comments in paragraph 16 of his Second Statement are wholly impracticable. Many things change during construction, for example, diaphragm wall panel depths as a result of ground conditions or additional fire requirements from the Fire Services Department that impact the structure. Mr. Ho suggests that under the IoE any change to any detail however trivial or minor needs to have formal acceptance of BD or HyD. Construction projects across Hong Kong would come to grinding halt if this was actually how all changes were advised and implemented. This is simply not how the process is managed. I believe both Leighton and MTRCL have properly followed the applicable procedure.
8. Mr. Ho suggests at paragraph 17 of his Second Statement that the process of approving or accepting minor changes under the IoE is stricter than under the Buildings Ordinance regime that applies to other projects in Hong Kong. This does not make sense. In fact, the IoE is silent on the process that needs to be followed. In this context, the accepted practice is to follow the guidance in PNAP ADM-19 regarding minor changes.

9. Mr. Ho also states at paragraph 17 of his Second Statement that “*MTRCL is required to follow strictly the procedures set out in Appendix 9 of the PMP*”. From my review of the contract documentation, and to the best of my knowledge, Leighton was not provided with a copy of the PMP.
10. I have reviewed the copy of the PMP referred to in Mr. Ho’s Second Statement and note that in “Appendix 9 – Administrative Procedure for Consultation Submissions under the IoE/IoC”, a flow chart is provided that identifies the process and submissions to BD/RDO of Highways Department. Towards the bottom of the document there is a note marked, “**** *Ensure acceptance of the consultation submission and necessary amendments before certification of as-built record*”.
11. I note that this refers specifically to the acceptance of a consultation submission and necessary amendments before certification of the as-built record; not before construction of the works. As such, under the PMP to which Mr. Ho has referred, even if the Change was required to be notified, the process implemented to date is still in accordance with the PMP. MTRCL will merely need to submit the amendment to BD before the certification of the as-built record.
12. I disagree with Mr. Ho’s comment in paragraph 18 of his Second Statement that PNAP ADM-19 is not applicable to the Change because the diaphragm wall is part of the “foundation”. Mr. Ho’s comment ignores the fact that the top of the diaphragm wall was always intended to be joined to the EWL Slab and OTE Slab and become a functional part of the structure (i.e. which reflects the as-constructed works, albeit with the improvement that the intersection of the EWL Slab, the top of the diaphragm wall and the OTE Slab were poured monolithically). It follows that during the construction process, the top of the diaphragm wall transitioned from being part of a foundation to being part of a structure.

13. Mr. Ho's comments at paragraph 20 of his Second Statement focus on the demolition of 420mm from the top of the diaphragm wall as a "change". In my view, this is not relevant. The relevant part of the Change is the substitution of continuous bars for bars connected by couplers. This was the only variation from the accepted design. The only way to replace the bars connected by couplers with continuous bars was to trim the concrete at the top of the diaphragm wall. The trimming is not a "change" to the accepted design, it is merely part of the construction process that allowed for the substitution of continuous rebars with couplers and the removal of a construction joint. Mr. Ho also fails to recognise that the as-built works have been improved as a result of the Change.¹
14. Mr. Ho notes that Paragraph 20 of his Second Statement that the intersection between the eastern diaphragm wall and the EWL Slab is a critical part of the structural system. In doing so, he is effectively acknowledging that the top part of the diaphragm wall is part of the structure (i.e. and not part of a foundation). However, Mr. Ho fails to recognise that the change from couplers to continuous bars is insignificant because one can be substituted for the other.²
15. In relation to paragraph 21 of Mr. Ho's Second Statement, I would simply repeat that MTRCL notified BD of the Change and BD replied to the submission.³ Therefore, BD were fully aware of and accepted the Change at the relevant time.
16. Mr. Ho's comments in paragraphs 24 to 27 are technical and procedural. Again, I repeat that BD was informed of the Change. Mr. Ho's focus appears to be that, whilst the Change (including the partial demolition of the diaphragm wall) was described in a submission made by MTRCL, it was not depicted in drawings. I am not aware of any requirement that submissions must be shown in drawings only.

¹ See paragraph 36 of my First Witness Statement.

² See paragraph 24 of my First Witness Statement.

³ See paragraphs 25 and 26 of my First Witness Statement.

17. I do not understand why Mr. Ho states at paragraph 29 of his Second Statement that the BO Team “has no knowledge of” the demolition of 420mm of the top of the diaphragm wall”. I repeat that BD was informed of the Change. I also do not understand Mr. Ho’s suggestion that such changes were not brought to attention of the BO Team during its site visits for proof tests of the diaphragm walls. I would consider that if the BO Team was not aware of the Change, this further indicates that the Change was not significant and was considered to be minor. As regards the as-built drawings reflecting the Change, I have addressed this in paragraph 6 of my Second Witness Statement.

Dated the 2nd day of November 2018.

Signed: _____

Justin Taylor