

1 Monday, 12 November 2018

2 (10.05 am)

3 CHAIRMAN: Apologies for keeping you waiting, but what  
4 happens a lot of the time, just to explain, if there is  
5 any minor delay, is that myself and Prof Hansford have  
6 to often discuss matters, and sometimes I require his  
7 education as to questions of tension and pressure and  
8 those type of --

9 COMMISSIONER HANSFORD: Compression.

10 CHAIRMAN: Compression. That just shows you. Obviously  
11 I didn't have long enough this morning.

12 Please accept our apologies for keeping you waiting.

13 MR CHEUNG CHIU FUNG, JOE (on former affirmation in Punti)

14 Cross-examination by MR KHAW

15 MR KHAW: Good morning, Mr Cheung. I would like to first  
16 refer you to some photographs that we have seen in fact  
17 a number of times. If we can just have a quick look at  
18 D1/228.

19 You remember that you have seen that picture before,  
20 right, Mr Cheung?

21 A. 係。

22 Q. And also D1/232; I suppose you remember that as well?

23 A. 係。

24 Q. You told us, according to your knowledge, none of the  
25 workers shown in these two pictures are Fang Sheung's  
26 workers; do you remember that?

1 A. 係，冇錯。

2 Q. Are you aware of what people from Leighton say about  
3 these two pictures?

4 A. 唔知道。

5 Q. We understand from the evidence of Khyle Rodgers of  
6 Leighton, also known as Santa Claus, according to what  
7 you have told us, that they actually look like  
8 Fang Sheung's workers. That's what Khyle Rodgers told  
9 us. You are not aware of such evidence from Leighton;  
10 is that right?

11 A. 唔知道。

12 Q. But now you are aware of such evidence from Leighton,  
13 would you tell us whether you agree with him, you would  
14 like to change what you told us before, or you just wish  
15 to stick with what you have just told us -- what you  
16 have told us before?

17 A. 因為我睇唔到佢哋真正嘅樣貌，我唔敢肯定係泛迅工人。

18 Q. Right. And also remember that -- I think it's on  
19 Day 14 -- last Thursday, near the end of the hearing,  
20 the Chairman raised a number of questions with you  
21 regarding the time when various photos were taken,  
22 because you remember that various photos were in fact  
23 taken within one or two minutes; do you remember that?

24 A. 記得。

25 Q. And you were asked whether you were in the vicinity of

1 the other workers who, according to your evidence, were  
2 not Fang Sheung's workers, were also working nearby at  
3 the same time; do you remember?

4 A. 記得。

5 Q. So can you or can you not explain to us why such people  
6 that you could not really recognise were allowed to work  
7 near the place where you and other Fang Sheung workers  
8 were working?

9 A. 因為嗰個位置係會係好大，有好多唔同嘅工人喺度做唔同嘅工種嘅嘢嘅，我哋  
10 泛迅嘅工人係喺度有紮鐵，亦都有其他嘅工人喺度，如果個範圍係窄嘅話，我  
11 就可以比較睇得清楚，因為嗰個建築範圍嘅話係比較大嘅，有唔同嘅工種嘅，  
12 唔同嘅判頭嘅工人喺度做嘢。

13 Q. But you were at the site, obviously, responsible for  
14 Fang Sheung's work, day in, day out. Are you really  
15 telling us that you were not able to even recognise  
16 where those workers came from, since you were working  
17 basically together?

18 A. 係，因為個地方環境有時比較黑暗嘅，啲光線唔充足嘅，我只係有陣時  
19 因為如果嗰日嘅話，喺我筆記簿，我有三個地方做嘅，我巡查望一望，  
20 跟住我就好快又去第二個地方㗎喇。

21 Q. You said the area is very big. Am I correct in saying  
22 that each bay is around 1,500 square feet to  
23 2,000 square feet, something like that?

24 A. 呢個平方我計算，我答唔到，應該我就係20 metre乘呢個差唔多20  
25 metre嘅。

1 Q. Let's look at one question that Mr Chairman put to you  
2 on Day 14. If we can take a look at the transcript of  
3 Day 14, page 140, line 10. If we can start with  
4 Mr Chairman's question at line 10:

5 "All right. But you would agree that it appears  
6 that this worker, whoever he was affiliated to, appears  
7 to be going about his business, not in a hidden sort of  
8 way; he's out there in an open work space, and you are  
9 very close by, and he's apparently -- it's open to  
10 discussion and no decision has been made on it -- but  
11 he's apparently cutting the thread on a reinforced steel  
12 bar, something which you say you had never seen,  
13 really?"

14 Then your answer was:

15 "You're referring to the picture?"

16 Chairman: Yes", 228 was the picture we had just  
17 seen. Then at the end, the chairman continues to ask:

18 "What I'm saying is it appears -- and I put it no  
19 higher than that -- that he is in an open area of the  
20 workspace, in close vicinity to yourself and your  
21 workmen. It appears that he is cutting the threads on  
22 a [reinforcement] bar, and again 'appears'. No decision  
23 has been made about that and we will hear full evidence  
24 in due course ... But would you agree that that is the  
25 appearance, at least?

26 I'm just wondering why somebody would feel they

1           could do it openly, in close vicinity to you, if it was  
2           something which really shouldn't be done and something  
3           which you yourself would appreciate really shouldn't be  
4           done.

5           Answer: This picture, I'm not sure what their  
6           intention is in this picture."

7           Pausing here, that picture, you are referring back  
8           to D1/228, ie showing a worker apparently trying to cut  
9           something. Do you remember that?

10          A. 記得。

11          Q. Then the chairman continued to ask:

12                 "I'm just talking about the cutting itself.

13           Answer: The cutting action, what are they  
14           accomplishing? I cannot describe what they are  
15           attempting to do. They might be cutting the thread.  
16           They might be doing some remedy work.

17           Chairman: All right.

18           Answer: It might not be an appropriate length and  
19           they need to cut it short. If I just rely on the  
20           picture, that's all I could say about the picture."

21           Now if you can look at D228 again. Last Wednesday,  
22           you told us without any difficulty that when you look at  
23           the picture, you thought that the picture showed that  
24           someone was cutting a threaded rebar of a coupler, but  
25           on Day 14, when the Chairman asked you this question,  
26           you then told us that you were not sure what his

1 intention was; you were not sure what he was actually  
2 doing.

3 Can you tell us what in fact is your evidence when  
4 you look at this picture?

5 A. 都同樣一樣，即係望落去，就係有機會係剪緊鋼筋，佢個用意，佢剪鋼筋  
6 係做一個修補工作吖，定係做其他嘢呢，我就即係憑呢張相就係咁描述。

7 COMMISSIONER HANSFORD: Can we blow the picture up a little  
8 bit as well while we're -- that's it. Thank you.

9 Please carry on. Thank you.

10 MR KHAW: So now your evidence is that merely from looking  
11 at this picture you could not be certain what he was in  
12 fact doing; is that right?

13 A. 係，冇錯。

14 Q. But that was retracting from what you said to us last  
15 Wednesday, when you told us -- when you first looked at  
16 this picture, you told us you agreed he was cutting the  
17 threaded rebar of a coupler; would you agree?

18 A. 我哋--我睇相，就話認為有可能係剪緊鋼筋，但係佢又可能做啲修補嘅工作，  
19 咁我哋唔可以--因為我唔可以話完全睇到...

20 CHAIRMAN: Sorry, there's a difference -- bear with me --  
21 we're not talking about the purpose for which he is  
22 cutting. We are talking at this moment in time simply  
23 about what he appears to be cutting. Do you see there's  
24 a difference? Okay. So I may go out and cut down  
25 a tree for the purpose of making it a Christmas tree;

1 all right? There are two different issues: am I cutting  
2 a tree, and why am I cutting a tree; do you understand  
3 me?

4 A. 明白。

5 CHAIRMAN: So the first issue we're looking at is the  
6 "am I cutting a tree" issue. Is this person, from what  
7 you can see, in some way or another, cutting the thread,  
8 cutting the thread of the rebar?

9 A. 係。

10 CHAIRMAN: Right. Then we come to the second question: why  
11 am I cutting the tree; therefore, why do you think he  
12 would be cutting the thread?

13 A. 可能個扭紋唔啱，或者佢係有第二種工作。

14 COMMISSIONER HANSFORD: Sorry, Mr Cheung, why would the  
15 thread be wrong? What do you mean by "the thread would  
16 be wrong"?

17 A. 呢個係我自己嘅理解，形容。

18 COMMISSIONER HANSFORD: Sorry, I don't understand your  
19 understanding. What do you mean by "maybe the thread  
20 would be wrong"?

21 A. 長度。

22 COMMISSIONER HANSFORD: The length, maybe the length of the  
23 thread would be wrong?

24 A. 有可能。

25 CHAIRMAN: Do you mean that when it was in the threading

1 section, they made the thread too long by mistake, or do  
2 you mean -- are you trying to differentiate between  
3 an A bar and a B bar?

4 A. 主席，我個理解就係如果呢張相佢有去cut嘅話，佢梗係有佢嘅用意去cut，  
5 我哋望落張相嘅話，我哋睇落，類似都係cut鐵，佢個用意係用作嘢嘢，  
6 我就有可能理解到佢係做緊乜嘢，嘅用意將嗰條鐵係想做嘢嘢。

7 COMMISSIONER HANSFORD: Sorry, can I ask, is that a B thread  
8 or an A thread being cut?

9 MR PENNICOTT: Sir, when I asked that question, when I asked  
10 the witness questions, we were actually told it was  
11 a B thread, because the suggestion I made to the witness  
12 was that it was an A thread; you've just got to count  
13 the threads as best you can on the blown-up picture. It  
14 certainly doesn't look long enough to be a B thread.  
15 I can't remember now precisely what his answer was, but  
16 I did ask that question.

17 COMMISSIONER HANSFORD: Sorry, yes.

18 CHAIRMAN: Thank you.

19 MR KHAW: Mr Cheung, would you agree that whatever the  
20 reasons would have been for him to cut the threaded  
21 rebar of a coupler, would you agree with me that,  
22 according to your knowledge, it would be rare for  
23 a worker to do so on the site; would you agree?

24 A. 冇錯。

25 Q. So, back to what the Chairman asked you the other day,



1           were you surprised to see, from this picture, that  
2           a worker was apparently cutting a threaded rebar,  
3           a coupler, without anyone trying to stop him; he could  
4           openly do it?

5       A.    會。

6       Q.    Again, since you were working in the vicinity where  
7           those workers were also working, it seems quite  
8           surprising for you to now tell us that you were not even  
9           aware of where they actually came from, those workers,  
10          where they actually came from.

11      A.    冇錯，因為現場施工嘅話，如果我哋泛迅工人都有十幾個嘅，加埋其他嘅工  
12          人嘅話，嗰度都--其他判頭都仲有啲工人喺度，即係加埋都有成三十幾人。

13      Q.    Yes, but Fang Sheung was the only sub-contractor  
14          responsible for carrying out bar fixing work; is that  
15          right?

16      A.    係，冇錯。

17      Q.    Did Fang Sheung sub-contract any work to any  
18          sub-sub-contractors?

19      A.    冇。

20      Q.    And were you aware of any occasions where the labourers  
21          employed by Leighton were responsible for carrying out  
22          bar fixing work together with Fang Sheung on the site?

23      A.    佢哋喺個範圍都係做番佢修補coupler嘅嘢，譬如換coupler杯、清潔同埋  
24          我哋之前提咗有啲coupler做唔到嘅話，佢哋會更正番佢，呢啲工作。

25      Q.    Another issue. You recall your evidence that you heard

1           your workers talk about cutting the threaded rebars of  
2           type A couplers and screwing them into type -- sorry,  
3           type B couplers -- sorry, I will repeat.

4           You recall your evidence that you have heard workers  
5           talk about cutting the threaded rebars of type B  
6           couplers and putting them on to tape A couplers; that's  
7           what you heard from the workers. Remember that?

8           A. 我聽到啲工人有呢樣嘢討論過，冇聽見佢哋話點做，冇聽過。

9           Q. Are you aware of Leighton's evidence in this regard?

10          A. 唔清楚。

11          Q. According to Leighton's evidence, they totally disagree  
12          with you. According to Khyle Rodgers' evidence, it's  
13          simply unnecessary to do such an act.

14          Would you now stick to what you said before, about  
15          these type A and type B couplers, or you agree with  
16          Leighton?

17          A. 我會同意係好少將個B杯去cut成A杯。

18          Q. Over the past few days before the weekend, you have  
19          already told us about the details of the three bar  
20          cutting incidents in 2015; do you remember that?

21          A. 記得。

22          Q. I won't be going into the details in this regard, but  
23          I have just one or two questions arising from those  
24          incidents that I wish to discuss with you.

25          Do you remember that last Friday, in response to

1 Mr Chairman's question, you agreed that during the MTR  
2 interview on 13 June this year, and also while you were  
3 giving the police statement on 3 September this year,  
4 you were not being completely truthful and honest, as  
5 you failed to disclose the details of the bar cutting  
6 incidents in 2015. Do you remember that?

7 A. 記得。

8 Q. You accepted that you felt guilty, you felt embarrassed,  
9 and you wanted to avoid those issues; do you remember  
10 that?

11 A. 記得。

12 Q. I believe you should also agree with me that naturally,  
13 when you were interviewed by the MTR in June and when  
14 you gave your police statement in September this year,  
15 you were concerned and worried that if you disclosed the  
16 details of the three incidents, Fang Sheung might be  
17 held responsible for the bar cutting which was widely  
18 reported in the media at that time?

19 A. 因為我覺得--唔係，因為我認為嗰三次同埋五次係好快就可以妥善改善番好，  
20 而安裝番好嘅話，我就唔相信嗰個係問題。

21 Q. No. This is not what you told us last week. Now you  
22 said --

23 A. 唔係。

24 Q. -- at that time that you did not believe it was  
25 a problem, ie you did not believe that the bar cutting

1 incidents in 2015 constituted any problem because they  
2 were rectified quickly. This is what you just told us;  
3 right?

4 A. 唔係，唔係，錯咗，嗰個都係違規嘅，嗰三件次同埋嗰五支都係違規。

5 Q. Listen to my question carefully. My question early on  
6 was: you admitted to us last Friday that during the MTR  
7 interview, during your interview with the police, you  
8 did not disclose the details of the 2015 bar cutting  
9 incidents, because you felt guilty, you felt  
10 embarrassed, and you wanted to avoid the issues; do you  
11 confirm that?

12 A. 冇錯。

13 Q. So my next question is: you were worried or you were  
14 concerned at that time -- when you were doing the MTR  
15 interview, when you were doing the police interview --  
16 that if you disclosed too much, Fang Sheung might be  
17 held responsible for the bar cutting incidents -- is  
18 that something which was on your mind at that time?

19 A. 冇。

20 Q. So you never worried?

21 A. 冇，唔係，我擔--我--喺我擔心嘅程度，唔係剛剛律師講到係咁範圍咁大。

22 Q. You told us you wanted to avoid the issues; do you  
23 remember?

24 A. 記得。

25 Q. The issues that the MTR staff and the police were

1 discussing with you, obviously, related to why there was  
2 bar cutting on the site, as reported in the media?

3 A. 係。

4 Q. So, when you said you wanted to avoid the issues and  
5 hence you did not disclose the 2015 bar cutting  
6 incidents --

7 A. 合...

8 Q. -- am I correct in saying you did not want them to  
9 target Fang Sheung as the subject of the investigation;  
10 is it a fair way of putting it?

11 A. 唔同意咩--泛迅嘅調查目標。

12 Q. So what issues were you trying to avoid at that time?

13 A. 因為我怕誤會--誤以為大量咩嘢剪鋼筋呀呢啲情形之下嘅話歸於泛迅，因為  
14 報道嘅時候係好大量，同埋好有秩序去做呢個系--有系統嘅嘢。

15 Q. Mr Cheung, that's exactly what I asked. The police and  
16 MTR were investigating about whether there was  
17 large-scale bar cutting; right?

18 A. 係。

19 Q. You did not want to disclose the three incidents, the  
20 details of the three incidents, in 2015 because you did  
21 not want them to think that Fang Sheung was responsible  
22 for large-scale bar cutting; is that what was on your  
23 mind?

24 A. 係，係。

25 Q. Thank you. Were you also concerned that if you disclose

1 more, probably it was not just a question as to whether  
2 Fang Sheung might be responsible for large-scale bar  
3 cutting; that would also involve individuals in charge  
4 of Fang Sheung, including yourself? Would you agree?

5 A. 同意。

6 Q. Would you now agree with me that it was the same concern  
7 and worry which made you decide not to disclose the  
8 details of the three bar cutting incidents in 2015, when  
9 you made your witness statement to this Commission on  
10 27 August this year?

11 A. 冇錯。

12 Q. Mr Cheung, now you are sitting here giving your oral  
13 testimony, five months after the MTR interview, more  
14 than two months after the police interview, and also  
15 after you made your witness statement to the Commission.

16 Are you or are you not still having the same concern  
17 or worry?

18 A. 有。

19 Q. But are you telling us that now you agree to tell us the  
20 whole truth and nothing but the truth?

21 A. 係。

22 Q. Mr Cheung, you told us a lot about the actions you took,  
23 the motions you went through, as a result of the three  
24 bar cutting incidents found in 2015. According to your  
25 evidence, you found the workers -- by using your own

1 words -- selfish and reckless, to the extent that you  
2 believe that their integrity was in question. Do you  
3 remember that?

4 A. 記得。

5 Q. And you also told us that in fact you feel ashamed of  
6 what happened; do you remember that?

7 A. 記得。

8 Q. You also told us that you found that those workers make  
9 their own decisions without any authority or permission;  
10 do you agree that?

11 A. 同意。

12 Q. But you recall that during the MTR interview -- I don't  
13 need to trouble you to look at the record -- but you  
14 agree with me that during the MTR interview, you  
15 emphasised time and again that your workers would never  
16 cut the threaded rebars without permission or authority  
17 to do so; agree?

18 A. 同意。

19 Q. I would like you to just ask you to take a look at one  
20 answer you gave near the end of the hearing last Friday,  
21 Day 15, page 98, line 5, when Mr So asked you about  
22 whether it was not just reckless, it is fraud. Let's  
23 not talk about fraud. Let's not talk about that for the  
24 time being. Let's focus on your answer at line 8:

25 "My position is they are trying to do some

1 short-cuts, they want to help out the company, but the  
2 procedures or the actions that they [have taken] are  
3 mistaken. It's because they don't understand that the  
4 company has other problems. The problems are when they  
5 cannot attain workmanship. They don't need to take that  
6 kind of risk to meet with the project deadline. They  
7 should instead seek out the management and clarify  
8 whether it was necessary to take the threaded end and  
9 cut it, just for convenience sake, to make progress in  
10 the project."

11 Here you also told us that it was your finding that  
12 the workers were trying to do short-cuts; they were  
13 trying to help the company, but their actions were  
14 wrong. That's the findings that you made after your  
15 investigation; right?

16 A. 係，冇錯。

17 Q. It was also your finding, as a result of your  
18 investigation, that the workers' actions actually  
19 related to the risk that they deliberately took in order  
20 to meet with the project deadline; right?

21 A. 工程個個期限其實工人就唔知道嘅，趕工個期限就，我就唔會認為個工人故  
22 意，我覺得就係我哋嘅工人嘅話，佢係唔清楚如果真係有需要嘅話，應該--  
23 做唔到嘅話，應該要搵番禮頓或者搵番我，唔應該自把自為、貪方便魯莽咁  
24 樣去cut個螺絲鐵。

25 Q. Am I right in saying that as a result of your



1 investigations, you knew that one of the reasons why the  
2 workers had to cut the threaded rebars was that they  
3 wanted to catch up with the schedule of the project? Is  
4 that what you understood to be the case?

5 A. 項目個進度，工人--唔係由工人去追嘅，佢如果係cut coupler鐵嘅話，  
6 應該有啲原因佢係做唔到，而佢有聯絡科文，有聯絡我哋，因為如果真係  
7 做唔到嘅話，可能啲啲杯受損，可以更換咗佢，甚至乎如果係螺絲鐵有問  
8 題嘅話，應該同公司講，可以換個新嘅螺絲鐵。我喺工程裏面，我都係睇  
9 應該就係有呢啲原因，所以工人貪方便，自把自為，佢唔再問喇，所以佢  
10 首先就係做咗先咁樣。

11 CHAIRMAN: But were the workers not aware, from time to  
12 time, that there was pressure on them getting the work  
13 done? I'm not talking about the knowledge of  
14 a schedule, but that there was nevertheless pressure to  
15 get the work done.

16 A. 佢可能--佢哋就話想幫手公司快啲完成，壓力嘅話，工人冇乜壓力嘅我哋，  
17 我哋只係喺工作上出工作--工人嘅之嘛，好多責任嘅話，無需要工人嘅，所  
18 以工人係冇乜特別嘅壓力。

19 MR KHAW: But the workers were obviously aware of the  
20 schedule regarding the project while they were working  
21 on the site; right?

22 A. 佢哋唔會太清楚。

23 Q. If we now go back to your answer that we just saw, when  
24 you said, "They don't need to take that kind of risk to  
25 meet with the project deadline." Are you now trying to

1 tell us that in fact it has nothing to do with the  
2 project deadline?

3 A. 冇關嘅，因為個地盤個運作，個個都知道呢個地盤嘅運作係好趕時間嘅，  
4 但係實質嘅時間係幾時要完成晒，工人係好少會知道。

5 Q. You remember --

6 CHAIRMAN: Sorry -- but everybody knew, to use your own  
7 words, the operation was in a rush?

8 A. 係。

9 CHAIRMAN: In other words, there was some pressure to get  
10 the work done?

11 A. 冇錯。

12 MR KHAW: Do you recall it was also your evidence last  
13 Thursday -- you told us that you decided to replace some  
14 workers with those who were, again according to your own  
15 words, more reliable and competent to supervise the  
16 screwing of couplers; do you remember that?

17 A. 記得。

18 Q. So you obviously knew who were or at least who might be  
19 responsible for the unlawful bar cutting acts, and hence  
20 you found that there was this need to replace them;  
21 right?

22 A. 唔係，我係換咗一批更加有力啲嘅、有責任啲嘅工人去負責去安裝螺絲頭。

23 Q. So, after your investigation, after going through so  
24 much emotion about those bar cutting incidents, you were  
25 not even able to identify who were the workers

1 responsible for the bar cutting incidents; is that what  
2 you are telling us?

3 A. 搵唔到，因為當時我再訓示嘅話，我都同番啲工人再講番，可能啲工人怕事，  
4 所以冇--迴避我嘅問題。

5 Q. Having gone through what you told us on your findings of  
6 the bar cutting incidents in 2015, I'm afraid you have  
7 left a big question mark on everyone's mind and I want  
8 you to help us on this.

9 A. 係。

10 Q. That is why and in what circumstances did the workers  
11 need to cut the threaded rebars of the couplers in those  
12 incidents; why?

13 A. 可能個杯花咗，有石屎漿含住咗，要更換個杯。

14 Q. Mr Cheung, don't start with "perhaps" or "possibly".

15 A. Okay.

16 Q. You must know what happened by now; right? You must  
17 know. Don't tell us all the possibilities as to what  
18 happened. I want you to tell us frankly and honestly,  
19 since you promised us to do so, what actually happened.

20 A. 如果個杯崩咗，裝唔上螺絲頭。

21 Q. That's one reason?

22 A. 係。

23 Q. That's what the workers told you?

24 A. 係我自己確實決定呢樣嘢，個杯崩咗，就扭唔到。

25 Q. Did the workers or any of the workers ever tell you that

1           this was one of the reasons? Don't speculate. Don't  
2           imagine. I want to know what you knew from the workers.

3       A.   崩咗個杯、破損嘅杯，扭唔到，杯與杯之間嘅距離太過貼，做唔到。

4       Q.   That is what they told you during the investigation?

5       A.   唔係，平時工作。

6       Q.   Please, please try to help us; okay?

7       A.   Mmm.

8       Q.   You made a lot of investigations. You were able to tell  
9           us all the findings you made as a result of  
10          investigation regarding those three bar cutting  
11          incidents in 2015. Don't tell me what you knew from the  
12          routine work procedure or what you imagine, et cetera.  
13          During the investigation with the workers, did they tell  
14          you that this was one of the reasons for them to cut the  
15          rebar, the threaded rebar?

16      A.   冇，冇，冇工人回應過我。

17      Q.   Right. Nobody answered you as all as to why they did  
18          it?

19      A.   冇。

20      Q.   Did you ask them, "Hey, if there were problems on the  
21          site, how come you didn't ask me, how come you didn't  
22          ask Leighton in advance to solve the problems?"

23      A.   當有呢三次coupler嘅時候，我先訓示，訓示過工人，但係冇工人回應我。

24      Q.   Isn't that somewhat strange, Mr Cheung? You told us all  
25          the findings you made, and now you are trying to tell us

1           that in fact you know nothing about the cause of the  
2           problem. Is there something you are trying to hide from  
3           us?

4   CHAIRMAN: In fairness, he doesn't say, "I know nothing."

5           He says, "I wasn't told anything directly but I have  
6           drawn nigh own conclusions."

7   MR KHAW: Thank you.

8   A. 因為第一次莫生好簡短話畀我聽，我唔為意係cut鐵；第二次，莫生話畀我聽  
9       有關於cut鐵，我先驚訝，我先更加清楚，所以我好著緊，跟住同我嘅工人講  
10      番嘅，我個程序都係由莫生咁話番畀我聽，因為莫生亦都係好快搵我哋嘅工人  
11      妥善咁安裝番好。咁我第一次嘅話，我都唔覺得係咩嘢問題；第二次嘅話，我  
12      先發現個嚴重性喺度，我先去訓示我嘅工人，想搵出個答案，搵出個原因究竟  
13      係咩嘢事，但係冇工人回應我。

14   Q. Right. So did you then make enquiry with Edward Mok of  
15      Leighton as to "What actually happened, what went wrong;  
16      do you know?"

17   A. 莫生就話番畀我聽第二次就係有工人cut咗一支及兩支嘅coupler嘅事情，  
18      跟住搵番我哋嘅工人去再做番好佢。

19   Q. So both you and Mr Mok, during your conversations, did  
20      not actually discuss what was the cause of the problem;  
21      is that right?

22   A. 冇。

23   Q. So earlier on you were trying to tell us the conclusion  
24      that you tried to draw from your investigation. Can you  
25      tell us, as a result of the investigation, what

1 conclusion you can draw as to why the workers would have  
2 taken their own initiative to cut the threaded rebars if  
3 they were not instructed at all to do so? Would you be  
4 able to draw any conclusion on that?

5 A. 貪快、做唔到，而又唔問准我批准，自把自為走去安裝咗先。

6 CHAIRMAN: You would agree, of course, that this was not  
7 something that you could do almost incidentally? In  
8 order to do this, you would have to get hold of  
9 a cutter, you would have to take the cutter to the bar,  
10 and you would have to cut it, at a time when supervisors  
11 were not looking; would you agree? So it would have  
12 been a concerted set of actions by the workers?

13 A. 如果嗰五支NCR嘅話，可以咁講。

14 COMMISSIONER HANSFORD: I don't understand that answer.  
15 What do you mean, "If the five NCRs were correct"?

16 A. 唔係，唔係，唔係，我認為嗰五支NCR，啲工人係自己魯莽去做嘅。

17 COMMISSIONER HANSFORD: Sorry, Mr Cheung, the Chairman's  
18 question to you was, even just on these five bars  
19 related to this NCR, to have cut these bars would have  
20 had to be a concerted effort; they would have had to  
21 collect the band saw, they would have had to remove the  
22 bars, they would have had to cut the thread from the  
23 bars, and then they would have had to insert them back  
24 again. So the Chairman's question is: that was quite  
25 an effort; do you agree?

1 A. 同意。

2 COMMISSIONER HANSFORD: Thank you.

3 A. 所以嗰五支NCR發生咗之後，我同我啲工人講番，就係呢種係好愚蠢嘅方法，  
4 因為每cut一支螺絲頭都需要時間嘅，冇乜必要去費時失事做呢種咁嘅行為，  
5 有問題嘅話，應該搵番佢當地嘅科文，係咪？Coupler有破損，應該去更換  
6 咗佢，係咪？所以我已經解釋畀我啲嘅工人聽「以後、以後唔好有呢種咁嘅  
7 行為發生，因為係好愚蠢，浪費時間。」

8 MR KHAW: Mr Cheung, you told us that you managed to draw  
9 a conclusion that the workers cut the threaded rebars  
10 because there were problems with the couplers; right?

11 A. 呢樣我唔清楚，要問番莫生先至知道。

12 Q. If there were problems in their work, would you agree  
13 that remedial work could have been done by Leighton  
14 easily and quickly?

15 A. 同意。

16 Q. So were you surprised when you realised that the workers  
17 even did not find it necessary to ask Leighton to do any  
18 remedial works, and instead they made their own  
19 decisions to cut the rebars?

20 A. 我驚奇點解會有咁愚蠢嘅工人。

21 Q. If I could now take you to just one short passage in  
22 Mr Pun Wai Shan's MTR interview. B5/3082.7. It's in  
23 Chinese. I will read it out to you and then we will get  
24 it translated.

25 The question was, in the middle:

1 "即係佢地工人就紮嘅鐵嘅時候就發覺覺得太密嘞，果幾支佢都有  
2 辦法用到牙鉗去扭啲鐵入去，咁所以就不如剪短啲就當即係睇下博下當  
3 睇唔到或者係好似睇落去又收咗咁樣嚟諗住過到骨嘅？"

4 Mr Pun's answer was:

5 "er...我諗就應該係地鐵發現我地都係應該係咁樣樣"

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. 唔係，因為潘先生佢應該係同地鐵呢個係個人意見嘅討論嚟嘅啫，因為佢都  
15 唔清楚呢一件事。

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. 冇。

21 Q. Never?

22 A. 冇。

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?



1 A. 係，佢口供我唔清楚。

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. 冇好處，反而有壞處。

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. 唔會，唔同意，如果剪咗一條扭紋嘅鋼筋去裝上，係咩嘢原因先至要剪個扭  
14 紋鋼筋，如果coupler杯有損毀而又做唔到嘅話，呢個唔係我哋嘅責任，可  
15 以叫禮頓去更換新嘅杯。如果紮鐵工人去將一條鋼筋cut咗個螺絲頭去裝上  
16 去，一，未必裝得到，而又會畀人哋發現係冇做好嘅話，又會浪費咗時間，  
17 而亦都有得益，反而仲會畀人發現做唔好，重新要再做過，所以冇需要去剪  
18 呢條鋼筋，因為剪鋼筋係一種係唔啱嘅行為，同埋亦都係裝上唔到個--未必  
19 裝得上呢個coupler杯。

20 CHAIRMAN: In your earlier evidence, you said -- I think you  
21 said -- that there were instances when you would contact  
22 Leighton, and Leighton would seek a remedy, and your  
23 understanding was that with Leighton's consent, your  
24 workers would cut the thread on the rebar, just so that  
25 it would look good temporarily and pass the inspector's

1 inspection. Is that correct?

2 A. 係，有講過。

3 CHAIRMAN: That's your memory of events, is it?

4 A. 係。

5 MR KHAW: Mr Cheung, I will probably try just one more time  
6 and then I will move on to another topic.

7 A. 好。

8 Q. You are giving evidence at this hearing; you promised us  
9 that you will be telling us the whole truth. Now, in  
10 view of all the findings that you have made as a result  
11 of the 2015 bar cutting incidents, are you now telling  
12 us that up to now, up till now, in fact you have still  
13 been unable to find out what was the actual reason or  
14 need for the bar cutting incidents? Is that your  
15 evidence?

16 A. 係，冇錯。

17 Q. I asked you earlier that during your interview with the  
18 MTR staff, you told MTR that the workers would never,  
19 ever cut the threaded rebars without Leighton's prior  
20 approval or instruction. Do you still abide by what you  
21 said to the MTR staff?

22 A. 係。

23 Q. Let's move on. Regarding the issue in relation to the  
24 insertion of a dowel, ie coring the dowel, you have been  
25 asked extensively on this issue and I am not going to

1 dwell on it --

2 CHAIRMAN: Could I just, for clarity -- a dowel is a term of  
3 art or a construction term. What it be right to say, as  
4 I put it rather oddly the other day, that effectively  
5 it's a steel bar?

6 MR KHAW: Yes.

7 CHAIRMAN: It's not a specialised coupler or something like  
8 that; would that be right?

9 MR KHAW: I believe so. Maybe I can just ask Mr Cheung to  
10 clarify that.

11 COMMISSIONER HANSFORD: At some stage, I'd also be  
12 interested to know the diameter of these dowels and the  
13 length of these dowels, but maybe that's not a question  
14 for you, Mr Cheung.

15 Do you know the diameter and lengths of the dowels  
16 that were used?

17 A. 如果唔係講coupler鐵嘅話，鋼筋與鋼筋係有接駁，有標準，接駁鋼筋，lap  
18 鐵，係咪？教授，你講緊？

19 COMMISSIONER HANSFORD: No, I'm talking -- I know that  
20 Mr Khaw is going to ask you questions about the dowel,  
21 so I'll allow that to happen. You were talking to us  
22 last week about remedial works that were carried out by  
23 Leighton at locations where proper coupler connections  
24 could not be made, and you told us that they would be  
25 dowels, and the dowels would be connected with, I think  
26 you said PE500, which I assumed to mean epoxy resin.

1 A. R, R, RE500.

2 COMMISSIONER HANSFORD: Thank you, RE500, which I assumed to  
3 mean epoxy resin. And my question is: are you able to  
4 tell us the diameter of these dowels and the length of  
5 these dowels, or is that a question for someone else?

6 A. 接駁鋼筋嘅長度視乎接駁嗰個鋼筋係乜嘢類型嘅鐵, 如果T40亦有T40嘅lap  
7 嘅長度, T40, 我嘅認知就係需要兩米去接駁。

8 COMMISSIONER HANSFORD: 2 metres in length? Wow. That  
9 is --

10 A. Lap, 用番lap鐵嘅長度。

11 COMMISSIONER HANSFORD: Thank you.

12 MR KHAW: If I can ask you to take a look at one of your  
13 answers in this respect. Day 14's transcript, page 134,  
14 line 11:

15 "Starting from 2015, in March/April, I already  
16 noticed that the installation of couplers would carry  
17 a certain degree of difficulty. So, starting from slab  
18 1875, I discovered damaged couplers and also misaligned  
19 couplers. I was really very cautious. It's not easy to  
20 work on some of the couplers. I asked engineers to core  
21 the dowels and then I did a lot of measures," et cetera,  
22 et cetera.

23 First of all, if we can pause here, you said you  
24 asked engineers to core the dowels. Are you referring  
25 to the engineers of Leighton?

- 1 A. 係，冇錯。
- 2 Q. Who were they? Can you name them?
- 3 A. 講唔到，因為嗰個工程師經已係離開咗。
- 4 Q. Any engineers from MTR involved?
- 5 A. 禮頓嘅。
- 6 Q. And who decided the location of the cores?
- 7 A. 呢啲窿嘅位置都係由番禮頓嘅工程師去決定嘅。
- 8 Q. They would make decisions on the location and they
- 9 approved it, without having to consult you; right?
- 10 A. 唔需要嘅。
- 11 Q. Who provided the RE500 resin?
- 12 A. 都係禮頓嘅，因為修補呢個過程，RE500同埋種鐵呢個步驟都係由禮頓
- 13 去處理。
- 14 Q. I suppose they would also be installed by Leighton
- 15 workers; right?
- 16 A. 係。
- 17 Q. And the size, the diameter, et cetera, the details, the
- 18 specifications of the steel bars, what we call the dowel
- 19 bars, would also be decided by Leighton; is that right?
- 20 A. 係，冇錯。
- 21 COMMISSIONER HANSFORD: Could I just supplement that,
- 22 please, Mr Khaw -- and the depth of the core, the depth
- 23 of the drilling -- do you know how deep the cores were
- 24 into the concrete?
- 25 A. 唔知，由禮頓嘅工程師會話番畀佢哋啲工人知道鑽幾深，而啱RE500嘅，

1 佢哋做完個補救個過程，然後我哋先至再重新埋位去紮鐵。

2 MR PENNICOTT: Sir, there is evidence that the depth was  
3 either 650 millimetres or 540.

4 COMMISSIONER HANSFORD: Thank you.

5 MR KHAW: So, in relation to the work for coring the dowels,  
6 one can simply say that all the work procedures were  
7 done by Leighton?

8 A. 係。

9 Q. If I can then ask you to just take a look at one of your  
10 answers given again on Day 14, page 111, line 19,  
11 starting from Prof Hansford's question. The professor  
12 said:

13 "Sorry, I still don't understand, because -- I don't  
14 understand why it needs to be cosmetically acceptable,  
15 because surely the answer is, 'But that coupler is not  
16 needed because there's a dowel in there now, and that  
17 dowel is replacing the coupler.' That would be the  
18 answer to anybody that asked a question about it. So  
19 why are we worried about cosmetics?

20 Answer: Because the question I was asked was under  
21 what circumstances would we cut the coupler and install  
22 a coupler, and my description was what I thought would  
23 happen, would occur."

24 It seems to me that you did not directly answer the  
25 professor's question here. The question was why was it  
26 necessary to make it cosmetically acceptable? Can you

1 tell us now?

2 A. 可以，因為會有兩種情況之下嘅，有時候樓面嘅密度同埋呔--啲條呔--啲條  
3 橫樑嘅密度唔同，同埋現場嘅環境唔同。

4 Q. Right. Let's move on to look at the transcript here.

5 Then the professor said:

6 "Okay, I think I'll leave it there. Thank you.

7 Chairman: But by 'pretty' or 'looking right' what  
8 you mean is an inspector might see the threads and say  
9 this hasn't been put in properly, and then you have  
10 a lot of explaining to do and delay; is that what you  
11 are saying?

12 Answer: Yes, Chairman."

13 Commissioner Hansford: Sorry to labour my point,  
14 but the explaining would be there is a dowel there,  
15 replacing the coupler. Is that not an easy explanation?

16 Answer: My description was there might be such  
17 a procedure."

18 I don't quite understand your answer here,  
19 Mr Cheung. What do you mean?

20 A. 我個描述都係同以往我講法就係一樣，如果真係有呢個鑽窿種鐵去代替啲  
21 條鐵嘅話，啲個coupler杯，如果呢個禮頓有人叫我哋去叫師傅cut咗個  
22 螺絲頭去質番啲個窿嘅話，我覺得都係啱嘅，因為個螺絲杯起碼仲有兩、三  
23 格牙可以扭嘅，點解唔去扭番佢呢？呢個係我個見解。

24 Q. Then if we move on --

25 CHAIRMAN: Sorry, I do apologise. Again, it's quite

1 important that we don't have a misunderstanding here, so  
2 I'm going to labour the point very slightly.

3 Would it be correct to say this: your worker  
4 complains that a coupler has been damaged?

5 A. 係。

6 CHAIRMAN: You go to Leightons?

7 A. 係。

8 CHAIRMAN: Leightons decide to put in a dowel, which is  
9 a steel rod?

10 A. 係。

11 CHAIRMAN: You have to, however, drill a core hole for the  
12 dowel to go into?

13 A. 係。

14 CHAIRMAN: The dowel is then put into that core and it is  
15 secured with some form of epoxy resin?

16 A. 係。

17 CHAIRMAN: That is then secured, but what you are still left  
18 with is a loose end to the rebar, and you decide that  
19 you might as well put that into the coupler, insofar as  
20 it will go.

21 A. 係。

22 CHAIRMAN: But it won't go that far and in fact may not go  
23 in at all if you don't cut the thread.

24 A. 係。

25 CHAIRMAN: So you cut the thread, if necessary, and it just



1 goes in a little bit into the coupler?

2 A. 係。

3 CHAIRMAN: So what you then have is you have the dowel going  
4 in, secure, and next to it you have the rebar appearing  
5 to go into the coupler, or perhaps going into the  
6 coupler, but not to the full extent?

7 A. 冇錯。

8 CHAIRMAN: And then, when the inspector comes along, the  
9 inspector sees the dowel and next to it the rebar?

10 A. 冇錯。

11 CHAIRMAN: And no need for any questions?

12 A. 可以咁講，但係，主席，我都係講多次，因為呢個係我喺地鐵嗰個會議上，  
13 佢問我「咁有啲咩嘢可能會做呢一種cut鋼筋剪短而裝上個壞嘅coupler？」  
14 我就好清楚答咗佢，就係話「如果真係有鑽窿插鐵，然後禮頓有呢個需要，  
15 就可以叫我哋工人去做呢個動作，質番個窿嘅。」但係實質上我有見過我嘅  
16 工人，亦都喺我記憶，係冇呢一件事發生過咁樣。

17 CHAIRMAN: So you're saying that this particular type of  
18 operation that I have described is not one that you  
19 heard Leighton instruct or is one that you actually saw  
20 your workers doing?

21 A. 係，冇錯。

22 CHAIRMAN: So are you saying that, as far as you are  
23 concerned, because this is your estimation only and not  
24 based on any factual basis, that there might not in any  
25 place be a dowel with the rebar next to it only

1 partially inserted? That may never have in fact taken  
2 place?

3 A. 係，冇錯。

4 COMMISSIONER HANSFORD: So, Mr Cheung, the dowel solution  
5 that you've been telling us about, is that just  
6 a theoretical solution? Is that just what you are  
7 telling us would be a way of dealing with this problem,  
8 or did it actually happen? I'm still very confused on  
9 this point.

10 A. 用鑽窿種鐵呢個方法嘅鋼筋係有發生過，用cut咗coupler而去裝上一個  
11 壞嘅coupler杯呢個，我有親眼發生--冇親眼見過。

12 COMMISSIONER HANSFORD: Right. Thank you.

13 CHAIRMAN: Could I ask just one question here -- thank you.  
14 We have heard from a couple of sources that this was  
15 a difficult contract.

16 A. 係。

17 CHAIRMAN: And we have heard that for some people, the very  
18 large number of couplers was something that they had not  
19 encountered before.

20 A. 係。

21 CHAIRMAN: What's your view on that? Had you encountered  
22 a contract before with this many couplers?

23 A. 冇。

24 CHAIRMAN: And would you have considered this contract to be  
25 a difficult one?

1 A. 覺得。

2 主席，等我講番，因為呢個工程合約點解會比較複雜，因為佢喺個樓  
3 籠裏面，佢有好多情形限制，所以佢必須要用呢個coupler去令到工程可  
4 以儘快完成，某些地方唔用到coupler，係有可能去施工嘅。

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. 冇。

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. 冇。

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. 唔係，有見過。

24 Q. Sorry, I just --

25 A. 因為係我發現有coupler，而嗰啲位置係導致我完成唔到紮鐵嘅工序嘅，

1 所以我就話番畀禮頓聽，禮頓就選擇去鑽窿種鋼筋。

2 Q. Sorry, so in response to the professor's question, that  
3 was not a theoretical solution; in fact, it was  
4 a practical solution that you have seen and which has  
5 been used on the site; right?

6 A. 係，啱。

7 Q. I just want to make this absolutely clear. Going back  
8 to the chairman's question, page 37, you can see:

9 "So you're saying that this particular type of  
10 operation that I have described is not one that you  
11 heard Leighton instruct or is one that you actually saw  
12 your workers doing?

13 Answer: That is correct.

14 Chairman: So are you saying that, as far as you are  
15 concerned, because this is your estimation only and not  
16 based on any factual basis, that there might not in any  
17 place be a dowel with the rebar next to it only  
18 partially inserted? That may never have in fact taken  
19 place?

20 Answer: Yes, correct."

21 So I'm just wondering whether that in fact took  
22 place or not. Can you clarify that?

23 A. 主席頭先講嗰個係cut咗個coupler，裝上個壞嘅杯嗰度，我係冇見過，  
24 冇發生過，鑽窿種鋼筋呢個係冇發生過，亦都喺地盤係好正常嘅施工嚟。

25 Q. In that case, may I take you to have a look at what you

1 told the MTR staff at the MTR interview in this  
2 particular respect. It's B5/3082.19. It's the  
3 recording in relation to 13:06 to 15:45.

4 MR PENNICOTT: Sir, before Mr Khaw continues, can I just put  
5 a marker down. Mr Khaw, harking back to your  
6 observations on Friday afternoon -- I have to say, the  
7 witness's evidence to the Commission on this particular  
8 point, on the differentiation between the dowel on the  
9 one hand and, if you like, the dummy connection on the  
10 other is pretty clear, and we are now going back to  
11 something presumably he said to the MTRC in his  
12 discussions with them, and this is what happened on  
13 Friday. The evidence is pretty clear, and I don't  
14 really think that this is -- I'm obviously not going to  
15 stop Mr Khaw but I think we just need to be wary about  
16 where this is going to take us, given the relative  
17 clarity of the evidence.

18 CHAIRMAN: Yes.

19 Mr Khaw?

20 MR KHAW: It's just that the witness seems to have given us  
21 different versions in this regard. In fact that is the  
22 reason why I wanted to clarify with him in view of the  
23 earlier evidence that he gave during the MTR interview.

24 CHAIRMAN: All right. It's inquisitorial and it's  
25 essentially for Mr Pennicott to lead matters.

26 MR PENNICOTT: Sir, can we see how we go?

1 CHAIRMAN: Yes. I think what I'm prepared to do, because,  
2 if I may say so, your questioning is always very  
3 temperate, very rational, and you are to be complimented  
4 for that, so I am prepared to let you proceed a little  
5 bit further.

6 MR KHAW: I am very grateful. Mr Chairman, I have  
7 a practical solution. Since it's now 11.30, I will  
8 certainly revisit Mr Pennicott's point and I will see  
9 whether I can simplify matters here.

10 CHAIRMAN: Yes. All right. Thank you. 15 minutes.

11 (11.31 am)

12 (A short adjournment)

13 (11.49 am)

14 CHAIRMAN: Yes, Mr Khaw.

15 MR KHAW: Thank you.

16 Just to summarise your evidence that you gave this  
17 morning regarding coring the dowels. You told us that  
18 you actually witnessed the drilling of the holes and  
19 also insertion of a dowel; that is correct, right?

20 A. 係, 喎。

21 Q. But you never witnessed a situation where a threaded  
22 rebar was cut in order to pretend that the dowel was  
23 inserted properly; right?

24 A. 係, 喎。

25 Q. If I may then take you to, just very briefly, one part  
26 of your MTR interview, at B5/3082.19. If I can first

1 read to you the third-last question on this page --

2 I will do it slowly so that it can get translated:

3 "但係去處理可能應該係你頭先講既鑽窿插鐵。"

4 That's the question.

5 MR SHIEH: I'm sorry, I just spotted a potential mistake in  
6 Mr Khaw's questioning. It is rather odd for someone to  
7 spot what is thought to a mistake in someone else's  
8 question, but I believe it should be a mistake, because  
9 at [draft] page 43, line 9, the question was, "pretend  
10 that the dowel could be inserted properly".

11 Now, that could be potentially misleading, because  
12 we have established that the dowel being put into the  
13 hole is a different thing from the thread, and so  
14 I wonder whether Mr Khaw intended to say "pretend that  
15 the threaded end was inserted properly", rather than the  
16 dowel, now that the evidence is that the dowel and the  
17 threaded end are two separate things, and to put to the  
18 witness "pretend that the dowel was inserted properly"  
19 could be misleading.

20 MR KHAW: I'm grateful for the correction.

21 CHAIRMAN: Just before you move on, I noticed that I was  
22 complimentary to you just before the tea break, Mr Khaw.  
23 I'm not taking back those compliments, but I just wish  
24 to emphasise that this is not to be taken as  
25 differentiating you from the other counsel. If I felt  
26 in any way whatsoever that their questions were not also

1           temperate and rational during the course of these  
2           proceedings, I would have done something about it; all  
3           right?

4       MR KHAW: Yes, of course. Thank you.

5           I also thank Mr Shieh for the correction. In fact,  
6           that was what I intended to ask.

7       COMMISSIONER HANSFORD: Perhaps you can ask it again, then  
8           I know where we are.

9       MR KHAW: Yes, I will do that again. Yes.

10           Mr Cheung --

11       A. 係。

12       Q. -- to summarise your evidence that you gave this  
13           morning, you told us that you actually witnessed that  
14           holes were drilled and dowels were inserted; is that  
15           correct?

16       A. 喺。

17       Q. But you never saw threaded rebar being cut and then the  
18           cut threaded rebar was used to be inserted into the  
19           holes; right?

20       A. 安裝落--係安裝落去個coupler窿度?

21       Q. Yes.

22       A. 係冇見過。

23       Q. Thank you. Now if we can go back to the MTR interview.  
24           I believe I just read to you the question. Maybe I can  
25           just repeat that:



1 "但係去處理可能應該係你頭先講既鑽窿插鐵。

2 Answer: 係啦，ERH...或者搵條鐵塞番個窿又好，點都好，就擺番  
3 係到，塞番靚佢黎。

4 Question: 姐係都會塞左個，儘量都塞左個COUPLER個位既？

5 Answer: 我地跟住去聽佢既指令去做嫁嘛，咁佢要喂要趕既話要有  
6 補救措施既，建築既（嘅話？）有好多補救措施嫁嘛，佢地會做（做好多？）  
7 嫁嘛。我地之前做再做之前（前一（缺）？）既話都係咁嫁嘛"

8 I believe according to the transcript, the  
9 last word "Question:", I believe that was still his  
10 answer to the question. And then:

11 "Question: 咁通常叫你去咁既情況之下會唔會真係用個方法就係，  
12 剪短少少果個螺絲頭擺左落去先，（跟住佢地之後？）再會有其他方法補救  
13 呢？有冇類似D咁既方法？

14 Answer: 有，好少。有。佢地會有補救方法嫁（嫁嘛？）。係啊

15 Question: 個量大約有幾多到啊？

16 Answer: 好少嫁咋。

17 Question: 姐係呢到通常咁樣就係唔要既？

18 Answer: 塞番個窿咋嘛，佢地有補救方法（嫁？）。

19 Question: 你塞番個窿既意思唔係就咁塞係要用後面果條鋼筋CUT短  
20 左既螺絲頭塞左佢跟住再...

21 Answer: 個杯跟本都受損破毀既，扭唔好既，咁我地跟本...擺番擺  
22 番佢好睇完彩嫁嘛。有人叫我地做我地自己會諗辦法補救嫁嘛（嫁啦？），  
23 係咪。一支半支既時候，工人有陣時都應該會盡做既。"

1           We can stop here. The question was rather specific,  
2           because the question in fact expressly referred to the  
3           use of the cut threaded rebar and asked you for  
4           an answer; you saw that?

5       A. 睇到。

6       Q. Then your answer was, "Yes, there were such occasions,  
7           but they were rare"?

8       A. 係。

9       Q. So are you now telling us, or not, that you were in fact  
10           aware of certain situations where the cut threaded  
11           rebars were used, in order to be inserted into the  
12           coupler?

13      A. 唔係。

14      Q. Sorry, so what is your evidence now? Because you  
15           earlier on confirmed that you are not aware of any  
16           situation where cut threaded rebar was used to be  
17           inserted into the coupler. In the MTR interview, you  
18           said you were aware of certain occasions but they were  
19           rare. So were you or were you not aware of such  
20           situation?

21      A. 由港鐵個會面裏面係有港鐵三位嘅同事，一路都係用緊唔同嘅方法，類似咁  
22           嘅方法去問我嘅，我係好清楚話番畀佢哋聽如果真係禮頓有呢個補救嘅方法  
23           嘅話，佢係有可能叫我哋嘅工人cut短個螺絲鐵，塞番一個冇用嘅coupler  
24           窿裏面，佢就問過我，話如果呢啲咁嘅情形會唔會有出現，我話如果真係有，  
25           都係會好少，一支、半支喇咁樣，但係實際嘅情形，我真係冇見過。

1 Q. Just to follow up on your last answer: were you or were  
2 you not aware of any situation where Leighton asked your  
3 workers or gave instructions to your workers to cut the  
4 threaded rebar for the purpose of inserting it into a  
5 damaged coupler? Were you or were you not actually  
6 aware of such incident?

7 A. 冇，如果真係有咁嘅做法，我工人一定會通知我。

8 Q. But you can't be that sure because situations actually  
9 happened where the workers did not tell you; is that  
10 right?

11 A. 如果有咁嘅情況，因為會做多嘢嘅話，工人一定會話番畀我聽，等如佢哋喺  
12 個地盤討論點解會cut咗coupler，「冇咗B杯嘅話，咪有可能去將個B杯--  
13 唔係，B牙嘅coupler cut成A牙囉。」等如佢哋喺度討論緊一樣。

14 Q. Let's go back to the transcript that we looked at before  
15 the morning break, Day 14, page 112. I believe we were  
16 discussing the middle of page 112, and then  
17 Prof Hansford's question at line 13:

18 "Sorry to labour my point, but the explaining would  
19 be there is a dowel there, replacing the coupler. Is  
20 that not an easy explanation?"

21 Then you gave your answer. Then Mr Pennicott  
22 continued to ask:

23 "But if all that happened, Mr Cheung, Leighton would  
24 know about it anyway, because they would be doing the  
25 remedial works, so you would only have to worry about

1 the MTRC, presumably?

2 Answer: If we did that, I would have to know about  
3 it; I would have to be notified."

4 First of all, you certainly would have no dispute in  
5 relation to the first part of Mr Pennicott's question,  
6 that is Leighton would know about it anyway because it  
7 was Leighton who carried out the work regarding the  
8 dowels, you told us; right?

9 A. 係。

10 Q. The second part of the question, "so you would only have  
11 to worry about the MTRC, presumably", what was your  
12 answer to this question?

13 A. 呢個係我哋嘅諗法嚟嘅啫，因為都係會有呢個禮頓同埋地鐵收貨咁嘛。

14 Q. After Leighton finished the work regarding the dowels,  
15 did Fang Sheung actually inspect such work before  
16 Fang Sheung continued?

17 A. 唔會，因為檢查係由--關於係由禮頓負責，我哋只會聽從禮頓做好咗，然之  
18 後就吩咐我哋埋位施工。

19 Q. Okay. Since we are on this topic of inspection, can  
20 I ask you a few more questions on this area.

21 During the time when the steel fixing work was being  
22 carried out by Fang Sheung's workers at a particular  
23 bay, I presume that there were supervision staff from  
24 Leighton who were inspecting and overlooking the works;  
25 is that right?

1 A. 有。

2 Q. In general, how many supervision staff from Leighton  
3 were present?

4 A. 禮頓嘅工程師佢哋嘅團體都會有四至五個，現場不同位置嘅監工嘅話，都會  
5 有一個喺度。

6 Q. What did they do to ensure that the threaded bars were  
7 properly screwed into the couplers?

8 A. 呢樣我就唔清楚佢哋，但係我哋施工嘅時候，佢都會有時喺我哋工作嘅位置  
9 叫我哋做好啲。

10 Q. If we are talking about the actual time when the  
11 threaded rebars were screwed into the couplers, that  
12 particular work procedure, is it the case that every  
13 time there were supervisors from Leighton who were  
14 present there to oversee that particular work procedure?

15 A. 亦都有地鐵嘅監督人員。

16 Q. How many from MTR?

17 A. 我見到嘅話，我做嘅位置都會有一位。

18 Q. Would there be any tests that they conducted for the  
19 purpose of ensuring that the threaded rebars were  
20 properly screwed into the couplers, apart from simply  
21 witnessing what was done?

22 A. 有，港鐵會有一個收貨嘅標準，就係叫我哋嘅工人攞牙鉗去抽樣去扭coupler  
23 畀佢哋檢查同做紀錄。

24 Q. Were Fang Sheung workers ever asked to unscrew the bars  
25 for inspection, ever?

1 A. 有，喺NCR嗰次出現咗問題嘅時候，港鐵嘅監督人員抽樣檢查，扭出，檢查  
2 確實是否合格，有嘗試過嘅。

3 Q. How often were Fang Sheung workers asked to unscrew the  
4 bars for inspection? How often?

5 A. 如果港鐵--唔係，係常常，係每一倉嘅位置佢都必須要我哋搵我哋嘅員工去  
6 用牙鉗抽樣去檢查。[interpretation disputed].

7 Q. Were you aware of any occasion where there were no  
8 supervisors from MTR or Leighton present when  
9 Fang Sheung's workers were trying to screw the threaded  
10 rebars into the couplers?

11 A. 許律師，可唔可以講多次？聽唔到，唔該你。

12 Q. Were you aware of any occasion where supervisors from  
13 Leighton or MTR were not present when Fang Sheung's  
14 workers were actually doing that particular work  
15 procedure, that is screwing the threaded rebars into the  
16 couplers?

17 A. 工作嘅時候，泛迅嘅工人一路工作緊，扭coupler嘅工作進行中嘅話，港鐵  
18 嘅職員會返番嚟再監督我哋。

19 CHAIRMAN: So that I understand it, are you saying that from  
20 what you were able to witness, every single insertion of  
21 a rebar into a coupler was witnessed by a supervisor  
22 from Leighton or MTR?

23 A. 係。

24 CHAIRMAN: But that couldn't have been the case, could it,  
25 because there's the one report made, the NCR report, the

1 non-conformance report, which shows that they weren't  
2 properly inserted, and in fact had been cut?

3 A. 主席，NCR個報告，我比較就唔清楚，但係我哋工作嘅位置嘅話，常常都  
4 會有港鐵嘅職員同埋呢個禮頓嘅職員喺度。

5 CHAIRMAN: No. Again, I don't want to go, as the  
6 Australians may say, walkabout. What I want to do is --  
7 the question was quite specific. You have told us that,  
8 to your knowledge and from what you saw, every single  
9 time that a rebar was put into a coupler there would be  
10 somebody there from Leightons or the MTRCL to witness  
11 that taking place; right?

12 A. 佢哋唔會一路一支、一支、一支、一支、一支咁樣去做目擊嘅。

13 CHAIRMAN: Ah. So they didn't observe it individually  
14 necessarily, but they would be in the area?

15 A. 係，係，冇錯。

16 CHAIRMAN: This takes me to a question that I asked earlier,  
17 namely the suggestion that to cut the threads off  
18 a rebar was an action that would take a little time.  
19 You had to get the cutter and then you had to do the  
20 cutting, and that therefore, if there were supervisors  
21 in the area all the time, would be quite a dangerous  
22 exercise, do you agree, because it would be stopped?

23 A. 一定。

24 CHAIRMAN: But it still happened once in a while? Well, no,  
25 let me put that again because that's not necessarily

1           accepted at all. But it still happened at least as far  
2           as the non-conformance report is concerned?

3           A. 係。

4           CHAIRMAN: Sorry, Mr Khaw.

5           MR KHAW: Thank you.

6                        So you just told us that Leighton or MTR supervision  
7           would not enable them to check or inspect the insertion  
8           of each threaded rebar into the coupler; is that right?

9           A. 係。

10          Q. So can you give us a rough estimate of the percentage?  
11          For example, if you are talking about one layer of  
12          reinforcement bars that Fang Sheung workers worked on,  
13          what is the percentage in terms of the number of  
14          couplers or the number of insertions of threaded rebars  
15          into the couplers that Leighton or MTR would inspect?

16          A. 視乎每一倉嘅面積有幾大為標準，如果每一倉淨係嘅底鐵，B1鐵嘅coupler  
17          大概三百支嘍，做好咗，同樣，就係有港鐵同埋有禮頓嘅監督人員佢會去  
18          睇一睇我哋做得好唔好。

19          Q. Sorry, you are saying that after a layer was completed,  
20          for example 30 bars were completed --

21          MR PENNICOTT: 300.

22          MR KHAW: Sorry, 300 bars were completed -- they would come  
23          to inspect after work had been carried out; is that  
24          right?

25          A. 係。



1 Q. So, at the time when Fang Sheung's workers were carrying  
2 out the work, like inserting the threaded rebars into  
3 the couplers, at the time when the work was being done  
4 there was no supervision and inspection yet by Leighton  
5 or MTR staff; right?

6 A. 不一定嘅，不一定。

7 Q. Now, going back to my earlier question -- because  
8 I wanted to know an approximate -- a rough idea in terms  
9 of percentage. If you are talking about one particular  
10 layer of reinforcement bars, in terms of the number of  
11 insertions of threaded rebars into the couplers, can you  
12 give us a percentage regarding -- I mean, how many were  
13 inspected by Leighton or MTR?

14 A. 你呢個問題，我好難答覆你。

15 Q. Not even a rough figure?

16 A. 如果我話百分之九十㗎喇，粗略。

17 Q. Thank you. Did the inspection or supervision take place  
18 in terms of each layer of reinforcement bars, or the  
19 inspection took place after the various layers were  
20 completed?

21 A. 我哋施工嘅時候，佢都會嚟睇，施緊工嘅時候，佢都會嚟睇，未到做每一  
22 part唔同嘅程序時候，佢亦都會行開咗，再返番嚟睇嘅，所以係不一定嘅。  
23 因為個責任應該係由佢哋度，佢哋會返轉頭，又會再睇，係佢監察我哋。

24 Q. Yes. If I can ask you to take a look at one paragraph  
25 in your police statement. It's E1584.9, the third

1           bullet point under answer 9, "Electric shear". You  
2           agree with me that that is the electric saw in red  
3           colour that we have seen; remember that?

4           A.   係呀，我哋嘅。

5           Q.   Here, you are telling us that the electric shear was  
6           used to cut thin rebars for fixing the bottom layer of  
7           rebars. I take it that what you mean here, when you  
8           talk about the bottom layer of rebars, you are actually  
9           referring to the "sifu" bars; right?

10          A.   係，冇錯。

11          Q.   Do you know how long does it take if one uses  
12          an electric shear or electric saw to cut a "sifu" bar?

13          A.   都要分幾、兩分鐘。

14          Q.   If I may, can I just take you to see one demonstration  
15          which has been done, which might show us how long it  
16          takes to cut a particular "sifu" bar by using  
17          a hydraulic cutter.

18                 If I can ask the Secretariat to go to -- I believe  
19          it should be bundle A, item 45. Yes, here. If we can  
20          go to item 2. First of all, if we can take a look at  
21          the picture of the hydraulic cutter which can be shown  
22          here at one of the photographs. We can just take this  
23          one and blow it up a bit.

24                 Did you see or did you ever use or your workers ever  
25          use such a hydraulic cutter on the site?

1 A. 我公司冇呢一種嘅壓剪，同埋我未見過我員工用過。

2 Q. But you are aware of the existence of this kind of  
3 hydraulic cutter; right?

4 A. 係，呢種壓前有嘅。

5 Q. If we can show you one video which may tell us how long  
6 it takes to cut a "sifu" bar by using this hydraulic  
7 cutter. I believe this should be --

8 COMMISSIONER HANSFORD: Mr Khaw, you're calling this  
9 "hydraulic"?

10 MR KHAW: Yes.

11 COMMISSIONER HANSFORD: In what way is it hydraulic?

12 MR KHAW: It is just that this video was provided by the COI  
13 with the assistance of some technicians from CIC in  
14 Hong Kong --

15 COMMISSIONER HANSFORD: Okay.

16 MR KHAW: -- and when I received the video, the description  
17 tells us that it is the use of a hydraulic cutter, so  
18 I assume --

19 COMMISSIONER HANSFORD: That's absolutely fine. Maybe  
20 I will do my homework outside this room.

21 MR KHAW: Thank you.

22 MR PENNICOTT: That is right, sir. We were informed by CIC  
23 that this is correctly described as a hydraulic cutter.  
24 In what way it is hydraulic I'm afraid I can't answer  
25 you, but that's what we were told by CIC.

26 COMMISSIONER HANSFORD: I will do my homework.

1 MR KHAW: I will do some homework as well, later, sir.

2 If we can just take a look at the video --

3 CHAIRMAN: We probably need to go down to the little arrow.

4 MR KHAW: 6003, yes.

5 If we can just pause.

6 (Video recording played)

7 MR PENNICOTT: Five seconds.

8 MR KHAW: It's too fast so we will miss it very easily.

9 If we look at this steel bar, is it the "sifu" bar  
10 that you have been telling us, or does it look like  
11 a "sifu" bar at least?

12 A. 似。

13 Q. If we can just play this video again.

14 (Video recording played)

15 It seems to me that it takes only a couple of  
16 seconds. Maybe we can take a look at another video,  
17 6004.

18 (Video recording played)

19 Can we play it again, please?

20 (Video recording played)

21 Maybe we can just play it again and then we can see  
22 the time shown.

23 (Video recording played)

24 It takes about two seconds to cut this "sifu" bar by  
25 using what is called a hydraulic cutter. Do you see  
26 that?

1 A. 睇到。

2 Q. But before you saw this video today, were you aware that  
3 it would take only a few seconds to cut a "sifu" by  
4 using another machine? Were you aware?

5 A. 我知道好快。

6 Q. I'm just wondering why your company still used this  
7 electric band saw or electric saw to cut the "sifu" bar,  
8 when it would take a much longer time to cut just one  
9 "sifu" bar?

10 A. 頭先剛剛我講嘅用一分至兩分鐘，用我公司紅色啲把鋸剪去剪Y40嘅鐵嘅時間，  
11 係咪？許生，咁好喇，而家你嘅圖片，我解釋下，呢把油壓剪，一，喺地盤係  
12 唔可以用嘅，點解呢？呢把油壓剪係用220 volt嘅電，地盤，禮頓嘅規矩係  
13 用110 volt嘅手提工具，先至可以用嘅，批准用，所以現場施工嘅地方亦都  
14 冇電--足夠嘅電線，所以我係買一把用電嘅手提工具，而呢把電嘅手提工具，  
15 冇辦法，雖然係比較時間長少少，但係唔係擺嚟cut 40鐵所需嘅時間，一分  
16 鐘至兩分鐘，所以cut一條Y12鐵嘅話，我相信雖然係慢啲，但係都係相差應  
17 該都係20秒嘅啫。

18 Q. Right. So you are saying that in fact the use of this  
19 kind of hydraulic cutter would not be allowed on the  
20 site; right?

21 A. 係，要用，要由禮頓批准，因為地盤嘅守則，220嘅手提嘅工具--電工具係  
22 唔可以用嘅。

23 Q. If we can take a look at another piece of evidence that  
24 you gave to this Commission. E879.2, 7(B). There you

1 said:

2 "I know that Fang Sheung had portable electric  
3 shearing tools that can cut steel bars. However, it  
4 would take at least 1.5 to 2 minutes to cut a steel bar  
5 with such portable tools. It would definitely be  
6 a waste of time and could not reduce much time or work  
7 procedure. Staff of Fang Sheung has no motion to do  
8 so."

9 I believe you are saying "had no motive to do so".

10 Here, when you are talking about 1.5 to 2 minutes to  
11 cut a steel bar, were you referring to the "sifu" bar or  
12 the threaded rebar of a coupler?

13 A. 後邊寫咗啲喇，係將一條鋼筋螺絲扭紋鐵，係形容緊係Y40嘅粗嘅鐵。

14 Q. Yes. We have heard a number of witnesses telling us how  
15 long it takes to cut a threaded rebar by using  
16 an electric saw. Again, I want to show you  
17 a demonstration to see whether that is the case. It's  
18 not something that I can easily verify at home, so  
19 perhaps I can just show you another video.

20 6020, the same folder, bundle A, item 45. Yes,  
21 here, the number 1 item. The first one, yes.

22 (Video recording played)

23 Thank you.

24 According to this video, it seems that it doesn't  
25 really have to take 1.5 to 2 minutes to cut a threaded  
26 rebar; would you agree?

1 A. 同意。

2 Q. Have you tried before, yourself?

3 A. 剪驗鐵嘅時候，試過。

4 Q. And at that time you recall that you have took about 1.5  
5 to 2 minutes?

6 A. 記得。

7 Q. Would you agree that after a threaded rebar of a coupler  
8 has been cut by using an electric saw, the cut threaded  
9 rebar could still be screwed onto a coupler; would you  
10 agree?

11 A. 有可能，可以。

12 CHAIRMAN: I think the question is that the use of this  
13 particular machine to cut the threads does not deform in  
14 any way the end of the rebar, so that you are able to  
15 still use it to thread it into a coupler?

16 A. 有機會可以。

17 許先生，我想問下圖片嗰支鐵係咩嘢鐵呢？佢嘅粗度係？

18 MR PENNICOTT: T40.

19 MR KHAW: It should be T40.

20 A. 唔該。

21 Q. Just a final issue that I wish to discuss with you. If  
22 you can take a look at your police statement, E1584.6,  
23 paragraph 11. About the last seventh line:

24 "After completing 1875 [that is one area], we  
25 proceeded to work on area C1-1, area C1-2 and so on.

1 But when we were working on area C1-1, it was again  
2 discovered that the couplers for the top of the platform  
3 slab at the east D-wall were not in the correct  
4 position, as they were located above the surface of the  
5 top slab. So again I reported the situation to  
6 Leighton's engineers (I am not sure who but usually it  
7 would be Ah Wood and Andy as they were mainly  
8 responsible for area C), and it did not take long for  
9 Leighton to provide a new drawing: the solution was for  
10 Leighton to instruct workers to knock down the top of  
11 all east D-wall in the entire area C ..., so that the  
12 rebars were exposed and then the existing couplers there  
13 would all be removed."

14 Do you remember your answer there?

15 A. 記得。

16 Q. I just wish to explore this a bit further. When you  
17 said "it was discovered that the couplers for the top of  
18 the platform slab were not in the correct position", can  
19 you tell us more about what was discovered?

20 A. 我發現咗嗰個鐵嗰個平水嘅coupler同埋呢面嘅coupler係唔可以對照做得  
21 到個效果，所以我見到情形就係話佢會有高與低之差，所以我做唔到對嵌嘅  
22 工作，我就通知番禮頓有呢個問題。

23 Q. You talk about Leighton giving you new drawings; right?

24 A. 係現場話畀我聽嘅，冇新嘅圖則。

25 Q. So Leighton only verbally instructed you what would need



1 to be done to rectify this problem; right?

2 A. 係。

3 Q. You were not physically given any particular new  
4 drawings for that particular purpose?

5 A. 冇咁快畀我喇。

6 Q. If we just take one example, E1376. Were you given this  
7 new drawing on site?

8 A. 呢張唔係，呢張潘先生。

9 Q. This is what Fang Sheung did for the purpose of  
10 rectifying the problem?

11 A. 唔係泛迅為咗要補救呢個問題，係公司叫我哋將條鐵應該做到出去，延續出去。

12 Q. I'm sorry, Mr Cheung. Maybe I did not ask the last  
13 question very clearly.

14 The drawing that we can see here was prepared by  
15 Fang Sheung; right?

16 A. 係。

17 Q. So such drawings were prepared by Fang Sheung in  
18 accordance with the verbal instructions given by  
19 Leighton; is that correct?

20 A. 係。

21 Q. So, when this kind of drawing was prepared by  
22 Fang Sheung, you were not yet given any new drawings by  
23 Leighton?

24 A. 禮頓會後補畀我喇。

25 Q. When you said "Leighton would give new drawings

1           retrospectively", do you mean that you would receive  
2           Leighton's drawings before you carried out any  
3           particular work in this respect, or after?

4           A.   唔係，我哋發現咗問題，跟住就通知咗禮頓，禮頓同地鐵商討之下嘅話，  
5           知道個問題出現咗，然後用口頭話畀我哋聽將T1同T3嘅面鐵做到出去  
6           呢個過埋個D-wall度，係喇，因為喺建築--喺地盤嘅時候，常常都好多  
7           變動或者改變嘅，我哋只會聽從禮頓嘅吩咐，因為好多時候圖則上嘅問題  
8           會慢慢去改善，先會出正圖畀我哋去計數嘅。

9           Q.   So it would be the case that, say, Fang Sheung was  
10           responsible for installing, according to your evidence,  
11           the through-bars on the top of the diaphragm wall,  
12           right, in accordance with the verbal instructions given  
13           by Leighton; right?

14          A.   係。

15          Q.   Then it would be the case that sometimes you only had  
16           knowledge of the new drawings provided by Leighton after  
17           certain work was done; is that correct?

18          A.   係，因為冇咁快可以交到我哋。

19          Q.   Do you have any idea as to how Leighton knocked down  
20           part of the diaphragm wall, the top of the diaphragm  
21           wall?

22          A.   將連續牆上面嘅石屎打低，令到可以做到T1同T3嘅鐵過埋D-wall。

23          Q.   You actually saw them carrying out such work for the  
24           purpose of knocking down part of the diaphragm wall?

25          A.   係。

1 Q. How long did this process take; can you remember?

2 A. 唔記得。

3 MR PENNICOTT: Did Mr Khaw mean in any particular bay or  
4 completely -- all of it or what?

5 MR KHAW: You can't remember?

6 CHAIRMAN: I think we'll put the question on the basis of  
7 the entire exercise. Do you know how long that took?

8 A. 視乎要擺幾多人手，每次有唔同嘅人手，唔同嘅進度。

9 CHAIRMAN: No, I appreciate that. I'm asking you to cast  
10 your mind back, and are you able, in doing that, to say,  
11 to the best of your memory, how long the entire exercise  
12 of cutting down that top part of the D-wall took?

13 A week? Two months?

14 A. 主席，我嘅記憶，我唔肯定嘅，大約可以嘅話，兩至三天都可以。

15 MR KHAW: And such work was, according to your knowledge,  
16 solely done by Leighton's workers, or there were other  
17 sub-contractors' work involved in knocking down the top  
18 of the diaphragm wall?

19 A. 應該係外判商嘅。

20 Q. Do you know who were the sub-contractors involved?

21 A. 如果外判商嘅話，我所知嘅話，應該係一間東逸嘅公司。

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?

1 A. 記得。

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. 係。

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. 紮鐵工場度做。

9 Q. So that would not be cut on the site; right?

10 A. 唔會剪。

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

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. 記得。

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. 唔啱。

19 Q. Why do you say that?

20 A. 因為做咗EWL嗰個track上面嘅話，仲有嗰啲月台嘅牆身係需要留鐵去做嘅。

21 Q. But those bars for the walls could have been prepared at  
22 the bar bending yard; right?

23 A. 唔會，當做好咗EWL track嘅時候，我哋需要留鐵向上做後備工夫嘅鐵，日  
24 後去做呢個間牆嘅。而點解有需要嗰把鋸呢？因為到時會有啲opening喺度，  
25 係有需要cut高--cut矮佢嘅。

1 MR KHAW: Thank you.

2 I have no further questions.

3 MR WILKEN: Mr Chairman and Professor, I'm going to be

4 longer than five minutes and I'm aware of the time.

5 I will not, fingers crossed, be revisiting any subjects

6 that have been covered more than amply by previous

7 counsel.

8 CHAIRMAN: Very good. We will adjourn now and return at

9 2.15.

10 MR PENNICOTT: Yes, sir.

11 CHAIRMAN: Thank you very much.

12 MR WILKEN: Sorry, sir, can I just raise one transcript

13 point. [Draft] page 52, line 10 -- this was in relation

14 to testing, and the transcript says:

15 "... they would certainly ask our workers to use a  
16 wrench to test the screwing of bars."

17 The word "randomly", I'm told, was used by the  
18 witness at the end of that sentence and it doesn't  
19 appear in the transcript.

20 MR PENNICOTT: We agree with that.

21 CHAIRMAN: Thank you. Can I just mention one thing in

22 passing. We will be approaching Mr Pennicott and the

23 team to see if it might be possible for the purposes of

24 the report and making it accessible at the outset to get

25 some sort of simplified drawings of perhaps where the

26 tracks come, where they lie over each other, where they

1 don't, the D-walls and how they are supported, whether  
2 there's any internal walls, et cetera, stripped away of  
3 a lot of their technicalities, simply so that people  
4 reading the report will have easy access not only in  
5 terms of the literature but in terms of looking at the  
6 drawings. It's something we will be taking up with the  
7 team, but you will obviously all be kept informed of  
8 that and have an opportunity to make comments in respect  
9 of it. All right? Just so that you're aware of that.

10 Thank you.

11 (12.58 pm)

12 (The luncheon adjournment)

13 (2.17 pm)

14 Cross-examination by MR WILKEN

15 MR WILKEN: Good afternoon, Mr Cheung. My name is Sean  
16 Wilken and I'll be asking you some questions on behalf  
17 of Leighton. Okay?

18 A. 好呀，午安。

19 Q. Can I take you to E5, page 1336. Do you see this is  
20 a photograph taken on 22 September 2015, and it says  
21 it's EWL area A.

22 I want to suggest to you that in fact this is the  
23 NSL, not the EWL. The reason why I say that is -- there  
24 are two of them, sorry. If I can take you to E5/1372.  
25 This is a work schedule for Fang Sheung, which you  
26 exhibited to your witness statement, isn't it?

1 A. 係，睇到。

2 Q. And you can see the boxes list out the dates: 20 to  
3 24 September, and 13 to 22 September?

4 A. 係。

5 Q. And it says this is you working on the NSL mezzanine  
6 level; correct?

7 A. 喺。

8 Q. If we go to A250 -- this won't be a document you've seen  
9 before, I think -- this is a site layout plan helpfully  
10 prepared by the Commission, and you will see on the  
11 left-hand side it's got area A. If we can zoom in on  
12 that, please, you will see there that area A was  
13 concreted between May and July 2015; do you see those  
14 dates? Bay 1, 16 May, through to bay 5, 29 June,  
15 through to bay 6, 24 July; do you see that?

16 A. 睇到。

17 Q. So, by 22 September, work had completed on area A of the  
18 EWL slab; that's correct, isn't it?

19 A. 呢個太過耐，我印象記唔到咁多。

20 Q. Thank you.

21 If we can go back to E5/1336, will you therefore  
22 take it from me that this was the NSL area A mezzanine  
23 level?

24 A. 喺。

25 Q. You see here the box, which I assume translates the



1 Chinese:

2 "Discovered problem with hole-drilling and starter  
3 bar installation.

4 ...

5 Leighton carried out rectification of hole-drilling  
6 and starter bar installation work."

7 So whatever problem there was at NSL area A  
8 mezzanine was fixed; that's correct, isn't it?

9 A. 喎。

10 Q. So, if someone took a photograph that very closely  
11 resembles this on the same day, that photo must have  
12 been taken in NSL mezzanine area A; correct?

13 A. 喎。

14 Q. And the problem was remedied?

15 A. 冇錯。

16 COMMISSIONER HANSFORD: Mr Wilken, before you move on, can  
17 somebody just blow up that section where the connections  
18 are, so that I can see a little bit more clearly.

19 Thank you.

20 MR WILKEN: May I move on, sir?

21 COMMISSIONER HANSFORD: Yes.

22 MR WILKEN: Can I now take you to D1, page 227. This is  
23 a photograph I think you've seen before; correct?

24 A. 冇錯。

25 Q. In this photograph, it looks to me as though what these

1 people are doing is cutting vertical reinforcement. Do  
2 you agree? Because if we zoom in, you can see that  
3 there is a piece of protruding vertical reinforcement?

4 A. 同意。

5 Q. And it's common, if this is the top level of the  
6 reinforcement, to trim the vertical reinforcement to  
7 ensure that there are not elements of reinforcement  
8 sticking out, if I can use a colloquial term; agree?

9 A. 同意。

10 Q. And that ensures that there is sufficient concrete cover  
11 over the reinforcement when the concrete is poured;  
12 correct?

13 A. 啱。

14 Q. If this is not the top level and it's a lower level,  
15 could these people be cutting vertical reinforcement to  
16 allow horizontal reinforcement to be laid?

17 A. 未必。

18 Q. Can you go to D1/228. You accepted earlier in your  
19 evidence -- I know it must seem like a long, long time  
20 ago -- that you were close to this person because of the  
21 timings. This is 18:18 and there's a photo of you at  
22 18:19. Do you remember that?

23 A. 記得。

24 Q. And we know that Fang Sheung casual labour were working  
25 overtime on 22 September. We know this from E5/912. Do

1           you see here this is your site record, and it says,  
2           22 September, people were working OT, overtime; correct?

3       A.   睇到。

4       Q.   If we go back to the photograph at D1/228, you will see  
5           that's timestamped at 18:18. That's overtime working,  
6           isn't it?

7       A.   喎。

8       Q.   And you are working very close to this because of the  
9           timing, at almost at the same time; correct?

10      A.   睇相片係，一分鐘嘍。

11      Q.   So is it possible that this is a Fang Sheung worker?

12      A.   我睇唔到樣貌，所以我唔敢肯定，因為就算係嘅話，我哋泛迅工人嘅話，係  
13           比較污糟，唔會着長袖衫多。

14      Q.   I asked is it possible. I didn't ask you to be sure.  
15           I simply asked whether it was possible this was  
16           a Fang Sheung worker. Is it possible that this was  
17           a Fang Sheung worker?

18      A.   有可能，有可能。

19      Q.   I will move on to the next topic. You were asked about  
20           supervision by Leighton and MTR. It's right, isn't it,  
21           that Leighton and MTR did three different things: they  
22           patrolled the site, watching your work; that's correct,  
23           isn't it?

24      A.   喎。

25      Q.   They inspected the reinforcement as it was fitted layer

1 by layer?

2 A. 啱。

3 Q. And then there would be what are known as hold points,  
4 where there would be a proper inspection, a full  
5 inspection someone would sign off; correct?

6 A. 佢哋文件嘅嘢，我唔會清楚嘅。

7 Q. Okay. Can we go to E5/1295. This, to us, looks like  
8 a pre-pour inspection; do you agree or don't you agree?

9 A. 同意。

10 Q. If we now go to C14/9210, you will see that this is  
11 a request for inspection dated 22 November 2015; do you  
12 see that?

13 A. 睇到。

14 Q. And if we look at the date on the photograph, we see it  
15 is also 22 November; correct?

16 A. 係。

17 Q. The next topic. You've been asked a lot about your MTR  
18 interview. I want to take you to a passage that you  
19 were not taken to when you were questioned about this  
20 interview. The Chinese is at B5/3082.19 to .20, and  
21 it's really over the page at .20, and I'm looking eight  
22 lines up from the bottom, "Q", and you will see the  
23 number 5 there -- eight lines up from the bottom of the  
24 top box, apologies, I can see a "5" there, and then the  
25 English is at .31.

1           Can you scroll up a bit in the English, please. So  
2           the question:

3           "Other than the unsatisfactory connections  
4           concerning those 5 rebars, have you, during your stay at  
5           the site, heard of any similar incident? Or any staff  
6           reported such incidents to you?

7           Answer: No. No one."

8           So you were talking to the MTR about the five  
9           incidents that led to the NCR; that's correct, isn't it?

10          A.  啱。

11          Q.  And you now accept that there were two further  
12           occurrences of cut rebar in September and October 2015;  
13           that's correct, isn't it?

14          A.  同意。

15          Q.  Apart from the NCR and those two further incidents of  
16           cut rebar, anything else -- you did not witness any  
17           other cutting of rebar; correct?

18          A.  冇。

19          Q.  So anything you have to say on that subject must be  
20           speculation on your part?

21          A.  冇錯。

22          Q.  And that's what MTR asked you to do in the interview;  
23           correct?

24          A.  係。

25          Q.  Just to go back to one of your answers, did you see any

1 other cutting of rebar yourself -- cutting of threaded  
2 ends of rebar yourself?

3 A. 我有見過。

4 Q. Looking at those five incidents, can we have a look  
5 about how they were remedied. Can you go to B6/4121.  
6 This is NCR157 which you've been shown during the course  
7 of giving evidence; correct?

8 A. 喎。

9 Q. Could we go to 4127. Here, you will see in the box,  
10 "Details of required rectification"; correct?

11 A. 對英文嘅文件嘅話，我係完全我唔識睇，no English。

12 Q. Okay. What it says -- and I'll read it out to you so  
13 you can have it translated:

14 "Sub-contractor Fang Sheung will be requested to  
15 remove all rebars with shortened threads. LCAL and MTR  
16 will verify the condition of couplers and the length of  
17 thread for each rebar. The new rebar will be screwed  
18 with the help of LCAL direct labour. MTR IoW team and  
19 LCAL site engineer team will inspect the whole process  
20 for replacing all the new threaded rebars."

21 That's what it says?

22 A. 係。

23 Q. And that's how the five rebars for the NCR were  
24 remedied; correct?

25 A. 成個過程，我係唔清楚嘅，莫生做好咗，然後先至話畀我聽。

1 Q. Okay. If we go to Mr Mok's evidence, and that's at  
2 C12/8114, paragraph 29 -- Mr Mok is 62.0 -- here he is  
3 talking about the September incident and you will see,  
4 and I'm going to read it out to you, about halfway down:

5 "As Fang Sheung's workers were still on site,  
6 I immediately asked them to replace the defective bar by  
7 taking it away and replacing it with a new bar."

8 So, in September, Mr Mok says he remedied it by  
9 having a new bar screwed in; you see that? You heard  
10 that, apologies?

11 A. 係。

12 Q. Then if we go to 8115, paragraph 33:

13 "Similar to the first occasion, I asked the  
14 Fang Sheung's workers to remove the defective bar(s) and  
15 replace them with new bar(s). I recall it was necessary  
16 to replace the coupler for one of the bars."

17 So, in October, Mr Mok sees them again replacing the  
18 bars; correct?

19 A. 莫先生同我講就係咁，有講過係更換鋼筋。

20 Q. Thank you. Then if we go to C12/8116, paragraph 39:

21 "As before [and this is December], I had  
22 Fang Sheung's workers ... immediately replace the  
23 defective bars. I believe on that occasion that at  
24 least one of the couplers had to be replaced."

25 So, again, in December, Mr Mok has replaced the  
26 bars; do you agree?

1 A. 同意。

2 Q. Now, talking about Mr Mok's telling you about  
3 Fang Sheung and rebar, is it possible that on the first  
4 occasion, in September -- after all, it's been three  
5 years since this discussion took place -- could it be  
6 that you cannot now properly recall whether Mr Mok said  
7 to you that there was cut thread or an incorrectly  
8 screwed coupler?

9 A. 喺我印象嘅話，9月嘅話，莫先生係提及過我哋啲鋼筋做得唔好，叫我哋做  
10 番好嘅。

11 Q. Okay. Now, Mr Mok reported to Fang Sheung incidents of  
12 defective rebar on three occasions, didn't he?

13 A. 喺地盤度用口有同我提及過嘅。

14 Q. You are now aware that he also took photographs. Can we  
15 go to C12/8123. This is one of the photographs that  
16 Mr Mok took, and if we go to 8125, this is another  
17 photograph that Mr Mok took.

18 It's right, and I think you gave evidence to this  
19 effect, that Mr Mok told you that Fang Sheung's  
20 defective installation of rebar was completely  
21 unacceptable; correct?

22 A. 喺。

23 Q. And an NCR was issued; correct?

24 A. 喺。

25 Q. Leighton therefore explicitly told you not to cut the



1 threaded ends of rebar; correct?

2 A. 啱。

3 Q. And took action under the contract to ensure that you  
4 did not cut the threaded ends of rebar?

5 A. 加強咗對我哋個檢查。

6 MR WILKEN: Mr Chairman, sir, I don't think I have any  
7 further questions for this witness.

8 CHAIRMAN: Thank you very much.

9 MR BOULDING: Nothing from us, sir. Thank you very much.

10 CHAIRMAN: Thank you very much.

11 Re-examination by MS CHONG

12 MS CHONG: Just a few questions.

13 As far as the bar fixing work is concerned, are you  
14 aware of any incident that Fang Sheung was behind the  
15 bar fixing schedule, at any time of this 1112 contract?

16 CHAIRMAN: Sorry, that question I have a little difficulty  
17 with. "Are you aware of any incident that Fang Sheung  
18 was behind the schedule?"

19 MS CHONG: Yes. He was asked about the project deadline,  
20 and he gave answer that the whole project was in  
21 a hurry, but my question is, as far as this bar fixing  
22 work is concerned, whether Fang Sheung was at any time  
23 behind the schedule, this bar fixing schedule.

24 CHAIRMAN: That's fine, yes.

25 A. 係咪意思工程遲咗?

26 MS CHONG: No. Just focus on the work of Fang Sheung. Was

1           there any delay of Fang Sheung's work?

2           A. 冇。

3           Q. You were also asked to see the cutting using this  
4           electric band saw, and we saw that the cutting was  
5           47 seconds.

6           Now, my question is this is a battery-charged  
7           electric band saw. Do you know how much time it  
8           required to fully charge this electric band saw?

9           A. 要一小時以上，一小時以上充電。

10          Q. So, once it is fully charged, do you know how many bars  
11          could this band saw cut, using the fully charged power?

12          A. 如果呢部機器，手提電動工具嘅話，cut呢個Y50 mm嘅鋼筋，係大概cut  
13          五至八支嘅，就會冇電喇，即係跟住就不能使用喇，然後要叉電。

14          Q. Now, would the cutting performance be impaired as this  
15          battery goes down, that means it requires longer time to  
16          cut this bar as the battery is used, goes down?

17          A. 一定會，同埋個鋸片--運帶鋸片佢會有損耗，啲啲牙紋會慢慢係冇咁鋒利，  
18          所以會時間會更加會長啲。

19          Q. I see. So are you saying that it also depends on  
20          whether the blade of the saw is a brand-new one or  
21          an old one?

22          A. 冇錯。

23          Q. You were also asked to read the witness statement of  
24          Edward Mok. May I refer you to bundle C12/8114. Now,  
25          there were three incidents of bar cutting. I wish to

1 draw your attention to the second occasion, that is in  
2 October and November, in paragraph 32. On that  
3 occasion, one or two bars, as was stated in paragraph 32  
4 of his witness statement, one or two defective bars were  
5 found during the inspection.

6 Then the next page, paragraph 33, he then said this:

7 "Similar to the first occasion, I asked the  
8 Fang Sheung's workers to remove the defective bar(s) and  
9 replace them with new bar(s). I recall it was necessary  
10 to replace the coupler for one of the bars."

11 Then paragraph 34:

12 "I told him [which refers to you, Mr Cheung] to  
13 ensure his workers checked the threaded bars were be in  
14 good condition and being screwed into the couplers."

15 Now, reading what Edward Mok said here, it appears  
16 that it was necessary for the remedy work to replace one  
17 of the couplers, to replace the couplers for one of the  
18 bars. Now, reading this, is it the cause that this  
19 defective installation originated from a damaged or  
20 defective coupler?

21 A. 冇錯。

22 Q. And in paragraph 34, it seems that Edward Mok here, he  
23 seems to be telling you only that -- asks you to ensure  
24 that the threaded rebars were properly checked and  
25 whether they were in good condition before they were  
26 screwed into the couplers. Now, did he also tell you

1           that on that occasion the couplers were damaged and make  
2           sure that your workers properly check the couplers  
3           before you ask the workers to proceed to do this  
4           installation? Was this brought to your attention, bring  
5           to your attention, on that occasion?

6       A.   莫先生叫我工人做好咗，然後先話番清楚畀我聽呢件事件。

7       Q.   My question is did he -- now, here in paragraph 34

8           Mr Mok said this:

9           "I told him [Mr Cheung, that's you] to ensure his  
10          workers checked the threaded bars were in good condition  
11          and being screwed into the couplers."

12          That was what he told you, according to him, stated  
13          in paragraph 34.

14          My question is: did he also tell you that on that  
15          occasion the couplers were damaged and had to be  
16          replaced -- did he tell you this on that occasion? \*24840

17       A.   我就冇乜印象，如果螺絲杯受損，要更換嘅話，唔係泛迅嘅責任，如果係咁，  
18          我會通知番莫先生，應該佢--禮頓搵佢哋嘅員工去處理番個受損嘅螺絲杯帽，  
19          然後我哋先至確保嗰條螺絲頭可以扭入去。

20       Q.   Now, you also told us that on that occasion, you were  
21          informed after that the defective installation had been  
22          remedied. So is it fair to say that you did not have  
23          the opportunity to inspect the defective installation  
24          before it was remedied; right?

25       A.   冇錯，因為我哋施工之前嘅話，我已經通知咗禮頓，要佢確保嗰啲螺絲杯冇

1 破損，同埋幫我更換好咗，就方便我哋施工。

2 Q. So your investigation could only be based on what was  
3 told to you by Mr Mok or your workers; was that the  
4 case?

5 A. 係，冇錯。

6 Q. And the third instance, Mr Mok accounted for the third  
7 incident in paragraph 37, and in paragraph 38, five  
8 defective rebars were found. In paragraph 39 he said  
9 this:

10 "As before, I had Fang Sheung's workers (in this  
11 occasion with the help of Leighton's direct labourers)  
12 immediately replace the defective bars. I believe on  
13 that occasion that at least one of the couplers had to  
14 be replaced."

15 And paragraph 43, he then spoke to you:

16 "I spoke to Joe Cheung, Fang Sheung's supervisor, to  
17 explain that it was completely unacceptable that the  
18 same issue had arisen three times and that, on this  
19 occasion, there were five defective bars within the same  
20 area."

21 Now, on this occasion, did Mr Edward Mok tell you  
22 that the defective installation were due to defective or  
23 damaged couplers?

24 A. 冇，只係話畀我聽有五支coupler，跟住地鐵發現咗係唔標準，唔收貨嘅，  
25 然後第二日佢先至通知番我，話番畀我聽。

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. 同意，因為我遞交界委員會嗰啲進度相嗰度都有咁嘅情形出現嘅，因為需要  
9 用人手揸炮--揸一個風炮仔去將個coupler杯打出嚟先可以更換嘅，呢個唔  
10 係我哋泛迅嘅範圍，所以我哋係唔會幫佢做得到更換螺絲杯呢個步驟。

11 Q. Earlier on, you drew the conclusion from -- before  
12 lunch, you told this Commission this -- you drew the  
13 conclusion that the bars were cut because the couplers  
14 were damaged. And it seems that from these two  
15 incidents, the cause for this defective installation  
16 seems to be also originate from damaged couplers. You  
17 also told us that the frequency of damaged couplers  
18 found on the site is not that frequent. Do you remember  
19 that?

20 A. 冇錯。

21 Q. My first question is, apart from these three incidents  
22 of bar cutting that were brought to your attention, and  
23 you drew the conclusion that it was properly due to  
24 damaged couplers, my question is: are you aware of any  
25 other cause that could lead to the cutting of -- apart

1 from damaged couplers, that would lead to the cutting of  
2 rebars?

3 A. 冇。

4 Q. Regarding the damaged couplers, your evidence was that  
5 once you discovered that couplers were damaged, you  
6 would inform Leighton to do the replacement, but  
7 unfortunately there are still some damaged couplers, as  
8 in this case, in these five rebars found in December  
9 2015.

10 Can you tell us -- can you think of any reason why  
11 damaged couplers were not replaced on such occasion?

12 A. 檢查未完善，所以我嘅工人嘅話，認為嗰個螺絲帽損毀，因而貪快，佢所以  
13 咪做出今次咁愚蠢嘅行為囉，將嗰五支鋼筋嘅話，亦都唔通知我，咪擅自  
14 作主張去裝嵌，而產生咗呢個問題。

15 Q. The problem is the inspection of damaged couplers was  
16 not done properly; was that what you said?

17 A. 有機會咁樣。

18 Q. So these damaged couplers failed to be detected before  
19 workers proceeded to their installation; was that the  
20 case?

21 A. 冇錯。

22 Q. Is such occurrence, namely failing to detect damaged  
23 couplers -- is such occurrence frequent on the site?

24 A. 唔係咁多。

25 Q. Did you remind your worker to draw your attention if

1 such damaged couplers were found?

2 A. 有，因為有受損毀嘅螺絲帽係會阻住，延誤我哋嘅工作嘅。

3 Q. Yes. Now, you were asked about the inspection and  
4 supervision of Fang Sheung workers. Was there the  
5 situation that Fang Sheung workers take instructions  
6 from Fang Sheung foreman; that should be the situation,  
7 right? But apart from Fang Sheung -- instruction given  
8 by Fang Sheung foreman or Fang Sheung supervisor, would  
9 workers of Fang Sheung also take direction directly from  
10 Leighton?

11 A. 會，泛迅係出工人嚟嘛，係會聽禮頓嘅指示，甚至乎停工，停止喺度工作，  
12 都可以。

13 Q. If they take instruction from Leighton, were they  
14 required to go to you first, to seek approval first,  
15 before they proceed to carry out the instructions of  
16 Leighton supervisor or Leighton engineer?

17 A. 唔需要。

18 Q. Would they report to you afterwards that, "I have  
19 carried out certain instructions from Leighton and now  
20 I report to you what I have done"? Were they required  
21 to report to you such matters?

22 A. 需要，需要嘅。

23 Q. Now, you were shown this D228 photo.

24 Can we blow it up a bit?

25 We saw that there are some threads, and there's some



1 light is illuminating the threads, but as far as the  
2 part which is not illuminated by the light, can we see  
3 is it thread or the bar or -- are you able to tell?

4 A. 睇唔到。

5 Q. So we can only see the threaded part which was  
6 illuminated?

7 A. 冇錯。

8 CHAIRMAN: Well, you can see some ridging on the dark  
9 section.

10 MS CHONG: Yes.

11 Now, at one point you seem to say that cut rebars  
12 may not fit into couplers. My question is: why? Can  
13 a cut rebar still be able to fit into couplers?

14 A. 剪咗嘅鋼筋，如果嗰個杯係完全係冇問題嘅話，有可能係扭得上。

15 Q. You said there is a possibility it can be screwed in.

16 A. 係。

17 Q. So there are some possibilities that it cannot being  
18 screwed in; is it the case?

19 A. 冇錯。

20 Q. Why?

21 A. 如果有個紕口嘅話，即係有個紕口，唔齊整，唔完整嘅話，咁咪冇可能扭得  
22 人去囉。

23 Q. So that means it depends how properly the rebar was cut?

24 A. 冇錯，就算一條鋼--就算一支鋼筋經過--嗰啲螺絲紋經過地下或者互相碰撞  
25 嘅時候，嗰條鋼筋嘅話，有一個完全好嘅coupler，佢都係好難裝上。

1 Q. Yes. Now, you were asked about your site diary. Apart  
2 from yourself, was there any other people from Fang  
3 Sheung who also contributed to make records in the site  
4 diary?

5 A. 冇嘍喇，多數都係我，除非我放假嘅話，我都會打電話返番去公司留意番我哋  
6 今日有幾多員工返工、做緊邊度、安唔安全，然後我或者係好晏，夜晚會再  
7 地盤，寫番日記或者明日早上嘅時候先寫番日記。

8 Q. You were asked about November and December 2015, the  
9 check-in and check-out record of you to the site.

10 My question is, despite there were no such record  
11 from the check-in/check-out record of you entering the  
12 site, were you on site working during those two months,  
13 December and November 2015?

14 A. 冇嘍。

15 Q. That can be seen from your records in your site diary.  
16 Perhaps we can go to E5/E922.

17 Are these your records, the record made by you?

18 A. 冇錯。

19 Q. That is the record for November. E922 to E931, and the  
20 record for December is E931 to E940.

21 Can we take a look at E931 to 940. Are these your  
22 records made during those days, December 2015?

23 A. 冇錯。

24 MS CHONG: I have no further questions.

25 CHAIRMAN: Thank you very much.

1 MR PENNICOTT: Sir, unless anybody else has anything --

2 I don't have any more -- I think that's the end of

3 Mr Cheung's evidence.

4 CHAIRMAN: Thank you. No, it appears that we have no

5 further questions.

6 Mr Cheung, thank you very much indeed. It's been

7 a long period that you've had to spend in the witness

8 box. Apologies, but there's been a lot of questions,

9 and the issue is one of considerable importance to the

10 public, and we wished to probe as much as was possible.

11 Thank you.

12 WITNESS: 係，多謝，明白，主席。

13 (The witness was released)

14 MR PENNICOTT: You are free to go, Mr Cheung.

15 WITNESS: Oh, goodbye.

16 MR PENNICOTT: Make some friends!

17 (The witness was released)

18 Sir, I think that brings us to the next Leighton

19 witness. Obviously we've had Mr Plummer and Mr Rodgers

20 already. Mr Speed, I understand, is the next witness.

21 It seems a bit early to take a break, so perhaps we

22 could make a start and break a little later.

23 CHAIRMAN: Is that satisfactory for you?

24 MR WILKEN: Perfectly.

25 CHAIRMAN: We will have the 15 minutes now. Thank you.

26 (3.06 pm)

1 (A short adjournment)

2 (3.23 pm)

3 CHAIRMAN: Gentlemen, I believe, and please forgive me, that  
4 just before the break there was a suggestion that it  
5 would be a good idea to charge, and I agreed and  
6 promptly retreated. Please forgive me. So often one  
7 gets used to, when you are sitting here, counsel saying,  
8 "Before the next witness perhaps this would be a good  
9 opportunity to have a short break."

10 MR PENNICOTT: I said completely the opposite.

11 CHAIRMAN: Yes, exactly. I was just working on --

12 MR PENNICOTT: And Mr Wilken agreed, but there we go. Never  
13 mind.

14 CHAIRMAN: So my apologies. I really didn't mean to upset  
15 the process of matters. Thank you.

16 MR WILKEN: Good afternoon, Mr Speed.

17 MR KARL ROBERT SPEED (affirmed)

18 Examination-in-chief by MR WILKEN

19 Q. I know you have already done it, but can you give your  
20 full name to the Commission, please?

21 A. My name is Karl Robert Speed.

22 Q. And you've given four witness statements to this  
23 Commission; that's correct, isn't it?

24 A. Correct.

25 Q. Can I take you to C11, page 7593. Can you see the first  
26 page of your first witness statement up on the screen?

- 1 A. Yes.
- 2 Q. If you go to 7630 --
- 3 A. Can you make it slightly bigger, please? Thank you.
- 4 Q. -- is that your signature?
- 5 A. Correct.
- 6 Q. It's dated 14 September 2018?
- 7 A. Yes, correct.
- 8 Q. Can you go to C12/8091. Is that the first page of your  
9 second witness statement?
- 10 A. That's correct.
- 11 Q. If you go to 8093, is that your signature?
- 12 A. Yes, it is.
- 13 Q. It is dated 14 September 2018?
- 14 A. Yes.
- 15 Q. Could you go to C32/24113. Is that the first page of  
16 your third witness statement?
- 17 A. Correct.
- 18 Q. If you go to 24115, is that your signature?
- 19 A. Yes, it is.
- 20 Q. Is it dated 18 October 2018?
- 21 A. That's correct.
- 22 Q. Finally, if you go to C35/26568, is that the first page  
23 of your 4th witness statement?
- 24 A. Yes, it is.
- 25 Q. If you go to 26570, is that your signature?
- 26 A. Yes, it is.

1 Q. And it's dated 5 November 2018?

2 A. That's correct.

3 Q. So those are the statements which you have given to the  
4 Inquiry. Are their contents true?

5 A. Correct.

6 Q. Is there anything you want to add or change in them?

7 A. No.

8 MR WILKEN: If you would just wait there, I believe  
9 Mr Pennicott for the Inquiry, who is sitting in front of  
10 me, may have some questions for you.

11 WITNESS: Thank you.

12 Examination by MR PENNICOTT

13 MR PENNICOTT: Good afternoon, Mr Speed. You have probably  
14 worked out how things operate: I get to ask you some  
15 questions first, and then if any of the other counsel  
16 for the other parties wish to ask you questions, they  
17 will do so, and I think they have probably all agreed  
18 which order they will do that in, and when they have  
19 finished, Mr Wilken, if he thinks it necessary or  
20 appropriate, can ask you some further questions in  
21 re-examination.

22 Thank you very much for coming to give evidence to  
23 the Commission and I'm sorry if we have wrecked your  
24 holiday.

25 Mr Speed, I think I'm right in saying that  
26 essentially you are giving evidence to the Commission

1 wearing two hats. One, if you like, is the corporate  
2 hat of Leighton, and one is from your personal  
3 knowledge; would that be right?

4 A. Yes, that's correct.

5 Q. So far as your personal knowledge is concerned, I think  
6 you joined the project in about April 2017; is that  
7 correct?

8 A. That is correct.

9 Q. So your personal --

10 A. Not joined the project. Became the general manager for  
11 the Hong Kong business.

12 Q. Yes, general manager of the Hong Kong business, and this  
13 project was under your remit?

14 A. Correct.

15 Q. In that role, the project staff, from the project  
16 director, the project manager perhaps and others, would  
17 report to you about what was going on on this project?

18 A. Yes, on a regular basis.

19 Q. On a regular basis, all right.

20 Before you became the general manager in April 2017,  
21 were you working for Leighton?

22 A. Yes, I was.

23 Q. Whereabouts?

24 A. I was an operations manager prior to becoming the  
25 general manager.

26 Q. In Hong Kong?

1 A. In Hong Kong.

2 Q. How long had you been doing that for?

3 A. I joined Leighton in 2005, November 2005.

4 Q. Okay. You've been in Hong Kong from 2005 --

5 A. I've been in Hong Kong since 1996, July 1996.

6 Q. Okay. But for Leighton, 2005 onwards?

7 A. That's correct.

8 Q. Can I ask you this. Can I ask you to go to paragraph 28  
9 of your first witness statement, please.

10 COMMISSIONER HANSFORD: Sorry, Mr Pennicott, just so that  
11 I can fill in the gap -- Mr Speed, when you were  
12 operations director, before becoming general manager,  
13 was this project within your scope?

14 A. No, it wasn't.

15 COMMISSIONER HANSFORD: Thank you.

16 MR PENNICOTT: Sorry, that's what I inferred, Mr Speed. I'm  
17 sorry, I should have asked that question; quite right.

18 Mr Speed, in paragraph 28 of your first witness  
19 statement, you say:

20 "The engineering construction team was responsible  
21 for satisfying itself and obtaining the MTR's approval  
22 of the works and authorisation to proceed with the next  
23 step in the construction process. The primary means by  
24 which Leighton's engineers obtained MTR's approval and  
25 authorisation to proceed was by requesting formal  
26 inspections by, and conducting formal inspections with,



1 MTR. The two critical inspections in relation to the  
2 installation of reinforcement were:

3 (a) the reinforcement bar fixing inspection, which  
4 was jointly conducted by a Leighton engineer and an MTR  
5 engineer; and

6 (b) the pre-pour check inspection, which was jointly  
7 conducted by a Leighton engineer an MTR IoW [inspector  
8 of works]."

9 In relation to those two critical inspections that  
10 you mentioned, Mr Speed, is there, to your  
11 understanding, a written protocol regarding those joint  
12 inspections, both in respect of (a) and (b)?

13 A. Using the RISC form, basically, from MTRC.

14 Q. Right. So Leighton is using the MTR RISC form for those  
15 two things?

16 A. Correct.

17 Q. I understand. We have heard from certainly the previous  
18 witness that was here some time, Mr Cheung, that so far  
19 as the fixing of the rebar is concerned, we know that it  
20 was actually fixed by Fang Sheung on a layer-by-layer  
21 basis; you've understood all that, presumably?

22 A. Yes, of course.

23 Q. Right. As we understood Mr Cheung's evidence, there  
24 would be an inspection by Leighton and MTRC on  
25 a layer-by-layer basis; were you aware of that?

26 A. Yes.

1 Q. When it gets to your critical inspection (a), that is  
2 the reinforcement bar fixing inspection, that's  
3 precipitated by the issuance of an RISC?

4 A. Yes.

5 Q. Now, in relation to the intermediate inspections, that  
6 is the layer-by-layer inspection, I'm right in saying,  
7 am I not, that there is no such equivalent to the RISC?

8 A. That is my understanding, yes.

9 Q. Indeed, not only is there no RISC precipitating the  
10 layer-by-layer inspection, there are in fact no written  
11 records of any such layer-by-layer inspections; do you  
12 agree with that?

13 A. The RISC form basically for the reinforcement fixing was  
14 to embrace all that had happened prior to that.

15 Q. Right. But there is no documentary evidence, do you  
16 agree, of the layer-by-layer inspection?

17 A. I'm not aware of a formal document.

18 Q. No. So let's take just one layer, the first layer.  
19 Let's call it B1. Perhaps it's B6. The rebar fixing is  
20 done by Fang Sheung. The Leighton and MTR inspectors go  
21 in, to review or to inspect that first layer. And  
22 there's simply no record of what they did, what they  
23 saw, at all.

24 A. We have full-time, on-site continuous supervision, so in  
25 addition, seeing the works as they progress, anything  
26 that would be found would be rectified.

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  
26 project as the works were constructed.

1 Q. All right. As an adjunct to that point, Mr Speed, one  
2 problem is this, isn't it, that when the RISC form is  
3 issued for your (a) inspection, the rebar inspection,  
4 the inspectors presumably have to walk around the top  
5 level of the rebar -- let's say they're standing on T1  
6 and they're walking around the rebar -- how is it they  
7 can see the connections of the levels that are below,  
8 the layers that are below, if they haven't done the  
9 intermediate inspections?

10 A. But they have.

11 Q. Assuming they have --

12 A. The witnesses have confirmed that.

13 Q. Assuming they have, all right -- okay, they can confirm  
14 that, but if they haven't, there is no way that they can  
15 properly see beneath that first layer, perhaps the  
16 second layer as well, but not much more than that; would  
17 you agree?

18 A. I can't answer that. It depends on the specific  
19 location of what you're talking about.

20 Q. All right. Can I ask you a different question.  
21 Paragraph 54 of your witness statement.

22 You say there -- this is dealing with the general  
23 topic of, again, supervisors and inspections, and you  
24 say:

25 "Both a Leighton engineer and an MTR engineer ...  
26 would attend formal inspections for rebar fixing and

1 pre-pour checks. However, there were multiple Leighton  
2 engineers and site supervision staff assigned to  
3 supervise the sub-contractors' work in each area. These  
4 other engineers and staff were on site on a daily basis.  
5 As a result, they were monitoring the sub-contractors  
6 and generally ensuring that Leighton's systems were  
7 being followed."

8 That's the point I think you were making just  
9 a moment ago?

10 A. Yes, it was.

11 Q. Are there any records that Leighton keeps to show the  
12 identity and number of engineers and site supervisors on  
13 the site at any given time?

14 A. We have our organisation charts which dictates the  
15 area-by-area -- which is responsible for.

16 Q. You have your organisation charts, I understand that,  
17 but if I said to you, "Can you tell me, first of all,  
18 which engineers were on site in which area on any given  
19 day", can you from the records answer that?

20 A. I don't specifically know that. I'm the general manager  
21 of the business. I don't know that detail.

22 Q. Okay. I won't ask you about supervisors, foremen and so  
23 forth.

24 A. You need to speak to them, yes.

25 Q. Because, as I understood it from Mr Rodgers, there was  
26 no sort of equivalent to the sign-in/sign-out process

1 for the sub-contractors and the labour for foremen, site  
2 supervisors and the like, and so there's no way of  
3 pinpointing which people were there, in which area, at  
4 any given time. Anyway, perhaps I can ask somebody else  
5 about that.

6 A. Sure.

7 Q. All right. The next topic. Are you familiar with the  
8 non-conformance reporting process?

9 A. I'm familiar at the high level, yes.

10 Q. Do you know whether there are any written guidelines  
11 that Leighton has concerning the circumstances in which  
12 a non-conformance report should be issued or need not be  
13 issued?

14 A. I would have to review our quality assurance plans for  
15 that detail.

16 Q. But you are not, sitting here today, personally aware of  
17 whether there is or is not?

18 A. No, I would have to review the plan.

19 Q. Okay. I don't know if you know this, but on the face of  
20 one of the non-conformance reports that we've been  
21 rather focusing on a lot during the course of the  
22 hearing, there's a reference to a guideline 121. Is  
23 that something that means anything to you?

24 A. I'm not familiar with that guideline.

25 Q. Okay. Could I ask you, please, to be shown  
26 paragraphs 134 and 135 of your statement.

1 CHAIRMAN: First statement?

2 MR PENNICOTT: The first statement, sir, sorry, yes.

3 You were asked to comment, wearing your corporate  
4 hat, Mr Speed, about steps that might be taken to  
5 ascertain whether or not the EWL and the NSL slabs were  
6 safe; yes?

7 A. Yes.

8 Q. At paragraph 134 you say:

9 "In addition, load testing could be done on the  
10 platforms slabs to verify the integrity and safety of  
11 the structures. In this regard, [it] is notable that  
12 the diaphragm walls and platforms have been supporting  
13 significant loads since their completion, including  
14 works and passenger trains that have been using the EWL  
15 slab."

16 You go on to say this:

17 "Leighton does not recommend physically breaking  
18 open the concrete to check the connections between the  
19 reinforcement bars with couplers in the platform slabs  
20 and diaphragm wall."

21 Mr Speed, does that remain Leighton's corporate  
22 position before the Commission?

23 A. That's correct.

24 Q. You go on to say:

25 "This would reduce the strength of the concrete and  
26 require significant and expensive strengthening and

1 propping before the concrete was broken open so that the  
2 safety of the slabs and those carrying out the  
3 investigation would be ensured. There would then be the  
4 need for further remedial or replacement works. In any  
5 event, Leighton does not believe that it is necessary or  
6 appropriate to conduct such costly and damaging  
7 inspections. There is no reason to doubt the structural  
8 integrity and safety of the diaphragm walls and platform  
9 slabs."

10 Why do you say that, Mr Speed?

11 A. From our staff and our witnesses, there is no -- nothing  
12 to suggest that the works have not been constructed in  
13 accordance with the contract.

14 Q. So your corporate position is that nothing, in any shape  
15 or form, by way of load testing, by way of trial  
16 investigation, by way of opening up, is necessary? It's  
17 simply we can just all walk away from this; is that your  
18 position?

19 A. No, that's not what I said. What I said is that the  
20 works have been constructed in accordance with the  
21 contract.

22 Q. And so? The works have been constructed in accordance  
23 with the contract and ...? Therefore you say there is  
24 no need to do any further testing/investigation; is that  
25 what you are saying?

26 A. We have investigated it with all the witness statements



1 we have been through already, and there's no evidence to  
2 suggest that there's anything wrong with what has been  
3 constructed.

4 Q. All right. We know, Mr Speed, that as we sit here and  
5 stand here today, neither Leighton or MTRC have produced  
6 any as-built drawings for the top of the east diaphragm  
7 wall. Do you agree with that?

8 A. I think that's the case, yes.

9 Q. They certainly haven't submitted any as-built drawings  
10 to the government.

11 A. I think they've been prepared.

12 Q. All right. Would you agree that at least until those  
13 as-built drawings are produced and submitted to  
14 government, considered by this Commission, that you  
15 cannot be confident of the structure of the top of the  
16 east diaphragm wall? Structural integrity, sorry, of  
17 the east diaphragm wall.

18 A. We have -- you know, within this, we have our quality  
19 assurance plan. We employ professional engineers to  
20 inspect, to witness, to approve the work progressively  
21 with MTRC. All the processes have been followed.

22 Q. Why has it taken so long to produce these as-built  
23 drawings, Mr Speed?

24 A. I think they've been produced in accordance with the  
25 contract.

26 Q. Why is it taking so long to produce the as-built

1 drawings for the top of the east diaphragm wall?

2 A. I would need to speak with the teams to understand that.

3 Q. So you don't know?

4 A. I said I would need to speak with the teams.

5 CHAIRMAN: Which means you don't know?

6 A. Correct.

7 MR PENNICOTT: All right. Could I move on to an entirely  
8 separate topic, and we are moving into a factual area --

9 A. Okay.

10 Q. -- which I think you might know something about. It's  
11 the events of September 2017.

12 A. Yes.

13 Q. Mr Poon, Mr Zervaas and others.

14 A. Yes.

15 Q. You've got the general topic. As I understand your  
16 evidence, Mr Speed, you had one relatively short  
17 meeting, lasting 10 or 15 minutes, with Mr Poon on  
18 15 September in the late afternoon; is that correct?

19 A. That's correct.

20 Q. As I understand it, when you joined that meeting,  
21 Mr Poon was there with Mr Zervaas; is that correct?

22 A. Yes.

23 Q. Was there anybody else present?

24 A. No.

25 Q. And when you arrived at the meeting with Mr Poon and  
26 Mr Zervaas, had they agreed the final account statement?

1 A. They verbally agreed the financial deal, yes.

2 Q. And so you weren't actually a party to the discussion  
3 that led to that agreement?

4 A. Not in that meeting, in that room, no.

5 Q. That suggests that you might have been a party to  
6 discussions with Mr Zervaas outside the meeting?

7 A. Earlier, yes.

8 Q. So had you agreed with Mr Zervaas on parameters at which  
9 you would settle with Mr Poon?

10 A. Yes, I had.

11 Q. And we know that the final financial settlement with  
12 Mr Poon or with China Technology was the additional  
13 payment of \$1.6 million?

14 A. Correct.

15 Q. And that presumably fell within the parameters that you  
16 had discussed with Mr Zervaas?

17 A. Yes, yes.

18 Q. I think that Mr Zervaas now accepts that the final  
19 account statement and the confidentiality agreement --  
20 which we are coming to in a moment -- were both signed  
21 by Mr Poon on behalf of China Technology at a separate  
22 meeting on 18 September, so three days later, at  
23 a meeting with himself, that's Mr Zervaas, and  
24 Mr Manning; were you aware of that?

25 A. I'm aware of that, yes.

26 Q. And you've no reason to doubt that?

1 A. No.

2 Q. The confidentiality agreement, Mr Speed, when you  
3 arrived at the meeting with Mr Zervaas and Mr Poon on  
4 the 15th, do you know whether the confidentiality  
5 agreement had been discussed, or the entering into  
6 a confidentiality agreement had been discussed, between  
7 Mr Poon and Mr Zervaas?

8 A. When I arrived? I had discussed it earlier with  
9 Mr Zervaas. I assumed it had been discussed, the terms  
10 and conditions.

11 Q. Was there any discussion, in the 10 or 15 minutes that  
12 you were there, about the confidentiality agreement?

13 A. No, just apart from we needed to get the formal  
14 paperwork agreed over the weekend. That was all.

15 Q. Right. Do you know whether Mr Poon was given a copy of  
16 the confidentiality agreement at the meeting on  
17 15 September?

18 A. I can't recall, actually.

19 Q. In the last three to five years, Mr Speed, how many  
20 confidentiality agreements has Leighton entered into,  
21 approximately, with their sub-contractors?

22 A. With our supply chain, we normally use confidentiality  
23 agreements for -- basically, in tendering, with  
24 designers and consultants. In these circumstances, we  
25 are receiving basically from Jason Poon and China  
26 Technology false allegations and lies, and we decided in

1 a meeting prior to meeting with Jason that we would  
2 attach the standard form of confidentiality agreement to  
3 the final account.

4 Q. All right. Would you agree with these couple of  
5 propositions: there was nothing in the Leighton-China  
6 Technology sub-contract, entered into back in 2015,  
7 which required China Technology to enter into  
8 a confidentiality agreement upon the settlement of their  
9 final account?

10 A. I think what I've said in my witness statement is that  
11 China Tech were also working at our Liantang project as  
12 well, and with the mutual termination, we wanted to keep  
13 this agreement confidential.

14 Q. I'll ask the question again: there is nothing in the  
15 sub-contract, the underlying sub-contract between  
16 Leighton and China Technology, which required China  
17 Technology to enter into that confidentiality agreement  
18 on the settlement of the final account?

19 A. Well, within the final account agreement, we were  
20 agreeing the commercial terms with China Tech.

21 Q. There is nothing in the conditions, the terms and  
22 conditions, of the final account statement that require  
23 them to enter into the confidentiality agreement either?

24 A. We -- I think, as I said, the false allegations and lies  
25 that were getting made against [sic] China Technology,  
26 that is a reason why the confidentiality agreement was

1 included.

2 Q. What would you have done if Mr Poon, on behalf of China  
3 Technology, had said, "I'm not going to enter into  
4 a confidentiality agreement"? What would you have done?  
5 What would have happened?

6 A. This is obviously a hypothetical question. We may have  
7 just signed the final account.

8 Q. What are the criteria that come into play when you  
9 require a sub-contractor to enter into a confidentiality  
10 agreement?

11 A. I don't think there's any set criteria.

12 Q. So we know in this particular project that you didn't  
13 enter into a confidentiality agreement with  
14 Fang Sheung --

15 A. That's correct.

16 Q. You did not enter into a confidentiality agreement with  
17 Intrafor?

18 A. As I said, we didn't have --

19 Q. No, no, no -- you agree with me; you didn't have  
20 a confidentiality agreement with Intrafor?

21 A. Correct.

22 Q. You had a few other sub-contractors on this project as  
23 well, and I don't know the answer but I assume you  
24 didn't enter into a confidentiality agreement with any  
25 of those either?

26 A. Correct.

1 Q. China Technology is the only party, the only  
2 sub-contractor, that you required to enter into  
3 a confidentiality agreement with you?

4 A. Yes.

5 Q. Did you pay China Technology more than they were  
6 otherwise entitled to under their sub-contract in  
7 consideration of them entering into the confidentiality  
8 agreement?

9 A. No.

10 Q. All right. I mean, there is a confidentiality term in  
11 the sub-contract in any event, isn't there, Mr Speed?

12 A. I think there is, yes.

13 Q. It's clause 29.

14 A. Yes.

15 Q. We don't need to look at it. All right. Could we look  
16 at the confidentiality agreement, please. It's at  
17 C12/8000.

18 Sorry, before we do that, just to go back slightly  
19 on a point I made earlier, could we look at the final  
20 account statement, which is at 7993, please.

21 Do you have that, Mr Speed?

22 A. I've got the top part, yes.

23 Q. This is, as we can see, the final account agreement, and  
24 we can see the final sub-contract price, balance  
25 payment, the \$1.6 million that we mentioned earlier, how  
26 that's going to be paid. Then, over the page, at 7994,

1 we see it's signed by China Technology. I think there  
2 may be a version somewhere else signed also by Leighton.

3 Then the final account statement and its various  
4 terms are then at 7995. It's a little difficult to read  
5 unless blown up a bit.

6 A. No problem.

7 Q. I've read through this, Mr Speed, and there's simply  
8 nothing there, in those terms, that says, "You will  
9 enter into a confidentiality agreement as part and  
10 parcel of this deal"; there's simply nothing there?

11 A. Yes.

12 Q. You agree. All right.

13 Then if we go to the confidentiality agreement  
14 itself, please, at, as I say, 8000. As I understand it,  
15 Mr Speed, what you're seeking to do by this  
16 confidentiality agreement is keep confidential  
17 information confidential?

18 A. It's our standard confidentiality agreement.

19 Q. Drafted, no doubt, by some lawyers at some point?

20 A. There would have been someone involved, but it's  
21 standard.

22 Q. I can see bottom left, "Confidentiality agreement  
23 copyright Leighton 2015".

24 A. Yes.

25 Q. It's not this agreement you're trying to keep  
26 confidential, it's not the final account statement that



1           you're trying to keep confidential. You are trying to  
2           keep confidential confidential information as defined in  
3           this agreement?

4           A. Can you repeat that again, sorry?

5           Q. Yes. Actually, before I do that, can I just ask you,  
6           please, to look at paragraph 12 of your second witness  
7           statement, at C12/8093. At paragraph 12 you say this:

8                     "Following our meeting with Jason Poon, the parties  
9           [agreed] a 'final account' agreement to mutually  
10          conclude China Tech's sub-contract and a confidentiality  
11          agreement, (which are referred to as the 'confidential  
12          agreement' in my first witness statement) ..."

13          Then it's this sentence:

14                     "It was important for Leighton to enter into  
15          a confidentiality agreement with China Tech as Leighton  
16          has many contracts with suppliers and sub-contractors in  
17          Hong Kong, and Leighton did not want other  
18          sub-contractors to know about this terms of this  
19          confidential agreement."

20          Mr Speed, that's just a non sequitur, isn't it?  
21          It's not the confidential agreement or the  
22          confidentiality agreement that you want to keep  
23          confidential. It's the confidential information. If  
24          you didn't want to disclose the terms of the  
25          confidentiality agreement, don't enter into it.

26          A. The final account, yes.

1 Q. It's the terms of the -- it's about the final account,  
2 not the terms of the confidentiality agreement.

3 A. That's what it meant to say.

4 Q. Okay. So "the terms of the final account agreement",  
5 instead of "this confidential agreement"?

6 A. Yes.

7 Q. That makes a little bit more sense.

8 You say, "You've got to keep this confidential."

9 Why? What's the necessity? What's the imperative?

10 A. In terms of when we resolves the account, China Tech  
11 were working on a Liantang project and we wanted to keep  
12 that confidential from the other sub-contractors, so  
13 I suppose clause 29 of the sub-contract, we added this  
14 extra -- our standard confidential agreement,  
15 confidentiality agreement, to it.

16 Q. If you would be good enough to be taken to clause 3.5 of  
17 the confidentiality agreement, at 8002, please. It's  
18 headed, "Return or destruction"; do you see that,  
19 Mr Speed?

20 A. Yes.

21 Q. It says:

22 "At any time upon demand by Leighton, the  
23 sub-contractor must promptly deliver up to Leighton or  
24 destroy (at the option of Leighton), all copies of any  
25 confidential information ..."

26 With regard to the demand by Leighton to destroy

1 confidential information, have you ever operated or  
2 sought to operate this clause?

3 A. Never.

4 Q. And pursuant to this clause, did you ask Mr Poon to  
5 destroy any confidential information?

6 A. Categorically, no.

7 CHAIRMAN: Did he at any stage, to the best of your memory,  
8 say he did have information which you would find  
9 embarrassing in his possession?

10 A. No, he never did.

11 MR PENNICOTT: Mr Speed, thank you very much. I have no  
12 further questions for you, but I anticipate others may  
13 have.

14 WITNESS: Yes.

15 CHAIRMAN: Yes?

16 MS CHONG: I have no questions.

17 CHAIRMAN: Thank you. Has an order been agreed?

18 MR SO: There will be questions from China Technology.

19 CHAIRMAN: All right. Thank you.

20 Cross-examination by MR SO

21 MR SO: Mr Speed, I represent China Technology. I have some  
22 questions for you.

23 You have just answered my learned friend  
24 Mr Pennicott that you had not signed any confidentiality  
25 agreement with Fang Sheung regarding SCL1112; correct?

26 A. Yes, I just answered that question.

1 Q. We heard evidence that Leighton have a cooperation with  
2 Fang Sheung for quite a number of years already;  
3 correct?

4 A. They worked for us on a number of projects, yes.

5 Q. Throughout the cooperation Leighton had with  
6 Fang Sheung, you had also never signed any  
7 confidentiality agreement ever with Fang Sheung; is that  
8 true?

9 A. We have a very good working relationship with  
10 Fang Sheung.

11 Q. Did you sign any confidentiality agreements with him  
12 then?

13 A. No.

14 Q. Can I bring you to bundle C12, page C8102. That's the  
15 confidentiality agreement that you signed with Mr Jason  
16 Poon on behalf of China Technology; right?

17 A. Yes.

18 Q. And you just told this Commission that one of the main  
19 objectives to sign this agreement was to keep  
20 confidential the terms of the final account?

21 A. Yes.

22 Q. If you take a look at clause 1, as per the content of  
23 the confidential information, it reads:

24 "Confidential Information means all information of  
25 any description and in any form, which has been  
26 disclosed by LCAL or has otherwise come to the knowledge

1 of the Sub-contractor through its involvement in [this]  
2 project, including ..."

3 And there were four examples listed there, and there  
4 was no mention whatsoever about the final account; you  
5 would agree that?

6 A. This is our standard confidentiality agreement.

7 Q. But definitely, before signing this agreement, you  
8 yourself or counsel for Leighton or lawyers for Leighton  
9 would have tailor-made some parts of it, so to fit the  
10 context; correct?

11 A. It's our standard confidentiality agreement.

12 Q. In any event, it was not mentioned in any part of  
13 clause 1 that the final account has to be confidential;  
14 do you agree that?

15 A. I think you need to read the whole of the agreement to  
16 understand that.

17 Q. Clause 1 is the only clause in this confidential  
18 agreement to specify the scope of the confidential  
19 information that is covered by this agreement; is that  
20 true?

21 A. I would need to read it in detail from front to back.

22 Q. Please do. I think the confidentiality agreement is not  
23 long. If you want to take time, you can read it now.

24 A. Okay.

25 Can you repeat the question, please?

26 Q. My question is clause 1 in this agreement is the only

1 clause that specifies the scope of the confidential  
2 information under this agreement?

3 A. I would have to clarify that with my team.

4 CHAIRMAN: Yes. I think one can premise the question that  
5 you wish to ask. I don't think Mr Speed professes to be  
6 a lawyer. If you do, Mr Speed, my apologies.

7 A. No, I'm not a lawyer.

8 CHAIRMAN: Meaning I've misunderstood your background,  
9 that's all. But I think one can premise on the basis  
10 that this is a definition section and then take it from  
11 there.

12 MR SO: Sir, sure. I will move on.

13 Mr Speed, take a look at the recitals at capital D.

14 If you read it:

15 "In consideration for the receipt of the  
16 Confidential Information and agreement between the  
17 Parties on the final account associated with the  
18 Sub-contract, the Sub-contractor will ensure that the  
19 Confidential Information is kept confidential in  
20 accordance with this Agreement."

21 Mr Speed, would you accept that if I suggest to you  
22 that the final account is simply not part of the  
23 confidential information -- would you agree that?

24 A. No, I think it says it includes the final account.

25 Q. Can I bring you to bundle D1, page D281.

26 Mr Speed, you can take it from me that D257 onwards

1 is the sub-contract you had with Leighton and China  
2 Technology, and in D281, you see clause 29, do you?  
3 Clause 29 is the clause of "Confidentiality" within the  
4 sub-contract?

5 A. Yes, I can see that.

6 Q. And D29.1, would you agree with me, is simply the same,  
7 the scope, with clause 1 of the confidential agreement?

8 A. Well, it's not the same, is it?

9 Q. Very well. I would suggest to you that the whole  
10 purpose of signing and entering into the confidential  
11 agreement is because you have viewed a video clip  
12 produced by Mr Poon -- do you?

13 A. This is categorically -- this is complete lies.

14 Q. Right.

15 A. Blatant lies.

16 Q. Can you go back to C8104. That's the confidential  
17 agreement. Clause 3.5. You would agree that there were  
18 no equivalent clauses requiring the sub-contractor to  
19 destroy confidential information under the sub-contract,  
20 would you?

21 A. I would have to read all of the contract.

22 Q. Right. Take it from me for the time being -- I will  
23 stand to be corrected if that is not the case -- there  
24 were no clauses requiring a sub-contractor to destroy  
25 confidential information under the sub-contract?

26 A. I would have to go through the whole contract to

1 understand that, with my teams.

2 Q. I would suggest to you that the reason for putting this  
3 clause again is because you were shown video clips by  
4 Mr Poon and photographs by Mr Poon.

5 A. I would like to say for the record, this is just blatant  
6 lies and it never happened.

7 Q. As I said, I have my duty to put the case of China  
8 Technology. I hope you understand.

9 A. But I would like to be clear that this never happened,  
10 these are false allegations, and this is lies.

11 Q. Mr Speed, I would like to show you an email. It is on  
12 page D252.

13 Can that be enlarged slightly so that it can be  
14 clearer? Thank you very much.

15 This is an email by a Preston Lee to Mr Jason Poon  
16 on 13 June 2018. For your benefit, do you know that on  
17 13 June 2018 Mr Poon had attended an interview with the  
18 MTRC? Do you know that?

19 A. I'm aware he attended, yes.

20 Q. Can you tell us who this Preston Lee is?

21 A. Preston Lee works for Leighton within our legal team.

22 Q. How about this Jean-Paul Wallace?

23 A. These are Leighton staff.

24 Q. Are they from the legal department?

25 A. Yes.

26 Q. How about this Sofia Gretton?



1 A. Legal team for Leighton.

2 Q. Were you shown this email prior to it was sent out?

3 A. I don't think I've seen this email before.

4 Q. So the email reads:

5 "Mr Poon, please find attached as requested.

6 Preston.

7 Sent from ... iPhone."

8 If you scroll down, there were some attachments in  
9 the email, and one of the attachments is a Word file  
10 document, "Terms of waiver.docx", 12KB; do you see that?

11 A. I can see what is on the screen.

12 Q. Can we go to the next page, please. This is the  
13 attachment of it. It reads:

14 "The waiver is solely for matters to be discussed in  
15 the MTR interviews tomorrow and Jason Poon is not to  
16 discuss the subject matter of the interviews to any  
17 person afterwards;

18 A Leighton representative can also attend the  
19 interview tomorrow as an observer (with an interpreter  
20 if the interview is to be in Chinese). Please let us  
21 know;

22 The waiver relates only to the technical issue of  
23 the couplers and not to any commercial discussions or  
24 settlement."

25 Mr Speed, did you direct this email together with  
26 the attachment to be sent to Mr Poon?

1 A. No, I didn't.

2 Q. Were you aware that your legal team have actually sent  
3 this email to Mr Poon?

4 A. I can't remember seeing this email. I think I actually  
5 wasn't even in Hong Kong when this happened.

6 Q. Mr Speed, I have to suggest to you that the terms of  
7 waiver is a temporary and conditional waiver for Mr Poon  
8 to speak about matters in the MTRC interview. Do you  
9 agree or disagree?

10 A. Sorry, can you say that again, please?

11 Q. That terms of waiver was sent to Mr Poon in order to  
12 allow him to speak on a conditional basis about the  
13 couplers and the cutting of the threaded rebars --

14 A. I would have to speak with my team on that.

15 MR SO: I have no further questions, sir.

16 CHAIRMAN: All right. Thank you.

17 Cross-examination by MR KHAW

18 MR KHAW: Mr Speed, I am acting for the government. I have  
19 a few questions for you.

20 You told us that you were appointed as general  
21 manager of Leighton in April 2017, and that was the time  
22 when you started to be involved in this Hong Kong  
23 project; is that right?

24 A. When I became responsible for the project myself, yes.

25 Q. Before you started to become responsible for this  
26 project, did you have an opportunity to review the

1 relevant documents in order to get an update as to  
2 whether the project experienced any problems and  
3 difficulties and what were the concerned areas that you  
4 had to look into; did you?

5 A. I wasn't responsible for the day-to-day running, until  
6 I took over in April.

7 Q. Yes, but my question was, before you took over in April,  
8 ie before you took over in April --

9 A. Sure.

10 Q. -- did you have a chance to review the documents, the  
11 relevant documents, regarding the project, in order to  
12 get an update as to whether the project experienced any  
13 problems or difficulties?

14 A. What documents are you referring to?

15 Q. Any kind of documents that you would be able to review  
16 regarding the project.

17 A. I took over the whole Hong Kong business.

18 MR WILKEN: Sir, a small point, if I may. Cross-examination  
19 isn't a memory test for witnesses. If Mr Khaw has  
20 actual rooted questions in the documents that he wishes  
21 to ask, can the witness be shown some documents, please?

22 MR PENNICOTT: I think, if I may say so, on behalf of  
23 Mr Khaw, speaking for myself, if Mr Khaw is trying to  
24 find out whether Mr Speed took any steps to acquaint  
25 himself with the state of the project, any particular  
26 problems, it seems to me that's a perfectly legitimate

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.

26 Q. Thank you. Also in relation to bar fixing work?

1 A. I think when I said "good", we have a long-term  
2 relationship. They have worked for us many times.  
3 That's what I meant by that. Just for the correction.

4 Q. Thank you. And you are still working with them?

5 A. Yes.

6 Q. There's one matter which is perhaps sort of a more  
7 high-level matter that has been mentioned by one of your  
8 colleagues, Mr Malcolm Plummer. If I can take you to  
9 have a look at his evidence. Bundle C27, page 20675.  
10 In paragraph 6, Mr Plummer said:

11 "Contract SCL1112 was unusually in that it was  
12 a 'partnering' contract between Leighton and MTRCL with  
13 some risk and profit sharing between us."

14 A. It's a target cost contract with MTRC, which is quite  
15 common in Hong Kong.

16 Q. Yes. In fact I explored that with Mr Plummer, and  
17 I would like you to perhaps supply some further  
18 information in this particular respect, if you can, as  
19 a general manager.

20 Can you tell us what Mr Plummer actually meant by  
21 "risk and profit sharing" between Leighton and MTRCL?  
22 What are the sort of special features --

23 A. Target cost contracts have a gain and pain mechanism.

24 Q. Yes. And ...?

25 A. Well, target cost contracts have a gain and pain  
26 mechanism. If the actual cost is less than the target

1 cost, you share the gain, and if it's vice versa you  
2 share the pain between you, up to a maximum limit of  
3 10 per cent of the contract value.

4 Q. Right. So assuming there is delay caused in the  
5 project, and the delay actually results in an escalation  
6 of costs, such extra costs would be shared between you,  
7 Leighton, and MTR; is that right?

8 A. You would need to read the contract and also take into  
9 account the disallowed cost clause as well and read that  
10 in detail, to understand it. It's not as you said.

11 Q. In fact, the reason why I would like to ask you is that  
12 we cannot locate the contract in this respect, and that  
13 is why I would like to just hear a bit more from you.

14 A. Okay. Sure.

15 Q. As a general manager, insofar as your job responsibility  
16 and duties are concerned, is it fair for me to say that  
17 you are more concerned about the programming aspect of  
18 the project than the quality issues of the project?

19 A. No, that's correct [sic]. Our most important criteria  
20 is safety on our projects.

21 COMMISSIONER HANSFORD: Sorry, I didn't understand that  
22 answer. It says on the screen, "No, that's correct."  
23 Is that what you said?

24 A. No, sorry, let me just re-state that.

25 COMMISSIONER HANSFORD: Thank you.

26 A. For us, there's nothing more important than safety.

1           Then it would be quality, and then programme.

2           MR KHAW: If we can have a look at paragraph 21 of your  
3           first witness statement, C7597, where you mentioned  
4           Leighton's contract with Fang Sheung, which would define  
5           Fang Sheung's scope of work here.

6                     We have heard evidence from Fang Sheung's  
7           representatives, and in fact they told us that Fang  
8           Sheung's workers were only responsible for screwing  
9           rebars into couplers. If any couplers would require  
10          remedial measure or remedial work, that would be the  
11          responsibility of Leighton; would you agree with that  
12          statement?

13          A. Depending on what the issue was with the defect.

14          Q. For example, if defects were found on couplers and they  
15          were not able to screw in the threaded rebars into the  
16          couplers, it would be Leighton's responsibility to  
17          rectify such defects?

18          A. That's correct.

19          Q. Would you agree?

20          A. Correct.

21          Q. In that case, if we can take a look at your footnote 9  
22          at page C7599. Your footnote 9 says:

23                     "Leighton also used its own workers to perform  
24          various tasks on the construction of the platform slabs  
25          and diaphragm walls (such as logistics support,  
26          hydro-demolition work and excavations). Leighton's

1 workers were not involved in the installation of the  
2 reinforcement in the platform slabs and diaphragm  
3 walls."

4 Now, just pause here. Your last sentence in this  
5 footnote:

6 "Leighton's workers were not involved in the  
7 installation of the reinforcement in the platform slabs  
8 and diaphragm walls."

9 Save and except that Leighton's workers would be  
10 required to rectify any defects if they were found on  
11 coupling; would you agree?

12 A. That's my understanding, yes.

13 Q. Then if we can go to paragraph 27 of your witness  
14 statement, you mention:

15 "... Leighton staff worked in either the engineering  
16 construction team, engineering design team or the site  
17 supervision team. The engineering construction team was  
18 responsible for method statement preparation,  
19 programming, procurement, management of resources ...  
20 The engineering design team was responsible for dealing  
21 with design aspects, including temporary works design  
22 and approvals. The site supervision team was  
23 responsible for the day-to-day management of the  
24 site ..."

25 Do you see that?

26 A. Yes.



1 Q. In relation to site supervision, if we are now confining  
2 ourselves to site supervision in relation to coupling  
3 work -- okay? -- are you aware as to what particular  
4 team or teams were involved in the supervision and  
5 inspection of such works?

6 A. Which particular teams?

7 Q. Yes, because here you talk about three teams --

8 A. Okay.

9 Q. -- engineering construction team, engineering design  
10 team, site supervision team. If we are talking about  
11 inspection and supervision of the coupling works, which  
12 team or teams would be responsible?

13 A. I'm the general manager of the business. I don't know  
14 the detail.

15 Q. I see. Ask somebody else; right?

16 A. Yes. I don't know the detail beyond that.

17 Q. Of course. Perhaps after this question I can delete  
18 some of my previously prepared questions. You are not  
19 aware of actually how supervision and inspection were  
20 conducted or carried out for the coupling works?

21 A. I'm aware of the full-time, continuous supervision was  
22 provided at the project. The specifics, you would have  
23 to get into the detail with it.

24 Q. So are you aware of the requirements under the QSP?

25 A. Correct.

26 Q. And you have read it; right?

1 A. I have read it previously, yes.

2 Q. Just now you told us that according to what you  
3 gathered, there was probably an agreement between MTR  
4 and Leighton in relation to this layer-by-layer  
5 inspection; do you agree? Do you remember?

6 A. That's how -- we had an inspection test plan and that's  
7 how the works were, you know, inspected, witnessed and  
8 then approved.

9 Q. If we can just take a look at the inspection test plan.  
10 It's B6/3770. It starts from 3768.

11 I suppose this is the kind of inspection and test  
12 plan that you referred us to; is that correct?

13 A. Yes, focusing on the two major hold points.

14 Q. The two major --

15 A. Inspect rebar fixing and pre-pour check.

16 Q. I believe you are looking at the box which is  
17 described -- sorry, can we just scroll up a little  
18 bit -- the box which is described as "Inspect rebar  
19 fixing bottom and top", right, and there's a hold point?

20 A. Yes. I have seen this before, yes.

21 Q. Sorry, you have seen this before; right? Yes.

22 Then we can see, above that, there is a box  
23 described as, "Inspect formwork after installation of  
24 cast-in items", and there's another hold point; you can  
25 see that?

26 A. Yes.

1 Q. Further down in "Inspect rebar fixing bottom and top",  
2 there's another box which is described as "Pre-pour  
3 check", ie before the pouring of the concrete, survey  
4 check, position of formwork, et cetera, then another  
5 hold point.

6 Under this particular chart, we can find nothing  
7 which tells us that there was any requirement for this  
8 what you call the layer-by-layer inspection. Can you  
9 help us just locate or find out where we could identify  
10 this layer-by-layer inspection that you just told us?

11 A. On reinforcement fixing, as I said in my witness  
12 statement, it was done basically progressively, layer by  
13 layer, and agreed -- approved by MTRC as we progressed.  
14 The RISC form basically was then to conclude all of that  
15 together.

16 Q. What is the RISC form that you just referred us to? Are  
17 you sure that we have that for this particular project?

18 A. Sorry? Yes.

19 MR WILKEN: In the government's bundles, I believe.

20 A. Yes. We've seen it today, on the screen.

21 MR KHAW: But you said the RISC form basically was then to  
22 conclude all of that together. So what you are saying  
23 is that according to your evidence, the RISC form would  
24 contain a conclusion that there have been layer-by-layer  
25 inspection; is that what you are trying to say?

26 CHAIRMAN: I think what was said was it was a summary of all

1 individual inspections; am I right? I may be wrong.

2 A. Yes, and that would be signed to show it had been  
3 inspected, witnessed by ourselves and MTRC, and then  
4 approved then to go on to the next step of the works.  
5 So all formal inspections were undertaken.

6 MR KHAW: Are you aware that in fact there were multiple  
7 layers of reinforcement between the bottom and the top;  
8 are you aware of that?

9 A. Yes, I am.

10 Q. Would you agree that what you called as an agreement for  
11 an inspection layer by layer was not recorded anywhere  
12 in the testing plan?

13 A. I would agree that our full-time, you know, continuous  
14 supervision on site inspected the works with MTRC layer  
15 by layer. And that was, as I said, summarised with the  
16 RISC form.

17 Q. Yes, but would you agree that this so-called  
18 layer-by-layer inspection has never been recorded in any  
19 of the documents?

20 A. It's been recorded by all of our witnesses who have  
21 confirmed that to me.

22 Q. You obviously, in your witness statement, refer to the  
23 three incidents of bar cutting in 2015.

24 A. Yes, three occasions, yes.

25 Q. Before you started to be responsible for this project,  
26 did you talk to Edward Mok in relation to these three

1 incidents, or you talked to him afterwards, ie before  
2 you prepared your witness statement to the Commission?

3 A. After I became the general manager, when this incident  
4 arose, yes, to myself.

5 Q. So fairly recently?

6 A. Correct.

7 Q. Did you make any enquiry with Mr Edward Mok as to why  
8 the bar cutting incident occurred?

9 A. As per his witness statement. Personally, I didn't.

10 Q. Did you make any enquiry as to why such bar cutting  
11 incidents could have happened, had the coupling work  
12 been closely inspected and monitored?

13 A. My teams, as I said, met with the people involved and  
14 the witness statements were prepared. I personally was  
15 not involved in that level of detail.

16 Q. If we can take a look at your first statement,  
17 paragraph 128. You said:

18 "Leighton did not instruct, or allow any person, to  
19 use or order any hydraulic cutter or any other tool to  
20 cut off or shorten the threaded ends of reinforcement  
21 bars."

22 Do you see that?

23 A. Yes.

24 Q. That is your own statement, so presumably you must have  
25 made some enquiry before you were able to make this  
26 statement?

1 A. Yes.

2 Q. So who did you ask in relation to whether Leighton had  
3 ever instructed or allowed any person to cut off or  
4 shorten the threaded ends of the rebar?

5 A. As you can see from the witness statements, it concludes  
6 that no one instructed or allowed any other person to  
7 cut off or shorten the threaded ends of reinforcement  
8 bars.

9 Q. I don't think you answered my question. My question  
10 was, since you put this statement in your witness  
11 statement, by telling everybody that Leighton did not  
12 instruct or allow any person to use any equipment to cut  
13 off or shorten the threaded ends of the reinforcement  
14 bars, I'm interested to know on what basis you were able  
15 to come to this conclusion?

16 A. Based on the evidence of all the witnesses who were  
17 involved and all the people involved in the project that  
18 we interviewed, by our teams.

19 Q. You earlier on told us that you read the QSP and you  
20 were aware of the requirements for inspection and  
21 supervision of coupling works.

22 A. I've seen it. I've read it, yes, a long time ago.

23 Q. You remember that the QSP in fact contains the  
24 requirement for continuous -- full-time, continuous  
25 supervision?

26 A. Yes.

1 Q. Do you recall that?

2 A. Yes.

3 Q. Can you tell us what is your understanding of this term?

4 A. On site we have full-time, continuous supervision with  
5 quality control supervisors for the works.

6 Q. Did you know whether the inspection or supervision work  
7 was carried out at the time when the coupling works was  
8 being done or after the coupling work had been done?

9 A. I am informed that all of the couplers were visibly  
10 inspected.

11 Q. At which stage? I believe that's the focus of my  
12 question.

13 A. Okay. Basically, the works were undertaken in  
14 accordance with the QSP. That's what I'm informed.

15 Q. If you can take a look at paragraph 135 of your first  
16 witness statement. There you say:

17 "Leighton does not recommend physically breaking  
18 open the concrete to check the connections between the  
19 reinforcement bars with couplers in the platform slabs  
20 and diaphragm wall. This would reduce the strength of  
21 the concrete and require significant and expensive  
22 strengthening and propping ..."

23 Then further down, I believe Mr Pennicott has  
24 already asked you this:

25 "In any event, Leighton does not believe that it is  
26 necessary or appropriate to conduct such costly and

1           damaging inspections. There is no reason to doubt the  
2           structural integrity and safety of the diaphragm walls  
3           and platform slabs."

4           Mr Speed, before you came to this particular  
5           conclusion, did you have any knowledge or information  
6           whatsoever as to why there had been previous bar cutting  
7           incidents?

8           A. We are only aware of up to eight occasions where this  
9           happened on the project, which were promptly rectified  
10          by our teams.

11          Q. I'm not talking about the number of occasions. I'm  
12          talking about your knowledge or information regarding  
13          why such bar cutting incident happened. Did you have  
14          any knowledge --

15          A. I don't have that knowledge of why it happened.

16          CHAIRMAN: Would you agree -- I appreciate this is  
17          a theoretical question, and a theoretical answer  
18          obviously is going to come in response -- but would you  
19          agree that if you understand the cause, why certain  
20          things have happened, it may go to explain or to answer  
21          the question whether what you found was symptomatic of  
22          a broader problem?

23          A. I don't think we have ascertained why that small number  
24          of occasions happened, so I'm not aware of why it  
25          happened.

26          CHAIRMAN: Yes.



1 MR KHAW: Would you agree that without getting to the bottom  
2 as to why such incidents happened, even though there  
3 were only a few occasions -- without getting to the  
4 bottom as to why it happened, you could not be sure as  
5 to whether they were isolated incidents or not; would  
6 you agree?

7 A. We have a quality assurance plan in place. We have  
8 full-time continuous supervision. We have site  
9 supervision plan, quality supervision plan, we are doing  
10 the testing, and from the evidence provided we see no  
11 need to undertake these measures.

12 Q. And before you come to this statement that "there is no  
13 reason to doubt the structural integrity and safety of  
14 the diaphragm walls and platform slabs", did you have  
15 any test results which could justify your statement in  
16 this regard?

17 A. Could you be more specific?

18 Q. Test results in relation to the structural integrity and  
19 safety of the diaphragm walls and platform slabs.

20 A. I think your question is too general. You need to be  
21 more specific.

22 Q. My question is here you come to quite a firm statement,  
23 that is "there is no reason to doubt the structural  
24 integrity or safety of the diaphragm walls and platform  
25 slabs."

26 Everyone reading this statement would believe that

1 at least you would have some basis for you to come to  
2 this conclusion regarding structural safety and  
3 integrity.

4 My question is: on what basis would you be able to  
5 come to this conclusion?

6 A. Okay. It's based on the evidence provided by the  
7 professionals that worked on the project. It's based on  
8 the systems we have for inspecting, witnessing and  
9 approving the works jointly with MTRC. All of that was  
10 undertaken and all the systems were followed.

11 Q. So obviously, things have developed since you made this  
12 statement, and you assume that you also have  
13 an opportunity to review the evidence given by various  
14 witnesses for the purpose of this Inquiry. Would you  
15 still adhere to your statement that physically breaking  
16 open the concrete would not be recommended by Leighton?

17 A. It is not required.

18 Q. You're still of that view?

19 A. Yes.

20 CHAIRMAN: Sorry, on that issue, there are three fairly  
21 senior persons who are appointed by one of the  
22 government departments to consider issues, and they  
23 submitted a report recommending that. Have you had  
24 a look at that report?

25 A. No, I haven't.

26 CHAIRMAN: Okay. Do you think, if you had a look at the

1 report, it might change your view?

2 A. I don't think so, no.

3 CHAIRMAN: Okay.

4 MR KHAW: So you believe, you firmly believe, that the  
5 evidence that Leighton has so far collected in respect  
6 of structural integrity and safety would be sufficient?

7 A. Yes.

8 Q. Notwithstanding what other experts say in relation to  
9 this particular issue?

10 A. That's correct.

11 Q. Just one final question. In paragraphs 109 to 110 you  
12 say:

13 "Leighton is not aware of any reinforcement bars ...  
14 being shortened and inserted into couplers. The very  
15 small number of defective reinforcement bars that were  
16 identified on three occasions from around September to  
17 December ... in area C ... were replaced shortly after  
18 being identified.

19 In any event, it should be apparent on a visual  
20 inspection of the connection between a reinforcement bar  
21 and a coupler whether the threaded ends of  
22 a reinforcement bar had been cut off."

23 On what basis are you able to say this?

24 A. Based on the witness statements.

25 Q. If a cut threaded rebar had been screwed into the  
26 coupler, am I correct in saying that this could not be

1 easily detected by way of official inspection unless you  
2 unscrew the connection for inspection?

3 A. Could you repeat that again, sorry?

4 Q. Yes. If a cut threaded rebar of a coupler had been  
5 screwed into a coupler, it would not be detected easily  
6 by way of a mere visual inspection; agree?

7 A. My teams have confirmed that this didn't happen.

8 CHAIRMAN: No, I think the question was in answer to your  
9 paragraph 110, and again it's hypothetical but it is to  
10 this extent, that if you had the threaded end to  
11 a reinforcement bar, shall we say an A bar, and you cut  
12 off, say, half the threads, and the machine didn't  
13 deform the end of the bar, you would still be able to  
14 screw in half the threads and you may not be able to see  
15 that on a mere visual inspection?

16 A. We would -- this is obviously a hypothetical question.

17 CHAIRMAN: Yes, I accept that. You don't accept this ever  
18 happened, I accept that.

19 A. Correct, and I think you'd need to speak with the teams  
20 on what else they did around that to ensure it didn't  
21 happen; you know, whether that was loosening or visual  
22 inspection, we would have to go through that. But I'm  
23 informed by the witnesses that this didn't happen.

24 MR KHAW: I have no further questions.

25 CHAIRMAN: Good. Thank you.

26 Cross-examination by MR BOULDING

1 MR BOULDING: Sir, I just have a couple of questions.

2 Good afternoon, Mr Speed. I'm for MTR.

3 You were asked about the contract between MTR and  
4 Leighton; do you remember that, by Mr Khaw?

5 A. Yes, I was.

6 Q. You told him, did you not, that it was a target cost  
7 contract?

8 A. Yes.

9 Q. He suggested to you that assuming delay was caused to  
10 the project, and the delay actually resulted in  
11 escalation of costs, the extra costs would be shared  
12 between Leighton and MTR; do you remember that being  
13 suggested to you?

14 A. Yes.

15 Q. And you said, well, of course you would have to go and  
16 look at the contract; do you remember that answer?

17 A. Yes.

18 Q. In a target cost contract, Mr Speed, do you know that  
19 pain and gain, as referred to, is in fact shared between  
20 Leightons and the government?

21 A. Yes.

22 Q. And that in a target cost contract, MTR just receives  
23 what's referred to as a project management fee; is that  
24 your understanding?

25 A. That's my understanding of it, yes. I'm not privy to  
26 it.

1 MR BOULDING: Thank you very much.

2 No further questions, sir.

3 MR WILKEN: Sir, I only have very brief re-examination.

4 CHAIRMAN: Yes, of course.

5 Re-examination by MR WILKEN

6 MR WILKEN: You remember Mr Khaw asked you a series of  
7 questions about how you knew as to the occurrence or  
8 otherwise of cutting couplers.

9 Can I take you to C11, page 7953, paragraph 5. The  
10 first page of the first witness statement.

11 A. Sorry, I haven't got it on the screen yet.

12 Q. I'm telling the person who very helpfully helps us with  
13 the e-bundle.

14 The first page of the first witness statement in  
15 C11, item 59.0. The first page, paragraph 5:

16 "Throughout its investigations in January ... 2017,  
17 its recent reconsideration of the relevant allegations  
18 that are of interest to the Inquiry, and the preparation  
19 of its evidence ... Leighton has found no evidence of  
20 any instructions being given by Leighton to cut off or  
21 shorten the threaded ends of reinforcement bars."

22 So that's where you set out your knowledge?

23 A. Correct.

24 Q. If we go over the page, you say there:

25 "What Leighton did discover was that there had been  
26 three occasions from around September 2015 to December

1           2015 when reinforcement bars with threaded ends cut off  
2           were identified and rectified ... Leighton knows of no  
3           more than eight of these defective reinforcement bars  
4           that were identified and then promptly rectified."

5           That is the result of the investigation; correct?

6           A. Yes, that's correct.

7           Q. Can we go to paragraph 134 in that statement, which is  
8           at 7627, please. In the last sentence here you say:

9           "  In this regard, it is notable that the diaphragm  
10          walls and platforms have been supporting significant  
11          loads since their completion, including works and  
12          passenger trains that have been using the EWL slab."

13          Do you personally know how often those trains are  
14          using the slab or --

15          A. I don't know the exact extent of it, but frequently.

16          CHAIRMAN: Could I ask you, in that regard, are there any  
17          measuring devices to detect movement? Maybe you do that  
18          regularly. You will have to forgive my ignorance, if  
19          you do. Or maybe in this particular instance you  
20          decided it might be prudent?

21          A. There's certainly -- you know, there's instrumentation  
22          and monitoring that could be utilised, but you have to  
23          put in a detailed plan to review that. There are tools  
24          for that.

25          CHAIRMAN: You do have measuring devices?

26          A. There are measuring tools that exist, yes.

1 COMMISSIONER HANSFORD: While this is on the screen -- I was  
2 pondering this a little bit earlier -- you talk about  
3 "including" -- where's the one you just took us to,  
4 "including" --

5 MR WILKEN: Paragraph 134, sir.

6 COMMISSIONER HANSFORD: Thank you, "including works and  
7 passengers trains that have been using". I understand  
8 works trains being used. I was rather surprised to see  
9 "passengers trains" in that statement. Is that correct,  
10 passenger trains have been using the EWL slab; is that  
11 correct?

12 A. My understanding is they have been testing them.

13 COMMISSIONER HANSFORD: Testing. So this is empty passenger  
14 trains?

15 A. That is my understanding, yes. We would have to check.

16 CHAIRMAN: I think that's right.

17 COMMISSIONER HANSFORD: Okay.

18 MR WILKEN: So, just so we are clear, these are passenger  
19 trains without passengers?

20 A. Correct.

21 CHAIRMAN: Let me also hasten to add the Commission is not  
22 giving evidence.

23 MR WILKEN: Sir, Professor, I have no further questions.

24 Questioning by THE COMMISSIONERS

25 COMMISSIONER HANSFORD: I've got one. I'm interested,

26 Mr Speed, in non-conformance reports and how they are



1           considered within Leighton. Just a question, in  
2           general, what do you see is the purpose of  
3           non-conformance reports?

4           A. To identify non-conformances. Sometimes, remedial works  
5           are carried out on the spot and rectified, as in the  
6           first two occasions. The third one, there was  
7           a non-conformance raised in this instance.

8           COMMISSIONER HANSFORD: And when identified,  
9           non-conformances, what do Leighton as an organisation do  
10          with that information?

11          A. Well, the project teams would obviously review the NCRs  
12          themselves. They were also reviewed by our quality  
13          manager in the Hong Kong business.

14          COMMISSIONER HANSFORD: Reviewed for what purpose?

15          A. We carry out quality audits on our projects,  
16          periodically.

17          COMMISSIONER HANSFORD: Okay. Thank you.

18          CHAIRMAN: Could I ask, are non-conformance reports --  
19          I appreciate the generality of the name, so to a layman  
20          like myself it means basically any non-conformance, but  
21          are they in practice based on a certain level of  
22          seriousness of non-conformance?

23          A. I think it depends on the specific item at the time,  
24          actually. I think it depends, you know, on ...

25          CHAIRMAN: So if it's a smaller contract, then it may well  
26          be that a non-conformance report will go out for

1 something which might be dealt with more casually in  
2 a bigger contract?

3 A. On the significance of it, yes. Yes. Well, I wouldn't  
4 use the word "casually".

5 CHAIRMAN: "Casually" is the wrong word. I know what you  
6 mean.

7 COMMISSIONER HANSFORD: Perhaps I may have a supplemental as  
8 well. Is the knowledge gleaned from non-conformance  
9 reports shared amongst any of your other contracts or  
10 projects?

11 A. Yes, sometimes yes. We have certainly some quality  
12 alerts, so we can learn from it as an organisation.

13 COMMISSIONER HANSFORD: Right. Thank you.

14 CHAIRMAN: Just one -- I appreciate it's in your statements  
15 but I just want to -- in any of your discussions with  
16 Mr Poon or in any discussions with others about  
17 Mr Poon's allegations -- sorry, about Mr Poon -- was  
18 anything raised about the quality of the steel fixing  
19 work that you remember?

20 A. In none of my meetings was anything raised in this  
21 respect.

22 CHAIRMAN: Okay. And in speaking to other members of your  
23 organisation?

24 A. He I think first raised it on 6 January, in the email on  
25 6 January 2017.

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

1 A. No, nothing at all.

2 CHAIRMAN: All right. Thank you.

3 Anything arising from that?

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

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

6 WITNESS: Thank you.

7 CHAIRMAN: You have been most helpful. There's no need to  
8 come back tomorrow morning.

9 WITNESS: Thank you very much.

10 (The witness was released)

11 MR PENNICOTT: Sir, that has neatly taken us to two minutes  
12 past five, so we will resume at 10 o'clock in the  
13 morning.

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

15 MR PENNICOTT: Sir, we have four witnesses to start with  
16 tomorrow morning, all of whom I am optimistic will  
17 relatively short: Mr Law, Mr Ho, Ms Cho, they are three  
18 Leighton witnesses, and then Mr Ngai who is from China  
19 Technology. When we have had those four, we will then  
20 turn to Mr Zervaas and Mr Rawsthorne, then Mr So.  
21 I could go on --

22 CHAIRMAN: No, no. That's just to give us a reminder,  
23 that's all.

24 COMMISSIONER HANSFORD: Sorry, just to understand, the first  
25 two you mentioned, Mr Law and Mr Ho, they are from  
26 Rankine?

1 MR PENNICOTT: They are, sir, and they have been pulled into  
2 the Inquiry simply because I think two of the China  
3 Technology witnesses have identified them as being in  
4 some of the photographs that we have been looking at.

5 COMMISSIONER HANSFORD: I see.

6 MR PENNICOTT: That's the only reason that they have been  
7 asked to come here, to deal with that identification  
8 point.

9 CHAIRMAN: Okay.

10 MR PENNICOTT: Sir, as I say, I think we'll be relatively  
11 short. Then Ms Cho and Mr Ngai deal with essentially  
12 the Leightons sign-in/sign-out records and various  
13 issues and discrepancies that arise on them.

14 COMMISSIONER HANSFORD: And then after that Mr Zervaas?

15 MR PENNICOTT: Yes, sir.

16 CHAIRMAN: Thank you very much indeed.

17 (5.05 pm)

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

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