

**立法會**  
***Legislative Council***

LC Paper No. FC187/17-18  
(These minutes have been  
seen by the Administration)

Ref : FC/1/1(23)

**Finance Committee of the Legislative Council**

**Minutes of the 46<sup>th</sup> meeting**  
**held at Conference Room 1 of the Legislative Council Complex**  
**on Friday, 9 June 2017, at 3:00 pm**

**Members present:**

Hon CHAN Kin-por, BBS, JP (Chairman)  
Hon Michael TIEN Puk-sun, BBS, JP (Deputy Chairman)  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, JP  
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  
Hon CHAN Han-pan, JP  
Hon Kenneth LEUNG

Dr Hon KWOK Ka-ki  
Hon Dennis KWOK Wing-hang  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon YUNG Hoi-yan  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Nathan LAW Kwun-chung  
Dr Hon YIU Chung-yim  
Dr Hon LAU Siu-lai

**Members absent:**

Hon Paul TSE Wai-chun, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon KWOK Wai-keung  
Dr Hon Junius HO Kwan-yiu, JP  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH

Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon Kenneth LAU Ip-keung, MH, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public officers attending:**

Ms Elizabeth TSE Man-yee, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Carol YUEN, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
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
Mr Raymond CHENG Nim-tai	Principal Assistant Secretary for Transport and Housing (Transport) 7
Mr Daniel CHUNG Kum-wah, JP	Director of Highways
Mr Jimmy CHAN Pai-ming, JP	Principal Government Engineer (Railway Development), Highways Department
Mr Frankie CHOU Wing-ping	Chief Engineer (Railway Development)1-2, Highways Department
Dr Philco WONG	Projects Director, MTR Corporation Limited
Mr Ken WONG	General Manager (Projects), MTR Corporation Limited
Mr Jason WONG	General Manager (SCL Civil (EWL)), MTR Corporation Limited
Mr Stephen YAU	Manager (Estimates, Cost Control and Logistics), MTR Corporation Limited
Ms Prudence CHAN	Senior Manager (Projects and Property Communications), MTR Corporation Limited

**Clerk in attendance:**

Ms Anita SIT

Assistant Secretary General 1

**Staff in attendance:**

Ms Ada LAU

Senior Council Secretary(1)7

Mr Raymond SZETO

Council Secretary (1)5

Miss Queenie LAM

Senior Legislative Assistant (1)2

Mr Frankie WOO

Senior Legislative Assistant (1)3

Miss Yannes HO

Legislative Assistant (1)6

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Action

**Item No. 1 — FCR(2017-18)10**

**RECOMMENDATION OF THE PUBLIC WORKS  
SUBCOMMITTEE MADE ON 5 APRIL 2017**

**PWSC(2016-17)43**

**HEAD 706 — HIGHWAYS**

**Transport — Railways**

**63TR — Shatin to Central Link—construction of railway  
works —advance works**

The Chairman reminded members of the requirements under Rules 83A and 84 of the Rules of Procedure.

2. The Chairman advised that this item sought the Finance Committee ("FC")'s approval for the recommendation of the Public Works Subcommittee ("PWSC") made at its meeting held on 5 April 2017, i.e. the recommendation set out in PWSC(2016-17)43 to increase the approved project estimate ("APE") of 63TR (Shatin to Central Link ("SCL")—construction of railway works—advance works) by \$847.7 million from \$6,254.9 million to \$7,102.6 million in money-of-the-day ("MOD") prices. This item was discussed by PWSC at the meetings held on 16 and 22 March 2017 and 5 April 2017. The total time spent on deliberating this item was about 4 hours and 17 minutes. At members' request, four information papers were provided by the Administration and circulated to members for information.

3. The Chairman declared that he was an independent non-executive director of The Bank of East Asia. Mr Abraham SHEK declared that he was an independent non-executive director of the MTR Corporation Limited ("MTRCL").

4. At the invitation of the Chairman, Under Secretary for Transport and Housing ("USTH") briefed members on this agenda item. He advised that, according to MTRCL's estimation, the funding for the advance works of SCL's railway construction works would be used up by mid-2017 (at the end of June). Under the entrustment agreement, if the Administration failed to pay MTRCL the construction costs of the advance works of SCL as scheduled, an additional interest of up to \$4.2 million monthly would be imposed. He hoped that FC members would seize the time and approve this funding proposal in a timely manner; otherwise, the project costs would increase due to the interest expenses that would be incurred.

Project costs and estimated interest

5. Mr CHAN Chi-chuen, Mr WU Chi-wai and Mr CHU Hoi-dick asked when and how the Administration had come up with the figure of \$4.2 million for the monthly interest that would be incurred. Dr Elizabeth QUAT expressed concerns over the consequences in case the Administration failed to pay the project costs as scheduled. Dr QUAT and Mr CHU Hoi-dick urged that the Administration should, in future, expeditiously provide information on the construction time frame of various projects and the possible additional expenditures that would be incurred in case of delay.

6. USTH and Director of Highways ("D of Hy") replied that, as at early June this year, this item had not yet been approved by FC. As the Government anticipated that interest might be imposed on the overdue amount, it was incumbent upon the Administration to explain to members the risks inherent from and the estimated costs of interest payment. The Government gave relevant information at the meeting of the Subcommittee on Railway Matters held on 2 June this year. Projects Director, MTRCL ("PD/MTRCL") added that, under the entrustment agreement of the advance works of SCL signed in 2011, in case the Government failed to pay MTRCL as scheduled the costs of the SCL advance works that MTRCL had paid to its contractors, the Government would be required to pay interest on the overdue amount at an annual interest rate of prevailing Prime Rate plus 1%, which was 6% at present.

7. Mr KWONG Chun-yu requested the Administration to cite genuine examples showing that the Government had paid interest due to late payment of project costs. He asked the Administration how cost overruns of works projects could be avoided in future.

8. USTH explained that Projects 58TR and 59TR (Protection Works of SCL) and 64TR (Construction of Non-railway Works of SCL – Advance Works) were completed within their APE without cost overruns. The Administration proposed to increase the APE for Project 63TR mainly on the following grounds: unfavourable ground conditions; modification of construction schemes to suit the actual site conditions; and increase in the provision for price adjustments. The experience gained from this works project would be taken as reference in taking forward other projects in future.

9. Mr LEUNG Yiu-chung asked whether the Government would consider adopting a reimbursement approach in respect of the payment of project costs to MTRCL; if not, the reasons for that.

10. PD/MTRCL said that the contract for the expansion works at Admiralty Station adopted the approach of target cost construction under which the project costs were reimbursed to successful tenderers.

11. Dr CHENG Chung-tai asked whether this funding proposal had taken into account the impact arising from the abandoned pipe pile discovered earlier within the works site near Fenwick Pier Street. Dr CHENG and Ms Claudia MO expressed concerns over the amount of project costs of the entire SCL project (including cost overruns).

12. USTH replied that the pipe pile would affect the progress of the main works of SCL. Project 61TR concerned the construction of the main railway of SCL. Due to the complexity of the project and the fact that the main works were still in progress, MTRCL would only be able to make a more realistic assessment of the costs of the main works of SCL in the second half of 2017. The Administration would seek additional funding from FC for Project 61TR in due course.

13. Mr WU Chi-wai asked whether contractors' claims were included in the cost overruns; if so, of the details; and whether funding had been reserved in the provision for price adjustments to cater for contractors' claims.

14. D of Hy advised that contractors would submit claims for additional costs according to contract terms. Upon receiving a claim, MTRCL would review the legitimacy of such claim and assess whether the amount of the additional costs was acceptable. After paying such costs to the contractors, MTRCL would make a payment request to the Government which was required to pay the relevant costs to MTRCL according to the entrustment agreement. The provision for price adjustments was included in the project cost estimate.

15. Mr CHAN Chun-ying asked whether the provision for price adjustments only covered specific items; if not, why the \$277.1 million savings on building services works and E&M works tender were not reflected in the provision for price adjustments. Dr YIU Chung-yim noted that the Administration reserved \$558.5 million as provision for price adjustment. He questioned whether such a provision was meant to cover cost overruns. He requested the Administration to provide a written response on the remaining amount under the proposed increase in provision for price adjustments.

16. D of Hy and USTH explained that —

- (a) the provision for price adjustment would not reflect the amount of money saved in the tender exercise for the relevant building services works and E&M works;
- (b) since it usually took several years to complete a project, the Government needed to allow in the project cost a provision for price adjustment to cater for the movements in the costs of labour and materials during the works contract period; and
- (c) the Administration had all along adopted the price adjustment factors derived from the latest set of assumptions as regularly released by the Government on the trend rate of change in the prices of public sector building and construction output for the relevant contract periods to convert the cost estimates of capital works projects from constant prices into MOD prices. The difference between the MOD prices and the constant prices would be the provision for price adjustment to be included in the project cost estimate.

17. Mr CHAN Chun-ying noted that the construction cost of Ho Man Tin Station would be apportioned between SCL and Kwun Tong Line Extension projects in accordance with the estimated patronage at peak hours at Ho Man Tin Station. He asked whether the Administration could consider apportioning the cost in accordance with the total or average patronage.

18. D of Hy said that since Ho Man Tin Station would be an integrated station providing services for passengers travelling on SCL and Kwun Tong Line Extension, the Administration must make reference to estimated patronage at peak hours at the station if it were to estimate the adequacy of railway facilities in providing services for passengers at any time (including peak and non-peak hours).

19. Mr Nathan LAW requested the Administration to provide written responses in respect of what was referred to in paragraph (3)(b) of PWSC152/16-17(01), including —

- (a) respective information on about 650 Category A projects, including (but not limited to) the amount of funding;
- (b) among them, individual situations of cost overruns in projects which required applications to FC for additional provisions, including the amounts and percentages of cost overruns; and
- (c) the benchmarks for the Administration's assessment that it had "maintained a good track record in preparing the estimates of public works projects", and whether it had compared the situations of cost overruns in public works projects in Hong Kong with those overseas.

20. USTH advised that the questions raised and information sought by Mr Nathan LAW were not directly related to this item. Nevertheless, he undertook to relay Mr LAW's request to the Development Bureau after the meeting.

*[Post-meeting note: The Chinese version of the supplementary information provided by the Administration in response to members' enquiries was issued to members on 16 June 2017 vide LC Paper No. FC182/16-17(01).]*



Adjustment of the on-cost payable to MTRCL

21. Mr CHAN Chun-ying noted the reduction of about \$212 million in the project management cost payable to MTRCL by the Administration. He enquired about the justifications for the Administration's downward adjustment of the project management cost payable to MTRCL, and whether the relevant arrangement was applicable to other works projects, or the project management cost would be lowered only when cost overruns had been incurred.

22. D of Hy responded that the Administration had initially set the project management cost payable to MTRCL for conducting Project 63TR to be 16.5% of the project base cost (the on-cost rate). Subsequently, it appointed an independent consultant to review the construction estimate of SCL, and it lowered the on-cost rate after negotiating with MTRCL and obtaining its consent.

Mechanism for monitoring MTR projects

23. Dr Fernando CHEUNG, Dr LAU Siu-lai, Dr KWOK Ka-ki, Mr KWONG Chun-yu and Mr LEUNG Kwok-hung criticized MTRCL for its unsatisfactory performance in managing and monitoring railway/station construction works. They opined that the cost overruns arising from the SCL project should not be borne by members of the public. The Government should hold MTRCL responsible for the cost overruns incurred in the project. Mr CHU Hoi-dick requested the Administration to provide examples to explain whether cost overruns had been incurred in other works projects owing to mismanagement on the part of MTRCL.

24. USTH replied that —

- (a) applications for increase in APE due to unforeseen ground conditions were uncommon, and the amount involved only accounted for a small part of the total APE. According to the information of the Development Bureau, although there were projects that required additional funding owing to individual circumstances, the Government generally managed to complete the projects under the Capital Works Programme within the original APE overall and even with surplus;
- (b) as the owner of that railway section, the Administration was required to bear the additional costs that were incurred due to unforeseen ground conditions;

- (c) according to the entrustment agreement, if MTRCL was in material or persistent breach (or the Government, acting reasonably, suspected that MTRCL was in material or persistent breach) of any of MTRCL's material obligations under the entrustment agreement, the Government was entitled to verify MTRCL's compliance with its obligations under the entrustment agreement and take legal action; and
- (d) the Highways Department ("HyD") had been sparing no effort in monitoring the work of MTRCL. The Government had not discovered any suspected breach of obligations on the part of MTRCL under the entrustment agreement at the present stage. Yet for the project of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"), if the Government incurred losses due to mismanagement on the part of MTRCL, the Government would take legal action against MTRCL under the terms and conditions of the entrustment agreement for the obligations it should bear.

25. Mr WU Chi-wai sought information on the persons whom the authority had appointed for monitoring and verifying MTRCL's performance (i.e. "check the checker").

26. D of Hy said that HyD had commissioned a monitoring and verification consultant to monitor and scrutinize the advance works of SCL from three aspects, namely costs of works, progress of works and public safety. Moreover, the Administration would draw reference from the experience in the implementation of XRL with a view to enhancing the implementation and monitoring system of new railway projects in future.

#### Unfavourable ground conditions

27. Dr LAU Siu-lai requested MTRCL to elaborate the situation in which the construction team discovered that the actual bedrock surface encountered was shallower than expected during the excavation works for the ventilation shaft.

28. General Manager (Projects), MTRCL ("GM(P)/MTRCL") replied that as the actual bedrock surface encountered was shallower than expected, the construction team had to excavate more rocks in order to reach the depth required for the shaft, thereby affecting the pace of excavation.

29. Noting that the actual average spacing between the natural joints of the rocks was twice the estimated half-metre spacing, Mr Nathan LAW asked the Administration how it would enhance ground investigations in future. Dr CHIANG Lai-wan considered that the contractor responsible for the ground investigations of the advance railway works should be held responsible for the cost overruns arising from discrepancies in ground investigation results.

30. GM(P)/MTRCL said that since variations in ground conditions in Hong Kong were relatively significant, it was impossible to obtain absolutely accurate information on the ground conditions of all areas within construction sites through ground investigations. MTRCL would review the need for reinforcing ground investigations for future railway projects with a view to minimizing the risks arising from unforeseen ground conditions.

31. Mr LAM Cheuk-ting asked whether it was stipulated in the terms and conditions of the contract for the expansion of Admiralty Station that project costs might be adjusted downward if the ground conditions were better than expected. Dr CHIANG Lai-wan suggested that the Administration and MTRCL should, in future, consider stating in the tender documents for public works contracts that tenderers were required to bear the risks relating to ground conditions. Dr CHENG Chung-tai and Mr CHAN Chi-chuen agreed that Dr CHIANG Lai-wan's proposal was a feasible option.

32. In response, GM(P)/MTRCL, PD/MTRCL and D of Hy pointed out that —

- (a) during the design stage, MTRCL would, having regard to the risk assessment findings, compile the Geotechnical Baseline Report and incorporate it into the tender documents as the referenced geotechnical baseline in the tendering process (the spacing between the natural joints of the rocks was 0.5 m);
- (b) under the contract signed between MTRCL and its contractor, in respect of any actual cost savings or overruns, the proceeds would be apportioned between MTRCL as the employer and the contractor according to established mechanism with each liable for his portion. Some of the risks such as unforeseen ground condition and change in design should be borne by MTRCL as the employer. When executing the contract, even if the actual ground condition was better than expected,

MTRCL would make payments to the contractor according to contractual requirements; and

- (c) if it was stated in the tender documents that the tenderer (who would become the contractor) was to bear all the risks arising from adverse ground conditions, the tender price would be pushed up to cover the higher costs that would be incurred in case of occurrence of the risks concerned.

33. Mr LAM Cheuk-ting and Mr LEUNG Yiu-chung criticized that the terms of the works contracts were unequal, given that the Administration was unable to benefit from project savings. Mr LAM sought information on the terms of the contract for the expansion of Admiralty Station.

34. Dr Helena WONG and Ms Claudia MO enquired whether a territory-wide rocks and geological database was kept and regularly updated by the Administration for reference by MTRCL when carrying out ground investigation work. Dr WONG was concerned whether the Administration would commission experts to investigate the ground conditions across the territory and update the Geoguide in a comprehensive manner. Mr KWONG Chun-yu queried if the guide could help reduce cost overruns caused by unfavourable ground conditions.

35. D of Hy and USTH replied —

- (a) according to the Development Bureau, the Geoguide was meant to be general guidelines for engineering staff. Professionals responsible for various projects were required to exercise professional judgment to design appropriate ground investigations in the light of such factors as the characteristics of the projects, design requirements and environmental constraints;
- (b) the Geotechnical Engineering Office ("GEO") would review the Geoguide and the relevant technical documents having regard to international standards updates and technological progress. If necessary, Technical Guidance Notes ("TGNs") would be issued by GEO to update or supplement the Geoguide. For instance, in the latest updating exercise in 2014, Geoguide 2 was updated by TGN No. 41. GEO would continue to regularly review the Geoguide and TGNs and, if necessary, issue updates and supplements; and

- (c) geotechnical information obtained from ground investigations for works projects over the past many years was being kept by the Civil Engineering Library of the Civil Engineering and Development Department. The geotechnical database would be constantly updated when new information obtained from various works projects was provided.

36. Mr WU Chi-wai enquired whether MTRCL had compared the ground investigation findings with the actual average spacing between the natural joints of the rocks. He queried why MTRCL had failed to increase the number of drill holes at Harcourt Garden in order to have an accurate understanding of the ground conditions of the construction sites. Mr WU sought the following information from the Administration —

- (a) the instructions given to MTRCL, which was responsible for carrying out advance ground investigations, having regard to the complexity of the ground conditions of Admiralty Station; and
- (b) whether measures had been adopted to bring the advance ground investigation findings closer to the actual ground conditions.

37. D of Hy advised that MTRCL, as the entrusted project manager, should be responsible for the full management of the design work, relevant site investigation and project monitoring of the SCL project, as well as carrying out ground investigation works having regard to the project management system and procedures of MTRCL, in accordance with and in compliance with all statutory requirements, and in line with the professional code of practice and guidelines. GM(P)/MTRCL replied that prior to the commencement of the expansion works at Admiralty Station, MTRCL had made reference to information on 11 drill holes, including the records of five newly added drill holes and the existing six drill holes. During construction, MTRCL had made reference to the geological information of 58 drill holes, with a view to better grasping the actual ground conditions of the site. Given that Harcourt Garden was opened for public use prior to the commencement of the works, MTRCL was unable to significantly increase the number of drill holes.

*[Post-meeting note: The Chinese version of the supplementary information provided by the Administration in response to members' enquiries was issued to members on 16 June 2017 vide LC Paper No. FC182/16-17(01). ]*

Modification of the construction schemes to suit the actual site conditions

38. Dr LAU Siu-lai expressed grave concerns about the delay caused by the unfavourable ground conditions encountered in carrying out the Admiralty Station expansion works and the Ho Man Tin Station construction works, as well as the consequence of having to significantly increase the project costs.

39. In response, GM(P)/MTRCL and General Manager (SCL Civil (EWL)), MTRCL said that —

- (a) since there was disruption to the progress of works of the Ventilation Building which was connected to one end of the overrun tunnel and the excavation works of the overrun tunnel also had to be deferred, these works and the tunnel excavation works for South Island Line (East) ("SIL(E)") running underneath SCL had to be carried out concurrently. As the tunnels of the two projects were close to each other, simultaneous blasting could affect the stability of the rocks peripheral to the tunnels. Hence, it was necessary to stagger the blasting and excavation works of the two tunnels which were in close proximity, resulting in an increase in the construction time and resources required; and
- (b) as Ho Man Tin Station was close to major trunk roads and residential buildings, MTRCL, its contractors and the relevant government departments required a longer time to assess, design and re-examine, time and again, the protective measures to be used during open blasting. Eventually, in response to suggestions made by relevant government departments, MTRCL provided additional protective measures on top of the conventional open blasting in order to obtain the blasting permit. Subsequently, it was found that the above protective measures would affect the efficiency of the excavation works. In order to expedite the progress, MTRCL used large steel mesh to cover the entire blasting site prior to proceeding with the remaining excavation works. Since the construction team had enhanced the number of work fronts and man hours to recover the delay, there was a corresponding increase in extra expenses for manpower and machinery.

Other issues

40. Mr Jeremy TAM and Dr KWOK Ka-ki enquired about the role played by Jacobs China Limited in this project, including whether any staff had been seconded to this project, and if so, their scope of work and the time when their staff members were involved. Dr KWOK Ka-ki sought information on the papers prepared by Jacobs China Limited and other contractors for MTRCL.

41. D of Hy clarified that Jacobs China Limited did not participate in any supervision carried out by the Government in the SCL project.

42. GM(P)/MTRCL said that MTRCL had, under short-term contracts, recruited the geotechnical staff of Jacobs China Limited to assist in the geo-engineering work relating to the construction of MTR SIL(E) (including the Admiralty tunnel site). These technical staff were responsible for the documentation of geotechnical and ground conditions of tunnels, and their daily work was directly supervised and commanded by the engineering staff of MTRCL.

*[Post-meeting note: The Chinese version of the supplementary information provided by the Administration in response to members' enquiries was issued to members on 16 June 2017 vide LC Paper No. FC182/16-17(01). ]*

43. At 5:02 pm, the Chairman declared that the meeting ended.

Legislative Council Secretariat  
13 March 2018