

立法會
Legislative Council

LC Paper No. CB(1)1987/13-14
(These minutes have been seen
by the Administration)

Ref: CB1/PS/1/12

Panel on Transport

Subcommittee on Matters Relating to Railways

**Minutes of special meeting on
Monday, 19 May 2014, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Michael TIEN Puk-sun, BBS, JP (Chairman)
Hon CHAN Han-pan (Deputy Chairman)
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Dr Hon Elizabeth QUAT, JP
Hon TANG Ka-piu
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members attending : Hon Emily LAU Wai-hing, JP
Hon Cyd HO Sau-lan
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Claudia MO
Dr Hon Helena WONG Pik-wan

Hon Martin LIAO Cheung-kong, JP

Members absent : Hon LEE Cheuk-yan
Hon Ronny TONG Ka-wah, SC
Hon LEUNG Kwok-hung

Public Officers attending : **Agenda item I**

Professor Anthony CHEUNG, GBS, JP
Secretary for Transport and Housing

Mr Joseph LAI Yee-tak, JP
Permanent Secretary for Transport and Housing
(Transport)

Mr YAU Shing-mu, JP
Under Secretary for Transport and Housing

Ms Rebecca PUN Ting-ting, JP
Deputy Secretary for Transport and Housing
(Transport)¹

Miss Winnie WONG Ming-wai
Principal Assistant Secretary for Transport and
Housing (Transport)³

Mr Peter LAU Ka-keung, JP
Director of Highways

Mr Henry CHAN Chi-yan, JP
Principal Government Engineer/Railway
Development
Highways Department

Mr CHAN Choi-wai
Chief Engineer/Railway Development 2-3
Highways Department

Attendance by invitation : Agenda item I

Dr Raymond CH'IEN Kuo-fung
Chairman
MTR Corporation Limited

Mr Jay H WALDER
Chief Executive Officer
MTR Corporation Limited

Mr CHEW Tai-chong
Projects Director
MTR Corporation Limited

Mr Antonio CHOI Fung-chung
General Manager-XRL
MTR Corporation Limited

Mr Mark G LOMAS
Project Manager-XRL (Planning and Controls)
MTR Corporation Limited

Ms Maggie SO Man-kit
Deputy General Manager-Projects and Property
Communications
MTR Corporation Limited

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Angel SHEK
Senior Council Secretary (1)4

Ms Emily LIU
Legislative Assistant (1)2

Action

I

Latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link

- LC Paper No. CB(1)1422/13-14(01) - List of follow-up actions arising from the meeting on 5 May 2014
- LC Paper No. CB(1)1422/13-14(02) - Administration's response to issues raised at the meeting on 5 May 2014
- LC Paper No. CB(1)1438/13-14(01) - MTR Corporation Limited's supplementary information on the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Papers Nos. - Letter dated 13 May 2014
CB(1)1422/13-14(03) *and* from Hon WU Chi-wai on
CB(1)1451/13-14(01) the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and Administration's response
- LC Papers Nos. - Letter dated 7 May 2014
CB(1)1388/13-14(01) *and* from Hon James TO on the
CB(1)1422/13-14(04) construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link and Administration's response
- LC Papers Nos. - Submissions from two
CB(1)1403/13-14(01) and (02) members of the public respectively on the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Papers Nos. - Letters from Hon Gary FAN
CB(1)1385/13-14(01) and (02) Kwok-wai and Hon WU Chi-wai respectively on their proposed motions relating to

- the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Paper No. CB(1)1328/13-14(03) - Administration's paper on the latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Paper No. CB(1)1354/13-14(01) - MTR Corporation Limited's paper on the construction and commissioning of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Paper No. CB(1)1328/13-14(04) - Paper on the latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link prepared by the Legislative Council Secretariat (updated background brief)
- LC Paper No. CB(1)1194/13-14(01) - Submission from a member of the public on the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Papers Nos. CB(1)1288/13-14(01) and (02) - Joint letters from Hon WONG Kwok-hing and Hon TANG Ka-piu and from Hon James TO Kun-sun and Hon WU Chi-wai respectively on the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
- LC Papers Nos. CB(1)1328/13-14(05) and (06) - Letters from Hon Michael TIEN Puk-sun on the construction of the Hong

Kong section of the
Guangzhou-Shenzhen-Hong
Kong Express Rail Link

Disclosure

The Chairman reminded members that in accordance with Rule 83A of the Rules of Procedure of the Legislative Council, they should disclose the nature of any direct or indirect pecuniary interest before they spoke.

Discussion

2. At the invitation of the Chairman, the Administration gave opening remarks on issues of concern relating to the delay in the construction of the Hong Kong section ("HKS") of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") and the way forward. With the aid of a powerpoint presentation, the MTR Corporation Limited ("MTRCL") briefed members on the progress update of the project.

(Post-meeting note: The notes of the powerpoint presentation [LC Paper No. CB(1)1465/13-14(01)] were issued to members vide Lotus Notes email on 20 May 2014.)

3. The Subcommittee on Matters Relating to Railways ("the Subcommittee") deliberated (Index of proceedings attached at **Annex**). In brief, members expressed views and concerns about issues including causes of delay in the construction of the HKS of XRL, responsibilities of parties concerned, investigation process, additional costs to be incurred and other adverse impacts arising from the project delay, delay recovery measures and improvement of MTRCL's corporate governance.

Follow-up actions to be taken by the Administration/MTRCL

Admin/
MTRCL

4. The Administration/MTRCL were requested to provide the following information –

- a) the amount of land (in hectares) of the temporary works sites of XRL project which had been returned to facilitate development of the West Kowloon Cultural District ("WKCD"), in particular the area between M+ and the Xiqu Centre at WKCD, and the timeframe for returning the remaining sites in comparison to the original schedule; and

- b) which party (i.e. the Government, MTRCL or the West Kowloon Cultural District Authority) would bear the overrun cost of WKCD project, if any, arising from late return of XRL temporary works sites.

Motions

5. After discussion, Mr WU Chi-wai moved the following motion –

"本會委任一個專責委員會，調查廣深港高速鐵路香港段(高鐵香港段)工程延誤上所出現的問題的原委及有關事宜，包括運輸及房屋局、路政署及其他政府部門在高鐵香港段工程延誤一事中有否妥善履行監督責任，及有否蓄意隱瞞公眾或涉及其他瀆職行為，以及調查香港鐵路有限公司(港鐵)在高鐵香港段工程延誤一事上的失責行為及責任，以及有關事宜。並根據上述調查的結果，就日後政府監管新鐵路項目的興建及如何加強對港鐵的管治以及有關事宜作出建議；而該委員會在執行其職務時獲授權根據《立法會(權力及特權)條例》(第382章)第9(2)條行使該條例第9(1)條所賦予的權力。"

(Translation)

"That this Subcommittee appoints a select committee to inquire into causes of the problems arising from delay in the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") and related issues, including: whether the Transport and Housing Bureau, Highways Department as well as other Government departments have performed their supervisory duties properly and deliberately concealed anything from the public or other acts of dereliction of duty had been involved; the investigation of the act of default and responsibilities of the MTR Corporation Limited ("MTRCL") for delay in the construction of XRL and the related issues, with suggestions made on the Government's supervision of the construction of new railway projects in future as well as the ways to strengthen the governance of MTRCL and related issues; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the

powers conferred by section 9(1) of that Ordinance."

6. The Chairman put the motion to vote. At the request of Mr WU Chi-wai, the Chairman ordered a division. Of the members present, three members, including Mr James TO, Mr WU Chi-wai and Mr Gary FAN voted for the motion. Eight members, including the Deputy Chairman, Mr CHAN Kam-lam, Mr WONG Kwok-hing, Mrs Regina IP, Mr Frankie YICK, Ir Dr LO Wai-kwok, Mr Christopher CHUNG and Mr Tony TSE voted against the motion. Mr Paul TSE abstained. The Chairman declared that the motion moved by Mr WU Chi-wai was negatived.

7. Mr Gary FAN moved the following motion –

"本委員會尋求內務委員會支持，要求立法會引用《立法會(權力及特權)條例》(第382章)成立一個專責委員會，以調查香港鐵路有限公司廣深港高速鐵路香港段工程延誤及超支事宜；而該專責委員會在執行其職務時獲授權根據《立法會(權力及特權)條例》第9(2)條行使第9(1)條所賦予的權力。"

(Translation)

"That this Subcommittee seeks the House Committee's support for appointing a select committee to inquire into the MTR Corporation Limited ("MTRCL") in respect of delay in the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") and cost overrun issues by invocation of powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382); and that in the performance of its duties the committee be authorized under section 9(2) of the Ordinance to exercise the powers conferred by section 9(1) of that Ordinance."

8. The Chairman put the motion to vote. At the request of Mr Gary FAN, the Chairman ordered a division. Of the members present, three members, including Mr James TO, Mr WU Chi-wai and Mr Gary FAN voted for the motion. Eight members, including the Deputy Chairman, Mr CHAN Kam-lam, Mr WONG Kwok-hing, Mrs Regina IP, Mr Frankie YICK, Ir Dr LO Wai-kwok, Mr Christopher CHUNG and Mr Tony TSE voted against the motion. Mr Paul TSE abstained. The Chairman declared that the motion moved by Mr Gary FAN was negatived.

9. Mr WU Chi-wai moved the following motion, which was seconded by Mr James TO –

"本委員會要求政府向本委員會提交以下文件，包括：

1. 政府與香港鐵路有限公司(港鐵公司)於2010年1月26日所簽訂的委託協議(Entrustment Agreement)的協議文本；
2. 路政署與嘉科工程顧問有限公司(Jacobs China Limited)所簽訂的合約文本；
3. 嘉科工程顧問有限公司自與路政署簽訂合約至今，就高鐵工程提交予路政署的所有定期報告的文本；及
4. 要求港鐵的高鐵文件庫公開予公眾查閱。

以讓委員會及公眾了解政府及港鐵公司在高鐵延誤事件中需要承擔的責任。"

(Translation)

"That this Panel requests the Government to submit the following documents to this Panel, including:

1. a copy of the Entrustment Agreement signed between the Government and the MTR Corporation Limited ("MTRCL") on 26 January 2010;
2. a copy of the contract signed between the Highways Department ("HyD") and the Jacobs China Limited ("JCL");
3. copies of all regular reports on the XRL project submitted to HyD by JCL since it signed the contract with HyD;
4. requesting the MTR's data room of XRL project to be made available for public access

in order to allow this Panel and the public to understand the responsibility that should be borne by the Government and MTRCL

for the delay of XRL project."

10. The Chairman put the motion to vote. At the request of Mr WU Chi-wai, the Chairman ordered a division. Of the members present, four members, including Mr James TO, Mr Paul TSE, Mr WU Chi-wai and Mr Gary FAN, voted for the motion. Five members, including the Deputy Chairman, Mr CHAN Kam-lam, Mr Frankie YICK, Ir Dr LO Wai-kwok and Mr Christopher CHUNG, voted against the motion. Mr WONG Kwok-hing, Mrs Regina IP and Mr Tony TSE abstained. The Chairman declared that the motion moved by Mr WU Chi-wai and seconded by Mr James TO was negatived.

II Any other business

Meetings in June and July 2014

11. The Chairman informed members that the item on "Financial arrangements for commercial revenues between the Government and the MTR Corporation Limited in respect of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link" originally scheduled for discussion at the special meeting on 13 June 2014 at 10:45 am would be deferred as it was envisaged that the Administration's paper would not be ready before the meeting. After discussion with the Administration, the above item would be replaced by "Progress update of the construction of the West Island Line". The meeting would also discuss the item "Railway incident on 27 April 2014 involving MTR train service data network transmission and follow-up actions". Members raised no objection to the above arrangements.

(Post-meeting note: At the request of the Administration and with the concurrence of the Subcommittee Chairman, the Subcommittee would also discuss issues relating to the South Island Line (East) and Kwun Tong Line Extension at the special meeting on 13 June 2014 under the original agenda item "Progress update of the construction of the West Island Line", whereas the item "Railway incident on 27 April 2014 involving MTR train service data network transmission and follow-up actions" was changed to "East Rail Line service disruptions on 27 and 28 April, and 1 and 2 May 2014" and deferred to the regular meeting on 4 July 2014.)

12. The Chairman further reminded members that the Subcommittee would discuss the item on "Railway development" at the regular meeting on Friday, 4 July 2014.

(Post-meeting note: At the request of the Administration and with the concurrence of the Subcommittee Chairman, the item on "Railway development" was deferred to the special meeting to be held on 29 September 2014.)

13. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
5 September 2014

Panel on Transport

Subcommittee on Matters Relating to Railways

**Proceedings of the special meeting
on Monday, 19 May 2014, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000153 – 000344	Chairman	Arrangements for meetings in June and July 2014	
<i>Agenda Item I – Latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link</i>			
000345 – 000509	Chairman Mr WU Chi-wai	Meeting arrangements	
000510 – 001243	Chairman Administration	Opening remarks by the Secretary for Transport and Housing Bureau ("STH")	
001244 – 001730	Chairman MTR Corporation Limited ("MTRCL")	Opening remarks by the Chairman of MTRCL ("Chairman/MTRCL") With the aid of a powerpoint presentation (LC Paper No. CB(1)1465/13-14(01)), the Chief Executive Officer of MTRCL ("CEO/MTRCL") briefed members on the latest position of the construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Line ("XRL").	
001731 – 002247	Chairman Ms Claudia MO Dr Elizabeth QUAT Administration MTRCL	Dr Elizabeth QUAT considered that the Independent Expert Panel ("IEP") set up by the Administration should examine the accountability of parties concerned for the serious delay in the construction of XRL. She queried whether the Independent Board Committee on the XRL project formed by MTRCL ("IBC") would be sufficiently independent and fair in reviewing the XRL project. STH explained IEP's terms of reference and pointed out that IEP would be given liberty to make observations and recommendations on a wide range of issues relating to the XRL project. Chairman/MTRCL stressed that the IBC consisting of MTRCL's independent non-executive directors would exercise independent judgment and professionalism in conducting the review, and was expected to submit its first report in July 2014.	

Time marker	Speaker	Subject(s)	Action required
002248 – 002720	Chairman Ir Dr LO Wai-kwok MTRCL	<p>Ir Dr LO Wai-kwok urged the Administration and MTRCL to ensure completion of XRL construction according to the revised schedule, taking into account the critical works of the diaphragm wall under Jordan Road and repair of the damaged tunnel boring machine ("TBM") in the Yuen Long Tunnel Section. He stressed the importance to meet the relevant railway safety and quality standards, and minimize additional costs arising from project delay.</p> <p>MTRCL advised that:</p> <p>(a) the diaphragm wall in question had been completed and to help expedite the construction programme for works at the West Kowloon Terminus ("WKT") north top-down area, the project team had adjusted the works design, sequence and construction methods (e.g. installing steel columns from ground level to enable earlier start of the electrical and mechanical works as civil works progressed top-down); and</p> <p>(b) the damaged TBM in the Yuen Long Tunnel Section would be repaired in-situ. Due to the need to replace more than 2 000 components, repair and testing work would take about nine months, with full tunnel operation resuming by the end of 2014.</p>	
002721 – 003240	Chairman Dr Priscilla LEUNG Administration MTRCL	<p>Dr Priscilla LEUNG said that 大角咀高鐵路工程關注組 welcomed the Administration's decision to include overseas experts in the composition of IEP. She emphasized the need to identify the parties responsible for the serious XRL project delay, put in place a compensation mechanism for handling claims, and ensure timely completion of the project.</p> <p>STH said that there could be different reasons leading to the XRL project delay. The Administration would follow up on the findings and recommendations to be made by IEP, including accountability of parties concerned, if any.</p> <p>Chairman/MTRCL said that MTRCL was ready to accept its responsibilities in accordance with the Entrustment Agreement entered into with the Government for construction, testing and</p>	

Time marker	Speaker	Subject(s)	Action required
		commissioning of XRL ("EA") in 2010.	
003241 – 003719	Chairman MTRCL	<p>In reply to the Chairman, CEO/MTRCL responded that:</p> <p>(a) he had checked with MTRCL's Projects Director ("PD/MTRCL") and Operations Director before calling STH for the second time on 21 November 2013 to confirm that the XRL works could be completed in 2015. The judgment was based on the best information available to him at that time; and</p> <p>(b) he did not specifically enquire with the MTRCL staff then about the prevailing rock excavation rate at WKT and the required rate for meeting the target of commissioning XRL by 2015.</p> <p>Referring to the notes of the urgent meeting held on 21 November 2013 between the Administration and MTRCL (Annex to LC Paper No. CB(1)1422/13-14(04)), the Chairman remarked that it was contradictory that MTRCL appeared to be confident at that time the XRL project delay could be recovered, yet it would take MTRCL six months to confirm whether the 2015 target could be met.</p>	
003720 – 004127	Chairman Mr WONG Kwok-hing Administration	<p>Mr WONG Kwok-hing considered that the appointment of The Hon Mr Justice HARTMANN, a Non-Permanent Judge of the Court of Final Appeal, as chairman would enhance IEP's credibility.</p> <p>In reply to Mr WONG Kwok-hing, STH advised that:</p> <p>(a) the Administration's plan was to nominate four additional directors (three independent non-executive directors and one government director) to the MTRCL Board, and the appointment would be made in the near future; and</p> <p>(b) as regards the timeframe for IEP to submit its report, it would need to look into, amongst others, the report to be submitted by MTRCL's IBC on the XRL Project.</p>	

Time marker	Speaker	Subject(s)	Action required
004128 – 004601	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai enquired about:</p> <p>(a) why the Administration did not consider setting up a commission under the Commissions of Inquiry Ordinance ("CIO") (Cap. 86) with statutory powers to inquire into the XRL project delay;</p> <p>(b) whether the Administration had sought legal advice from the Department of Justice before taking the line with MTRCL to inform the Subcommittee on 22 November 2013 that the XRL works could be completed within 2015, given the potential legal implications on MTRCL's obligations in the event of project delay; and</p> <p>(c) why the Administration had not sought additional manpower for the Railway Development Office ("RDO") of the Highways Department ("HyD") if the existing 13 Civil Engineer posts under RDO were said to be insufficient to oversee the XRL project.</p> <p>STH responded that:</p> <p>(a) although it was not explicitly put in its terms of reference, IEP was given the liberty to examine all issues, including problems caused by human errors, relating to implementation and monitoring of the XRL project; and</p> <p>(b) while the Administration had not sought legal advice prior to re-affirming to the Subcommittee in November 2013 about the 2015 target, the judgment was made on the basis of professional assessment and good faith.</p> <p>The Director of Highways ("DHy") advised that his remarks made at the Subcommittee meeting on 5 May 2014 about RDO's staff establishment was meant to highlight the role of the Administration, based on a risk-based approach, to monitor and verify whether MTRCL was implementing the XRL project according to its internal project management system, rather than the inadequacy of RDO's manpower resources in carrying out this monitoring and verification task.</p>	

Time marker	Speaker	Subject(s)	Action required
004602 – 004818	Chairman Mr Tony TSE Mr Paul TSE Mr WONG Kwok-hing	Meeting arrangements	
004819 – 005225	Chairman Mr CHAN Kam-lam Administration	<p>Mr CHAN Kam-lam enquired about:</p> <p>(a) whether the Administration had considered the feasibility of the delay recovery measures proposed by MTRCL (e.g. excavation by rock blasting in the north top down area of WKT) for achieving the revised target of commissioning XRL by 2017; and</p> <p>(b) the reasons for the deformation of the piles at the Nam Cheong Property Foundation ("NCPF").</p> <p>DHy responded that:</p> <p>(a) MTRCL had been requested to provide a detailed work plan showing, amongst others, how the XRL project delay could be recovered so that HyD and its external consultant could assess whether the revised target of 2017 was achievable; and</p> <p>(b) the deformed piles in question were likely due to over-driving of the piles into the old seawall rubble foundation, when NCPF was built, which had caused the piles to bend at their ends thereby leading to the difficulty in removing them to make way for the passing through of the XRL TBM. MTRCL had subsequently recovered the delay by using new extraction method to remove the piles.</p>	
005226 – 005652	Chairman Deputy Chairman Administration MTRCL	<p>The Deputy Chairman urged that IEP should commence work as soon as possible, and MTRCL should complete its internal investigation early, in particular to address the wide public concern about CEO/MTRCL's responsibility for having misled the Government about the XRL delivery schedule.</p> <p>Chairman/MTRCL assured members that the IBC would strive to unveil the truth and make observations/recommendations in respect of the causes leading to the XRL project delay. In his view, it was questionable that any party would have</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the motive to cover up the XRL project delay. Looking forward, MTRCL would improve its corporate governance and project monitoring mechanism, and endeavour to meet the revised target of 2017.</p> <p>CEO/MTRCL stressed that he had communicated with the Government on the XRL target completion date based on the best of his knowledge and had not withheld any information from the Government or the public.</p>	
005653 – 010103	Chairman Ms Claudia MO Administration	<p>Ms Claudia MO suspected that the XRL project delay might have been caused by political decisions or blunders. While it was premature and unfair at this stage to put the sole responsibility on CEO/MTRCL, she was concerned that the parties accountable for the serious project delay might ultimately get off lightly since IEP's recommendations would not be legally binding.</p> <p>In response to Ms Claudia MO's enquiry, STH advised that the estimated expenditure for IEP's review might be a few millions. He emphasized that the XRL works should be considered from a professional perspective that could not be overridden by political motive or personal opinion.</p>	
010104 – 010528	Chairman Mr James TO Administration	<p>Referring to the Commission of Inquiry appointed to inquire into the vessel collision incident on 1 October 2012, Mr James TO considered that the Administration should likewise appoint a commission under CIO with statutory powers to investigate into the XRL project delay, including powers to summon witnesses and take evidence from them under oath.</p> <p>STH reassured members that IEP had sufficient credibility to undertake a comprehensive review of the systems and practices relating to management and monitoring of the XRL project.</p>	
010529 – 010938	Chairman Mr Paul TSE MTRCL	<p>In reply to Mr Paul TSE, CEO/MTRCL confirmed that:</p> <p>(a) the notes of meeting held on 21 November 2013 between the Administration and MTRCL (LC Paper No. CB(1)1422/13-14(04)) was an accurate representation of the discussions</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>amongst the parties;</p> <p>(b) it was PD/MTRCL's personal decision to resign and his resignation was accepted by CEO/MTRCL. The matter was not brought to the MTRCL Board for approval; and</p> <p>(c) the XRL Data Room to be set up by MTRCL for Legislative Council Members to peruse MTRCL's external and internal documents on the XRL project would facilitate Members to understand the project delay.</p>	
010939 – 011413	Chairman Mr TANG Ka-piu Administration MTRCL	<p>Mr TANG Ka-piu enquired:</p> <p>(a) whether the additional independent non-executive directors to be nominated to the MTRCL Board would advise the Board on any disciplinary actions to be taken against CEO/MTRCL for his responsibility in the XRL project delay; and</p> <p>(b) why MTRCL's Annual Report 2013 stated that the XRL was targeted for completion in 2015 even though, according to MTRCL's paper (LC Paper No. CB(1)1354/13-14(01)), MTRCL was aware, as early as in December 2013, that WKT would not open for 2015 even on a Minimum Operating Requirement ("MOR") approach, and in January 2014, MTRCL's internal project management projections estimated completion of works at 2016.</p> <p>STH responded that he was not in a position to comment on how the MTRCL Board would handle disciplinary issues relating to the XRL project. However, the additional independent non-executive directors to be nominated to the MTRCL Board were expected to exercise independent judgment and act in the best interests of MTRCL.</p> <p>CEO/MTRCL pointed out that after MTRCL's Annual Report 2013 had been published in early 2014, the MTRCL Board was informed in April 2014 that the target for commissioning XRL in 2015 could not be met.</p>	

Time marker	Speaker	Subject(s)	Action required
011414 – 011843	Chairman Mr Christopher CHUNG MTRCL	<p>Mr Christopher CHUNG considered that:</p> <ul style="list-style-type: none"> (a) CEO/MTRCL had not exercised sufficient supervision, professionalism and initiative to keep track of the XRL project status to ensure its timely completion and within budget. Also, he should not have accepted PD/MTRCL's resignation lightly and let him get off from disciplinary sanctions; (b) the end-of-contract gratuity payable to CEO/MTRCL and PD/MTRCL should be deducted and MTRCL should reserve the right to make claims against them; and (c) the Administration and MTRCL should promptly review the project monitoring mechanism to prevent recurrence of similar incidents in future. <p>CEO/MTRCL stressed that he had been delivering his duties in a professional manner, with procedures put in place and carried out to manage the XRL project. He pointed out that it was not until 12 April 2014 that he himself and the Executive Committee and Board of MTRCL were informed by PD/MTRCL about the project delay.</p> <p>Chairman/MTRCL reiterated that the IBC would identify the causes for the XRL project delay.</p>	
011844 – 012352	Chairman Mr Gary FAN Administration MTRCL	<p>Mr Gary FAN criticized that STH would lose his credibility if he had sided with MTRCL to cover up the serious XRL project delay. He was worried that IEP would be tasked to identify inadequacies in the project monitoring system only and not the accountabilities of parties concerned.</p> <p>Mr FAN enquired about:</p> <ul style="list-style-type: none"> (a) whether STH and the Under Secretary for Transport and Housing ("USTH") had in fact agreed to concede to MTRCL not to report to the Subcommittee on 22 November 2013 that the target for commencing XRL operation in 2015 could not be met; and (b) the outstanding works of WKT by the end of 2017 (i.e. according to MTRCL's paper (LC 	

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		<p>Paper No. CB(1)1438/13-14(01)), only 10 platforms would be available for service when WKT was open for passenger service by end of 2017).</p> <p>STH stressed that:</p> <p>(a) he had not come up with any decision with USTH or the Permanent Secretary for Transport and Housing (Transport) to give in to MTRCL's views about the XRL project completion date; and</p> <p>(b) he undertook to resign from the post of STH if IEP identified any responsibilities on his part in the XRL project delay and related matters.</p> <p>USTH apprised members that at the meeting held on 21 November 2013 between the Administration and MTRCL, both sides concurred that the target of completion of works in 2015 should be maintained as MTRCL was confident of the feasibility, and MTRCL needed to use the 2015 target to continue exerting pressure on its contractors to expedite works.</p> <p>In reply to Mr Gary FAN's enquiry whether and when CEO/MTRCL would have to bear the responsibility for the XRL project delay by resigning, CEO/MTRCL said that it was his responsibility to continue to lead MTRCL through the various challenges associated with the ongoing railway projects.</p>	
012353 – 012821	Chairman Dr Helena WONG MTRCL	<p>Dr Helena WONG emphasized the need for IEP to examine the accountabilities of parties concerned in the XRL project delay. She enquired about:</p> <p>(a) the amount of land of the temporary works sites of XRL project which had been returned to facilitate development of WKCD, in particular the area between M+ and the Xiqu Centre at WKCD, and the timeframe for returning the remaining sites in comparison to the original schedule; and</p> <p>(b) which party would bear the overrun cost of WKCD project, if any, arising from the late return of XRL temporary works sites.</p>	Administration/ MTRCL to provide information (paragraph 4 of minutes)

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		<p>The Project Manager-XRL (Planning and Controls), MTRCL ("PM/MTRCL") informed members that the works sites relating to the Xiqu Centre and M+ had already been handed over from MTRCL to WKCD. MTRCL would provide supplementary information in response to Dr Helena WONG's enquiries above.</p>	
012822 – 012917	Chairman	Meeting arrangements	
012918 – 013600	Chairman Mr Tony TSE Mr Frankie YICK Mrs Regina IP Administration	<p>Mr Tony TSE expressed concern whether the serious XRL project delay was due to insufficient manpower of HyD in monitoring the works. He also sought information on whether HyD and/or its external consultant had conducted independent assessment of the feasibility and effectiveness of the delay recovery measures proposed by MTRCL at different stages and provided relevant advice to the Administration or not.</p> <p>Mr Frankie YICK shared similar concerns about how far HyD had played the role of monitoring the XRL works and why HyD and the external consultant together were not capable of detecting the serious delay early.</p> <p>Mrs Regina IP queried why the Administration should have trusted MTRCL's ability to recover the XRL project delay even though delays under individual contracts had been reported at different junctures. She considered that HyD and the external consultant should have been able to keep track of delay recovery through daily or weekly progress reports.</p> <p>DHy responded that:</p> <p>(a) as RDO was meant to oversee the implementation of the XRL project by monitoring and verifying MTRCL's project delivery under EA requirements, its scale of manpower and monitoring approach were much smaller than that of MTRCL as the project manager;</p> <p>(b) the Administration had requested MTRCL to provide detailed explanation on the causes of delay and associated mitigating measures</p>	

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		<p>whenever there was a delay; and</p> <p>(c) the proposal of initial opening of XRL (putting into service six tracks, out of the 15 tracks) by end 2015 was considered a reasonable attempt, given there was room to recover delays and increase construction output by addressing issues such as inadequate labour resources and work fronts, logistic and site coordination problems.</p>	
013601 – 013838	Chairman Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok suggested that IEP should engage additional members with local experience to assist in the review of the XRL project.</p> <p>STH said that he would relay the suggestion to IEP and pointed out that to avoid conflict of interest, IEP members should not have been involved in railway projects or other business of MTRCL.</p> <p>In response to Ir Dr LO Wai-kwok's concern about delay in the WKT works, PD/MTRCL said that MTRCL had reviewed the critical contracts in question and confirmed with contractors on the revised plan to take the works forward based on realistic assessment.</p>	
013839 – 014106	Chairman MTRCL	<p>The Chairman criticized that CEO/MTRCL had not actively sought but waited to be informed about the status of XRL project, in particular he had not enquired about the prevailing and expected production rate at WKT for assessment of project completion date. He enquired whether Chairman/MTRCL would consider moving a motion of no-confidence in CEO/MTRCL at the next Board meeting.</p> <p>Chairman/MTRCL considered it unsuitable at this stage to make premature judgment on the responsibility borne by any party, having regard to procedural fairness before the observations and recommendations of the IBC were drawn up. He assured members that MTRCL would take appropriate actions if any faults were identified in CEO/MTRCL or other parties of MTRCL.</p>	
014107 – 014309	Chairman Mr CHAN Kam-lam Administration	Mr CHAN Kam-lam suggested the Administration to discuss with MTRCL the MOR approach or other alternatives to bring XRL to service as early as	

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		<p>possible.</p> <p>STH explained that the MTRCL's proposed MOR approach would still provide full passenger service in 2015 but would run six tracks (i.e. partial opening) instead of 15 (full opening) at WKT. While the Administration would consider the MOR approach, it had objected to the extended MOR proposal (i.e. based on the original MOR proposal plus the use of one tunnel across the boundary section running in bi-directional format) put forth by MTRCL in November 2013 on safety grounds.</p>	
014310 – 014457	Chairman Dr Elizabeth QUAT Administration	<p>Dr Elizabeth QUAT expressed regret that MTRCL had not taken any disciplinary action against CEO/MTRCL. She enquired when the Administration would complete assessment of the additional costs arising from the project delay and which party would bear the costs.</p> <p>STH said that MTRCL was still estimating the additional costs to be incurred. The Administration would look into whether MTRCL had breached its obligations under the EA and other relevant legal principles.</p>	
014458 – 014703	Chairman Mr Paul TSE MTRCL	<p>Mr Paul TSE opined that:</p> <p>(a) the MTRCL Board should have discussed the resignation of PD/MTRCL given the importance of the matter. MTRCL should consider how to re-build public confidence in its corporate governance and ability to mitigate the project delay of XRL; and</p> <p>(b) the Administration should carefully assess feasibility of the delay mitigation measures to be undertaken by MTRCL and their costs, with a view to containing additional expenditure.</p> <p>Chairman/MTRCL clarified that after CEO/MTRCL had accepted the resignation of PD/MTRCL, the MTRCL Board had convened a meeting on the following day at which PD/MTRCL and CEO/MTRCL explained the matters concerned, and the Board accepted their decisions.</p>	
014704 – 014859	Chairman Mr James TO	Mr James TO reiterated his concern about the lack of statutory powers (such as summoning of	

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	Administration	<p>witnesses) of IEP, and the merits of appointing a commission under CIO instead to inquire into the XRL project delay.</p> <p>STH re-assured members that IEP had the requisite expertise and experience to identify and make observations on the causes of XRL project delay.</p>	
014900 – 015109	Chairman Mr Christopher CHUNG MTRCL	<p>Mr Christopher CHUNG suspected that PM/MTRCL might have tried to cover up the project delay or he should have detected the project delay early from the ongoing updates of the project's master schedule.</p> <p>PM/MTRCL stressed that he had not concealed the XRL project delay.</p>	
015110 – 015201	Chairman	Arrangements for handling of motions moved by members	
015202 – 015313	Chairman Mr WU Chi-wai	Motion moved by Mr WU Chi-wai	
015314 – 015430	Chairman Mr Gary FAN	Motion moved by Mr Gary FAN	
015431 – 015535	Chairman Mr WU Chi-wai	Motion moved by Mr WU Chi-wai and seconded by Mr James TO	
015536 – 015650	Chairman Mr Tony TSE Administration MTRCL	Overall responses made by the Administration and MTRCL to the three motions	
015651 – 015729	Chairman Mr Gary FAN Mr WU Chi-wai	Voting arrangements	
015730 – 015833	Chairman	Voting on the motion moved by Mr WU Chi-wai	
015834 – 015917	Chairman	Voting on the motion moved by Mr Gary FAN	
015918 – 020009	Chairman	Voting on the motion moved by Mr WU Chi-wai and seconded by Mr James TO	
020010 – 020024	Chairman	Concluding remarks by the Chairman	

Council Business Division 1
Legislative Council Secretariat
5 September 2014