

**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 STEPHEN LUMB

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

1. I refer to my second witness statement dated 9 October 2018 (“**Second Witness Statement**”). Unless otherwise stated or the context otherwise requires, any abbreviations shall bear the same meaning as in my Second Witness Statement.
2. I make this third witness statement in reply to the second witness statement of Mr. Ho Hon Kit (“**Mr. Ho**”) dated 16 October 2018 (“**Mr. Ho’s 2nd Statement**”) submitted to the Commission of Inquiry and to address any relevant matters raised in this statement.
3. Any allegations or matters raised in the statement 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 by Mr Ho regarding the Change¹

5. At paragraph 16 of Mr. Ho's 2nd Statement, he refers to the Administrative Procedure for Consultation Submissions under IoE/IoC as stipulated in Appendix 9 of the PMP and states that all designs of permanent work have to go through the consultation process under IoE and IoC and acceptance by BD or HyD respectively ought to be obtained prior to the commencement of the works. According to Mr Ho, no exception is provided for so-called "minor changes in construction details".
6. Mr Ho's view that no exception is provided for minor changes is his opinion. There are no written guidelines to support this view. To suggest that a more onerous regime applies to the Project than the standard approval process under the Buildings Ordinance and PNAPs goes against the spirit of the IoE. It is also contrary to how changes on the Project were being managed. There are many examples on this Project (and other projects in Hong Kong) where minor changes were instructed by MTRCL which were not reflected on the latest set of plans accepted by BD. Similarly, the location of construction joints, and associated reinforcement detailing amendments, is not defined on the accepted plans. It is usual practice that the Contractor will agree the location of the construction joints with MTRCL and build them accordingly, without prior submission and acceptance from BD.
7. It is not practical to suggest that no degree of change (no matter how minor) is permitted without prior acceptance by BD. It would be practically impossible to administer and construct a project under these circumstances. Minor changes (such as the "Change" from bars connected by couplers to continuous bars) are usually managed through a final amendment to BD prior to the submission of the as-built documentation. This would appear consistent with the intent of the

¹ The "Change" is defined in paragraph 7 of my Second Witness Statement as the use of continuous bars (i.e. not connected by couplers) to connect the EWL Slab to the top of the eastern diaphragm wall and the OTE Slab.

PMP which under the 'Completion of Works' section states: "*Ensure acceptance of consultation submission and necessary amendments before certification of as-built records*". This indicates that any minor changes made during the course of the works on the Project need to be submitted to BD as a final amendment before submission (and certification) of the as-built records. This reflects normal practice.

8. In this context, Mr. Ho is incorrect when he suggests that MTRCL did not follow Appendix 9 of the PMP by failing to seek BD's acceptance of the Change prior to construction. In fact, Appendix 9 of the PMP expressly allows for "*acceptance of consultation submission and necessary amendments before certification of as-built records*" (i.e. rather than before construction).
9. Indeed, in paragraph 5 of the BD letter of acceptance dated 25 June 2014, BD commented that "*the proposed construction joint at support of the cantilever structural elements supporting Over Track Exhaust should be reviewed / revised in accordance with the requirements as stipulated in PNAP APP-68.*" This does not refer to any requirement for resubmission to any revisions made to the connection between the structure supporting the OTE slab (i.e. such as the Change). As noted in paragraph 9 above, the normal way of addressing such comments would be to address and incorporate them into the design / construction, and resubmit them to BD as a final amendment after completion of the construction.
10. At paragraph 17 of Mr. Ho's 2nd Statement, he refers to Brett Buckland's Witness Statement where it was stated that "minor amendments" were exempted from prior approval or acceptance under PNAP ADM-19. Mr Ho states that as the process of approval of design and application for consent has been exempted under the IoE, PNAP ADM-19 is not applicable to the works under Contract 1112. Instead, Mr. Ho states that MTRCL is obliged to follow Appendix 9 of the PMP. As noted at paragraph 8 above, I consider that MTRCL has complied with Appendix 9 of the PMP because it allows MTRCL to submit the Change to BD before certification of the as-built records.

11. Strictly speaking, I agree that PNAP ADM-19 does not apply to this project directly, as the works are exempt from the Buildings Ordinance under the IoE. However, in the absence of any written guidelines in relation to the management of changes in design or detail under the IoE, it is reasonable and appropriate to refer to other guidelines / practice notes (a.k.a. PNAPs) which would apply should the Project have fallen under the full Buildings Ordinance. Indeed, as noted at paragraph 9 above, BD's letters of acceptance refer to the PNAPs and rely upon them.
12. At paragraphs 18 and 19 of Mr. Ho's 2nd Statement, he states that: (i) the exemption for prior approval and consent in respect of "Minor Amendments" provided for in PNAP ADM-19 is, in any event, not applicable to foundation works; (ii) that paragraph 20(b) of PNAP ADM-19 expressly refers to superstructure and superstructure (A&A); and (iii) given that the diaphragm walls are foundations of the HUH Station Extension structure, PNAP ADM-19 is not applicable to the deviation in question.
13. Paragraph 5 of BD's letter of acceptance dated 25 June 2014 makes reference to the "*construction joint at support of the cantilever structural elements supporting Over Track Exhaust*". This refers to the joint at the top of the diaphragm wall, which is the area where the Change was made to substitute bars connected by couplers with continuous bars. The title of paragraph 5 is: "*Superstructure, Substructure & Pile Cap Design*". From this description, it can be inferred that this intersection between the EWL Slab, the top of the eastern diaphragm wall and the OTE Slab (i.e. where the Change was made) is not considered to be foundation works.
14. In addition, the Change was made in the EWL Slab and OTE Slab structural works, and does not impact the foundation of the structure, nor its load bearing capacity. The equivalent detail on the western diaphragm wall is also considered part of the structure, and not foundation.
15. At paragraph 20 of Mr. Ho's 2nd Statement, he states that the change to the design and construction of the connection between the eastern diaphragm wall

and EWL Slab in question (i.e. the Change) cannot be regarded as a minor change or modification. The definition of minor amendment, as referenced in BD's PNAP ADM-19 is: "*affecting the overall stability of the structure*". It is my opinion that the Change does not affect the overall stability of the structure.

16. At paragraphs 21 of Ho's 2nd Statement, Mr. Ho states that BD should be consulted via submission of amendment plans for the proposed modification to the details in the eastern diaphragm wall and the EWL Slab before the carrying out of the varied works. I disagree for the reasons explained in paragraphs 6 to 15 above.

Dated the 2nd day of November 2018.

Signed:  _____

Stephen Lumb