

Page 1	Page 3
<p>1 Thursday, 8 November 2018</p> <p>2 (10.01 am)</p> <p>3 MR PENNICOTT: Sir, good morning. We have, as you are</p> <p>4 aware, Mr Plummer, Mr Malcolm Plummer, the first</p> <p>5 Leighton witness, who is in Perth, Australia, as opposed</p> <p>6 to Perth, Scotland. He is going to give evidence by</p> <p>7 videolink.</p> <p>8 Perhaps I can just do a test. Mr Plummer, can you</p> <p>9 hear me?</p> <p>10 (Discussion off the record)</p> <p>11 CHAIRMAN: Let's try and see how we are doing and if it's</p> <p>12 impossible then we'll break in order to see if</p> <p>13 technically we can improve matters.</p> <p>14 Mr Shieh, would that be satisfactory for you?</p> <p>15 MR SHIEH: Certainly, yes.</p> <p>16 Good morning, Mr Plummer.</p> <p>17 WITNESS: Good morning.</p> <p>18 MR SHIEH: My name is Paul Shieh; I am counsel representing</p> <p>19 Leighton. Can you hear me?</p> <p>20 WITNESS: Yes, I can hear you quite well.</p> <p>21 MR SHIEH: There are a few questions that I would like to</p> <p>22 ask you, and then counsel, lawyers for other parties in</p> <p>23 this Commission of Inquiry may have their own questions</p> <p>24 to ask you, and then the Chairman or Mr Commissioner may</p> <p>25 have their questions for you also, and counsel for the</p>	<p>1 A. Yes.</p> <p>2 Q. Do you confirm the content of these two statements and</p> <p>3 put them forward as your evidence in this Commission of</p> <p>4 Inquiry?</p> <p>5 A. Yes.</p> <p>6 Q. Thank you. Just pausing here, do you have any problem</p> <p>7 or difficulty hearing what's coming from Hong Kong?</p> <p>8 A. No, it's clear enough.</p> <p>9 Q. Thank you.</p> <p>10 There is one question I would like to ask you. It</p> <p>11 arose out of certain things that Mr Jason Poon said on</p> <p>12 Monday, which there wasn't enough time to relay to you</p> <p>13 for the purpose of incorporation in your second witness</p> <p>14 statement.</p> <p>15 Can I ask you to look at the transcript of this past</p> <p>16 Monday, Day 11 of the proceedings, 5 November, page 131.</p> <p>17 Mr Plummer, I am not going to read out into the</p> <p>18 microphone what was transcribed there, because you would</p> <p>19 be able to see for yourself.</p> <p>20 Can I trouble you to read -- to yourself, obviously,</p> <p>21 not read out into the microphone -- page 131, line 10,</p> <p>22 the question starting, "The chairman asked you</p> <p>23 a question" -- read all the way down to 132, line 22.</p> <p>24 Read that to yourself. If you want to move on the page,</p> <p>25 then you just tell whoever it is who controls the</p>
<p>Page 2</p> <p>1 Commission, Mr Pennicott, may also ask you questions,</p> <p>2 and after all that I may re-examine you, to round it up.</p> <p>3 Do you follow that?</p> <p>4 WITNESS: Yes.</p> <p>5 MR MALCOLM PLUMMER (sworn)</p> <p>6 Examination-in-chief by MR SHIEH</p> <p>7 MR SHIEH: Mr Plummer, do you remember having made two</p> <p>8 witness statements for the purpose of this Commission of</p> <p>9 Inquiry?</p> <p>10 A. Yes.</p> <p>11 Q. Can you look at bundle C27, page 20674. You should now</p> <p>12 have that in front of you on a computer screen.</p> <p>13 A. Yes.</p> <p>14 Q. Do you see that, Mr Plummer?</p> <p>15 A. Yes.</p> <p>16 Q. Can you turn to the last page of this document, which is</p> <p>17 20678. Do you see your name and signature there?</p> <p>18 A. Yes.</p> <p>19 Q. Can I then ask you to look at bundle C35, page 26641.</p> <p>20 Do you see this document headed, "Second witness</p> <p>21 statement of Malcolm Plummer"?</p> <p>22 A. Yes.</p> <p>23 Q. Can you look at the last page of this document at 26644.</p> <p>24 A. Yes.</p> <p>25 Q. Do you see your name and signature there?</p>	<p>Page 4</p> <p>1 transcript and he or she will scroll down for you. But</p> <p>2 131, line 10, all the way down to 132, line 22. Tell us</p> <p>3 after you have finished reading it.</p> <p>4 A. Okay. You can scroll to the next page, please. Can you</p> <p>5 scroll, please.</p> <p>6 Yes, I have finished reading this, yes.</p> <p>7 Q. Thank you. Now, this, just to put it in context, was</p> <p>8 what Mr Jason Poon said when he was re-examined by his</p> <p>9 own lawyers on Monday.</p> <p>10 Having read what Mr Jason Poon had said in that part</p> <p>11 of the transcript, do you have anything to say in d to</p> <p>12 what Mr Jason Poon had said there?</p> <p>13 A. My response is it's completely false.</p> <p>14 MR SHIEH: Thank you very much, Mr Plummer. I have no</p> <p>15 further questions for you, but other lawyers may, so</p> <p>16 could you please remain seated and answer their</p> <p>17 questions. Thank you very much, Mr Plummer. I think</p> <p>18 Mr Pennicott, counsel for the Commission, will be asking</p> <p>19 you questions next.</p> <p>20 Examination by MR PENNICOTT</p> <p>21 MR PENNICOTT: Good morning, Mr Plummer, again. As Mr Shieh</p> <p>22 has said, my name is Pennicott, I am one of the counsel</p> <p>23 to the Commission and I've got a few questions for you.</p> <p>24 Those questions will be limited to your first witness</p> <p>25 statement. I am not going to ask you any questions</p>

Page 5	Page 7
<p>1 about your second witness statement.</p> <p>2 First of all, Mr Plummer, could I ask you, please,</p> <p>3 to look at paragraph 6 of your first witness statement,</p> <p>4 where you say:</p> <p>5 "Contract SCL1112 was unusual in that it was</p> <p>6 a 'partnering' contract between Leighton and MTRCL with</p> <p>7 some risk and profit sharing between us. This also</p> <p>8 meant that MTRCL also had to sign off on the hiring of</p> <p>9 sub-contractors such as Fang Sheung ... which was one of</p> <p>10 two sub-contractors responsible for installation of the</p> <p>11 reinforcement ..."</p> <p>12 Pausing there, Mr Plummer, who was the other</p> <p>13 sub-contractor responsible for installation of</p> <p>14 reinforcement? Who do you have in mind?</p> <p>15 A. A company called Wing & Kwong did another area of the</p> <p>16 site.</p> <p>17 CHAIRMAN: Sorry, could you repeat that? That one was a bit</p> <p>18 lost.</p> <p>19 A. The other sub-contractor was called Wing & Kwong, and</p> <p>20 they did the reinforcement fixing for the areas outside</p> <p>21 the station. Fang Sheung did the station.</p> <p>22 CHAIRMAN: Thank you.</p> <p>23 MR PENNICOTT: Understood. Thank you very much for that</p> <p>24 clarification.</p> <p>25 You go on to say:</p>	<p>1 CHAIRMAN: Thank you.</p> <p>2 MR PENNICOTT: I think it's working better when Mr Plummer</p> <p>3 gets closer to the microphone, I must say.</p> <p>4 Mr Plummer, on the previous contract that</p> <p>5 Fang Sheung had worked as a sub-contractor for Leighton,</p> <p>6 had they performed satisfactorily?</p> <p>7 A. As far as I can recall, yes.</p> <p>8 Q. Do you recall whether that sub-contract involved the</p> <p>9 installation of threaded rebar and couplers?</p> <p>10 A. It could well have done on the station, yes, the</p> <p>11 Tseung Kwan O station.</p> <p>12 Q. That was a yes, was it?</p> <p>13 A. Yes.</p> <p>14 Q. Can I then, please, Mr Plummer, ask you to go to</p> <p>15 paragraph 17 of your first witness statement, where you</p> <p>16 say:</p> <p>17 "I was involved in the hiring of China Technology."</p> <p>18 Pausing there, had you ever had a business</p> <p>19 relationship with China Technology before SCL</p> <p>20 contract 1112?</p> <p>21 A. No.</p> <p>22 Q. So your first experience of China Technology?</p> <p>23 A. Correct.</p> <p>24 Q. And you say you were involved in the hiring of China</p> <p>25 Technology. You say they submitted a very competitive</p>
Page 6	Page 8
<p>1 "... and China Technology Corporation ... which was</p> <p>2 one of several sub-contractors responsible for erecting</p> <p>3 the formwork and concreting works."</p> <p>4 First of all, going back to Fang Sheung, are they</p> <p>5 a company that prior to this project you had had</p> <p>6 experience of working with before?</p> <p>7 A. Yes.</p> <p>8 Q. On how many occasions, approximately, do you recall?</p> <p>9 A. I think they worked for us on the Tseung Kwan O Station</p> <p>10 and I think on the Central Reclamation job.</p> <p>11 Q. Right.</p> <p>12 A. I'm speculating, but at least one other contract.</p> <p>13 Q. And you had personal experience of working with them,</p> <p>14 did you, Mr Plummer?</p> <p>15 A. Well, personally insofar as that I knew their</p> <p>16 performance, yes.</p> <p>17 Q. You were involved in the contract?</p> <p>18 A. Yes, it was the contract I was administering, they were</p> <p>19 employed, yes.</p> <p>20 COURT REPORTER: I'm not catching half of what he's saying.</p> <p>21 CHAIRMAN: Mr Plummer, sorry, would it be possible to speak</p> <p>22 a little more slowly and pronounced? I know it's</p> <p>23 a rather artificial way of doing it, but it just makes</p> <p>24 communication that much easier.</p> <p>25 WITNESS: That's okay.</p>	<p>1 tender for the role, significantly lower than the</p> <p>2 competition, and you say although you weren't familiar</p> <p>3 with China Technology, Jason Poon had some reasonably</p> <p>4 innovative ideas about how the works could be performed</p> <p>5 which appeared to justify his lower costs. MTRC also</p> <p>6 agreed to use China Technology.</p> <p>7 Then at paragraph 18 you say this:</p> <p>8 "The difficulties that China Technology had in doing</p> <p>9 the work mainly flowed from shortages of money."</p> <p>10 Now, Mr Plummer, at what point in time did you</p> <p>11 perceive that China Technology had a problem with</p> <p>12 cash flow?</p> <p>13 A. Well, as I state in the next sentence, the fortnightly</p> <p>14 payments were not unusual, but since China Technology</p> <p>15 had quite a few workers, it was critical that the</p> <p>16 fortnightly payments include all the work done insofar</p> <p>17 as payments -- how can I put it? Because of the</p> <p>18 emphasis on getting the payments out quickly due to the</p> <p>19 fortnightly arrangement, you had to make sure that it</p> <p>20 include all the work done, which was quite a quantity</p> <p>21 surveying effort, you might say, to make sure it was all</p> <p>22 done correctly. So it's -- when I say shortages of</p> <p>23 money, we had to make sure he was paid 100 per cent</p> <p>24 every fortnight.</p> <p>25 Q. But was this a problem right from the start or was it</p>

Page 9	Page 11
<p>1 a problem when the job was partway through; do you 2 recall?</p> <p>3 A. Well, most sub-contracts are quite okay at the start 4 because -- well, they just are. It occurred more as the 5 job went through, yes, and got -- sort of in the last 6 year of my work on the site it got more difficult.</p> <p>7 Q. All right. Mr Plummer, you are not suggesting, I think, 8 that there was some alteration in the sub-contract 9 arrangement and on the sub-contract itself provides for 10 fortnightly payments? You are not suggesting there was 11 any change in the payment mechanism, are you?</p> <p>12 A. No, no, it was always set up that way.</p> <p>13 Q. Yes, okay.</p> <p>14 A. As I say, it was not unusual.</p> <p>15 Q. No, but it was the only sub-contract that we've seen 16 that had fortnightly payments as opposed to monthly 17 payments. Fang Sheung, Intrafor, various other 18 sub-contracts we've seen all had monthly payment. This 19 was the only one we could find that had fortnightly 20 payments.</p> <p>21 A. Okay.</p> <p>22 Q. That presumably was something you negotiated with 23 Mr Poon when you set up the sub-contract?</p> <p>24 A. That would have been the case, yes.</p> <p>25 Q. All right. Could I then, please, ask you to go to</p>	<p>1 slightly up; that's fine -- you'll see, Mr Plummer, that 2 it bears your name, this document, "Issuer: Mr Malcolm 3 Plummer", but you can see on the right-hand side it is 4 PPed, again by Mr Rawsthorne; do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. So is your position that whilst it bears your name, you 7 did not see this at the time or at any time until I've 8 just shown it to you?</p> <p>9 A. Well, I can't recall seeing it. I can't recall this 10 document, no.</p> <p>11 Q. All right.</p> <p>12 A. I'm just trying to read what it actually says.</p> <p>13 Q. Sorry, I didn't catch that.</p> <p>14 CHAIRMAN: "I need to read what it actually says."</p> <p>15 MR PENNICOTT: Sorry, please do, Mr Plummer. I'm sorry, 16 yes.</p> <p>17 A. Could you go back to the actual non-conformance report, 18 please?</p> <p>19 Q. Yes, of course. That's back at page 8134, and there's 20 some more detail over the page at 8135.</p> <p>21 A. Okay.</p> <p>22 Q. There are some photographs attached to it as well. 23 I don't know whether you've seen those before?</p> <p>24 A. And the photographs, please. 25 No, I haven't seen those before.</p>
Page 10	Page 12
<p>1 paragraph 21 of your first witness statement. You say: 2 "Until very recently, I was not aware of any 3 threaded ends of rebars being cut off. I have been told 4 that there were three occasions from around September to 5 December 2015 when a very small number of defective 6 rebars were identified by Leighton and MTR staff in 7 area C of the EWL slab and rectified immediately. I am 8 unable to comment on these occasions."</p> <p>9 Could I ask you, please, to be shown bundle C12, 10 page 8134.</p> <p>11 Mr Plummer, this is a document that we here in 12 Hong Kong have looked at a couple of times already. 13 It's an NCR and it's NCR157. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. It's a non-conformance report. It has a date on 16 page 8134 of 18 December, and our understanding is that 17 that is Mr Rawsthorne's signature that appears above the 18 date. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. It was sent by Leighton to Fang Sheung; do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Have you seen this before, Mr Plummer?</p> <p>23 A. I can't remember seeing it, no.</p> <p>24 Q. The reason I ask you that, Mr Plummer, is that if you 25 go, please, to page 8141 -- thank you. Pause there,</p>	<p>1 Q. Okay. Mr Plummer, presumably you are or were familiar 2 with the non-conformance report process that Leightons 3 and MTRC adopted?</p> <p>4 A. In general terms, yes.</p> <p>5 Q. From the document I showed you that bears your name but 6 PPed by Mr Rawsthorne, that was Leighton sending the 7 NCR, forwarding it to MTR, as we can see. You sent it 8 to Mr Kit Chan who we know is the construction manager 9 of MTR.</p> <p>10 A. Okay.</p> <p>11 Q. Having sent that to Mr Chan, what was supposed to happen 12 next in terms of the process? Are you able to tell us?</p> <p>13 A. No, apart from the fact he take action, no.</p> <p>14 Q. Right. You were sending it to MTR because that's what 15 the contract required or because MTR needed to do 16 something about it?</p> <p>17 A. It would have been either part of the contract or part 18 of the agreed method of handling such situations, 19 I guess.</p> <p>20 Q. All right. Could I ask you this. If you go back to the 21 second page of the non-conformance report, at page 8135, 22 and you go to the very bottom part of it, please -- 23 thank you very much -- you will see that there's a box 24 headed "Key"; do you see that?</p> <p>25 A. "Key", yes.</p>

Page 13	Page 15
<p>1 Q. About four or five lines down, it says: 2 "See guideline (G121: non-conformance report 3 classification) for further information to classify the 4 cause of defective work." 5 Do you see that? 6 A. Yes. 7 Q. Can you help me with the guideline -- where would one 8 find guideline G121? 9 A. I can't help you there, I'm sorry. 10 Q. All right. I've asked you the question. There are 11 plenty of other Leighton witnesses coming along and 12 perhaps, having got advance notice of the question, 13 somebody else may be able to help us. Thank you for 14 that, Mr Plummer. 15 Could I then, please, ask you to be shown the 16 witness statement of Mr Kit Chan, which we will find at 17 B1/262, and please could we go to page 277, 18 paragraph 40. 19 Have you had the opportunity of reading Mr Chan's 20 witness statement, Mr Plummer? 21 A. Sorry? 22 Q. This is a witness statement that Mr Kit Chan of MTR, 23 who's not yet given evidence but will be giving evidence 24 later on, this is his witness statement that he's 25 produced for the Commission. My question was: have you</p>	<p>1 Q. Would you have discussed the detail of it or would it 2 have been rather high-level? 3 A. Oh, probably high-level. Discussions about the design 4 of the diaphragm wall had been going on for a long time. 5 It wasn't just a one-off event. 6 Q. Right. In any event, you don't recall having any 7 discussions with Mr Chan, Mr Kit Chan? 8 A. Not as per paragraph 41, no. 9 Q. Okay. If we could go on, please, to -- keep going in 10 paragraph 42. Pause there, paragraph 42. If you could 11 again read paragraph 42 to yourself, please, Mr Plummer. 12 A. Okay. 13 Q. Then if we could go to paragraph 47, please. Again, if 14 you could just read that to yourself, please. 15 A. Okay. 16 Q. So what he's saying in those few paragraphs, Mr Plummer, 17 is that there were various construction process issues 18 at the top of the east diaphragm wall, and he's listed 19 them out there as we've just seen and you've just read. 20 If you could then go to paragraph 48, again what 21 Mr Chan says is this: 22 "In light of the need to proceed in accordance with 23 the design intent/assumption and to overcome various 24 problems relating to the couplers connections as noted 25 in paragraph 47, which would be time-consuming and</p>
Page 14	Page 16
<p>1 had an opportunity of reading Mr Chan's witness 2 statement? 3 A. Not until today, no. 4 Q. I wonder, to save me reading it out, if you could just 5 read, first of all, paragraph 40 to yourself of that 6 witness statement, please. 7 A. Okay. 8 Okay. 9 Q. Then if we could go to 41, please. I will read this out 10 this time. It says: 11 "As the difficulties arising from EH74 also existed 12 in other panels, after some verbal discussions between 13 my construction team and the representatives of Leighton 14 (who should have been Mr Malcolm Plummer (project 15 director), Mr Ian Rawsthorne (project manager) and/or 16 Mr Gary Chow (construction manager) but I cannot 17 remember whom in particular I spoke to) ..." 18 Pausing there, Mr Plummer, what this is all about is 19 the change of detail to the top of the east diaphragm 20 wall. In general terms, were you aware of that change? 21 A. In general terms, yes. 22 Q. Did you participate in any discussions with Mr Kit Chan 23 and other members of your team about that change? 24 A. I don't recall discussing it with Mr Kit Chan. I would 25 have discussed it in general terms with our design team.</p>	<p>1 costly, I discussed the matter with my team and the 2 representatives of Leighton ..." 3 Again, he mentions you. So as well as the EH74 4 specific problem that we looked at and mentioned 5 earlier, do you remember having any further discussions 6 with Mr Chan on all of these other issues that had 7 arisen? 8 A. Not the ones mentioned in these paragraphs, no. 9 MR PENNICOTT: All right. Thank you very much, Mr Plummer. 10 I have no further questions for you. Thank you. 11 Cross-examination by MR TO 12 MR TO: Good morning, sir. Good morning, Chairman and 13 Commissioner. I have a few questions, Mr Plummer. 14 Mr Plummer, I represent China Technology. 15 Can you go back to -- I'm just going to ask you 16 questions on your first witness statement. That's 17 C20674. Do you have that, Mr Plummer? 18 A. I don't get to see 20674. I've got paragraphs 1 and 2 19 at the moment. 20 Q. I'm going to take you to one or two paragraphs. The 21 first one is paragraph 8. This refers to, Mr Plummer, 22 in terms of visiting sites and your last sentence -- 23 I will just read it out: 24 "I would also normally visit the site once or twice 25 per week."</p>

Page 17	Page 19
<p>1 And if you go to paragraph 10 -- I will just read it 2 out to you -- in the middle, it says: 3 "... and any issues of concern that had arisen." 4 Then after that I will take you to paragraph 12. In 5 this sentence you say: 6 "I would hold weekly meetings with representatives 7 of all aspects of the project." 8 In paragraph 15: 9 "In addition, we had a weekly on-site safety 10 inspection with MTRCL plus a formal safety meeting." 11 So, Mr Plummer, is that correct? 12 A. Actually, on re-reading this, the on-site safety meeting 13 also included a quality meeting. 14 Q. I understand. In fact, I'm going to ask you a few 15 questions relating to this, Mr Plummer. 16 CHAIRMAN: Sorry, that was a quality meeting? 17 MR TO: Yes. 18 CHAIRMAN: Mr Plummer, I think you said the safety meeting 19 included also a quality meeting; is that right? 20 A. That's correct. 21 CHAIRMAN: Thank you very much. 22 MR TO: Thank you, Chairman. 23 Mr Plummer, I'm going to ask you a few questions 24 relating to this, if I may. Basically you oversee the 25 project SCL1112; is that correct?</p>	<p>1 reported was usually very low. The company was trying 2 to change that attitude, to get people to report 3 non-conformances rather than to sit on them, so to 4 speak. That's what that second sentence is all about -- 5 sorry, the third sentence. 6 Q. What do you mean by "track the number of non-conformance 7 reports"? What do you mean by "track"? The number or 8 details? 9 A. No, there's a number. They would have shown a graph on 10 the wall, on the screen that had all the sites listed 11 and all the number of non-conformances per site, just to 12 see how they were comparing. That's what that sentence 13 is all about. 14 Q. Mr Plummer, can I take you back to C50. 15 If you look at the top there, where it says "Kit 16 Chan", can you see that, "MTRC"? 17 A. Yes. 18 Q. At the side it says "By hand & ePMS". What does "ePMS" 19 stand for? 20 A. I think that was -- I'm just speculating. That may have 21 been MTR's internal email system, I don't know. 22 Q. So you basically give it to them by hand and know 23 through the ePMS? 24 A. You have to check with MTR on that one. 25 Q. Okay. So this document was given by hand to MTR?</p>
Page 18	Page 20
<p>1 A. Correct. 2 Q. So you have a lot of meetings; is that correct? 3 A. Correct. 4 Q. Now, Mr Pennicott took you to an NCR, and it's C50, if 5 you go to it. Bundle C1/C50. This is from Leighton's 6 submissions. 7 Mr Plummer, can you see the top of this? This is 8 dated 18 December 2015. 9 A. Right. 10 Q. Remember you told Mr Pennicott you had not seen this 11 document? 12 A. Well, not that I can recall, no. 13 Q. Okay. Can I take you back to your witness statement. 14 If you go to paragraph 14, can you see it says there, 15 "We also tracked" -- can you see that? 16 A. Yes. 17 Q. "We also tracked the number of non-conformance reports 18 ('NCR') issued by Leighton over the course of the 19 previous month in each area." 20 So in this situation, you would have looked at this 21 NCR in January, at least 18 January? 22 A. No, no, that sentence refers to the head office 23 meetings. It was an industry problem, you might say, 24 that people were reluctant to report NCRs, so when 25 a site -- when comparing the sites, the number of NCRs</p>	<p>1 A. Well, it should have been, yes. 2 Q. So NCR reports are all given by hand to MTR? 3 A. I couldn't comment on that. 4 Q. I understand. Let's move on, Mr Plummer. I just have 5 two more questions for you. One question is, in 6 paragraph 13 of your witness statement, the first 7 witness statement, line 3, you can see the words: 8 "I tried to engender a culture of openness in the 9 Leighton staff about issues that arose on the project." 10 What are you trying to imply there, Mr Plummer? 11 A. I'm not trying to imply anything. That's what it says. 12 Q. So what you are you trying to say by stating this 13 sentence? 14 CHAIRMAN: Sorry, I have a little bit of difficulty there. 15 What I understand Mr Plummer to be saying is that he 16 wanted to have a culture of openness so that people 17 would be ready to discuss not only internally in 18 Leighton but also with their next-door neighbours, the 19 MTR, any problems that arose. 20 MR TO: Thank you, Chairman. 21 CHAIRMAN: Would that be right, Mr Plummer? 22 A. That's correct. 23 MR TO: So are you telling us that there's no openness in 24 the MTR and also Leighton in terms of communication? 25 CHAIRMAN: No, I don't think that helps me. I think what</p>

Page 21	Page 23
<p>1 he's saying is that as the senior manager, he wanted, 2 because this was a joint contract, a joint exercise, to 3 engender trust and openness, everybody discuss their 4 problems, nobody hold anything back from anybody else, 5 the result perhaps being later on greater difficulties. 6 MR TO: Thank you. 7 Mr Plummer, my last question. In paragraph 12, the 8 last sentence, you say: 9 "I do not recall anyone raising at one of those 10 progress meetings, questions or issues regarding rebar 11 fixing or the allegation that the threaded ends of 12 rebars were cut off or shortened." 13 My question to you is: were there any rebar cuttings 14 or shortened whatsoever under your watch? 15 A. Do you mean by virtue of the progress meetings or -- 16 I don't understand. 17 Q. While you were supervising the project SCL1112. 18 A. Well, I wasn't aware of any until this year. 19 Q. Can you repeat that, Mr Plummer? We couldn't really 20 hear. 21 CHAIRMAN: "I wasn't aware of any until this year." 22 MR TO: Thank you very much. I don't have any further 23 questions for Mr Plummer. 24 WITNESS: Thank you. 25 Cross-examination by MR KHAW</p>	<p>1 memory, that, say, the contractor has spent money 2 without reasonable cause, then that was on his 3 shoulders. 4 Q. Sorry, if I understand you correctly, you mean, in that 5 case, if a particular sub-contractor has incurred 6 additional costs in relation to a particular aspect of 7 the project, then such additional cost would fall upon 8 the shoulders of Leighton; is that what you mean? 9 A. No, no, no. Only if the -- I forget the term they used 10 in the contract but it's in the contract there, certain 11 costs are not shared. But if the sub-contractor 12 incurred extra costs in the normal course of his work 13 and it was a legitimate cost, that would be shared. 14 Q. Right. 15 A. I just amend that comment. In addition to what he was 16 due under the contract, obviously he has obligations 17 under his contract, and if something came up that was 18 additional to the contract, then that's shared. 19 Q. I see. So, in relation to such additional costs, that 20 would be shared by Leighton and MTR equally? 21 A. Sorry, could you say that again? 22 Q. If additional costs have been incurred, are you saying 23 that such additional costs would be shared between MTR 24 and Leighton equally? 25 A. First of all, it has to be a legitimate extra cost.</p>
Page 22	Page 24
<p>1 MR KHAW: Mr Plummer, good morning. I am acting for the 2 government. There are a few areas I would like to 3 discuss with you in relation to your witness statements. 4 If we can take a look at paragraph 6 of your first 5 witness statement, where you say: 6 "Contract SCL1112 was unusual in that it was 7 a 'partnering' contract between Leighton and MTR with 8 some risk and profit sharing between us." 9 Pausing here, Mr Plummer, can you just briefly 10 describe what you think is unusual in this arrangement? 11 A. Well, there weren't many contracts at least at that time 12 which had the -- the risk and profit meant that up to 13 a certain point the profit was shared 50/50 and then 14 after that the MTR got all the profit, and on the risk 15 side, if the job made a loss, that the loss was shared 16 up at a certain point, and after that point the 17 contractor took all the loss. Not many contracts at 18 that time had that mechanism. 19 Q. I see. For example, if the implementation of this 20 contract experiences some delays, for example, that 21 would usually result in an escalation of costs on the 22 part of Leighton, naturally. So how would such 23 additional costs be shared between Leighton and MTR? 24 A. Depending on how the problem came about, but in general 25 terms, yes. There is a facility in the contract, from</p>	<p>1 They just can't say they've got additional cost and 2 somebody pays. The second one is it's shared up to 3 a certain point and after that the contractor wears it 4 all. 5 Q. Apart from costs, how would you calculate the profit in 6 general which would be shared between you and MTR? 7 A. Well, that's only known at the end of the contract. 8 CHAIRMAN: Sorry, we didn't quite catch that. That's 9 an exercise done at the end of the contract; is that 10 right? 11 A. That's correct. 12 MR KHAW: So if, for example, additional costs have been 13 incurred for a particular kind of rectification work 14 which has been done by the sub-contractor, that will 15 naturally reduce the profit which would eventually be 16 shared by MTR and Leighton; is that right? 17 A. It depends. If it's seen to be the contractor's fault 18 on his own, then he has to wear the cost. It might be a 19 design fault in which case you might look to somebody 20 else. It's not an automatic flow-on, no. 21 Q. Right. So you mean that depends on whether the 22 rectification work -- the cost of the rectification work 23 should be borne by the sub-contractor or not; is that 24 what you are trying to say? 25 CHAIRMAN: Or somebody else. For example, if it's a design</p>

Page 25	Page 27
<p>1 fault, then it may be borne by whoever drew up the</p> <p>2 designs wrongly.</p> <p>3 MR KHAW: Yes.</p> <p>4 Now, we would like to focus on the delay costs. If</p> <p>5 rectification works are required for a particular aspect</p> <p>6 of the project, and such work has actually caused delay</p> <p>7 to the project, how would such delay cost be factored in</p> <p>8 in the final account?</p> <p>9 A. Well, it's a complicated question. You really have to</p> <p>10 get to the root cause of these whole thing first.</p> <p>11 That's about as much as I can comment, without knowing</p> <p>12 the facts.</p> <p>13 Q. Right. Shall we move on to one aspect in your witness</p> <p>14 statement. In paragraph 5 of your first witness</p> <p>15 statement, you talk about your responsibility as</p> <p>16 a project director. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. If we can take a look at a document, B6/3982. That is</p> <p>19 the quality assurance plan. Have you seen this document</p> <p>20 before?</p> <p>21 A. I have seen one that was similar, yes.</p> <p>22 Q. On this page, the responsibilities of the project</p> <p>23 director with respect to quality management are set out.</p> <p>24 We can see responsibilities include reviewing and</p> <p>25 authorising the quality assurance plan and other system</p>	<p>1 Q. If there are irregularities in the implementation of the</p> <p>2 project -- for example, you discover problems in the</p> <p>3 work done by a particular sub-contractor -- there are</p> <p>4 people in Leighton who are responsible for investigating</p> <p>5 into the irregularities before they decide whether</p> <p>6 an NCR should be issued or not; would you agree?</p> <p>7 A. Well, I hear what you say, but go on.</p> <p>8 All these lists of actions here are my sort of</p> <p>9 responsibilities. We have a whole organisation to carry</p> <p>10 them out.</p> <p>11 Q. Yes. So you would be responsible for deciding whether</p> <p>12 an NCR should be issued or not; is that right?</p> <p>13 A. On a day-to-day basis, no. That was handled by many</p> <p>14 people. Well, the quality team, put it that way.</p> <p>15 Q. But you would participate in the discussions when other</p> <p>16 people were deciding whether an NCR should be issued or</p> <p>17 not; is that a fair way of putting it?</p> <p>18 A. Well, it depends (a) whether I was there at the time and</p> <p>19 (b) whether they thought it appropriate to involve me.</p> <p>20 I mean, there's a whole host of things that come into</p> <p>21 play.</p> <p>22 Q. I don't quite follow you, Mr Plummer. Did you or did</p> <p>23 you not participate in the decision-making process in</p> <p>24 relation to whether an NCR should be issued or not?</p> <p>25 A. I may have on some, but definitely not all.</p>
Page 26	Page 28
<p>1 documents that relate to quality; evaluating, with the</p> <p>2 quality and environmental manager the competencies of</p> <p>3 project personnel with respect to quality activities,</p> <p>4 et cetera; assigning quality responsibilities to project</p> <p>5 personnel.</p> <p>6 If we can go down a little bit: participating in the</p> <p>7 review of the quality system at the project and other</p> <p>8 relevant quality meetings and programmes; making sure</p> <p>9 that appropriate training in quality is provided; and</p> <p>10 then the second-last item, approving the required</p> <p>11 actions associated with non-conformance reports and</p> <p>12 corrective action requests; and finally, leading risk</p> <p>13 management assessment exercises.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. One particular aspect that I'm interested in is the</p> <p>17 second-last item, in relation to NCR, ie the</p> <p>18 non-conformance report, and also the actions required by</p> <p>19 you in that particular respect.</p> <p>20 If there are irregularities found in the project, in</p> <p>21 the implementation of the project, obviously some people</p> <p>22 in Leighton will investigate the irregularities before</p> <p>23 they decide whether an NCR should be issued or not. Do</p> <p>24 you agree?</p> <p>25 A. Sorry, can you say that again, please?</p>	<p>1 Q. So are there any particular aspects that you would be</p> <p>2 involved in the decision-making process as to whether</p> <p>3 an NCR should be issued or not? Any particular areas</p> <p>4 that you would participate; any particular areas that</p> <p>5 you would not participate?</p> <p>6 A. I find that difficult to answer. I don't know; I can't</p> <p>7 answer that.</p> <p>8 Q. So am I correct in saying that if you were asked, then</p> <p>9 you would participate in the decision-making process; if</p> <p>10 you were not asked, then you would not?</p> <p>11 A. In a large majority of cases, that's probably correct.</p> <p>12 Q. Right. So, in general, who was the person -- talking</p> <p>13 about this particular project, who was the person who</p> <p>14 made the ultimate decision as to whether a particular</p> <p>15 NCR should be issued or not?</p> <p>16 A. The chap working for Leightons was the quality assurance</p> <p>17 manager, Mr Harman.</p> <p>18 Q. Right. So presumably, before a decision was made by</p> <p>19 him, he would at least discuss with you as to whether</p> <p>20 an NCR should be issued or not, would he?</p> <p>21 A. No. I mean, there are lots of things that NCRs arrange</p> <p>22 for. Some are sort of maybe a problem with some supply</p> <p>23 items; that's just a routine matter. That was his job,</p> <p>24 to work out which ones to do.</p> <p>25 Q. But according to the quality assurance plan, you would</p>

Page 29	Page 31
<p>1 be responsible for approving the required actions 2 associated with the NCRs; that you would agree, right? 3 A. Well, the whole list here is -- if you scroll to the 4 top, I think it says I'm responsible for all that. 5 I mean, that's a full-time job, all those 20 different 6 items listed there. I did have an oversight over it, 7 that's how it worked. 8 Q. I'm sorry, maybe I didn't make myself clear. My 9 question was, after the NCR was issued, regardless of 10 whether you were involved in the decision-making process 11 as to whether an NCR should be issued or not, after the 12 NCR was issued, you would be responsible for approving 13 the required actions associated with the NCR; that's 14 your responsibility, am I right? 15 A. It's my responsibility, but not necessarily on, you 16 know, a personal basis. 17 CHAIRMAN: Would it be correct to say, then, that although 18 the buck stopped with you, you didn't necessarily 19 involve yourself in approving or disapproving each and 20 every set of actions flowing from an NCR? 21 A. Yes, that's correct. I mean, I think the paragraph that 22 follows all those actions sort of sums it up. It says 23 he is authorised to implement measures, and it goes on 24 about pretty much the whole job. That's a full-time 25 job.</p>	<p>1 you did not see this NCR before. Do you remember that? 2 A. Yes. 3 Q. May I just know when you were first aware of this NCR? 4 You said: 5 "Until very recently, I was not aware of any 6 threaded ends of rebars being cut off. I have been told 7 that there were three occasions from around September to 8 December ... when a very small number of defective 9 rebars were identified by Leighton ..." 10 I would just like to explore with you when 11 approximately you were first aware of this NCR incident, 12 ie Fang Sheung was found to have cut certain threaded 13 rebars. 14 A. Well, in the witness statement there, I said it was the 15 middle of this year that I was told about it. The NCR 16 I found out about this morning, when it came up on the 17 screen. 18 Q. So, in relation to this NCR incident, you were never 19 asked to give your opinion or approve of any remedial 20 actions in order to rectify the irregularity? 21 A. No. 22 Q. Is that the case? 23 Sorry, Mr Plummer, is that the case? 24 A. Sorry, what was the question again? 25 Q. In relation to this particular NCR incident that you</p>
Page 30	Page 32
<p>1 MR KHAW: Thank you. 2 Is it fair to say that whenever an NCR is issued, at 3 least that NCR would be passed on to you for 4 consideration? 5 A. Well, no. I don't think that happened. I haven't 6 seen -- that one that was shown to me before, I haven't 7 seen that before. 8 Q. Since you are talking about that particular NCR, if 9 I may refer you again to paragraph 21 of your first 10 witness statement. According to your recollection, you 11 did not see that NCR before? 12 A. In paragraph 21 it says, "I was not aware of any 13 threaded ... rebars being cut off." The implication of 14 that is cut off in an illegal way or in a way that was 15 detrimental to the project. If you look at the 16 statement I've seen out of Mr Kit Chan's thing, he's 17 talking about various difficulties. 18 So I think you are leaping ahead there, to take it 19 that the NCR involved an illegal operation, you might 20 say. It might have been perfectly legitimate and they 21 had a solution for it and life went on. But 21 refers 22 to doing it in a surreptitious way. 23 Q. Mr Plummer, I don't think I have actually gone into the 24 question of legitimacy yet. I'm only talking about your 25 earlier evidence that, according to your recollection,</p>	<p>1 have been referred to, we now understand that you did 2 not see the NCR report before, but my question was, in 3 relation to this particular NCR incident, regardless of 4 whether you have seen the report before, were you asked 5 to give any opinion regarding the remedial actions -- 6 A. No. No. 7 CHAIRMAN: "No. No." 8 MR KHAW: Thank you. 9 Now that you are aware of this NCR incident, do you 10 consider this a serious incident, a serious 11 irregularity? 12 A. I would have to know more about it before I give that 13 comment. 14 CHAIRMAN: "I would have to know more about it before 15 I could answer that point." 16 MR KHAW: Yes. 17 So now you know about this NCR incident, were you 18 surprised that at that time you were not given any 19 information as a project director that this incident 20 happened? 21 A. Not really. 22 Q. Not really? All right. 23 A. Well, I can't recall the NCR and I can't recall any 24 discussion about it. 25 Q. Yes. Sure. Let us just have a look at the NCR now.</p>

Page 33	Page 35
<p>1 C12/8134. You have seen the documents. There are 2 actually some photographs attached. If you can look at 3 C8136, 8138, 8139. If we can go back to the NCR report 4 itself, 8135, the details of defective work are 5 described as follows: 6 "Threaded rebars at 3m thickness EWL slab at area C3 7 bay C3-2/C3-3, was found 5 number of threaded steel bars 8 heads -- Y40 at bottom layer which were cut and hadn't 9 screwed into couplers face to bay C3-1/C3-4/eastern 10 diaphragm wall." 11 Now you have a chance to look at this NCR, would you 12 consider such irregularity a serious one, as a project 13 director? 14 A. It would sound serious enough to do further work on it, 15 yes. 16 CHAIRMAN: Sorry, could you repeat that, Mr Plummer? Thank 17 you. 18 A. It would warrant further investigation, put it that way. 19 MR KHAW: My earlier question was, now that you have seen 20 the NCR, the contents of the reports and the photographs 21 showing the defects, were you surprised that you were 22 not informed of such an NCR incident before, as 23 a project manager; were you surprised? Sorry, a project 24 director. 25 A. Hard to answer. Well, I would like to know more about</p>	<p>1 Q. So you agree that at least this particular fact would 2 need to be further investigated? 3 A. Just looking at the bare facts here, yes. 4 Q. Now we have evidence from the relevant sub-contractor 5 who has given evidence as to why this happened, one of 6 the reasons given by the sub-contractor, ie Fang Sheung, 7 was that it might be the case that the workers had 8 difficulty in trying to screw in the threaded parts of 9 the coupler, and they cut the threaded rebars, 10 pretending that such threaded rebars were properly 11 installed. If that is the case, would you consider that 12 a serious misconduct? 13 A. I mean, he's speculating anyway, so it's a bit hard to 14 comment on that. 15 Q. No, I'm not speculating. I'm actually telling you 16 something from the evidence given by Fang Sheung. 17 A. But you said Fang Sheung was speculating. 18 CHAIRMAN: No, I think the issue is you are saying 19 Fang Sheung admitted -- mind you, I see what you are 20 saying, Mr Plummer. You're saying it's speculation on 21 the part of Fang Sheung from what you know. They are 22 simply saying it's possible that this happened for that 23 reason, so you can't really comment. 24 A. Correct. 25 MR KHAW: Thank you.</p>
Page 34	Page 36
<p>1 the circumstances surrounding it before I could go and 2 answer that. 3 Q. Mr Plummer, purely on the basis of what we have seen 4 from the NCR report, you told us that now you think this 5 is something serious which should warrant further 6 actions? 7 A. No, I think I said it would warrant further 8 investigation. I don't know whether I said -- 9 Q. Further investigation, yes. So, purely on the basis of 10 the NCR report that you have now seen, my question was: 11 were you surprised that you were not informed at the 12 material time? 13 A. Without knowing all the facts around it and who knew 14 what and all this sort of stuff, I can't really -- you 15 know, I would need to know that further information 16 before I make a comment. 17 Q. The mere fact that threaded rebars were cut on the 18 site -- just focus on this particular act -- would you 19 consider that a serious misconduct? 20 A. It depends why it was done. I mean, if they couldn't -- 21 they might have -- maybe some bars were cut at some 22 stage and there was design solution for it in advance. 23 I mean, you have to find all these facts out. Just 24 looking at the NCR on its own doesn't give you the 25 complete story.</p>	<p>1 During your work on the site for this project, were 2 you aware of any incident where workers doing bar fixing 3 work encountered difficulties in trying to screw in the 4 threaded parts of the coupler? 5 A. No, but they would have had difficulties. It wasn't 6 an easy job. 7 Q. Right. If I can ask you to have a look at one witness 8 statement from MTR. B379. It's a witness statement 9 from Mr Louis Kwan, paragraph 19. It says: 10 "The construction of the EWL slab typically 11 consisted of the following splicing assemblies: 12 The splicing of the starter bars to the cast-in 13 couplers (both top and bottom layers) in the excavation 14 side of the diaphragm wall panels using type A 15 connections, except for the panels in the east diaphragm 16 wall which were subject to the change in construction 17 [design] which I will discuss below ... These cast-in 18 couplers form part of the rebar cages in the diaphragm 19 walls, and after the concrete casting of the diaphragm 20 walls, the cast-in couplers had to be exposed (typically 21 using a hydro-demolition machine) as part of the 22 preparation of the shear key." 23 Pausing here, Mr Plummer, you were certainly aware 24 of this process during the construction works; right? 25 A. The hydro-demolition machine?</p>

Page 37	Page 39
<p>1 Q. Yes, about the demolition for the purpose of exposing 2 the cast-in couplers. 3 A. Yes. 4 Q. Were you aware of any incidents where couplers were 5 damaged as a result of this particular process? 6 A. No. One of the advantages was that it didn't damage the 7 couplers, to my knowledge. 8 Q. So your answer to my question was no, you were not aware 9 of any incident where couplers were damaged? 10 A. No -- well, yes. 11 Q. In your almost 30 years of experience in the 12 construction industry, were you aware of any incident 13 where threaded rebars of couplers had to be cut? 14 A. Not that I can recall. 15 Q. In relation to this particular project, during the 16 period between February 2015 and August 2016, were you 17 aware that the whole project was under enormous time 18 pressure? 19 A. Yes. 20 Q. Were you aware of any reports on delay in the process of 21 rebar fixing work? 22 A. When you say "reports", reports by whom? 23 Q. Or have you heard of any incident in relation to such 24 delay? 25 A. The pressure on the programme was a factor from day one.</p>	<p>1 know? 2 A. I didn't, but they spoke with Fang Sheung on a daily 3 basis. We had monthly sub-contractor meetings, but they 4 were more formal. The work was discussed on a daily 5 basis on the site. 6 Q. So, if there were incidents that couplers were found 7 defective for the bar fixing work, were you supposed to 8 know? 9 A. Sorry, what was that? Was I supposed to ...? 10 Q. If there were incidents where couplers were found to be 11 defective, were you supposed to know, as a project 12 director? 13 A. No, there's no reason, as long as they could be fixed. 14 Q. If there were defective coupler works on the site which 15 required Leighton's direct labourers to rectify the 16 problem, were you supposed to know? 17 A. No. Matters like that is sort of fairly routine for the 18 site staff. If they've damaged it during the 19 hydro-demolition, it would have been up to Leightons' 20 people to fix it. If it was faulty because of the 21 diaphragm wall construction, then Intrafor would have to 22 come and fix it. 23 Q. My question was: if there was a particular piece of 24 rectification work for the purpose of bar fixing which 25 required Leighton's direct labourers to deal with, would</p>
Page 38	Page 40
<p>1 It was nothing unusual and it was just one of those 2 "part of the job" situations. There was nothing -- we 3 didn't write reports about it. 4 Q. Going back to this demolition work for the purpose of 5 exposing the cast-in couplers, such work was done by 6 Leighton's labourers or by other sub-contractor? 7 A. Leighton's labour. 8 Q. So Leighton's labourers would have to work closely with 9 Fang Sheung's workers in relation to the bar fixing 10 works; is that correct? 11 A. No. The hydro-demolition work, it needed a whole area 12 to be cordoned off, and was very messy because there was 13 a lot of water flying around. It was done ahead of the 14 bar fixing works; it had to be separate. 15 Q. Were you aware of any incident where the direct 16 labourers of Leighton would have to deal with any 17 defective couplers? 18 A. No, I'm not aware of any. 19 Q. Were there or were there not any occasions where 20 Leighton was responsible for replacing certain defective 21 couplers found on the site? 22 A. I don't know. 23 Q. In relation to the bar fixing work, on the site, did you 24 have regular meetings with Fang Sheung or whether your 25 colleagues had regular meetings with Fang Sheung; do you</p>	<p>1 you be informed? 2 A. No. 3 MR KHAW: Would that be a convenient moment? I have a few 4 more questions for him. 5 MR PENNICOTT: Shall we go on? 6 CHAIRMAN: I think so, yes. 7 MR KHAW: Can I ask you to take a look at the QSP, at 8 H9/4260. Have you seen this document before? 9 A. I may have done. I don't recall it. 10 Q. Okay. Maybe we go to the next page. 4265. Have you 11 seen this document before? 12 A. As I say, I may have, but I can't recall it. 13 Q. Are you aware that this quality supervision plan 14 regarding installation of couplers -- are you able to 15 tell us whether this plan applies to both the 16 construction of the diaphragm walls and platform slabs? 17 A. Sorry, could you repeat that? 18 Q. I'm sorry. Can you tell us whether this quality 19 supervision plan regarding installation of couplers 20 applies to the construction of both diaphragm walls and 21 platform slabs? 22 A. Well, I'd have to read the document. It doesn't say 23 here. 24 Q. If we can go to the next page. Scroll down, please. 25 "Introduction to quality supervision plan" -- can you</p>

Page 41	Page 43
<p>1 recall whether you have seen it before?</p> <p>2 A. As I say, I may have, but I can't recall seeing it.</p> <p>3 Q. You can see the requirements in relation to assignment</p> <p>4 of quality control supervisors to supervise the</p> <p>5 manufacturing process and the frequency of quality</p> <p>6 supervision, et cetera. You were not aware of this</p> <p>7 requirement?</p> <p>8 A. I may have read it in the early days, but I mean, we</p> <p>9 started -- we actually imported the couplers; we didn't</p> <p>10 manufacture them.</p> <p>11 Q. Right. In fact, I would just like to clarify with you</p> <p>12 as to whether you know that this plan applies to the</p> <p>13 construction regarding both diaphragm walls and slabs.</p> <p>14 Are you able to tell us?</p> <p>15 A. No, not without reading the whole document. It must say</p> <p>16 somewhere there where it's meant to be used.</p> <p>17 Q. Regarding the bar fixing work, ie the installation of</p> <p>18 couplers --</p> <p>19 A. Sorry, regarding the what?</p> <p>20 Q. Sorry. Regarding the bar fixing work, in relation to</p> <p>21 the installation of couplers -- can you hear me?</p> <p>22 A. Yes.</p> <p>23 Q. -- can you tell us how such work was inspected and</p> <p>24 supervised by Leighton?</p> <p>25 A. Well, the details of that, I'd have to refer to other</p>	<p>1 remind us who "RC" is?</p> <p>2 MR KHAW: The registered contractor.</p> <p>3 COMMISSIONER HANSFORD: Thank you.</p> <p>4 MR KHAW: "... will [be] responsible to carry out full-time</p> <p>5 and continuous supervision of the splicing assemblies</p> <p>6 on site."</p> <p>7 Can you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell us what is your understanding of "full-time</p> <p>10 and continuous supervision"?</p> <p>11 A. This is part of -- I'd have to come back to you on that.</p> <p>12 I haven't got a quick answer on that.</p> <p>13 Q. Sorry, Mr Plummer, you were the project director.</p> <p>14 A. Yes, this is part of some quality control --</p> <p>15 Q. You have no idea regarding the meaning of "full-time and</p> <p>16 continuous supervision"?</p> <p>17 A. Whether that's part of the full-time and continuous</p> <p>18 supervision of the whole site, or whether they sit</p> <p>19 there, assembly by assembly, which I seriously doubt,</p> <p>20 I would have to go and find out.</p> <p>21 This is a document written by the coupler company,</p> <p>22 I presume, or started with them.</p> <p>23 Q. No, no, no. We are not talking about the supervision of</p> <p>24 the whole site. I'm only talking about what is stated</p> <p>25 here, under (i), which is in relation to installation</p>
Page 42	Page 44
<p>1 people. I can't remember.</p> <p>2 Q. I see. So, after such inspection work, other people</p> <p>3 would report to you; is that right?</p> <p>4 A. As far as inspection of couplers and that sort of thing,</p> <p>5 that was done on a fairly regular basis, and I didn't</p> <p>6 get reports on every one, no. It was just one of those</p> <p>7 things that was handled as part of the job.</p> <p>8 Q. As a project director, would you agree that the NCR</p> <p>9 incident would not have happened if the necessary work</p> <p>10 had been inspected and supervised properly?</p> <p>11 A. It depends when the fault was noticed. If it was</p> <p>12 noticed during inspection, then I'd say the system is</p> <p>13 working properly.</p> <p>14 COMMISSIONER HANSFORD: Sorry, can we have that answer</p> <p>15 again?</p> <p>16 A. I'm saying it depends when the fault was found or found</p> <p>17 out. If it was found out during an inspection, then the</p> <p>18 system is working properly.</p> <p>19 COMMISSIONER HANSFORD: Thank you.</p> <p>20 MR KHAW: Thank you. If we can go to page 4269 of the same</p> <p>21 document. Subparagraph 5.1, under paragraph 5,</p> <p>22 "Supervision and inspection by RC on site --</p> <p>23 installation works", (i):</p> <p>24 "Quality control supervisors" --</p> <p>25 COMMISSIONER HANSFORD: Sorry, Mr Khaw, could you just</p>	<p>1 works, and it specifically relates to supervision of the</p> <p>2 splicing assemblies on site.</p> <p>3 A. Well, I can only see what's written here. I mean, if it</p> <p>4 says "full-time" then it says "full-time".</p> <p>5 Q. Sorry, Mr Plummer, I would like to know a bit more about</p> <p>6 your answer. This is Leighton's document, regarding the</p> <p>7 quality supervision plan. Paragraph 5 deals with</p> <p>8 supervision on site works, and the paragraph that I just</p> <p>9 read to you, under (i), relates specifically to</p> <p>10 supervision of the splicing assemblies on site.</p> <p>11 I would just like to understand a bit more from you</p> <p>12 as to how this full-time and continuous supervision was</p> <p>13 carried out. What is your understanding of this</p> <p>14 particular term? Can you tell us a bit more?</p> <p>15 A. First of all, I have to go back and find out what they</p> <p>16 meant by splicing assembly. There are various stages to</p> <p>17 the coupler installation. The first one was when they</p> <p>18 make up the cages for the diaphragm walls, the couplers</p> <p>19 are actually inserted and fixed into that cage, so when</p> <p>20 the concrete is poured they are buried. That's like you</p> <p>21 might call the splicing assembly. We've got foremen and</p> <p>22 quality people on the site at that time. Or whether it</p> <p>23 refers to the installation of the bar that goes on to</p> <p>24 the so-called splicing assembly, I would have to do some</p> <p>25 more investigation.</p>

Page 45	Page 47
<p>1 Q. Sorry, Mr Plummer, I don't quite understand. In order 2 to have full-time and continuous supervision, I suppose 3 there must be a mechanism where you would determine the 4 necessary manpower for each stage of the supervision. 5 Would that be correct? 6 A. It was a bit more general than that. We had various 7 teams assigned to it who go through all the different 8 stages. We haven't got the luxury of having a different 9 team for every different stage. 10 Q. So, when the bar fixing workers were actually screwing 11 in the threaded parts of the couplers for the 12 reinforcement, how was it supervised by Leighton? 13 A. We had site foremen and site engineers watching the 14 works. Obviously you don't have one foreman per worker. 15 One foreman covers an area. 16 Q. Was it done layer after layer? 17 A. I don't know that. 18 Q. You can't comment? 19 A. No. 20 Q. Do you actually know how the inspection and supervision 21 work was carried out? Do you actually know? Have you 22 ever seen? 23 A. Well, I didn't go and get a demonstration of how they 24 did it, no. I just observed the works during the 25 inspection -- my inspections.</p>	<p>1 sub-contractors' work or not? 2 A. When you say the work done by direct labour, which work 3 was that? 4 Q. I was referring to the work that the sub-contractor 5 failed to do and eventually the sub-contractor required 6 Leighton's direct labour to deal with, that sort of 7 work. 8 A. But I'm not aware of any of that sort of work. 9 CHAIRMAN: "I'm not aware of that sort of work." 10 MR KHAW: I see. So you were never aware of any incident 11 where Leighton's own worker or the worker hired by 12 Leighton carried out any work that the sub-contractor 13 failed to do? You were not aware of any such incidents; 14 right? 15 A. I'm not aware of it. I can't recall anything like that, 16 no. 17 Q. One final question. As a project of Leighton, are you 18 aware of any practice that Leighton would sign 19 confidentiality agreements with sub-contractors? 20 A. To what effect? 21 Q. First of all, in general, are you aware of any practice 22 that Leighton would ask sub-contractors to sign 23 confidentiality agreements? 24 A. Never. 25 MR KHAW: I have no further questions.</p>
Page 46	Page 48
<p>1 Q. I see. So when Fang Sheung was doing the bar fixing 2 work, you yourself actually never witnessed how the 3 inspection and supervision work was carried out; is that 4 correct? 5 A. Not on a formal basis, no. 6 Q. Thank you. 7 Apart from Leighton's own labourers, does Leighton 8 also hire other labourers or dayworkers to perform any 9 of the works for the project? 10 A. Yes, we do hire daywork labour. 11 CHAIRMAN: Sorry, I didn't catch that. 12 A. We do hire daywork labour. 13 CHAIRMAN: Thank you. 14 Would it also be correct to say -- I think you may 15 have mentioned it; if not, forgive me -- that it would 16 be normal to hire a number of workers who would do work 17 that fell in between the sub-contractors' work? 18 A. Yes, that's correct. 19 MR KHAW: If Leighton's direct labour actually carried out 20 work which the sub-contractor failed to do, how would 21 such cost be calculated as between Leighton and the 22 sub-contractor? 23 A. As far as I know, we didn't do that sort of thing. 24 Q. So that piece of work eventually done by Leighton's 25 direct labour, that would be counted as the</p>	<p>1 MR BOULDING: No questions from us, sir. 2 CHAIRMAN: Thank you. 3 Ms Chong? 4 MS CHONG: No questions from Fang Sheung. 5 CHAIRMAN: All right. Any re-examination? 6 MR SHIEH: I have no re-examination. 7 Questioning by THE COMMISSIONERS 8 CHAIRMAN: I just have a couple of questions, if I may, 9 Mr Plummer. The question, as you are aware, of 10 corruption has crept into these proceedings, corruption 11 by way of cutting corners, for backhanders and things 12 like that. 13 Over your many years, have you ever investigated the 14 possibility of such corruption occurring on projects in 15 which you have been involved? 16 A. No. 17 CHAIRMAN: Do you recall, in respect of this project, having 18 any reasonably long discussions, one on one, about any 19 subject at all with Mr Poon? 20 A. The various evidence that Mr Poon gave about corruption 21 and my confessing and all this sort of thing is 22 completely fabrication. Nothing like that ever 23 occurred. 24 CHAIRMAN: Okay. 25 A. Apart from the fact that corruption didn't exist, or</p>

Page 49	Page 51
<p>1 what he calls corruption, didn't exist in the first 2 place. 3 CHAIRMAN: So you certainly had no idea of anything like 4 that, no reports were made to you by anybody of any form 5 of possible corrupt cost-cutting? 6 A. No. I don't really see how it could happen. The 7 daywork labour was employed on completely separate areas 8 of the job; transport and roads and management and so 9 on. 10 CHAIRMAN: Yes. Good. 11 Peter, any questions? 12 COMMISSIONER HANSFORD: No questions, thank you. 13 CHAIRMAN: Anything arising, Mr Shieh? 14 MR SHIEH: Nothing arising. 15 CHAIRMAN: Good. Mr Plummer, you are finished. Thank you 16 very much indeed. 17 WITNESS: Okay. Thank you. 18 CHAIRMAN: I know it's an inconvenience for you and we 19 appreciate that. Thank you very much. 20 WITNESS: Thank you. 21 (The witness was released) 22 MR PENNICOTT: Pretty good timing, on any view. 23 CHAIRMAN: Shall we just have ten minutes? 24 MR PENNICOTT: Yes, sir. 25 CHAIRMAN: Thank you.</p>	<p>1 "Leighton had a system of uniforms and hat colours 2 for sub-contractors and workers. All workers had to 3 attend a Leighton induction course at Kwai Fong to learn 4 the system before commencing work on site. Leighton did 5 not have many of its own labourers. Instead it would 6 use day labour from sub-contractors. The hat colour 7 system was as follows". 8 If you look at this with me, Mr Cheung: 9 "Red hats indicated banksmen; 10 Blue hats indicated riggers; 11 Pink hats indicated scaffolders; 12 Grey hats indicated electricians; 13 Yellow hats indicated general labourers and/or 14 carpenters and steel fixers; and 15 White hats generally indicated foremen and other 16 supervisory staff." 17 I assume, Mr Cheung, you would, in general terms, 18 agree with what Mr Rodgers says there, to your 19 understanding? 20 A. I agree. I understand, yes. 21 Q. So the workers that we see in the photograph at 227 are 22 wearing red hats, and at least by definition, by 23 Mr Rodgers' definition, they are banksmen? 24 A. Correct. 25 Q. What's your understanding of a banksman's usual or</p>
Page 50	Page 52
<p>1 (11.51 am) 2 (A short adjournment) 3 (12.13 pm) 4 MR CHEUNG CHIU FUNG, JOE (on former affirmation in Punt) 5 (All answers given via simultaneous interpreter 6 except where otherwise specified) 7 Examination by MR PENNICOTT (continued) 8 MR PENNICOTT: All right, Mr Cheung. Good afternoon. 9 A. Good morning. 10 Q. Mr Cheung, when we broke last night, we had been looking 11 at a photograph at D1/227, which I wonder if we can put 12 back up on the screen, please. You had indicated to the 13 Commission that the two workers that we see in this 14 photograph were not Fang Sheung workers. Do you recall 15 that? 16 A. Yes, I recall that. Correct. 17 Q. Overnight, I've been doing some revision on helmets and 18 hats. Could you please be shown bundle C32, page 24096. 19 This is a witness statement from Mr Khyle Rodgers of 20 Leighton, and if we could just go down three pages, 21 please, paragraph 14 -- can we see the whole of 22 paragraph 14, please; thank you -- and what Mr Rodgers 23 says here -- I don't know if you've seen this before, 24 Mr Cheung, but that doesn't matter for my purposes -- it 25 says:</p>	<p>1 normal duties? 2 A. Banksmen on site, they help give signals with regards to 3 machinery. For example, for transportation or when 4 a car is moving, they may need to lead the cars and 5 vehicles, and so on. 6 Q. Yes, that's my understanding as well. So in relation to 7 cranes or large vehicles that are moving materials 8 around the site, banksmen would be there to ensure that 9 all that was done safely? 10 A. Correct, yes, that's right. 11 Q. As I understand it, Fang Sheung would not have or need 12 any banksmen? 13 A. We need them. 14 Q. You did need them? 15 A. Yes. We need banksmen because when we lift the bars or 16 transport the bars, we need banksmen. 17 Q. Perhaps my question wasn't quite phrased correctly. Did 18 Fang Sheung have themselves, did they employ, banksmen? 19 A. Yes, we did. 20 Q. You did? Okay. So these gentlemen, these banksmen 21 here, could be Fang Sheung workers, could they? 22 A. Yes. 23 Q. All right. So why were you so adamant yesterday that 24 they were not Fang Sheung workers? 25 A. Where? You mean here?</p>

Page 53	Page 55
<p>1 Q. Yes.</p> <p>2 A. In the photo?</p> <p>3 Q. Yes, in the photograph. In the photo, yes.</p> <p>4 A. For us, Fang Sheung workers, if there's a need to lift</p> <p>5 the materials, then -- if there's a need we would have</p> <p>6 to go to take Leighton's class and then go back to the</p> <p>7 blue hat. We had a few banksmen relatively. For these</p> <p>8 two in the photo, they wore red hats. Fang Sheung</p> <p>9 didn't have any workers wearing red hats.</p> <p>10 Q. Right. I'm slightly confused now. I thought it was</p> <p>11 going to be clear but it's not.</p> <p>12 CHAIRMAN: So you employed banksmen but in fact they didn't</p> <p>13 wear red hats; they wore blue hats?</p> <p>14 A. Correct. The banksmen, they wear blue hats;</p> <p>15 (Chinese spoken) wears red hat.</p> <p>16 MR PENNICOTT: Red hat.</p> <p>17 A. We don't have anyone wearing red hats under our charge.</p> <p>18 COMMISSIONER HANSFORD: Sorry, I'm confused now as to who</p> <p>19 has red hats and who has blue hats. Sorry.</p> <p>20 A. Let me explain briefly the operations on site. For</p> <p>21 those wearing blue hats, that is the banksmen</p> <p>22 responsible for lifting materials, they could lead the</p> <p>23 machinery, so these could be operated safely. As for</p> <p>24 those wearing red hats like those in the photos, they</p> <p>25 could not lead the machine operations; they could only</p>	<p>1 Q. We've heard about how the couplers in the diaphragm wall</p> <p>2 had exposed, that is through some hydro-jetting or</p> <p>3 high-water-pressure jetting. And presumably, Mr Cheung,</p> <p>4 you witnessed that operation going on on the site?</p> <p>5 A. Yes.</p> <p>6 Q. Right. Can you tell us -- we've heard that when that</p> <p>7 operation happened, an area would essentially be</p> <p>8 cordoned off and the hydro-jetting would take place, and</p> <p>9 if you were just, let's say, doing an area, let's say</p> <p>10 four or five panels, so perhaps 18, 19 or 20 metres in</p> <p>11 width, how long would that process of hydro-jetting</p> <p>12 take? Can you help?</p> <p>13 A. Length is 18 to 19 metres; right?</p> <p>14 Q. Approximately, yes.</p> <p>15 A. Then it would take roughly one week.</p> <p>16 Q. All right. Is that one week to expose just the bottom</p> <p>17 layer of couplers, or the bottom and the top?</p> <p>18 A. In my impression, it would expose both the couplers on</p> <p>19 top and at the bottom, because this is a big machine, so</p> <p>20 it moves like this (demonstrating) as it operates. It</p> <p>21 moves across.</p> <p>22 Q. I don't want to mislead you, Mr Cheung, but are you sure</p> <p>23 that top couplers are exposed by the water-jetting</p> <p>24 device and not just the bottom couplers? Were they both</p> <p>25 exposed by that method, to your recollection?</p>
Page 54	Page 56
<p>1 lead vehicles to move around on site.</p> <p>2 MR PENNICOTT: All right.</p> <p>3 COMMISSIONER HANSFORD: Sorry, it's really important that</p> <p>4 I understand this. So, Mr Cheung, you are telling us</p> <p>5 that Fang Sheung had some blue-hat people but didn't</p> <p>6 have any of its own red-hat people; is that correct?</p> <p>7 A. Correct.</p> <p>8 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>9 CHAIRMAN: Even though you may have employed people, their</p> <p>10 main responsibility being a banksman's job?</p> <p>11 A. Correct.</p> <p>12 COMMISSIONER HANSFORD: I understand.</p> <p>13 MR PENNICOTT: All right.</p> <p>14 CHAIRMAN: So the fact that these two men are wearing red</p> <p>15 helmets to you is an indication that they could not have</p> <p>16 been employees of Fang Sheung?</p> <p>17 A. Definitely they were not Fang Sheung employees.</p> <p>18 COMMISSIONER HANSFORD: And you know that, do you, because</p> <p>19 of their red hats?</p> <p>20 A. Red hats and clothing.</p> <p>21 MR PENNICOTT: All right. Let's move on, Mr Cheung. Can</p> <p>22 I just discuss with you and focus on fixing of the</p> <p>23 threaded rebar to the couplers in the diaphragm wall.</p> <p>24 Okay? That's the topic.</p> <p>25 A. (Nodded head).</p>	<p>1 A. The top layer, you meant this at the top, and the way</p> <p>2 I describe it, I said in my impression that the machine</p> <p>3 only hit on this side (demonstrating), and for the other</p> <p>4 side you can't do it with blast gun or water jet.</p> <p>5 Q. Yes. We're inside the diaphragm wall, Mr Cheung, and</p> <p>6 we're preparing to expose the couplers for the purposes</p> <p>7 of putting in the threaded rebar, and we've got couplers</p> <p>8 along the bottom and we've got couplers at the top,</p> <p>9 because we've got two layers of rebar, yes, top and</p> <p>10 bottom?</p> <p>11 A. Correct. Correct.</p> <p>12 Q. Now, forget about the bottom layer for the moment. The</p> <p>13 top layer of couplers, were they exposed by the</p> <p>14 water-jetting process, to your recollection?</p> <p>15 A. There's a water-jet machine that hacked the concrete to</p> <p>16 expose the couplers.</p> <p>17 Q. Right. As I understand it, Mr Cheung -- we may discuss</p> <p>18 this a little bit later in a bit more detail -- that</p> <p>19 process may have happened for the early bays that were</p> <p>20 done, but then what happened was Leighton altered the</p> <p>21 detail at the top of the east diaphragm wall whereby the</p> <p>22 concrete level was reduced. Are you following me? And</p> <p>23 therefore, once they had started --</p> <p>24 A. Yes, I follow you.</p> <p>25 Q. Once they had started doing that, there would have been</p>

Page 57	Page 59
<p>1 no need, presumably, to expose the top level of couplers 2 by the water-jet method; is that right? 3 A. Correct. 4 Q. So the water-jetting, so far as the bottom and top are 5 concerned, was just confined to the first few bays where 6 the couplers were installed, both top and bottom? 7 A. I don't get your question. You mean -- for the first 8 few bays, what do you mean? 9 Q. We know that the first ones that were done were I think 10 C1-1 and I think C1-2. They've got couplers both top 11 and bottom. 12 COMMISSIONER HANSFORD: Sorry, we are on the East West slab? 13 MR PENNICOTT: We are on the EWL slab, yes. 14 COMMISSIONER HANSFORD: Because obviously for the North 15 South, all you have is a vertical face to expose. 16 MR PENNICOTT: You do, that's right. 17 COMMISSIONER HANSFORD: Okay. 18 MR PENNICOTT: So my questions were in relation to C1-1 and 19 C1-2 specifically, Mr Cheung, those being the first 20 areas that were concreted so far as the slab is 21 concerned? 22 A. Yes. 23 Q. And whether it's bottom or whether it's top, so far as 24 the couplers are concerned, if they are exposed and 25 there's no damage to any of the couplers, there's no</p>	<p>1 exposed, you as the senior supervisor at Fang Sheung 2 would inspect the state of the couplers before your bar 3 fixers started their work; is that right? 4 A. Correct. 5 Q. So it seems to me, Mr Cheung, that you are the person 6 who can best help us with the types of damage or 7 deformation that you witnessed when you were doing those 8 inspections, and I would like you to tell us, please, 9 the sort of problems that you encountered when you 10 inspected those couplers. 11 A. Over the course of the works, I would visit the site and 12 inspect the couplers to see whether they were complete 13 and whether the threaded bars could be installed. 14 Sometimes I saw that the cut-off parts of the couplers 15 were incomplete. Sometimes the couplers were damaged 16 and there was residue concrete or residue and for some 17 couplers the protective caps were missing. That was the 18 situation. 19 Q. All right. Let's just take this in stages. Let's focus 20 first of all on concrete residue. Now, presumably, when 21 the couplers were exposed, some of them would still have 22 their caps or tape, protective caps and protective tape, 23 still on the couplers; yes? 24 A. Yes. 25 Q. So would you, for the purposes of inspecting the</p>
Page 58	Page 60
<p>1 concrete residue in the couplers, then presumably it's 2 a relatively straightforward operation for you and your 3 bar fixers to use the threaded rebar and just screw them 4 into the couplers? 5 A. If for couplers exposed they are intact and there's no 6 concrete residue or there's no damage, then it's very 7 easy for bar fixers to screw the threaded rebars into 8 the couplers. 9 Q. Yes. And that would take, I think you tell us, 20 to 30 10 seconds to screw, say, a 4 metre threaded rebar into 11 a coupler; would that be right? 12 A. If it's an intact coupler, then it takes only 20 to 13 30 seconds to screw in a 4 metre long rebar without 14 incident. 15 Q. Now, that's an assumption -- sorry, you were going to 16 add something, Mr Cheung? 17 Okay, I'll go next. Mr Cheung, that's the scenario 18 where there's no damage to the couplers, no concrete 19 residue and so forth. 20 Now can we look at a situation where the couplers 21 are not in perfect condition, because if they are 22 damaged in some way or deformed in some way, there's 23 a different story; do you agree? 24 A. I agree. 25 Q. My understanding is that once the couplers have been</p>	<p>1 coupler, be the person that went up to the coupler and 2 actually took off the red cap and took off the red tape 3 in order to properly inspect it? 4 A. In terms of inspecting the couplers, if I saw that they 5 were damaged and that the rebars could not be screwed, 6 I would inform Leighton so that they would replace the 7 couplers and I would ask Leighton to clean the couplers 8 before I would resume the works. 9 Q. Mr Cheung, just concentrate, please, on my question. 10 You accept, you agree with me, that certain of the 11 couplers, when they have been exposed, would still have 12 their protective red cap or red tape on; yes? 13 A. Yes. 14 Q. Who removed the red cap and the red tape? 15 A. If the red caps were undamaged, we would remove the caps 16 so that couplers could be installed. 17 Q. Right. So you would do that or you would instruct one 18 of your workers to do that, is that right; you 19 personally, or you would get one of your workers to do 20 it? 21 A. We would ask our workers to do it. 22 Q. Right. 23 CHAIRMAN: And this included not just the red cap but the 24 styrofoam and taping that protected the coupler as 25 a whole?</p>

Page 61	Page 63
<p>1 COMMISSIONER HANSFORD: No.</p> <p>2 A. No.</p> <p>3 COMMISSIONER HANSFORD: I think we're hearing that the</p> <p>4 styrofoam's already been removed by the hydro-jetting.</p> <p>5 MR PENNICOTT: Yes, that's blasted away, we understand.</p> <p>6 COMMISSIONER HANSFORD: It's all gone.</p> <p>7 CHAIRMAN: Okay. Good. Thank you.</p> <p>8 MR PENNICOTT: Okay. So in order, obviously, to be able to</p> <p>9 properly inspect and certainly to thread -- to install</p> <p>10 the threaded rebar, you need to remove any protection</p> <p>11 that's there, and so your workers would do that</p> <p>12 operation. All right.</p> <p>13 Now, presumably -- going back to my concrete residue</p> <p>14 point -- as you indicated, the blasting process</p> <p>15 presumably took off some of the caps and some of the red</p> <p>16 tape, perhaps, and so there would be couplers exposed</p> <p>17 with no protection on them, when you first looked at</p> <p>18 them?</p> <p>19 A. Yes, correct.</p> <p>20 Q. So you would go up to those and you would make sure,</p> <p>21 presumably, that there was no concrete residue inside</p> <p>22 that would hamper the process of installing the threaded</p> <p>23 rebar?</p> <p>24 A. Correct.</p> <p>25 Q. Now, if there was concrete residue inside the coupler,</p>	<p>1 A. The site foreman of the area, as well as engineers, the</p> <p>2 engineer and the foreman responsible for that area.</p> <p>3 Q. So is it right that Leighton had designated foremen and</p> <p>4 engineers for specific areas; is that what you're</p> <p>5 saying?</p> <p>6 A. Correct.</p> <p>7 Q. So you would know who they were and you would speak to</p> <p>8 either the foreman or the engineer for that particular</p> <p>9 area where you had a problem?</p> <p>10 A. Correct.</p> <p>11 Q. Once you had notified them, how quickly would they be</p> <p>12 able to clear the concrete residue?</p> <p>13 A. They would do it very quickly, within a day.</p> <p>14 Q. Okay. The picture I've got, Mr Cheung, is that if</p> <p>15 you've inspected -- if you have a long line of couplers</p> <p>16 in a number of different rows of couplers, you would say</p> <p>17 to Leighton or the foreman or the engineer, "Look, in</p> <p>18 this area, along this stretch, I think there are just</p> <p>19 two or three couplers with concrete residue; could you</p> <p>20 come and fix it"?</p> <p>21 A. There would not be two or three couplers.</p> <p>22 Q. How many? Just one?</p> <p>23 A. How should I put it? After the hydro-jet blasts opened</p> <p>24 the couplers, the caps were gone, and usually there</p> <p>25 would be water and trash. As for the number of damaged</p>
<p>Page 62</p> <p>1 what would you do; what steps would you take?</p> <p>2 A. I would inform Leighton, and Leighton workers would</p> <p>3 perform rectification.</p> <p>4 Q. Right. First of all, how often, how frequent was there</p> <p>5 a concrete residue problem or issue?</p> <p>6 A. I would not spend a lot of time dwelling on that.</p> <p>7 I would perform a quick visual inspection, then I would</p> <p>8 inform Leighton to rectify couplers with residue</p> <p>9 concrete or damaged couplers, and then I would proceed</p> <p>10 the works to install the couplers.</p> <p>11 Q. How frequently would that happen, Mr Cheung?</p> <p>12 A. This is part of the process. After the hydro-jetting,</p> <p>13 the diaphragm wall would not be complete or clean</p> <p>14 anyway. So I would inform Leighton to clean it up</p> <p>15 before we resume the works. So if there's a lot of</p> <p>16 trash in your home, then I would have it cleaned before</p> <p>17 I go inside.</p> <p>18 Q. I understand that, Mr Cheung, but what I was trying to</p> <p>19 get you to help us on was how frequent the problem was.</p> <p>20 Was the concrete residue issue something that happened</p> <p>21 all the time, very occasionally, or some other</p> <p>22 classification?</p> <p>23 A. From what I saw, it happened to only very few couplers.</p> <p>24 Q. Okay. Thank you. Who at Leighton would you notify, if</p> <p>25 there was concrete residue?</p>	<p>Page 64</p> <p>1 couplers, there were very few damaged couplers; there</p> <p>2 were only two or three.</p> <p>3 Q. All right. I'll come back to that question in a moment.</p> <p>4 Let's just move on to damage.</p> <p>5 So we've dealt with concrete residue. Now, in terms</p> <p>6 of damage to the couplers, what type of damage did you</p> <p>7 witness?</p> <p>8 A. Some of them were chipped. Some of them were squashed</p> <p>9 or flattened. So some of them were somewhat squashed,</p> <p>10 like these (demonstrating). Some of them might be</p> <p>11 deformed or tilted.</p> <p>12 Q. Let's take it in stages. So there are some that were</p> <p>13 slightly squashed; right?</p> <p>14 A. Mmm.</p> <p>15 Q. And presumably there's only one remedy for that and that</p> <p>16 is to replace the coupler?</p> <p>17 A. Correct.</p> <p>18 Q. And so you would presumably ask the foreman or the</p> <p>19 engineer from Leighton to replace the coupler?</p> <p>20 A. Yes, correct.</p> <p>21 Q. Okay. So that's the squashed coupler. What other</p> <p>22 categories of damage were there, apart from that</p> <p>23 phenomenon that you've described; what other types of</p> <p>24 damage? I think you said tilting, I'm not sure -- did</p> <p>25 I pick that up properly?</p>

Page 65	Page 67
<p>1 CHAIRMAN: Yes, you are correct. 2 MR PENNICOTT: You mentioned tilting. Could you explain 3 what that problem was? 4 A. If the coupler looks like this (demonstrating with 5 headset), then it is considered tilted. So this is 6 a tilted coupler. 7 Q. So it could go up or to the side? 8 A. Yes. 9 Q. So you would call Leighton -- 10 A. (In English) Up, down. 11 Q. Up, down, side to side? 12 A. (In English) Right. 13 Q. Got it. So again that's a problem that you would notify 14 to Leighton? 15 A. Correct. 16 Q. And what was the remedial measure that Leighton would 17 take for that problem? 18 A. Leighton would ask their workers to replace the 19 couplers, and they would try to remedy or fix the 20 couplers back to the correct position. 21 Q. Okay. 22 COMMISSIONER HANSFORD: Sorry, can I just understand how 23 they would do that, because if a coupler is at an angle, 24 it's fixed to a bar behind, so the bar must be at that 25 angle as well. How would they then -- they take the</p>	<p>1 occasions when you would look at something that had 2 concrete residue or was chipped or was tilted in some 3 way and think, "Well, it's a very small problem; I can 4 do it myself rather than waiting a day for Leightons"? 5 A. Now, in our contract, the repair and replacement of 6 couplers are not the duty of Fang Sheung. Fang Sheung 7 is only responsible for screwing the bars into the 8 couplers. 9 CHAIRMAN: I appreciate that, but surely there must be 10 occasions where if you report something like concrete 11 residue, the man from Leightons is going to say, "Don't 12 be silly, there's only just a bit of dust in here; why 13 are you bothering me?" So there must be occasions when 14 you think, "I'll just fix this myself", are there, or 15 not? 16 A. No. It won't happen, because for the cleaning of 17 couplers and replacement of couplers, that's not the 18 responsibility of Fang Sheung. In the site, I can 19 choose not to work in that area. I could move to 20 another area first. I could do that. 21 CHAIRMAN: All right. Thank you. 22 MR PENNICOTT: Just going back to your previous answer to 23 Prof Hansford, Mr Cheung, just so that I understand 24 this. You are saying that one way, as it were, of 25 sorting out the tilting coupler is to actually screw in</p>
Page 66	Page 68
<p>1 coupler off, but then how would they bend the bar back 2 to the right alignment? I don't quite understand how it 3 would be done. Could you explain? 4 A. Professor, I don't know how Leighton did it. If you ask 5 me how I do it, I can share that with you. 6 For us bar fixers, the coupler (demonstrating with 7 headset), if it's bent to one side, and there's 8 a coupler bar, if it's put into it, that means rebar is 9 also bent to one side. So we use our force and tools 10 like hammers, or we use the shear or what is it -- 11 rather, the hydraulic jack. Then we use our hands to 12 hack it, hack it (demonstrating), and then it would 13 become straight again . 14 COMMISSIONER HANSFORD: Thank you. I understand. That 15 takes quite a long time, doesn't it? 16 A. No, there's no need. 17 COMMISSIONER HANSFORD: Okay. Thank you. 18 CHAIRMAN: Sorry, are you saying you never did it so you 19 don't know how long it would take? 20 A. I dare not tell you how long, Chairman, because it 21 depends -- I don't know how far bent the coupler is, how 22 much tilted the coupler is. If it's just a slight 23 tilting, then maybe I can do it in 15 minutes or half 24 an hour. 25 CHAIRMAN: And could I ask this: were there regular</p>	<p>1 the threaded rebar into the coupler and then literally 2 physically manhandle it to get it straight? That's 3 really what it comes to, whether you do it just with 4 brute force or whether you use an equipment, a hammer or 5 something; that's what you are doing, is that right, or 6 you might do? 7 A. Correct, yes, that's it. 8 Q. Is that what Leighton did? Did you ever see Leighton do 9 that operation? 10 A. I didn't see them do it. I didn't see Leighton do it. 11 This is our own method. 12 Q. All right. 13 A. Maybe they have tools, and we just use force, you know, 14 a stupid way to do it without tools. 15 Q. Can I ask you, please, to be shown E5/1359. Now, 16 Mr Cheung, this is one of your photographs, as we can 17 see. I accept that it looks to be, from your 18 annotation, it's at the NSL slab; do you see that? 19 A. Yes, I see it, NSL slab, yes. 20 Q. It's 12 January 2016. Everything seems to come back to 21 that date. You say: 22 "After switching to use type B couplers, completed 23 steel fixing work smoothly." 24 Now, we can see, can we not, some rather large 25 threaded rebar going into the couplers?</p>

Page 69	Page 71
<p>1 COMMISSIONER HANSFORD: Can we blow the picture up a little?</p> <p>2 MR PENNICOTT: Sorry, sir, yes.</p> <p>3 COMMISSIONER HANSFORD: Right. Thank you.</p> <p>4 MR PENNICOTT: Is that okay?</p> <p>5 COMMISSIONER HANSFORD: Yes.</p> <p>6 MR PENNICOTT: These are type B couplers?</p> <p>7 A. Correct.</p> <p>8 Q. What we can see there, is that completed or still in the</p> <p>9 process of being fixed?</p> <p>10 A. Installation of T2 bars is completed.</p> <p>11 Q. Right. So the T1 would be going above?</p> <p>12 A. Correct.</p> <p>13 Q. And the bars, certain of the bars, don't appear to be</p> <p>14 absolutely straight; do you see that?</p> <p>15 A. Correct.</p> <p>16 Q. Why is that?</p> <p>17 A. It's because for B2 and B3, the couplers could not be</p> <p>18 done, so that's why, for the B2 couplers, they had to be</p> <p>19 hacked out, and then for the B2 coupler bars, they had</p> <p>20 to be bent, you know, into this shape, and then they</p> <p>21 were put on. It's because, for the coupler cup, this</p> <p>22 coupler cup and the coupler cup, they could not be</p> <p>23 aligned.</p> <p>24 Did you get that, Professor?</p> <p>25 COMMISSIONER HANSFORD: I think so. So the line of concrete</p>	<p>1 connector is used as a remedial measure, is used to</p> <p>2 replace the type A connectors that have been broken off;</p> <p>3 is that correct?</p> <p>4 A. Correct.</p> <p>5 COMMISSIONER HANSFORD: Thank you. I understand.</p> <p>6 MR PENNICOTT: Right. And these, the rebar that we can see</p> <p>7 here, going across the page, that's the B2; is that</p> <p>8 right?</p> <p>9 A. T2.</p> <p>10 (In English) T, top.</p> <p>11 Q. T, top?</p> <p>12 A. (In English) Top.</p> <p>13 Q. But it's 2, so it's the even number?</p> <p>14 A. (In English) Yes.</p> <p>15 Q. So this is the one that's going north to south? The</p> <p>16 concrete there is not --</p> <p>17 A. Correct.</p> <p>18 Q. The concrete we see there on the left is not the</p> <p>19 diaphragm wall, is it? It's the bay -- a bay that's</p> <p>20 already been concreted?</p> <p>21 A. Correct, that's CJ.</p> <p>22 Q. The diaphragm wall is what we can see at the back of the</p> <p>23 photograph?</p> <p>24 COMMISSIONER HANSFORD: The concrete is not a diaphragm</p> <p>25 wall, it's a construction joint, it's a CJ; is that</p>
Page 70	Page 72
<p>1 that we see on the left-hand side of the photo, has that</p> <p>2 been broken back to expose the whole couplers; is that</p> <p>3 correct? Has the concrete been broken back to expose</p> <p>4 the coupler?</p> <p>5 A. Correct.</p> <p>6 COMMISSIONER HANSFORD: Okay.</p> <p>7 A. Put simply, for the B3 couplers, if the B3 bars were</p> <p>8 completed, they would hide the B2 bars. That's why we</p> <p>9 had to bend the bars.</p> <p>10 COMMISSIONER HANSFORD: So am I right that the concrete is</p> <p>11 broken back, the couplers are removed, then a B-type</p> <p>12 threaded bar with a coupler already fixed to it is</p> <p>13 placed next to it, and then the coupler is screwed back</p> <p>14 to the threaded bar that's sticking out of the concrete;</p> <p>15 is that correct?</p> <p>16 That is correct?</p> <p>17 A. Correct. Correct.</p> <p>18 COMMISSIONER HANSFORD: So who broke back the concrete? Was</p> <p>19 that you or Leighton?</p> <p>20 A. Leighton.</p> <p>21 COMMISSIONER HANSFORD: Right. Thank you. I understand how</p> <p>22 that connection is made now.</p> <p>23 Sorry, Mr Pennicott.</p> <p>24 MR PENNICOTT: Not at all.</p> <p>25 COMMISSIONER HANSFORD: So do I understand that the type B</p>	<p>1 correct?</p> <p>2 A. Correct.</p> <p>3 MR PENNICOTT: Right. And the diaphragm wall is at the back</p> <p>4 of the photograph; is that right?</p> <p>5 A. Correct. T1, that's T1.</p> <p>6 Q. T1, indeed. And we can see, I think, some couplers,</p> <p>7 just about, in the photograph, at the bottom of that</p> <p>8 section of the diaphragm wall; do you see those?</p> <p>9 A. Yes.</p> <p>10 Q. So the next thing that's got to happen, once the T2 is</p> <p>11 finished, is you've then got to put the T1 bars in to</p> <p>12 complete this operation in this area?</p> <p>13 A. Correct.</p> <p>14 Q. Going back to the discussion we were having just</p> <p>15 a moment ago, the remedial works to put in the type B</p> <p>16 couplers, that would have been done by Leighton, as</p> <p>17 I understand it?</p> <p>18 A. For this, Leighton asked Fang Sheung to help with it,</p> <p>19 there's an SCI, and that's for Leighton to ask for</p> <p>20 Fang Sheung to help do this.</p> <p>21 Q. Right. So this was a special case, a bit of a one-off?</p> <p>22 A. Correct. Correct.</p> <p>23 Q. I understand. And so far as the slight bending of</p> <p>24 certain of the bars, that would have been done by</p> <p>25 Fang Sheung; is that right?</p>

Page 73	Page 75
<p>1 A. Correct.</p> <p>2 MR PENNICOTT: All right. How are we doing for time? All</p> <p>3 right.</p> <p>4 CHAIRMAN: Would you like to finish now?</p> <p>5 MR PENNICOTT: Yes.</p> <p>6 CHAIRMAN: Good. We will return at 2.15.</p> <p>7 You are reminded that you are still giving evidence.</p> <p>8 Thank you.</p> <p>9 WITNESS: Understood.</p> <p>10 (1.00 pm)</p> <p>11 (The luncheon adjournment)</p> <p>12 (2.15 pm)</p> <p>13 MR PENNICOTT: Sir, good afternoon. Professor, good</p> <p>14 afternoon.</p> <p>15 Mr Cheung, good afternoon. Just before lunch, we</p> <p>16 were discussing the various types of damage that might</p> <p>17 be caused to the couplers, and we had discussed debris</p> <p>18 or concrete residue within the couplers. You had</p> <p>19 explained to us the phenomenon of the coupler being</p> <p>20 slightly squeezed. We discussed the tilting of the</p> <p>21 couplers and how that might be fixed, and I think also</p> <p>22 you said that another type of damage would be the</p> <p>23 couplers might be chipped; is that right?</p> <p>24 A. You mean the coupler is chipped? The coupler is not</p> <p>25 really broken. No.</p>	<p>1 the concrete residue inside the couplers", and we've</p> <p>2 discussed that; and then (3), you say this as another</p> <p>3 method: "digging holes in the D-wall, squeezing some</p> <p>4 sealant into the hole and then inserting the rebar</p> <p>5 directly."</p> <p>6 Just focusing on that (3), Mr Cheung, in what</p> <p>7 circumstances would that happen, that Leighton's workers</p> <p>8 would come along, dig a hole into the D-wall, squeeze</p> <p>9 some sealant into the hole and then insert the rebar</p> <p>10 directly; what circumstances would necessitate that</p> <p>11 method of repair?</p> <p>12 A. The first method -- well, the first question is if the</p> <p>13 rebar has one bar less, then we need to core a hole to</p> <p>14 plant a rebar into it. It's a normal method in</p> <p>15 construction.</p> <p>16 The second is if the coupler is damaged and if it</p> <p>17 cannot be replaced, it cannot be done, then we can also</p> <p>18 dig a hole into it and then insert a rebar into it</p> <p>19 directly.</p> <p>20 Q. Let's just see if I can understand that answer,</p> <p>21 Mr Cheung, because I'm struggling at the moment. What</p> <p>22 do you mean, "the first question is if the rebar has one</p> <p>23 bar less", missing?</p> <p>24 A. The position -- should have ten rebars. If there are</p> <p>25 only nine, we need to make a tenth, so we have to dig</p>
Page 74	Page 76
<p>1 Q. Of the squeezed and tilted, I understand those. Any</p> <p>2 other types of damage you can think of that might have</p> <p>3 been caused to the couplers?</p> <p>4 A. If we use pneumatic breaker to blast the coupler, then</p> <p>5 there may be damage to the couplers.</p> <p>6 Q. All right. We will look at that in a moment, Mr Cheung,</p> <p>7 when we look at some photographs. Okay? So damage</p> <p>8 caused by a breaker?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Can I just ask you, please, to clarify one</p> <p>11 point in your police statement. It's page 1579 in</p> <p>12 bundle E5, in the Chinese version, and 1584.5 in the</p> <p>13 English version, and it's paragraph 10.</p> <p>14 I'm coming back, Mr Cheung, to other parts of this</p> <p>15 paragraph later, but for present purposes, could I ask</p> <p>16 you to pick it up, this paragraph 10, where it says,</p> <p>17 "Methods included: (1) replacing the couplers"; do you</p> <p>18 see that? It's about halfway down paragraph 10, where</p> <p>19 it's got (1), (2), (3)?</p> <p>20 A. Yes.</p> <p>21 Q. So you say that you would notify Leighton engineers, and</p> <p>22 then you say:</p> <p>23 "... they would instruct their own workers to handle</p> <p>24 it. Methods included: (1) replacing the couplers", and</p> <p>25 we've discussed that to some extent; then "(2) cleaning</p>	<p>1 a hole and insert a rebar into it. Do you understand?</p> <p>2 Q. I think so. So there's one missing so you have to</p> <p>3 create the hole?</p> <p>4 A. Yes. This step would be done where necessary.</p> <p>5 Q. Right. Is that because there's a coupler missing or</p> <p>6 what's missing?</p> <p>7 A. Well, if one coupler is missing, this step can be taken.</p> <p>8 Q. All right.</p> <p>9 COMMISSIONER HANSFORD: Can I ask a question at this point?</p> <p>10 MR PENNICOTT: Of course.</p> <p>11 COMMISSIONER HANSFORD: Mr Cheung, you talk about sealant.</p> <p>12 What do you mean by "sealant"?</p> <p>13 A. The sealant? A hole is dug. We have to grout RE500</p> <p>14 sealant and then the bar will be inserted into the hole.</p> <p>15 The sealant is the material after the hole is dug.</p> <p>16 COMMISSIONER HANSFORD: And you say grout RE500. Is that</p> <p>17 a particular type of sealant?</p> <p>18 A. Yes.</p> <p>19 COMMISSIONER HANSFORD: Okay. Do you know what it is? Do</p> <p>20 you know what it's made of?</p> <p>21 A. It is adhesive. It will solidify when it gets dry.</p> <p>22 COMMISSIONER HANSFORD: Okay. I can guess what it is, RE --</p> <p>23 okay. Thank you. Sorry, who does this work? If a hole</p> <p>24 has to be made for an additional bar, who makes the</p> <p>25 hole, who puts the bar in and who puts the sealant in?</p>

Page 77	Page 79
<p>1 A. If it needs to be done, it will be done by Leighton. 2 COMMISSIONER HANSFORD: Will all three things be done by 3 Leighton? Would the hole, the bar and also the sealant, 4 would all three things be done by Leighton? 5 A. Possibly. 6 COMMISSIONER HANSFORD: And possibly not? What do you mean 7 by "possibly"? 8 A. Well, it is possible. To put it simply, Leighton will 9 find its workers to do it. 10 COMMISSIONER HANSFORD: All three things? 11 A. Normally, it is. 12 COMMISSIONER HANSFORD: Thank you. 13 CHAIRMAN: I thought that there was a strict rule that you 14 were there to fix, you weren't there to mend, and 15 therefore anything at all that required mending, such as 16 gouging out, putting in sealant or epoxy, all of these 17 things were done by Leighton; that was the principle? 18 A. Yes. 19 COMMISSIONER HANSFORD: Sorry, just to follow that. 20 I understood that, but one of the things is fixing a bar 21 in. 22 MR PENNICOTT: Yes. 23 COMMISSIONER HANSFORD: And I'm wondering if -- I can 24 understand that the hole would be made by Leighton. 25 I can understand that the epoxy resin -- I'm assuming</p>	<p>1 statement, at 1584.5 in the English, and the Chinese is 2 1579. 3 Right at the beginning of paragraph 10, you say: 4 "When Leighton handed over a bay to us, and before 5 we would start work, I would first take photos with my 6 own phone as proof of the condition of the site when we 7 took over (but as I lost my phone, I needed to search 8 for the photos and for now I am unable to provide them 9 to the police) and visually inspect the couplers at the 10 two diaphragm walls on the sides of the EWL slab." 11 So, in that passage, Mr Cheung, you seem to be 12 saying to the police that you've lost your phone and you 13 can't provide them with any photographs; do you see 14 that? 15 A. Yes. 16 Q. However, if we then go over the page to 1584.7 at 17 paragraph 12, you say: 18 "On 28 August ... I through my legal representatives 19 provided to the police a copy of my witness statement to 20 the Commission of Inquiry ..." 21 Because your witness statement to the Inquiry 22 preceded your statement to the police. And then you 23 say: 24 "Appendix 3: on-site photo records during my time of 25 working at the site".</p>
Page 78	Page 80
<p>1 that's what the RE500 is -- would be inserted by 2 Leighton. But would the bar, the steel bar, also be 3 inserted by Leighton, or Fang Sheung? 4 A. Leighton, because all rebar materials came from 5 Leighton. Fang Sheung did not have the material. 6 MR PENNICOTT: So, Mr Cheung, is this the one instance where 7 in fact, because a repair is required and because it's 8 essentially one whole operation -- gouging the hole out, 9 putting the sealant in and the necessity to put the bar 10 in -- presumably the epoxy is relatively quick-setting 11 and -- 12 A. (Chinese spoken). 13 Q. -- therefore, really as a practical measure, you need to 14 put the bar in pretty swiftly after you've put the resin 15 in; would that be right? 16 A. Yes, correct. 17 COMMISSIONER HANSFORD: Okay. 18 MR PENNICOTT: All right. Good. 19 Could we then move on. I want to look at some 20 photographs with you now, Mr Cheung, and as we look 21 through the photographs I'll pick up one or two topics 22 I want to ask you about. Before that, can I just 23 clarify an answer you gave yesterday, before we look at 24 those photographs. Can I ask you to look again at 25 paragraph 10 of your police witness statement or police</p>	<p>1 So I'm just a bit confused, Mr Cheung. You told us 2 yesterday that these were the photos you took, so what 3 happened? Were you able to find your phone and retrieve 4 the photographs? Can you just explain so I'm absolutely 5 clear what the position is on these photographs before 6 we look at them? 7 A. That's very simple. I've got four phones. Photos 8 provided to the COI was the first phone I used. So the 9 phone and the dates were not consistent. The phone 10 I lost had photos recording the daily progress of the 11 site and the works, so I wasn't wrong. Do you get it? 12 Q. I do get it. So there is one phone where you lost it 13 and all the photographs on that phone are gone? 14 A. I've lost two phones. 15 Q. There are two phones with photographs that you've lost; 16 there's one phone with photographs, and these are the 17 ones we've got. Is that right? 18 A. Correct, yes. 19 Q. I wonder how many we would have had. 20 A. If I lost my phones, I would have reported to the 21 police, because the information on my phones, it's very 22 important to me. 23 Q. All right. 24 COMMISSIONER HANSFORD: Sorry, I don't understand that 25 answer. You said if you lost your phones you would have</p>

<p>Page 81</p> <p>1 reported it to the police. 2 MR SHIEH: He means he had reported it as a matter of fact. 3 COMMISSIONER HANSFORD: Oh, you had reported it? 4 A. I did report to the police and I just wanted to have it 5 on record. 6 COMMISSIONER HANSFORD: Thank you. I understand. 7 MR PENNICOTT: We are going to look at these photographs in 8 a moment, but again back to paragraph 10 of your police 9 statement, I just want to ask you to clarify this. 10 After the bit that I read out regarding the photographs 11 or the photos, your phone, and so forth, it says: 12 "Under normal circumstances, if the couplers were 13 and undamaged, our workers only needed around 20 to 14 30 seconds to screw a rebar into a coupler." 15 We've discussed that already. It's the next bit. 16 You say: 17 "Relatively more couplers at the west D-Wall were 18 fragmented or damaged when they were being exposed by 19 the water jet blaster ..." 20 Pausing there, do you mean the west D-wall and the 21 water jet blaster or do you mean the east D-wall, 22 Mr Cheung? 23 A. The east D-wall was blasted by the water jet and on the 24 west D-wall, it was drilled by the pneumatic drill 25 manually.</p>	<p>Page 83</p> <p>1 Q. Just taking one of the photographs at random -- let's 2 take the one at 1260, the next page; that's it -- this 3 is not a criticism of anybody at all, you, Leightons or 4 anybody, Mr Cheung, but it looks a bit of a mess to me, 5 I have to say. Can you just describe -- you say, 6 "Discovered damaged couplers" -- is it all of them, some 7 of them, one particular one? What were you referring to 8 Leighton in relation to these -- what would you have 9 referred to Leighton in respect of these couplers? 10 A. The couplers were damaged by the pneumatic drills 11 manually, and during the drilling there were some 12 difficulties. So if you drill it with a jackhammer, 13 it's inevitable that you will hit the couplers and the 14 couplers will be damaged. 15 So, when the coupler is damaged, we do see it quite 16 frequently, and in the Fang Sheung works, when we 17 encounter these couplers, we won't screw in the rebar 18 when it's damaged. So I will take these routine 19 pictures, construction site pictures, and remind 20 Leighton that they need to re-install new couplers so 21 that it is easy for me to do my work. 22 Q. Okay. Then if we go to 1265 and 1266 -- 1265 first, 23 please -- this is a photograph taken on 22 August 2015 24 at area C2-3; do you see that, Mr Cheung? 25 A. I see it.</p>
<p>Page 82</p> <p>1 Q. Right. So in this sentence that I've just referred to 2 you, it says "relatively more couplers at the west 3 D-wall were fragmented or damaged when they were being 4 exposed by the water jet blaster" -- that can't be 5 right, can it? You must be referring to the East Wall, 6 or you are referring to the West Wall and you meant to 7 say the pneumatic breaker? One or the other. 8 A. Yes, correct. I need to amend that. 9 Q. Okay. So on the West Wall there were a greater number 10 of fragmented or damaged couplers because they were 11 being exposed by jackhammers, and less on the East Wall 12 because they were being exposed by the water jet 13 blaster; is that your evidence? 14 A. Correct. 15 Q. All right. So, to the photographs. Could we go, 16 please, to E5/1259. Mr Cheung, you've got a couple of 17 photographs here, in fact there's a run of a few 18 photographs, all showing damaged couplers at the west 19 D-wall. Do you see that? 20 A. Yes, I see it. I took the picture. 21 Q. And these are vertical couplers at the D-wall? 22 A. Correct. 23 Q. And these are the ones that you say were damaged by the 24 breaker? 25 A. Correct.</p>	<p>Page 84</p> <p>1 Q. It's the east D-wall, you say, "Discovered damaged 2 couplers", so these are couplers in the diaphragm wall, 3 as I understand it, Mr Cheung; is that right? 4 A. Correct. 5 Q. "Unable to carry out steel bar fixing work, already 6 informed Leighton to rectify." 7 Okay. Mr Cheung, just help me with a sequencing 8 point. We know from other records that in area C2-3 you 9 didn't start fixing the rebar until 7 October 2015, and 10 this photograph was taken on 22 August, some six or 11 seven weeks before that. 12 So is it the case that these areas would be exposed, 13 you would take photographs of them, notify Leighton well 14 in advance of the commencement of the rebar in 15 a particular area? Because that seems to me what is 16 happening here in this particular instance. Is that 17 a possible scenario? 18 A. That is correct. 19 Q. So you would have expected, when you came back to do the 20 rebar in this area, that the Leightons workers would 21 have done the remedial works that were necessary to 22 allow you to do your rebar work? 23 A. Yes. 24 Q. Just looking at 1265, can you pinpoint the type of 25 damage to these couplers that you were referring to or</p>

Page 85	Page 87
<p>1 are referring to? We can probably blow it up.</p> <p>2 A. If you look at this picture, you can see the thread on</p> <p>3 the coupler, there is some damage to it, and in addition</p> <p>4 the couplers under the board, they cannot be -- we</p> <p>5 cannot screw in a rebar.</p> <p>6 Q. That's the ones right at the bottom, is it?</p> <p>7 A. That's correct, the ones at the bottom. They are in</p> <p>8 red.</p> <p>9 Q. Yes, understood.</p> <p>10 A. (Indicating).</p> <p>11 Q. All right. Yes, understood. The three red-marked</p> <p>12 couplers at the bottom, yes.</p> <p>13 COMMISSIONER HANSFORD: The red marking, is that the plastic</p> <p>14 cap?</p> <p>15 A. Yes. It's the cap.</p> <p>16 MR PENNICOTT: Okay.</p> <p>17 Could I ask you then, please, to go to 1272.</p> <p>18 A. I see it.</p> <p>19 Q. This is a photograph dated 17 July 2015. It's in the</p> <p>20 EWL and it's in area A. Do you see that?</p> <p>21 A. Correct.</p> <p>22 Q. What you say here -- and, sorry, are they again vertical</p> <p>23 couplers?</p> <p>24 A. Yes.</p> <p>25 Q. This time, you say, with a degree of emphasis perhaps,</p>	<p>1 answer to Mr Pennicott's question as to whether this was</p> <p>2 frequent.</p> <p>3 Sorry, Mr Pennicott, perhaps you could ask it again.</p> <p>4 MR PENNICOTT: Yes.</p> <p>5 The situation we see here, in this photograph at</p> <p>6 1272, Mr Cheung, you say it was typical. That's one</p> <p>7 word you used. Was it frequent, or occasional?</p> <p>8 A. It will definitely occur. I can say frequently.</p> <p>9 Q. Okay. Were there more problems with the vertical</p> <p>10 couplers than the ones on the face of the diaphragm</p> <p>11 wall?</p> <p>12 A. No, because the couplers on the cap ring edge [capping</p> <p>13 beam], there's a layer of concrete on top wrapping it,</p> <p>14 so you will have to use a jackhammer to remove the</p> <p>15 concrete to expose the coupler caps, and therefore there</p> <p>16 will be some damage.</p> <p>17 MR SHIEH: The witness has given his answer, but insofar as</p> <p>18 anything turns on the words "every time" in the red box,</p> <p>19 there could be an issue arising out of the nuances in</p> <p>20 the Chinese language, because the Chinese equivalent to</p> <p>21 "every time" does appear in the Chinese text, but it</p> <p>22 could be equally consistent with saying that "whenever</p> <p>23 before work it is discovered that there are problematic</p> <p>24 couplers, Leighton would be notified", as opposed to the</p> <p>25 connotation that every time before they start work they</p>
Page 86	Page 88
<p>1 Mr Cheung:</p> <p>2 "Discovered faulty couplers every time before work,</p> <p>3 then informed Leighton to replace."</p> <p>4 Going back to a point I mentioned to you this</p> <p>5 morning, were these faulty couplers, as you describe</p> <p>6 them here, a regular occurrence, Mr Cheung, or were they</p> <p>7 infrequent?</p> <p>8 A. This is area A and that is a D-wall to the edge of the</p> <p>9 cap ring [capping beam], and that's where the couplers</p> <p>10 are located. They are facing vertically. And if you</p> <p>11 work on the cap ring edge [capping beam], these</p> <p>12 couplers, the plastic cap is protecting the coupler, and</p> <p>13 when you do the concreting, when you reach the cut-off,</p> <p>14 the couplers are inevitably damaged because it is</p> <p>15 protecting the rebar underneath.</p> <p>16 Q. What appears to happen to these couplers -- look at the</p> <p>17 one at the bottom of the page, on 1272 -- certainly the</p> <p>18 first three, the red capping seems to have gone inside</p> <p>19 the coupler, and the first one appears to be sort of</p> <p>20 chipped on the left-hand side, at about 8 o'clock. Is</p> <p>21 that the type of damage that you were referring to?</p> <p>22 A. Correct.</p> <p>23 Q. All right.</p> <p>24 A. It's also a typical situation, a normal situation.</p> <p>25 COMMISSIONER HANSFORD: Sorry, but I haven't heard the</p>	<p>1 will find defective couplers, if Mr Pennicott can see</p> <p>2 what I mean.</p> <p>3 MR PENNICOTT: I can see what you mean, certainly.</p> <p>4 I understand the distinction entirely.</p> <p>5 COMMISSIONER HANSFORD: But which is it here?</p> <p>6 MR PENNICOTT: Let's go back to the question. You've</p> <p>7 identified faulty couplers in this photograph. Forget</p> <p>8 about "every time"; park that on one side.</p> <p>9 A. (Chinese spoken).</p> <p>10 Q. The question I'm trying to get you to answer is whether</p> <p>11 this type of situation, this type of faulty coupler, as</p> <p>12 you describe it, was a frequent occurrence or</p> <p>13 an occasional occurrence or something in between?</p> <p>14 A. Frequent.</p> <p>15 Q. Frequent at any particular area? This is area A, for</p> <p>16 example. Was area A any more problematic than area B or</p> <p>17 area C?</p> <p>18 A. Area A, more problematic. Frequently in area A.</p> <p>19 Q. Was the East Wall more problematic than the West Wall in</p> <p>20 area A?</p> <p>21 A. Both East Wall and West Wall, the same.</p> <p>22 MR JAT: Sir, I think there may also be an issue of</p> <p>23 translation, because I think in some of the answers, in</p> <p>24 the English, it said "cap edge". I believe the witness</p> <p>25 actually said the equivalent of "cap beam". "Beam" is</p>

Page 89	Page 91
<p>1 pronounced quite like (Chinese spoken), as in "edge" in 2 English. 3 MR PENNICOTT: We agree with that, apparently. 4 You refer to "capping beam", I think, Mr Cheung; is 5 that right? 6 A. Yes. 7 Q. All right. 8 If we go, please, to 1284, it's a photograph dated 9 15 November 2015, in the EWL slab, in area C2-1; do you 10 see that, Mr Cheung? 11 A. Yes. 12 Q. You caption this or annotate this "bottom layer steel 13 fixing work"; yes? 14 A. Yes. 15 Q. I assume that the two workmen we can see in the 16 photograph are Fang Sheung workers? 17 A. Yes. 18 Q. And they are in the process, as I understand it, of 19 screwing the threaded bars into the couplers; would I be 20 right? 21 A. Yes. 22 Q. Now, the reason I have taken you to this photograph, 23 Mr Cheung, is this. This is the bottom layer in area 24 C2-1, as I understand it, if your annotations are 25 correct; all right?</p>	<p>1 say that what we can see is the carrying out of the 2 bottom layer of steel fixing work; right? 3 A. Yes. 4 Q. What we can see, and I think what you are telling us, is 5 that is what is going on in the foreground of this 6 photograph, but as I understand it, what we can see -- 7 the concrete wall that we can see at the back is 8 area C1-1; do you agree with that? 9 A. Agree. 10 Q. So that had been concreted on 27 July, so you were 11 moving from there to C1-2 in early August? 12 A. Correct. 13 Q. Okay. 14 Now 1288. Actually, we don't need to go there. We 15 looked at that yesterday. I don't think I need to go 16 over those questions again. 17 1290. Again, this is 8 August 2015, in area C1-3. 18 I think, Mr Cheung, what we can see in this 19 photograph -- we can see couplers on the end of steel 20 bars, the red; yes? 21 A. Yes. 22 Q. And this is not the steel bars going east to west but 23 going north to south, the even numbers? 24 A. Correct. 25 Q. Okay. All right.</p>
Page 90	Page 92
<p>1 A. Yes. 2 Q. We know from other records that the rebar, that is both 3 the bottom rebar and the top rebar, were inspected three 4 days later, on 18 November, and this area, C2-1, was 5 concreted on 23 November. 6 That suggests to me, Mr Cheung, that certainly in 7 this area putting in the rebar, both the bottom and top 8 layers, was a very quick and rapid operation, 9 accomplished in the space of just three or four days. 10 Would I be right? 11 A. Correct. 12 Q. Then could I ask you, please, to go to the next one, 13 1285. Similarly, Mr Cheung, a photograph taken on 14 13 December 2015, in area east slab, EWL, area C1-5; do 15 you see that? 16 A. I do. 17 Q. Again, the records we have from elsewhere suggest that 18 the rebar both top and bottom -- sorry, bottom and 19 top -- was completed by about 15 December, so just 20 a couple of days later, and the concrete was poured in 21 C1-5 on 22 December, again, Mr Cheung, suggesting that 22 this operation can be done very quickly; is that right? 23 A. Correct. 24 Q. All right. 25 Then 1287, please. 4 August 2015, area C1-2. You</p>	<p>1 Now can I ask you to go to 1295, please. 2 COMMISSIONER HANSFORD: Sorry, can we go back to just that 3 photo? 4 MR PENNICOTT: Of course. I can't remember which one it 5 was. 6 COMMISSIONER HANSFORD: That one. The vertical bars with 7 the hooks on, are they "sifu" bars? 8 MR PENNICOTT: No. 9 COMMISSIONER HANSFORD: They're not? 10 MR PENNICOTT: I don't think so. No, they're not. Sorry, 11 sir, it's a very good question. 12 COMMISSIONER HANSFORD: Mr Cheung, the vertical bars we can 13 see going from the lower level, going up to what will 14 eventually be the top level, what are those bars, the 15 vertical ones? Are they the "sifu" bars? 16 A. Correct, Professor, yes. After we have done the bottom 17 layer, we have these so-called "sifu" bars. They are 18 like a frame and then they are for putting the top slab 19 bars. 20 COMMISSIONER HANSFORD: Okay. That's really useful because 21 I'm now seeing the size of the "sifu" bars. Previously, 22 I thought they were just supporting bars within 23 a particular layer. But you are saying the vertical 24 ones between the low level and the top level are also 25 "sifu" bars, which are bars that you cut on site; is</p>

Page 93	Page 95
<p>1 that correct?</p> <p>2 A. Yes, we prepared them on site, correct.</p> <p>3 COMMISSIONER HANSFORD: Thank you.</p> <p>4 MR PENNICOTT: All right. And we all form, as you say in</p> <p>5 the caption -- perhaps I went too quickly over that --</p> <p>6 as you say in the annotation, in the box that we've got</p> <p>7 here in English, you say "then constructed support</p> <p>8 frame".</p> <p>9 COMMISSIONER HANSFORD: Yes.</p> <p>10 MR PENNICOTT: So what happens is, is this right, Mr Cheung</p> <p>11 that once you have completed the bottom layer or bottom</p> <p>12 layers of rebar, you then, as we can see in this</p> <p>13 photograph, construct this supporting frame with</p> <p>14 vertical "sifu" bars -- I will call them hanging bars,</p> <p>15 whatever you want to call them -- and also with some</p> <p>16 horizontal bars as well, to construct a frame in order</p> <p>17 to enable you to easily construct the top rebars?</p> <p>18 A. Yes.</p> <p>19 COMMISSIONER HANSFORD: Thank you.</p> <p>20 MR PENNICOTT: Sorry, I was going to go to -- let's just</p> <p>21 look at 1293, just as a matter of interest. You've got</p> <p>22 there a photograph, 26 August 2015, area C2-3. You've</p> <p>23 got a large group of workers, and your caption reads:</p> <p>24 "If Leighton supervisor discovered any failed matter</p> <p>25 during work, work would be paused immediately and</p>	<p>1 A. Yes.</p> <p>2 Q. Your caption here is:</p> <p>3 "Steel fixing work completed, MTRCL and Leighton</p> <p>4 supervisors conducting quality check."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. We know from other records that we have, Mr Cheung, that</p> <p>8 a form -- you don't need to worry about it but a form</p> <p>9 RISC for checking the rebar was issued on 18 November</p> <p>10 2015 for this particular area. And we know that the</p> <p>11 concrete was poured in this particular area on the day</p> <p>12 after you took this photograph, on 23 November.</p> <p>13 So can you just explain to us what the MTRC and the</p> <p>14 Leighton supervisors doing the quality check actually</p> <p>15 did? You must have seen this going on. What were they</p> <p>16 checking for? What were they looking at? Can you tell</p> <p>17 us?</p> <p>18 A. Well, after we did the bar bending, the MTRCL and</p> <p>19 Leighton staff, they would inspect our bar bending work,</p> <p>20 whether it complied with the standards, and they would</p> <p>21 check whether we had missed any components and whether</p> <p>22 our installation was adequate before they would do the</p> <p>23 concreting work.</p> <p>24 Q. When these checks took place, which you have managed to</p> <p>25 capture in this photograph, Mr Cheung, would there</p>
Page 94	Page 96
<p>1 workers would be gathered for briefing."</p> <p>2 Presumably this is showing one of these types of</p> <p>3 incidents in this photograph; is that right, Mr Cheung?</p> <p>4 A. There was only one photo. As far as I could remember,</p> <p>5 there were two or three such occasions.</p> <p>6 Q. All right. And is the Leighton supervisor the gentleman</p> <p>7 who looks as though he's wearing mostly black with</p> <p>8 a white helmet and seems to be taller than everybody</p> <p>9 else? Is that him?</p> <p>10 A. Yes, in a white helmet, a foreigner.</p> <p>11 Q. Right. Do you know who he was?</p> <p>12 A. The site supervisor.</p> <p>13 Q. Do you remember his name?</p> <p>14 A. I recall his nickname. I don't recall his proper name.</p> <p>15 We called him Santa Claus.</p> <p>16 Q. Santa Claus, apparently.</p> <p>17 A. Because he was quite portly.</p> <p>18 Q. Right.</p> <p>19 COMMISSIONER HANSFORD: Did he have a white beard?</p> <p>20 A. It wasn't white but he was quite -- he had a dark beard.</p> <p>21 MR PENNICOTT: All right. There's a challenge for</p> <p>22 Leightons, to see if they can find him.</p> <p>23 On to more serious issues. 1295, please. We're in</p> <p>24 area C2-1, and this is a photograph dated 22 November</p> <p>25 2015. Do you see that?</p>	<p>1 always be one inspector from Leighton and one inspector</p> <p>2 from MTRC and they would do the check essentially</p> <p>3 together?</p> <p>4 A. Well, I'm not sure about this, but on each occasion</p> <p>5 I saw Leighton and MTRC staff together.</p> <p>6 Q. Okay. So, from what you observe, your impression was</p> <p>7 that normally they would do the quality check or the</p> <p>8 inspection together?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Can I ask you, since we've got this photograph</p> <p>11 here, some rather more general questions about the</p> <p>12 supervision by Leightons.</p> <p>13 There appear to me, Mr Cheung, to be, broadly</p> <p>14 speaking, three possibilities with regard to the</p> <p>15 supervision that Leighton applied to Fang Sheung's work,</p> <p>16 and I am focusing on Leighton; we will come to MTR in</p> <p>17 a moment.</p> <p>18 Firstly, they could have a foreman or a supervisor</p> <p>19 or an engineer from Leighton constantly in attendance in</p> <p>20 an area where you were working. That is one</p> <p>21 possibility.</p> <p>22 The second possibility is that they could have had</p> <p>23 a foreman, a supervisor or an engineer whose</p> <p>24 responsibilities were to walk around the site, patrol</p> <p>25 the site, come to an area where you, Fang Sheung, were</p>

Page 97	Page 99
<p>1 working, spend some time there, half an hour, an hour, 2 whatever it needed, and then they would move on and go 3 to a different area. That's the second possibility. 4 The third possibility is neither of those two things 5 happened, neither of my one or two possibilities 6 happened, but they would just turn up when you had 7 completed one layer of rebar, inspect it, approve it, 8 and go away again, until you had got to the next level 9 or the next row. 10 Which of those three scenarios do you think more 11 accurately, most accurately, describes the supervision 12 that Leighton gave to your work? Or if you want to put 13 it in some other way, please do. 14 A. My description would be before our work starts, that is 15 the simple bar fixing work, the MTR supervisor and 16 Leighton's supervisor would be present on site. They 17 would be inspecting our preparation work, that is before 18 we start. They would leave for a while and then they 19 would appear again and check on our progress. They 20 would check on our work quality, whether it complied 21 with the standards. 22 So after B1, bottom layer, bar work, our procedure 23 would be to notify Leighton and arrange for inspection. 24 Then we would move on to the next step, that is to work 25 on the spacer bars, the "sifu" bars, because after we do</p>	<p>1 each layer, what form of supervision/inspection, if any, 2 took place? 3 A. They would inspect our bar bending. They would see 4 whether our procedures were standard. They would check 5 on our safety procedures. So, if there were couplers, 6 they would inspect whether the couplers were installed 7 correctly, and then we would move on to the next layer 8 of bar, that is B2. 9 CHAIRMAN: So these inspections were done at the time when 10 they were inspecting each layer, or would there be 11 inspections in between that as well? 12 A. Sometimes. Sometimes they would inspect layer by layer. 13 MR PENNICOTT: Let me try to put it another way. You have 14 done a layer of rebar. MTRC and Leighton have come, 15 they've inspected, they've approved it. 16 A. Yes. 17 Q. Would you ever see an inspector again before you reached 18 the end of the next layer? Was there any intermediate 19 inspection or supervision? 20 A. Yes. 21 Q. Okay. And, on those intermediate inspections or 22 supervision or supervisory visits, what would they be 23 looking at? Anything in particular? 24 A. They would have to see whether the couplers were 25 fastened properly.</p>
Page 98	Page 100
<p>1 the bottom layer, according to the diagram we cannot 2 make mistakes, we cannot have missing components or 3 missing bars, that is we installed less than the 4 required amount of bars. They have to inspect B1, 5 bottom layer, before we could move on to the next spacer 6 bars, the "sifu" bars, and then we would work on the top 7 layer. 8 After the top layer, we would also have to notify 9 Leighton and MTRCL for an inspection. They would have 10 to give us approval before we could move on to the last 11 stage, where we add links to reinforce the top and 12 bottom layer bars. 13 So all these steps, after it's completed, the 14 Fang Sheung bar benders would vacate the premises and we 15 would return to the formworks and do the concreting. 16 So that is the procedure. 17 Q. All right. So I think what you're telling us is that -- 18 I understand the point you make about right at the start 19 of your works and getting approval and making sure that 20 all the preparation work is done properly and so forth; 21 I understand that. I think what you're saying is that 22 both Leighton and MTRC would come and inspect at each 23 layer, whether it's bottom or top; is that right? 24 A. Correct. 25 Q. What I'm not quite sure about is in between inspecting</p>	<p>1 Q. So they would do that intermediate stage and then, when 2 you had finished the layer, they would essentially 3 inspect again? Is that what you're telling us? 4 A. Yes, correct. 5 Q. All right. We can put the photographs away for now, 6 Mr Cheung. 7 Mr Cheung, I am going to move on now to ask you 8 a series of questions about bar cutting, that is rebar 9 thread cutting. 10 Could I ask you first of all, please, to look in 11 your police statement at page 1584.8 in the English, and 12 I think it's 1582 in the Chinese. It's Q4 and A4. Do 13 you have that, Mr Cheung, Q4 and A4? 14 A. I see it. 15 Q. What is said here is, question 4: 16 "When Fang Sheung was carrying out the works for SCL 17 Hung Hom Station, did you witness or hear of anyone 18 cutting short the threaded sections of rebars with 19 machinery, in order to pretend that the rebars were 20 already screwed into couplers?" 21 Your answer was: 22 "I have not witnessed or heard of it." 23 However, you went on to say: 24 "But in reality, sometimes there were not enough 25 rebars of type A threads. Workers might then use rebars</p>

Page 101	Page 103
<p>1 with type B threads as substitute. Perhaps workers were 2 afraid that MTRC's and Leighton's engineers would 3 misunderstand that the rebars were not fully screwed 4 into the couplers, and hence they would first cut short 5 the rebars with type B threads before screwing those 6 rebars. But I have never seen this happen before." 7 Now, Mr Cheung, a straight question and hopefully 8 a straight answer, please: to your knowledge, on this 9 site, on this project, did Fang Sheung's workers cut 10 type B threads to convert that type B thread into 11 a type A thread; "yes" or "no"? 12 A. Can you repeat your question, please? 13 Q. Yes, I can. 14 A. Thank you. 15 Q. To your knowledge, on this project that we're concerned 16 with, did Fang Sheung's workers cut the thread of type B 17 rebar to convert that rebar essentially into a type A 18 piece of rebar; "yes" or "no"? 19 A. I didn't see any. 20 Q. Why did you raise this possibility of this happening in 21 your police statement? 22 A. Because on site different things could happen from time 23 to time. If type A threaded rebars were absent and we 24 had B type, then this could happen. 25 Q. I understand, Mr Cheung, that it could happen. The</p>	<p>1 unless workers mentioned to me that they had done so. 2 But for sure I would stop my workers from so doing, 3 because when we didn't have enough materials we could 4 wait for them to continue with our works. There was no 5 need to convert type B to type A rebars. 6 Q. I don't know whether you're able to answer this 7 question, Mr Cheung, but in broad terms, what was the 8 percentage of type B threaded rebar compared to type A 9 threaded rebar on this project? 10 A. Type B threaded rebar were used on the west; the 11 percentage would be minimal, 2 to 3 per cent, around. 12 No, no -- how should I put it? Only the west D-wall 13 used type B coupler, so the percentage, around 14 10 per cent. 5 to 10 per cent. 15 Q. Right. So are you telling us that on the East Wall it 16 was all type A, or the vast majority was type A? 17 A. The majority of them were type A, yes. 18 Q. On the East Wall? 19 A. Yes. 20 Q. So the vast majority of threaded rebar that you had to 21 install was type A rebar, looking at the position as 22 a whole? 23 A. Yes. 24 Q. Okay. 25 Now, could I just pursue the cutting point a little</p>
<p>Page 102</p> <p>1 question is: did it happen, "yes" or "no"? 2 A. I haven't seen any happening. 3 Q. Right. Have you seen it -- have you heard about it from 4 anybody, any of your workers, at the time, back in 2015 5 and 2016? 6 A. I have heard workers mentioning, but I didn't know what 7 workers they were. 8 CHAIRMAN: Well, wouldn't they be steel fitting workers? 9 A. I heard my steel fitting workers. 10 CHAIRMAN: And you heard them saying, "We have cut the 11 type B in order to make type As"; yes? 12 A. Yes. 13 MR PENNICOTT: So you heard your workers talking about that 14 scenario, did you? 15 A. Yes. 16 CHAIRMAN: And, when they spoke about it, were they 17 recounting to each other, to the best of your hearing, 18 what one or other of them had actually done, or were 19 they merely talking about the possibility? 20 A. They were talking about the possibility. 21 MR PENNICOTT: All right. 22 Mr Cheung, if this type of cutting had occurred, 23 that is cutting the type B thread, do you think you 24 would have known about it? 25 A. If it had happened, I would not have known about it,</p>	<p>Page 104</p> <p>1 further by reference to part of the transcript of your 2 interview with MTRC, for which purpose you will need 3 bundle B5. In the English, it's B5/3082.30, and in the 4 Chinese it's 3082.19. 5 Let's rewind. Mr Cheung, you were interviewed by 6 representatives of the MTR on 13 June this year; is that 7 right? 8 A. Correct, in the afternoon. 9 Q. Right. That interview was recorded, tape-recorded. 10 A. I can see it. 11 Q. We have a transcript of parts of that interview. It's 12 not all there but we've got quite a bit of it. 13 I'm reading, first of all, from the passage at 14 13:06-15:45; do you see that? Do you have that? 15 A. Yes. 16 Q. The question was this: 17 "Is it that they [Leighton] would make good the 18 problem eventually and then you would go back and handle 19 the one or two rebars left?" 20 Your answer was: 21 "We wouldn't care if they had made good the problem. 22 We would just hand it back to them ... unless they asked 23 us to 'just cut it and connect them', 'just finish it 24 off and we will have rectification measures. Just 25 continue working', then we would continue.</p>

Page 105	Page 107
<p>1 Question: Has it happened before ... with Leighton 2 asking your workers to just cut them and connect them 3 for now and they would rectify it afterwards? 4 Answer: ... asked us to do it. We couldn't fix the 5 couplers and they would have rectification measures. 6 Yes ... just do it and leave it there ... and they would 7 drill a hole and all that. Yes, it happened." 8 Now, I don't entirely follow all of that, Mr Cheung, 9 but can I just ask you to focus on the words "unless 10 they asked us to 'just cut it and connect them'". What 11 did you mean by that? What were you referring to, "just 12 cut it and connect them"? 13 A. What I meant was if -- our company was responsible for 14 providing workers. We had to follow the instructions of 15 Leighton's engineers to work. What I meant was if there 16 was a rectification measure -- for instance, if one 17 coupler was damaged and a rebar could not be installed, 18 they could core a hole next to the coupler and plant 19 a rebar, or if possible the bar could be replaced. Now, 20 if they could core a hole and insert a dowel bar, and if 21 an engineer asked a worker to cut the bar and plant 22 a bar into the hole, it's reasonable. But there must be 23 rectification measures first, before this can be done. 24 Q. All right. When you say "if an engineer", that 25 presumably is a Leightons engineer, is it?</p>	<p>1 feasible, then Leighton could instruct our workers to 2 cut the bar and insert the coupler. That's what I mean. 3 COMMISSIONER HANSFORD: Can I just -- 4 MR PENNICOTT: Please, sir. 5 COMMISSIONER HANSFORD: Mr Cheung, you talked just now about 6 one of the reasons for cutting it was to make it look 7 pretty so that it wasn't unsightly. But it's all going 8 to be covered in concrete, isn't it, so why does it need 9 to look pretty? 10 A. Because -- it's my personal opinion. We would want to 11 prevent misunderstanding that it was just left there and 12 the rebar was not installed. That's what I meant. But 13 I have never seen that. 14 MR PENNICOTT: All right. Then if you go back to the 15 transcript of the MTRC interview and go further down 16 from the passage we looked at just a moment ago, and 17 it's the question a bit further down beginning, "In 18 these circumstances"; do you see that? It's at 3082.30, 19 the English version. "In these circumstances, 20 usually" -- do you have that? We're still in the same 21 passage. 22 Have you got that now, Mr Cheung? It says: 23 "In these circumstances, usually when they ask you, 24 you would adopt the method to cut the threaded heads 25 slightly, put them there first, and then leaving it for</p>
Page 106	Page 108
<p>1 A. Of course, or it can be me. 2 Q. So, if I've understood that answer correctly, what 3 you're trying to tell us is that if there were 4 rectification measures that involved the coring into the 5 wall, is this going back to the sealant point that we 6 were discussing earlier, put sealant in, you might be 7 asked to cut the bar in those circumstances, and then 8 put the bar in, as a remedial measure? Is that the 9 effect of your evidence? 10 A. Yes. 11 Q. Why, in those circumstances, would there be any need to 12 cut the thread, or to cut the bar at all? 13 A. Because I feel that if the hole is vacant or is empty, 14 then a bar should be inserted into it, to make it look 15 prettier, because if there is a hole there without 16 a bar, it is unsightly and hard to accept. 17 Q. I understand that, but what I don't understand, 18 Mr Cheung, is the rectification measure is being done, 19 you've got the hole, the sealant, you're putting rebar 20 into the hole. What needs cutting? 21 A. Because -- this is my personal view -- that the hole, 22 Leighton might not be able to drill another hole and 23 they might have to do it above and then insert another 24 dowel. So it's possible that if they approve it and if 25 they allow that remedial procedure, and if it was</p>	<p>1 them rectify later? Did it happen? 2 Answer: Yes, very few. Yes, they would take 3 rectification measures. 4 Question: What's the quantity roughly? 5 Answer: Very few." 6 So there you seem to be accepting, if I've 7 understood it correctly, Mr Cheung, that the threaded 8 heads of certain rebar would be cut? Do you accept 9 that? 10 A. I agree. 11 Q. All right. And the reason -- I'm still slightly 12 troubled by it -- the reason for cutting the threaded 13 heads slightly -- I know that was the question rather 14 than the answer -- but why would the threaded heads need 15 to be cut slightly? 16 A. I have already said just now -- I said that if we have 17 holes drilled and we need to insert dowels, I said that 18 when we remedy the faulty coupler, the damaged coupler, 19 given those circumstances, that would happen. 20 Q. So you accept, as I understand it, in the context, you 21 say, of rectification measures being carried out, 22 certain threaded rebar would indeed be cut? 23 A. I disagree. If there was drilling of a hole and then 24 a dowel being inserted, then the threaded bars might be 25 cut a little bit and inserted back into the damaged</p>

Page 109	Page 111
<p>1 coupler. That's what I meant.</p> <p>2 Q. Well, you've just said the threaded bars might be cut</p> <p>3 a little bit. Do you mean the thread of the threaded</p> <p>4 bars might be cut a little bit, or do you mean something</p> <p>5 else?</p> <p>6 A. Let me repeat myself. I have been saying all along that</p> <p>7 if the damaged coupler, if there were a remedy measure,</p> <p>8 that is if we drill a hole and insert a dowel, then we</p> <p>9 can cut short the threaded part of the rebar and we can</p> <p>10 insert the damaged coupler back. That is my intention</p> <p>11 and my meaning.</p> <p>12 CHAIRMAN: And that happened, to your memory, from time to</p> <p>13 time, on very few occasions but from time to time?</p> <p>14 A. Well, I think, if this -- I think that this situation</p> <p>15 did occur.</p> <p>16 MR PENNICOTT: "From time to time", I think the Chairman</p> <p>17 asked you, Mr Cheung. It did occur from time to time?</p> <p>18 A. Very infrequently. Very, very infrequently.</p> <p>19 Q. All right.</p> <p>20 COMMISSIONER HANSFORD: Sorry, Mr Cheung, I'm still</p> <p>21 struggling with this. I think you're telling me and the</p> <p>22 Chairman that in all cases -- are you telling me that</p> <p>23 bars were only cut when a dowel was installed as</p> <p>24 a remedial measure to replace a damaged coupler? Are</p> <p>25 you telling me that's the only time that a bar would be</p>	<p>1 but I don't understand why you are worried about it</p> <p>2 being unsightly, because it's going to be covered in</p> <p>3 concrete. So why does it matter if it's unsightly?</p> <p>4 A. Well, I didn't see that occur. It's just my</p> <p>5 description. If you don't do some covering-up works, if</p> <p>6 you don't do the cosmetic work, it would lead to</p> <p>7 problems that people, supervisors say you didn't install</p> <p>8 the rebar and that would lead to other problems.</p> <p>9 A lot of people, they are not familiar with the</p> <p>10 procedures. Some people might say some people want to</p> <p>11 cut some of the threaded parts and install a coupler.</p> <p>12 Because when we have -- sometimes, when we have dowels</p> <p>13 inserted, we also need to cut some of the bars to</p> <p>14 complete that procedure.</p> <p>15 CHAIRMAN: All right. So what you're saying is -- I'm</p> <p>16 sorry, carry on.</p> <p>17 COMMISSIONER HANSFORD: Is that okay?</p> <p>18 CHAIRMAN: Of course.</p> <p>19 COMMISSIONER HANSFORD: Sorry, I still don't understand,</p> <p>20 because -- I don't understand why it needs to be</p> <p>21 cosmetically acceptable, because surely the answer is,</p> <p>22 "But that coupler is not needed because there's a dowel</p> <p>23 in there now, and that dowel is replacing the coupler."</p> <p>24 That would be the answer to anybody that asked</p> <p>25 a question about it. So why are we worried about</p>
Page 110	Page 112
<p>1 cut, that a threaded bar would be cut, when next to</p> <p>2 a dowel that had been inserted to replace a coupler? Is</p> <p>3 that what your evidence is?</p> <p>4 Sorry, maybe I've misunderstood.</p> <p>5 MR PENNICOTT: Can you answer the question, Mr Cheung?</p> <p>6 COMMISSIONER HANSFORD: The cutting of the thread, would</p> <p>7 that only happen when a dowel had been inserted to</p> <p>8 replace a damaged coupler?</p> <p>9 A. Correct. If that occurred, that would have only when</p> <p>10 that situation described occurred, correct.</p> <p>11 COMMISSIONER HANSFORD: So my next question is if a dowel</p> <p>12 had been installed to replace a damaged coupler, why do</p> <p>13 you need to cut the thread? That's the point I don't</p> <p>14 understand. Because you've put the dowel in, which has</p> <p>15 replaced the coupler, so why do you need to cut the</p> <p>16 damaged thread -- sorry, why do you need to cut the</p> <p>17 threaded bar? That I don't understand.</p> <p>18 A. Professor, my meaning was the coupler, if they drill the</p> <p>19 hole and then insert a dowel, or if they need to drill</p> <p>20 a hole in another area, then this bar, you would find it</p> <p>21 unsightly, and that thread, that's also a damaged part,</p> <p>22 so you would have it cut it slightly and then you would</p> <p>23 insert a dowel. I don't think that's a problem; it</p> <p>24 shouldn't be a problem.</p> <p>25 COMMISSIONER HANSFORD: I understand what you are saying,</p>	<p>1 cosmetics?</p> <p>2 A. Because the question I was asked was under what</p> <p>3 circumstances would we cut the coupler and install</p> <p>4 a coupler, and my description was what I thought would</p> <p>5 happen, would occur.</p> <p>6 COMMISSIONER HANSFORD: Okay, I think I'll leave it there.</p> <p>7 Thank you.</p> <p>8 CHAIRMAN: But by "pretty" or "looking right" what you mean</p> <p>9 is an inspector might see the threads and say this</p> <p>10 hasn't been put in properly, and then you have a lot of</p> <p>11 explaining to do and delay; is that what you are saying?</p> <p>12 A. Yes, Chairman.</p> <p>13 COMMISSIONER HANSFORD: Sorry to labour my point, but the</p> <p>14 explaining would be there is a dowel there, replacing</p> <p>15 the coupler. Is that not an easy explanation?</p> <p>16 A. My description was there might be such a procedure.</p> <p>17 COMMISSIONER HANSFORD: Okay.</p> <p>18 MR PENNICOTT: But if all that happened, Mr Cheung, Leighton</p> <p>19 would know about it anyway, because they would be doing</p> <p>20 the remedial works, so you would only have to worry</p> <p>21 about the MTRC, presumably?</p> <p>22 A. If we did that, I would have to know about it; I would</p> <p>23 have to be notified.</p> <p>24 CHAIRMAN: All right. Shall we have the break?</p> <p>25 MR PENNICOTT: Ten minutes?</p>

Page 113	Page 115
1 CHAIRMAN: Ten minutes. Thank you. 2 (3.43 pm) 3 (A short adjournment) 4 (4.00 pm) 5 CHAIRMAN: Sorry, I wonder if you could assist me to just 6 help me to understand the process that you have 7 described earlier; okay? 8 A. Yes, Chairman. 9 CHAIRMAN: As I understand it, an instance may arise when 10 you find on the wall a coupler which has been damaged, 11 and the rebar will not thread into it; correct? 12 A. (Nodded head). 13 CHAIRMAN: So what you then do, on the basis that the matter 14 will be remedied later by Leightons, is that you cut 15 some of the thread off the reinforcing bar and put it 16 against the damaged coupler; "yes" or "no"? 17 A. Yes. 18 CHAIRMAN: And you do this on the basis that Leightons are 19 going to come along later and they are going to, to use 20 a technical term, shove a piece of metal into the wall 21 and put some resin around it, which we call technically 22 a dowel; right? 23 A. Yes. 24 CHAIRMAN: Now, you will have to forgive me, but I have 25 a couple of questions that arise from this. Firstly,	1 Now, once you have put it in there so that it looks 2 neat, so that an inspector will not query it and cause 3 trouble, your expectation is that Leighton are going to 4 come along and put in the dowel next to it; is that 5 right? 6 A. Yes. Yes, Chairman. 7 CHAIRMAN: Leaving aside the question of military style, 8 everything must be in a straight line, how are Leighton 9 going to know where to come back and do the remedial 10 work later? Do you spray a red spray around the area or 11 something similar to that? 12 A. Well, if we had that problem, that's what I would do. 13 CHAIRMAN: Are you saying -- because you've said earlier 14 that there were a few occasions when this happened -- on 15 those few occasions did you put some sort of spray paint 16 around so that the Leighton people could recognise it 17 and come back and put the dowel in next to it? 18 A. Well, if we had couplers that could not be installed, 19 I would notify Leighton. I would notify the engineers 20 and they would do the remedy work. 21 CHAIRMAN: Are you saying then that they would cut the 22 thread and they would put the thread against the 23 coupler, and then thereafter they would also put in the 24 dowel? 25 A. No. What I mean is I would notify them which location
Page 114	Page 116
1 would you discuss the matter with Leightons prior to 2 doing anything at all, that is prior to taking any 3 measures? 4 A. Yes. 5 CHAIRMAN: So you would then, once you had discussed it, 6 trim some of the thread, put it in partially against the 7 damaged coupler, so that it would look good? 8 A. Well, if they have remedial procedures and it was 9 performed, and if they instruct us to do it, I think 10 workers would have done so. 11 CHAIRMAN: No. I'm just discussing the process which you 12 described. You would then, once you had discussed 13 matters with Leightons, cut some thread off this bar, 14 put it in against the damaged coupler so that it looked 15 as if it was connected, it looked neat, it looked okay? 16 A. Chairman, your description is correct, but in the 17 Independent Commission the Commission asked me under 18 what circumstances would we take the threaded portion 19 and cut it, and my description, my meaning, was 20 Leighton, they would have a remedial procedure; they 21 would drill a hole and install a dowel, they could 22 instruct our workers to do that, they could cover up the 23 hole. I did not ask the workers to do that. 24 CHAIRMAN: No, no, I'm just trying to understand the process 25 that you had earlier described.	1 had couplers that could not be installed. 2 CHAIRMAN: And then you and your people would go ahead, trim 3 the bar, put it against the coupler, it looked good, 4 inspectors aren't going to ask any questions, they are 5 not going to delay the work, and your understanding was 6 that Leighton would then come back and make good with 7 a dowel? "Yes" or "no"? It's a reasonably simple 8 question. 9 A. Your meaning is correct. 10 CHAIRMAN: Thank you. 11 MR PENNICOTT: Mr Cheung, let's just examine part of that, 12 because one of the reasons I was asking you about the 13 inspections earlier, or one of the reasons I was getting 14 you to confirm how quickly this rebar was installed, was 15 for the potential of you giving the sort of answers that 16 you've given to us. 17 Now, let's take that in stages. If, as you say, 18 you've trimmed the threaded bar and you've put it up 19 against or slightly into the defective coupler, in 20 anticipation of Leighton coming along to then do the 21 dowel bar work, that's got to be done very quickly, 22 because you can't move on to the next layer until the 23 inspection has taken place. Once you've gone on to the 24 next layer, there's no way the dowel can be put in, is 25 there, because you've got the next layer of rebar on

Page 117	Page 119
<p>1 top; how are you going to get the dowel in after that?</p> <p>2 So it's all got to be done by the joint inspection by</p> <p>3 Leighton and MTRC; isn't that right?</p> <p>4 A. I'm not sure about that. My knowledge is that if they</p> <p>5 drill a hole and insert a dowel, it might not be at the</p> <p>6 adjacent site; it could be on top or below, left or</p> <p>7 right. They could do this remedial work.</p> <p>8 Q. So the remedial work then relates to a different layer,</p> <p>9 effectively. Surely the dowel has got to be on the same</p> <p>10 layer as the defective coupler with the shortened thread</p> <p>11 of the rebar. It's got to be at the same level, surely?</p> <p>12 A. My understanding is inside the concrete there are still</p> <p>13 rebars, because the coring or the drilling of holes will</p> <p>14 affect the internal bars. So they will choose</p> <p>15 a suitable location; it could be on top, bottom, left or</p> <p>16 right.</p> <p>17 Q. All right. Now, just picking up on one of the points</p> <p>18 the Chairman mentioned to you there: this whole</p> <p>19 operation you've described, as I understand it you're</p> <p>20 telling us that that would not happen, on the infrequent</p> <p>21 occasions that it did, without instructions from</p> <p>22 Leighton; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. Now, can I ask you this. In relation to the infrequent</p> <p>25 occasions upon which this happened, do you recall</p>	<p>1 paragraph, you say:</p> <p>2 "I know all bar workers of Fang Sheung had never</p> <p>3 seen or heard of anyone cutting short the steel bars due</p> <p>4 to fraud."</p> <p>5 Now, the cutting of the steel bars for the remedial</p> <p>6 purposes that we were discussing just a moment ago, you</p> <p>7 don't regard that as fraud; is that right?</p> <p>8 A. Well, if the remedial work -- well, from my professional</p> <p>9 perspective, that is not a fraudulent work; that is just</p> <p>10 a remedial work.</p> <p>11 Q. Okay. If I could ask you to go to paragraph 8 of your</p> <p>12 witness statement, at 8(f), the second sentence, you</p> <p>13 say:</p> <p>14 "According to my knowledge, circumstance of cutting</p> <p>15 the screw iron short did not happened."</p> <p>16 At 8(j):</p> <p>17 "The head of steel bars screws for threaded steel</p> <p>18 bars were not cut short."</p> <p>19 8(k):</p> <p>20 "The screws for threaded steel bars were not cut</p> <p>21 short."</p> <p>22 And 8(l):</p> <p>23 "According to my knowledge, the steel bars screws</p> <p>24 were not cut short."</p> <p>25 Presumably, Mr Cheung, you now qualify those</p>
Page 118	Page 120
<p>1 whether it happened at the bottom layers of the rebar or</p> <p>2 at the top layers of the rebar?</p> <p>3 A. It occurred on the top and bottom layers. You'd have to</p> <p>4 find a suitable location to drill a hole and insert</p> <p>5 a dowel.</p> <p>6 Q. All right. So the answer to my question is it could</p> <p>7 have -- albeit infrequently, it occurred both in the top</p> <p>8 and the bottom layers?</p> <p>9 A. Correct.</p> <p>10 Q. All right.</p> <p>11 Mr Cheung, could I ask you, please, to go to</p> <p>12 paragraph 7 of your witness statement, that is the</p> <p>13 witness statement for the Commission. That's at</p> <p>14 E5/879.2 in the English, and E876 in the Chinese.</p> <p>15 In paragraph 7 of your witness statement, Mr Cheung,</p> <p>16 you say this:</p> <p>17 "Concerning the media reported that screw heads of</p> <p>18 the steel bars were cut off to make fake news, I do not</p> <p>19 understand. I have never seen anyone cutting the screw</p> <p>20 heads of the steel bars due to fraud. I made inquiries</p> <p>21 to the staff of Fang Sheung and had never heard of</p> <p>22 anyone cutting off the screw heads of the steel bars for</p> <p>23 fraud."</p> <p>24 Then you go on to explain why that's logically</p> <p>25 impossible. Then going down to subparagraph (C) in that</p>	<p>1 statements by the evidence that you've given to us this</p> <p>2 afternoon that they were cut short in the remedial</p> <p>3 scenario that you have described?</p> <p>4 A. No.</p> <p>5 Q. Why do you not qualify your statements in that way?</p> <p>6 A. When I was asked by COI under what circumstances would</p> <p>7 the threaded rebars be cut, I described to the</p> <p>8 Commission back then.</p> <p>9 Q. Mr Cheung, you have, in answer to my questions, to the</p> <p>10 Chairman's questions and to Prof Hansford's questions,</p> <p>11 accepted that on -- basically, your evidence -- a few</p> <p>12 occasions the threaded rebar was cut for the purposes of</p> <p>13 putting the rebar up against or slightly into damaged</p> <p>14 couplers. So, with respect, that's why I'm suggesting</p> <p>15 to you that your evidence in your statement that cutting</p> <p>16 short the iron did not happen is not entirely correct</p> <p>17 and must be qualified by the evidence that you have</p> <p>18 given to us in the last hour or so.</p> <p>19 A. All along, what I meant was the Commission asked me</p> <p>20 under what circumstances would the rebars be cut. What</p> <p>21 I meant was, if remedial measures were necessary,</p> <p>22 Leighton could ask our workers to cut short the rebar</p> <p>23 for installation into damaged coupler, because if there</p> <p>24 are still some threads left in the coupler, and then if</p> <p>25 we can screw into it, why not? That is what I mean all</p>

Page 121	Page 123
<p>1 along.</p> <p>2 Q. I understand that, Mr Cheung, but you could have said in</p> <p>3 your witness statement to the Commission, or indeed your</p> <p>4 statement to the police words to this effect: "Well,</p> <p>5 yes, I am aware that in circumstances where particular</p> <p>6 remedial works had to be carried out, the threaded bar</p> <p>7 was trimmed", and you could have gone on to explain to</p> <p>8 us the position that you've explained to us this</p> <p>9 afternoon, and that's only come out, Mr Cheung, by me</p> <p>10 asking you questions by reference to the MTRC interview</p> <p>11 and other material, that you now tell us that that is</p> <p>12 the situation. You could have explained that to us</p> <p>13 earlier, and this may have not taken so long as it has.</p> <p>14 A. In fact I have been explaining this to you. Perhaps</p> <p>15 I didn't elaborate myself well.</p> <p>16 Q. You certainly didn't elaborate in your witness</p> <p>17 statement, but at least you have elaborated this</p> <p>18 afternoon.</p> <p>19 The other point is this, Mr Cheung. Am I right in</p> <p>20 suggesting to you that during the course of the carrying</p> <p>21 out of your rebar fixing works, between September and</p> <p>22 December 2015 you were advised on at least three</p> <p>23 occasions that there were incidents of threaded rebar</p> <p>24 having been cut short?</p> <p>25 A. In my impression, it's correct, yes. There were</p>	<p>1 been rectified immediately. I also mentioned the</p> <p>2 incident to Fang Sheung's supervisor, Joe Cheung.</p> <p>3 I said I had discovered a cut threaded rebar on site and</p> <p>4 please ensure his workers checked the threaded rebars</p> <p>5 were in good condition and being screwed into the</p> <p>6 couplers. I do not recall his exact response, but</p> <p>7 I believe it was along the lines of 'Yes, I will remind</p> <p>8 my workers'."</p> <p>9 Do you recollect that conversation with Mr Mok back</p> <p>10 in or around September 2015, Mr Cheung?</p> <p>11 A. In my impression, there was such an incident. Mr Mok</p> <p>12 very quickly asked my workers to replace the coupler, to</p> <p>13 do that measure, and he informed me the next day.</p> <p>14 Q. So you're saying he spoke to you after the remedial</p> <p>15 measures had been done?</p> <p>16 A. Yes. He already completed the remedial measures before</p> <p>17 he told me, asking me to take care.</p> <p>18 COMMISSIONER HANSFORD: Sorry, can I just ask -- you said to</p> <p>19 Mr Pennicott just now, Mr Cheung:</p> <p>20 "Mr Mok very quickly asked my workers to replace the</p> <p>21 coupler ..."</p> <p>22 Do you mean the coupler or the threaded bar?</p> <p>23 A. I don't know exactly. I think it should be the rebar.</p> <p>24 MR PENNICOTT: Yes. I should have probably read it all out</p> <p>25 to you.</p>
<p>Page 122</p> <p>1 incidents.</p> <p>2 Q. Can I ask you, please, to be shown the witness statement</p> <p>3 of Mr Mok, Edward Mok, from Leightons, which is at</p> <p>4 C12/8107.</p> <p>5 Do you have that, Mr Cheung?</p> <p>6 A. I do.</p> <p>7 Q. Is this witness statement from Mr Mok a document that</p> <p>8 you have been shown, and have you read it before today?</p> <p>9 A. No.</p> <p>10 Q. Okay. I ask you, please, to go to page 8114,</p> <p>11 paragraph 29.</p> <p>12 In paragraph 29 through to paragraph 48 or so,</p> <p>13 Mr Mok deals with three incidents, three occasions,</p> <p>14 where, when he was carrying out his inspections, he</p> <p>15 noticed threaded rebar having been cut short; okay?</p> <p>16 A. Okay.</p> <p>17 Q. In paragraph 29 he says:</p> <p>18 "I recall that the first occasion was around</p> <p>19 September 2015. I cannot recall precisely, but</p> <p>20 I believe it was during a formal inspection for rebar</p> <p>21 fixing with MTRC's engineer."</p> <p>22 I'm not going to read the rest of it out.</p> <p>23 In paragraph 30 he says:</p> <p>24 "I reported the incident to one of my supervisors,</p> <p>25 Andy Ip, at the end of the day. I explained that it had</p>	<p>Page 124</p> <p>1 COMMISSIONER HANSFORD: It must have been.</p> <p>2 MR PENNICOTT: Indeed, what Mr Mok says, if we go back to</p> <p>3 paragraph 29 -- it's my fault for trying to get through</p> <p>4 this. It says:</p> <p>5 "As Fang Sheung's workers were still on site,</p> <p>6 I immediately asked them to replace the defective bar by</p> <p>7 taking it away and replacing it with a new bar."</p> <p>8 COMMISSIONER HANSFORD: I understand that, but Mr Cheung's</p> <p>9 answer was "replace the coupler".</p> <p>10 MR PENNICOTT: Right. And I think he is now saying he</p> <p>11 accepts it was the rebar that was replaced.</p> <p>12 COMMISSIONER HANSFORD: Thank you.</p> <p>13 MR PENNICOTT: Is that right, Mr Cheung?</p> <p>14 A. The rebar.</p> <p>15 Q. Thank you.</p> <p>16 Then if we go to paragraph 32 of Mr Mok's statement,</p> <p>17 he says this:</p> <p>18 "The second occasion was around one month later in</p> <p>19 October or November. Again, it was discovered during</p> <p>20 a formal inspection with a MTRC engineer."</p> <p>21 And so forth. A bit further down, he says:</p> <p>22 "I recall that I and MTRC's engineer identified one</p> <p>23 or two (I cannot remember exactly, but it was no more</p> <p>24 than two) defective rebars during the inspection.</p> <p>25 Again, the threaded ends of the rebar(s) had been cut</p>

Page 125	Page 127
<p>1 off and there was an obvious gap between the rebar(s) 2 and the coupler(s). 3 Similar to the first occasion, I asked the Fang 4 Sheung's workers to remove the defective bar(s) and 5 replace them with new bar(s). I recall it was necessary 6 to replace the coupler for one of the bars. The 7 rectification work was done immediately, and 8 I personally supervised the entire process. It would 9 have taken between 15 and 30 minutes, depending on 10 whether it was one or two rebars. Once again, the 11 MTRC's engineer approved the inspection and the 12 rectification. 13 After the inspection, I mentioned the matter to one 14 of my supervisors (either Joe Leung or Andy Ip). I also 15 told Joe Cheung, Fang Sheung's supervisor about the 16 matter. I told him to ensure his workers checked the 17 threaded bars were in good condition and being screwed 18 into the couplers. I recall Joe Cheung being a little 19 surprised that the same issue had arisen again, and he 20 said he would take appropriate steps to ensure it would 21 not happen." 22 Do you recall that conversation with Mr Mok, 23 Mr Cheung? 24 A. Yes, there was such an incident. 25 Q. Do you recall being surprised that this was the second</p>	<p>1 second occasion, I felt it was serious, and I tried to 2 ask my workers what was the problem and why they had to 3 cut a coupler, and I felt that was very serious and 4 I followed up. So I had notified my company director, 5 Mr Pun. 6 Q. You notified him presumably in a discussion? I don't 7 think there's any -- there's no document or anything -- 8 just discussion, was it, Mr Cheung? 9 A. Usually, at the construction site, we go over things 10 verbally. 11 Q. Then, unfortunately, it didn't stop there. Go back to 12 Mr Mok's statement, paragraph 37. He says: 13 "The third occasion when defective rebars were 14 identified was on 15 December 2015. The defective 15 rebars were identified during an informal inspection of 16 bay C3-2 and C3-3 of the EWL slab that I conducted with 17 MTRC's inspector of works, Andy Wong. As explained 18 above, I often conducted informal inspections with 19 MTRC's engineer or IoWs during our rounds. It was 20 a normal practice. 21 During the informal inspection, both I and the 22 MTRC's IoW noticed five defective rebars with the 23 threaded ends cut off. At that time, installation of 24 the bottom rebar layers was still in progress." 25 Now, Mr Cheung, to be fair to you, although you did</p>
Page 126	Page 128
<p>1 time that this had happened? 2 A. Yes. On the second occasion, I was surprised, because 3 he told me that there were workers who cut the threaded 4 rebar, so on the second occasion I was extremely 5 surprised, because when it first happened, on the first 6 occasion, Mr Mok asked my workers to make good. 7 I didn't know about the circumstances of the first 8 occasion, and when on the second occasion he told me 9 that workers had cut the coupler, I at once instructed 10 my workers to be careful at work and not to let this 11 happen again. 12 Q. Did you actually take steps to find out which of your 13 workers was responsible for doing this cutting? 14 A. I tried to ask my workers. None of them answered me. 15 Then I very severely took them to task, and then I found 16 the workers I considered appropriate to be responsible 17 for fixing the couplers and I also instructed all the 18 workers. I stepped up inspection, because I found that 19 unacceptable. 20 Q. All right. Can I ask you this: with regard to the first 21 occasion and/or the second occasion, did you report 22 either of those occasions to Mr Pun, your boss? 23 A. On the first incident, I felt I was competent and could 24 handle it, and I also wasn't sure what the questions 25 were in the first occasion so I didn't report. On the</p>	<p>1 not mention either of the first two incidents that we've 2 looked at to the police, nor do you mention them in your 3 witness statement, you did in fact mention this third 4 incident, I believe, to the police, see Q8 and A8 at 5 E1584.9 in the English and 1582 I think in the Chinese. 6 At Q8, it says: 7 "Have MTR and Leighton ever suggested to Fang Sheung 8 that they found bar fixing works that did not conform to 9 the required standards?" 10 You say: 11 "My impression is that in around 2016 (cannot recall 12 the exact date), Leighton suggested to us that there 13 were rebars at the D-wall (exact position forgotten) 14 which were not screwed tightly into 5 couplers, such 15 that threads were exposed", and so forth. 16 Is this the incident that Mr Mok is referring to and 17 that you've remembered and told the police? It was the 18 same one, five couplers; yes? 19 A. Yes. 20 Q. All right. So back to Mr Mok's statement. Going on to 21 paragraph 39 at 8116, he says: 22 "As before, I had Fang Sheung's workers (in this 23 occasion with the help of Leighton's direct labourers) 24 immediately replace the defective bars. I believe on 25 that occasion that at least one of the couplers had to</p>

Page 129	Page 131
<p>1 be replaced. Both MTRC's IoW and I personally 2 supervised the rectification of the work which took 3 around one to two hours. Both the IoW and I attended 4 the entire rectification process. We were both 5 satisfied with the rectification work." 6 Going down to paragraph 43, Mr Mok says this: 7 "I spoke to Joe Cheung, Fang Sheung's supervisor, to 8 explain that it was completely unacceptable that the 9 same issue had arisen three times and that, on this 10 occasion, there were five defective bars within the same 11 area. I informed him that a NCR would be issued. 12 I understand that Joe Cheung gave a briefing to his 13 workers about the issue afterwards, but I did not attend 14 and had not seen any record of this briefing." 15 Now, is Mr Mok's evidence there, in paragraph 43, 16 Mr Cheung, accurate? 17 A. It is correct. 18 Q. Thank you. Could we look, please, at the NCR. 19 Actually, why don't we just stick with the same 20 bundle that we've got here, to save going elsewhere. If 21 we go to 8134, the same bundle. 22 Sir, I'm afraid this non-conformance report appears 23 in numerous different places in the bundle. 24 Unfortunately, the documents aren't always the same, 25 there's always the odd different page.</p>	<p>1 that. 2 Q. Right. So you were shown it by the MTR when you were 3 interviewed on 13 June? 4 A. Yes, they did, they showed me the document. 5 Q. And that was the first time you saw it? 6 A. Yes. 7 Q. So you did not see it back in December 2015; is that 8 correct? 9 A. I did not see it. 10 Q. What I'd like you to do, however, Mr Cheung, is just -- 11 COMMISSIONER HANSFORD: Sorry, can we just scroll down 12 a little bit, where it says "Received by", there's 13 nothing there. 14 MR PENNICOTT: No, sir, there isn't. That's a point I was 15 going to raise with some of the witnesses a bit later 16 on. 17 COMMISSIONER HANSFORD: Thank you. 18 MR PENNICOTT: Mr Cheung, I wonder if you can help us with 19 this. If you go to C8135, so one page further on, and 20 look at the details towards the top of the page, 21 "Details of defective work". It says: 22 "Threaded bars at 3m thickness EWL slab at area C3 23 bay C3-2/C3-3, was found 5 number of threaded steel bars 24 heads -- Y40 at bottom layer which were wire cut ..." 25 By that phrase, "wire cut", Mr Cheung, I understand</p>
Page 130	Page 132
<p>1 Anyway, let's look -- sorry, 8134 in C12. This is 2 non-conformance report no. 157; do you see that, 3 Mr Cheung? 4 A. I see it. 5 Q. I suppose I should ask you this: have you seen this 6 non-conformance report before? 7 A. I haven't seen it before. 8 Q. I had a feeling you were going to say that. 9 Now, it's a non-conformance report. I accept that 10 your name, there's a typo, it says "Cheng" instead of 11 "Cheung", but my understanding is that this was sent to 12 Fang Sheung for your attention, but you're telling us 13 that you've never seen it before; is that correct? 14 A. Correct. 15 Q. So are you actually telling me and the Chairman that 16 this is the first time, this afternoon, that you've ever 17 seen this document? 18 A. No. This document, at the Commission stage, it was 19 presented to me, and why I said I haven't seen it 20 before, it's because I don't go back to the office that 21 frequently to check on my mail, but I'm aware this 22 incident occurred. 23 Q. Sorry, Mr Cheung, when was the first time you saw this 24 non-conformance report? 25 A. This NCR report, on 13 June, MTR meeting, I had seen</p>	<p>1 that to mean by the cutter, the hand-held cutter. Would 2 you agree with that? 3 A. It should be the case. 4 Q. Okay. 5 "... and hadn't screwed into couplers face to bay 6 C3-1/C3-4/eastern D-wall." 7 And then there are some photographs referred to, E1 8 to E4. 9 Could I ask you, please, just to read those two 10 lines to yourself again, because I want to ask you this, 11 Mr Cheung, as to whether you can actually identify for 12 us precisely where this happened. We can get out the 13 drawing again and get you to mark on it. I'd like to 14 know whether you can assist us with telling us precisely 15 the location at which these photographs took place. It 16 does bear a bit of thinking about, Mr Cheung. 17 I don't know whether the photographs will help you, 18 Mr Cheung, but please do look at them. 19 A. Okay. 20 Is it this location? (Indicating). 21 Q. Yes. Can you pinpoint the precise place it was taken or 22 not? 23 A. I cannot give you the precise location. I can only rely 24 on the photographs to determine whether it's C2 or C3, 25 because Mr Mok, he had our workers complete the work and</p>

Page 133	Page 135
<p>1 then notified me, so I don't really have an idea where 2 the precise location is. But I think the bay area 3 should be over here. 4 Q. All right. I just thought you might be able to hone it 5 down for us, but never mind. That's fine. 6 So, Mr Cheung, just to go back to your witness 7 statement, where you repeated on four or five occasions 8 that, to your knowledge, the rebar, threaded rebar, had 9 not been cut. Presumably, you would also now need to 10 qualify that statement or those statements by reason of 11 the three occasions, the three incidents, that I've just 12 looked at with you. Do you agree? 13 A. I agree. 14 Q. Apart from those three incidents and the cutting for the 15 purposes of the remedial works that we discussed 16 earlier, Mr Cheung, are you aware of any other cutting 17 of threaded rebar by Fang Sheung, or anybody else, on 18 this project? 19 A. I have not seen my workers cutting the threaded rebars, 20 and I know about the cutting of the eight threaded 21 rebars involving the couplers. 22 Q. The eight arising from those three occasions, three 23 incidents? 24 A. Yes, regrettably eight threaded rebars. 25 Q. Right. And, in relation to that last incident -- and</p>	<p>1 without our instruction cut short five rebars. I was 2 very angry. So I feel most regretful about this 3 incident. At once, I called all my workers for 4 a briefing. I gave them a very serious briefing because 5 it was a serious thing, because Mr Mok told me that for 6 sure an NCR, ie a warning, would be issued to me. I was 7 very angry about that matter. 8 I explained to all my workers, whenever they 9 encountered anything, if rebars could not be screwed 10 into couplers, that was not our responsibility; we 11 should leave them first and inform Leighton. Couplers 12 could be replaced and we should not rashly cut the 13 couplers and to carry out wrong steps. 14 In that briefing, I acknowledged my -- I instructed 15 my workers very seriously that should such a thing 16 happen again, they would be sacked; they would not be 17 allowed to continue to work there. I would not allow 18 such a thing to happen again. 19 Then I took a lot of measures. I personally 20 enhanced supervision. I reminded frontline, experienced 21 workers to pay extra attention to ensure that the same 22 would not happen again. And after that five threaded 23 rebars, we had improved, we had not received a second 24 warning. Similarly, MTRCL and Leighton had been more 25 than stringent in supervising us, and I believe the same</p>
Page 134	Page 136
<p>1 I acknowledge that you said you never saw the NCR -- did 2 you discuss that third incident, the December incident, 3 with Mr Pun, your boss? 4 A. I mentioned that to him. 5 Q. Okay. What was his reaction? 6 A. He was very angry: "How come such a thing could have 7 happened? I feel ashamed." Because for EWL track, when 8 it first started, the work processes were very 9 difficult. There were a lot of couplers. So I did not 10 take the matter lightly. 11 Starting from 2015, in March/April, I already 12 noticed that the installation of couplers would carry 13 a certain degree of difficulty. So, starting from slab 14 1875, I discovered damaged couplers and also misaligned 15 couplers. I was really very cautious. It's not easy to 16 work on some of the couplers. I asked engineers to core 17 the dowels and then I did a lot of measures. For 18 instance, I replaced workers with those who are reliable 19 and competent to supervise the screwing of couplers, 20 because on the second occasion I knew that threaded bars 21 were done by workers who wanted to finish the work 22 quickly, and then on the third incident Mr Mok did 23 remedial works and asked our workers to fix it, and 24 I was informed afterwards. 25 It was not until then that I knew that workers</p>	<p>1 would not happen again. 2 MR PENNICOTT: Thank you, Mr Cheung. 3 Sir, I have no further questions. It's eight 4 minutes to; perhaps that would be a convenient moment. 5 CHAIRMAN: Yes. 6 MR PENNICOTT: A meeting is taking place this evening as 7 well. 8 CHAIRMAN: Who would be the next counsel? 9 MR PENNICOTT: I'm not sure whether there's been any 10 agreement. It may be China Technology first. 11 MR SO: China Technology is happy to go first. 12 CHAIRMAN: All right. 13 Questioning by THE COMMISSIONERS 14 CHAIRMAN: Can I ask one very quick question? It concerns 15 the photographs which we had a look at yesterday. 16 Mr Cheung, I think they are the photographs taken on 17 22 September. 18 MR PENNICOTT: Six of them are, sir. One was on the 4th. 19 CHAIRMAN: That's right. 20 Could we have a look at those photographs, please. 21 MR PENNICOTT: D1/227, starting at 226. 22 CHAIRMAN: There we go. That was the first one. 23 MR PENNICOTT: If you want the closer-up, it's 228. 24 CHAIRMAN: There we go. That was the photograph we had 25 a look at, and I'm not sure of the gist of your</p>

Page 137

1 evidence, finally. Was it to the effect that whoever
2 was doing this did not appear to you to be a Fang Sheung
3 worker, from looking at the photograph?
4 A. He was not.
5 CHAIRMAN: Okay. I think what you said was that if you had
6 seen this happening, you would definitely have gone
7 across and done something about it, stopped him?
8 A. If he was a Fang Sheung worker, if I assumed that he was
9 doing something involving the coupler, I would at once
10 stop him; I would not allow that to happen.
11 CHAIRMAN: All right. But you're looking at the photograph
12 there, and although it's a moment in time only,
13 certainly the blade appears to be very close to the
14 thread; would you agree? I think yesterday you didn't
15 have a great deal of trouble saying that it appeared to
16 be cutting the thread.
17 A. Yes.
18 CHAIRMAN: That looks to you as if somebody is cutting the
19 thread?
20 A. Yes.
21 CHAIRMAN: And yesterday -- I may have it wrong and if so,
22 please forgive me -- you appeared to suggest that if you
23 had been there and seen it, you would have done
24 something, but unfortunately you were not there.
25 A. I don't know what had happened on that day. I was not

Page 138

1 there.
2 CHAIRMAN: All right. Now, again, subject to this being
3 correct, that photographs bears a time on it, and
4 I think the time is 18:18, which basically means
5 18 minutes past 6, in old-fashioned language; okay?
6 A. Yes.
7 CHAIRMAN: Then there's another photograph, if we can move
8 on, which shows -- that one there, 229 -- you, right,
9 very blurred.
10 MR PENNICOTT: And the next one.
11 CHAIRMAN: And the next one. And this one. In fact the
12 reason why the blurred one shows you, we can see, is
13 because you are carrying a bundle of sketches or plans;
14 do you see? And that photograph was taken at 18:19,
15 which on my poor mathematics means one minute later. Do
16 you see that?
17 A. Yes.
18 CHAIRMAN: In fact both those -- and in addition there's
19 another photograph of two men working and we had
20 a discussion about that. There we go. You weren't
21 sure, I think, whether they were your workers or not; is
22 that right?
23 A. I was not sure.
24 CHAIRMAN: But they appear to be involved either in placing
25 a bar or threading it into a wall or taking it away from

Page 139

1 a wall; right?
2 A. Yes.
3 CHAIRMAN: In fact, there's a wrench there right next to
4 them. That photograph was taken at 18:19 also. So that
5 if one looks just at the times -- and I appreciate they
6 can be misleading -- within a minute, there's
7 a photograph of somebody cutting a thread, there's
8 a photograph of you, and there's a photograph of two men
9 who may be your workers doing something in the corner
10 with rebars. Do you agree that would suggest that you
11 were in the vicinity, unless the photographer was very
12 agile and very fast?
13 Do you agree, on this evidence, it would appear that
14 you were in the nearby vicinity that evening when that
15 threaded rebar was either being cut or something was
16 being done to it?
17 A. I agree. I agree.
18 CHAIRMAN: Are you able to say why that particular person
19 would feel free or uninhibited, as appears to be the
20 case -- and I appreciate that only appears to be the
21 case -- to apparently cut a threaded rebar while
22 workers, namely your workers and you, are in the
23 immediate vicinity?
24 A. Chairman, they were not just our workers. There were
25 workers around as well, workers from other

Page 140

1 sub-contractors. Because the bar fixing area had many
2 workers. Some were for installing the screws, some
3 making the form boards, and some were there for
4 concreting.
5 If that was my bar fixing worker, I would stop him
6 from so doing and I would try to understand what he was
7 doing. But from that photograph, I could not see that
8 he was my worker and I didn't know what he was doing
9 there.
10 CHAIRMAN: All right. But you would agree that it appears
11 that this worker, whoever he was affiliated to, appears
12 to be going about his business, not in a hidden sort of
13 way; he's out there in an open work space, and you are
14 very close by, and he's apparently -- it's open to
15 discussion and no decision has been made on it -- but
16 he's apparently cutting the thread on a reinforced steel
17 bar, something which you say you had never seen, really?
18 A. You're referring to the picture?
19 CHAIRMAN: Yes.
20 A. This picture?
21 MR PENNICOTT: 228.
22 CHAIRMAN: No, 228. There we go.
23 A. I had seen this picture in the newspapers.
24 CHAIRMAN: What I'm saying is it appears -- and I put it no
25 higher than that -- that he is in an open area of the

Page 141

1 workspace, in close vicinity to yourself and your
2 workmen. It appears that he is cutting the threads on
3 a reinforced bar, and again "appears". No decision has
4 been made about that and we will hear full evidence in
5 due course of time. But would you agree that that is
6 the appearance, at least?
7 I'm just wondering why somebody would feel they
8 could do it openly, in close vicinity to you, if it was
9 something which really shouldn't be done and something
10 which you yourself would appreciate really shouldn't be
11 done.
12 A. This picture, I'm not sure what their intention is in
13 this picture.
14 CHAIRMAN: I'm just talking about the cutting itself.
15 A. The cutting action, what are they accomplishing?
16 I cannot describe what they are attempting to do. They
17 might be cutting the thread. They might be doing some
18 remedy work.
19 CHAIRMAN: All right.
20 A. It might not be an appropriate length and they need to
21 cut it short. If I just rely on the picture, that's all
22 I could say about the picture.
23 CHAIRMAN: All right. And I think your evidence is that you
24 couldn't be sure that he was your man anyway, and you
25 didn't know what he was doing?

Page 142

1 A. That is correct. Chairman, I'm absolutely certain what
2 I'm doing here today and I'm taking my job seriously,
3 and I take every word that I say in this Commission
4 seriously, and if I'm not sure, I cannot answer
5 haphazardly. I'm also very clear that I'm here to help
6 this Independent Commission investigate the
7 Shatin-Central Link illegal cutting of bars on a large
8 scale. I'm very clear where my mistakes in the NCR are,
9 and I'm giving you the truth, sentence by sentence.
10 Chairman, if I'm mistaken, please provide some
11 guidance.
12 CHAIRMAN: All right. Thank you very much.
13 MR PENNICOTT: Sir, sorry, we are coming to have another
14 timetable conversation for the same reasons we had last
15 night, if you recall. Poor Mr Cheung is going to suffer
16 from the same problem he did this morning --
17 CHAIRMAN: Of course.
18 MR PENNICOTT: -- because we've got Mr Rodgers from Sydney
19 tomorrow morning. As I understand it, we will be
20 starting at 10 o'clock again, with Mr Rodgers three
21 hours ahead in Sydney. Again, perhaps -- I don't think
22 I'm going to be very long with Mr Rodgers, 15 or
23 20 minutes. Perhaps we need to take some soundings from
24 other counsel as to who may wish to cross-examine
25 Mr Rodgers and see how long we are going to be in the

Page 143

1 morning, so we can indicate to Mr Cheung when he needs
2 to come back.
3 MR SO: Around 30 minutes for China Technology.
4 MR BOULDING: Sir, at the moment we don't anticipate we've
5 got any questions at all.
6 CHAIRMAN: Thank you.
7 MR KHAW: I underestimated when I said half an hour
8 yesterday, so I will try to say one hour.
9 CHAIRMAN: Good.
10 Mr Wilken?
11 MR WILKEN: Obviously in terms of evidence-in-chief, he's
12 done his witness statement so that will be minimal, and
13 as to re-examination, the usual points apply.
14 CHAIRMAN: Of course.
15 MS CHONG: I will have no questions.
16 MR PENNICOTT: So it looks about another two hours again, so
17 maybe midday again, if that's okay.
18 CHAIRMAN: Mr Cheung, we are having more evidence tomorrow
19 by way of a videolink, and so we will not require your
20 presence here until 12 noon; okay?
21 WITNESS: I'm very happy.
22 CHAIRMAN: Good. So we look forward to seeing you then.
23 And let me remind you, as I did yesterday, that while
24 you are still in the process of your evidence, you are
25 not permitted to discuss that evidence with anybody;

Page 144

1 okay?
2 WITNESS: Very clear.
3 CHAIRMAN: Thank you.
4 (5.06 pm)
5 (The hearing adjourned until 10.00 am the following day)
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15
16
17
18
19
20
21
22
23
24
25

	INDEX	PAGE
1		
2		
3	MR MALCOLM PLUMMER (sworn)	2
4	Examination-in-chief by MR SHIEH	2
5	Examination by MR PENNICOTT	4
6	Cross-examination by MR TO	16
7	Cross-examination by MR KHAW	21
8	Questioning by THE COMMISSIONERS	48
9	(The witness was released)	49
10	MR CHEUNG CHIU FUNG, JOE (on former affirmation in Puntì)	50
11	Examination by MR PENNICOTT (continued)	50
12	Questioning by THE COMMISSIONERS	136
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		