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<p>1 Monday, 12 November 2018</p> <p>2 (10.05 am)</p> <p>3 CHAIRMAN: Apologies for keeping you waiting, but what</p> <p>4 happens a lot of the time, just to explain, if there is</p> <p>5 any minor delay, is that myself and Prof Hansford have</p> <p>6 to often discuss matters, and sometimes I require his</p> <p>7 education as to questions of tension and pressure and</p> <p>8 those type of --</p> <p>9 COMMISSIONER HANSFORD: Compression.</p> <p>10 CHAIRMAN: Compression. That just shows you. Obviously</p> <p>11 I didn't have long enough this morning.</p> <p>12 Please accept our apologies for keeping you waiting.</p> <p>13 MR CHEUNG CHIU FUNG, JOE (on former affirmation in Punt)</p> <p>14 (All answers given via simultaneous interpreter</p> <p>15 except where otherwise specified)</p> <p>16 Cross-examination by MR KHAW</p> <p>17 MR KHAW: Good morning, Mr Cheung. I would like to first</p> <p>18 refer you to some photographs that we have seen in fact</p> <p>19 a number of times. If we can just have a quick look at</p> <p>20 D1/228.</p> <p>21 You remember that you have seen that picture before,</p> <p>22 right, Mr Cheung?</p> <p>23 A. Yes.</p> <p>24 Q. And also D1/232; I suppose you remember that as well?</p> <p>25 A. Yes.</p>	<p>1 because you remember that various photos were in fact</p> <p>2 taken within one or two minutes; do you remember that?</p> <p>3 A. I do.</p> <p>4 Q. And you were asked whether you were in the vicinity of</p> <p>5 the other workers who, according to your evidence, were</p> <p>6 not Fang Sheung's workers, were also working nearby at</p> <p>7 the same time; do you remember?</p> <p>8 A. Yes, I do.</p> <p>9 Q. So can you or can you not explain to us why such people</p> <p>10 that you could not really recognise were allowed to work</p> <p>11 near the place where you and other Fang Sheung workers</p> <p>12 were working?</p> <p>13 A. Because the site was very big. Many workers were</p> <p>14 working on different types of works. Fang Sheung</p> <p>15 workers were bar fixing and there were other workers</p> <p>16 present. If the site was smaller, I could see clearer,</p> <p>17 but then the site was rather big, there were different</p> <p>18 types of workers working for different sub-contractors.</p> <p>19 Q. But you were at the site, obviously, responsible for</p> <p>20 Fang Sheung's work, day in, day out. Are you really</p> <p>21 telling us that you were not able to even recognise</p> <p>22 where those workers came from, since you were working</p> <p>23 basically together?</p> <p>24 A. Because sometimes the site was dark, not properly</p> <p>25 illuminated. On my logbooks, I had three areas.</p>
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<p>1 Q. You told us, according to your knowledge, none of the</p> <p>2 workers shown in these two pictures are Fang Sheung's</p> <p>3 workers; do you remember that?</p> <p>4 A. Yes.</p> <p>5 Q. Are you aware of what people from Leighton say about</p> <p>6 these two pictures?</p> <p>7 A. I'm not.</p> <p>8 Q. We understand from the evidence of Khyle Rodgers of</p> <p>9 Leighton, also known as Santa Claus, according to what</p> <p>10 you have told us, that they actually look like</p> <p>11 Fang Sheung's workers. That's what Khyle Rodgers told</p> <p>12 us. You are not aware of such evidence from Leighton;</p> <p>13 is that right?</p> <p>14 A. No, I'm not.</p> <p>15 Q. But now you are aware of such evidence from Leighton,</p> <p>16 would you tell us whether you agree with him, you would</p> <p>17 like to change what you told us before, or you just wish</p> <p>18 to stick with what you have just told us -- what you</p> <p>19 have told us before?</p> <p>20 A. Because I can't see their faces so I can't be sure</p> <p>21 whether they are Fang Sheung workers.</p> <p>22 Q. Right. And also remember that -- I think it's on</p> <p>23 Day 14 -- last Thursday, near the end of the hearing,</p> <p>24 the Chairman raised a number of questions with you</p> <p>25 regarding the time when various photos were taken,</p>	<p>1 I inspected one area and then went to another very</p> <p>2 quickly.</p> <p>3 Q. You said the area is very big. Am I correct in saying</p> <p>4 that each bay is around 1,500 square feet to</p> <p>5 2,000 square feet, something like that?</p> <p>6 A. I couldn't say exactly. It's around 20 metres by</p> <p>7 20 metres.</p> <p>8 Q. Let's look at one question that Mr Chairman put to you</p> <p>9 on Day 14. If we can take a look at the transcript of</p> <p>10 Day 14, page 140, line 10. If we can start with</p> <p>11 Mr Chairman's question at line 10:</p> <p>12 "All right. But you would agree that it appears</p> <p>13 that this worker, whoever he was affiliated to, appears</p> <p>14 to be going about his business, not in a hidden sort of</p> <p>15 way; he's out there in an open work space, and you are</p> <p>16 very close by, and he's apparently -- it's open to</p> <p>17 discussion and no decision has been made on it -- but</p> <p>18 he's apparently cutting the thread on a reinforced steel</p> <p>19 bar, something which you say you had never seen,</p> <p>20 really?"</p> <p>21 Then your answer was:</p> <p>22 "You're referring to the picture?</p> <p>23 Chairman: Yes", 228 was the picture we had just</p> <p>24 seen. Then at the end, the chairman continues to ask:</p> <p>25 "What I'm saying is it appears -- and I put it no</p>

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<p>1 higher than that -- that he is in an open area of the 2 workspace, in close vicinity to yourself and your 3 workmen. It appears that he is cutting the threads on 4 a [reinforcement] bar, and again 'appears'. No decision 5 has been made about that and we will hear full evidence 6 in due course ... But would you agree that that is the 7 appearance, at least? 8 I'm just wondering why somebody would feel they 9 could do it openly, in close vicinity to you, if it was 10 something which really shouldn't be done and something 11 which you yourself would appreciate really shouldn't be 12 done. 13 Answer: This picture, I'm not sure what their 14 intention is in this picture." 15 Pausing here, that picture, you are referring back 16 to D1/228, ie showing a worker apparently trying to cut 17 something. Do you remember that? 18 A. I can. 19 Q. Then the chairman continued to ask: 20 "I'm just talking about the cutting itself. 21 Answer: The cutting action, what are they 22 accomplishing? I cannot describe what they are 23 attempting to do. They might be cutting the thread. 24 They might be doing some remedy work. 25 Chairman: All right.</p>	<p>1 this picture, you told us you agreed he was cutting the 2 threaded rebar of a coupler; would you agree? 3 A. When I look at the picture, it's possible that the 4 person may be cutting the thread, but the worker might 5 be doing some remedy work, because I -- 6 CHAIRMAN: Sorry, there's a difference -- bear with me -- 7 we're not talking about the purpose for which he is 8 cutting. We are talking at this moment in time simply 9 about what he appears to be cutting. Do you see there's 10 a difference? Okay. So I may go out and cut down 11 a tree for the purpose of making it a Christmas tree; 12 all right? There are two different issues: am I cutting 13 a tree, and why am I cutting a tree; do you understand 14 me? 15 A. I understand. 16 CHAIRMAN: So the first issue we're looking at is the 17 "am I cutting a tree" issue. Is this person, from what 18 you can see, in some way or another, cutting the thread, 19 cutting the thread of the rebar? 20 A. Yes. 21 CHAIRMAN: Right. Then we come to the second question: why 22 am I cutting the tree; therefore, why do you think he 23 would be cutting the thread? 24 A. Maybe the thread is wrong, it's not appropriate, or 25 perhaps he has other works.</p>
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<p>1 Answer: It might not be an appropriate length and 2 they need to cut it short. If I just rely on the 3 picture, that's all I could say about the picture." 4 Now if you can look at D228 again. Last Wednesday, 5 you told us without any difficulty that when you look at 6 the picture, you thought that the picture showed that 7 someone was cutting a threaded rebar of a coupler, but 8 on Day 14, when the Chairman asked you this question, 9 you then told us that you were not sure what his 10 intention was; you were not sure what he was actually 11 doing. 12 Can you tell us what in fact is your evidence when 13 you look at this picture? 14 A. The same. There's the possibility that he's cutting the 15 rebar. For remedy or for other purpose, I could only 16 describe so according to this paper. 17 COMMISSIONER HANSFORD: Can we blow the picture up a little 18 bit as well while we're -- that's it. Thank you. 19 Please carry on. Thank you. 20 MR KHAW: So now your evidence is that merely from looking 21 at this picture you could not be certain what he was in 22 fact doing; is that right? 23 A. Yes, correct. 24 Q. But that was retracting from what you said to us last 25 Wednesday, when you told us -- when you first looked at</p>	<p>1 COMMISSIONER HANSFORD: Sorry, Mr Cheung, why would the 2 thread be wrong? What do you mean by "the thread would 3 be wrong"? 4 A. That is my understanding. 5 COMMISSIONER HANSFORD: Sorry, I don't understand your 6 understanding. What do you mean by "maybe the thread 7 would be wrong"? 8 A. The length. 9 COMMISSIONER HANSFORD: The length, maybe the length of the 10 thread would be wrong? 11 A. That is possible. 12 CHAIRMAN: Do you mean that when it was in the threading 13 section, they made the thread too long by mistake, or do 14 you mean -- are you trying to differentiate between 15 an A bar and a B bar? 16 A. Chairman, my understanding is, if you look at the 17 picture, if they are cutting the thread, there must be 18 a purpose or intention, and if you look at the picture, 19 it seems that they are cutting a bar, and what their 20 intention is I cannot comprehend or fathom what their 21 intention is or what they want to do with the bar. 22 COMMISSIONER HANSFORD: Sorry, can I ask, is that a B thread 23 or an A thread being cut? 24 MR PENNICOTT: Sir, when I asked that question, when I asked 25 the witness questions, we were actually told it was</p>

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<p>1 a B thread, because the suggestion I made to the witness 2 was that it was an A thread; you've just got to count 3 the threads as best you can on the blown-up picture. It 4 certainly doesn't look long enough to be a B thread. 5 I can't remember now precisely what his answer was, but 6 I did ask that question. 7 COMMISSIONER HANSFORD: Sorry, yes. 8 CHAIRMAN: Thank you. 9 MR KHAW: Mr Cheung, would you agree that whatever the 10 reasons would have been for him to cut the threaded 11 rebar of a coupler, would you agree with me that, 12 according to your knowledge, it would be rare for 13 a worker to do so on the site; would you agree? 14 A. That is correct. 15 Q. So, back to what the Chairman asked you the other day, 16 were you surprised to see, from this picture, that 17 a worker was apparently cutting a threaded rebar, 18 a coupler, without anyone trying to stop him; he could 19 openly do it? 20 A. Yes. 21 Q. Again, since you were working in the vicinity where 22 those workers were also working, it seems quite 23 surprising for you to now tell us that you were not even 24 aware of where they actually came from, those workers, 25 where they actually came from.</p>	<p>1 couplers and putting them on to tape A couplers; that's 2 what you heard from the workers. Remember that? 3 A. I heard the workers discuss this subject. I never heard 4 them do that kind of work, but I had heard what you 5 said. 6 Q. Are you aware of Leighton's evidence in this regard? 7 A. I'm not sure. 8 Q. According to Leighton's evidence, they totally disagree 9 with you. According to Khyle Rodgers' evidence, it's 10 simply unnecessary to do such an act. 11 Would you now stick to what you said before, about 12 these type A and type B couplers, or you agree with 13 Leighton? 14 A. I would agree it's very rare to cut the B coupler and 15 modify it to an A coupler. 16 Q. Over the past few days before the weekend, you have 17 already told us about the details of the three bar 18 cutting incidents in 2015; do you remember that? 19 A. I recall that. 20 Q. I won't be going into the details in this regard, but 21 I have just one or two questions arising from those 22 incidents that I wish to discuss with you. 23 Do you remember that last Friday, in response to 24 Mr Chairman's question, you agreed that during the MTR 25 interview on 13 June this year, and also while you were</p>
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<p>1 A. That is correct, because at the construction site, 2 Fang Sheung workers, there are more than a dozen 3 Fang Sheung workers. If you include other workers -- we 4 also have other workers from other sub-contractors, so 5 there might be some 30-plus people. 6 Q. Yes, but Fang Sheung was the only sub-contractor 7 responsible for carrying out bar fixing work; is that 8 right? 9 A. Yes, correct. 10 Q. Did Fang Sheung sub-contract any work to any 11 sub-sub-contractors? 12 A. No. 13 Q. And were you aware of any occasions where the labourers 14 employed by Leighton were responsible for carrying out 15 bar fixing work together with Fang Sheung on the site? 16 A. They were doing the remedy works for the couplers, 17 cleaning works, and we also mentioned some couplers 18 weren't installed, they would remedy those; they would 19 do that kind of work. 20 Q. Another issue. You recall your evidence that you heard 21 your workers talk about cutting the threaded rebars of 22 type A couplers and screwing them into type -- sorry, 23 type B couplers -- sorry, I will repeat. 24 You recall your evidence that you have heard workers 25 talk about cutting the threaded rebars of type B</p>	<p>1 giving the police statement on 3 September this year, 2 you were not being completely truthful and honest, as 3 you failed to disclose the details of the bar cutting 4 incidents in 2015. Do you remember that? 5 A. Yes, I recall. 6 Q. You accepted that you felt guilty, you felt embarrassed, 7 and you wanted to avoid those issues; do you remember 8 that? 9 A. Yes. 10 Q. I believe you should also agree with me that naturally, 11 when you were interviewed by the MTR in June and when 12 you gave your police statement in September this year, 13 you were concerned and worried that if you disclosed the 14 details of the three incidents, Fang Sheung might be 15 held responsible for the bar cutting which was widely 16 reported in the media at that time? 17 A. Because I feel the three incidents and the other five 18 incidents, it was remedied very quickly and the 19 components were re-installed, so I didn't believe it was 20 a question, it was a problem. 21 Q. No. This is not what you told us last week. Now you 22 said -- 23 A. (Chinese spoken). 24 Q. -- at that time that you did not believe it was 25 a problem, ie you did not believe that the bar cutting</p>

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<p>1 incidents in 2015 constituted any problem because they 2 were rectified quickly. This is what you just told us; 3 right? 4 A. That's incorrect. It is -- the three incidents and five 5 incidents were also not proper. 6 Q. Listen to my question carefully. My question early on 7 was: you admitted to us last Friday that during the MTR 8 interview, during your interview with the police, you 9 did not disclose the details of the 2015 bar cutting 10 incidents, because you felt guilty, you felt 11 embarrassed, and you wanted to avoid the issues; do you 12 confirm that? 13 A. That is correct. 14 Q. So my next question is: you were worried or you were 15 concerned at that time -- when you were doing the MTR 16 interview, when you were doing the police interview -- 17 that if you disclosed too much, Fang Sheung might be 18 held responsible for the bar cutting incidents -- is 19 that something which was on your mind at that time? 20 A. No. 21 Q. So you never worried? 22 A. Yes -- the level of concern wasn't as severe or as broad 23 a range as the lawyer described just now. 24 Q. You told us you wanted to avoid the issues; do you 25 remember?</p>	<p>1 not want them to think that Fang Sheung was responsible 2 for large-scale bar cutting; is that what was on your 3 mind? 4 A. Yes. 5 Q. Thank you. Were you also concerned that if you disclose 6 more, probably it was not just a question as to whether 7 Fang Sheung might be responsible for large-scale bar 8 cutting; that would also involve individuals in charge 9 of Fang Sheung, including yourself? Would you agree? 10 A. Agree. 11 Q. Would you now agree with me that it was the same concern 12 and worry which made you decide not to disclose the 13 details of the three bar cutting incidents in 2015, when 14 you made your witness statement to this Commission on 15 27 August this year? 16 A. Yes. 17 Q. Mr Cheung, now you are sitting here giving your oral 18 testimony, five months after the MTR interview, more 19 than two months after the police interview, and also 20 after you made your witness statement to the Commission. 21 Are you or are you not still having the same concern 22 or worry? 23 A. Yes. 24 Q. But are you telling us that now you agree to tell us the 25 whole truth and nothing but the truth?</p>
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<p>1 A. Yes. 2 Q. The issues that the MTR staff and the police were 3 discussing with you, obviously, related to why there was 4 bar cutting on the site, as reported in the media? 5 A. Yes. 6 Q. So, when you said you wanted to avoid the issues and 7 hence you did not disclose the 2015 bar cutting 8 incidents -- 9 A. (Chinese spoken). 10 Q. -- am I correct in saying you did not want them to 11 target Fang Sheung as the subject of the investigation; 12 is it a fair way of putting it? 13 A. I don't. I don't agree that Fang Sheung is targeted as 14 the subject of investigation. 15 Q. So what issues were you trying to avoid at that time? 16 A. Because I was afraid that there would be the 17 misunderstanding that Fang Sheung would be blamed for 18 massive cutting of rebars, because according to reports 19 it was done massively and also systematically. 20 Q. Mr Cheung, that's exactly what I asked. The police and 21 MTR were investigating about whether there was 22 large-scale bar cutting; right? 23 A. Yes. 24 Q. You did not want to disclose the three incidents, the 25 details of the three incidents, in 2015 because you did</p>	<p>1 A. Yes. 2 Q. Mr Cheung, you told us a lot about the actions you took, 3 the motions you went through, as a result of the three 4 bar cutting incidents found in 2015. According to your 5 evidence, you found the workers -- by using your own 6 words -- selfish and reckless, to the extent that you 7 believe that their integrity was in question. Do you 8 remember that? 9 A. Yes, I do. 10 Q. And you also told us that in fact you feel ashamed of 11 what happened; do you remember that? 12 A. Yes, I do. 13 Q. You also told us that you found that those workers make 14 their own decisions without any authority or permission; 15 do you agree that? 16 A. I do. 17 Q. But you recall that during the MTR interview -- I don't 18 need to trouble you to look at the record -- but you 19 agree with me that during the MTR interview, you 20 emphasised time and again that your workers would never 21 cut the threaded rebars without permission or authority 22 to do so; agree? 23 A. I do. 24 Q. I would like you to just ask you to take a look at one 25 answer you gave near the end of the hearing last Friday,</p>

<p style="text-align: right;">Page 17</p> <p>1 Day 15, page 98, line 5, when Mr So asked you about 2 whether it was not just reckless, it is fraud. Let's 3 not talk about fraud. Let's not talk about that for the 4 time being. Let's focus on your answer at line 8: 5 "My position is they are trying to do some 6 short-cuts, they want to help out the company, but the 7 procedures or the actions that they [have taken] are 8 mistaken. It's because they don't understand that the 9 company has other problems. The problems are when they 10 cannot attain workmanship. They don't need to take that 11 kind of risk to meet with the project deadline. They 12 should instead seek out the management and clarify 13 whether it was necessary to take the threaded end and 14 cut it, just for convenience sake, to make progress in 15 the project." 16 Here you also told us that it was your finding that 17 the workers were trying to do short-cuts; they were 18 trying to help the company, but their actions were 19 wrong. That's the findings that you made after your 20 investigation; right? 21 A. Yes. Yes. Correct. 22 Q. It was also your finding, as a result of your 23 investigation, that the workers' actions actually 24 related to the risk that they deliberately took in order 25 to meet with the project deadline; right?</p>	<p style="text-align: right;">Page 19</p> <p>1 a schedule, but that there was nevertheless pressure to 2 get the work done. 3 A. They might want to help the company to complete the 4 works faster. For pressure, workers didn't have any 5 pressure. We were responsible for providing workers. 6 Workers did not have to be responsible for anything, so 7 they didn't have any pressure. 8 MR KHAW: But the workers were obviously aware of the 9 schedule regarding the project while they were working 10 on the site; right? 11 A. They wouldn't be too clear about that. 12 Q. If we now go back to your answer that we just saw, when 13 you said, "They don't need to take that kind of risk to 14 meet with the project deadline." Are you now trying to 15 tell us that in fact it has nothing to do with the 16 project deadline? 17 A. Nothing to do with it, because we all knew that the 18 operation of the site was in a rush, but the exact date 19 for the works to be completed was rarely known to 20 workers. 21 Q. You remember -- 22 CHAIRMAN: Sorry -- but everybody knew, to use your own 23 words, the operation was in a rush? 24 A. Yes. 25 CHAIRMAN: In other words, there was some pressure to get</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Well, the project deadline -- in fact, workers were not 2 aware of the project deadline. I wouldn't believe that 3 they did it deliberately. Rather, our workers were not 4 clear that if workers could not be done they should have 5 come to me or Leighton, they shouldn't have taken their 6 decision for the sake of convenience and recklessly cut 7 the threaded rebars. 8 Q. Am I right in saying that as a result of your 9 investigations, you knew that one of the reasons why the 10 workers had to cut the threaded rebars was that they 11 wanted to catch up with the schedule of the project? Is 12 that what you understood to be the case? 13 A. The schedule of the project, it was not for workers to 14 catch up with the schedule. I think, for some reason, 15 they could not screw the couplers and they didn't 16 contact myself or the foremen, because if that could be 17 done, perhaps the couplers were damaged and they should 18 be replaced and if there was something wrong with the 19 rebars, they could tell the company and replace the 20 rebars. I believe these were the reasons for the 21 workers to do it -- to make the decision to do it on 22 their own and for the sake of convenience. 23 CHAIRMAN: But were the workers not aware, from time to 24 time, that there was pressure on them getting the work 25 done? I'm not talking about the knowledge of</p>	<p style="text-align: right;">Page 20</p> <p>1 the work done? 2 A. Correct. 3 MR KHAW: Do you recall it was also your evidence last 4 Thursday -- you told us that you decided to replace some 5 workers with those who were, again according to your own 6 words, more reliable and competent to supervise the 7 screwing of couplers; do you remember that? 8 A. Yes, I do. 9 Q. So you obviously knew who were or at least who might be 10 responsible for the unlawful bar cutting acts, and hence 11 you found that there was this need to replace them; 12 right? 13 A. No. I replaced workers with those who were more 14 responsible and were stronger to screw in the couplers. 15 Q. So, after your investigation, after going through so 16 much emotion about those bar cutting incidents, you were 17 not even able to identify who were the workers 18 responsible for the bar cutting incidents; is that what 19 you are telling us? 20 A. I couldn't find them, because when I instructed the 21 workers, I told them again, perhaps some of them did not 22 respond to my question. 23 Q. Having gone through what you told us on your findings of 24 the bar cutting incidents in 2015, I'm afraid you have 25 left a big question mark on everyone's mind and I want</p>

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<p>1 you to help us on this.</p> <p>2 A. Yes.</p> <p>3 Q. That is why and in what circumstances did the workers</p> <p>4 need to cut the threaded rebars of the couplers in those</p> <p>5 incidents; why?</p> <p>6 A. Perhaps the couplers were damaged, chipped, or there</p> <p>7 might be concrete debris in there and the couplers had</p> <p>8 to be replaced.</p> <p>9 Q. Mr Cheung, don't start with "perhaps" or "possibly".</p> <p>10 A. (In English) Okay.</p> <p>11 Q. You must know what happened by now; right? You must</p> <p>12 know. Don't tell us all the possibilities as to what</p> <p>13 happened. I want you to tell us frankly and honestly,</p> <p>14 since you promised us to do so, what actually happened.</p> <p>15 A. If the coupler was damaged, if there was a dent, they</p> <p>16 couldn't install the bar.</p> <p>17 Q. That's one reason?</p> <p>18 A. Yes.</p> <p>19 Q. That's what the workers told you?</p> <p>20 A. It is something that I determined myself, that the</p> <p>21 coupler was damaged, it was dented, and they couldn't</p> <p>22 install the bar.</p> <p>23 Q. Did the workers or any of the workers ever tell you that</p> <p>24 this was one of the reasons? Don't speculate. Don't</p> <p>25 imagine. I want to know what you knew from the workers.</p>	<p>1 the findings you made, and now you are trying to tell us</p> <p>2 that in fact you know nothing about the cause of the</p> <p>3 problem. Is there something you are trying to hide from</p> <p>4 us?</p> <p>5 CHAIRMAN: In fairness, he doesn't say, "I know nothing."</p> <p>6 He says, "I wasn't told anything directly but I have</p> <p>7 drawn my own conclusions."</p> <p>8 MR KHAW: Thank you.</p> <p>9 A. Because in the first incident, Mr Mok just told me</p> <p>10 briefly and I didn't take special notice that there was</p> <p>11 cutting of threaded bar. The second time Mr Mok told me</p> <p>12 about the cutting of bars I was surprised, then I was</p> <p>13 made aware of the incident and then I related the</p> <p>14 incident back to my workers.</p> <p>15 So the procedure started with Mr Mok telling me.</p> <p>16 Mr Mok also contacted my workers very quickly and</p> <p>17 remedied the situation.</p> <p>18 So, in the first instance, I didn't think it was</p> <p>19 a big problem, and on the second occasion I realised the</p> <p>20 gravity of the situation and I reprimanded my workers.</p> <p>21 I wanted to find the reason and answer and what caused</p> <p>22 the issue, but none of the workers responded.</p> <p>23 Q. Right. So did you then make enquiry with Edward Mok of</p> <p>24 Leighton as to "What actually happened, what went wrong;</p> <p>25 do you know?"</p>
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<p>1 A. It was dented, the coupler was dented, it was damaged,</p> <p>2 they couldn't screw in the bar, and the distance between</p> <p>3 the couplers was too close, they couldn't do the job.</p> <p>4 Q. That is what they told you during the investigation?</p> <p>5 A. No. It's during our daily work.</p> <p>6 Q. Please, please try to help us; okay?</p> <p>7 A. Mmm.</p> <p>8 Q. You made a lot of investigations. You were able to tell</p> <p>9 us all the findings you made as a result of</p> <p>10 investigation regarding those three bar cutting</p> <p>11 incidents in 2015. Don't tell me what you knew from the</p> <p>12 routine work procedure or what you imagine, et cetera.</p> <p>13 During the investigation with the workers, did they tell</p> <p>14 you that this was one of the reasons for them to cut the</p> <p>15 rebar, the threaded rebar?</p> <p>16 A. No. No, the workers did not respond.</p> <p>17 Q. Right. Nobody answered you as all as to why they did</p> <p>18 it?</p> <p>19 A. No.</p> <p>20 Q. Did you ask them, "Hey, if there were problems on the</p> <p>21 site, how come you didn't ask me, how come you didn't</p> <p>22 ask Leighton in advance to solve the problems?"</p> <p>23 A. When the three incidents occurred I reprimanded the</p> <p>24 workers, but none of them responded.</p> <p>25 Q. Isn't that somewhat strange, Mr Cheung? You told us all</p>	<p>1 A. Mr Mok just told me on the second occasion that some</p> <p>2 worker cut one and two couplers and they contacted our</p> <p>3 workers to remedy the work.</p> <p>4 Q. So both you and Mr Mok, during your conversations, did</p> <p>5 not actually discuss what was the cause of the problem;</p> <p>6 is that right?</p> <p>7 A. We did not.</p> <p>8 Q. So earlier on you were trying to tell us the conclusion</p> <p>9 that you tried to draw from your investigation. Can you</p> <p>10 tell us, as a result of the investigation, what</p> <p>11 conclusion you can draw as to why the workers would have</p> <p>12 taken their own initiative to cut the threaded rebars if</p> <p>13 they were not instructed at all to do so? Would you be</p> <p>14 able to draw any conclusion on that?</p> <p>15 A. They were trying to cut corners, they couldn't do the</p> <p>16 job, and they didn't seek my permission. They did it on</p> <p>17 their own initiative and did it first and asked</p> <p>18 questions later.</p> <p>19 CHAIRMAN: You would agree, of course, that this was not</p> <p>20 something that you could do almost incidentally? In</p> <p>21 order to do this, you would have to get hold of</p> <p>22 a cutter, you would have to take the cutter to the bar,</p> <p>23 and you would have to cut it, at a time when supervisors</p> <p>24 were not looking; would you agree? So it would have</p> <p>25 been a concerted set of actions by the workers?</p>

Page 25	<p>1 A. Well, if the five NCR were correct, then you could say 2 so, you could put it that way. 3 COMMISSIONER HANSFORD: I don't understand that answer. 4 What do you mean, "If the five NCRs were correct"? 5 A. No, no, no. The five NCRs, the workers did it 6 recklessly. 7 COMMISSIONER HANSFORD: Sorry, Mr Cheung, the Chairman's 8 question to you was, even just on these five bars 9 related to this NCR, to have cut these bars would have 10 had to be a concerted effort; they would have had to 11 collect the band saw, they would have had to remove the 12 bars, they would have had to cut the thread from the 13 bars, and then they would have had to insert them back 14 again. So the Chairman's question is: that was quite 15 an effort; do you agree? 16 A. I agree. 17 COMMISSIONER HANSFORD: Thank you. 18 A. So the five bars that were reported in the NCR, I told 19 the workers, "That is very stupid, because each thread 20 you cut, it takes time, and it's not necessary to 21 undertake extra work that takes extra time. So, if you 22 encounter any problems, you should consult the foreman, 23 and if there's a defective coupler you should replace 24 it", so I explained to my workers, "In the future do not 25 take these kinds of actions because it is very stupid;</p>	Page 27	<p>1 been rectified and they hoped they could fool the 2 inspectors." 3 Mr Pun's answer was: 4 "(Via interpreter) I think the MTR had discovered 5 and that's what had happened." 6 Pausing here, the question was -- indeed, in fact, 7 it was agreed by Mr Pun -- that when the workers were 8 doing bar fixing work, they discovered that the 9 reinforcement bars were installed -- or I should put it 10 this way: they discovered that the reinforcement bars 11 were too congested; okay? Were you aware of this 12 problem as a result of your investigation regarding the 13 three bar cutting incidents in 2015? 14 A. No. Mr Pun, that was just a personal opinion in 15 a discussion. He was not clear about this issue. 16 Q. Were you aware of any incident where you were told or 17 you discovered yourself that either the reinforcement 18 bars or the exposed couplers were too congested? Were 19 you aware of any such incident? 20 A. No. 21 Q. Never? 22 A. No. 23 Q. So you have no idea why Mr Pun would agree with the MTR 24 staff in relation to that particular question; is that 25 what you are trying to tell us?</p>
Page 26	<p>1 it wastes time." 2 MR KHAW: Mr Cheung, you told us that you managed to draw 3 a conclusion that the workers cut the threaded rebars 4 because there were problems with the couplers; right? 5 A. I'm not sure about that. You'll have to ask Mr Mok. 6 Q. If there were problems in their work, would you agree 7 that remedial work could have been done by Leighton 8 easily and quickly? 9 A. I agree. 10 Q. So were you surprised when you realised that the workers 11 even did not find it necessary to ask Leighton to do any 12 remedial works, and instead they made their own 13 decisions to cut the rebars? 14 A. I was surprised why they were so stupid. 15 Q. If I could now take you to just one short passage in 16 Mr Pun Wai Shan's MTR interview. B5/3082.7. It's in 17 Chinese. I will read it out to you and then we will get 18 it translated. 19 The question was, in the middle: 20 "(Via interpreter) That is the workers, when they 21 were doing the bar bending, they found out that it was 22 too closely bunched together and they weren't able to 23 use a clamp to screw the bars in. So they would rather 24 cut it off and they would measure the length and pretend 25 that they couldn't see it or make it as though it had</p>	Page 28	<p>1 A. Yes, I'm not sure why he said that in this statement. 2 Q. So, from your conclusion again, as a result of the 3 investigation, did anyone gain any advantage from the 4 bar cutting act? 5 A. There's no benefit. In fact, there are disadvantages. 6 CHAIRMAN: Would you agree, however, that there can be 7 occasions when it's quicker to simply cut the thread and 8 to install that cut thread into the face of the coupler 9 than it is to contact Leighton and ask for remedy work 10 to be done; for example, to cut out the coupler 11 entirely, to reset it, to put epoxy resin around it and 12 to let it dry? 13 A. No. No. I disagree. If one threaded rebar was cut to 14 screw into the coupler, what was the reason for cutting 15 the rebar? If the coupler was damaged and it couldn't 16 be done, then it's not our responsibility. We could ask 17 Leighton to replace the coupler. If the bar fixing 18 workers cut the threaded rebar for installation, first 19 it might not be done and it would be found out and it's 20 a waste of time, there would be no benefit, and if it 21 was found, they had to do it again. So it was not 22 necessary to cut the threaded rebar, because cutting it 23 was wrong in the first place and it would not 24 necessarily help you to install that into the coupler. 25 CHAIRMAN: In your earlier evidence, you said -- I think you</p>

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<p>1 said -- that there were instances when you would contact 2 Leighton, and Leighton would seek a remedy, and your 3 understanding was that with Leighton's consent, your 4 workers would cut the thread on the rebar, just so that 5 it would look good temporarily and pass the inspector's 6 inspection. Is that correct? 7 A. Yes, I did say so. 8 CHAIRMAN: That's your memory of events, is it? 9 A. Yes. 10 MR KHAW: Mr Cheung, I will probably try just one more time 11 and then I will move on to another topic. 12 A. Okay. 13 Q. You are giving evidence at this hearing; you promised us 14 that you will be telling us the whole truth. Now, in 15 view of all the findings that you have made as a result 16 of the 2015 bar cutting incidents, are you now telling 17 us that up to now, up till now, in fact you have still 18 been unable to find out what was the actual reason or 19 need for the bar cutting incidents? Is that your 20 evidence? 21 A. Yes. Correct. 22 Q. I asked you earlier that during your interview with the 23 MTR staff, you told MTR that the workers would never, 24 ever cut the threaded rebars without Leighton's prior 25 approval or instruction. Do you still abide by what you</p>	<p>1 Mr Khaw is going to ask you questions about the dowel, 2 so I'll allow that to happen. You were talking to us 3 last week about remedial works that were carried out by 4 Leighton at locations where proper coupler connections 5 could not be made, and you told us that they would be 6 dowels, and the dowels would be connected with, I think 7 you said PE500, which I assumed to mean epoxy resin. 8 A. RE500. 9 COMMISSIONER HANSFORD: Thank you, RE500, which I assumed to 10 mean epoxy resin. And my question is: are you able to 11 tell us the diameter of these dowels and the length of 12 these dowels, or is that a question for someone else? 13 A. The length of dowel bars -- well, that depends on the 14 type of bar it was. There could be T40, then, as far as 15 I know, T40 had to have 2 metres in length. 16 COMMISSIONER HANSFORD: 2 metres in length? Wow. That 17 is -- 18 A. Using the length of the lapped bar. 19 COMMISSIONER HANSFORD: Thank you. 20 MR KHAW: If I can ask you to take a look at one of your 21 answers in this respect. Day 14's transcript, page 134, 22 line 11: 23 "Starting from 2015, in March/April, I already 24 noticed that the installation of couplers would carry 25 a certain degree of difficulty. So, starting from slab</p>
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<p>1 said to the MTR staff? 2 A. Yes. 3 Q. Let's move on. Regarding the issue in relation to the 4 insertion of a dowel, ie coring the dowel, you have been 5 asked extensively on this issue and I am not going to 6 dwell on it -- 7 CHAIRMAN: Could I just, for clarity -- a dowel is a term of 8 art or a construction term. What it be right to say, as 9 I put it rather oddly the other day, that effectively 10 it's a steel bar? 11 MR KHAW: Yes. 12 CHAIRMAN: It's not a specialised coupler or something like 13 that; would that be right? 14 MR KHAW: I believe so. Maybe I can just ask Mr Cheung to 15 clarify that. 16 COMMISSIONER HANSFORD: At some stage, I'd also be 17 interested to know the diameter of these dowels and the 18 length of these dowels, but maybe that's not a question 19 for you, Mr Cheung. 20 Do you know the diameter and lengths of the dowels 21 that were used? 22 A. If we are not talking about coupler rebars -- well, 23 there are standards for the dowel bars. Are you talking 24 about that? 25 COMMISSIONER HANSFORD: No, I'm talking -- I know that</p>	<p>1 1875, I discovered damaged couplers and also misaligned 2 couplers. I was really very cautious. It's not easy to 3 work on some of the couplers. I asked engineers to core 4 the dowels and then I did a lot of measures," et cetera, 5 et cetera. 6 First of all, if we can pause here, you said you 7 asked engineers to core the dowels. Are you referring 8 to the engineers of Leighton? 9 A. Correct. 10 Q. Who were they? Can you name them? 11 A. I can't, because the engineer left. 12 Q. Any engineers from MTR involved? 13 A. From Leighton. 14 Q. And who decided the location of the cores? 15 A. These cores, the positions were decided by Leighton 16 engineer. 17 Q. They would make decisions on the location and they 18 approved it, without having to consult you; right? 19 A. No need. 20 Q. Who provided the RE500 resin? 21 A. Also Leighton, because for the remedy works, including 22 placing of the dowel and RE500 was done by Leighton. 23 Q. I suppose they would also be installed by Leighton 24 workers; right? 25 A. Yes.</p>

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<p>1 Q. And the size, the diameter, et cetera, the details, the 2 specifications of the steel bars, what we call the dowel 3 bars, would also be decided by Leighton; is that right? 4 A. Yes, correct. 5 COMMISSIONER HANSFORD: Could I just supplement that, 6 please, Mr Khaw -- and the depth of the core, the depth 7 of the drilling -- do you know how deep the cores were 8 into the concrete? 9 A. I don't. They were -- Leighton engineer would tell 10 their workers how deep to core the hole and for adding 11 RE500. After they were done with the remedy works, we 12 then came back and then do the bar fixing. 13 MR PENNICOTT: Sir, there is evidence that the depth was 14 either 650 millimetres or 540. 15 COMMISSIONER HANSFORD: Thank you. 16 MR KHAW: So, in relation to the work for coring the dowels, 17 one can simply say that all the work procedures were 18 done by Leighton? 19 A. Yes. 20 Q. If I can then ask you to just take a look at one of your 21 answers given again on Day 14, page 111, line 19, 22 starting from Prof Hansford's question. The professor 23 said: 24 "Sorry, I still don't understand, because -- I don't 25 understand why it needs to be cosmetically acceptable,</p>	<p>1 Commissioner Hansford: Sorry to labour my point, 2 but the explaining would be there is a dowel there, 3 replacing the coupler. Is that not an easy explanation? 4 Answer: My description was there might be such 5 a procedure." 6 I don't quite understand your answer here, 7 Mr Cheung. What do you mean? 8 A. My description is the same as my previous responses. 9 That is, if there was coring and installing a dowel to 10 replace the rebar, the coupler, and if Leighton 11 instructed the workers to cut the coupler and fill up 12 the hole, I think that is appropriate because you still 13 have two/three threads of space in the coupler that you 14 could use and why don't you use it; that is my opinion. 15 Q. Then if we move on -- 16 CHAIRMAN: Sorry, I do apologise. Again, it's quite 17 important that we don't have a misunderstanding here, so 18 I'm going to labour the point very slightly. 19 Would it be correct to say this: your worker 20 complains that a coupler has been damaged? 21 A. Yes. 22 CHAIRMAN: You go to Leightons? 23 A. Yes. 24 CHAIRMAN: Leightons decide to put in a dowel, which is 25 a steel rod?</p>
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<p>1 because surely the answer is, 'But that coupler is not 2 needed because there's a dowel in there now, and that 3 dowel is replacing the coupler.' That would be the 4 answer to anybody that asked a question about it. So 5 why are we worried about cosmetics? 6 Answer: Because the question I was asked was under 7 what circumstances would we cut the coupler and install 8 a coupler, and my description was what I thought would 9 happen, would occur." 10 It seems to me that you did not directly answer the 11 professor's question here. The question was why was it 12 necessary to make it cosmetically acceptable? Can you 13 tell us now? 14 A. Yes, because there were two circumstances. Sometimes 15 the density of the slab and the density of the tie might 16 be different, and the site situation might be different. 17 Q. Right. Let's move on to look at the transcript here. 18 Then the professor said: 19 "Okay, I think I'll leave it there. Thank you. 20 Chairman: But by 'pretty' or 'looking right' what 21 you mean is an inspector might see the threads and say 22 this hasn't been put in properly, and then you have 23 a lot of explaining to do and delay; is that what you 24 are saying? 25 Answer: Yes, Chairman."</p>	<p>1 A. Yes. 2 CHAIRMAN: You have to, however, drill a core hole for the 3 dowel to go into? 4 A. Yes. 5 CHAIRMAN: The dowel is then put into that core and it is 6 secured with some form of epoxy resin? 7 A. Yes. 8 CHAIRMAN: That is then secured, but what you are still left 9 with is a loose end to the rebar, and you decide that 10 you might as well put that into the coupler, insofar as 11 it will go. 12 A. Yes. 13 CHAIRMAN: But it won't go that far and in fact may not go 14 in at all if you don't cut the thread. 15 A. Yes. 16 CHAIRMAN: So you cut the thread, if necessary, and it just 17 goes in a little bit into the coupler? 18 A. Yes. 19 CHAIRMAN: So what you then have is you have the dowel going 20 in, secure, and next to it you have the rebar appearing 21 to go into the coupler, or perhaps going into the 22 coupler, but not to the full extent? 23 A. That is correct. 24 CHAIRMAN: And then, when the inspector comes along, the 25 inspector sees the dowel and next to it the rebar?</p>

Page 37	1 A. That is correct. 2 CHAIRMAN: And no need for any questions? 3 A. You can say that, but, Chairman, I have to repeat, this 4 is what -- when the MTR asked me in the interview what 5 kind of scenarios would lead to cutting of the threaded 6 rebar and why we would install the defective coupler, 7 I stated very clearly that if there was coring and 8 inserting of a dowel and if necessary Leighton could 9 instruct our workers to do that and fill in the hole, 10 but I did not see my workers and in my recollection that 11 did not happen. 12 CHAIRMAN: So you're saying that this particular type of 13 operation that I have described is not one that you 14 heard Leighton instruct or is one that you actually saw 15 your workers doing? 16 A. That is correct. 17 CHAIRMAN: So are you saying that, as far as you are 18 concerned, because this is your estimation only and not 19 based on any factual basis, that there might not in any 20 place be a dowel with the rebar next to it only 21 partially inserted? That may never have in fact taken 22 place? 23 A. Yes, correct. 24 COMMISSIONER HANSFORD: So, Mr Cheung, the dowel solution 25 that you've been telling us about, is that just	Page 39	1 have a lot of constraints, so they have to use couplers 2 to allow the works to be completed as soon as possible. 3 And in some locations where they don't use couplers, it 4 would be impossible for us to do our work. 5 CHAIRMAN: I appreciate that. I'm just thinking, from your 6 perspective, as opposed to a design perspective, you 7 hadn't come across this many couplers before? 8 A. That's correct, no. 9 MR KHAW: Just to follow up on your answer to 10 Prof Hansford's question, that is whether you in fact 11 witnessed the cutting -- the dowel solution was in fact 12 a theoretical one, and whether you actually witnessed 13 the happening of the same. Now, your answer was 14 drilling a core and inserting a dowel, that had 15 occurred, according to what you have seen, and cutting 16 the couplers and installing of defective couplers, that 17 you never witnessed? 18 A. I did not. 19 Q. So, just to make it plain, your evidence is that you 20 were never aware of a particular incident where a dowel 21 was used to remedy a defective coupler; is that what 22 you're trying to tell us? 23 A. No. I have seen it. 24 Q. Sorry, I just -- 25 A. Because I detected there were couplers, and the location
Page 38	1 a theoretical solution? Is that just what you are 2 telling us would be a way of dealing with this problem, 3 or did it actually happen? I'm still very confused on 4 this point. 5 A. Drilling a core and inserting a dowel, that had 6 occurred, and cutting the couplers and installing 7 a defective coupler, that I did not witness and I did 8 not see myself. 9 COMMISSIONER HANSFORD: Right. Thank you. 10 CHAIRMAN: Could I ask just one question here -- thank you. 11 We have heard from a couple of sources that this was 12 a difficult contract. 13 A. Yes. 14 CHAIRMAN: And we have heard that for some people, the very 15 large number of couplers was something that they had not 16 encountered before. 17 A. Yes. 18 CHAIRMAN: What's your view on that? Had you encountered 19 a contract before with this many couplers? 20 A. No. 21 CHAIRMAN: And would you have considered this contract to be 22 a difficult one? 23 A. Yes. 24 Chairman, allow me to elaborate. This engineering 25 contract, why is it complex? Because in the cage they	Page 40	1 of the coupler did not allow me to finish my bar bending 2 work, so I had to inform Leighton, and Leighton chose to 3 drill a core and insert a dowel. 4 Q. Sorry, so in response to the professor's question, that 5 was not a theoretical solution; in fact, it was 6 a practical solution that you have seen and which has 7 been used on the site; right? 8 A. Yes, correct. 9 Q. I just want to make this absolutely clear. Going back 10 to the chairman's question, page 37, you can see: 11 "So you're saying that this particular type of 12 operation that I have described is not one that you 13 heard Leighton instruct or is one that you actually saw 14 your workers doing? 15 Answer: That is correct. 16 Chairman: So are you saying that, as far as you are 17 concerned, because this is your estimation only and not 18 based on any factual basis, that there might not in any 19 place be a dowel with the rebar next to it only 20 partially inserted? That may never have in fact taken 21 place? 22 Answer: Yes, correct." 23 So I'm just wondering whether that in fact took 24 place or not. Can you clarify that? 25 A. The situation the chairman described was the bar was cut

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<p>1 and installed onto the defective coupler. I had not 2 seen that, that had not happened; whereas drilling 3 a core and inserting a dowel, that had happened, and it 4 is a very normal, typical work in a construction site. 5 Q. In that case, may I take you to have a look at what you 6 told the MTR staff at the MTR interview in this 7 particular respect. It's B5/3082.19. It's the 8 recording in relation to 13:06 to 15:45. 9 MR PENNICOTT: Sir, before Mr Khaw continues, can I just put 10 a marker down. Mr Khaw, harking back to your 11 observations on Friday afternoon -- I have to say, the 12 witness's evidence to the Commission on this particular 13 point, on the differentiation between the dowel on the 14 one hand and, if you like, the dummy connection on the 15 other is pretty clear, and we are now going back to 16 something presumably he said to the MTRC in his 17 discussions with them, and this is what happened on 18 Friday. The evidence is pretty clear, and I don't 19 really think that this is -- I'm obviously not going to 20 stop Mr Khaw but I think we just need to be wary about 21 where this is going to take us, given the relative 22 clarity of the evidence. 23 CHAIRMAN: Yes. 24 Mr Khaw? 25 MR KHAW: It's just that the witness seems to have given us</p>	<p>1 A. Yes. 2 Q. But you never witnessed a situation where a threaded 3 rebar was cut in order to pretend that the dowel was 4 inserted properly; right? 5 A. Correct. 6 Q. If I may then take you to, just very briefly, one part 7 of your MTR interview, at B5/3082.19. If I can first 8 read to you the third-last question on this page -- 9 I will do it slowly so that it can get translated: 10 "(Via interpreter) But when we deal with the 11 situation that you described, that is drawing a core and 12 inserting a dowel." 13 MR SHIEH: I'm sorry, I just spotted a potential mistake in 14 Mr Khaw's questioning. It is rather odd for someone to 15 spot what is thought to a mistake in someone else's 16 question, but I believe it should be a mistake, because 17 at [draft] page 43, line 9, the question was, "pretend 18 that the dowel could be inserted properly". 19 Now, that could be potentially misleading, because 20 we have established that the dowel being put into the 21 hole is a different thing from the thread, and so 22 I wonder whether Mr Khaw intended to say "pretend that 23 the threaded end was inserted properly", rather than the 24 dowel, now that the evidence is that the dowel and the 25 threaded end are two separate things, and to put to the</p>
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<p>1 different versions in this regard. In fact that is the 2 reason why I wanted to clarify with him in view of the 3 earlier evidence that he gave during the MTR interview. 4 CHAIRMAN: All right. It's inquisitorial and it's 5 essentially for Mr Pennicott to lead matters. 6 MR PENNICOTT: Sir, can we see how we go? 7 CHAIRMAN: Yes. I think what I'm prepared to do, because, 8 if I may say so, your questioning is always very 9 temperate, very rational, and you are to be complimented 10 for that, so I am prepared to let you proceed a little 11 bit further. 12 MR KHAW: I am very grateful. Mr Chairman, I have 13 a practical solution. Since it's now 11.30, I will 14 certainly revisit Mr Pennicott's point and I will see 15 whether I can simplify matters here. 16 CHAIRMAN: Yes. All right. Thank you. 15 minutes. 17 (11.31 am) 18 (A short adjournment) 19 (11.49 am) 20 CHAIRMAN: Yes, Mr Khaw. 21 MR KHAW: Thank you. 22 Just to summarise your evidence that you gave this 23 morning regarding coring the dowels. You told us that 24 you actually witnessed the drilling of the holes and 25 also insertion of a dowel; that is correct, right?</p>	<p>1 witness "pretend that the dowel was inserted properly" 2 could be misleading. 3 MR KHAW: I'm grateful for the correction. 4 CHAIRMAN: Just before you move on, I noticed that I was 5 complimentary to you just before the tea break, Mr Khaw. 6 I'm not taking back those compliments, but I just wish 7 to emphasise that this is not to be taken as 8 differentiating you from the other counsel. If I felt 9 in any way whatsoever that their questions were not also 10 temperate and rational during the course of these 11 proceedings, I would have done something about it; all 12 right? 13 MR KHAW: Yes, of course. Thank you. 14 I also thank Mr Shieh for the correction. In fact, 15 that was what I intended to ask. 16 COMMISSIONER HANSFORD: Perhaps you can ask it again, then 17 I know where we are. 18 MR KHAW: Yes, I will do that again. Yes. 19 Mr Cheung -- 20 A. Yes. 21 Q. -- to summarise your evidence that you gave this 22 morning, you told us that you actually witnessed that 23 holes were drilled and dowels were inserted; is that 24 correct? 25 A. Yes.</p>

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<p>1 Q. But you never saw threaded rebar being cut and then the 2 cut threaded rebar was used to be inserted into the 3 holes; right? 4 A. Inserting into the coupler hole? 5 Q. Yes. 6 A. That I did not witness. 7 Q. Thank you. Now if we can go back to the MTR interview. 8 I believe I just read to you the question. Maybe I can 9 just repeat that: 10 "(Via interpreter) But when you deal with the 11 possible scenario that should be the drilling and 12 inserting the dowel scenario? 13 Answer: Yes, maybe they would insert a dowel into 14 the hole. Whatever they do, it would be left there, and 15 they would install certain material to make the 16 appearances look good. 17 Question: That means you would insert and you would 18 try your best to insert material into the coupler 19 position? 20 Answer: We would then listen to their instructions 21 and follow their instructions. Then if they have to 22 catch up for the work deadline, they would need remedial 23 procedures. There are a lot of remedial procedures in 24 the construction business and they would perform these 25 procedures. And previously, before we start the work,</p>	<p>1 because the question in fact expressly referred to the 2 use of the cut threaded rebar and asked you for 3 an answer; you saw that? 4 A. Yes. 5 Q. Then your answer was, "Yes, there were such occasions, 6 but they were rare"? 7 A. Yes. 8 Q. So are you now telling us, or not, that you were in fact 9 aware of certain situations where the cut threaded 10 rebars were used, in order to be inserted into the 11 coupler? 12 A. No. 13 Q. Sorry, so what is your evidence now? Because you 14 earlier on confirmed that you are not aware of any 15 situation where cut threaded rebar was used to be 16 inserted into the coupler. In the MTR interview, you 17 said you were aware of certain occasions but they were 18 rare. So were you or were you not aware of such 19 situation? 20 A. Well, with MTRC's interview, there were three staff 21 members from MTRCL using different ways or different 22 approaches to ask me, and I told them categorically that 23 if such a remedial measure was used by Leighton, then it 24 was possible that our workers were asked to cut threaded 25 rebar and have it inserted into a defective coupler.</p>
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<p>1 that was always the case. 2 Question: Then typically, given these scenarios, 3 would you really use a solution, that is you would cut 4 a little bit of the threaded end and insert it 5 temporarily, and then there would be other remedial 6 measures? Do you have similar procedures? 7 Answer: Yes, very rarely. Yes. They will have 8 remedial measures, yes. 9 Question: And how large was this quantity? 10 Answer: Very minimal. 11 Question: That means typically, when you encounter 12 this, it would be discarded? 13 Answer: They would just fill in the hole. They 14 have remedial measures. 15 Question: When you say 'fill in the hole', it 16 doesn't mean just fill up the material. You have to use 17 the cut, threaded part of the threaded rebar and insert 18 it and then ... 19 Answer: The coupler was damaged or defective. You 20 couldn't screw it in all the way. Then we just adjust 21 it ... we just insert it to make it. People have 22 instructed us and they would come up with the remedial 23 solutions themselves. When it's the odd piece here and 24 there, the workers would do their best." 25 We can stop here. The question was rather specific,</p>	<p>1 They asked whether there were such scenarios. I said, 2 well, even if that did happen, it would be very rare, it 3 might be one or two times, but I haven't seen any 4 real -- such a thing happening. 5 Q. Just to follow up on your last answer: were you or were 6 you not aware of any situation where Leighton asked your 7 workers or gave instructions to your workers to cut the 8 threaded rebar for the purpose of inserting it into a 9 damaged coupler? Were you or were you not actually 10 aware of such incident? 11 A. No. If they were really to do that, my workers for sure 12 would inform me. 13 Q. But you can't be that sure because situations actually 14 happened where the workers did not tell you; is that 15 right? 16 A. If there was such a scenario, because more had to be 17 done, my workers would have told me. It's just like our 18 discussion on site: how come couplers were cut? Well, 19 when type A threaded rebars were absent, then we would 20 cut them to turn them to type A. 21 Q. Let's go back to the transcript that we looked at before 22 the morning break, Day 14, page 112. I believe we were 23 discussing the middle of page 112, and then 24 Prof Hansford's question at line 13: 25 "Sorry to labour my point, but the explaining would</p>

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<p>1 be there is a dowel there, replacing the coupler. Is 2 that not an easy explanation?" 3 Then you gave your answer. Then Mr Pennicott 4 continued to ask: 5 "But if all that happened, Mr Cheung, Leighton would 6 know about it anyway, because they would be doing the 7 remedial works, so you would only have to worry about 8 the MTRC, presumably? 9 Answer: If we did that, I would have to know about 10 it; I would have to be notified." 11 First of all, you certainly would have no dispute in 12 relation to the first part of Mr Pennicott's question, 13 that is Leighton would know about it anyway because it 14 was Leighton who carried out the work regarding the 15 dowels, you told us; right? 16 A. Yes. 17 Q. The second part of the question, "so you would only have 18 to worry about the MTRC, presumably", what was your 19 answer to this question? 20 A. That was only our thinking, because there would be 21 Leighton and MTRCL together in the inspection. 22 Q. After Leighton finished the work regarding the dowels, 23 did Fang Sheung actually inspect such work before 24 Fang Sheung continued? 25 A. No, because inspection is the responsibility of</p>	<p>1 A. There were also supervisors from MTRCL. 2 Q. How many from MTR? 3 A. From what I could see, at my own location, there would 4 be one. 5 Q. Would there be any tests that they conducted for the 6 purpose of ensuring that the threaded rebars were 7 properly screwed into the couplers, apart from simply 8 witnessing what was done? 9 A. Yes. MTRCL had standards for receiving the works. They 10 would ask our workers to use a wrench to take samples of 11 the couplers for their inspection and for record. 12 Q. Were Fang Sheung workers ever asked to unscrew the bars 13 for inspection, ever? 14 A. Yes. After the NCR, supervisors from MTRCL took samples 15 of the bars. They unscrewed the bars to test if they 16 were up to standard. Yes, that was done. 17 Q. How often were Fang Sheung workers asked to unscrew the 18 bars for inspection? How often? 19 A. If MTRCL -- no. Often. In each bay, they would 20 certainly ask our workers to use a wrench to test the 21 screwing of bars [interpretation disputed]. 22 Q. Were you aware of any occasion where there were no 23 supervisors from MTR or Leighton present when 24 Fang Sheung's workers were trying to screw the threaded 25 rebars into the couplers?</p>
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<p>1 Leighton. We will only listen to the instruction by 2 Leighton that it was fixed and then we would go back and 3 continue with our work. 4 Q. Okay. Since we are on this topic of inspection, can 5 I ask you a few more questions on this area. 6 During the time when the steel fixing work was being 7 carried out by Fang Sheung's workers at a particular 8 bay, I presume that there were supervision staff from 9 Leighton who were inspecting and overlooking the works; 10 is that right? 11 A. They did. 12 Q. In general, how many supervision staff from Leighton 13 were present? 14 A. Leighton, their engineering team had four to five staff 15 members. And at different locations there would be one 16 each. 17 Q. What did they do to ensure that the threaded bars were 18 properly screwed into the couplers? 19 A. This I was not sure about, but when we carried out our 20 works, they would be on site to ask us to do better. 21 Q. If we are talking about the actual time when the 22 threaded rebars were screwed into the couplers, that 23 particular work procedure, is it the case that every 24 time there were supervisors from Leighton who were 25 present there to oversee that particular work procedure?</p>	<p>1 A. Can you please repeat your question? I didn't get it. 2 Q. Were you aware of any occasion where supervisors from 3 Leighton or MTR were not present when Fang Sheung's 4 workers were actually doing that particular work 5 procedure, that is screwing the threaded rebars into the 6 couplers? 7 A. When we were at work, Fang Sheung workers were screwing 8 the threaded rebars into the couplers. MTRCL staff 9 would come back to supervise us. 10 CHAIRMAN: So that I understand it, are you saying that from 11 what you were able to witness, every single insertion of 12 a rebar into a coupler was witnessed by a supervisor 13 from Leighton or MTR? 14 A. Yes. 15 CHAIRMAN: But that couldn't have been the case, could it, 16 because there's the one report made, the NCR report, the 17 non-conformance report, which shows that they weren't 18 properly inserted, and in fact had been cut? 19 A. Chairman, I was not too sure about the NCR, but when it 20 comes to where we work, often there were staff from 21 MTRCL and Leighton present. 22 CHAIRMAN: No. Again, I don't want to go, as the 23 Australians may say, walkabout. What I want to do is -- 24 the question was quite specific. You have told us that, 25 to your knowledge and from what you saw, every single</p>

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<p>1 time that a rebar was put into a coupler there would be 2 somebody there from Leightons or the MTRCL to witness 3 that taking place; right? 4 A. They wouldn't be watching it piece by piece. They 5 wouldn't be observing it individually. 6 CHAIRMAN: Ah. So they didn't observe it individually 7 necessarily, but they would be in the area? 8 A. That is correct. 9 CHAIRMAN: This takes me to a question that I asked earlier, 10 namely the suggestion that to cut the threads off 11 a rebar was an action that would take a little time. 12 You had to get the cutter and then you had to do the 13 cutting, and that therefore, if there were supervisors 14 in the area all the time, would be quite a dangerous 15 exercise, do you agree, because it would be stopped? 16 A. Definitely. 17 CHAIRMAN: But it still happened once in a while? Well, no, 18 let me put that again because that's not necessarily 19 accepted at all. But it still happened at least as far 20 as the non-conformance report is concerned? 21 A. Yes. 22 CHAIRMAN: Sorry, Mr Khaw. 23 MR KHAW: Thank you. 24 So you just told us that Leighton or MTR supervision 25 would not enable them to check or inspect the insertion</p>	<p>1 there was no supervision and inspection yet by Leighton 2 or MTR staff; right? 3 A. Not necessarily. Not necessarily. 4 Q. Now, going back to my earlier question -- because 5 I wanted to know an approximate -- a rough idea in terms 6 of percentage. If you are talking about one particular 7 layer of reinforcement bars, in terms of the number of 8 insertions of threaded rebars into the couplers, can you 9 give us a percentage regarding -- I mean, how many were 10 inspected by Leighton or MTR? 11 A. Well, this question, it's very hard to answer. 12 Q. Not even a rough figure? 13 A. If I were to give you a rough estimate, it would be 14 90 per cent. 15 Q. Thank you. Did the inspection or supervision take place 16 in terms of each layer of reinforcement bars, or the 17 inspection took place after the various layers were 18 completed? 19 A. Well, when we do the works, they will come and watch, 20 and while we are doing it they also come in and inspect. 21 So, before we move on to the next phase, they will come 22 back and check on us. There's no fixed procedure, 23 because the responsibility rests with them. They have 24 to come back and check. They monitor our work. 25 Q. Yes. If I can ask you to take a look at one paragraph</p>
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<p>1 of each threaded rebar into the coupler; is that right? 2 A. Yes. 3 Q. So can you give us a rough estimate of the percentage? 4 For example, if you are talking about one layer of 5 reinforcement bars that Fang Sheung workers worked on, 6 what is the percentage in terms of the number of 7 couplers or the number of insertions of threaded rebars 8 into the couplers that Leighton or MTR would inspect? 9 A. It would depend on each bay, how large that area would 10 be. We would have to have a benchmark there, and let's 11 say if each bay -- let's say the B1 couplers, at the 12 bottom layer, let's say we have 300 bars. After it's 13 completed, and similarly if we want to have MTRCL and 14 Leighton people present, they would come and take 15 a look, to see whether the work was done properly. 16 Q. Sorry, you are saying that after a layer was completed, 17 for example 30 bars were completed -- 18 MR PENNICOTT: 300. 19 MR KHAW: Sorry, 300 bars were completed -- they would come 20 to inspect after work had been carried out; is that 21 right? 22 A. Yes. 23 Q. So, at the time when Fang Sheung's workers were carrying 24 out the work, like inserting the threaded rebars into 25 the couplers, at the time when the work was being done</p>	<p>1 in your police statement. It's E1584.9, the third 2 bullet point under answer 9, "Electric shear". You 3 agree with me that that is the electric saw in red 4 colour that we have seen; remember that? 5 A. Yes, it's ours. 6 Q. Here, you are telling us that the electric shear was 7 used to cut thin rebars for fixing the bottom layer of 8 rebars. I take it that what you mean here, when you 9 talk about the bottom layer of rebars, you are actually 10 referring to the "sifu" bars; right? 11 A. Yes. 12 Q. Do you know how long does it take if one uses 13 an electric shear or electric saw to cut a "sifu" bar? 14 A. It takes between a minute to two minutes. 15 Q. If I may, can I just take you to see one demonstration 16 which has been done, which might show us how long it 17 takes to cut a particular "sifu" bar by using 18 a hydraulic cutter. 19 If I can ask the Secretariat to go to -- I believe 20 it should be bundle A, item 45. Yes, here. If we can 21 go to item 2. First of all, if we can take a look at 22 the picture of the hydraulic cutter which can be shown 23 here at one of the photographs. We can just take this 24 one and blow it up a bit. 25 Did you see or did you ever use or your workers ever</p>

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<p>1 use such a hydraulic cutter on the site? 2 A. My company doesn't have this model of shear and I've 3 never seen workers use this. 4 Q. But you are aware of the existence of this kind of 5 hydraulic cutter; right? 6 A. Yes. There is a hydraulic shear. 7 Q. If we can show you one video which may tell us how long 8 it takes to cut a "sifu" bar by using this hydraulic 9 cutter. I believe this should be -- 10 COMMISSIONER HANSFORD: Mr Khaw, you're calling this 11 "hydraulic"? 12 MR KHAW: Yes. 13 COMMISSIONER HANSFORD: In what way is it hydraulic? 14 MR KHAW: It is just that this video was provided by the COI 15 with the assistance of some technicians from CIC in 16 Hong Kong -- 17 COMMISSIONER HANSFORD: Okay. 18 MR KHAW: -- and when I received the video, the description 19 tells us that it is the use of a hydraulic cutter, so 20 I assume -- 21 COMMISSIONER HANSFORD: That's absolutely fine. Maybe 22 I will do my homework outside this room. 23 MR KHAW: Thank you. 24 MR PENNICOTT: That is right, sir. We were informed by CIC 25 that this is correctly described as a hydraulic cutter.</p>	<p>1 (Video recording played) 2 It takes about two seconds to cut this "sifu" bar by 3 using what is called a hydraulic cutter. Do you see 4 that? 5 A. Yes. 6 Q. But before you saw this video today, were you aware that 7 it would take only a few seconds to cut a "sifu" by 8 using another machine? Were you aware? 9 A. Yes, I knew it was very quick. 10 Q. I'm just wondering why your company still used this 11 electric band saw or electric saw to cut the "sifu" bar, 12 when it would take a much longer time to cut just one 13 "sifu" bar? 14 A. Just now, I said one to two minutes using the red shear 15 from my company to cut Y40 bar. All right, let me 16 explain with regard to your video. This hydraulic 17 cutter could not be used at a construction site because 18 it requires 220 voltage of electricity. Leighton's 19 requirement is that we could only use 110-volt hand-held 20 equipment. So there was insufficient electricity 21 on site. So I bought a hand-held equipment. 22 Yes, it took longer, but it was not really one to 23 two minutes required for a Y40 bar. For a Y12 bar, 24 well, my hand-held machine might be slower, but I think 25 the difference would only be 20 seconds.</p>
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<p>1 In what way it is hydraulic I'm afraid I can't answer 2 you, but that's what we were told by CIC. 3 COMMISSIONER HANSFORD: I will do my homework. 4 MR KHAW: I will do some homework as well, later, sir. 5 If we can just take a look at the video -- 6 CHAIRMAN: We probably need to go down to the little arrow. 7 MR KHAW: 6003, yes. 8 If we can just pause. 9 (Video recording played) 10 MR PENNICOTT: Five seconds. 11 MR KHAW: It's too fast so we will miss it very easily. 12 If we look at this steel bar, is it the "sifu" bar 13 that you have been telling us, or does it look like 14 a "sifu" bar at least? 15 A. It resembles one. 16 Q. If we can just play this video again. 17 (Video recording played) 18 It seems to me that it takes only a couple of 19 seconds. Maybe we can take a look at another video, 20 6004. 21 (Video recording played) 22 Can we play it again, please? 23 (Video recording played) 24 Maybe we can just play it again and then we can see 25 the time shown.</p>	<p>1 Q. Right. So you are saying that in fact the use of this 2 kind of hydraulic cutter would not be allowed on the 3 site; right? 4 A. Yes. Permission from Leighton would be required, 5 because according to site requirements, hand-held 6 electrical appliances using 220 volts could not be used. 7 Q. If we can take a look at another piece of evidence that 8 you gave to this Commission. E879.2, 7(B). There you 9 said: 10 "I know that Fang Sheung had portable electric 11 shearing tools that can cut steel bars. However, it 12 would take at least 1.5 to 2 minutes to cut a steel bar 13 with such portable tools. It would definitely be 14 a waste of time and could not reduce much time or work 15 procedure. Staff of Fang Sheung has no motion to do 16 so." 17 I believe you are saying "had no motive to do so". 18 Here, when you are talking about 1.5 to 2 minutes to 19 cut a steel bar, were you referring to the "sifu" bar or 20 the threaded rebar of a coupler? 21 A. It was already said here, to cut a threaded rebar, a Y40 22 thick bar. 23 Q. Yes. We have heard a number of witnesses telling us how 24 long it takes to cut a threaded rebar by using 25 an electric saw. Again, I want to show you</p>

<p style="text-align: right;">Page 61</p> <p>1 a demonstration to see whether that is the case. It's 2 not something that I can easily verify at home, so 3 perhaps I can just show you another video. 4 6020, the same folder, bundle A, item 45. Yes, 5 here, the number 1 item. The first one, yes. 6 (Video recording played) 7 Thank you. 8 According to this video, it seems that it doesn't 9 really have to take 1.5 to 2 minutes to cut a threaded 10 rebar; would you agree? 11 A. I do. 12 Q. Have you tried before, yourself? 13 A. Well, for cutting it for testing, yes, I've done that. 14 Q. And at that time you recall that you have took about 1.5 15 to 2 minutes? 16 A. Yes, I can recall. 17 Q. Would you agree that after a threaded rebar of a coupler 18 has been cut by using an electric saw, the cut threaded 19 rebar could still be screwed onto a coupler; would you 20 agree? 21 A. Possibly. 22 CHAIRMAN: I think the question is that the use of this 23 particular machine to cut the threads does not deform in 24 any way the end of the rebar, so that you are able to 25 still use it to thread it into a coupler?</p>	<p style="text-align: right;">Page 63</p> <p>1 A. Yes. 2 Q. I just wish to explore this a bit further. When you 3 said "it was discovered that the couplers for the top of 4 the platform slab were not in the correct position", can 5 you tell us more about what was discovered? 6 A. I discovered that the level of the couplers and the 7 couplers on that side could not align to produce the 8 effect. So the levels were different, so I could not 9 assemble the two, so I informed Leighton that there was 10 a problem. 11 Q. You talk about Leighton giving you new drawings; right? 12 A. Told me on site. No new drawings. 13 Q. So Leighton only verbally instructed you what would need 14 to be done to rectify this problem; right? 15 A. Yes. 16 Q. You were not physically given any particular new 17 drawings for that particular purpose? 18 A. Not so quickly. 19 Q. If we just take one example, E1376. Were you given this 20 new drawing on site? 21 A. This was from Mr Pun. 22 Q. This is what Fang Sheung did for the purpose of 23 rectifying the problem? 24 A. No, not Fang Sheung did for the purpose of rectifying 25 the problem. Rather the company asked us to extend the</p>
<p style="text-align: right;">Page 62</p> <p>1 A. Possibly. 2 Mr Khaw, I would like to know the type of the bar 3 shown on the video. What is the diameter? 4 MR PENNICOTT: T40. 5 MR KHAW: It should be T40. 6 A. Thank you. 7 Q. Just a final issue that I wish to discuss with you. If 8 you can take a look at your police statement, E1584.6, 9 paragraph 11. About the last seventh line: 10 "After completing 1875 [that is one area], we 11 proceeded to work on area C1-1, area C1-2 and so on. 12 But when we were working on area C1-1, it was again 13 discovered that the couplers for the top of the platform 14 slab at the east D-wall were not in the correct 15 position, as they were located above the surface of the 16 top slab. So again I reported the situation to 17 Leighton's engineers (I am not sure who but usually it 18 would be Ah Wood and Andy as they were mainly 19 responsible for area C), and it did not take long for 20 Leighton to provide a new drawing: the solution was for 21 Leighton to instruct workers to knock down the top of 22 all east D-wall in the entire area C ..., so that the 23 rebars were exposed and then the existing couplers there 24 would all be removed." 25 Do you remember your answer there?</p>	<p style="text-align: right;">Page 64</p> <p>1 bar. 2 Q. I'm sorry, Mr Cheung. Maybe I did not ask the last 3 question very clearly. 4 The drawing that we can see here was prepared by 5 Fang Sheung; right? 6 A. Yes. 7 Q. So such drawings were prepared by Fang Sheung in 8 accordance with the verbal instructions given by 9 Leighton; is that correct? 10 A. Yes. 11 Q. So, when this kind of drawing was prepared by 12 Fang Sheung, you were not yet given any new drawings by 13 Leighton? 14 A. Leighton would give new drawings retrospectively. 15 Q. When you said "Leighton would give new drawings 16 retrospectively", do you mean that you would receive 17 Leighton's drawings before you carried out any 18 particular work in this respect, or after? 19 A. No. When we discovered a problem, we informed Leighton, 20 and after discussion with MTRCL Leighton knew of the 21 problem. Leighton would tell us verbally that T3 and T1 22 bars, top bars should be protruding out there, because 23 there are frequent changes on site and we will only 24 listen to the instruction of Leighton. Because a lot of 25 times, when we have problems in diagrams, they are</p>

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<p>1 modified over time and they have to issue the diagram 2 and they have to do the calculations. 3 Q. So it would be the case that, say, Fang Sheung was 4 responsible for installing, according to your evidence, 5 the through-bars on the top of the diaphragm wall, 6 right, in accordance with the verbal instructions given 7 by Leighton; right? 8 A. Yes. 9 Q. Then it would be the case that sometimes you only had 10 knowledge of the new drawings provided by Leighton after 11 certain work was done; is that correct? 12 A. Yes, because they cannot update it and hand it to us so 13 quickly. 14 Q. Do you have any idea as to how Leighton knocked down 15 part of the diaphragm wall, the top of the diaphragm 16 wall? 17 A. The top part of the diaphragm wall, the concrete would 18 have to be knocked down, and that would allow for the T1 19 and T3 bars to pass through the D-wall. 20 Q. You actually saw them carrying out such work for the 21 purpose of knocking down part of the diaphragm wall? 22 A. Yes. 23 Q. How long did this process take; can you remember? 24 A. I cannot recall. 25 MR PENNICOTT: Did Mr Khaw mean in any particular bay or</p>	<p>1 A. Yes. 2 Q. You remember, in response to the professor's question, 3 you confirmed that such bar in fact is also "sifu" bar? 4 A. Yes. 5 Q. For this kind of "sifu" bar, were such bars actually cut 6 and bent at the bending yard, instead of at the site 7 where the bar fixing work was done? 8 A. It was done at the bar bending yard. 9 Q. So that would not be cut on the site; right? 10 A. It would not be cut. 11 Q. Sorry, I keep using the word "final", but this time it's 12 the real final question. Transcript Day 13, page 114, 13 we can start at line 1. I believe this is 14 Mr Pennicott's question: 15 "All right. Just a moment ago, when I asked the 16 question first off, you referred to, so the transcript 17 says, 'partition walls'. Why did you include those 18 words in your initial answer to my question, 'partition 19 walls'? 20 Answer: Partition walls, that's a short form, in 21 Chinese. In fact I was referring to non-structural 22 walls, because the bars were smaller in there. 23 Question: Right. And you, as I understand it, if 24 I understand your evidence correctly, had to provide 25 rebar fixing for certain partition walls; is that</p>
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<p>1 completely -- all of it or what? 2 MR KHAW: You can't remember? 3 CHAIRMAN: I think we'll put the question on the basis of 4 the entire exercise. Do you know how long that took? 5 A. It depends on how much staff you have. If we have 6 different -- 7 CHAIRMAN: No, I appreciate that. I'm asking you to cast 8 your mind back, and are you able, in doing that, to say, 9 to the best of your memory, how long the entire exercise 10 of cutting down that top part of the D-wall took? 11 A week? Two months? 12 A. Chairman, I'm not certain. I think maybe two or three 13 days. 14 MR KHAW: And such work was, according to your knowledge, 15 solely done by Leighton's workers, or there were other 16 sub-contractors' work involved in knocking down the top 17 of the diaphragm wall? 18 A. I think it would be the sub-contractors. 19 Q. Do you know who were the sub-contractors involved? 20 A. Well, if it were the sub-contractors, then I think it 21 was a company Tung Yat. 22 Q. Just finally, regarding one of the photographs we saw 23 earlier -- E5/1290 -- you see the vertical sort of 24 U-shaped bars, with a hook on each end? You remember 25 that we saw that last week?</p>	<p>1 correct? 2 Answer: Yes. 3 Question: And also I think somebody mentioned at 4 some stage core walls ... 5 Answer: Yes. 6 Question: So is what you're telling the Commission 7 that for the purposes of those walls, rebar fixing had 8 to be done, reinforcement had to be provided, and that 9 type of bar would also need to be cut, or may need to be 10 cut? 11 Answer: Correct. Correct." 12 Pausing here, you mentioned the non-structural 13 partition walls here; do you remember that? 14 A. Yes. 15 Q. Am I right in saying there was no partition wall that 16 was built at the time when the EWL slab was still under 17 construction? 18 A. You are incorrect. 19 Q. Why do you say that? 20 A. Because after building the EWL track, there were some 21 platform walls and we needed to reserve bars to do the 22 walls. 23 Q. But those bars for the walls could have been prepared at 24 the bar bending yard; right? 25 A. No. When the EWL track was completed, we needed to</p>

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<p>1 reserve bars for preparatory work in the next stage, we 2 needed to work on the partition walls. And why do we 3 need the saw? It's because at that time there would be 4 some openings where we need to adjust, we need to cut 5 the length longer or shorter. 6 MR KHAW: Thank you. 7 I have no further questions. 8 MR WILKEN: Mr Chairman and Professor, I'm going to be 9 longer than five minutes and I'm aware of the time. 10 I will not, fingers crossed, be revisiting any subjects 11 that have been covered more than amply by previous 12 counsel. 13 CHAIRMAN: Very good. We will adjourn now and return at 14 2.15. 15 MR PENNICOTT: Yes, sir. 16 CHAIRMAN: Thank you very much. 17 MR WILKEN: Sorry, sir, can I just raise one transcript 18 point. [Draft] page 52, line 10 -- this was in relation 19 to testing, and the transcript says: 20 "... they would certainly ask our workers to use a 21 wrench to test the screwing of bars." 22 The word "randomly", I'm told, was used by the 23 witness at the end of that sentence and it doesn't 24 appear in the transcript. 25 MR PENNICOTT: We agree with that.</p>	<p>1 a photograph taken on 22 September 2015, and it says 2 it's EWL area A. 3 I want to suggest to you that in fact this is the 4 NSL, not the EWL. The reason why I say that is -- there 5 are two of them, sorry. If I can take you to E5/1372. 6 This is a work schedule for Fang Sheung, which you 7 exhibited to your witness statement, isn't it? 8 A. Yes, I see it. 9 Q. And you can see the boxes list out the dates: 20 to 10 24 September, and 13 to 22 September? 11 A. Yes. 12 Q. And it says this is you working on the NSL mezzanine 13 level; correct? 14 A. Correct. 15 Q. If we go to A250 -- this won't be a document you've seen 16 before, I think -- this is a site layout plan helpfully 17 prepared by the Commission, and you will see on the 18 left-hand side it's got area A. If we can zoom in on 19 that, please, you will see there that area A was 20 concreted between May and July 2015; do you see those 21 dates? Bay 1, 16 May, through to bay 5, 29 June, 22 through to bay 6, 24 July; do you see that? 23 A. Yes, I see it. 24 Q. So, by 22 September, work had completed on area A of the 25 EWL slab; that's correct, isn't it?</p>
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<p>1 CHAIRMAN: Thank you. Can I just mention one thing in 2 passing. We will be approaching Mr Pennicott and the 3 team to see if it might be possible for the purposes of 4 the report and making it accessible at the outset to get 5 some sort of simplified drawings of perhaps where the 6 tracks come, where they lie over each other, where they 7 don't, the D-walls and how they are supported, whether 8 there's any internal walls, et cetera, stripped away of 9 a lot of their technicalities, simply so that people 10 reading the report will have easy access not only in 11 terms of the literature but in terms of looking at the 12 drawings. It's something we will be taking up with the 13 team, but you will obviously all be kept informed of 14 that and have an opportunity to make comments in respect 15 of it. All right? Just so that you're aware of that. 16 Thank you. 17 (12.58 pm) 18 (The luncheon adjournment) 19 (2.17 pm) 20 Cross-examination by MR WILKEN 21 MR WILKEN: Good afternoon, Mr Cheung. My name is Sean 22 Wilken and I'll be asking you some questions on behalf 23 of Leighton. Okay? 24 A. Okay. Good afternoon. 25 Q. Can I take you to E5, page 1336. Do you see this is</p>	<p>1 A. This was too long ago. I couldn't actually recall that. 2 Q. Thank you. 3 If we can go back to E5/1336, will you therefore 4 take it from me that this was the NSL area A mezzanine 5 level? 6 A. Correct. 7 Q. You see here the box, which I assume translates the 8 Chinese: 9 "Discovered problem with hole-drilling and starter 10 bar installation. 11 ... 12 Leighton carried out rectification of hole-drilling 13 and starter bar installation work." 14 So whatever problem there was at NSL area A 15 mezzanine was fixed; that's correct, isn't it? 16 A. Correct. 17 Q. So, if someone took a photograph that very closely 18 resembles this on the same day, that photo must have 19 been taken in NSL mezzanine area A; correct? 20 A. Correct. 21 Q. And the problem was remedied? 22 A. Correct. 23 COMMISSIONER HANSFORD: Mr Wilken, before you move on, can 24 somebody just blow up that section where the connections 25 are, so that I can see a little bit more clearly.</p>

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<p>1 Thank you.</p> <p>2 MR WILKEN: May I move on, sir?</p> <p>3 COMMISSIONER HANSFORD: Yes.</p> <p>4 MR WILKEN: Can I now take you to D1, page 227. This is</p> <p>5 a photograph I think you've seen before; correct?</p> <p>6 A. Correct.</p> <p>7 Q. In this photograph, it looks to me as though what these</p> <p>8 people are doing is cutting vertical reinforcement. Do</p> <p>9 you agree? Because if we zoom in, you can see that</p> <p>10 there is a piece of protruding vertical reinforcement?</p> <p>11 A. I agree.</p> <p>12 Q. And it's common, if this is the top level of the</p> <p>13 reinforcement, to trim the vertical reinforcement to</p> <p>14 ensure that there are not elements of reinforcement</p> <p>15 sticking out, if I can use a colloquial term; agree?</p> <p>16 A. I agree.</p> <p>17 Q. And that ensures that there is sufficient concrete cover</p> <p>18 over the reinforcement when the concrete is poured;</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. If this is not the top level and it's a lower level,</p> <p>22 could these people be cutting vertical reinforcement to</p> <p>23 allow horizontal reinforcement to be laid?</p> <p>24 A. Not necessarily so.</p> <p>25 Q. Can you go to D1/228. You accepted earlier in your</p>	<p>1 A. Yes, it's possible. It's possible.</p> <p>2 Q. I will move on to the next topic. You were asked about</p> <p>3 supervision by Leighton and MTR. It's right, isn't it,</p> <p>4 that Leighton and MTR did three different things: they</p> <p>5 patrolled the site, watching your work; that's correct,</p> <p>6 isn't it?</p> <p>7 A. Correct.</p> <p>8 Q. They inspected the reinforcement as it was fitted layer</p> <p>9 by layer?</p> <p>10 A. Correct.</p> <p>11 Q. And then there would be what are known as hold points,</p> <p>12 where there would be a proper inspection, a full</p> <p>13 inspection someone would sign off; correct?</p> <p>14 A. Well, about the documentation, I wouldn't know about</p> <p>15 that.</p> <p>16 Q. Okay. Can we go to E5/1295. This, to us, looks like</p> <p>17 a pre-pour inspection; do you agree or don't you agree?</p> <p>18 A. Agreed.</p> <p>19 Q. If we now go to C14/9210, you will see that this is</p> <p>20 a request for inspection dated 22 November 2015; do you</p> <p>21 see that?</p> <p>22 A. Yes, I see it.</p> <p>23 Q. And if we look at the date on the photograph, we see it</p> <p>24 is also 22 November; correct?</p> <p>25 A. Correct.</p>
<p>Page 74</p> <p>1 evidence -- I know it must seem like a long, long time</p> <p>2 ago -- that you were close to this person because of the</p> <p>3 timings. This is 18:18 and there's a photo of you at</p> <p>4 18:19. Do you remember that?</p> <p>5 A. Yes, I remember that.</p> <p>6 Q. And we know that Fang Sheung casual labour were working</p> <p>7 overtime on 22 September. We know this from E5/912. Do</p> <p>8 you see here this is your site record, and it says,</p> <p>9 22 September, people were working OT, overtime; correct?</p> <p>10 A. Yes, I see it.</p> <p>11 Q. If we go back to the photograph at D1/228, you will see</p> <p>12 that's timestamped at 18:18. That's overtime working,</p> <p>13 isn't it?</p> <p>14 A. Correct.</p> <p>15 Q. And you are working very close to this because of the</p> <p>16 timing, at almost at the same time; correct?</p> <p>17 A. Yes, from the photo it's about a minute apart.</p> <p>18 Q. So is it possible that this is a Fang Sheung worker?</p> <p>19 A. I can't see his face so I cannot be sure. Even if he's</p> <p>20 a Fang Sheung worker, usually Fang Sheung workers would</p> <p>21 be dirtier and they wouldn't wear long sleeves.</p> <p>22 Q. I asked is it possible. I didn't ask you to be sure.</p> <p>23 I simply asked whether it was possible this was</p> <p>24 a Fang Sheung worker. Is it possible that this was</p> <p>25 a Fang Sheung worker?</p>	<p>Page 76</p> <p>1 Q. The next topic. You've been asked a lot about your MTR</p> <p>2 interview. I want to take you to a passage that you</p> <p>3 were not taken to when you were questioned about this</p> <p>4 interview. The Chinese is at B5/3082.19 to .20, and</p> <p>5 it's really over the page at .20, and I'm looking eight</p> <p>6 lines up from the bottom, "Q", and you will see the</p> <p>7 number 5 there -- eight lines up from the bottom of the</p> <p>8 top box, apologies, I can see a "5" there, and then the</p> <p>9 English is at .31.</p> <p>10 Can you scroll up a bit in the English, please. So</p> <p>11 the question:</p> <p>12 "Other than the unsatisfactory connections</p> <p>13 concerning those 5 rebars, have you, during your stay at</p> <p>14 the site, heard of any similar incident? Or any staff</p> <p>15 reported such incidents to you?</p> <p>16 Answer: No. No one."</p> <p>17 So you were talking to the MTR about the five</p> <p>18 incidents that led to the NCR; that's correct, isn't it?</p> <p>19 A. Correct.</p> <p>20 Q. And you now accept that there were two further</p> <p>21 occurrences of cut rebar in September and October 2015;</p> <p>22 that's correct, isn't it?</p> <p>23 A. I agree.</p> <p>24 Q. Apart from the NCR and those two further incidents of</p> <p>25 cut rebar, anything else -- you did not witness any</p>

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<p>1 other cutting of rebar; correct? 2 A. I didn't. 3 Q. So anything you have to say on that subject must be 4 speculation on your part? 5 A. Correct. 6 Q. And that's what MTR asked you to do in the interview; 7 correct? 8 A. Yes. 9 Q. Just to go back to one of your answers, did you see any 10 other cutting of rebar yourself -- cutting of threaded 11 ends of rebar yourself? 12 A. I didn't. 13 Q. Looking at those five incidents, can we have a look 14 about how they were remedied. Can you go to B6/4121. 15 This is NCR157 which you've been shown during the course 16 of giving evidence; correct? 17 A. Correct. 18 Q. Could we go to 4127. Here, you will see in the box, 19 "Details of required rectification"; correct? 20 A. For English documents, I cannot comprehend them at all. 21 Q. Okay. What it says -- and I'll read it out to you so 22 you can have it translated: 23 "Sub-contractor Fang Sheung will be requested to 24 remove all rebars with shortened threads. LCAL and MTR 25 will verify the condition of couplers and the length of</p>	<p>1 to replace the coupler for one of the bars." 2 So, in October, Mr Mok sees them again replacing the 3 bars; correct? 4 A. Yes, as Mr Mok told me. He told me that bars were 5 replaced. 6 Q. Thank you. Then if we go to C12/8116, paragraph 39: 7 "As before [and this is December], I had 8 Fang Sheung's workers ... immediately replace the 9 defective bars. I believe on that occasion that at 10 least one of the couplers had to be replaced." 11 So, again, in December, Mr Mok has replaced the 12 bars; do you agree? 13 A. I agree. 14 Q. Now, talking about Mr Mok's telling you about 15 Fang Sheung and rebar, is it possible that on the first 16 occasion, in September -- after all, it's been three 17 years since this discussion took place -- could it be 18 that you cannot now properly recall whether Mr Mok said 19 to you that there was cut thread or an incorrectly 20 screwed coupler? 21 A. From my recollection, in September Mr Mok said that the 22 rebars were sub-par and he asked us to rectify the 23 works. 24 Q. Okay. Now, Mr Mok reported to Fang Sheung incidents of 25 defective rebar on three occasions, didn't he?</p>
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<p>1 thread for each rebar. The new rebar will be screwed 2 with the help of LCAL direct labour. MTR IoW team and 3 LCAL site engineer team will inspect the whole process 4 for replacing all the new threaded rebars." 5 That's what it says? 6 A. Yes. 7 Q. And that's how the five rebars for the NCR were 8 remedied; correct? 9 A. I did not know about the process. Mr Mok had it 10 remedied and then he told me about it. 11 Q. Okay. If we go to Mr Mok's evidence, and that's at 12 C12/8114, paragraph 29 -- Mr Mok is 62.0 -- here he is 13 talking about the September incident and you will see, 14 and I'm going to read it out to you, about halfway down: 15 "As Fang Sheung's workers were still on site, 16 I immediately asked them to replace the defective bar by 17 taking it away and replacing it with a new bar." 18 So, in September, Mr Mok says he remedied it by 19 having a new bar screwed in; you see that? You heard 20 that, apologies? 21 A. Yes. 22 Q. Then if we go to 8115, paragraph 33: 23 "Similar to the first occasion, I asked the 24 Fang Sheung's workers to remove the defective bar(s) and 25 replace them with new bar(s). I recall it was necessary</p>	<p>1 A. He told me about it verbally at the site. 2 Q. You are now aware that he also took photographs. Can we 3 go to C12/8123. This is one of the photographs that 4 Mr Mok took, and if we go to 8125, this is another 5 photograph that Mr Mok took. 6 It's right, and I think you gave evidence to this 7 effect, that Mr Mok told you that Fang Sheung's 8 defective installation of rebar was completely 9 unacceptable; correct? 10 A. Correct. 11 Q. And an NCR was issued; correct? 12 A. Correct. 13 Q. Leighton therefore explicitly told you not to cut the 14 threaded ends of rebar; correct? 15 A. Correct. 16 Q. And took action under the contract to ensure that you 17 did not cut the threaded ends of rebar? 18 A. They reinforced the inspections on us. 19 MR WILKEN: Mr Chairman, sir, I don't think I have any 20 further questions for this witness. 21 CHAIRMAN: Thank you very much. 22 MR BOULDING: Nothing from us, sir. Thank you very much. 23 CHAIRMAN: Thank you very much. 24 Re-examination by MS CHONG 25 MS CHONG: Just a few questions.</p>

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<p>1 As far as the bar fixing work is concerned, are you 2 aware of any incident that Fang Sheung was behind the 3 bar fixing schedule, at any time of this 1112 contract? 4 CHAIRMAN: Sorry, that question I have a little difficulty 5 with. "Are you aware of any incident that Fang Sheung 6 was behind the schedule?" 7 MS CHONG: Yes. He was asked about the project deadline, 8 and he gave answer that the whole project was in 9 a hurry, but my question is, as far as this bar fixing 10 work is concerned, whether Fang Sheung was at any time 11 behind the schedule, this bar fixing schedule. 12 CHAIRMAN: That's fine, yes. 13 A. Do you mean whether there was any delay in the works? 14 MS CHONG: No. Just focus on the work of Fang Sheung. Was 15 there any delay of Fang Sheung's work? 16 A. No. 17 Q. You were also asked to see the cutting using this 18 electric band saw, and we saw that the cutting was 19 47 seconds. 20 Now, my question is this is a battery-charged 21 electric band saw. Do you know how much time it 22 required to fully charge this electric band saw? 23 A. It would take an hour, at least, at least one hour to 24 charge this saw. 25 Q. So, once it is fully charged, do you know how many bars</p>	<p>1 Fang Sheung's workers to remove the defective bar(s) and 2 replace them with new bar(s). I recall it was necessary 3 to replace the coupler for one of the bars." 4 Then paragraph 34: 5 "I told him [which refers to you, Mr Cheung] to 6 ensure his workers checked the threaded bars were be in 7 good condition and being screwed into the couplers." 8 Now, reading what Edward Mok said here, it appears 9 that it was necessary for the remedy work to replace one 10 of the couplers, to replace the couplers for one of the 11 bars. Now, reading this, is it the cause that this 12 defective installation originated from a damaged or 13 defective coupler? 14 A. Correct. 15 Q. And in paragraph 34, it seems that Edward Mok here, he 16 seems to be telling you only that -- asks you to ensure 17 that the threaded rebars were properly checked and 18 whether they were in good condition before they were 19 screwed into the couplers. Now, did he also tell you 20 that on that occasion the couplers were damaged and make 21 sure that your workers properly check the couplers 22 before you ask the workers to proceed to do this 23 installation? Was this brought to your attention, bring 24 to your attention, on that occasion? 25 A. Mr Mok asked my workers to get it done before he told me</p>
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<p>1 could this band saw cut, using the fully charged power? 2 A. For this electric hand-tool, to cut Y50 millimetre 3 rebars, the tool would be out of power by the time it 4 has cut five to eight bars, and after that you would 5 have to charge it again. 6 Q. Now, would the cutting performance be impaired as this 7 battery goes down, that means it requires longer time to 8 cut this bar as the battery is used, goes down? 9 A. Yes, absolutely, and there would also be wearing of the 10 blades, and the blade would become blunt, and it would 11 then take longer to cut the bars. 12 Q. I see. So are you saying that it also depends on 13 whether the blade of the saw is a brand-new one or 14 an old one? 15 A. Correct. 16 Q. You were also asked to read the witness statement of 17 Edward Mok. May I refer you to bundle C12/8114. Now, 18 there were three incidents of bar cutting. I wish to 19 draw your attention to the second occasion, that is in 20 October and November, in paragraph 32. On that 21 occasion, one or two bars, as was stated in paragraph 32 22 of his witness statement, one or two defective bars were 23 found during the inspection. 24 Then the next page, paragraph 33, he then said this: 25 "Similar to the first occasion, I asked the</p>	<p>1 about it. 2 Q. My question is did he -- now, here in paragraph 34 3 Mr Mok said this: 4 "I told him [Mr Cheung, that's you] to ensure his 5 workers checked the threaded bars were in good condition 6 and being screwed into the couplers." 7 That was what he told you, according to him, stated 8 in paragraph 34. 9 My question is: did he also tell you that on that 10 occasion the couplers were damaged and had to be 11 replaced -- did he tell you this on that occasion? 12 A. I have no recollection. If couplers are to be replaced, 13 it is not the duty of Fang Sheung. If that's the case, 14 I would inform Mr Mok to ask Leighton to deal with the 15 damaged couplers, to ensure that the threads can be 16 screwed in. 17 Q. Now, you also told us that on that occasion, you were 18 informed after that the defective installation had been 19 remedied. So is it fair to say that you did not have 20 the opportunity to inspect the defective installation 21 before it was remedied; right? 22 A. Correct. Before the work started, I told Leighton to 23 ensure that the couplers were not damaged and that 24 problematic couplers were to be replaced. 25 Q. So your investigation could only be based on what was</p>

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<p>1 told to you by Mr Mok or your workers; was that the 2 case? 3 A. Yes, correct. 4 Q. And the third instance, Mr Mok accounted for the third 5 incident in paragraph 37, and in paragraph 38, five 6 defective rebars were found. In paragraph 39 he said 7 this: 8 "As before, I had Fang Sheung's workers (in this 9 occasion with the help of Leighton's direct labourers) 10 immediately replace the defective bars. I believe on 11 that occasion that at least one of the couplers had to 12 be replaced." 13 And paragraph 43, he then spoke to you: 14 "I spoke to Joe Cheung, Fang Sheung's supervisor, to 15 explain that it was completely unacceptable that the 16 same issue had arisen three times and that, on this 17 occasion, there were five defective bars within the same 18 area." 19 Now, on this occasion, did Mr Edward Mok tell you 20 that the defective installation were due to defective or 21 damaged couplers? 22 A. No. He just told me there were five couplers, and then 23 the MTRCL found that they were not up to standard so 24 they didn't accept the work, and then the next day he 25 told me that, and so he informed me the next day.</p>	<p>1 you drew the conclusion that it was properly due to 2 damaged couplers, my question is: are you aware of any 3 other cause that could lead to the cutting of -- apart 4 from damaged couplers, that would lead to the cutting of 5 rebars? 6 A. No. 7 Q. Regarding the damaged couplers, your evidence was that 8 once you discovered that couplers were damaged, you 9 would inform Leighton to do the replacement, but 10 unfortunately there are still some damaged couplers, as 11 in this case, in these five rebars found in December 12 2015. 13 Can you tell us -- can you think of any reason why 14 damaged couplers were not replaced on such occasion? 15 A. The inspection was not done properly. Now, perhaps the 16 couplers were damaged and then perhaps workers wanted to 17 do it quickly, and that's why there was something this 18 stupid. That's why, for the five bars that were was 19 this problem, they didn't inform me and they proceeded 20 to do things on their own, and that's why it led to the 21 problem. 22 Q. The problem is the inspection of damaged couplers was 23 not done properly; was that what you said? 24 A. There's a possibility, yes. 25 Q. So these damaged couplers failed to be detected before</p>
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<p>1 Q. Now, reading this Mr Edward Mok's statement, it appears 2 that the defective installation, to a certain extent, as 3 far as some bars are concerned, were originated from the 4 damaged or defective couplers, that's why they had to be 5 replaced before the defective installation could be 6 remedied; do you agree with this interpretation of 7 Mr Mok's statement? 8 A. Yes, I agree. In the progress photos as submitted to 9 the Commission, there were such cases. There was a need 10 to use a hand-held jackhammer manually to hack out the 11 coupler before it could be replaced, so that did not 12 fall within the scope of Fang Sheung's work. That's why 13 we could not do the replacement of couplers for them. 14 Q. Earlier on, you drew the conclusion from -- before 15 lunch, you told this Commission this -- you drew the 16 conclusion that the bars were cut because the couplers 17 were damaged. And it seems that from these two 18 incidents, the cause for this defective installation 19 seems to be also originate from damaged couplers. You 20 also told us that the frequency of damaged couplers 21 found on the site is not that frequent. Do you remember 22 that? 23 A. Correct. 24 Q. My first question is, apart from these three incidents 25 of bar cutting that were brought to your attention, and</p>	<p>1 workers proceeded to their installation; was that the 2 case? 3 A. Correct. 4 Q. Is such occurrence, namely failing to detect damaged 5 couplers -- is such occurrence frequent on the site? 6 A. No, not that often. 7 Q. Did you remind your worker to draw your attention if 8 such damaged couplers were found? 9 A. Yes, I did, because if there were damaged couplers, that 10 would delay our work. 11 Q. Yes. Now, you were asked about the inspection and 12 supervision of Fang Sheung workers. Was there the 13 situation that Fang Sheung workers take instructions 14 from Fang Sheung foreman; that should be the situation, 15 right? But apart from Fang Sheung -- instruction given 16 by Fang Sheung foreman or Fang Sheung supervisor, would 17 workers of Fang Sheung also take direction directly from 18 Leighton? 19 A. Yes, they would, because Fang Sheung just provided the 20 workers, so they would listen to the instructions of 21 Leighton, or they might even stop work, if asked to. 22 Q. If they take instruction from Leighton, were they 23 required to go to you first, to seek approval first, 24 before they proceed to carry out the instructions of 25 Leighton supervisor or Leighton engineer?</p>

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<p>1 A. No need.</p> <p>2 Q. Would they report to you afterwards that, "I have</p> <p>3 carried out certain instructions from Leighton and now</p> <p>4 I report to you what I have done"? Were they required</p> <p>5 to report to you such matters?</p> <p>6 A. Yes, they have to. Yes, they have to.</p> <p>7 Q. Now, you were shown this D228 photo.</p> <p>8 Can we blow it up a bit?</p> <p>9 We saw that there are some threads, and there's some</p> <p>10 light is illuminating the threads, but as far as the</p> <p>11 part which is not illuminated by the light, can we see</p> <p>12 is it thread or the bar or -- are you able to tell?</p> <p>13 A. No, I can't tell. I can't see.</p> <p>14 Q. So we can only see the threaded part which was</p> <p>15 illuminated?</p> <p>16 A. Correct.</p> <p>17 CHAIRMAN: Well, you can see some ridging on the dark</p> <p>18 section.</p> <p>19 MS CHONG: Yes.</p> <p>20 Now, at one point you seem to say that cut rebars</p> <p>21 may not fit into couplers. My question is: why? Can</p> <p>22 a cut rebar still be able to fit into couplers?</p> <p>23 A. For cut rebars, if there's no problem at all with the</p> <p>24 coupler, there is a possibility that the bar could be</p> <p>25 screwed in.</p>	<p>1 check-in and check-out record of you to the site.</p> <p>2 My question is, despite there were no such record</p> <p>3 from the check-in/check-out record of you entering the</p> <p>4 site, were you on site working during those two months,</p> <p>5 December and November 2015?</p> <p>6 A. Yes, I did work there.</p> <p>7 Q. That can be seen from your records in your site diary.</p> <p>8 Perhaps we can go to E5/E922.</p> <p>9 Are these your records, the record made by you?</p> <p>10 A. Correct.</p> <p>11 Q. That is the record for November. E922 to E931, and the</p> <p>12 record for December is E931 to E940.</p> <p>13 Can we take a look at E931 to 940. Are these your</p> <p>14 records made during those days, December 2015?</p> <p>15 A. Correct.</p> <p>16 MS CHONG: I have no further questions.</p> <p>17 CHAIRMAN: Thank you very much.</p> <p>18 MR PENNICOTT: Sir, unless anybody else has anything --</p> <p>19 I don't have any more -- I think that's the end of</p> <p>20 Mr Cheung's evidence.</p> <p>21 CHAIRMAN: Thank you. No, it appears that we have no</p> <p>22 further questions.</p> <p>23 Mr Cheung, thank you very much indeed. It's been</p> <p>24 a long period that you've had to spend in the witness</p> <p>25 box. Apologies, but there's been a lot of questions,</p>
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<p>1 Q. You said there is a possibility it can be screwed in.</p> <p>2 A. Correct.</p> <p>3 Q. So there are some possibilities that it cannot being</p> <p>4 screwed in; is it the case?</p> <p>5 A. Correct.</p> <p>6 Q. Why?</p> <p>7 A. Say if the edge is not even, is not intact, then it's</p> <p>8 not possible to screw it in.</p> <p>9 Q. So that means it depends how properly the rebar was cut?</p> <p>10 A. Correct. Even if it's just one bar, for the threaded</p> <p>11 section, if it's been dragged on the floor or the bars</p> <p>12 have been hitting each other, and even if there's</p> <p>13 a perfect coupler, it would be very difficult to screw</p> <p>14 the bars in, if they are in that condition.</p> <p>15 Q. Yes. Now, you were asked about your site diary. Apart</p> <p>16 from yourself, was there any other people from Fang</p> <p>17 Sheung who also contributed to make records in the site</p> <p>18 diary?</p> <p>19 A. No, no one else. Mostly it's me, unless I'm on leave,</p> <p>20 then I would actually call the office or the company and</p> <p>21 ask them to note how many staff came to work, where they</p> <p>22 were working, whether it's safe, or maybe very late in</p> <p>23 the evening I might go back to the site to do the log,</p> <p>24 or I might do the log the following morning.</p> <p>25 Q. You were asked about November and December 2015, the</p>	<p>1 and the issue is one of considerable importance to the</p> <p>2 public, and we wished to probe as much as was possible.</p> <p>3 Thank you.</p> <p>4 WITNESS: Thank you, Mr Chairman.</p> <p>5 (The witness was released)</p> <p>6 MR PENNICOTT: You are free to go, Mr Cheung.</p> <p>7 WITNESS: (In English) Oh, goodbye.</p> <p>8 MR PENNICOTT: Make some friends!</p> <p>9 (The witness was released)</p> <p>10 Sir, I think that brings us to the next Leighton</p> <p>11 witness. Obviously we've had Mr Plummer and Mr Rodgers</p> <p>12 already. Mr Speed, I understand, is the next witness.</p> <p>13 It seems a bit early to take a break, so perhaps we</p> <p>14 could make a start and break a little later.</p> <p>15 CHAIRMAN: Is that satisfactory for you?</p> <p>16 MR WILKEN: Perfectly.</p> <p>17 CHAIRMAN: We will have the 15 minutes now. Thank you.</p> <p>18 (3.06 pm)</p> <p>19 (A short adjournment)</p> <p>20 (3.23 pm)</p> <p>21 CHAIRMAN: Gentlemen, I believe, and please forgive me, that</p> <p>22 just before the break there was a suggestion that it</p> <p>23 would be a good idea to charge, and I agreed and</p> <p>24 promptly retreated. Please forgive me. So often one</p> <p>25 gets used to, when you are sitting here, counsel saying,</p>

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<p>1 "Before the next witness perhaps this would be a good 2 opportunity to have a short break." 3 MR PENNICOTT: I said completely the opposite. 4 CHAIRMAN: Yes, exactly. I was just working on -- 5 MR PENNICOTT: And Mr Wilken agreed, but there we go. Never 6 mind. 7 CHAIRMAN: So my apologies. I really didn't mean to upset 8 the process of matters. Thank you. 9 MR WILKEN: Good afternoon, Mr Speed. 10 MR KARL ROBERT SPEED (affirmed) 11 Examination-in-chief by MR WILKEN 12 Q. I know you have already done it, but can you give your 13 full name to the Commission, please? 14 A. My name is Karl Robert Speed. 15 Q. And you've given four witness statements to this 16 Commission; that's correct, isn't it? 17 A. Correct. 18 Q. Can I take you to C11, page 7593. Can you see the first 19 page of your first witness statement up on the screen? 20 A. Yes. 21 Q. If you go to 7630 -- 22 A. Can you make it slightly bigger, please? Thank you. 23 Q. -- is that your signature? 24 A. Correct. 25 Q. It's dated 14 September 2018?</p>	<p>1 Q. Is there anything you want to add or change in them? 2 A. No. 3 MR WILKEN: If you would just wait there, I believe 4 Mr Pennicott for the Inquiry, who is sitting in front of 5 me, may have some questions for you. 6 WITNESS: Thank you. 7 Examination by MR PENNICOTT 8 MR PENNICOTT: Good afternoon, Mr Speed. You have probably 9 worked out how things operate: I get to ask you some 10 questions first, and then if any of the other counsel 11 for the other parties wish to ask you questions, they 12 will do so, and I think they have probably all agreed 13 which order they will do that in, and when they have 14 finished, Mr Wilken, if he thinks it necessary or 15 appropriate, can ask you some further questions in 16 re-examination. 17 Thank you very much for coming to give evidence to 18 the Commission and I'm sorry if we have wrecked your 19 holiday. 20 Mr Speed, I think I'm right in saying that 21 essentially you are giving evidence to the Commission 22 wearing two hats. One, if you like, is the corporate 23 hat of Leighton, and one is from your personal 24 knowledge; would that be right? 25 A. Yes, that's correct.</p>
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<p>1 A. Yes, correct. 2 Q. Can you go to C12/8091. Is that the first page of your 3 second witness statement? 4 A. That's correct. 5 Q. If you go to 8093, is that your signature? 6 A. Yes, it is. 7 Q. It is dated 14 September 2018? 8 A. Yes. 9 Q. Could you go to C32/24113. Is that the first page of 10 your third witness statement? 11 A. Correct. 12 Q. If you go to 24115, is that your signature? 13 A. Yes, it is. 14 Q. Is it dated 18 October 2018? 15 A. That's correct. 16 Q. Finally, if you go to C35/26568, is that the first page 17 of your 4th witness statement? 18 A. Yes, it is. 19 Q. If you go to 26570, is that your signature? 20 A. Yes, it is. 21 Q. And it's dated 5 November 2018? 22 A. That's correct. 23 Q. So those are the statements which you have given to the 24 Inquiry. Are their contents true? 25 A. Correct.</p>	<p>1 Q. So far as your personal knowledge is concerned, I think 2 you joined the project in about April 2017; is that 3 correct? 4 A. That is correct. 5 Q. So your personal -- 6 A. Not joined the project. Became the general manager for 7 the Hong Kong business. 8 Q. Yes, general manager of the Hong Kong business, and this 9 project was under your remit? 10 A. Correct. 11 Q. In that role, the project staff, from the project 12 director, the project manager perhaps and others, would 13 report to you about what was going on on this project? 14 A. Yes, on a regular basis. 15 Q. On a regular basis, all right. 16 Before you became the general manager in April 2017, 17 were you working for Leighton? 18 A. Yes, I was. 19 Q. Whereabouts? 20 A. I was an operations manager prior to becoming the 21 general manager. 22 Q. In Hong Kong? 23 A. In Hong Kong. 24 Q. How long had you been doing that for? 25 A. I joined Leighton in 2005, November 2005.</p>

Page 97	1 Q. Okay. You've been in Hong Kong from 2005 -- 2 A. I've been in Hong Kong since 1996, July 1996. 3 Q. Okay. But for Leighton, 2005 onwards? 4 A. That's correct. 5 Q. Can I ask you this. Can I ask you to go to paragraph 28 6 of your first witness statement, please. 7 COMMISSIONER HANSFORD: Sorry, Mr Pennicott, just so that 8 I can fill in the gap -- Mr Speed, when you were 9 operations director, before becoming general manager, 10 was this project within your scope? 11 A. No, it wasn't. 12 COMMISSIONER HANSFORD: Thank you. 13 MR PENNICOTT: Sorry, that's what I inferred, Mr Speed. I'm 14 sorry, I should have asked that question; quite right. 15 Mr Speed, in paragraph 28 of your first witness 16 statement, you say: 17 "The engineering construction team was responsible 18 for satisfying itself and obtaining the MTR's approval 19 of the works and authorisation to proceed with the next 20 step in the construction process. The primary means by 21 which Leighton's engineers obtained MTR's approval and 22 authorisation to proceed was by requesting formal 23 inspections by, and conducting formal inspections with, 24 MTR. The two critical inspections in relation to the 25 installation of reinforcement were:	Page 99	1 the reinforcement bar fixing inspection, that's 2 precipitated by the issuance of an RISC? 3 A. Yes. 4 Q. Now, in relation to the intermediate inspections, that 5 is the layer-by-layer inspection, I'm right in saying, 6 am I not, that there is no such equivalent to the RISC? 7 A. That is my understanding, yes. 8 Q. Indeed, not only is there no RISC precipitating the 9 layer-by-layer inspection, there are in fact no written 10 records of any such layer-by-layer inspections; do you 11 agree with that? 12 A. The RISC form basically for the reinforcement fixing was 13 to embrace all that had happened prior to that. 14 Q. Right. But there is no documentary evidence, do you 15 agree, of the layer-by-layer inspection? 16 A. I'm not aware of a formal document. 17 Q. No. So let's take just one layer, the first layer. 18 Let's call it B1. Perhaps it's B6. The rebar fixing is 19 done by Fang Sheung. The Leighton and MTR inspectors go 20 in, to review or to inspect that first layer. And 21 there's simply no record of what they did, what they 22 saw, at all. 23 A. We have full-time, on-site continuous supervision, so in 24 addition, seeing the works as they progress, anything 25 that would be found would be rectified.
Page 98	1 (a) the reinforcement bar fixing inspection, which 2 was jointly conducted by a Leighton engineer and an MTR 3 engineer; and 4 (b) the pre-pour check inspection, which was jointly 5 conducted by a Leighton engineer an MTR IoW [inspector 6 of works]." 7 In relation to those two critical inspections that 8 you mentioned, Mr Speed, is there, to your 9 understanding, a written protocol regarding those joint 10 inspections, both in respect of (a) and (b)? 11 A. Using the RISC form, basically, from MTRC. 12 Q. Right. So Leighton is using the MTR RISC form for those 13 two things? 14 A. Correct. 15 Q. I understand. We have heard from certainly the previous 16 witness that was here some time, Mr Cheung, that so far 17 as the fixing of the rebar is concerned, we know that it 18 was actually fixed by Fang Sheung on a layer-by-layer 19 basis; you've understood all that, presumably? 20 A. Yes, of course. 21 Q. Right. As we understood Mr Cheung's evidence, there 22 would be an inspection by Leighton and MTRC on 23 a layer-by-layer basis; were you aware of that? 24 A. Yes. 25 Q. When it gets to your critical inspection (a), that is	Page 100	1 Q. But, you see, the problem we've got here -- and it's 2 quite an important and fundamental problem -- is that 3 because there are no written records of the 4 layer-by-layer inspections, we don't know precisely who 5 did the inspections from Leighton or MTRC, unless the 6 witnesses are going to come along and tell us, which 7 they might. We don't know if they picked up any 8 particular problem and how it was dealt with on 9 a coupler. We don't know if they put dowel bars in, 10 where they put dowel bars in; we've simply got no 11 records, no records at all. Don't you find that 12 surprising, Mr Speed? 13 A. Our witnesses have confirmed it was done layer by layer, 14 the inspections with MTRC jointly. 15 Q. But don't you find it surprising that there is no record 16 of any of that? 17 A. That was the agreed process, that was agreed with MTRC, 18 for the works. 19 Q. All right. I'll have to ask some more questions about 20 that particular topic of other witnesses, but at least 21 you agree there are no written records of the 22 layer-by-layer inspections? 23 A. We have the formal RISC form inspection -- reinforcement 24 fixing, which basically summarises all of the individual 25 inspections which happened on a daily basis across the

<p style="text-align: right;">Page 101</p> <p>1 project as the works were constructed.</p> <p>2 Q. All right. As an adjunct to that point, Mr Speed, one</p> <p>3 problem is this, isn't it, that when the RISC form is</p> <p>4 issued for your (a) inspection, the rebar inspection,</p> <p>5 the inspectors presumably have to walk around the top</p> <p>6 level of the rebar -- let's say they're standing on T1</p> <p>7 and they're walking around the rebar -- how is it they</p> <p>8 can see the connections of the levels that are below,</p> <p>9 the layers that are below, if they haven't done the</p> <p>10 intermediate inspections?</p> <p>11 A. But they have.</p> <p>12 Q. Assuming they have --</p> <p>13 A. The witnesses have confirmed that.</p> <p>14 Q. Assuming they have, all right -- okay, they can confirm</p> <p>15 that, but if they haven't, there is no way that they can</p> <p>16 properly see beneath that first layer, perhaps the</p> <p>17 second layer as well, but not much more than that; would</p> <p>18 you agree?</p> <p>19 A. I can't answer that. It depends on the specific</p> <p>20 location of what you're talking about.</p> <p>21 Q. All right. Can I ask you a different question.</p> <p>22 Paragraph 54 of your witness statement.</p> <p>23 You say there -- this is dealing with the general</p> <p>24 topic of, again, supervisors and inspections, and you</p> <p>25 say:</p>	<p style="text-align: right;">Page 103</p> <p>1 A. You need to speak to them, yes.</p> <p>2 Q. Because, as I understood it from Mr Rodgers, there was</p> <p>3 no sort of equivalent to the sign-in/sign-out process</p> <p>4 for the sub-contractors and the labour for foremen, site</p> <p>5 supervisors and the like, and so there's no way of</p> <p>6 pinpointing which people were there, in which area, at</p> <p>7 any given time. Anyway, perhaps I can ask somebody else</p> <p>8 about that.</p> <p>9 A. Sure.</p> <p>10 Q. All right. The next topic. Are you familiar with the</p> <p>11 non-conformance reporting process?</p> <p>12 A. I'm familiar at the high level, yes.</p> <p>13 Q. Do you know whether there are any written guidelines</p> <p>14 that Leighton has concerning the circumstances in which</p> <p>15 a non-conformance report should be issued or need not be</p> <p>16 issued?</p> <p>17 A. I would have to review our quality assurance plans for</p> <p>18 that detail.</p> <p>19 Q. But you are not, sitting here today, personally aware of</p> <p>20 whether there is or is not?</p> <p>21 A. No, I would have to review the plan.</p> <p>22 Q. Okay. I don't know if you know this, but on the face of</p> <p>23 one of the non-conformance reports that we've been</p> <p>24 rather focusing on a lot during the course of the</p> <p>25 hearing, there's a reference to a guideline 121. Is</p>
<p style="text-align: right;">Page 102</p> <p>1 "Both a Leighton engineer and an MTR engineer ...</p> <p>2 would attend formal inspections for rebar fixing and</p> <p>3 pre-pour checks. However, there were multiple Leighton</p> <p>4 engineers and site supervision staff assigned to</p> <p>5 supervise the sub-contractors' work in each area. These</p> <p>6 other engineers and staff were on site on a daily basis.</p> <p>7 As a result, they were monitoring the sub-contractors</p> <p>8 and generally ensuring that Leighton's systems were</p> <p>9 being followed."</p> <p>10 That's the point I think you were making just</p> <p>11 a moment ago?</p> <p>12 A. Yes, it was.</p> <p>13 Q. Are there any records that Leighton keeps to show the</p> <p>14 identity and number of engineers and site supervisors on</p> <p>15 the site at any given time?</p> <p>16 A. We have our organisation charts which dictates the</p> <p>17 area-by-area -- which is responsible for.</p> <p>18 Q. You have your organisation charts, I understand that,</p> <p>19 but if I said to you, "Can you tell me, first of all,</p> <p>20 which engineers were on site in which area on any given</p> <p>21 day", can you from the records answer that?</p> <p>22 A. I don't specifically know that. I'm the general manager</p> <p>23 of the business. I don't know that detail.</p> <p>24 Q. Okay. I won't ask you about supervisors, foremen and so</p> <p>25 forth.</p>	<p style="text-align: right;">Page 104</p> <p>1 that something that means anything to you?</p> <p>2 A. I'm not familiar with that guideline.</p> <p>3 Q. Okay. Could I ask you, please, to be shown</p> <p>4 paragraphs 134 and 135 of your statement.</p> <p>5 CHAIRMAN: First statement?</p> <p>6 MR PENNICOTT: The first statement, sir, sorry, yes.</p> <p>7 You were asked to comment, wearing your corporate</p> <p>8 hat, Mr Speed, about steps that might be taken to</p> <p>9 ascertain whether or not the EWL and the NSL slabs were</p> <p>10 safe; yes?</p> <p>11 A. Yes.</p> <p>12 Q. At paragraph 134 you say:</p> <p>13 "In addition, load testing could be done on the</p> <p>14 platforms slabs to verify the integrity and safety of</p> <p>15 the structures. In this regard, [it] is notable that</p> <p>16 the diaphragm walls and platforms have been supporting</p> <p>17 significant loads since their completion, including</p> <p>18 works and passenger trains that have been using the EWL</p> <p>19 slab."</p> <p>20 You go on to say this:</p> <p>21 "Leighton does not recommend physically breaking</p> <p>22 open the concrete to check the connections between the</p> <p>23 reinforcement bars with couplers in the platform slabs</p> <p>24 and diaphragm wall."</p> <p>25 Mr Speed, does that remain Leighton's corporate</p>

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<p>1 position before the Commission?</p> <p>2 A. That's correct.</p> <p>3 Q. You go on to say:</p> <p>4 "This would reduce the strength of the concrete and</p> <p>5 require significant and expensive strengthening and</p> <p>6 propping before the concrete was broken open so that the</p> <p>7 safety of the slabs and those carrying out the</p> <p>8 investigation would be ensured. There would then be the</p> <p>9 need for further remedial or replacement works. In any</p> <p>10 event, Leighton does not believe that it is necessary or</p> <p>11 appropriate to conduct such costly and damaging</p> <p>12 inspections. There is no reason to doubt the structural</p> <p>13 integrity and safety of the diaphragm walls and platform</p> <p>14 slabs."</p> <p>15 Why do you say that, Mr Speed?</p> <p>16 A. From our staff and our witnesses, there is no -- nothing</p> <p>17 to suggest that the works have not been constructed in</p> <p>18 accordance with the contract.</p> <p>19 Q. So your corporate position is that nothing, in any shape</p> <p>20 or form, by way of load testing, by way of trial</p> <p>21 investigation, by way of opening up, is necessary? It's</p> <p>22 simply we can just all walk away from this; is that your</p> <p>23 position?</p> <p>24 A. No, that's not what I said. What I said is that the</p> <p>25 works have been constructed in accordance with the</p>	<p>1 inspect, to witness, to approve the work progressively</p> <p>2 with MTRC. All the processes have been followed.</p> <p>3 Q. Why has it taken so long to produce these as-built</p> <p>4 drawings, Mr Speed?</p> <p>5 A. I think they've been produced in accordance with the</p> <p>6 contract.</p> <p>7 Q. Why is it taking so long to produce the as-built</p> <p>8 drawings for the top of the east diaphragm wall?</p> <p>9 A. I would need to speak with the teams to understand that.</p> <p>10 Q. So you don't know?</p> <p>11 A. I said I would need to speak with the teams.</p> <p>12 CHAIRMAN: Which means you don't know?</p> <p>13 A. Correct.</p> <p>14 MR PENNICOTT: All right. Could I move on to an entirely</p> <p>15 separate topic, and we are moving into a factual area --</p> <p>16 A. Okay.</p> <p>17 Q. -- which I think you might know something about. It's</p> <p>18 the events of September 2017.</p> <p>19 A. Yes.</p> <p>20 Q. Mr Poon, Mr Zervaas and others.</p> <p>21 A. Yes.</p> <p>22 Q. You've got the general topic. As I understand your</p> <p>23 evidence, Mr Speed, you had one relatively short</p> <p>24 meeting, lasting 10 or 15 minutes, with Mr Poon on</p> <p>25 15 September in the late afternoon; is that correct?</p>
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<p>1 contract.</p> <p>2 Q. And so? The works have been constructed in accordance</p> <p>3 with the contract and ...? Therefore you say there is</p> <p>4 no need to do any further testing/investigation; is that</p> <p>5 what you are saying?</p> <p>6 A. We have investigated it with all the witness statements</p> <p>7 we have been through already, and there's no evidence to</p> <p>8 suggest that there's anything wrong with what has been</p> <p>9 constructed.</p> <p>10 Q. All right. We know, Mr Speed, that as we sit here and</p> <p>11 stand here today, neither Leighton or MTRC have produced</p> <p>12 any as-built drawings for the top of the east diaphragm</p> <p>13 wall. Do you agree with that?</p> <p>14 A. I think that's the case, yes.</p> <p>15 Q. They certainly haven't submitted any as-built drawings</p> <p>16 to the government.</p> <p>17 A. I think they've been prepared.</p> <p>18 Q. All right. Would you agree that at least until those</p> <p>19 as-built drawings are produced and submitted to</p> <p>20 government, considered by this Commission, that you</p> <p>21 cannot be confident of the structure of the top of the</p> <p>22 east diaphragm wall? Structural integrity, sorry, of</p> <p>23 the east diaphragm wall.</p> <p>24 A. We have -- you know, within this, we have our quality</p> <p>25 assurance plan. We employ professional engineers to</p>	<p>1 A. That's correct.</p> <p>2 Q. As I understand it, when you joined that meeting,</p> <p>3 Mr Poon was there with Mr Zervaas; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Was there anybody else present?</p> <p>6 A. No.</p> <p>7 Q. And when you arrived at the meeting with Mr Poon and</p> <p>8 Mr Zervaas, had they agreed the final account statement?</p> <p>9 A. They verbally agreed the financial deal, yes.</p> <p>10 Q. And so you weren't actually a party to the discussion</p> <p>11 that led to that agreement?</p> <p>12 A. Not in that meeting, in that room, no.</p> <p>13 Q. That suggests that you might have been a party to</p> <p>14 discussions with Mr Zervaas outside the meeting?</p> <p>15 A. Earlier, yes.</p> <p>16 Q. So had you agreed with Mr Zervaas on parameters at which</p> <p>17 you would settle with Mr Poon?</p> <p>18 A. Yes, I had.</p> <p>19 Q. And we know that the final financial settlement with</p> <p>20 Mr Poon or with China Technology was the additional</p> <p>21 payment of \$1.6 million?</p> <p>22 A. Correct.</p> <p>23 Q. And that presumably fell within the parameters that you</p> <p>24 had discussed with Mr Zervaas?</p> <p>25 A. Yes, yes.</p>

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<p>1 Q. I think that Mr Zervaas now accepts that the final 2 account statement and the confidentiality agreement -- 3 which we are coming to in a moment -- were both signed 4 by Mr Poon on behalf of China Technology at a separate 5 meeting on 18 September, so three days later, at 6 a meeting with himself, that's Mr Zervaas, and 7 Mr Manning; were you aware of that? 8 A. I'm aware of that, yes. 9 Q. And you've no reason to doubt that? 10 A. No. 11 Q. The confidentiality agreement, Mr Speed, when you 12 arrived at the meeting with Mr Zervaas and Mr Poon on 13 the 15th, do you know whether the confidentiality 14 agreement had been discussed, or the entering into 15 a confidentiality agreement had been discussed, between 16 Mr Poon and Mr Zervaas? 17 A. When I arrived? I had discussed it earlier with 18 Mr Zervaas. I assumed it had been discussed, the terms 19 and conditions. 20 Q. Was there any discussion, in the 10 or 15 minutes that 21 you were there, about the confidentiality agreement? 22 A. No, just apart from we needed to get the formal 23 paperwork agreed over the weekend. That was all. 24 Q. Right. Do you know whether Mr Poon was given a copy of 25 the confidentiality agreement at the meeting on</p>	<p>1 Leighton and China Technology, which required China 2 Technology to enter into that confidentiality agreement 3 on the settlement of the final account? 4 A. Well, within the final account agreement, we were 5 agreeing the commercial terms with China Tech. 6 Q. There is nothing in the conditions, the terms and 7 conditions, of the final account statement that require 8 them to enter into the confidentiality agreement either? 9 A. We -- I think, as I said, the false allegations and lies 10 that were getting made against [sic] China Technology, 11 that is a reason why the confidentiality agreement was 12 included. 13 Q. What would you have done if Mr Poon, on behalf of China 14 Technology, had said, "I'm not going to enter into 15 a confidentiality agreement"? What would you have done? 16 What would have happened? 17 A. This is obviously a hypothetical question. We may have 18 just signed the final account. 19 Q. What are the criteria that come into play when you 20 require a sub-contractor to enter into a confidentiality 21 agreement? 22 A. I don't think there's any set criteria. 23 Q. So we know in this particular project that you didn't 24 enter into a confidentiality agreement with 25 Fang Sheung --</p>
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<p>1 15 September? 2 A. I can't recall, actually. 3 Q. In the last three to five years, Mr Speed, how many 4 confidentiality agreements has Leighton entered into, 5 approximately, with their sub-contractors? 6 A. With our supply chain, we normally use confidentiality 7 agreements for -- basically, in tendering, with 8 designers and consultants. In these circumstances, we 9 are receiving basically from Jason Poon and China 10 Technology false allegations and lies, and we decided in 11 a meeting prior to meeting with Jason that we would 12 attach the standard form of confidentiality agreement to 13 the final account. 14 Q. All right. Would you agree with these couple of 15 propositions: there was nothing in the Leighton-China 16 Technology sub-contract, entered into back in 2015, 17 which required China Technology to enter into 18 a confidentiality agreement upon the settlement of their 19 final account? 20 A. I think what I've said in my witness statement is that 21 China Tech were also working at our Liantang project as 22 well, and with the mutual termination, we wanted to keep 23 this agreement confidential. 24 Q. I'll ask the question again: there is nothing in the 25 sub-contract, the underlying sub-contract between</p>	<p>1 A. That's correct. 2 Q. You did not enter into a confidentiality agreement with 3 Intrafor? 4 A. As I said, we didn't have -- 5 Q. No, no, no -- you agree with me; you didn't have 6 a confidentiality agreement with Intrafor? 7 A. Correct. 8 Q. You had a few other sub-contractors on this project as 9 well, and I don't know the answer but I assume you 10 didn't enter into a confidentiality agreement with any 11 of those either? 12 A. Correct. 13 Q. China Technology is the only party, the only 14 sub-contractor, that you required to enter into 15 a confidentiality agreement with you? 16 A. Yes. 17 Q. Did you pay China Technology more than they were 18 otherwise entitled to under their sub-contract in 19 consideration of them entering into the confidentiality 20 agreement? 21 A. No. 22 Q. All right. I mean, there is a confidentiality term in 23 the sub-contract in any event, isn't there, Mr Speed? 24 A. I think there is, yes. 25 Q. It's clause 29.</p>

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<p>1 A. Yes.</p> <p>2 Q. We don't need to look at it. All right. Could we look</p> <p>3 at the confidentiality agreement, please. It's at</p> <p>4 C12/8000.</p> <p>5 Sorry, before we do that, just to go back slightly</p> <p>6 on a point I made earlier, could we look at the final</p> <p>7 account statement, which is at 7993, please.</p> <p>8 Do you have that, Mr Speed?</p> <p>9 A. I've got the top part, yes.</p> <p>10 Q. This is, as we can see, the final account agreement, and</p> <p>11 we can see the final sub-contract price, balance</p> <p>12 payment, the \$1.6 million that we mentioned earlier, how</p> <p>13 that's going to be paid. Then, over the page, at 7994,</p> <p>14 we see it's signed by China Technology. I think there</p> <p>15 may be a version somewhere else signed also by Leighton.</p> <p>16 Then the final account statement and its various</p> <p>17 terms are then at 7995. It's a little difficult to read</p> <p>18 unless blown up a bit.</p> <p>19 A. No problem.</p> <p>20 Q. I've read through this, Mr Speed, and there's simply</p> <p>21 nothing there, in those terms, that says, "You will</p> <p>22 enter into a confidentiality agreement as part and</p> <p>23 parcel of this deal"; there's simply nothing there?</p> <p>24 A. Yes.</p> <p>25 Q. You agree. All right.</p>	<p>1 agreement' in my first witness statement) ..."</p> <p>2 Then it's this sentence:</p> <p>3 "It was important for Leighton to enter into</p> <p>4 a confidentiality agreement with China Tech as Leighton</p> <p>5 has many contracts with suppliers and sub-contractors in</p> <p>6 Hong Kong, and Leighton did not want other</p> <p>7 sub-contractors to know about this terms of this</p> <p>8 confidential agreement."</p> <p>9 Mr Speed, that's just a non sequitur, isn't it?</p> <p>10 It's not the confidential agreement or the</p> <p>11 confidentiality agreement that you want to keep</p> <p>12 confidential. It's the confidential information. If</p> <p>13 you didn't want to disclose the terms of the</p> <p>14 confidentiality agreement, don't enter into it.</p> <p>15 A. The final account, yes.</p> <p>16 Q. It's the terms of the -- it's about the final account,</p> <p>17 not the terms of the confidentiality agreement.</p> <p>18 A. That's what it meant to say.</p> <p>19 Q. Okay. So "the terms of the final account agreement",</p> <p>20 instead of "this confidential agreement"?</p> <p>21 A. Yes.</p> <p>22 Q. That makes a little bit more sense.</p> <p>23 You say, "You've got to keep this confidential."</p> <p>24 Why? What's the necessity? What's the imperative?</p> <p>25 A. In terms of when we resolves the account, China Tech</p>
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<p>1 Then if we go to the confidentiality agreement</p> <p>2 itself, please, at, as I say, 8000. As I understand it,</p> <p>3 Mr Speed, what you're seeking to do by this</p> <p>4 confidentiality agreement is keep confidential</p> <p>5 information confidential?</p> <p>6 A. It's our standard confidentiality agreement.</p> <p>7 Q. Drafted, no doubt, by some lawyers at some point?</p> <p>8 A. There would have been someone involved, but it's</p> <p>9 standard.</p> <p>10 Q. I can see bottom left, "Confidentiality agreement</p> <p>11 copyright Leighton 2015".</p> <p>12 A. Yes.</p> <p>13 Q. It's not this agreement you're trying to keep</p> <p>14 confidential, it's not the final account statement that</p> <p>15 you're trying to keep confidential. You are trying to</p> <p>16 keep confidential confidential information as defined in</p> <p>17 this agreement?</p> <p>18 A. Can you repeat that again, sorry?</p> <p>19 Q. Yes. Actually, before I do that, can I just ask you,</p> <p>20 please, to look at paragraph 12 of your second witness</p> <p>21 statement, at C12/8093. At paragraph 12 you say this:</p> <p>22 "Following our meeting with Jason Poon, the parties</p> <p>23 [agreed] a 'final account' agreement to mutually</p> <p>24 conclude China Tech's sub-contract and a confidentiality</p> <p>25 agreement, (which are referred to as the 'confidential</p>	<p>1 were working on a Liantang project and we wanted to keep</p> <p>2 that confidential from the other sub-contractors, so</p> <p>3 I suppose clause 29 of the sub-contract, we added this</p> <p>4 extra -- our standard confidential agreement,</p> <p>5 confidentiality agreement, to it.</p> <p>6 Q. If you would be good enough to be taken to clause 3.5 of</p> <p>7 the confidentiality agreement, at 8002, please. It's</p> <p>8 headed, "Return or destruction"; do you see that,</p> <p>9 Mr Speed?</p> <p>10 A. Yes.</p> <p>11 Q. It says:</p> <p>12 "At any time upon demand by Leighton, the</p> <p>13 sub-contractor must promptly deliver up to Leighton or</p> <p>14 destroy (at the option of Leighton), all copies of any</p> <p>15 confidential information ..."</p> <p>16 With regard to the demand by Leighton to destroy</p> <p>17 confidential information, have you ever operated or</p> <p>18 sought to operate this clause?</p> <p>19 A. Never.</p> <p>20 Q. And pursuant to this clause, did you ask Mr Poon to</p> <p>21 destroy any confidential information?</p> <p>22 A. Categorically, no.</p> <p>23 CHAIRMAN: Did he at any stage, to the best of your memory,</p> <p>24 say he did have information which you would find</p> <p>25 embarrassing in his possession?</p>

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1 A. No, he never did.
2 MR PENNICOTT: Mr Speed, thank you very much. I have no
3 further questions for you, but I anticipate others may
4 have.
5 WITNESS: Yes.
6 CHAIRMAN: Yes?
7 MS CHONG: I have no questions.
8 CHAIRMAN: Thank you. Has an order been agreed?
9 MR SO: There will be questions from China Technology.
10 CHAIRMAN: All right. Thank you.
11 Cross-examination by MR SO
12 MR SO: Mr Speed, I represent China Technology. I have some
13 questions for you.
14 You have just answered my learned friend
15 Mr Pennicott that you had not signed any confidentiality
16 agreement with Fang Sheung regarding SCL1112; correct?
17 A. Yes, I just answered that question.
18 Q. We heard evidence that Leighton have a cooperation with
19 Fang Sheung for quite a number of years already;
20 correct?
21 A. They worked for us on a number of projects, yes.
22 Q. Throughout the cooperation Leighton had with
23 Fang Sheung, you had also never signed any
24 confidentiality agreement ever with Fang Sheung; is that
25 true?

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1 A. We have a very good working relationship with
2 Fang Sheung.
3 Q. Did you sign any confidentiality agreements with him
4 then?
5 A. No.
6 Q. Can I bring you to bundle C12, page C8102. That's the
7 confidentiality agreement that you signed with Mr Jason
8 Poon on behalf of China Technology; right?
9 A. Yes.
10 Q. And you just told this Commission that one of the main
11 objectives to sign this agreement was to keep
12 confidential the terms of the final account?
13 A. Yes.
14 Q. If you take a look at clause 1, as per the content of
15 the confidential information, it reads:
16 "Confidential Information means all information of
17 any description and in any form, which has been
18 disclosed by LCAL or has otherwise come to the knowledge
19 of the Sub-contractor through its involvement in [this]
20 project, including ..."
21 And there were four examples listed there, and there
22 was no mention whatsoever about the final account; you
23 would agree that?
24 A. This is our standard confidentiality agreement.
25 Q. But definitely, before signing this agreement, you

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1 yourself or counsel for Leighton or lawyers for Leighton
2 would have tailor-made some parts of it, so to fit the
3 context; correct?
4 A. It's our standard confidentiality agreement.
5 Q. In any event, it was not mentioned in any part of
6 clause 1 that the final account has to be confidential;
7 do you agree that?
8 A. I think you need to read the whole of the agreement to
9 understand that.
10 Q. Clause 1 is the only clause in this confidential
11 agreement to specify the scope of the confidential
12 information that is covered by this agreement; is that
13 true?
14 A. I would need to read it in detail from front to back.
15 Q. Please do. I think the confidentiality agreement is not
16 long. If you want to take time, you can read it now.
17 A. Okay.
18 Can you repeat the question, please?
19 Q. My question is clause 1 in this agreement is the only
20 clause that specifies the scope of the confidential
21 information under this agreement?
22 A. I would have to clarify that with my team.
23 CHAIRMAN: Yes. I think one can premise the question that
24 you wish to ask. I don't think Mr Speed professes to be
25 a lawyer. If you do, Mr Speed, my apologies.

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1 A. No, I'm not a lawyer.
2 CHAIRMAN: Meaning I've misunderstood your background,
3 that's all. But I think one can premise on the basis
4 that this is a definition section and then take it from
5 there.
6 MR SO: Sir, sure. I will move on.
7 Mr Speed, take a look at the recitals at capital D.
8 If you read it:
9 "In consideration for the receipt of the
10 Confidential Information and agreement between the
11 Parties on the final account associated with the
12 Sub-contract, the Sub-contractor will ensure that the
13 Confidential Information is kept confidential in
14 accordance with this Agreement."
15 Mr Speed, would you accept that if I suggest to you
16 that the final account is simply not part of the
17 confidential information -- would you agree that?
18 A. No, I think it says it includes the final account.
19 Q. Can I bring you to bundle D1, page D281.
20 Mr Speed, you can take it from me that D257 onwards
21 is the sub-contract you had with Leighton and China
22 Technology, and in D281, you see clause 29, do you?
23 Clause 29 is the clause of "Confidentiality" within the
24 sub-contract?
25 A. Yes, I can see that.

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<p>1 Q. And D29.1, would you agree with me, is simply the same, 2 the scope, with clause 1 of the confidential agreement? 3 A. Well, it's not the same, is it? 4 Q. Very well. I would suggest to you that the whole 5 purpose of signing and entering into the confidential 6 agreement is because you have viewed a video clip 7 produced by Mr Poon -- do you? 8 A. This is categorically -- this is complete lies. 9 Q. Right. 10 A. Blatant lies. 11 Q. Can you go back to C8104. That's the confidential 12 agreement. Clause 3.5. You would agree that there were 13 no equivalent clauses requiring the sub-contractor to 14 destroy confidential information under the sub-contract, 15 would you? 16 A. I would have to read all of the contract. 17 Q. Right. Take it from me for the time being -- I will 18 stand to be corrected if that is not the case -- there 19 were no clauses requiring a sub-contractor to destroy 20 confidential information under the sub-contract? 21 A. I would have to go through the whole contract to 22 understand that, with my teams. 23 Q. I would suggest to you that the reason for putting this 24 clause again is because you were shown video clips by 25 Mr Poon and photographs by Mr Poon.</p>	<p>1 Q. So the email reads: 2 "Mr Poon, please find attached as requested. 3 Preston. 4 Sent from ... iPhone." 5 If you scroll down, there were some attachments in 6 the email, and one of the attachments is a Word file 7 document, "Terms of waiver.docx", 12KB; do you see that? 8 A. I can see what is on the screen. 9 Q. Can we go to the next page, please. This is the 10 attachment of it. It reads: 11 "The waiver is solely for matters to be discussed in 12 the MTR interviews tomorrow and Jason Poon is not to 13 discuss the subject matter of the interviews to any 14 person afterwards; 15 A Leighton representative can also attend the 16 interview tomorrow as an observer (with an interpreter 17 if the interview is to be in Chinese). Please let us 18 know; 19 The waiver relates only to the technical issue of 20 the couplers and not to any commercial discussions or 21 settlement." 22 Mr Speed, did you direct this email together with 23 the attachment to be sent to Mr Poon? 24 A. No, I didn't. 25 Q. Were you aware that your legal team have actually sent</p>
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<p>1 A. I would like to say for the record, this is just blatant 2 lies and it never happened. 3 Q. As I said, I have my duty to put the case of China 4 Technology. I hope you understand. 5 A. But I would like to be clear that this never happened, 6 these are false allegations, and this is lies. 7 Q. Mr Speed, I would like to show you an email. It is on 8 page D252. 9 Can that be enlarged slightly so that it can be 10 clearer? Thank you very much. 11 This is an email by a Preston Lee to Mr Jason Poon 12 on 13 June 2018. For your benefit, do you know that on 13 13 June 2018 Mr Poon had attended an interview with the 14 MTRC? Do you know that? 15 A. I'm aware he attended, yes. 16 Q. Can you tell us who this Preston Lee is? 17 A. Preston Lee works for Leighton within our legal team. 18 Q. How about this Jean-Paul Wallace? 19 A. These are Leighton staff. 20 Q. Are they from the legal department? 21 A. Yes. 22 Q. How about this Sofia Gretton? 23 A. Legal team for Leighton. 24 Q. Were you shown this email prior to it was sent out? 25 A. I don't think I've seen this email before.</p>	<p>1 this email to Mr Poon? 2 A. I can't remember seeing this email. I think I actually 3 wasn't even in Hong Kong when this happened. 4 Q. Mr Speed, I have to suggest to you that the terms of 5 waiver is a temporary and conditional waiver for Mr Poon 6 to speak about matters in the MTRC interview. Do you 7 agree or disagree? 8 A. Sorry, can you say that again, please? 9 Q. That terms of waiver was sent to Mr Poon in order to 10 allow him to speak on a conditional basis about the 11 couplers and the cutting of the threaded rebars -- 12 A. I would have to speak with my team on that. 13 MR SO: I have no further questions, sir. 14 CHAIRMAN: All right. Thank you. 15 Cross-examination by MR KHAW 16 MR KHAW: Mr Speed, I am acting for the government. I have 17 a few questions for you. 18 You told us that you were appointed as general 19 manager of Leighton in April 2017, and that was the time 20 when you started to be involved in this Hong Kong 21 project; is that right? 22 A. When I became responsible for the project myself, yes. 23 Q. Before you started to become responsible for this 24 project, did you have an opportunity to review the 25 relevant documents in order to get an update as to</p>

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<p>1 whether the project experienced any problems and 2 difficulties and what were the concerned areas that you 3 had to look into; did you? 4 A. I wasn't responsible for the day-to-day running, until 5 I took over in April. 6 Q. Yes, but my question was, before you took over in April, 7 ie before you took over in April -- 8 A. Sure. 9 Q. -- did you have a chance to review the documents, the 10 relevant documents, regarding the project, in order to 11 get an update as to whether the project experienced any 12 problems or difficulties? 13 A. What documents are you referring to? 14 Q. Any kind of documents that you would be able to review 15 regarding the project. 16 A. I took over the whole Hong Kong business. 17 MR WILKEN: Sir, a small point, if I may. Cross-examination 18 isn't a memory test for witnesses. If Mr Khaw has 19 actual rooted questions in the documents that he wishes 20 to ask, can the witness be shown some documents, please? 21 MR PENNICOTT: I think, if I may say so, on behalf of 22 Mr Khaw, speaking for myself, if Mr Khaw is trying to 23 find out whether Mr Speed took any steps to acquaint 24 himself with the state of the project, any particular 25 problems, it seems to me that's a perfectly legitimate</p>	<p>1 Q. Thank you. Also in relation to bar fixing work? 2 A. I think when I said "good", we have a long-term 3 relationship. They have worked for us many times. 4 That's what I meant by that. Just for the correction. 5 Q. Thank you. And you are still working with them? 6 A. Yes. 7 Q. There's one matter which is perhaps sort of a more 8 high-level matter that has been mentioned by one of your 9 colleagues, Mr Malcolm Plummer. If I can take you to 10 have a look at his evidence. Bundle C27, page 20675. 11 In paragraph 6, Mr Plummer said: 12 "Contract SCL1112 was unusually in that it was 13 a 'partnering' contract between Leighton and MTRCL with 14 some risk and profit sharing between us." 15 A. It's a target cost contract with MTRC, which is quite 16 common in Hong Kong. 17 Q. Yes. In fact I explored that with Mr Plummer, and 18 I would like you to perhaps supply some further 19 information in this particular respect, if you can, as 20 a general manager. 21 Can you tell us what Mr Plummer actually meant by 22 "risk and profit sharing" between Leighton and MTRCL? 23 What are the sort of special features -- 24 A. Target cost contracts have a gain and pain mechanism. 25 Q. Yes. And ...?</p>
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<p>1 question to ask. 2 CHAIRMAN: I'm happy for a question to be put in those 3 terms, yes. That's not just a pure memory test. 4 MR WILKEN: In those terms, we have no difficulty with it. 5 It's the "Please remember a single document somewhere" 6 that's ... 7 CHAIRMAN: Yes. 8 MR KHAW: I was just focusing on the steps taken by Mr Speed 9 when he took over. 10 A. When I took over the business, we did detailed reviews 11 of all the projects, so I could get fully up to speed 12 with everything. 13 Q. Am I correct in saying that, as a general manager, 14 obviously you were not required to attend any site 15 visits on a general basis? 16 A. I attend project safety reviews across our projects, and 17 we schedule those into my calendar. So I visit the 18 projects, you know, as and when required. 19 Q. You just told us that Leighton has a very good working 20 relationship with Fang Sheung; do you remember that? 21 A. (Nodded head). 22 Q. Are you aware of any ongoing projects that Leighton is 23 working with Fang Sheung at the moment? 24 A. Fang Sheung are working on I think one of our projects 25 at the moment.</p>	<p>1 A. Well, target cost contracts have a gain and pain 2 mechanism. If the actual cost is less than the target 3 cost, you share the gain, and if it's vice versa you 4 share the pain between you, up to a maximum limit of 5 10 per cent of the contract value. 6 Q. Right. So assuming there is delay caused in the 7 project, and the delay actually results in an escalation 8 of costs, such extra costs would be shared between you, 9 Leighton, and MTR; is that right? 10 A. You would need to read the contract and also take into 11 account the disallowed cost clause as well and read that 12 in detail, to understand it. It's not as you said. 13 Q. In fact, the reason why I would like to ask you is that 14 we cannot locate the contract in this respect, and that 15 is why I would like to just hear a bit more from you. 16 A. Okay. Sure. 17 Q. As a general manager, insofar as your job responsibility 18 and duties are concerned, is it fair for me to say that 19 you are more concerned about the programming aspect of 20 the project than the quality issues of the project? 21 A. No, that's correct [sic]. Our most important criteria 22 is safety on our projects. 23 COMMISSIONER HANSFORD: Sorry, I didn't understand that 24 answer. It says on the screen, "No, that's correct." 25 Is that what you said?</p>

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1 A. No, sorry, let me just re-state that.
 2 COMMISSIONER HANSFORD: Thank you.
 3 A. For us, there's nothing more important than safety.
 4 Then it would be quality, and then programme.
 5 MR KHAW: If we can have a look at paragraph 21 of your
 6 first witness statement, C7597, where you mentioned
 7 Leighton's contract with Fang Sheung, which would define
 8 Fang Sheung's scope of work here.
 9 We have heard evidence from Fang Sheung's
 10 representatives, and in fact they told us that Fang
 11 Sheung's workers were only responsible for screwing
 12 rebars into couplers. If any couplers would require
 13 remedial measure or remedial work, that would be the
 14 responsibility of Leighton; would you agree with that
 15 statement?
 16 A. Depending on what the issue was with the defect.
 17 Q. For example, if defects were found on couplers and they
 18 were not able to screw in the threaded rebars into the
 19 couplers, it would be Leighton's responsibility to
 20 rectify such defects?
 21 A. That's correct.
 22 Q. Would you agree?
 23 A. Correct.
 24 Q. In that case, if we can take a look at your footnote 9
 25 at page C7599. Your footnote 9 says:

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1 "Leighton also used its own workers to perform
 2 various tasks on the construction of the platform slabs
 3 and diaphragm walls (such as logistics support,
 4 hydro-demolition work and excavations). Leighton's
 5 workers were not involved in the installation of the
 6 reinforcement in the platform slabs and diaphragm
 7 walls."
 8 Now, just pause here. Your last sentence in this
 9 footnote:
 10 "Leighton's workers were not involved in the
 11 installation of the reinforcement in the platform slabs
 12 and diaphragm walls."
 13 Save and except that Leighton's workers would be
 14 required to rectify any defects if they were found on
 15 coupling; would you agree?
 16 A. That's my understanding, yes.
 17 Q. Then if we can go to paragraph 27 of your witness
 18 statement, you mention:
 19 "... Leighton staff worked in either the engineering
 20 construction team, engineering design team or the site
 21 supervision team. The engineering construction team was
 22 responsible for method statement preparation,
 23 programming, procurement, management of resources ...
 24 The engineering design team was responsible for dealing
 25 with design aspects, including temporary works design

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1 and approvals. The site supervision team was
 2 responsible for the day-to-day management of the
 3 site ..."
 4 Do you see that?
 5 A. Yes.
 6 Q. In relation to site supervision, if we are now confining
 7 ourselves to site supervision in relation to coupling
 8 work -- okay? -- are you aware as to what particular
 9 team or teams were involved in the supervision and
 10 inspection of such works?
 11 A. Which particular teams?
 12 Q. Yes, because here you talk about three teams --
 13 A. Okay.
 14 Q. -- engineering construction team, engineering design
 15 team, site supervision team. If we are talking about
 16 inspection and supervision of the coupling works, which
 17 team or teams would be responsible?
 18 A. I'm the general manager of the business. I don't know
 19 the detail.
 20 Q. I see. Ask somebody else; right?
 21 A. Yes. I don't know the detail beyond that.
 22 Q. Of course. Perhaps after this question I can delete
 23 some of my previously prepared questions. You are not
 24 aware of actually how supervision and inspection were
 25 conducted or carried out for the coupling works?

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1 A. I'm aware of the full-time, continuous supervision was
 2 provided at the project. The specifics, you would have
 3 to get into the detail with it.
 4 Q. So are you aware of the requirements under the QSP?
 5 A. Correct.
 6 Q. And you have read it; right?
 7 A. I have read it previously, yes.
 8 Q. Just now you told us that according to what you
 9 gathered, there was probably an agreement between MTR
 10 and Leighton in relation to this layer-by-layer
 11 inspection; do you agree? Do you remember?
 12 A. That's how -- we had an inspection test plan and that's
 13 how the works were, you know, inspected, witnessed and
 14 then approved.
 15 Q. If we can just take a look at the inspection test plan.
 16 It's B6/3770. It starts from 3768.
 17 I suppose this is the kind of inspection and test
 18 plan that you referred us to; is that correct?
 19 A. Yes, focusing on the two major hold points.
 20 Q. The two major --
 21 A. Inspect rebar fixing and pre-pour check.
 22 Q. I believe you are looking at the box which is
 23 described -- sorry, can we just scroll up a little
 24 bit -- the box which is described as "Inspect rebar
 25 fixing bottom and top", right, and there's a hold point?

<p style="text-align: right;">Page 133</p> <p>1 A. Yes. I have seen this before, yes. 2 Q. Sorry, you have seen this before; right? Yes. 3 Then we can see, above that, there is a box 4 described as, "Inspect formwork after installation of 5 cast-in items", and there's another hold point; you can 6 see that? 7 A. Yes. 8 Q. Further down in "Inspect rebar fixing bottom and top", 9 there's another box which is described as "Pre-pour 10 check", ie before the pouring of the concrete, survey 11 check, position of formwork, et cetera, then another 12 hold point. 13 Under this particular chart, we can find nothing 14 which tells us that there was any requirement for this 15 what you call the layer-by-layer inspection. Can you 16 help us just locate or find out where we could identify 17 this layer-by-layer inspection that you just told us? 18 A. On reinforcement fixing, as I said in my witness 19 statement, it was done basically progressively, layer by 20 layer, and agreed -- approved by MTRC as we progressed. 21 The RISC form basically was then to conclude all of that 22 together. 23 Q. What is the RISC form that you just referred us to? Are 24 you sure that we have that for this particular project? 25 A. Sorry? Yes.</p>	<p style="text-align: right;">Page 135</p> <p>1 layer-by-layer inspection has never been recorded in any 2 of the documents? 3 A. It's been recorded by all of our witnesses who have 4 confirmed that to me. 5 Q. You obviously, in your witness statement, refer to the 6 three incidents of bar cutting in 2015. 7 A. Yes, three occasions, yes. 8 Q. Before you started to be responsible for this project, 9 did you talk to Edward Mok in relation to these three 10 incidents, or you talked to him afterwards, ie before 11 you prepared your witness statement to the Commission? 12 A. After I became the general manager, when this incident 13 arose, yes, to myself. 14 Q. So fairly recently? 15 A. Correct. 16 Q. Did you make any enquiry with Mr Edward Mok as to why 17 the bar cutting incident occurred? 18 A. As per his witness statement. Personally, I didn't. 19 Q. Did you make any enquiry as to why such bar cutting 20 incidents could have happened, had the coupling work 21 been closely inspected and monitored? 22 A. My teams, as I said, met with the people involved and 23 the witness statements were prepared. I personally was 24 not involved in that level of detail. 25 Q. If we can take a look at your first statement,</p>
<p style="text-align: right;">Page 134</p> <p>1 MR WILKEN: In the government's bundles, I believe. 2 A. Yes. We've seen it today, on the screen. 3 MR KHAW: But you said the RISC form basically was then to 4 conclude all of that together. So what you are saying 5 is that according to your evidence, the RISC form would 6 contain a conclusion that there have been layer-by-layer 7 inspection; is that what you are trying to say? 8 CHAIRMAN: I think what was said was it was a summary of all 9 individual inspections; am I right? I may be wrong. 10 A. Yes, and that would be signed to show it had been 11 inspected, witnessed by ourselves and MTRC, and then 12 approved then to go on to the next step of the works. 13 So all formal inspections were undertaken. 14 MR KHAW: Are you aware that in fact there were multiple 15 layers of reinforcement between the bottom and the top; 16 are you aware of that? 17 A. Yes, I am. 18 Q. Would you agree that what you called as an agreement for 19 an inspection layer by layer was not recorded anywhere 20 in the testing plan? 21 A. I would agree that our full-time, you know, continuous 22 supervision on site inspected the works with MTRC layer 23 by layer. And that was, as I said, summarised with the 24 RISC form. 25 Q. Yes, but would you agree that this so-called</p>	<p style="text-align: right;">Page 136</p> <p>1 paragraph 128. You said: 2 "Leighton did not instruct, or allow any person, to 3 use or order any hydraulic cutter or any other tool to 4 cut off or shorten the threaded ends of reinforcement 5 bars." 6 Do you see that? 7 A. Yes. 8 Q. That is your own statement, so presumably you must have 9 made some enquiry before you were able to make this 10 statement? 11 A. Yes. 12 Q. So who did you ask in relation to whether Leighton had 13 ever instructed or allowed any person to cut off or 14 shorten the threaded ends of the rebar? 15 A. As you can see from the witness statements, it concludes 16 that no one instructed or allowed any other person to 17 cut off or shorten the threaded ends of reinforcement 18 bars. 19 Q. I don't think you answered my question. My question 20 was, since you put this statement in your witness 21 statement, by telling everybody that Leighton did not 22 instruct or allow any person to use any equipment to cut 23 off or shorten the threaded ends of the reinforcement 24 bars, I'm interested to know on what basis you were able 25 to come to this conclusion?</p>

<p style="text-align: right;">Page 137</p> <p>1 A. Based on the evidence of all the witnesses who were 2 involved and all the people involved in the project that 3 we interviewed, by our teams. 4 Q. You earlier on told us that you read the QSP and you 5 were aware of the requirements for inspection and 6 supervision of coupling works. 7 A. I've seen it. I've read it, yes, a long time ago. 8 Q. You remember that the QSP in fact contains the 9 requirement for continuous -- full-time, continuous 10 supervision? 11 A. Yes. 12 Q. Do you recall that? 13 A. Yes. 14 Q. Can you tell us what is your understanding of this term? 15 A. On site we have full-time, continuous supervision with 16 quality control supervisors for the works. 17 Q. Did you know whether the inspection or supervision work 18 was carried out at the time when the coupling works was 19 being done or after the coupling work had been done? 20 A. I am informed that all of the couplers were visibly 21 inspected. 22 Q. At which stage? I believe that's the focus of my 23 question. 24 A. Okay. Basically, the works were undertaken in 25 accordance with the QSP. That's what I'm informed.</p>	<p style="text-align: right;">Page 139</p> <p>1 any knowledge -- 2 A. I don't have that knowledge of why it happened. 3 CHAIRMAN: Would you agree -- I appreciate this is 4 a theoretical question, and a theoretical answer 5 obviously is going to come in response -- but would you 6 agree that if you understand the cause, why certain 7 things have happened, it may go to explain or to answer 8 the question whether what you found was symptomatic of 9 a broader problem? 10 A. I don't think we have ascertained why that small number 11 of occasions happened, so I'm not aware of why it 12 happened. 13 CHAIRMAN: Yes. 14 MR KHAW: Would you agree that without getting to the bottom 15 as to why such incidents happened, even though there 16 were only a few occasions -- without getting to the 17 bottom as to why it happened, you could not be sure as 18 to whether they were isolated incidents or not; would 19 you agree? 20 A. We have a quality assurance plan in place. We have 21 full-time continuous supervision. We have site 22 supervision plan, quality supervision plan, we are doing 23 the testing, and from the evidence provided we see no 24 need to undertake these measures. 25 Q. And before you come to this statement that "there is no</p>
<p style="text-align: right;">Page 138</p> <p>1 Q. If you can take a look at paragraph 135 of your first 2 witness statement. There you say: 3 "Leighton does not recommend physically breaking 4 open the concrete to check the connections between the 5 reinforcement bars with couplers in the platform slabs 6 and diaphragm wall. This would reduce the strength of 7 the concrete and require significant and expensive 8 strengthening and propping ..." 9 Then further down, I believe Mr Pennicott has 10 already asked you this: 11 "In any event, Leighton does not believe that it is 12 necessary or appropriate to conduct such costly and 13 damaging inspections. There is no reason to doubt the 14 structural integrity and safety of the diaphragm walls 15 and platform slabs." 16 Mr Speed, before you came to this particular 17 conclusion, did you have any knowledge or information 18 whatsoever as to why there had been previous bar cutting 19 incidents? 20 A. We are only aware of up to eight occasions where this 21 happened on the project, which were promptly rectified 22 by our teams. 23 Q. I'm not talking about the number of occasions. I'm 24 talking about your knowledge or information regarding 25 why such bar cutting incident happened. Did you have</p>	<p style="text-align: right;">Page 140</p> <p>1 reason to doubt the structural integrity and safety of 2 the diaphragm walls and platform slabs", did you have 3 any test results which could justify your statement in 4 this regard? 5 A. Could you be more specific? 6 Q. Test results in relation to the structural integrity and 7 safety of the diaphragm walls and platform slabs. 8 A. I think your question is too general. You need to be 9 more specific. 10 Q. My question is here you come to quite a firm statement, 11 that is "there is no reason to doubt the structural 12 integrity or safety of the diaphragm walls and platform 13 slabs." 14 Everyone reading this statement would believe that 15 at least you would have some basis for you to come to 16 this conclusion regarding structural safety and 17 integrity. 18 My question is: on what basis would you be able to 19 come to this conclusion? 20 A. Okay. It's based on the evidence provided by the 21 professionals that worked on the project. It's based on 22 the systems we have for inspecting, witnessing and 23 approving the works jointly with MTRC. All of that was 24 undertaken and all the systems were followed. 25 Q. So obviously, things have developed since you made this</p>

<p style="text-align: right;">Page 141</p> <p>1 statement, and you assume that you also have 2 an opportunity to review the evidence given by various 3 witnesses for the purpose of this Inquiry. Would you 4 still adhere to your statement that physically breaking 5 open the concrete would not be recommended by Leighton? 6 A. It is not required. 7 Q. You're still of that view? 8 A. Yes. 9 CHAIRMAN: Sorry, on that issue, there are three fairly 10 senior persons who are appointed by one of the 11 government departments to consider issues, and they 12 submitted a report recommending that. Have you had 13 a look at that report? 14 A. No, I haven't. 15 CHAIRMAN: Okay. Do you think, if you had a look at the 16 report, it might change your view? 17 A. I don't think so, no. 18 CHAIRMAN: Okay. 19 MR KHAW: So you believe, you firmly believe, that the 20 evidence that Leighton has so far collected in respect 21 of structural integrity and safety would be sufficient? 22 A. Yes. 23 Q. Notwithstanding what other experts say in relation to 24 this particular issue? 25 A. That's correct.</p>	<p style="text-align: right;">Page 143</p> <p>1 this extent, that if you had the threaded end to 2 a reinforcement bar, shall we say an A bar, and you cut 3 off, say, half the threads, and the machine didn't 4 deform the end of the bar, you would still be able to 5 screw in half the threads and you may not be able to see 6 that on a mere visual inspection? 7 A. We would -- this is obviously a hypothetical question. 8 CHAIRMAN: Yes, I accept that. You don't accept this ever 9 happened, I accept that. 10 A. Correct, and I think you'd need to speak with the teams 11 on what else they did around that to ensure it didn't 12 happen; you know, whether that was loosening or visual 13 inspection, we would have to go through that. But I'm 14 informed by the witnesses that this didn't happen. 15 MR KHAW: I have no further questions. 16 CHAIRMAN: Good. Thank you. 17 Cross-examination by MR BOULDING 18 MR BOULDING: Sir, I just have a couple of questions. 19 Good afternoon, Mr Speed. I'm for MTR. 20 You were asked about the contract between MTR and 21 Leighton; do you remember that, by Mr Khaw? 22 A. Yes, I was. 23 Q. You told him, did you not, that it was a target cost 24 contract? 25 A. Yes.</p>
<p style="text-align: right;">Page 142</p> <p>1 Q. Just one final question. In paragraphs 109 to 110 you 2 say: 3 "Leighton is not aware of any reinforcement bars ... 4 being shortened and inserted into couplers. The very 5 small number of defective reinforcement bars that were 6 identified on three occasions from around September to 7 December ... in area C ... were replaced shortly after 8 being identified. 9 In any event, it should be apparent on a visual 10 inspection of the connection between a reinforcement bar 11 and a coupler whether the threaded ends of 12 a reinforcement bar had been cut off." 13 On what basis are you able to say this? 14 A. Based on the witness statements. 15 Q. If a cut threaded rebar had been screwed into the 16 coupler, am I correct in saying that this could not be 17 easily detected by way of official inspection unless you 18 unscrew the connection for inspection? 19 A. Could you repeat that again, sorry? 20 Q. Yes. If a cut threaded rebar of a coupler had been 21 screwed into a coupler, it would not be detected easily 22 by way of a mere visual inspection; agree? 23 A. My teams have confirmed that this didn't happen. 24 CHAIRMAN: No, I think the question was in answer to your 25 paragraph 110, and again it's hypothetical but it is to</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. He suggested to you that assuming delay was caused to 2 the project, and the delay actually resulted in 3 escalation of costs, the extra costs would be shared 4 between Leighton and MTR; do you remember that being 5 suggested to you? 6 A. Yes. 7 Q. And you said, well, of course you would have to go and 8 look at the contract; do you remember that answer? 9 A. Yes. 10 Q. In a target cost contract, Mr Speed, do you know that 11 pain and gain, as referred to, is in fact shared between 12 Leightons and the government? 13 A. Yes. 14 Q. And that in a target cost contract, MTR just receives 15 what's referred to as a project management fee; is that 16 your understanding? 17 A. That's my understanding of it, yes. I'm not privy to 18 it. 19 MR BOULDING: Thank you very much. 20 No further questions, sir. 21 MR WILKEN: Sir, I only have very brief re-examination. 22 CHAIRMAN: Yes, of course. 23 Re-examination by MR WILKEN 24 MR WILKEN: You remember Mr Khaw asked you a series of 25 questions about how you knew as to the occurrence or</p>

Page 145	1 otherwise of cutting couplers. 2 Can I take you to C11, page 7953, paragraph 5. The 3 first page of the first witness statement. 4 A. Sorry, I haven't got it on the screen yet. 5 Q. I'm telling the person who very helpfully helps us with 6 the e-bundle. 7 The first page of the first witness statement in 8 C11, item 59.0. The first page, paragraph 5: 9 "Throughout its investigations in January ... 2017, 10 its recent reconsideration of the relevant allegations 11 that are of interest to the Inquiry, and the preparation 12 of its evidence ... Leighton has found no evidence of 13 any instructions being given by Leighton to cut off or 14 shorten the threaded ends of reinforcement bars." 15 So that's where you set out your knowledge? 16 A. Correct. 17 Q. If we go over the page, you say there: 18 "What Leighton did discover was that there had been 19 three occasions from around September 2015 to December 20 2015 when reinforcement bars with threaded ends cut off 21 were identified and rectified ... Leighton knows of no 22 more than eight of these defective reinforcement bars 23 that were identified and then promptly rectified." 24 That is the result of the investigation; correct? 25 A. Yes, that's correct.	Page 147	1 COMMISSIONER HANSFORD: Thank you, "including works and 2 passengers trains that have been using". I understand 3 works trains being used. I was rather surprised to see 4 "passengers trains" in that statement. Is that correct, 5 passenger trains have been using the EWL slab; is that 6 correct? 7 A. My understanding is they have been testing them. 8 COMMISSIONER HANSFORD: Testing. So this is empty passenger 9 trains? 10 A. That is my understanding, yes. We would have to check. 11 CHAIRMAN: I think that's right. 12 COMMISSIONER HANSFORD: Okay. 13 MR WILKEN: So, just so we are clear, these are passenger 14 trains without passengers? 15 A. Correct. 16 CHAIRMAN: Let me also hasten to add the Commission is not 17 giving evidence. 18 MR WILKEN: Sir, Professor, I have no further questions. 19 Questioning by THE COMMISSIONERS 20 COMMISSIONER HANSFORD: I've got one. I'm interested, 21 Mr Speed, in non-conformance reports and how they are 22 considered within Leighton. Just a question, in 23 general, what do you see is the purpose of 24 non-conformance reports? 25 A. To identify non-conformances. Sometimes, remedial works
Page 146	1 Q. Can we go to paragraph 134 in that statement, which is 2 at 7627, please. In the last sentence here you say: 3 "In this regard, it is notable that the diaphragm 4 walls and platforms have been supporting significant 5 loads since their completion, including works and 6 passenger trains that have been using the EWL slab." 7 Do you personally know how often those trains are 8 using the slab or -- 9 A. I don't know the exact extent of it, but frequently. 10 CHAIRMAN: Could I ask you, in that regard, are there any 11 measuring devices to detect movement? Maybe you do that 12 regularly. You will have to forgive my ignorance, if 13 you do. Or maybe in this particular instance you 14 decided it might be prudent? 15 A. There's certainly -- you know, there's instrumentation 16 and monitoring that could be utilised, but you have to 17 put in a detailed plan to review that. There are tools 18 for that. 19 CHAIRMAN: You do have measuring devices? 20 A. There are measuring tools that exist, yes. 21 COMMISSIONER HANSFORD: While this is on the screen -- I was 22 pondering this a little bit earlier -- you talk about 23 "including" -- where's the one you just took us to, 24 "including" -- 25 MR WILKEN: Paragraph 134, sir.	Page 148	1 are carried out on the spot and rectified, as in the 2 first two occasions. The third one, there was 3 a non-conformance raised in this instance. 4 COMMISSIONER HANSFORD: And when identified, 5 non-conformances, what do Leighton as an organisation do 6 with that information? 7 A. Well, the project teams would obviously review the NCRs 8 themselves. They were also reviewed by our quality 9 manager in the Hong Kong business. 10 COMMISSIONER HANSFORD: Reviewed for what purpose? 11 A. We carry out quality audits on our projects, 12 periodically. 13 COMMISSIONER HANSFORD: Okay. Thank you. 14 CHAIRMAN: Could I ask, are non-conformance reports -- 15 I appreciate the generality of the name, so to a layman 16 like myself it means basically any non-conformance, but 17 are they in practice based on a certain level of 18 seriousness of non-conformance? 19 A. I think it depends on the specific item at the time, 20 actually. I think it depends, you know, on ... 21 CHAIRMAN: So if it's a smaller contract, then it may well 22 be that a non-conformance report will go out for 23 something which might be dealt with more casually in 24 a bigger contract? 25 A. On the significance of it, yes. Yes. Well, I wouldn't

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1 use the word "casually".

2 CHAIRMAN: "Casually" is the wrong word. I know what you

3 mean.

4 COMMISSIONER HANSFORD: Perhaps I may have a supplemental as

5 well. Is the knowledge gleaned from non-conformance

6 reports shared amongst any of your other contracts or

7 projects?

8 A. Yes, sometimes yes. We have certainly some quality

9 alerts, so we can learn from it as an organisation.

10 COMMISSIONER HANSFORD: Right. Thank you.

11 CHAIRMAN: Just one -- I appreciate it's in your statements

12 but I just want to -- in any of your discussions with

13 Mr Poon or in any discussions with others about

14 Mr Poon's allegations -- sorry, about Mr Poon -- was

15 anything raised about the quality of the steel fixing

16 work that you remember?

17 A. In none of my meetings was anything raised in this

18 respect.

19 CHAIRMAN: Okay. And in speaking to other members of your

20 organisation?

21 A. He I think first raised it on 6 January, in the email on

22 6 January 2017.

23 CHAIRMAN: Yes. And prior to that you knew of nothing?

24 A. No, nothing at all.

25 CHAIRMAN: All right. Thank you.

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1 Anything arising from that?

2 MR WILKEN: Not from here, sir. Thank you.

3 CHAIRMAN: Good. Thank you very much. Thank you.

4 WITNESS: Thank you.

5 CHAIRMAN: You have been most helpful. There's no need to

6 come back tomorrow morning.

7 WITNESS: Thank you very much.

8 (The witness was released)

9 MR PENNICOTT: Sir, that has neatly taken us to two minutes

10 past five, so we will resume at 10 o'clock in the

11 morning.

12 CHAIRMAN: Yes, good. Thank you. Who is likely to be --

13 MR PENNICOTT: Sir, we have four witnesses to start with

14 tomorrow morning, all of whom I am optimistic will

15 relatively short: Mr Law, Mr Ho, Ms Cho, they are three

16 Leighton witnesses, and then Mr Ngai who is from China

17 Technology. When we have had those four, we will then

18 turn to Mr Zervaa and Mr Rawsthorne, then Mr So.

19 I could go on --

20 CHAIRMAN: No, no. That's just to give us a reminder,

21 that's all.

22 COMMISSIONER HANSFORD: Sorry, just to understand, the first

23 two you mentioned, Mr Law and Mr Ho, they are from

24 Rankine?

25 MR PENNICOTT: They are, sir, and they have been pulled into

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1 the Inquiry simply because I think two of the China

2 Technology witnesses have identified them as being in

3 some of the photographs that we have been looking at.

4 COMMISSIONER HANSFORD: I see.

5 MR PENNICOTT: That's the only reason that they have been

6 asked to come here, to deal with that identification

7 point.

8 CHAIRMAN: Okay.

9 MR PENNICOTT: Sir, as I say, I think we'll be relatively

10 short. Then Ms Cho and Mr Ngai deal with essentially

11 the Leightons sign-in/sign-out records and various

12 issues and discrepancies that arise on them.

13 COMMISSIONER HANSFORD: And then after that Mr Zervaa?

14 MR PENNICOTT: Yes, sir.

15 CHAIRMAN: Thank you very much indeed.

16 (5.05 pm)

17 (The hearing adjourned until 10.00 am the following day)

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