

立法會
Legislative Council

LC Paper No. ESC46/15-16

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Establishment Subcommittee of the Finance Committee

**Minutes of the 5th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 16 December 2015, at 8:30 am**

Members present:

Hon Mrs Regina IP LAU Suk-yee, GBS, JP (Chairman)

Hon WONG Kwok-kin, SBS (Deputy Chairman)

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

Hon LEUNG Yiu-chung

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBS, JP

Hon WONG Kwok-hing, BBS, MH

Hon Starry LEE Wai-king, JP

Hon CHAN Hak-kan, JP

Hon IP Kwok-him, GBS, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon Albert CHAN Wai-yip

Hon NG Leung-sing, SBS, JP

Hon Steven HO Chun-yin, BBS

Hon WU Chi-wai, MH

Hon YIU Si-wing, BBS

Hon MA Fung-kwok, SBS, JP

Hon Charles Peter MOK, JP

Hon CHAN Chi-chuen

Dr Hon Kenneth CHAN Ka-lok

Hon LEUNG Che-cheung, BBS, MH, JP

Hon Alice MAK Mei-kuen, BBS, JP

Hon KWOK Wai-keung

Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kwong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Member attending:

Dr Hon KWOK Ka-ki

Members absent:

Hon Albert HO Chun-yan
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon CHAN Han-pan, JP
Hon Kenneth LEUNG
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon CHUNG Kwok-pan

Public Officers attending:

Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Mr Eddie MAK Tak-wai, JP	Deputy Secretary for the Civil Service (1)
Mr YAU Shing-mu, JP	Under Secretary for Transport and Housing
Miss Winnie WONG	Principal Assistant Secretary for Transport and Housing (Transport)3
Mr Peter LAU, JP	Director of Highways
Mr TAM Hon-choi	Government Engineer (Railway Development 2), Highways Department

Clerk in attendance:

Ms Connie SZETO

Chief Council Secretary (1)4

Staff in attendance:

Ms Anita SIT

Assistant Secretary General 1

Miss Sharon LO

Senior Council Secretary (1)9

Mr Jason KONG

Council Secretary (1)4

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Ms Haley CHEUNG

Legislative Assistant (1)9

Miss Yannes HO

Legislative Assistant (1)6

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The Chairman said that the Subcommittee would continue to deal with the three items carried over from the meeting on 2 December 2015. She drew members' attention to the information paper ECI(2015-16)14 which set out the latest changes in the directorate establishment approved since 2002. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the funding proposals under discussion at the meeting before they spoke on the items. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

EC(2015-16)9 Proposed creation of a supernumerary post of Chief Engineer (D1) for around four years with immediate effect upon approval of the Finance Committee to 31 December 2019 in the Railway Development Office of Highways Department to continue providing dedicated support to and monitoring the completion of the Hong Kong section of Guangzhou-Shenzhen-Hong Kong Express Rail Link project by the MTR Corporation Limited

2. The Chairman remarked that the establishment proposal was to create a supernumerary post of Chief Engineer ("CE") in the Railway Development Office ("RDO") of the Highways Department ("HyD") (to be designated as Chief Engineer/Railway Development 2-3 ("CE/RD2-3")) for around four years to head the dedicated division (i.e. Railway Development Division 2-3 ("RDD2-3")) in supporting and monitoring the completion of the Hong Kong section ("HKS") of Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") project by the MTR Corporation Limited ("MTRCL").

The post in question was initially created in 2008 and lapsed on 7 July 2015 as the proposal for retaining the post was not considered by the Finance Committee ("FC") in time.

Justifications for creating the post and past performance of the post holder

3. Mr Albert CHAN, Mr CHAN Chi-chuen, Dr Fernando CHEUNG and Mr LEUNG Yiu-chung considered that the problems of delay and cost overrun in the HKS of XRL project were evidence of the Administration's ineffective monitoring over the project and poor management and leadership of the government officials concerned. They queried how the Administration would, upon re-creation of the CE/RD2-3 post, ensure that the post holder would discharge the duties in an effective manner and avoid further delay and cost overrun in the project. Dr CHEUNG remarked that the Administration should explain the measures adopted/to be adopted for enhancing the role and accountability of CE/RD2-3 and the monitoring system for the HKS of XRL project.

4. Mr Albert CHAN was disappointed that the current term Government had failed to learn from the experience of overseas experts in monitoring the various infrastructure projects implemented in Hong Kong in the 1990s which had been delivered in time in general and without any cost overrun. He expressed doubt on the capability of senior government officials in HyD and the Transport and Housing Bureau ("THB") in overseeing MTRCL in implementing the HKS of XRL project, and urged that the Administration should seek assistance from the engineering sector on the expertise and experience for monitoring MTRCL's work.

5. Under Secretary for Transport and Housing ("USTH") explained that, taking into account the recommendations of a consultancy commissioned in 2008, the Government had adopted the monitoring and verification ("M&V") mechanism for the concession approach for implementing the HKS of XRL project. The "check the checker" mode of monitoring was applied under which MTRCL would be responsible for the construction and commissioning of the project, and HyD would monitor MTRCL's work and provide necessary input/professional advice in relation to the planning and other aspects of the project. Since MTRCL's announcement of the project delay in April 2014, THB and HyD had taken steps to improve the project governance and the reporting and communications framework of MTRCL. For example, two new committees were established under the Board of MTRCL, namely the Capital Works Committee and Risk Committee, to facilitate more in-depth and focused monitoring of construction progress and overall risk management of MTRCL. Moreover, to strengthen MTRCL's corporate governance and operation, MTRCL had appointed four new directors, namely one government director and three independent non-executive directors who had different

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professional backgrounds, including engineering, accounting, auditing and public administration. In view of the project delay, the Government had also appointed an Independent Expert Panel ("IEP") to review the implementation of the project. The Government had improved the systems, processes and practices for implementing and monitoring the HKS of XRL project taking into account the recommendations of IEP.

6. Director of Highways ("DHy") added that the overseas experts engaged by the Government for the Airport Core Programme ("ACP") Projects in the 1990s were mainly responsible for overall project management and coordination while the construction works was taken forward by the relevant departments. The experience gained from the ACP Projects was useful in helping HyD in monitoring the completion of infrastructure projects, such as the Shenzhen Western Corridor, the Stonecutters Bridge and the reconstruction and improvement of Tuen Mun Road. These projects had been completed on schedule and within the approved budgets. The Government would consider engaging external consultants for provision of necessary advice on capital works projects as and when necessary.

7. DHy clarified that the delay in the HKS of XRL project was mainly caused by unfavourable site conditions. According to the revised Programme to Complete ("PTC") submitted by MTRCL, the target completion of the project was the third quarter of 2018. HyD, with the assistance of the M&V Consultant, had completed the review of the revised PTC and considered that the revised programme would be achievable subject to a number of conditions. He stressed the need to re-create the CE/RD2-3 post to lead RDD2-3 in enhancing the monitoring work to ensure that MTRCL would complete the project in accordance with the revised PTC. He advised that HyD had adopted the enhanced monitoring measures since April 2014 including, among others, increasing the headcount of RDD2-3 from 13 to 18, adopting the "red, amber, green light" system for the monthly progress reports submitted by MTRCL, and arranging the M&V Consultant to attend Project Supervision Committee ("PSC") meetings, etc. In response to Dr KWOK Ka-ki's enquiry, DHy advised that the M&V Consultant engaged for the HKS of XRL project was Jacobs China Limited. In order to avoid any potential conflict of interest, Jacobs China Limited could not provide consultancy service to MTRCL, their consultants and contractors in relation to the HKS of XRL project.

8. Dr KWOK Ka-ki queried the appropriateness to fill the CE/RD2-3 post by the former incumbent and deploying the same team of staff in HyD to oversee the HKS of XRL project. He asked whether the Administration would consider filling the CE/RD2-3 post with a new candidate or engaging external professionals with relevant experience to take charge of the work.

9. USTH and DHy stressed that RDD2-3 was responsible for monitoring the implementation of the HKS of XRL project and CE/RD2-3 would be essential in leading RDD2-3, in particular, for implementing various enhanced monitoring measures recommended by IEP. In addition to the expertise in managing the express rail project, CE/RD2-3 needed to possess knowledge and experience in government operations as the post was required to coordinate with the relevant government bureaux/departments in resolving interfacing issues relating to the HKS of XRL project.

10. Mr Alan LEONG asked if there would be changes in the role and major duties of the CE/RD2-3 post upon its re-creation. DHy replied that the overall role and objectives of the post would generally remain the same as it was created in 2008. However, there were updates on the major duties and responsibilities for the post to tie in with the progress of the HKS of XRL project. The details, including the several enhancement measures adopted/to be adopted by RDD2-3 for strengthening the monitoring of the project were set out under item (a) of the supplementary information provided by the Government (LC Paper No. ESC30/15-16(01)). In response to Mr LEONG's further enquiry, DHy confirmed that the estimated total expenditure on the salary and office expenses of \$112,653,232 provided in Enclosure 5 to EC(2015-16)9 covered the total expenditure of RDD2-3 in the coming four years.

11. Dr CHIANG Lai-wan expressed concern about the capability of CE/RD2-3 and RDD2-3 in monitoring MTRCL's work. She was of the view that there were loopholes in the Entrustment Agreement which might be the reason for the delay and cost overrun of the HKS of XRL project. Dr CHIANG said that she would support the establishment proposal if the Administration would undertake that CE/RD2-3 and RDD2-3 would enhance their mode of operation, the RDD2-3 would be resident on site, and there would be no further delay in the project.

12. DHy said that staff members of RDD2-3 conducted site visits together with the M&V Consultant every month in monitoring the project progress. He emphasized that MTRCL was responsible for the construction and management of the HKS of XRL project, and the role of RDD2-3 was to monitor the work of MTRCL. USTH supplemented that the Government had attached great importance in ensuring timely delivery of the HKS of XRL project. In this regard, the Government had entered into a Definitive Agreement ("DA") with MTRCL in November 2015 which required MTRCL to bear any further cost overrun for the project. It was expected that MTRCL would enhance management for the project, as pursuant to DA, MTRCL would need to bear the financial risks arising from further delay and cost overrun of the project.

13. As regards Dr CHIANG Lai-wan's views on RDD2-3's work, DHy explained that MTRCL had already arranged supervisory and consultant staff to work on-site. RDD2-3 had to monitor the progress of various works sites and coordinate with other government bureaux/departments. It might not be feasible to arrange staff members of RDD2-3 to be resident on sites which included the 26 kilometres of tunnel and West Kowloon Terminus. The Government took note of members' views on the need to enhance the monitoring work of RDD2-3.

Temporary staffing arrangement

14. Noting that the CE/RD2-3 post had been vacant for some five months since the post lapsed in July 2015 and HyD had engaged the M&V Consultant to monitor the HKS of XRL project, Mr Alan LEONG saw no strong justification to re-create the post. He enquired about the temporary staffing arrangement in HyD pending FC's approval of the proposal.

15. DHy responded that Chief Engineer/Railway Development 2-1 ("CE/RD2-1") had stepped in to provide temporary directorate support for the HKS of XRL project. The existing workload of CE/RD2-1 was in turn shared among other CEs in RDO. He pointed out that the temporary staffing arrangement was not sustainable and had adversely affected the initiatives for new railway projects taken forward by RDO, including the planning and implementation of new railway projects recommended under the Railway Development Strategy ("RDS") 2014. He re-iterated that there was an urgent need to re-create the CE/RD2-3 post for leading the work of RDD2-3. In response to Mr LEUNG Kwok-hung's enquiry on the duties of Chief Engineer/Railway Development 2-2, DHy advised that one of the responsibilities of the post was to oversee the long term planning and development of the seven new rail lines identified under RDS 2014.

Reasons for project delay and cost overrun

16. Mr LEUNG Kwok-hung expressed strong dissatisfaction that almost all railway projects overseen by HyD had encountered the problem of delay. He pointed out that the Government had entrusted the construction and commissioning of the HKS of XRL project to MTRCL on consideration that the project was financially not viable. He further sought information on comparable railway projects in other jurisdictions which had encountered problems of cost overrun and delay.

17. DHy said that the reasons for the delay of railway projects varied and involved unforeseeable challenges. For example, the construction of the Shatin to Central Link was delayed by 11 months due to the discovery of historical remains at the works sites. He added that overseas experience had

revealed that it was extremely difficult to forecast accurately the delivery of large scale infrastructure projects, and it was not uncommon for such projects to run into delays. The M&V Consultant was required to deploy personnel with the relevant experience in constructing express rails to monitor and verify MTRCL's work. USTH added that in considering the implementation of transport infrastructure projects, the Government would take into account the economic benefits for Hong Kong rather than merely looking at the financial viability and investment return of the projects.

18. The Chairman expressed concern that the delay of the HKS of XRL project might be resulted from the implementation of several railway projects undertaken by MTRCL in Hong Kong and other places at the same time, thus adversely affecting the attention given to individual projects. She requested the Administration to provide information (e.g. the total number of projects and the complexity level, estimated construction cost, length of the rail lines and number of staff members deployed for the management of each project) on the railway construction and management projects currently undertaken by MTRCL in Hong Kong, the Mainland and overseas, and whether these projects had encountered problems of delay in delivery and cost overrun.

[Post-meeting note: The supplementary information provided by the Administration was circulated to members on 4 January 2016, vide LC Paper No. ESC36/15-16(01).]

19. DHy responded that currently there were five railway projects under construction by MTRCL in Hong Kong, and he understood that most of the overseas railway projects undertaken by MTRCL were management projects. USTH said that while the Government acknowledged that the experience gained by MTRCL from overseas railway projects could be beneficial to MTRCL's work in Hong Kong, it had emphasized to MTRCL on the need to accord higher priority to local railway business.

Measures to enhance the monitoring of the Hong Kong section of Guangzhou-Shenzhen-Hong Kong Express Rail Link project

20. Mr Alan LEONG, Mr WU Chi-wai and Mr James TO considered that the Administration should elaborate on the eight measures proposed by IEP for enhancing the monitoring of the HKS of XRL project as set out in LC Paper No. ESC30/15-16(01), including the concrete work to be undertaken by HyD, the differences in the duties of RRD2-3 before and after implementation of the measures, and how the measures had improved/could improve the monitoring work of HyD. In particular, Mr TO opined that the Administration should explain how the measures could help prevent the problems of project delay and cost overrun. Noting that enhancement measures such as the "red, amber, green light" system and monitoring the key

reporting milestones were essential in overseeing works projects, Mr WU questioned why HyD had not implemented these measures earlier. He also asked if the enhanced monitoring mechanism would be applied in future infrastructure projects.

[Post-meeting note: The supplementary information provided by the Administration was circulated to members on 4 January 2016, vide LC Paper No. ESC36/15-16(01).]

21. DHy explained that the delay of the HKS of XRL project was attributed to a number of factors, such as the unforeseen underground conditions at the construction sites which might not be prevented even with the adoption of the recommended enhancement measures. He stressed that the eight measures could enhance the monitoring of the project progress. For example, the adoption of "red, amber, green light" system in the monthly progress reports could enable the senior management of MTRCL and THB to better understand and monitor works progress, and implement effective delay mitigation measures in a timely manner. He added that the enhanced measures had already applied to key works projects and would apply to future railway projects when necessary.

22. In response to Mr WU Chi-wai's further enquiry on the duties of RDD2-3, DHy clarified that RDD2-3 was responsible for monitoring the implementation of the HKS of XRL project but different staff members performed different duties. New staff members joining RDD2-3 after April 2014 were dedicated to monitoring the cost and progress of the project and such duties were shared among various staff members in the division before April 2014.

23. Mr CHAN Chi-chuen enquired how HyD would enhance the monitoring of the implementation of the HKS of XRL project taking into account the eight measures. He sought details on the functions of PSC and how it could improve the monitoring work of HyD.

24. USTH stressed that the Government had taken steps to improve and enhance the project governance, reporting and communications framework of MTRCL to facilitate more in-depth and focused monitoring of construction progress and overall risk management of the project. DHy said that HyD had vigilantly taken forward the enhanced monitoring measures to ensure the timely completion of the HKS of XRL project within the revised budget. He re-iterated that the adoption of "red, amber, green light" system in the monthly progress reports had enabled the senior management of MTRCL and THB to better understand the works progress. He added that PSC would meet every month to review the project progress. The milestones established by the MTRCL's Independent Board Committee had enhanced transparency in the

reporting of project progress to all stakeholders.

25. In response to Mr LEUNG Kwok-hung's enquiry about the work of PSC, DHy explained that the Committee had been closely monitoring the progress of the HKS of XRL project and had required MTRCL to take appropriate measures to ensure timely resolution of matters concerning project implementation and financial control. In 2014, the Government also required MTRCL to prepare and submit a revised PTC to assure project delivery.

26. Ms Emily LAU enquired how the M&V Consultant and the appointment of the three new independent non-executive directors to the Board of MTRCL could enhance the monitoring of the HKS of XRL project. She questioned the effectiveness of RDD2-3 in monitoring the project as the division only had 18 staff members vis-à-vis over hundreds of staff members in the project team of MTRCL. She further queried why RDD2-3 had failed to identify the complicated underground conditions, which were the major cause for the delay and cost overrun of the project, during the site investigation process.

27. DHy said that staff members of RDD2-3 had extensive experience in managing large scale public works projects, and the Government had engaged the M&V Consultant to monitor the HKS of XRL project since 2008. The duties of the M&V Consultant included conducting site visits and attending site meetings to examine the progress of contracts and provide advice on technical aspects and areas of concerns of the project. He added that to facilitate the monitoring of the project, MTRCL's Independent Board Committee suggested to identify and recommend key reporting milestones in the remaining project programme, and report progress against each of the milestones through the monthly progress reports. With regard to the ground investigation work, DHy explained that before the commencement of the HKS of XRL project, MTRCL had carried out site investigation works to study the geological conditions of the sites, and had not reported any special problem. The Government would reserve its right to pursue MTRCL's liability regarding the project delay and cost overrun.

28. Ms Emily LAU urged that the Government should disclose the Entrustment Agreements entered into between the Government and MTRCL in 2008 to facilitate discussions on matters relating to the HKS of XRL project at public meetings of the relevant committees of the Legislative Council, including the financial situation and proposed financial arrangements.

29. USTH pointed out that the Entrustment Agreements contained sensitive commercial information and was for internal use of the Government and MTRCL only. The Government would consider providing the details of the Entrustment Agreements to members in closed sessions, and members

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could discuss issues relating to the Entrustment Agreements at public meetings provided that they would undertake not to disclose the sensitive commercial information. Ms LAU requested the Chairman to follow up the matter with the Administration.

(At 9:00 am, Mr Albert CHAN drew the attention of the Chairman to the absence of a quorum. The Chairman directed the Clerk to summon members to the meeting. A quorum was present at 9:04 am and the meeting resumed.)

(The Chairman left the meeting venue at 10:01 am, and the Deputy Chairman took the chair. The Chairman resumed the chair at 10:08 am.)

(At 10:21 am, Mr CHAN Chi-chuen drew the attention of the Chairman to the absence of a quorum. The Chairman instructed the Clerk to ring the quorum bell to summon members to the meeting. A quorum was present at 10:23 am and the meeting resumed.)

30. There being no other business, the meeting ended at 10:29 am.

Council Business Division 1
Legislative Council Secretariat
25 January 2016