

立法會
Legislative Council

LC Paper No. PWSC208/16-17

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by the Administration)

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**Public Works Subcommittee of the Finance Committee
of the Legislative Council**

**Minutes of the 15th meeting
held in Conference Room 1 of the Legislative Council Complex
on Thursday, 20 April 2017, at 2:30 pm**

Members present:

Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)

Hon Charles Peter MOK, JP (Deputy Chairman)

Hon Abraham SHEK Lai-him, GBS, JP

Hon Tommy CHEUNG Yu-yan, GBS, 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 Paul TSE Wai-chun, JP

Hon LEUNG Kwok-hung

Hon Claudia MO

Hon Michael TIEN Puk-sun, BBS, JP

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 CHAN Chi-chuen

Hon CHAN Han-pan, JP

Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Dr Hon CHIANG Lai-wan, JP
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
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 Jeffrey LAM Kin-fung, GBS, JP
Hon SHIU Ka-chun
Hon Kenneth LAU Ip-keung, MH, JP

Public officers attending:

Mr Raistlin LAU Chun, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) ³
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Mr HON Chi-keung, JP	Permanent Secretary for Development (Works)
Mr Michael WONG Wai-lun, JP	Permanent Secretary for Development (Planning and Lands)
Mr Donald TONG Chi-keung, JP	Permanent Secretary for the Environment
Ms Margaret HSIA Mai-chi	Principal Assistant Secretary for Financial Services and the Treasury (Treasury) (Works)
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	Principal Government Engineer (Railway Development) Highways Department
Mr Anthony YUEN Woo-kok	Chief Engineer (Railway Development)1-3 Highways Department
Prof Sophia CHAN Siu-chee, JP	Under Secretary for Food and Health
Miss Diane WONG Shuk-han	Principal Assistant Secretary for Food and Health (Food)2
Mr CHIU Yu-chow	Assistant Director of Food and Environmental Hygiene (Grade Management and Development)
Mr LAM Sai-hung, JP	Director of Civil Engineering and Development

Mr TSE Chun-tat	Chief Engineer (Land Works) Civil Engineering and Development Department
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Attendance by invitation:

Dr Philco WONG	Projects Director MTR Corporation Limited
Mr Ken WONG	General Manager (Projects) MTR Corporation Limited
Ms Prudence CHAN	Senior Manager (Projects and Property Communications) MTR Corporation Limited

Clerk in attendance:

Ms Sharon CHUNG	Chief Council Secretary (1)2
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Staff in attendance:

Miss Rita YUNG	Senior Council Secretary (1)2
Mr Raymond CHOW	Senior Council Secretary (1)6
Ms Mandy LI	Council Secretary (1)2
Ms Christina SHIU	Legislative Assistant (1)2
Ms Christy YAU	Legislative Assistant (1)7
Ms Clara LO	Legislative Assistant (1)8

Action

The Chairman advised that as at the last meeting, the Subcommittee had completed the scrutiny of seven items in the 2016-2017 legislative session, involving a total funding of \$18,165.5 million. There were five funding proposals on the agenda for the meeting. All of them were items carried over from the previous meeting of the Subcommittee. He reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP") of the Legislative Council ("LegCo"), they should disclose the nature of any direct or indirect pecuniary interests relating to the funding proposals under discussion at the meeting before they spoke on the

proposals. He also drew members' attention to Rule 84 of RoP on voting in case of direct pecuniary interest.

Head 706 - Highways

PWSC(2016-17)44 56TR South Island Line (East) - essential public infrastructure works

2. The Chairman advised that the proposal, i.e. PWSC(2016-17)44, sought to increase the approved project estimate ("APE") of 56TR by \$286.2 million from \$927 million to \$1,213.2 million in money-of-the-day ("MOD") prices. The Subcommittee had commenced deliberation on the proposal at the meeting on 5 April 2017, and had continued discussion at the meeting on 12 April 2017.

3. Members noted that the Administration had tabled supplementary information papers (LC Paper Nos. [PWSC138/16-17\(01\)](#) and [\(02\)](#)) (Chinese version) at the meeting in response to the questions raised on 56TR by Dr YIU Chung-yim at the Subcommittee meeting on 12 April 2017, and by Mr CHU Hoi-dick in his letter ([LC Paper No. PWSC133/16-17\(03\)](#)) (Chinese version only). Mr CHAN Chi-chuen requested that in future, the Administration should provide supplementary information papers for members' reference as early as possible.

Underground utilities more complicated than expected

4. Referring to paragraph 9 of [LC Paper No. PWSC\(2016-17\)44](#), Mr CHAN Chi-chuen pointed out that a substantial amount of uncharted utilities were found underneath the road works. As a result, some of the design and construction methods of 56TR had to be modified. The progress of works was therefore adversely affected. He enquired whether the uncharted utilities found underneath the road works were built before the management system of excavation permit was implemented in 2004; if not, whether MTR Corporation Limited ("MTRCL")/the contractors had collected information from government departments (e.g. the Highways Department ("HyD")) or relevant public utility companies about the existing utilities within the scope of works, and whether problems were encountered in collecting such information (e.g. uncooperative public utility companies).

5. Director of Highways ("DHy") said that MTRCL was responsible for obtaining information from public utility companies about the underground utilities within the scope of works which might be affected by the works concerned. General Manager (Projects), MTR Corporation Limited ("GM/MTRCL"), added that before commencing the works of 56TR,

MTRCL had sought to obtain the records of underground utilities from public utility companies and relevant government departments, which included Hongkong Electric Company, Hong Kong and China Gas Company Limited, telecommunications and network service providers, the Water Supplies Department ("WSD") and the Drainage Services Department ("DSD"). However, during the construction stage, MTRCL found at the works location some underground utilities that were not shown in the aforesaid records. The relevant details were set out in [LC Paper No. PWSC138/16-17\(02\)](#) (Chinese version) which was tabled at the meeting by MTRCL. GM/MTRCL further said that old utilities installed underneath early-developed areas, such as the vicinity of Ocean Park and Wong Chuk Hang, might not be clearly reflected in existing records.

6. Mr CHAN Chi-chuen opined that the current practice of sharing underground utilities data by public utility companies and government departments on a single electronic data platform was not desirable. Given that the incomplete records maintained by WSD of the underground utilities within the scope of works of 56TR had rendered it impossible to confirm in an early stage the decommissioning of the water mains involved, he asked whether the Administration would consider establishing a comprehensive database on underground utilities. Ms Claudia MO was concerned about delays in public works projects due to incomplete underground utilities records. She opined that since underground utilities (e.g. water mains, gas pipelines, high voltage cables, television cables, etc.) were laid by both public utility companies and government departments, the Administration should be responsible for monitoring the situation of underground utilities.

7. DHy said that according to the consultant commissioned by the Administration in 2002 to study underground utilities, the sharing of underground utilities data among public utility companies on an electronic data platform was the most suitable option. Under Secretary for Transport and Housing ("USTH") took note of members' concern about underground utilities. However, he commented that as the subject straddled different government departments (including HyD, WSD and DSD) and policy areas, it was more appropriate to follow up on the matter at the relevant Panels. Ms Claudia MO criticized the reply given by the Government as irresponsible.

Railway works and essential public infrastructure works

8. Dr LAU Siu-lai and Dr YIU Chung-yim enquired about the reasons for the Administration to entrust directly the essential public infrastructure works ("EPIW") of 56TR to MTRCL without conducting an open tendering exercise. Dr LAU further enquired why the Administration did not directly

supervise the implementation of EPIW of South Island Line (East) ("SIL(E)"). Given that MTRCL might benefit from 56TR due to an increase in passenger flow, Dr LAU queried why MTRCL still had to charge project management cost.

9. DHy replied that the Government entrusted the EPIW under 56TR to MTRCL which included the construction and enhancement of pedestrian and transport links for providing convenient access to MTR stations so that the social and economic benefits of new railway could be fully realized. Although the aforesaid EPIW were implemented in tandem with the railway works, they were not part of the railway project of SIL(E). By entrusting EPIW to MTRCL and having the railway works of SIL(E) carried out in parallel, the Government allowed MTRCL to consider comprehensively the best arrangement for the two projects in terms of project planning, facilitate sound coordination between the two projects, and ensure the simultaneous completion of EPIW and the railway works of SIL(E). In engaging contractors to carry out EPIW, MTRCL must follow the specified procedures under its project management system, including the procurement procedures of works contracts.

10. Mr CHU Hoi-dick urged the Administration to consider subsuming the enhancement works of pedestrian access to MTR stations under railway projects in future and having MTRCL bear the full construction cost. Dr Fernando CHEUNG expressed similar views. He commented that SIL(E) was a railway development project of MTRCL implemented under the ownership approach. MTRCL had to bear long term risks in financing the projects, operating the railways, and market fluctuations in railway and property development. He opined that it was indeed difficult for the Administration to justify the use of public money to pay for the cost overrun incurred in EPIW of SIL(E). It was also unreasonable to separate the cost estimates for EPIW and railway works.

11. USTH explained that the pedestrian and transport links for providing convenient access to MTR stations might not necessarily increase pedestrian flow of MTR stations. Some of the EPIW under 56TR, e.g. modification of the existing Wong Chuk Hang Nullah and beautification works of the link to Aberdeen Channel Promenade, were not aimed at providing connection with MTR stations. Since EPIW were government-owned facilities, the relevant costs should be borne by the Government. The Chairman advised that the pedestrian and transport links concerned were located outside MTR stations and were not managed by MTRCL. Some EIPW, e.g. modification of the existing Wong Chuk Hang Nullah, were not directly related to the SIL(E) project and therefore could hardly be subsumed under the cost estimate of the railway works.

12. USTH further said that the Administration would consult stakeholders, e.g. the relevant District Councils ("DCs") and local community, before commencing the railway works. The stakeholders often put forward suggestions on railway facilities and related works during consultation. As some of the proposed facilities were not railway facilities, they could not be included in the scope of railway works for which MTRCL was responsible. In response to the suggestions of local community and for the sake of improving community environment, the Government would normally take forward those public works projects it deemed necessary in the form of EPIW. Dr Fernando CHEUNG disagreed that EPIW were not related to the railway works of SIL(E).

Cost of works and on-cost payable to MTRCL

13. Ms Tanya CHAN enquired about the pain-gain share arrangement between MTRCL and contractors, including risk apportionment, and whether the respective share was determined according to contract terms. Dr YIU Chung-yim considered it a systemic flaw for the Administration and MTRCL to implement two construction projects at the same location (i.e. the railway works of SIL(E) and EPIW) under different financial arrangements. MTRCL might transfer the overrun cost of the railway works to EPIW so as to seek additional funding from the Administration.

14. GM/MTRCL and DHy replied that the railway works of SIL(E) and EPIW were carried out under the same "target cost contract". This type of contract specified that the cost of works would be paid by the employer (i.e. MTRCL and the Government bore the cost of the railway works of SIL(E) and EPIW respectively) according to actual expenses. A target cost would be stipulated in the contract. If the actual final construction cost was below the target cost, the employer and the contractor could share the cost saving. On the contrary, the employer and the contractor would share the cost overrun. The contract also capped the cost of the proposed works to be borne by the contractor. If the actual final construction cost was above the "target cost" (which might include the overrun cost arising from extending the contract period), the employer had to share the additional cost with the contractor. GM/MTRCL said that as he had mentioned at the Subcommittee meeting on 12 April, the contract had already stipulated the maximum amount of cost overrun to be shared by the contractor in respect of the proposed works.

15. Mr Nathan LAW noted that the increase in the provision for price adjustments amounted to \$136.1 million, which accounted for 39.8% of the proposed funding increase. As the Administration had indicated that a

substantial part of the works was completed, he queried why the Administration revised and extended the period covered by the cost estimate to 2019-2020. GM/MTRCL said that the contract retention money for 56TR was withheld by MTRCL and would only be released to relevant contractors one year after the completion of works. Mr Nathan LAW enquired about the details of the contract retention money and urged MTRCL to release expeditiously the contract retention money to the contractors, lest the amount of public money needed to be paid should increase due to various reasons. GM/MTRCL said that MTRCL needed time to process and assess the claims submitted by contractors. MTRCL would release the contract retention money and the verified amount of claims to the contractors as soon as possible should the negotiation over the claims progress satisfactorily.

16. Mr Nathan LAW also pointed out that the design and management cost payable by the Administration to MTRCL for 56TR was fixed at 16.5% of the project base cost, which covered project design, contract management and construction supervision, administration cost and insurance. He enquired about the rationale of pegging the project management cost to the cost of works, especially when the project management cost did not factor in the costs of labour, materials, etc. which were subject to price fluctuations.

17. DHy said that a substantial part of the project management cost of EPIW was spent on project implementation and salaries of management and supervision staff, who were responsible for providing support in the areas of design, project management, project planning and site supervision during the construction stage. Moreover, there were other designated staff who provided support relating to contract management, procurement, human resources, legal matters, community liaison, etc. With the increased construction cost and extended construction period of EPIW, an additional design and management cost of \$29.1 million for the whole project was required. The design and management cost payable to MTRCL by the Administration under the entrustment agreement was calculated in accordance with an established basis, i.e. at 16.5% of the project base cost.

Monitoring mechanism

18. Mr Alvin YEUNG and Mr Jeremy TAM were concerned whether MTRCL had in place a regular monitoring mechanism to review the reasons for cost overruns and explore ways to avoid cost overruns in future construction projects. Mr YEUNG queried why 56TR still experienced cost overrun despite the lesson MTRCL had learned from the cost overrun of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL"). Mr TAM asked whether MTRCL was aware of the

recurrence of mistakes which had been made in previous projects when implementing 56TR.

19. Projects Director, MTR Corporation Limited ("PD/MTRCL"), said that unforeseen conditions were often encountered when carrying out railway works in densely-populated and built-up urban areas. At the stage of advance works, MTRCL would conduct risk analysis and assessment to ascertain the level of risks in various aspects and formulate corresponding measures. To enhance monitoring of MTR projects, MTRCL had studied the recommendations put forward by the independent expert panel on the Hong Kong section of XRL appointed by the Government and consolidated past experience. As the construction period of SIL(E) more or less coincided with that of the Hong Kong section of XRL, MTRCL did not have enough time to incorporate the recommendations of the independent expert panel in 56TR. MTRCL would consolidate the data of the SIL(E) project before conducting an internal review, the findings of which would be used as reference for implementing other projects in future.

Unforeseen ground conditions

20. Mr LEUNG Kwok-hung referred to [LC Paper No. PWSC138/16-17\(01\)](#) (Chinese version) and pointed out that among the some 70 items in the past 10 years for which increases in APEs were approved by the Finance Committee ("FC"), only seven items involved unforeseen ground conditions. He enquired why there were unforeseen ground conditions in both the Shatin to Central Link and the SIL(E) projects.

21. In response, GM/MTRCL said that since most of the railway works were carried out in densely-populated and built-up urban areas, the chance of encountering unforeseen conditions was relatively higher. For instance, the foundation or excavation works might encounter a larger amount of or more complicated obstructions than expected.

Income from property development

22. Mr CHU Hoi-dick remarked that SIL(E) was implemented by MTRCL under the ownership approach, whereby MTRCL was granted the topside property development right at Wong Chuk Hang Depot to bridge the funding gap of the railway project. Mr CHU asked the Administration and MTRCL to confirm whether his following estimate was reasonable: MTRCL could generate a total income of about \$50 billion from the topside residential development at Wong Chuk Hang Station; if the estimate was unreasonable, what the amount would be. Mr CHU further enquired whether MTRCL

would bear the overrun cost of 56TR given the substantial profit to be generated from the topside development at Wong Chuk Hang Station.

(Post meeting note: Mr CHU Hoi-dick wrote to the Chairman, the Secretary for Transport and Housing, and the Chairman of MTRCL on 20 April 2017 to make further enquiries about 56TR, including the pain-gain share arrangement, the unfavourable ground conditions that led to the cost overrun, topside property development at Wong Chuk Hang Station, topside development at Ocean Park Station and the ownership approach of development ([LC Paper No. PWSC138/16-17\(03\)](#)) (Chinese version only). The letter was forwarded to the Administration for follow-up.)

23. USTH advised that the Administration was not in a position to comment on Mr CHU's estimate on the income to be generated by MTRCL from the topside development at Wong Chuk Hang Station in future. In response, PD/MTRCL said that MTRCL was the manager of EPIW of SIL(E). Under the entrustment agreement between HyD and MTRCL, MTRCL should make its best endeavour to deliver the project in accordance with the agreement. Senior Manager (Projects and Property Communications), MTR Corporation Limited, supplemented that under the "rail-plus-property" funding model, MTRCL was required to pay full market premium (on a green field basis) to the Government. Since MTRCL was a listed company, it was not appropriate to make any forecast on its future income.

24. Mr LEUNG Kwok-hung enquired about the number of public housing units ("PHUs") in Wong Chuk Hang Estate that were demolished by the Administration. USTH said that relevant information was not available. Mr LEUNG criticized the Administration for transferring benefits to MTRCL under the pretence of developing EPIW.

Motion on adjournment of further proceedings of the Subcommittee

25. At 3:27 pm, when speaking on the item, Mr LEUNG Kwok-hung moved a motion pursuant to paragraph 33 of the Public Works Subcommittee ("PWSC") Procedure to adjourn further proceedings of the Subcommittee.

26. The Chairman said that the Subcommittee would proceed forthwith to deal with the motion proposed by Mr LEUNG Kwok-hung. Each member could speak once on the motion, and the speaking time should not be more than three minutes.

27. Mr LEUNG Kwok-hung said that he objected to increasing APE of 56TR. He criticized that it was extremely inappropriate for the

Administration to demolish the PHUs of Wong Chuk Hang Estate, Valley Road Estate, etc., allowing MTRCL to profit from topside residential development at railway stations where those PHUs used to be located. He opined that instead of asking the Government to pay with public money, MTRCL should bear the additional cost due to delays in railway works.

28. Mr LEUNG Che-cheung spoke against the motion proposed by Mr LEUNG Kwok-hung.

29. In response to the motion, USTH said that the Government's failure to secure the proposed funding would give rise to breach of contract and as a result, MTRCL would be unable to pay the contractors. Should MTRCL make claims against the Government for breach of contract, the cost payable by the Government to MTRCL might have to include interest.

30. The Chairman put to vote the question that further proceedings of the Subcommittee be adjourned. At the request of Mr LEUNG Che-cheung, the Chairman ordered a division and the division bell was rung for five minutes. Seventeen members voted for, 18 members voted against the motion and no one abstained. The votes of individual members were as follows:

For:

Mr Charles Peter MOK (Deputy Chairman)	Mr LEUNG Kwok-hung
Ms Claudia MO	Mr CHAN Chi-chuen
Dr KWOK Ka-ki	Dr Fernando CHEUNG
Dr Helena WONG	Mr Alvin YEUNG
Mr CHU Hoi-dick	Mr LAM Cheuk-ting
Ms Tanya CHAN	Mr HUI Chi-fung
Mr KWONG Chun-yu	Mr Jeremy TAM
Mr Nathan LAW	Dr YIU Chung-yim
Dr LAU Siu-lai	
(17 members)	

Against:

Mr CHAN Hak-kan	Mr WONG Kwok-kin
Mr Paul TSE	Mr Michael TIEN
Mr YIU Si-wing	Mr MA Fung-kwok
Mr LEUNG Che-cheung	Ms Alice MAK
Mr KWOK Wai-keung	Dr Elizabeth QUAT
Dr CHIANG Lai-wan	Dr Junius HO
Mr HO Kai-ming	Mr Holden CHOW
Mr Wilson OR	Mr CHAN Chun-ying
Mr CHEUNG Kwok-kwan	Mr LAU Kwok-fan

(18 members)

Abstain:

(0 member)

[Due to technical problems, the division bell was not rung until about 40 seconds after the Chairman had ordered the division.]

31. The Chairman declared that the motion was negatived. The Subcommittee resumed discussion on PWSC(2016-17)44.

Justifications for the Administration to bear the cost overrun

32. Dr LAU Siu-lai requested the Administration to elaborate on the content of the entrustment agreement for 56TR between the Administration and MTRCL, and clarify whether MTRCL's responsibilities included such matters as engineering design and supervision. She queried why MTRCL was not responsible for the cost overrun of the project.

33. USTH said that the funding arrangement of SIL(E), the reasons for developing EPIW of SIL(E) and the use of the profit generated from topside development at Wong Chuk Hang Station had been explained clearly in [LC Paper No. PWSC132/16-17\(01\)](#). Moreover, as set out in the LegCo Brief issued in 2011 on the funding arrangement of SIL(E), the Administration decided at that time to grant the topside property development right at Wong Chuk Hang Station to MTRCL to bridge the funding gap of the SIL(E) project. He further said that as the proposed increase in APE of 56TR was attributable to various factors. The Government bureaux and departments concerned did not find any fault on the part of MTRCL in project implementation.

34. Mr LEUNG Kwok-hung opined that the cost overrun of the project was caused by mismanagement on the part of MTRCL, i.e. the project manager of 56TR. As such, the Administration should consider taking legal action to pursue responsibility from MTRCL. The Administration should also apologize to the public for its failure to monitor effectively the work of MTRCL. Mr HUI Chi-fung enquired (a) whether the Administration had any reasonable defence in case it was eventually accused of breach of contract and sued by MTRCL due to its refusal to bear the cost overrun, and whether the Administration had sought the advice of the Department of Justice ("DoJ") on related matters; (b) whether the Administration had confirmed that MTRCL would pursue legal action for breach of contract; and (c) whether the Administration would consider resolving the financial disputes arising from breach of contract through mediation.

35. USTH replied that after MTRCL had completed the works according to the entrustment agreement, HyD verified the additional cost of EPIW and confirmed that the cost increase was justified. Although the Administration had not consulted DoJ on the possible allegation of breach of contract, it concluded, after a reasonable assessment, that MTRCL would very likely seek to recover its loss if the Government refused to bear the cost overrun. DHy supplemented that MTRCL was required to notify HyD of any additional cost incurred in the EPIW contract according to the procedures set out in the entrustment agreement. The Government was required to pay the relevant cost upon verification of the information by HyD. Apart from the design and management cost of \$29.1 million payable to MTRCL, the proposed increase in APE of 56TR was mainly for paying contractors for the cost of works. If MTRCL failed to carry out the works in accordance with the entrustment agreement and caused loss to the Government, the Government might claim against MTRCL.

36. Referring to [LC Paper No. PWSC138/16-17\(02\)](#) (Chinese version), Dr YIU Chung-yim remarked that for the 850-odd Category A projects that had their final accounts settled in the past 10 years, the original approved estimates totalled about \$240 billion as compared with the total final expenditure of about \$210 billion. According to the Administration, although some projects needed to apply for additional provisions from FC, the unspent surpluses from other projects were not only able to offset the cost overruns but also managed to leave behind a balance of about \$30 billion. In other words, the total amount of unspent surpluses from these projects at final settlement accounted for about 15% of their original approved estimates. Dr YIU enquired whether the balance of \$30 billion was transferred to the Government's recurrent account. In response, Permanent Secretary for Development (Works) and Deputy Secretary for Financial Services and the Treasury (Treasury)³ said that the surplus would be credited to the Capital Works Reserve Fund.

37. Mr CHU Hoi-dick enquired whether MTRCL would offer to absorb the proposed increase in design and management cost (i.e. \$29.1 million); if not, he considered that the Administration/MTRCL should provide supplementary information to explain the justifications for increasing the design and management cost by \$29.1 million before the funding proposal was submit to FC for consideration. He opined that if the funding proposal was not approved eventually, the contractors would recover the cost of works from MTRCL pursuant to their contracts with MTRCL.

38. PD/MTRCL said that the amount of design and management cost payable to MTRCL by the Administration was fixed at 16.5% of the project

base cost for the design and supervision work undertaken by MTRCL during the construction stage. DHy reiterated that under the entrustment agreement, the Administration was required to pay the cost of works of 56TR to MTRCL.

Motions proposed under paragraph 32A of the Public Works Subcommittee Procedure

39. At 3:17 pm, the Chairman advised that he had received a total of 10 motions proposed under paragraph 32A of the PWSC Procedure at the meeting on 12 April 2017 and this meeting. He invited members to note that the proposed motions which were related to broad policy issues but not directly to the agenda item (i.e. PWSC(2016-17)44) would be considered not in order.

40. At 3:59 pm, when members raised no more questions, the Chairman advised that the Subcommittee would proceed forthwith to deal with members' proposed motions. Motions numbered 001 to 003 and 006 to 010 were proposed by Mr CHU Hoi-dick, and motions numbered 004 to 005 were proposed by Mr Nathan LAW. The Chairman considered that among the 10 proposed motions mentioned above, the five motions numbered 002, 003, 005, 009 and 010 were not directly related to the agenda item while the remaining five motions were directly related to the agenda item.

Proposed motion numbered 001

41. The Chairman put to vote the question that proposed motion numbered [001](#) (Chinese version only) be proceeded forthwith by the Subcommittee. At the request of Mr CHEUNG Kwok-kwan, the Chairman ordered a division and the division bell was rung for five minutes. The question was voted down by a majority of members.

Motion proposed under paragraph 40A of the Public Works Subcommittee Procedure

42. At 4:05 pm, Mr CHAN Hak-kan moved a motion that in the event of further divisions being claimed in respect of any motions or questions under this agenda item, the Subcommittee should proceed to each of such divisions immediately after the division bell had been rung for one minute.

43. The Chairman advised that the Subcommittee would now proceed to deal with the motion proposed by Mr CHAN Hak-kan. Each member could speak once on the motion, and the speaking time should not be more than three minutes.

44. Mr LEUNG Kwok-hung, Mr CHU Hoi-dick and Mr CHAN Chi-chuen spoke against the motion proposed by Mr CHAN Hak-kan.

45. The Chairman put the motion proposed by Mr CHAN Hak-kan to vote. At the request of Mr CHAN Chi-chuen, the Chairman ordered a division and the division bell was rung for five minutes. Nineteen members voted for, 11 members voted against the motion and no one abstained. The votes of individual members were as follows:

For:

Mr Tommy CHEUNG
Mr WONG Kwok-kin
Mr Michael TIEN
Mr MA Fung-kwok
Ms Alice MAK
Dr Elizabeth QUAT
Dr Junius HO
Mr Holden CHOW
Mr CHAN Chun-ying
Mr LAU Kwok-fan
(19 members)

Mr CHAN Hak-kan
Mr Paul TSE
Mr YIU Si-wing
Mr LEUNG Che-cheung
Mr KWOK Wai-keung
Dr CHIANG Lai-wan
Mr HO Kai-ming
Mr Wilson OR
Mr CHEUNG Kwok-kwan

Against:

Mr LEUNG Kwok-hung
Dr Fernando CHEUNG
Mr CHU Hoi-dick
Mr KWONG Chun-yu
Mr Nathan LAW
Dr LAU Siu-lai
(11 members)

Mr CHAN Chi-chuen
Dr Helena WONG
Ms Tanya CHAN
Mr Jeremy TAM
Dr YIU Chung-yim

Abstain:

(0 member)

46. The Chairman declared that the motion proposed by Mr CHAN Hak-kan was carried.

Proposed motions numbered 004 and 006 to 008

47. The Chairman put to vote, one by one, the questions that proposed motions numbered [004](#) and [006](#) to [008](#) (Chinese versions only) be proceeded forthwith. At members' request, the Chairman ordered a division and the division bell was rung for one minute before members' voting on individual questions. The aforesaid four questions were all negatived by a majority of members.

Voting on PWSC(2016-17)44

48. There being no further questions from members on the item (PWSC(2016-17)44), the Chairman put the item to vote. At the request of Mr LEUNG Kwok-hung, the Chairman ordered a division and the division bell was rung for one minute. Nineteen members voted for, 14 members voted against the proposal and no one abstained. The votes of individual members were as follows:

For:

Mr Tommy CHEUNG
Mr WONG Kwok-kin
Mr Michael TIEN
Mr MA Fung-kwok
Ms Alice MAK
Dr Elizabeth QUAT
Dr Junius HO
Mr Holden CHOW
Mr CHAN Chun-ying
Mr LAU Kwok-fan
(19 members)

Mr CHAN Hak-kan
Mr Paul TSE
Mr YIU Si-wing
Mr LEUNG Che-cheung
Mr KWOK Wai-keung
Dr CHIANG Lai-wan
Mr HO Kai-ming
Mr Wilson OR
Mr CHEUNG Kwok-kwan

Against:

Mr LEUNG Kwok-hung
Mr CHAN Chi-chuen
Dr Helena WONG
Mr CHU Hoi-dick
Ms Tanya CHAN
Mr Jeremy TAM
Dr YIU Chung-yim
(14 members)

Ms Claudia MO
Dr Fernando CHEUNG
Mr Alvin YEUNG
Mr LAM Cheuk-ting
Mr KWONG Chun-yu
Mr Nathan LAW
Dr LAU Siu-lai

Abstain:

(0 member)

49. The Chairman declared that the item was endorsed by the Subcommittee.

50. Mr LEUNG Kwok-hung requested that this item (i.e. PWSC(2016-17)44) be voted on separately at the relevant FC meeting.

Head 705 - Civil Engineering

PWSC(2016-17)45 758CL Site formation and associated infrastructural works for development of columbarium, crematorium and related facilities at Sandy Ridge Cemetery

51. The Chairman advised that the proposal, i.e. PWSC(2016-17)45, sought to upgrade part of 758CL to Category A, at an estimated cost of \$2,566.4 million in MOD prices for the site formation and associated infrastructural works for the proposed columbarium development at Sandy Ridge Cemetery. The Administration had consulted the Panel on Food Safety and Environmental Hygiene on the proposal on 19 December 2016. Panel members did not object to the submission of the funding proposal to the Subcommittee for consideration. A report on the gist of the Panel's discussion was tabled at the meeting.

Traffic impact on the North District after the commissioning of the proposed columbarium

52. Mr CHAN Hak-kan, Mr CHAN Chi-chuen, Mr LAU Kwok-fan and Mr WU Chi-wai supported the Administration in building more public columbaria to meet the community's demand for public niches. Noting that the proposed columbarium at Sandy Ridge Cemetery would provide 200 000 niches, they enquired about the ways to cope with the traffic impact on the North District caused by additional traffic and pedestrian flows upon the commissioning of the proposed columbarium. Mr CHAN Chi-chuen asked whether the Administration would consider widening Man Kam To Road in future to ease the traffic congestion in the area.

53. In response, Director of Civil Engineering and Development ("DCED") said that a traffic impact assessment ("TIA") had been conducted on the project. Given that the pedestrian flow to the proposed columbarium was expected to be low on normal days whereas Ching Ming Festival and Chung Yeung Festival were often holidays, grave-sweeping activities might not have any significant impact on the traffic of Man Kam To Road and other roads in the North District. Moreover, special traffic measures would be put in place during grave-sweeping festivals to facilitate the flow of grave

sweepers. During grave-sweeping festivals, specially arranged bus service would be provided between the proposed columbarium and MTR Fanling Station, Sheung Shui Station, and the future Kwu Tung Station respectively. As some of the specially arranged buses would use the future connecting road leading to the Liantang/Heung Yuen Wai Boundary Control Point and Lin Ma Hang Road, Man Kam To Road would be able to cope with the traffic flow generated by the project.

54. Mr Jeremy TAM enquired whether the proposed widening of a section of Sha Ling Road to a 7.3-metre-wide carriageway with footpaths would be able to cope with the heavy vehicular flow to and from the proposed columbarium in future. He also enquired about the arrangement for the use of the proposed pick-up and drop-off point on Man Kam To Road as well as the proposed pick-up and drop-off area.

55. DCED replied that Sha Ling Road, which was restricted to the specially arranged buses during grave-sweeping festivals, would be able to cope with the traffic flow. The buses would carry grave sweepers between MTR stations and the pick-up and drop-off area near the proposed columbarium. Grave sweepers using other vehicles had to make use of the proposed pick-up and drop-off point at the junction of Sha Ling Road and Man Kam To Road and walk along Sha Ling Road to the proposed columbarium.

56. Mr LAU Kwok-fan, Mr WU Chi-wai and Dr YIU Chung-yim opined that the Administration should consider providing an additional access by opening up a pedestrian link between MTR Lo Wu Station and the proposed columbarium for the convenience of grave sweepers. DCED responded that it would take an estimated time of about 50 minutes to one hour to walk to the proposed columbarium, which was on the eastern side of the existing Sandy Ridge Cemetery, from MTR Lo Wu Station along the existing route. Given the substantial geotechnical works involved in the provision of a family-friendly pedestrian link, the Administration considered it hardly feasible to build a pedestrian link from MTR Lo Wu Station after examining and discussing the issue with North DC.

57. Mr LAU Kwok-fan, Mr WU Chi-wai and Dr YIU Chung-yim disagreed with the Administration. They urged the Administration to explore actively the provision of a pedestrian link between MTR Lo Wu Station and the proposed columbarium. Mr Holden CHOW suggested that the Administration should conduct a timely review of the traffic and pedestrian flows during grave-sweeping festivals upon the phased completion and commissioning of the proposed columbarium. The provision of the pedestrian link could be reconsidered if necessary.

58. Mr CHAN Chi-chuen, Mr LAU Kwok-fan, Mr WU Chi-wai, Mr Jeremy TAM and Dr YIU Chung-yim questioned whether the proposed road works and special traffic measures would be able to cope with the heavy pedestrian flow to the proposed columbarium. They requested the Administration to provide specific information about the relevant TIA report and further elaborate on the following issues:

- (a) how the Administration estimated the pedestrian and traffic flows to the proposed columbarium during grave-sweeping festivals;
- (b) the grounds which led the Administration to believe that the implementation of the proposed road works and special traffic and transport measures could manage the above pedestrian and traffic flows; and
- (c) the Administration's considerations for not proposing the provision of a pedestrian link from MTR Lo Wu Station to the proposed columbarium.

(Post meeting note: The supplementary information provided by the Administration was circulated to members vide [LC Paper No. PWSC148/16-17\(01\)](#) on 8 May 2017.)

59. Given that Sha Ling Road was the only road leading to the proposed columbarium, Dr YIU Chung-yim enquired how the Administration would divert the pedestrians going to/leaving the proposed columbarium in case Sha Ling Road was closed due to incidents. The Administration undertook to provide a written response to Dr YIU's enquiries after the meeting.

(Post meeting note: The written response provided by the Administration was circulated to members vide [LC Paper No. PWSC148/16-17\(01\)](#) on 8 May 2017.)

Scope of works and capital cost

60. Mr CHAN Chun-ying supported the proposed project. He sought details of the phased completion of the columbarium at Sandy Ridge Cemetery in future, and the reasons for delivering the proposed works under two contracts. Under Secretary for Food and Health ("USFH") replied that the columbarium at Sandy Ridge Cemetery would be developed by phases, while the some 200 000 niches provided would also be allocated by phases. DCED said that given their enormous scale, the proposed works were

delivered under two contracts, one of which related to site formation and geotechnical works and the other related to road works.

61. Mr LEUNG Che-cheung supported the proposed project. He and Ms Claudia MO enquired about the reasons for not providing cycle tracks along Man Kam To Road and Lin Ma Hang Road under the proposed project. DCED replied that the proposed columbarium and the related facilities would not attract additional bicycle traffic. Besides, the current project only involved a section of Man Kam To Road. Since cycle tracks occupied more road space and might involve land resumption, the Administration did not put forward the proposal under the project. Should such a need arise in future, the Government could further improve the cycle track network in the North District through other projects.

62. Mr LEUNG Che-cheung noted that resumption of about 1 289 square metres of private land was required under the project. The land to be resumed was agricultural land within Compensation Zone D, for which the Administration proposed to upgrade the ex-gratia compensation rate to Zone C. Mr LEUNG enquired about the rationale behind the proposal, and the government procedures of approving the relevant proposal. The Administration undertook to provide a written response to Mr LEUNG's enquiries after the meeting.

(Post meeting note: The written response provided by the Administration was circulated to members vide [LC Paper No. PWSC148/16-17\(01\)](#) on 8 May 2017.)

63. Dr Junius HO enquired about the reasons why the remuneration of resident site staff, which formed part of the capital cost of the project, was not subsumed under the cost of works to be borne by the contractors. He also enquired about the costs of design and construction of the proposed columbarium. DCED replied that resident site staff, who undertook site supervision for the project and were responsible for supervising the work of the contractors, were not employed by contractors. Consultants' fees and resident site staff costs of the project accounted for less than 10% of the total capital cost, at a level similar to that of public works projects in general. Principal Assistant Secretary for Food and Health (Food)2 ("PASFH(F)2") said that as the detailed design work for the proposed columbarium had yet to commence, the funding proposal of the construction works would be submitted separately in due course.

Environmental implications of the works

64. Mr CHAN Chun-ying enquired about the arrangement of delivering the 650 000 tonnes of inert construction waste generated by the proposed works to concurrent projects for subsequent reuse. DCED replied that the relevant inert construction waste was intended to be reused in the works of the three-runway system at the Hong Kong International Airport and Tung Chung New Town Extension. The delivery cost incurred was subsumed under the total cost of the project.

65. Mr Nathan LAW noted that according to the information set out in the environmental impact assessment ("EIA") report, botanical and faunal species of conservation importance were found near the project area. He enquired about the conservation measures in place to protect the surrounding environment and ecology from the effects of the proposed works. DCED replied that the EIA report of the proposed project, which was approved by the Environmental Protection Department in August 2016, pointed out that cisticola exilis found near the uplands was a major animal species of conservation importance which would be affected in the vicinity of the work site of the proposed project. In accordance with the requirements of the EIA report, the Administration would conduct ecological baseline studies before commencement of works, and investigate the inhabitation of cisticolas exilis. The findings would be submitted to the Environmental Protection Department for follow-up. Mr Nathan LAW urged the Administration to provide information on the detailed conservation plan for members' reference once available in future.

66. Mr LEUNG Che-cheung said that the proposed columbarium, which was located near the border, might affect nearby Mainland areas upon its commissioning. Mr LEUNG enquired whether the Hong Kong Special Administrative Region Government had liaised with Mainland authorities on the project. In response, PASFH(F)2 said that the Administration had consulted North DC and two relevant rural committees on the project while other channels of communication were also in place. The stakeholders also took note of the information concerning the project.

67. Mr CHU Hoi-dick queried that the EIA conducted by the Administration did not cover the crematorium to be built at Sandy Ridge. He pointed out that periodic review of the Air Quality Objectives should be conducted at least once every five years under the law. He doubted whether the construction of the proposed crematorium at Sandy Ridge in future could meet the prevailing EIA requirements.

68. DCED replied that the crematorium at Sandy Ridge was another designated project under the relevant legislation, for which a separate EIA had to be conducted at a later time. PASFH(F)2 said that the operation of the crematoria under the Food and Environmental Hygiene Department ("FEHD") had all along been in compliance with the Air Quality Objectives. As the technical standards of new crematorium facilities would also keep abreast of technological advances, it was believed that the technical standards of the future crematorium at Sandy Ridge could meet the prevailing air quality standards.

Supply of public niches

69. Dr Helena WONG supported the proposed project. She referred to the District-based Columbarium Development Scheme, under which a total of 24 sites in 18 districts were identified for columbarium development. She enquired about the latest implementation progress of the scheme, including the expected dates of consultation with relevant DCs on the specific locations and submission of progress reports to relevant LegCo Panels. The Administration undertook to provide the information requested by Dr WONG after the meeting.

(Post meeting note: The supplementary information provided by the Administration was circulated to members vide [LC Paper No. PWSC148/16-17\(01\)](#) on 8 May 2017.)

70. Mr CHU Hoi-dick pointed out that among the approximately 650 000 niches confirmed to be provided under the District-based Columbarium Development Scheme, more than 70% were located in Tuen Mun and the North District, which was unfair to the residents of the two districts. He considered that all 18 districts in Hong Kong should share equally the responsibility of providing public niches. Mr Nathan LAW, Mr LEUNG Kwok-hung and Mr CHAN Chi-chuen were also concerned that most of the public niches were located in Tuen Mun and the North District. Mr YIU Si-wing enquired whether the Administration had assessed the demand for public niches in various districts, so as to plan properly the number of niches to be provided in each district to meet local demand.

71. In response, USFH said that in implementing district-based columbarium development, consideration had to be given to various aspects such as the land area available for development and the traffic support in the districts concerned. The Food and Health Bureau made its best efforts to provide more niches at suitable locations to meet the demand for public niches, and would maintain liaison with the Development Bureau on

identifying potential sites in various districts for public columbarium development.

72. Mr CHU Hoi-dick asked whether the Administration would provide compensatory facilities for residents in the vicinity of Sandy Ridge Cemetery in view of the impact of the columbarium development on them; if so, of the details; if not, the reasons for that. The Administration undertook to provide a written response to Mr CHU's enquiries after the meeting.

(Post meeting note: The written response provided by the Administration was circulated to members vide [LC Paper No. PWSC148/16-17\(01\)](#) on 8 May 2017.)

73. Mr CHU Hoi-dick suggested that the Administration should consider converting part of the land designated as Permitted Burial Grounds for indigenous residents of the New Territories for developing public columbaria, so as to provide more niches to meet the territory-wide demand. PASFH(F)2 responded that in addition to the crematoria managed by FEHD, niches were also provided by the Board of Management of the Chinese Permanent Cemeteries and some other religious bodies.

74. Mr Alvin YEUNG opined that the Administration should step up the promotion of green burial which was a more sustainable way to handle cremated ashes of the deceased, and make efforts to enhance the facilities and services of green burial. In response, USFH said that the Administration had carried out ongoing publicity and education work to promote green burial, which included scattering of ashes at gardens of remembrance and at sea. A working group focusing on green burial and related issues was also set up to strengthen the strategy formulation effort. The Administration would continue to identify suitable sites for building more gardens of remembrance. Bigger ferries with larger capacities would be used and where necessary, the frequency of the ferry service for ash scattering would also be increased, so as to encourage the public to make use of the relevant facilities and services.

75. Mr Alvin YEUNG requested the Administration to provide supplementary information on the current number of unoccupied spaces for mounting commemorative plaques at the gardens of remembrance managed by FEHD, and the number of plaque spaces that could be provided at gardens of remembrance to be built in future. The Administration undertook to provide the information requested by Mr YEUNG after the meeting.

(Post meeting note: The supplementary information provided by the Administration was circulated to members vide [LC Paper No. PWSC148/16-17\(01\)](#) on 8 May 2017.)

76. Mr Alvin YEUNG suggested that the Administration should consider re-launching tree burial service. Assistant Director of Food and Environmental Hygiene (Grade Management and Development) replied that FEHD had provided similar tree burial service before. However, FEHD subsequently ceased to provide the service given the lukewarm response from the public due to issues relating to tree maintenance. Mr YEUNG suggested that in future, the Administration should make appropriate choices and pick the tree species which were easier to maintain.

[At 6:25 pm, the Chairman asked members if they agreed to extend the meeting by 15 minutes. Two members agreed, one member objected and other members present had no comment. The Chairman directed that the meeting be extended by 15 minutes to 6:45 pm.]

Voting on PWSC(2016-17)45

77. At 6:43 pm, members raised no further questions on the item (PWSC(2016-17)45). The Chairman put the item to vote. Mr CHU Hoi-dick requested a division. The Chairman asked members if they agreed to further extend the meeting after 6:45 pm to allow sufficient time for proceeding with a division. Mr CHU Hoi-dick expressed objection. The Chairman directed that the division on the item be deferred to the next meeting.

78. The meeting ended at 6:45 pm.

Council Business Division 1
Legislative Council Secretariat
19 June 2017