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<p>1 Wednesday, 14 November 2018 2 (10.03 am) 3 MR ANTHONY PETER ZERVAAS (on former oath) 4 Cross-examination by MR KHAW (continued) 5 MR KHAW: Good morning, sir. Good morning, Chairman. 6 Mr Zervaas, you remember yesterday we talked about 7 the briefing that Mr Stephen Lumb gave you in relation 8 to his investigation; do you remember that? 9 A. Yes. 10 Q. Just to recap a bit, you told us that he briefed you 11 about the NCR incident? 12 A. Yes, that was one of the briefing items, yes. 13 Q. But at that time you did not have a chance to read the 14 relevant documents regarding the NCR incident? 15 A. No, I didn't specifically look at documents, no. 16 Q. You also recall that he -- apart from the NCR incident, 17 he did not refer you to any other similar bar cutting 18 incidents found by Leighton? 19 A. That's correct. 20 Q. Before we adjourned yesterday, you also told us that 21 recently, ie before you came to attend this hearing, you 22 had a chance to have a look at the QSP regarding the 23 requirements for supervision and inspection of coupling 24 works; do you remember that? 25 A. Yes. I made myself familiar with the quality</p>	<p>1 placed; can you see that? 2 A. Yes. 3 CHAIRMAN: Sorry, just so that I understand that -- so these 4 point to what I might call the pattern, the lower 5 pattern of all the rebars together, and you are saying 6 this was not done before the upper level was done -- the 7 upper level being after the void -- I think there's 8 a concrete void in the middle, isn't there? 9 A. I took it just from looking at the photo that logic 10 would tell me that you would install like this 11 (demonstrating) -- 12 CHAIRMAN: That's right. 13 A. -- install the horizontal bars vertically. 14 CHAIRMAN: So that's showing the lower layer of concrete 15 bars? 16 MR KHAW: Yes. 17 CHAIRMAN: Good. 18 A. That's the way I see it. 19 COMMISSIONER HANSFORD: Sorry, I'd like to understand. I've 20 seen this photograph many times but I'm just trying to 21 get my mind around exactly where this detail is. So are 22 we saying that those horizontal bars that we see behind 23 the vertical bar, that are not properly connected into 24 the couplers on the right-hand side of the photograph, 25 are we saying they are lower levels of reinforcement in</p>
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<p>1 supervision plan, not in detail but understanding what 2 it was for, specifically for couplers. 3 Q. Thank you. But it would be correct for me to say that 4 at the time when Mr Stephen Lumb gave you the briefing 5 about his investigation, at that time you did not have 6 knowledge in relation to the details about the 7 requirements for inspection and supervision of coupling 8 works; is it fair to say that? 9 A. Yes, that's right. 10 Q. Thank you. You also told us yesterday that you believe 11 not every installation of coupler would be looked at. 12 I suppose that is what you assume to be the case; is 13 that correct? 14 A. What I said was that there wouldn't be one of our 15 supervisors watching one installer. That was what 16 I meant. 17 Q. Fair enough. Thank you. 18 If I may trouble you to look at one of the 19 photographs that we saw yesterday: C12/8139. 20 You can take it from me that this is one of the 21 photographs attached to the NCR report. From this 22 photograph -- I believe I mentioned this yesterday as 23 well -- one can see that coupling works on the lower 24 layer of the reinforcement work was not done properly 25 before the upper layers of reinforcement bars were</p>	<p>1 the slab; is that correct? I'm not sure who I'm posing 2 this question to, but I'm looking at Mr Pennicott at the 3 moment. 4 MR PENNICOTT: Sir, what I tried to do with at least one 5 witness is to try to pin it down to which area we're in, 6 and I think we have succeeded to some extent. 7 COMMISSIONER HANSFORD: Okay. 8 MR PENNICOTT: I myself remain slightly puzzled as to 9 precisely what it's showing and exactly where it is, and 10 which layer is which. 11 COMMISSIONER HANSFORD: Okay. 12 MR PENNICOTT: In many ways -- and I don't know whether 13 Mr Khaw is intending to go to it with Mr Zervaas -- you 14 sort of get a better perspective when you look at the 15 photographs that deal with how it was remedied. We've 16 seen a group of men stood around remedying it; you get 17 a better idea then as to what the problem was, where it 18 was and how they remedied it. 19 But this is very difficult to understand. All that 20 one knows, from the writing with the NCR, is that it is 21 the bottom layer. 22 COMMISSIONER HANSFORD: All right. That's helpful. And 23 when we get to Mr Edward Mok, he may be able to throw 24 a little bit more light on it. 25 MR PENNICOTT: He and possibly one or two others, yes. I'm</p>

<p style="text-align: right;">Page 5</p> <p>1 hoping so.</p> <p>2 CHAIRMAN: Sorry, Mr Khaw, just so that I don't have any</p> <p>3 misapprehension -- Mr Zervaas, you can educate me</p> <p>4 briefly here. I know you are not a structural engineer</p> <p>5 necessarily; you may be. If so, I accept that. But my</p> <p>6 understanding is when you talk about an upper layer and</p> <p>7 lower layer in this slab of reinforcing, they are</p> <p>8 actually separated by some middle section,</p> <p>9 essentially -- I called it a void earlier, but there's</p> <p>10 ballast in there, concrete.</p> <p>11 COMMISSIONER HANSFORD: Mass concrete.</p> <p>12 A. Yes, but depending on the detail. If this was a big,</p> <p>13 thick slab, you'd have a lower layer, a void, and then</p> <p>14 an upper layer.</p> <p>15 CHAIRMAN: Yes. Therefore it does become quite important</p> <p>16 because the lower layer may be subject to different</p> <p>17 dynamics than the upper layer. That's a very broad</p> <p>18 term, "dynamics" -- forces?</p> <p>19 A. Logically, that would be correct. You'd need to check</p> <p>20 with the engineers.</p> <p>21 CHAIRMAN: Of course. Thank you.</p> <p>22 MR PENNICOTT: I think there's no dispute that this is the</p> <p>23 bottom layer.</p> <p>24 COMMISSIONER HANSFORD: That's helpful.</p> <p>25 CHAIRMAN: Thank you. That's what counts. Where exactly it</p>	<p style="text-align: right;">Page 7</p> <p>1 bottom layer.</p> <p>2 CHAIRMAN: Thank you.</p> <p>3 COMMISSIONER HANSFORD: "Mat" would be a good term.</p> <p>4 A. And there would be timber laid out to make it easy to</p> <p>5 walk across, easy to walk across for the work, so it</p> <p>6 would be for worker safety --</p> <p>7 CHAIRMAN: So you would have the top mat and the bottom mat?</p> <p>8 A. That's how I would describe it.</p> <p>9 COMMISSIONER HANSFORD: Together forming a cage?</p> <p>10 A. Yes.</p> <p>11 CHAIRMAN: Thank you very much.</p> <p>12 MR KHAW: Since Mr Pennicott has just referred us to the</p> <p>13 situation after rectification, perhaps I will just, for</p> <p>14 the time being, bookmark one page for everyone's</p> <p>15 reference. That is C27/20368.</p> <p>16 That's just to show what Mr Pennicott has just</p> <p>17 referred us to, but I will probably reserve questions in</p> <p>18 relation to the rectification works for other witnesses.</p> <p>19 But we can put a tag for the time being.</p> <p>20 So, Mr Zervaas, if we go back to the picture that we</p> <p>21 just saw at page 8139 in C12, looking at this picture</p> <p>22 now, would you agree, as a project director, that this</p> <p>23 may give rise to some concern as to whether supervision</p> <p>24 and inspection work had been done properly?</p> <p>25 A. I think I said this yesterday, that if the defect or the</p>
<p style="text-align: right;">Page 6</p> <p>1 is --</p> <p>2 MR PENNICOTT: Which layers within the bottom layer we're</p> <p>3 looking at, I'm not entirely sure, but this is a bottom</p> <p>4 layer.</p> <p>5 CHAIRMAN: The reason why I'm delaying matters is that</p> <p>6 I want to understand, in simplistic terms, that the</p> <p>7 reason why there is a difference between a bottom layer</p> <p>8 and an upper layer is not simply physical location.</p> <p>9 It's because, in the middle, it is separated by mass</p> <p>10 concrete, and there are different forces applying to the</p> <p>11 upper level from the lower level.</p> <p>12 Good. Thank you.</p> <p>13 MR KHAW: It's probably my use of the word "layer" which has</p> <p>14 caused some confusion.</p> <p>15 COMMISSIONER HANSFORD: No, it's been helpful.</p> <p>16 CHAIRMAN: Sorry, could I ask another thing, because it's</p> <p>17 purely and simply a question of terminology. I keep</p> <p>18 having this sudden stop. What do you call, in</p> <p>19 engineering terms -- like if we look at a photograph and</p> <p>20 you see everybody is standing around on this mass of</p> <p>21 reinforcing bars and sometimes they seem to put a bit of</p> <p>22 plywood on top so that they can stand easily on it --</p> <p>23 what do you call that great honeycomb of reinforcing?</p> <p>24 A. Sir, look, there's many terminologies, but I would call</p> <p>25 it the bottom mat. So there would be a mat at the</p>	<p style="text-align: right;">Page 8</p> <p>1 non-conformance has been observed, they'd rectify it</p> <p>2 immediately. So that would suggest to me that the</p> <p>3 system works, you know, with -- the guys were there,</p> <p>4 they saw it and they fixed it.</p> <p>5 Q. Back to the briefing given by Mr Lumb to you, did he</p> <p>6 actually mention to you how exactly inspection and</p> <p>7 supervision work was done for coupling work?</p> <p>8 A. No.</p> <p>9 Q. Thank you. Did he mention to you what was the actual</p> <p>10 cause or reason for the bar cutting incident as found in</p> <p>11 the NCR?</p> <p>12 A. No, no reason.</p> <p>13 Q. Mr Zervaas, to put it this way, without knowing -- all</p> <p>14 similar bar cutting incidents which happened before the</p> <p>15 briefing, without knowing the actual cause or reason for</p> <p>16 the bar cutting incident as reported in the NCR, without</p> <p>17 knowing how supervision and inspection work was actually</p> <p>18 done, would you agree that you did not have a sufficient</p> <p>19 basis to come to a conclusion that there was no evidence</p> <p>20 in support of Mr Jason Poon's allegation at that time,</p> <p>21 simply after you had a briefing session with Mr Lumb;</p> <p>22 would you agree?</p> <p>23 A. His briefing session was that this was a one-off</p> <p>24 incident, that he described to me at the time, our guys</p> <p>25 fixed it -- observed it and we fixed it. He also spoke</p>

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<p>1 about how site supervision plans -- he looked at our 2 records and his feedback to me was that our records 3 would not indicate that -- would not indicate or support 4 Mr Poon's false allegation. 5 Q. Thank you. 6 If we go back to paragraph 19 of your first witness 7 statement, at bundle C12/7676 -- in the last sentence of 8 this paragraph, you say: 9 "I recall being briefed by Stephen Lumb that 10 Leighton could not find any evidence to suggest there 11 was any malpractice as Poon had alleged." 12 So I take it that Mr Lumb briefed you in around 13 January 2017; is that correct? 14 A. Correct. 15 Q. Because we saw that his draft report actually came out 16 at around that time. 17 If I can then ask you to take a look at paragraph 11 18 of your first witness statement. There, you were 19 referring to the email sent by Mr Poon on 6 January 20 2017. 21 A. Yes. 22 Q. If you can jump to paragraph 22: 23 "On 15 September ..." 24 That particular date has been referred to many times 25 already.</p>	<p>1 of an important issue which is in the interests of the 2 public, even though details were not given here. 3 So, on 15 September, you got hold of these two 4 emails; you knew about his allegations, right? 5 A. Yes. 6 Q. Then you told us, in paragraph 23, that -- in 22 you 7 said initially you were in Macau and then you agreed to 8 meet him the following morning -- 9 A. I offered to meet him the next morning. 10 Q. After -- 11 A. I offered to meet him the next morning. 12 Q. Yes, offered to meet him -- 13 A. He was wanting to talk about payment, and I offered to 14 meet him the next morning. 15 Q. Yes. But is it right that you then changed your mind 16 and decided to come back to immediately to see him? 17 A. No. I went into a meeting. I stated that earlier. 18 I actually went into a meeting with the client. What 19 I did say was I came back earlier than what I would 20 normally do. I would usually spend the whole day in 21 Macau. 22 Q. But in 24 you said: 23 "I was concerned about Poon's telephone call and 24 emails. I therefore returned to Hong Kong and arranged 25 to meet Poon at Leighton's head office in the afternoon</p>
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<p>1 A. Okay. 2 Q. "... when I was in Macau handling another of Leighton's 3 project, I received a call from Poon. I believe Poon 4 called me because Jon Kitching was away, and he asked me 5 what was happening to his payments. I told Poon that 6 I was going into a client meeting and I offered to meet 7 him the following morning on site." 8 Then at paragraph 23 you refer to two emails: 9 "The first email was sent to me as a reply to his 10 email ..." 11 That is Leighton's reply to Jason Poon's email, and 12 also the second email was the email Jason Poon sent to 13 Frank Chan. 14 If we have a quick look at the first email at C12, 15 page 7986. This is the email dated 15 September from 16 China Tech to Leighton, and it talked about "public 17 safety and durability of the structurally critical 3m 18 thick EWL slab", and then here it also talks about 19 structural safety and it also mentioned the threads, 20 estimated over 30,000 pieces involved, so there was 21 a number given here. 22 So this email refers to his complaint about the 23 structural issue. If we can look at his email to the 24 Secretary for Transport and Housing -- the same bundle, 25 7990 -- and it also relates to his invitation for review</p>	<p>1 of the same day." 2 A. Correct. 3 Q. I suppose that that day was 15 September; is that 4 correct? 5 A. Yes. 6 Q. So it was because of his two emails which caused you 7 concern, which caused you to change your mind, to come 8 back to Hong Kong to see him immediately; is that right? 9 A. Well, we -- yes. We had previously issued breach 10 letters to Mr Poon, I think it was on the 11th and the 11 13th, so there was a commercial dispute that was 12 emerging, and we were, for want of a better word, 13 getting ready to terminate his contract due to poor 14 performance. He called me about payment. Because 15 I didn't give him a response -- he said, "Can I have 16 a cheque today? Are you going to pay me today?" 17 I said, "Look, I don't have the details, I'm in Macau", 18 and then he made the threats. Then I went into 19 a meeting. Then, after the meeting, because of the 20 threats and the payment issue, I decided to return to 21 Hong Kong. 22 Q. Right. I'll try to understand what you just told us. 23 Putting aside the payment issue for the time being -- we 24 heard a lot about payment issues -- 25 A. Yes.</p>

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<p>1 Q. -- initially you offered to meet him the following day, 2 ie 16 September; right? 3 A. Yes. 4 Q. But then you decided that you had to see him 5 immediately, on 15 September? 6 A. I thought it was -- I thought we should talk to him that 7 day because of the allegations he was making, yes. 8 Q. But, at that time, do you agree that you already -- 9 according to your evidence at least -- Mr Lumb already 10 briefed you regarding the investigation, so, in your 11 mind, his allegation could not be substantiated; that 12 must be the case, right? 13 A. Yes. 14 Q. So how come his allegations made in the two emails made 15 you decide to come back immediately to see him? Why? 16 What was the concern? 17 A. As I said, because he was continuing to make the false 18 allegations, linked with a payment issue. 19 Q. First of all, just as a matter of common sense, on the 20 one hand there were payment issues; right? We all agree 21 there were payment issues that you had to resolve. But 22 the payment issue, the existence of a payment issue, 23 does not necessarily mean that his allegation could be 24 completely dismissed; do you agree? 25 A. He was trying to apply pressure, okay, to be paid; okay?</p>	<p>1 that, right? 2 A. You are isolating the incident. We, on the 11th and 3 13th, had sent him letters. There was poor performance 4 on site. He was pressuring the site team to be paid; 5 okay? It came to the Friday and he was continuing to 6 pursue his false allegations. This needed to come to 7 a head. 8 Q. Fine. The last issue that I wish to just very quickly 9 discuss with you is this. If you can take a look at 10 your second witness statement, C32/24660. Here, you 11 told us: 12 "I did not have any meeting with Jason Poon and Karl 13 Speed on 18 September 2017. This is confirmed by my 14 Outlook calendar on 18 September ... As shown in my 15 Outlook calendar, I was at site office of Liantang 16 project in Liantang until around 2.30 pm. After the 17 meeting in Liantang, I drove to Leighton's offices ... 18 Therefore, I would not have been able to meet with Jason 19 Poon at around 3 pm on [the 18th]". 20 Here, you deny having a meeting with Jason Poon on 21 18 September 2017, after you had a chance to check your 22 records. 23 A. No, I deny having a -- I said we didn't have a meeting. 24 This was in response to Poon's witness statement, where 25 he stated that Karl and I had met with Jason on the</p>
<p>Page 14</p> <p>1 That's what he was doing. In my mind, he was applying 2 pressure to get paid; okay? 3 Q. But what I don't understand is that at that time, 4 Leighton have done an investigation, Mr Lumb told you, 5 "No problem, this could not be substantiated at all." 6 You could just simply tell Mr Jason Poon, "Hey, payment 7 issues we can sort out, but how come you make false 8 allegations? Go away. Go away"; why not? 9 A. Because he continued to make false allegations. I keep 10 saying that. I don't understand what you're trying to 11 tell me. He was using this issue to try to apply 12 pressure; okay? 13 Q. So is it fair to say that Leighton was worried about his 14 allegations? 15 A. I personally wasn't. I never believed his allegations. 16 They were false. They were full of lies; okay? 17 Q. But at least from your point of view, his allegations 18 necessitated immediate attention, at least -- 19 A. He had written to the Secretary for Transport; okay? He 20 was escalating the issue, unnecessarily; okay? 21 Q. But given Leighton's investigation -- and you were 22 satisfied that nothing was wrong -- whoever Jason Poon 23 wrote to, you could easily tell everybody, "Come on, his 24 allegation is false. We can justify that we are 25 completely all right"; you could tell everybody about</p>	<p>Page 16</p> <p>1 18th, and that was at 3 pm. He was precise about a time 2 and he was precise about who was there; okay? This was 3 simply responding to his witness statement. 4 Q. Yes, I know, but it seems to me that when you were 5 making this responsive statement, obviously you had 6 a chance to check your own calendar, your own records, 7 and obviously at that time you were able to tell us 8 whether you actually had a meeting with Jason Poon or 9 not? 10 A. At this time? 11 Q. Yes. 12 A. What I overlooked in the first statement was that he 13 signed the final accounts on the 18th; okay? And what 14 I do recall is that I came back from a meeting in 15 Wan Chai, there was a JV board meeting that I came back 16 from, and I think I arrived back at head office about 17 5 o'clock, where our commercial manager and legal 18 counsel had prepared the final account and 19 confidentiality agreement. Jason was waiting there to 20 sign, and we went into the room where the documents were 21 presented for Jason to sign; okay? 22 Q. Yes. 23 A. So that wasn't in my calendar because it was 24 an ad hoc -- call it an ad hoc meeting. But it was 25 really a document-signing session.</p>

Page 17	1 Q. In fact, my question earlier on was a straightforward 2 one. I was just curious as to whether, at a time when 3 you were preparing your responsive statement here, did 4 you have a chance to check your diary records to confirm 5 whether you in fact had a meeting with Jason Poon on 6 18 September? 7 A. No, I didn't go that far. Apologies. I was just 8 responding to the witness statement; okay? 9 Q. Fine. 10 Then in your third witness statement, 26503 -- this 11 is another responsive statement -- (i) at the top, once 12 again you said: 13 "I did not have any meeting with Jason Poon and Karl 14 Speed on 18 September ..." 15 Then you continue to say: 16 "I could not have attended any meeting with Jason 17 Poon at around 3 pm on 18 September 2017 given my 18 meeting schedule on that day ..." 19 Again, this is your second responsive statement. At 20 the time when you made your statement, did you have 21 a chance to check your records and diary to see whether 22 you in fact had a meeting with Jason Poon on that 23 particular day? 24 A. No, because I was looking at the specific time, 3 pm, 25 and it was in response to whether we had met with Jason	Page 19	1 A. I didn't say -- that wasn't the only thing. It was his 2 manner, the way he hung up on me. He was demanding 3 payment. I was aware that we had sent letters to him 4 because we felt he was breaching contract. So there 5 was -- it was more than just one email. 6 Q. A combination? 7 A. A combination, yeah. 8 Q. And at least the allegation he made in the two emails 9 was one of the reasons -- 10 A. Correct. 11 Q. -- which caused you to come back immediately. 12 If that is the case, can you confirm that at that 13 meeting on 15 September, no mention whatsoever was made 14 regarding his allegation? Are you absolutely clear? 15 A. Yeah, I'm clear on that. He wasn't interested. He was 16 only interested in pursuing money. 17 Q. If we can go back to your fourth witness statement, 18 regarding what happened at the meeting on 18 September, 19 26575, paragraph 6(c)(ii). You said: 20 "Jason Poon did not agree 'not to disclose the 21 matter [the alleged cutting of threaded ends of rebars] 22 to anyone, including the government' ..." 23 Pausing here, you said Jason Poon did not agree not 24 to do this, that's a double negative, but regardless of 25 the semantics here, are you saying that this issue
Page 18	1 and Karl. 2 Q. Right. So actually, you did not apply your mind as to 3 whether it was necessary to check whether you had 4 a meeting with Jason Poon later? 5 A. I was simply responding to the allegations. I wasn't 6 adding anything extra. 7 Q. Right. Then finally, in your fourth witness statement, 8 26575, paragraph 6 -- so you finally said, 6(a): 9 "I attended a meeting with Jason Poon and Mark 10 Manning in the late afternoon around 5.15 pm on 11 18 September after attending the Liantang project site 12 meeting and another meeting in Wan Chai". 13 A. Correct. 14 Q. So what made you at that time able to discover that you 15 in fact had a meeting with Jason Poon on 18 September? 16 A. I was preparing for today and I was going through the 17 witness statements and I was checking the appendices, 18 and I saw that Jason had actually signed the agreement, 19 final account agreement, on the 18th; okay? And that's 20 where I discovered the anomaly; okay? 21 Q. If we can cast your mind back to your meeting with Jason 22 Poon on 15 September. You just told us that it was his 23 allegation, as stated in these two emails, which 24 triggered you to come back to Hong Kong to see him, to 25 deal with it; right?	Page 20	1 regarding whether Jason Poon should disclose or should 2 not disclose the matter regarding cutting of threaded 3 rebars to anybody, including the government, this issue 4 was in fact mentioned or discussed at the meeting on 5 18 September? 6 A. It wasn't -- it wasn't discussed. This was again in 7 response to previous statements by Poon. At this time, 8 he had already sent an email to government. 9 Q. It's just the way you put this particular issue in your 10 witness statement which has caused me to just clarify 11 this with you. 12 A. Okay. Yeah. It wasn't discussed. 13 Q. Right. So what you meant was that in fact this issue -- 14 A. Was not discussed. 15 Q. -- was not mentioned at all? 16 A. Was not mentioned at all, yes. 17 MR KHAW: I have no further questions. 18 Questioning by THE COMMISSIONERS 19 CHAIRMAN: All right. Sorry, could I just ask, just so 20 I get to understand it -- I appreciate fully that you 21 were across in Macau. You've got to look at these 22 matters in the round. There was a history of poor 23 performance on site. Jason Poon was pressuring 24 everybody to be paid, and he was continuing with his 25 false allegations, he had escalated matters by

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<p>1 contacting government, he had hung up in the telephone 2 conversation, suggesting impulsive conduct to you. 3 A. Mm-hmm. 4 CHAIRMAN: You wanted to get back, you wanted to bring this 5 to a head and solve it; that would be a fair way of 6 putting it -- 7 A. Yes, correct. 8 CHAIRMAN: -- using a lot of your words? 9 A. Yes, correct. 10 CHAIRMAN: And as matters turned out, he did sign a final 11 account and it was agreed he would end his contractual 12 relationship with you in respect of this particular 13 contract, and he signed a confidentiality agreement, and 14 he signed that because principally, among other things 15 but principally, both you and Mr Speed were of the view 16 that his false allegations had to be dealt with as well, 17 and the best way to deal with it was for him to agree 18 not to spread them further? 19 A. Or make further allegations. 20 CHAIRMAN: Or make further allegations of any kind. 21 A. You know, making up allegations, yeah. That's correct. 22 CHAIRMAN: But during those meetings that you had after you 23 came back from Macau until eventually it was finished, 24 an outsider might ask: But surely you must have had some 25 sort of discussion about these allegations, like "We are</p>	<p>1 working like this, so yes, there was -- 2 CHAIRMAN: So he made no protest? 3 A. No, not at all. 4 CHAIRMAN: By which I mean not even an equivocal protest, 5 such as, "I feel strongly about this, you know how 6 I feel, I'm going to leave it up to you guys to look 7 into this, but I'm still happy to sign the 8 confidentiality agreement", et cetera? 9 A. No. 10 CHAIRMAN: Nothing along those lines? 11 A. Nothing at all, no. 12 CHAIRMAN: You didn't find that strange or anything like 13 that? 14 A. It confirms to me what his motives were. 15 CHAIRMAN: Okay. And nothing said to Mr Speed that you can 16 remember along those lines or -- 17 A. No, absolutely not. 18 CHAIRMAN: Thank you. 19 MR BOULDING: No questions from MTR, sir. 20 CHAIRMAN: Thank you very much. 21 MR WILKEN: Sir, some limited re-examination. 22 CHAIRMAN: Yes, of course. 23 Re-examination by MR WILKEN 24 MR WILKEN: You were taken by Mr Khaw to your fourth witness 25 statement and subparagraph (c)(ii), which should still</p>
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<p>1 going to want you to sign a confidentiality agreement 2 because we don't want you making further false 3 allegations", or he might have said something along the 4 lines of, "You know, I feel quite strongly about my 5 allegations and I think somebody needs to look into it", 6 or something. 7 A. He was fixated on payment. When we were talking -- 8 having commercial discussions, I saw it -- it was his 9 way to get people to the table, to talk about money. He 10 was never interested in the actual allegation. 11 CHAIRMAN: All right. That's an assessment on your part. 12 A. Yes. 13 CHAIRMAN: And I'm not rejecting it. 14 A. Okay. 15 CHAIRMAN: I'm just saying that when you've got 16 a confidentiality agreement in the mix, it seems strange 17 that there would have been no conversation at all about 18 his allegations. 19 A. He was -- as I said, I put it to him, "How are we going 20 to prevent you from continuing to make false 21 allegations?" He just shrugged his shoulders and 22 I said, "Let's sign a confidentiality agreement to stop 23 this from happening. We don't want" -- it was all about 24 the relationship at the time, to make sure we continue 25 to have a working relationship. You can't continue</p>	<p>1 be on your screen. 2 A. Yes. 3 Q. Your fourth witness statement is a responsive statement, 4 isn't it? 5 A. Yes. 6 Q. Can I just take you to that which you were responding 7 to, which is at D2/1062. If you can look at the box 8 against 18 September, and the last four lines. 9 A. Four or three? The first box, you're talking about? 10 Q. Yes: 11 "As such, Poon agreed not to disclose the matter to 12 anyone, including the government ..." 13 A. Yes. I was denying, yes, that didn't happen. 14 Q. So that's what you were responding to? 15 A. Correct. 16 Q. You were also taken by Mr Khaw this morning to why you 17 reacted the way you did in September, when Mr Poon 18 started making allegations again. 19 Can I take you to Mr Rooney's statement, which you 20 may not have seen before: B1, page 205. This is in 21 relation to January, and it's paragraph 73, the passage 22 in italics. Here he says: 23 "In this regard, I have re-read an email I sent to 24 TM Lee on 6 January 2017, where I said ..." 25 And then the second paragraph:</p>

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<p>1 "This is a part of Jason's strategy to put pressure 2 on Leighton to pay him the extra \$3 million this week." 3 Then if you go to page 206, paragraph 77: 4 "Given that we had concluded there was no need to 5 carry out any further follow-up action after Leighton's 6 investigation and MTRCL's review in around 7 January/February 2017, one of my main concerns at that 8 time was to keep RDO informed and to prepare a line to 9 take for a potential media release. There was no reason 10 to revisit Jason Poon's allegations as Jason Poon had 11 not provided any more relevant factual information." 12 So that was Mr Rooney's internal view at the time. 13 Would you care to comment? 14 A. Sorry, can you just take me through that again? The 15 page was flicking around, sorry. 16 Q. Page 206, paragraph 77. 17 That's a better way of doing it; thank you very 18 much. 19 A. Correct. 20 Q. So that's Mr Rooney's internal view. 21 A. Yes. 22 Q. Would you care to comment? 23 A. I agree with him. 24 Q. I will move on to the next topic. Yesterday, 25 Mr Pennicott asked you about some emails in January</p>	<p>1 A. No, there are not. 2 Q. So to which email does it appear the photographs were 3 attached, from the information -- 4 A. For me, 6 January was my understanding. 5 Q. One final topic: honeycombing of concrete. Can 6 honeycombing of concrete occur over a period of time? 7 A. No, not that I'm aware of. 8 Q. I thought you suggested yesterday there could be 9 crusting? 10 A. Well, no. When you say appear over a period time -- 11 sorry, appear, yes, can appear, but obviously the 12 situation has already occurred, yes, and then there 13 would be what I suggested yesterday, it's feasible that 14 there was -- when you strike the formwork, there would 15 be a slurry coat, it could be 2mm or 3mm, where you 16 wouldn't -- when you initially strike, and for some 17 period of time, you wouldn't see the honeycombing, 18 correct. 19 Q. Can you go to -- I hope I've got the reference right -- 20 B5, and it's tab 44.3 and area C1-0, and if you look at 21 the last photo, the one on the far right -- I believe 22 you were shown this photograph yesterday by Mr To? 23 A. Yeah, it looks familiar. 24 Q. Can you look at the date there? 25 A. Anzac Day, 2016.</p>
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<p>1 2017; do you remember that? Emails from Jason Poon. 2 A. 2017? Specifically -- 3 Q. 6 January. 4 A. -- 6 January? Yes, I do remember that. 5 Q. He said to you then that you were to take it from him 6 that any photographs that there were were attached to 7 the email of 7 January 2017; do you remember that? 8 A. Yes. Yes. 9 Q. Can you go to C12/7923, please. This is an email dated 10 6 January 2017 -- 11 A. Yes. 12 Q. -- at 9.45 am from China Tech. Can you go to 7929, so 13 just scroll through. You see the email below. Scroll 14 through. Over to the next page. Over to the next page. 15 And you see there, there are photographs attached to the 16 email? 17 A. Yes. 18 Q. Can you then compare, in the same volume, 7940. This is 19 the email of 7 January, where we have Mr Poon saying, 20 "Call a spade a spade, it is your unfair commercial 21 manner leading to our action on commercial review, 22 include review on hundred thousands of site record ..." 23 Then if you scroll down, over the page -- scroll 24 down -- over the page, scroll down, over the page -- 25 there are no photographs attached there, are there?</p>	<p>1 Q. 25 April. 2 A. Yes, sorry. 3 Q. Can you then go to the Atkins report, B17/14253, 4 number 64, and can you see the date there? 5 A. 10 September 2018. 6 Q. So one was taken two years ago and one was taken 7 recently? 8 A. Correct. 9 Q. Mr Shieh reminds me, if we can go back to C12 -- I just 10 want to show you one more passage -- 7937 -- you will 11 see there, in the text of the email of 6 January down at 12 the bottom, just so that everybody is absolutely clear: 13 "We attach herewith two of the found photos ..." 14 A. Yes. 15 MR WILKEN: No further questions. 16 Questioning by THE COMMISSIONERS 17 CHAIRMAN: Just one matter, and obviously counsel can follow 18 up if they wish, just for clarification, it's my 19 understanding that when Jason Poon contacted you on 20 15 September -- you have it in your statement -- during 21 that conversation, because he raised the alleged cutting 22 of threaded rebars again, you told him that, going back 23 to January, you had reported the incident and there had 24 been an investigation? 25 A. Correct.</p>

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<p>1 CHAIRMAN: And that investigation had not found any evidence 2 of systematic or widespread cutting of rebars. 3 A. I recall saying that to him, yes. 4 CHAIRMAN: Did he say anything in reply, make any protest 5 such as "Why didn't you tell me" or "I was not involved" 6 or anything like that? 7 A. No. He was just fixated on, "Are you going to pay me?" 8 The determined conversation was about getting paid. 9 That's what he was agitated about. 10 CHAIRMAN: You don't recall any discussion about that? 11 A. No. 12 CHAIRMAN: Or any expansion by you as to what the findings 13 had been? 14 A. No. No expansion and there was no questions, line of 15 questioning, from Mr Poon on it. 16 CHAIRMAN: All right. Fine. Thank you. 17 Nothing further? Thank you very much, Mr Zervaas. 18 Your evidence is finished. It may be necessary, 19 hopefully not, it hasn't happened yet, to recall 20 witnesses, in which case we will contact you. 21 WITNESS: Okay. 22 CHAIRMAN: Thank you. 23 (The witness was released) 24 MR PENNICOTT: Sir, the next witness is Mr Rawsthorne. 25 Before we call him, a quick update on Mr Lumb.</p>	<p>1 feet -- 2 MR PENNICOTT: Yes, sir. 3 COMMISSIONER HANSFORD: -- yesterday we were talking about 4 the site boundaries and the site gates, when we were 5 with Mr Ngai, if you recall. 6 MR PENNICOTT: Yes. 7 COMMISSIONER HANSFORD: And I asked whether there was 8 a gate 4. 9 MR PENNICOTT: Yes. 10 COMMISSIONER HANSFORD: I have since learnt that that was 11 a bit of a naive question, because apparently 12 construction sites in the Chinese culture don't have 13 a gate 4 because, I understand, gate 4 would be unlucky 14 and no one would want to go through them. 15 MR PENNICOTT: That's entirely right, sir. 16 COMMISSIONER HANSFORD: Well, no one corrected me yesterday 17 And consequently I understand you would therefore go 18 from gate 3 to gate 5 in sequence. I just wanted to 19 point out that I now understand that; error of my ways. 20 MR PENNICOTT: It does raise the question as to where gate 2 21 is, but never mind. There we are. 22 Sir, I think Mr Rawsthorne. 23 MR WILKEN: Mr Chairman and Professor, can I call 24 Mr Rawsthorne, please? 25 CHAIRMAN: Yes.</p>
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<p>1 I understand, helpfully, from Mr Wilken this morning, 2 that a brief further witness statement from Mr Lumb is 3 in the course of preparation, and it will, we 4 understand, identify the people to whom Mr Lumb and his 5 team spoke for the purposes of preparing the report. 6 I am happy with that course of action at this stage. 7 When I've seen and considered that further witness 8 statement, we will then take a view about when Mr Lumb 9 should be called. 10 One concern I do have is that if we were to call 11 Mr Lumb sooner rather than later, he might have to then 12 come back subsequently, because he deals with two 13 separate topics in his witness statement. One is his 14 report and matters connected with it, but he also deals 15 with the change of the detail to the top of the east 16 diaphragm wall, and we didn't really want to get into 17 that second topic with him at this stage because we've 18 got three other witnesses -- Mr Brewster, Mr Buckland 19 and Mr Taylor -- who deal with that, and we rather 20 wanted to keep that as a separate package at the end. 21 So we didn't really want to trouble Mr Lumb twice, if we 22 can avoid it. 23 Anyway, that's what's happening. 24 CHAIRMAN: Thank you very much. 25 COMMISSIONER HANSFORD: Mr Pennicott, while you are on you</p>	<p>1 MR WILKEN: Good morning, Mr Rawsthorne. 2 WITNESS: Good morning. 3 MR WILKEN: Can you give your full name to the tribunal, 4 please? 5 WITNESS: My full name is Ian Noel Rawsthorne. 6 MR IAN NOEL RAWSTHORNE (affirmed) 7 Examination-in-chief by MR WILKEN 8 MR WILKEN: Can you be shown C27, page 20691. That is the 9 first page of your witness statement, isn't it? 10 A. Yes. 11 Q. Then can you go to 20696. Is that your signature? 12 A. Yes. 13 Q. And it's dated 2 October 2018? 14 A. Yes. 15 Q. That is the only witness statement you've given to this 16 Inquiry? 17 A. Yes. 18 Q. Are its contents true and correct? 19 A. Yes. 20 Q. Are there any corrections you would like to make? 21 A. No. 22 Q. Do you adopt that statement as your evidence before this 23 Inquiry? 24 A. Yes. 25 MR WILKEN: Thank you. Please wait there. Mr Pennicott,</p>

Page 33	<p>1 who is counsel to the Inquiry, the gentleman to my left, 2 will have some questions. Then there are other counsel 3 dotted around who may have some questions, and in due 4 course the Commissioner and the professor may also have 5 some questions for you. 6 WITNESS: Thank you. 7 Examination by MR PENNICOTT 8 MR PENNICOTT: Good morning, Mr Rawsthorne. As Mr Wilken 9 said, I am one of the counsel for the Commission and 10 I have a few questions for you. Thank you very much for 11 coming along to give evidence to the Inquiry this 12 morning. 13 I understand you are no longer working for Leighton; 14 is that right? 15 A. That's correct, yes. 16 Q. You were, however, the project manager for Leighton, as 17 I understand it, between September 2014 and November 18 2017? 19 A. That's the period I was on the project, yes. 20 Q. So your involvement with the project spanned -- when you 21 arrived, the D-walls, the diaphragm walls, were still in 22 the course of being constructed? 23 A. Yes, they were. 24 Q. I think they had something like nine or ten months to go 25 because they finished in around May/June 2015?</p>	Page 35	<p>1 Q. So in those days it would be Paul Freeman sometimes, 2 Mr Plummer, yourself, and others? 3 A. Yes. Typically the area managers, the construction 4 managers, would join their section of the walk. 5 Q. And there were, as I understand it, MTRC representatives 6 there as well? 7 A. Always. 8 Q. And who were the senior people from MTRC who would be 9 there? 10 A. The senior would have been Aidan Rooney. In the period 11 up to the end of 2015, it would have been also with 12 Brendan Reilly and Kit Chan, typically those three. 13 Q. I understand that at times representatives of 14 sub-contractors would also attend those walks; is that 15 correct? 16 A. Not typically but there were sideline discussions from 17 time to time, yes. 18 Q. Right. And if the sub-contractors did turn up -- and 19 I think we heard some evidence that Mr Poon from China 20 Technology, and Mr Cheung from Fang Sheung would 21 occasionally go on these Monday morning site walks -- 22 would that be an opportunity for people to raise any 23 particular issues that they might have? What was the 24 general purpose of these walks? 25 A. I think the general purpose was to identify what issues</p>
Page 34	<p>1 A. July is the date I have in my head, but similar. 2 Q. Okay. So you had seen the tail end or the last nine or 3 ten months of the diaphragm wall construction, and then 4 obviously right through the construction of the EWL 5 slab, the NSL slab, and no doubt much other work 6 besides? 7 A. True. 8 Q. So one of the longer-term people with involvement in 9 this project, it would appear, from my perspective, 10 Mr Rawsthorne; you would agree with that? 11 A. Others have been there longer, but yes, I was there for 12 three years. 13 Q. And you saw a number of project directors come and go? 14 A. Two. 15 Q. Your duties and responsibilities included, as 16 I understand it, attending the weekly site walk which 17 normally happened on a Monday morning, as I understand 18 it? 19 A. Correct. 20 Q. Who was the most senior person from Leighton attending 21 that Monday morning site walk? 22 A. Always the project director, but from time to time the 23 operations manager would be there as well, certainly in 24 the 2015 period Paul Freeman was there as the operations 25 manager, more often than not.</p>	Page 36	<p>1 were impeding the progress of the project. 2 Q. Right. If the sub-contractors were there, whether it 3 was Mr Poon or somebody else, would Leighton have any 4 problem with Mr Poon speaking directly, say, to 5 Mr Rooney from MTRC, when the walk was taking place? 6 A. Not necessarily. I don't think so. 7 Q. Because that would be a situation where a sub-contractor 8 was, as it were, speaking not to the party that it was 9 contracted to, namely Leighton, but would be talking to 10 MTR, but you didn't have a problem with that, if it 11 occurred? 12 A. In the context of 1112, it was a target cost project 13 which to some extent is a partnering project, so the MTR 14 were very hands-on with the project. 15 Q. Right. But people could speak freely during the course 16 of those site walks on a Monday morning? 17 A. Yeah, mostly, yes. 18 Q. How long would they last, the site walks? 19 A. Most of the morning, maybe 8 to 11, something like that, 20 8 to 10.30. 21 Q. And the walk would obviously focus on the work -- the 22 areas where the work was proceeding at any given time? 23 A. Yes. It was a big project. 24 Q. Yes, huge. 25 A. So it wasn't just the HUH which we're talking about. It</p>

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<p>1 was all the other elements of the job as well that were 2 part of that walk. 3 Q. All right. Can I move on. So far as Leighton is 4 concerned, who ultimately was responsible for allocating 5 your supervisory and inspection resources? 6 A. In terms of the overall headcount on the project, that 7 would be through the project director, in negotiation 8 with the operations manager. Thereafter, the allocation 9 to the various teams -- because we had five to six 10 separate sections of the job -- was on a needs basis, 11 generally through negotiation with myself and the 12 project director. 13 Q. Right. So the construction managers responsible for 14 each of the areas you've identified, in discussion with 15 yourself and the project director, would form a view as 16 to what -- let's focus on supervisory first -- 17 supervisory requirements each area had? 18 A. The supervisory was slightly different, because that 19 would be through the site manager. 20 Q. Right. 21 A. A similar process, but the site manager, the supervision 22 team basically reported up through the site manager. 23 Q. And the site manager reported to you? 24 A. In the early days reported directly to the project 25 director, subsequently to me.</p>	<p>1 Could I ask you, please, to look at paragraph 12 of 2 your witness statement. That's in C27/20962, where you 3 give some detail about the construction engineering 4 team. You say: 5 "The construction engineering team conducted the 6 quality inspections of the works (including the formal 7 inspections for rebar fixing and pre-pour checks). The 8 teams comprised experienced, qualified and competent 9 engineers who I relied on to conduct the 10 supervision/inspection process. I was not personally 11 involved in the supervision/inspection process. I do 12 not recall being informed of any issues arising with the 13 supervision/inspection process. As far as I was aware, 14 the process ran smoothly and effectively." 15 Now, you have used the word "process" four times in 16 that paragraph, and I think you're talking about, as you 17 say, the process of inspection and supervision, rather 18 than problems or issues that may have been picked up as 19 a consequence of the inspections taking place. Are you 20 drawing a distinction? 21 A. Can you repeat that, please? 22 Q. Yes, sure. You emphasised the process. You, as the 23 project manager, were presumably responsible or needed 24 to be assured that the process of inspection was taking 25 place properly?</p>
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<p>1 Q. Understood. So inspection was a different process -- 2 similar process? 3 A. Inspection would have been through the engineering 4 stream, if you like, yeah. 5 Q. Right. 6 COMMISSIONER HANSFORD: Sorry, just so that I can understand 7 this -- we've got two parallel functions, is that right, 8 one supervision and one inspection? 9 A. One is supervision and one is engineering. 10 COMMISSIONER HANSFORD: One is engineering? 11 A. Yes. 12 COMMISSIONER HANSFORD: And the inspection happens under 13 engineering? 14 A. Typically, yes, almost in every case. 15 COMMISSIONER HANSFORD: Thank you. 16 MR PENNICOTT: Right. We know that, for example, 17 Gabriel So, who we're going to be hearing from a little 18 later -- 19 A. Yes. 20 Q. -- was the general superintendent. So he would be on 21 the supervisory side, would he? 22 A. Sure. 23 Q. And anybody under him, like Mr Rodgers, would be on -- 24 A. Yes. 25 Q. -- that side, the supervisory side? All right.</p>	<p>1 A. Yes. 2 Q. So would you be advised if something had gone wrong with 3 the process; shortage of inspectors, not enough 4 inspectors in one particular area, that sort of thing, 5 ie part of the process? 6 A. On a day-to-day basis, no. No. The construction 7 manager would organise that himself. 8 Q. Right. 9 A. If there was a more deeper problem, a more recurrent 10 problem, that would be raised, but I can't think of 11 a case of that off the top of my head. 12 Q. Okay. But if the construction manager had formed the 13 view that there had been a misallocation of resources, 14 ie they needed more inspectors in one area rather than 15 another area, would that have been the sort of problem 16 that would have been referred to you? 17 A. The construction manager would identify the shortage of 18 people or a need for an extra site agent, an extra grad 19 engineer, an extra whatever, he would raise that and we 20 would try to negotiate that through the project director 21 and the operations manager and try to source additional 22 people, as we did very, very often, from various other 23 projects or from the market. 24 Q. That's really what I was getting at, Mr Rawsthorne, in 25 terms of process.</p>

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<p>1 Now, in terms of inspections taking place and 2 problems being identified, issues being identified, in 3 what circumstances would you, as the project manager, be 4 informed of those sorts of issues and problems? 5 A. Probably if there was a time issue. Probably if there 6 was a time issue. If a planned pour hadn't happened, 7 what was the problem, maybe there was an issue with X. 8 Q. If I can just try to get at this in a slightly different 9 way, Mr Rawsthorne. We know, for example, in the 10 sub-contracts with China Technology and Fang Sheung, to 11 take two examples, you have in those sub-contracts 12 a process or a system of what is known as agreed fees. 13 That is, if the sub-contractor fails to do certain 14 things, you impose, if you like, an agreed fee, 15 an amount of money upon them for that failure. 16 A. Okay. 17 Q. Do you understand in terms what I'm talking about? 18 A. Yes. 19 Q. If we can perhaps just look at one example of this: 20 D1/130. This is broken down into different parts. This 21 is the safety and security part. 22 A. Mm-hmm. 23 Q. I think there's also an environmental part as well, 24 Mr Rawsthorne. 25 COMMISSIONER HANSFORD: Sorry, which sub-contract is this?</p>	<p>1 I believe it still is. It was principally focused on 2 safety and it was a monetary method of trying to change 3 the culture of the people working for us. This will 4 have been administered by the commercial manager, with 5 input typically from the safety manager. 6 Q. Right. So presumably you might get a situation where 7 a supervisor or an inspector reports something to the 8 safety manager, who would then report it to the 9 commercial manager, and a decision would be made whether 10 or not to impose this administrative fee? 11 A. To some extent. Typically, there was a weekly safety 12 walk, and then there was a full report done on that 13 walk, and there was an allocation as to who was 14 responsible, and that would feed into this. 15 Q. Right. So that's a separate walk to the one we were 16 talking about earlier? 17 A. Yes. 18 Q. This was a specific safety walk -- 19 A. Yes, a specific safety walk, every week. 20 Q. -- which took place every week? 21 A. Yes. 22 Q. So it would be really out of that walk that this system 23 might kick in? 24 A. Okay, I'll correct myself. Safety and environmental. 25 Q. All right. It's nothing that you got involved in</p>
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<p>1 MR PENNICOTT: This is the China Technology contract. 2 Sorry, I should have said that. It's the China 3 Technology contract. But I think you will find it's the 4 same with Fang Sheung as well. 5 We see the very first example: 6 "Failure to comply with contractual requirements, 7 particular specification for site safety, statutory 8 requirements, occupational safety and health ordinances, 9 safety legislation and/or regulations, codes of 10 practice, industrial guidelines, CIC guidelines, 11 technical circulars, project safety plans and safety 12 standards." 13 That's the first one. And if there's a breach, if 14 there's a failure in respect of any of those items, 15 essentially, although it's called an administrative fee, 16 the contractor either has to pay or gets docked \$10,000; 17 do you see that? 18 A. Yes. 19 Q. The various failures that we see here -- and they go on 20 for a number of pages, I wasn't going to look at all of 21 them -- who was responsible for administering this 22 system? Is that you, or is it the construction manager, 23 the site agent? Who deals with these sorts of things? 24 A. This is principally focused on safety because that was 25 a huge emphasis within the Leighton organisation and</p>	<p>1 specifically? 2 A. I joined that walk routinely. 3 Q. But you didn't get involved in this system? 4 A. This system was almost automatic. Almost automatic. 5 The penalties would be levied based on those reports, 6 and other things as well, and that would go through into 7 the commercial system. 8 Q. All right. Can I ask you, please, to look at 9 paragraphs 18 and 19 of your witness statement. You say 10 there: 11 "I understand that all formal inspections on the 12 diaphragm walls and platform (track) slabs were 13 completed and approved. If an inspection did not take 14 place and the works proceeded without approval, 15 I believe that MTRCL would have raised the issue with us 16 very quickly, either during daily discussions or at the 17 weekly progress meetings with MTR. I have no 18 recollection of such issues being raised by MTR or 19 anyone else. 20 As above, I understand that Leighton obtained MTR's 21 acceptance of the reinforcement works on diaphragm walls 22 and track slabs, and approval to cast concrete. This 23 approval would have been given verbally by MTR's staff 24 on site and confirmed in writing at a later date when 25 the RISC (inspection request) form was returned to</p>

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<p>1 Leighton."</p> <p>2 Now, so far as the diaphragm walls are concerned,</p> <p>3 Mr Rawsthorne, the Commission has seen evidence that as</p> <p>4 each rebar cage was fabricated by Hung Choi on behalf of</p> <p>5 Intrafor, and each rebar cage completed, an inspection</p> <p>6 would take place at the point at which one rebar cage</p> <p>7 was connected to the next rebar cage; do you understand</p> <p>8 what I'm talking about?</p> <p>9 A. Yes.</p> <p>10 Q. Indeed we have seen documents, and I would like to show</p> <p>11 you one example: F19/13249.</p> <p>12 This is just an example, taken at random,</p> <p>13 Mr Rawsthorne. It happens to relate to EM52. If we</p> <p>14 could please go to page 13258 -- that's it; thank you</p> <p>15 very much. Could you go up, please. Stop there.</p> <p>16 Thanks very much.</p> <p>17 Mr Rawsthorne, I don't know whether this is the sort</p> <p>18 of document you've seen before?</p> <p>19 A. Not recently.</p> <p>20 Q. What it is is a demonstration of a point I was making</p> <p>21 a moment ago, that as the various rebar cages are</p> <p>22 fabricated and connected to the one above, and so on,</p> <p>23 and so on --</p> <p>24 A. Mm-hmm.</p> <p>25 Q. There's an inspection that takes place between MTR,</p>	<p>1 B5, and then you would inspect the next layer, B4, going</p> <p>2 in the other direction, and then the other one going in</p> <p>3 the next direction, until you got to the top, so</p> <p>4 a layer-by-layer inspection process?</p> <p>5 A. I think that would be covered under a surveillance</p> <p>6 rather than a formal inspection, because the formal</p> <p>7 inspection is typically about the covering-up of the</p> <p>8 works.</p> <p>9 Q. Yes.</p> <p>10 A. When you talk about the rebar cages for the D-wall, the</p> <p>11 splice, once it's lowered, it's effectively covered.</p> <p>12 Q. This is what I was trying to get to, and you've brought</p> <p>13 me to it quite neatly. I was going to ask you whether</p> <p>14 you think there's a parallel to be drawn between the</p> <p>15 inspections that take place between the connections for</p> <p>16 each rebar cage and the inspections that should take</p> <p>17 place on a layer-by-layer basis, whether there's</p> <p>18 a parallel, as it were, between those two situations?</p> <p>19 A. In my personal opinion, I don't think it's a fair</p> <p>20 parallel, because, as I said, for the splice connection,</p> <p>21 you have no access back to it.</p> <p>22 Q. Once it's down, it's down?</p> <p>23 A. Yes. And for me the fundamental principle is the</p> <p>24 covering-up of works must be inspected, the work to be</p> <p>25 covered up must be inspected.</p>
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<p>1 Leighton and Intrafor, and it's signed off at each</p> <p>2 particular connection; do you see?</p> <p>3 A. Yes.</p> <p>4 Q. And by and large, whilst there are slight differences in</p> <p>5 the number of signatures that we have on certain</p> <p>6 pages -- by and large, that process was operated</p> <p>7 throughout the course of the diaphragm wall works?</p> <p>8 A. Yes.</p> <p>9 Q. And we've got the documents such as the one I've just</p> <p>10 shown you to demonstrate that.</p> <p>11 Can I ask you this. We've heard evidence, the</p> <p>12 Commission has heard evidence already, and of course</p> <p>13 there's still more evidence to come, and one doesn't</p> <p>14 quite know how it's all going to pan out at the end of</p> <p>15 the day, but for the moment the evidence appears to</p> <p>16 suggest that so far as the rebar is concerned for the</p> <p>17 platform or the track slabs, at their connections, the</p> <p>18 rebar connections with the diaphragm wall, inspections</p> <p>19 would take place by Leighton and MTR on a layer-by-layer</p> <p>20 basis. Is that your understanding of what should have</p> <p>21 happened?</p> <p>22 A. Yes.</p> <p>23 Q. And so, starting at the bottom, the bottom layer of</p> <p>24 rebar, you would inspect whichever layer it was, first</p> <p>25 going from east to west, and then -- that would be, say,</p>	<p>1 Q. But isn't one of the problems with that approach,</p> <p>2 Mr Rawsthorne -- let's just again focus on the bottom</p> <p>3 rebar of the EWL slab, by way of example -- let's</p> <p>4 suppose you've got five or six layers of rebar, three</p> <p>5 going one way, three going the other. If you come along</p> <p>6 and you just inspect once all of those five or six</p> <p>7 layers are in place, how do you actually properly</p> <p>8 inspect the lower layers? You can certainly see the top</p> <p>9 layer, but how do you properly inspect the lower layers?</p> <p>10 A. If it's not accessible, it should be inspected</p> <p>11 beforehand, yes.</p> <p>12 Q. Also, isn't this a problem, that if on the final</p> <p>13 inspection you do spot a problem three or four layers</p> <p>14 down, using a torch or whatever other method you may be</p> <p>15 using, how on earth do you put it right?</p> <p>16 A. You take the cage apart. You go back and you fix it.</p> <p>17 Q. You'd have to take an awful lot of rebar out if it was</p> <p>18 three or four layers down, wouldn't you, to get at it?</p> <p>19 A. But that's the process, isn't it? If it's not built</p> <p>20 correctly, it should be remedied.</p> <p>21 Q. What I'm driving at really, Mr Rawsthorne, is this. Do</p> <p>22 you think -- sorry, the distinction that you make, and</p> <p>23 indeed other witnesses make -- and we will looking at</p> <p>24 them in due course -- is between formal inspections and</p> <p>25 routine inspections. That's the primary distinction you</p>

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<p>1 make. As I understand it, you and indeed others take 2 the view that the layer-by-layer inspection of the rebar 3 is routine rather than formal? 4 A. It would appear to be, yes. I don't have access to the 5 actual inspection and test plan for that, so I'm not 6 sure what the formal agreed process was. 7 Q. Right. 8 CHAIRMAN: Sorry, so that I can understand this in a much 9 more layman's way, taking laying down of the rebars, the 10 bottom layer, shall we say -- so there's nothing beneath 11 it, other than earth or concrete or whatever else is 12 there, you are just laying this down now. There would 13 be a routine inspection of that, which would mean that 14 from time to time the inspector or supervisor would walk 15 along there and check individual couplings, or he might 16 watch one or two rebar fixing into the couplers, but 17 there would not be a specific stand-over while each one 18 was threaded in? 19 A. No, I don't think so, no. 20 CHAIRMAN: So it would be a question of some sort of routine 21 of going up and down and looking and periodically 22 checking? 23 A. That's what I imagine. 24 CHAIRMAN: Then, once all that was done, before moving to 25 the next layer, would anything happen, or would you wait</p>	<p>1 COMMISSIONER HANSFORD: At that formal inspection, is it 2 possible to get access inside? Because you've got a top 3 mat and a bottom mat. Did the inspection actually go 4 inside the cage or did it just look from the top; do you 5 know? 6 A. I couldn't say categorically that I know, but actually 7 it should have been; it should certainly have been to go 8 inside the cage. 9 COMMISSIONER HANSFORD: So it would be physically possible 10 to get inside -- because it's a 3 metre slab with a top 11 mat and a bottom mat, so there's a lot of room in 12 between. 13 A. Yes. 14 COMMISSIONER HANSFORD: So the physical inspection for the 15 formal inspection could also -- and we will find out 16 from others whether it did -- include going inside the 17 cage? 18 A. In my opinion, it should do, because you've got to do 19 a general cleanliness inspection anyway, don't you? 20 COMMISSIONER HANSFORD: Thank you. That's quite 21 an important point that I'm not sure everybody in this 22 room had quite appreciated. Thank you. 23 MR PENNICOTT: Thank you, Mr Rawsthorne, for that. I think 24 I've taken that as far as I can. 25 NCR157, perhaps we can take a look at that.</p>
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<p>1 until all the layers were finished and then do a formal 2 inspection? 3 A. I don't know exactly the sequence of those inspections. 4 There must be a final inspection, and inside that final 5 inspection whether there's been an informal check at 6 each level, without an actual document follow-up, 7 I don't know. 8 CHAIRMAN: All right. 9 MR PENNICOTT: That was really -- again, you've anticipated 10 the point, that with the rebar cages, as we've seen, in 11 the diaphragm wall, we have the documents that show 12 "Inspected by Intrafor, Leighton, MTR". 13 A. Yes. 14 Q. But insofar as inspections took place of the connections 15 of the rebar to the diaphragm wall, insofar as it took 16 place on a layer-by-layer basis, we have no documents? 17 A. Yes. 18 COMMISSIONER HANSFORD: Can I just ask a question here 19 So you have bottom mat of reinforcement which is 20 several layers, you've got a top mat of reinforcement 21 that's several layers. We know that the formal 22 inspection for the RISC form was done after both were in 23 place before concrete -- there was a hold point before 24 concrete could proceed. 25 A. Yes.</p>	<p>1 C12/8134, please. This is a document that we've looked 2 at a number of times and no doubt this won't be the 3 last, NCR157. You mention this in your witness 4 statement. 5 A. Yes. 6 Q. I think broadly you say you have no specific 7 recollection of it; would that be right? 8 A. This is the truth, yes. 9 Q. But that, nonetheless, it obviously bears your 10 signature? 11 A. It does. 12 Q. Is that because every NCR that goes to a sub-contractor 13 must be signed by the project manager? 14 A. No. 15 Q. Why is this particular one signed by you? 16 A. Absolutely I don't know. I can suggest that perhaps 17 Mr Plummer was not available at the time. 18 Q. Right. So it could be signed by the project director or 19 the project manager. Are those the only two people 20 allowed to, as it were, under some sort of protocol, 21 sign NCRs? 22 A. I don't believe there would have been a problem with the 23 construction manager issuing that. 24 Q. All right. 25 Now, we know -- sorry, let me just ask you this.</p>

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<p>1 This document, the NCR, with its attachments and so 2 forth, was sent to Fang Sheung? 3 A. Yes. 4 Q. To Joe Cheung at Fang Sheung? 5 A. Yes. 6 Q. It says on its face that it was sent by mail. Does that 7 mean by post as opposed to email? 8 A. Honestly, I don't know. 9 Q. You don't know. The only reason I ask that is that 10 we've seen various -- this document is in various places 11 in our bundles. Sometimes there's the sheet that 12 Mr Plummer has signed, because it's going to be MTR, and 13 sometimes that sheet is not there, and so forth, but 14 don't worry about that. Nowhere, however, do we find 15 an acknowledgement, a signed acknowledgement, that 16 Fang Sheung have actually received this. 17 Is there a process by which they ought to have 18 acknowledged this and so that you were satisfied that 19 they knew about it, and so forth? 20 A. There is the process, because the form has it. Was it 21 followed in this case? I'm sorry, I don't know. 22 Q. Okay. All right. 23 Now, we know -- we can look at it if we need to, but 24 let me just tell you -- that on 15 September 2015, when 25 this problem with the rebar was discovered -- sorry, did</p>	<p>1 this, to your understanding? 2 A. To initiate it. I don't think there's a limitation on 3 who could initiate the NCR. If it got to myself or 4 Malcolm and we didn't think it was the right document, 5 it might get stopped, but in terms of initiation, 6 I don't see any problem in the world, certainly with the 7 quality manager raising it, certainly not. 8 Q. We've seen something, a document called guideline 121. 9 I don't know if that's something you're familiar with? 10 A. No. 11 Q. It's referred to at the bottom of the NCR, on one of the 12 sheets here, and what it is -- let me show you 13 the document. 14 It's at C35. Thank you. It's a document called 15 "Non-conformance report classification", Mr Rawsthorne; 16 do you see that? 17 A. Yes. 18 Q. Is that a document you've seen before? 19 A. Possibly. 20 Q. What it does, it has its purpose, its classification 21 methods, causes of defective work, and if you scroll -- 22 keep going, please, it gives some -- pause there -- main 23 causes, subsidiary causes; it gives some examples. It's 24 basically, broadly speaking, telling you how to fill in 25 the non-conformance report, how to classify what's</p>
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<p>1 I say September? 15 December -- what happened was Kobe 2 Wong from MTRC -- 3 A. Yes. 4 Q. -- sent an email with some photographs to a number of 5 people at Leighton. There was no express -- first of 6 all, there was no NCR issued by MTR to Leighton in 7 relation to this, and there was no express request or 8 instruction by MTR that you, Leighton, should issue 9 an NCR to the sub-contractor concerned. 10 So can you help us with the decision-making process 11 that took place within Leighton that gave rise to this 12 NCR being issued to Fang Sheung? 13 A. I can suggest but -- 14 Q. Let me ask you a more direct question: were you involved 15 in that decision-making process? 16 A. Not that I recall, no. 17 Q. Perhaps you could then suggest how it might have 18 happened. 19 A. I believe the email that you're mentioning was sent to 20 our quality manager, amongst others, and I believe he's 21 reviewed it that this has to be sent to the 22 sub-contractor. That's what I guess has happened. 23 Q. Is that Mr Harman? 24 A. Harman, yes. 25 Q. Okay. So that would have been his ultimate call on</p>	<p>1 happened; do you see? 2 A. Yes. 3 Q. What it doesn't appear to do, Mr Rawsthorne, is give you 4 guidance as to when, in what circumstances, an NCR 5 should be issued to a sub-contractor. Are you aware of 6 any criteria -- 7 A. Any documented criteria? No. 8 Q. -- that help us? No? 9 A. There may well be. Within the Leighton quality system, 10 there may well be, but I'm not aware. 11 Q. All right. 12 COMMISSIONER HANSFORD: Sorry, can I ask, did you regard 13 NCRs as different to warning letters? So if an NCR was 14 issued to a sub-contractor, is that a different issue 15 than a warning letter being issued to a sub-contractor? 16 A. To me, an NCR is typically -- I would expect it to be 17 a quality issue. 18 COMMISSIONER HANSFORD: All right. 19 A. A warning letter, in my knowledge of the Leighton 20 culture, I would expect more to be a safety issue. 21 COMMISSIONER HANSFORD: Okay.? 22 A. That would be my expectation, but I don't have 23 a document that says that's the case. 24 COMMISSIONER HANSFORD: No. That's useful. Thank you. 25 MR PENNICOTT: Mr Rawsthorne, so far as you can recall, is</p>

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1 there some sort of close-out procedure in relation to 2 these non-conformance reports? 3 A. Yes, there is. 4 Q. Do you know how that's supposed to work? 5 A. In detail, no. 6 Q. Okay. We can ask somebody else. 7 Mr Rawsthorne, I don't know whether you are aware of 8 this, but in January 2017, Mr Zervaas instigated 9 an internal review and investigation of allegations that 10 had been made by Mr Jason Poon of China Technology. 11 A. Yes, I'm aware. 12 Q. Instigated a review, investigation by Mr Stephen Lumb. 13 Mr Lumb, we know, carried out that review and 14 investigation, interviewed a number of staff/personnel 15 from Leighton and produced a report. 16 Were you interviewed as part of that process, 17 Mr Rawsthorne? 18 A. No. 19 Q. You were not? Okay. Did you have an opportunity of 20 seeing his report, when he produced it? 21 A. I'm actually not sure. I can't remember. I may well 22 have. I may well have. 23 Q. Okay. In any event, you weren't involved in -- weren't 24 interviewed and weren't involved in its preparation? 25 A. No, I was not. Or, excuse me, I do believe almost	1 any witness to answer it. So I repeat that objection, 2 which I believe everyone agreed with last time. 3 CHAIRMAN: Yes. 4 MR SO: All right. Fair enough. 5 Mr Rawsthorne, when you were answering the good 6 professor's questions as to whether there would be 7 inspections for the layer-by-layer bars, do you recall 8 that you said the inspectorate officers would go down to 9 the area between the upper layer and the bottom layer to 10 inspect those? 11 CHAIRMAN: No, I don't think he did. I think Prof Hansford 12 put it to him that there was this void area, and my 13 understanding was that Mr Rawsthorne said he would 14 imagine it would be the case. 15 MR PENNICOTT: That it would be feasible or possible. 16 COMMISSIONER HANSFORD: Perhaps I can say what I thought 17 I asked. I asked whether it would be possible to 18 inspect inside the cage. 19 MR SO: All right. I wish to clarify that part, that bit. 20 Mr Rawsthorne, can I take you to some photographs. 21 It is in bundle E5, page E1290. 22 Mr Rawsthorne, were you at any time present in the 23 inspections, joint inspections, with the MTRC and the 24 foreman of Fang Sheung in inspecting those 25 layer-by-layer fixing of the rebars?	
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1 certainly I will have seen it, to be honest. 2 MR PENNICOTT: All right. Mr Rawsthorne, that's all I have 3 for you. 4 Perhaps, sir, that would be a convenient moment to 5 have 15 minutes. 6 CHAIRMAN: Yes. Thank you. 15 minutes. 7 (11.36 am) 8 (A short adjournment) 9 (11.55 am) 10 Cross-examination by MR SO 11 MR SO: Good morning, Mr Rawsthorne. I am Simon So. I am 12 counsel for China Technology. 13 A. Good morning. 14 Q. Mr Rawsthorne, I have some questions for you. You 15 recall that my learned friend Mr Pennicott, counsel for 16 the Commission, mentioned to you that there were some 17 cage-by-cage inspections for the diaphragm wall; do you 18 recall that? 19 A. Yes. 20 Q. Are you aware of the fact that on quite a lot of 21 occasions, those cage-by-cage inspection forms were not 22 signed by all three of the parties? 23 MR WILKEN: Sir, this was objected to when the question was 24 put in that form to Intrafor's witnesses, because it is 25 so vague and so nebulous that it's almost impossible for	1 A. No. 2 Q. Do you know that the bars between the upper layer and 3 the bottom layer were actually supported by something 4 called a "sifu" bar, do you know that, or the spacer 5 bar? 6 A. The chairs, yes. 7 Q. We can also see some spacer bars now placed vertically 8 and horizontally on top of the bottom layer of the layer 9 bars; is that correct? 10 A. Yes. 11 Q. Can I take you to another photograph. That would be 12 E1316. Here we see there are two layers of the bars and 13 there were some formworks being already annexed to the 14 two layers; correct? 15 A. We are talking about the two rows of couplers there; 16 yes? 17 Q. Yes. 18 A. Okay, yes. 19 Q. And the area between the two layers were actually 20 slightly on the left-hand side of the photograph; is 21 that correct? 22 A. I can see what you're talking about, yes. 23 Q. Can I suggest to you that the fact is, actually, it 24 would not be possible to go in between the two layers of 25 the bars, because otherwise the "sifu" bars would	

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<p>1 collapse and the person inspecting would be in danger? 2 A. This is not a 3 metre slab that we're looking at in this 3 photograph. This is a different arrangement. I believe 4 the question was about the 3 metre slab where you have 5 the top mat and the bottom mat and the void in between. 6 COMMISSIONER HANSFORD: My question was about the 3 metre 7 slab, that's correct. 8 MR SO: I understand that. But I am asking Mr Rawsthorne 9 would it be in a similar arrangement like the 3 metre 10 bar as shown in this photograph -- 11 MR PENNICOTT: Mr Rawsthorne has said this is not the 12 3 metre slab. Perhaps the person asking the question 13 should identify what it is. If it's not a 3 metre slab, 14 if it's something different; the situation is obviously 15 different. 16 MR SO: Perhaps I will just focus on the first photograph 17 that I have shown, the E1290 photograph, please. 18 This is the 3 metre slab; correct? 19 A. It would appear to be, yes. 20 Q. And it would be supported by the "sifu" bars placed 21 horizontal and placed vertical to support the two 22 layers? 23 A. Mm-hmm. 24 Q. And the persons going in, I suggest to you, would be 25 unable to check the bottom layer because it would touch</p>	<p>1 I would suggest that the inspection would take place 2 exactly like what you see now, just inspection of the 3 upper layer of those bars. I understand that you would 4 not accept that; correct? 5 CHAIRMAN: Again, my apologies, I really don't wish to sound 6 obstructive, but I don't think that Mr Rawsthorne has 7 said that he actually took part in any of the 8 inspections. 9 MR SO: I see. 10 CHAIRMAN: So it would be a case of him, I suppose -- well, 11 in that instance, all he can say is "I don't know." 12 MR SO: Thank you. I will move on. 13 CHAIRMAN: Sorry. I hope I haven't put words in your mouth. 14 WITNESS: That's fine. 15 MR SO: Mr Rawsthorne, may I bring you to -- I don't quite 16 know the bundle number, I do apologise -- it is C7057, 17 or perhaps C7056, please. 18 MR PENNICOTT: C10. 19 MR SO: Mr Rawsthorne, this is the NCR that you said you 20 have signed, the NCR157 to Fang Sheung; right? 21 COMMISSIONER HANSFORD: Not this page. 22 A. Yes. 23 MR SO: So we see from -- this was dated on 18 December. 24 You said in your witness statement that it was signed on 25 the 17th. Is it? Can you just clarify whether it was</p>
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<p>1 and it would move the "sifu" bars when they are 2 inspecting it? 3 CHAIRMAN: But by then -- sorry, it's my question, not 4 a statement -- the "sifu" bars which are there to ensure 5 spacing, their structural need would have been made 6 lesser, would it not, by the fact that all these rebars 7 are connected to each other and are inserted into the 8 side walls and stuff like that? 9 A. What I think I tried to explain before is typically you 10 would go into a void like that because you have 11 reinforcement, you have general cleaning, before you 12 cast the concrete. Typically, your inspection would go 13 inside to make sure there was no debris, no timber 14 offcuts; all the unsuitable materials should be removed 15 before you cast the concrete. 16 CHAIRMAN: Yes. 17 A. So typically you would leave an opening in the top, put 18 an access down -- it's very, very uncomfortable work but 19 that's what I would expect to happen. 20 CHAIRMAN: That's a different story, yes. 21 MR SO: I think I have put my position clear. My position 22 is that it did not occur. Would you accept that? 23 A. I don't actually know, but I don't accept that it didn't 24 occur because I believe it should have. 25 Q. Thank you. I just want to show you a last photo: E1324.</p>	<p>1 signed on the 17th or 18th? 2 A. I believe -- I retract. I don't have a specific 3 recollection of signing this. I believe in the witness 4 statement I've got a typo in there. I think it should 5 have said 18. Sorry. 6 Q. So it was signed on the 18th? 7 A. That's the only evidence I have, yes. 8 Q. Thank you. Did you give a read to this NCR when you 9 were signing it? 10 A. As I said, I don't actually have a recollection of doing 11 it. I truly don't. 12 Q. Who actually gave this NCR form for you to sign? 13 A. Again, I don't truly know, but I expect it was Kevin 14 Harman. 15 Q. Did Mr Harman tell you what was the issue arising, that 16 gave rise to this NCR, or you can't recall? 17 A. I truly can't recall, sorry. 18 Q. So you can't recall that he told you anything that was 19 so shocking or that you can remember? 20 A. Not that I recall, no. 21 Q. Can I take you to the next page, 7058. We see that it 22 is blank. Did you read through this document before you 23 signed it? You didn't? 24 A. Again, I don't have a recollection of the document. 25 Q. Can I bring you to page C7063. You then copy this NCR</p>

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<p>1 to MTR, and we see a signature that you signed PP for 2 Malcolm Plummer. Is that your signature? 3 A. Yes. 4 Q. We can take it to 7065 and 7066. That is the same 5 document that you saw that it was copied to Fang Sheung; 6 correct? 7 A. I think there's two documents. One is, if you like, the 8 domestic NCR to Fang Sheung, and there's the MTR NCR 9 that's been sent to MTR. 10 Q. But the content of the NCR was the same? 11 A. Yes. 12 Q. Did you make any follow-up as to how this NCR was 13 eventually tackled or whether closed out? 14 A. At that point in time, I don't truly have a recollection 15 of this. Subsequently, I've come to understand that the 16 non-conformance here was rectified immediately. 17 Subsequently I've come to understand that. 18 Q. Subsequently? 19 A. Yes. 20 Q. Can you recall how long was that after you signed the 21 NCR? A month? Two months? 22 A. Ah, no. If I go back again, I don't have a recollection 23 at the time of this document, so the question is 24 difficult for me to answer. I became aware of this 25 document in recent months. In becoming aware of it,</p>	<p>1 Q. Did you sign on 15 December 2015? 2 A. That's what the document says. 3 Q. Do you recall you were given to sign this after the 4 rectification? 5 A. I can't see the document. 6 Q. How can we assist you? 7 A. I can't see -- I don't know what the document is. 8 Q. That's the NCR. 9 A. It's the first time I've seen this document. I have 10 signed it previously but it's the first time in three 11 years that I've seen this document, so I don't have 12 a recollection of it. 13 Q. When you were signing it, do you recall anything was 14 scribbled on the top or it was just a blank form? 15 A. No idea. 16 CHAIRMAN: I think Mr Rawsthorne is saying, "Sorry, three 17 years, I just have no recollection of this document." 18 If there's something really important that might jog his 19 memory, that's a different matter, obviously. 20 COMMISSIONER HANSFORD: I think he's about to be shown 21 a hard copy. 22 CHAIRMAN: Okay. 23 MR SO: Mr Rawsthorne, I think the question that you can 24 assist us is why this document was signed on 25 15 December, but when it was sent on 18 December to</p>
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<p>1 I became aware of the circumstance, and the fact that it 2 had been addressed at the time. 3 Q. When the NCR was actually rectified, is it the procedure 4 that you would be also requested to sign something to 5 approve that it was rectified? 6 A. No, I don't think so. I don't think that would be 7 necessary. 8 Q. I see. 9 Can I bring you to another document, B4121. This is 10 again the NCR but this time it is in the MTR's bundle. 11 You confirm that that is the same NCR that you signed, 12 right, B4121 and B4122; correct? 13 A. Excuse me? 14 Q. B4121 and page B4122 is the NCR that you have signed, 15 the same document, basically? 16 A. It appears to be, yes. 17 CHAIRMAN: I think you can just put it to him that it is. 18 MR SO: Right. 19 Can I bring you to B4127. 20 Can this be blown up? 21 There was a signature next to the project manager's 22 approval; correct? 23 A. Yes. 24 Q. Was that your signature? 25 A. Yes, it is.</p>	<p>1 Fang Sheung and MTR, this written manuscript was not 2 there? 3 A. I don't know. 4 Q. Can I suggest to you that this document was actually 5 made retrospectively? 6 MR WILKEN: Sir, there is no positive case from my learned 7 friend's client as to this effect. 8 MR PENNICOTT: I think, with respect, Mr Wilken needs to be 9 a bit careful, because I'm aware of this point but 10 I didn't think that it was appropriate to put the point 11 to Mr Rawsthorne. It's quite clear -- and Mr So is 12 right -- that from the documents we've seen so far, the 13 box where it says "Details of required rectification", 14 and then the three or four lines of manuscript which we 15 know were signed by Andy Ip, a Leightons witness that's 16 coming along shortly -- when the document was issued to 17 Fang Sheung and when the document was forwarded to MTR, 18 those words were not there. That's clear, from what 19 we've seen. 20 I also suspect that those words, and if you look at 21 the bottom of the page you get some more manuscript, you 22 get Mr Harman's signature, you get the date of 23 16 January 2017 -- so that's when, clearly, Mr Harman 24 signed it, some 14 months after the date of the original 25 NCR. Something happened subsequently. I don't know yet</p>

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<p>1 what happened but I'm going to try to find out, but 2 I have to say -- I'm not suggesting that Mr So is not 3 entitled to ask the question, but there are some issues 4 that arise over this document, as to precisely when some 5 of this was filled in, because clearly, if the evidence 6 is correct about what happened on 18 December, then 7 there's something slightly curious about this document 8 that needs explaining. 9 I know what my theory is but I'm not going to 10 suggest what it is at the moment. 11 MR WILKEN: Sir, to be clear, we have no objection to 12 counsel to the Commission exploring this line, but it is 13 somewhat difficult for Mr So, under the terms of his 14 Salmon letter, to pursue this line. That's the point 15 we're taking. 16 So we have no objection to Mr Pennicott, but it 17 is -- from an interested party it becomes a little 18 convoluted, if we may put it that way. 19 CHAIRMAN: Yes, I see the point. 20 MR SO: Sir, we are just trying to make the point, and 21 obviously, as this Commission would appreciate, my 22 client has, with respect, a lot to say on what -- a lot 23 that he wishes to say in this matter. I am under such 24 instruction that I'm bound to do something that -- 25 CHAIRMAN: No, no, that's -- I think what Mr Rawsthorne is</p>	<p>1 CHAIRMAN: Yes. We haven't simply abandoned the point, or, 2 rather, counsel for the Commission hasn't abandoned the 3 point. 4 MR SO: Thank you. 5 Mr Rawsthorne, during your site inspection, the 6 weekly site walk that you had on site, have you heard of 7 any of your colleagues from Leighton or MTR talked about 8 this NCR? 9 A. Not that I recall, no. 10 MR SO: Thank you. No further questions. 11 CHAIRMAN: Okay. 12 Cross-examination by MR KHAW 13 MR KHAW: Mr Rawsthorne, good afternoon. Just one matter of 14 terminology that I wish to clarify with you first. 15 You, as project manager, were in charge of the 16 construction engineering team. Because I can see from 17 your witness statement that this term, "construction 18 engineering team", appears, and also "engineering 19 construction team" appears as well. So can I just 20 clarify with you that they are actually referring to one 21 team? 22 A. Yes. 23 Q. Thank you. There was another team called site 24 supervision team? 25 A. Yes.</p>
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<p>1 saying now, and this is why I wonder if we can progress 2 it with this witness in any meaningful way, is, "I don't 3 actually have any memory of this document. I would have 4 dealt with it several years ago, in my normal routine of 5 a busy day, and even looking at it now does not help me 6 to recall exactly when I signed on that document in the 7 two different places." 8 A. I have no recollection of this document. 9 CHAIRMAN: But you recognise your signature on the document? 10 A. Definitely. 11 CHAIRMAN: And you can take it no further than that? 12 A. Yes. 13 MR SO: Just one last point on this before I move on to the 14 next topic, sir. 15 CHAIRMAN: Yes. 16 MR SO: So, Mr Rawsthorne, is the date scribbled by you or 17 is the date not scribbled by you, next to your 18 signature? 19 A. The handwritten date, I don't believe that's my 20 handwriting. 21 Q. That's not your handwriting? 22 A. I don't believe so. 23 MR SO: I will leave the point there. 24 MR PENNICOTT: Mr So can rest assured that this will pursued 25 with other witnesses.</p>	<p>1 Q. You also explained to us how the two teams actually 2 complement each other? 3 A. Yes. 4 Q. If I can just take you to have a look very briefly at 5 one paragraph of your witness statement. That is 6 paragraph 14, C27/20693. 7 I just try to understand a bit more about the 8 division of labour insofar as the two teams are 9 concerned. By the way, I'm acting for the government, 10 just for reference. 11 Paragraph 14: 12 "The construction engineering team performed 13 a different but complimentary ..." 14 I believe that should be not really complimentary in 15 the sense that there was no payment. 16 CHAIRMAN: I think "complementary". 17 MR KHAW: "Complementary", C-O-M-P-L-E-M-E-N-T-A-R-Y. 18 "... role to Leighton's site supervision team. In 19 summary, the engineering construction team was 20 responsible for the technical, planning and quality 21 assurance aspects of the works while the site 22 supervision team was responsible for the safe on-site 23 construction of the works." 24 I don't quite understand the division of labour 25 here. Can you describe a bit more regarding the</p>

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<p>1 different responsibilities taken by the two teams?</p> <p>2 A. In terms of the site supervision team, their role was</p> <p>3 the actual physical delivery of the work, to ensure that</p> <p>4 the work was done in a safe and reasonable manner. The</p> <p>5 construction engineering team, their role was to ensure</p> <p>6 that all of the technical issues were resolved, to</p> <p>7 produce a planning that enabled the works to be built in</p> <p>8 the time frame required. That's the simple ...</p> <p>9 Q. But I take it that both teams were responsible for</p> <p>10 quality issues; is that right?</p> <p>11 A. Finally, yes. Finally, yes.</p> <p>12 Q. So in terms of supervision and inspection of the works</p> <p>13 done in a particular aspect, how would they cooperate</p> <p>14 with each other, the two teams?</p> <p>15 A. The supervision team would manage the sub-contract or</p> <p>16 the labour resource, the plant resource, to get the work</p> <p>17 to the next stage, following the plan that was set by</p> <p>18 the construction engineering team, the concept. Once it</p> <p>19 was at that stage, the inspection to ensure that it had</p> <p>20 been done correctly and as was required by the drawings</p> <p>21 and the specification, that inspection would be done by</p> <p>22 the construction engineering people.</p> <p>23 Q. I see.</p> <p>24 A. Okay?</p> <p>25 COMMISSIONER HANSFORD: I was struggling with this point</p>	<p>1 the work, catching up of the work in accordance with the</p> <p>2 plans, whereas the engineering team would be more</p> <p>3 concerned with the actual quality issues?</p> <p>4 A. I wouldn't differentiate between the two teams for that,</p> <p>5 no.</p> <p>6 Q. Thank you. Just to understand a bit more regarding your</p> <p>7 duties as the project manager. If I can just take you</p> <p>8 to have a look at B6/3982. I don't propose to read out</p> <p>9 paragraph 3.2.3.2, under the heading of "Project</p> <p>10 manager", but this is the quality assurance plan of both</p> <p>11 MTR and Leighton.</p> <p>12 I can just take you to 3.2.3.2. If you can take</p> <p>13 a look at the description of your duties and</p> <p>14 responsibilities and see whether you agree with the</p> <p>15 contents.</p> <p>16 A. It's the document. I cannot not agree.</p> <p>17 Q. You can see that at page 3983, the third-last bullet</p> <p>18 point, "approving the required actions associated with</p> <p>19 non-conformance reports and corrective action</p> <p>20 requests" -- so you agree that insofar as</p> <p>21 non-conformance is concerned, whenever there is</p> <p>22 a non-conformance report, your duty is to approve the</p> <p>23 required actions, required remedial actions?</p> <p>24 A. That's what the document says there, yes.</p> <p>25 Q. In fact that is the reason why you need to put your</p>
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<p>1 earlier as well, but I think I'm there. So the</p> <p>2 supervision team is responsible for ensuring that the</p> <p>3 works are done and that they're done safely?</p> <p>4 A. Yes.</p> <p>5 COMMISSIONER HANSFORD: And the construction engineering</p> <p>6 team is responsible for ensuring the works are done</p> <p>7 correctly? I don't want to put words into your mouth,</p> <p>8 but is that -- perhaps that's not quite the right way of</p> <p>9 describing it.</p> <p>10 A. In simple terms, I would agree with that. For the</p> <p>11 construction engineering team, their responsibility goes</p> <p>12 more into preconstruction, into the planning and making</p> <p>13 sure that the materials, et cetera, are procured, so</p> <p>14 that's part of their role. Also the liaison with the</p> <p>15 client, with the MTR, to make sure that we're working in</p> <p>16 the same direction. That's their role in the thing.</p> <p>17 The supervision team are, okay, it's all arranged,</p> <p>18 it's all sorted out, their job is now to deliver it, to</p> <p>19 get it built, and then finally the construction</p> <p>20 engineering team will come back again and ensure that</p> <p>21 it's been done properly.</p> <p>22 COMMISSIONER HANSFORD: Right. Thank you.</p> <p>23 MR KHAW: Is it a fair way to put it, Mr Rawsthorne, just</p> <p>24 taking from what you told us, the site supervision team</p> <p>25 would be slightly more concerned with the programming of</p>	<p>1 signature down on an NCR when you are asked to approve</p> <p>2 the contents of the NCR; would that be correct?</p> <p>3 A. Possibly correct. Possibly correct. I don't know.</p> <p>4 Q. Thank you.</p> <p>5 But then if we go to the part regarding construction</p> <p>6 manager, at 3985, these are the construction managers</p> <p>7 working in the construction engineering team and who are</p> <p>8 supposed to report to you; right?</p> <p>9 A. Yes.</p> <p>10 Q. According to the description here, there is no</p> <p>11 particular provision requiring the construction manager</p> <p>12 to do anything in relation to NCR; would you agree?</p> <p>13 A. It appears to be the case. I am not familiar with this</p> <p>14 document. I may have been once.</p> <p>15 Q. But the practice is that whenever an NCR is prepared, it</p> <p>16 is the staff of the construction engineering team who</p> <p>17 would prepare the NCR and then ask you to approve; is</p> <p>18 that correct?</p> <p>19 A. Yes, that's ...</p> <p>20 Q. Thank you.</p> <p>21 Just one last page I wish to take you to have</p> <p>22 a look: 4006. Under 7.4, under the heading of</p> <p>23 "Reporting", under 7.4.2.1, can you see "Internal</p> <p>24 quality reports"?</p> <p>25 A. I can.</p>

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<p>1 Q. Here it says: 2 "A monthly quality report will be compiled by the 3 quality and environmental manager and approved by the 4 project director. That report will be prepared on 5 standard form ... and include the following information: 6 -- status of quality-related [issues] ..." 7 Then the next page: 8 "-- status of quality implementation and document 9 preparation ...; 10 -- status of all non-conformances and corrective 11 actions ..." 12 So am I correct to say that if there are NCRs or 13 when NCR incidents are discovered, there would be this 14 monthly quality report which will record those 15 incidents? 16 A. To be honest, this document is far removed from my 17 recent recollection. So to answer you properly, I would 18 need to go through it and I would actually need to 19 discuss it with the quality manager to find out if 20 there's been any amendments or what have you; yes? 21 Q. Yes. I see. So, according to your recollection, you 22 have never seen this monthly quality report? 23 A. My recollection -- definitively, I couldn't say, "Yes, 24 I have", but there was a monthly head office quality 25 review which I didn't attend, the project director</p>	<p>1 Leighton with at least an indication as to whether the 2 problem identified is an isolated incident or it shows 3 a widespread or prevalent malpractice; would you agree? 4 A. I can't follow the link. I don't actually agree with 5 what you said, no. 6 Q. For example, the cutting of rebars found and stated in 7 the NCR. 8 A. Mm-hmm. 9 Q. Obviously, one would be interested to know whether the 10 cutting of rebars was in fact an isolated incident or in 11 fact there was quite a widespread malpractice of this 12 cutting happening on the site; would you agree? 13 A. Yes. 14 Q. So identification of the actual cause of a problem, ie 15 why did the workers do this cutting act, would enable 16 you to understand a bit more as to whether this was 17 an isolated incident or it was a widespread problem? 18 Just a matter of common sense; would you agree? 19 A. The NCR, as I understand it, identifies causes, and 20 I think it identifies workmanship and personnel issues; 21 yes? 22 Q. Yes. 23 A. To follow your logic, for me, it would be a case of 24 repeated recordings of NCRs. That to me would take me 25 where I think you're trying to go.</p>
<p>Page 78</p> <p>1 attended, and I assume that there was a report that went 2 into that. 3 Q. Mr Rawsthorne, would you agree that, just generally 4 speaking, an NCR is an important document insofar as the 5 project is concerned? 6 A. Yes. 7 Q. Obviously, one of the reasons for issuing an NCR is to 8 inform the relevant sub-contractor of the defects found? 9 A. Yes. 10 Q. At the same time, you agree with me that the NCR would 11 also be forwarded to MTR, in order to also inform them 12 what happened? 13 A. That was our process, yes. 14 Q. Would you also agree that as a matter of common sense, 15 one main purpose of the NCR was to try to identify the 16 actual cause of the problem? 17 A. Should be, yes. 18 Q. Identification of the actual cause of the problem will 19 provide you, or Leighton, with an indication as to 20 whether the problem identified is an isolated incident 21 or it is a prevalent -- or there is a prevalent, 22 widespread malpractice? 23 A. Sorry, can you say that again, please? 24 Q. Would you agree that identification of the actual cause 25 of a particular non-conformance incident would provide</p>	<p>Page 80</p> <p>1 Q. Yes. In fact you anticipated my next, final question, 2 and that is if we can take a look at the non-conformance 3 report classification, not the report itself but the 4 classification that was provided by Leighton yesterday. 5 C35/26663. 6 Here, if we can go to paragraph 2, we can see 7 "Causes of defective work", an interesting diagram 8 there, and we can see there are two causes classified. 9 One is called "main cause", you can see from 10 paragraph 2, "main cause", and "subsidiary cause" of 11 non-conformance. So main and subsidiary; okay? Then: 12 "This classification provides the opportunity for 13 further analysis both at project and company level. 14 The main cause indicates the broad area of the 15 quality problem identified. The subsidiary cause 16 focuses on the likely reasons for the defect occurring." 17 It's all very philosophical. 18 If you can go to the next page, there's 19 a classification which helps you to actually identify 20 what is a main cause, what is a subsidiary cause. Now, 21 subsidiary cause -- a main cause first: survey, 22 documentation, workmanship, material handling, 23 manufacture, identification, design, other. Subsidiary 24 cause: personnel -- now, personnel includes quite 25 a broad area: inadequate skills, knowledge, supervision,</p>

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1 coordination, workforce. 2 But if we can then take a look at the illustration, 3 ie the examples given, you can see -- take a look at the 4 first example, "Defective work description": 5 "During a concrete post-pour inspection, a deformed 6 window opening was found in the concrete wall. Vertical 7 props were found to be loose and had not been properly 8 fixed on the formwork." 9 Then one can infer from this incident that the main 10 cause should be workmanship, subsidiary cause should be 11 personnel. 12 So, basically, this classification tells your staff 13 actually how to broadly identify the main cause and 14 subsidiary cause; right? 15 A. Okay. 16 Q. But the main cause and subsidiary cause could be 17 actually inferred, according to this classification, 18 could simply be inferred from the problems identified. 19 For example, here it says if this is a deformed window 20 opening, then obviously you can categorise it as 21 workmanship, and obviously it involves some personnel 22 issues, so the main cause and subsidiary cause could be 23 identified; as simple as that, right? 24 A. Yes. 25 Q. But here the main cause or classification of main cause	1 work", "Threaded rebars ...", blah, blah, blah, we have 2 seen that many times, "Y40 at bottom layer which were 3 wire cut and hadn't screwed into couplers face ..." 4 From this mere description of defective work, I'm 5 sure that by applying the classification one can 6 immediately classify that as a workmanship issue as the 7 main cause, and obviously you also classify the 8 subsidiary issue, subsidiary cause, as personnel. So 9 this is standard; okay? 10 But when you were issuing this document to 11 Fang Sheung, at the page in front of this page, 20358 -- 12 you see the box here says "No. of copies" and then 13 "Document No.", the NCR. This is to Fang Sheung. 14 Then you see the box "Instruction"; do you see that? 15 We can blow it up a little bit: 16 "Please review the evidence and investigate the root 17 cause of the problem then propose your corrective 18 actions with a timetable implementation." 19 So there you are trying to coordinate with the 20 sub-contractor and asking them to try to investigate and 21 find out the root cause of the problem? 22 A. Yes. 23 Q. So that would be the usual practice; right? So raw 24 classifications in the NCR form first, and then, when 25 you send the NCR form to the relevant sub-contractor,		
1 and subsidiary cause could not actually tell people what 2 was the actual reason for a particular problem; would 3 you agree? Because you still have to do further 4 investigation in order to find out why this happened; do 5 you agree? 6 A. In this particular case, you've got a workmanship issue. 7 Q. Yes. 8 A. And I think the subsidiary identification is personnel. 9 I think that sits within the ... 10 Q. Yes. In fact, in any case where defects were found, one 11 could immediately categorise it as a workmanship issue; 12 would you agree? 13 A. Not in every case, but more often than not, yes. 14 Q. If we can now take a look at the NCR itself. I'll 15 probably use the NCR as referred to in your witness 16 statement, C27/20395. 17 I understand you were not privy to the preparation 18 of this document, but I will just ask a few questions 19 arising from the contents to see what you think would be 20 the case. 21 A. This document is what, sorry? 22 MR PENNICOTT: We haven't got it yet. 23 MR KHAW: The NCR. C27/20359. Sorry, I got the number 24 wrong. 25 Here we can see, from the "Details of defective	1 you will be asking them to find out the root cause of 2 the problem; is that the usual practice? 3 A. That is what's there, yes. 4 Q. 20359, ie the next page that we have just seen, we can 5 see your name appears in the box starting with the words 6 "Project manager's approval", et cetera. 7 What was to be approved by you? 8 A. I would need to take advice from the quality manager. 9 I believe that would be an approval that the issue was 10 closed. I believe, but I would need to take advice. 11 Q. No. I believe, when this NCR was issued, the issue 12 obviously had not been closed, or to use your 13 terminology closed out, because you were later 14 identified by a particular close-out date; do you 15 remember that? 16 A. Okay. Yes. I don't know. 17 Q. Let's just try to take it step by step. You received 18 this piece of paper from your team, your team prepared 19 the contents, and then you need to put your signature on 20 it; right? And then the box particularly says, 21 "Approved by project manager". 22 What I'm interested to know is what was supposed to 23 be approved; can you tell us? 24 A. I would actually need to look at it in a little more 25 detail. I'm guessing -- honestly, I'm guessing -- it		

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<p>1 may be approval to issue.</p> <p>2 Q. So am I correct to say that, first of all, you would</p> <p>3 need to approve the contents of this NCR; right? This</p> <p>4 is fairly basic. So you would be relying on the</p> <p>5 information provided by your team in order to come to</p> <p>6 a conclusion whether what they stated was correct or</p> <p>7 not?</p> <p>8 A. Yes.</p> <p>9 Q. Would you do any independent verification to check</p> <p>10 whether the description was correct, whether it is</p> <p>11 really five number of threaded rebars instead of six,</p> <p>12 any verification that you would make before you put your</p> <p>13 signature on this piece of paper?</p> <p>14 A. In this particular case, I don't have a recollection, as</p> <p>15 I've said before. Typically, what I would expect is</p> <p>16 this would be raised by the construction team, it would</p> <p>17 be vetted by the quality assurance manager. By the time</p> <p>18 it got to me, I would typically accept what he had</p> <p>19 determined.</p> <p>20 Q. In a normal situation -- we are not just talking about</p> <p>21 this particular NCR -- when your team gives you the NCR</p> <p>22 prepared by them, how would you verify and confirm</p> <p>23 whether the contents are correct before you put your</p> <p>24 signature on it?</p> <p>25 A. I would expect to have a conversation with whoever</p>	<p>1 a problem with Leighton's inspection and supervision</p> <p>2 process?</p> <p>3 A. If it hadn't been picked up, I would agree, but in this</p> <p>4 case my view is that the inspection was done, it was</p> <p>5 picked up, it was rectified. That is, in my</p> <p>6 understanding, the intent of the process, of the</p> <p>7 inspection process, to ensure that we don't cover up</p> <p>8 defective work.</p> <p>9 Q. Yes. But would you agree that obviously it was picked</p> <p>10 up subsequently by the team?</p> <p>11 A. Yes.</p> <p>12 Q. But would you agree that this picture actually shows</p> <p>13 that during the work process, obviously the threaded</p> <p>14 rebars were not screwed in properly before additional</p> <p>15 layers of reinforcement were installed, so there could</p> <p>16 be a problem regarding inspection and supervision at the</p> <p>17 time when the work was being carried out; would you</p> <p>18 agree?</p> <p>19 A. It's potentially the case, yes.</p> <p>20 Q. So if we can then take a look at your witness statement,</p> <p>21 paragraph 24, page 20695. You say:</p> <p>22 "The fact that 5 defective rebars were identified</p> <p>23 and documented in NCR157 indicates to me that project</p> <p>24 quality system was working effectively. This is the</p> <p>25 type of issue that the system is intended to pick up and</p>
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<p>1 brought it to me, just to get a base understanding at</p> <p>2 least.</p> <p>3 Q. But as stated in your witness statement, you could not</p> <p>4 recall whether you actually looked at this particular</p> <p>5 NCR; do you remember that?</p> <p>6 A. I have actually stated that I've signed it, so I have</p> <p>7 viewed it. I can't recall if there was a particular</p> <p>8 discussion. I can't recall, sorry.</p> <p>9 Q. Thank you. By now, I suppose, you would have had</p> <p>10 an opportunity to look at the contents of this NCR and</p> <p>11 the photos attached to this particular document; right?</p> <p>12 A. I have seen them, yes.</p> <p>13 Q. If I can take you to have a look at 20363. Upon looking</p> <p>14 at this particular photograph, would you find this</p> <p>15 problem or find the problem shown on this photograph</p> <p>16 alarming?</p> <p>17 A. Just this photograph suggests that there's no threaded</p> <p>18 bar into the couplers there. Yes, it's alarming.</p> <p>19 Q. Yes. Would you agree that this picture shows that</p> <p>20 certain threaded rebars, at the lower level, were not</p> <p>21 properly screwed in before the upper level of</p> <p>22 reinforcement bars were installed?</p> <p>23 A. It's difficult to determine that from the photo, for me.</p> <p>24 Q. So, on the face of it, apart from the issue of</p> <p>25 workmanship, would you consider that that might be</p>	<p>1 rectify to ensure that defective works were not included</p> <p>2 in the permanent works."</p> <p>3 This is what you say about the quality system.</p> <p>4 A. That's actually what I said just a moment ago, yes.</p> <p>5 Q. But in view of your earlier answer to my question, would</p> <p>6 you agree that, at the same time, the NCR also might</p> <p>7 show or identify a problem as to supervision and</p> <p>8 inspection work, as at the time when the actual coupling</p> <p>9 work was being carried out?</p> <p>10 A. I accept that if the coupler had been threaded in in the</p> <p>11 first instance, it wouldn't have been raised. I also</p> <p>12 would suggest, though, that this is so commonplace in</p> <p>13 the industry that you go through an inspection process</p> <p>14 and things are not constructed correctly so you make</p> <p>15 them good.</p> <p>16 Q. Thank you.</p> <p>17 CHAIRMAN: I suppose -- sorry to interrupt -- really the</p> <p>18 question may be: a lot of the time, when you see</p> <p>19 something, you can just see it's poor workmanship. You</p> <p>20 know, to take a rather silly example, splashing paint,</p> <p>21 shall we say, on a skirting board when it shouldn't be;</p> <p>22 do you know what I mean? That's not an engineering</p> <p>23 matter but it's similar, whereas here, if what you're</p> <p>24 seeing is a failure to even actually thread in the</p> <p>25 couplers at all, and it's against a contract where</p>

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<p>1 there's a lot of couplers to be done and maybe the work 2 is not that easy to do, if you're looking to root cause, 3 would you not perhaps want to investigate why the 4 couplers were not put in and whether that is indicative 5 of perhaps -- for the future if not the past, because 6 you've done your inspections -- but for the future might 7 the workmen face similar problems? 8 A. I think the answer is yes, it may. 9 CHAIRMAN: But there doesn't appear to have been any 10 comeback on that. 11 A. In documentary, not that I'm aware of, no. Apart from 12 the NCR being issued to the sub-contractor, to make the 13 principals of that company aware of the issue. 14 CHAIRMAN: Yes. 15 MR KHAW: Mr Rawsthorne, would you also agree that by 16 looking at the photograph that we have just seen, apart 17 from a mere workmanship problem, it might give rise to 18 a possibility as to whether people would try to cut 19 corners? 20 A. It's -- I don't know. Actually, I don't know. 21 Q. Just as a matter of background, at the time when you 22 received this NCR from your team, were you aware of any 23 previous threaded rebar cutting incidents from your 24 team? 25 A. No.</p>	<p>1 26. In the months leading up to this email, payment 2 disputes between Leighton and China Technology had been 3 increasing. When this email was received, I believe the 4 consensus opinion at both Leighton and MTRC was that 5 Jason Poon had raised the allegations in order to 6 negotiate a better deal for his company. I also 7 believed this to be the case." 8 I'm quite interested to know how this consensus 9 opinion was actually reached. You refer to consensus 10 opinion. Now, obviously, at this time, ie 11 January 2017 -- 12 A. Mm-hmm. 13 Q. -- you were aware of this NCR which showed you that 14 there were threaded rebars having been cut; right? 15 A. Actually, I don't believe I was aware of it. At that 16 point in time, I don't believe I had a recollection -- 17 certainly I didn't have a recollection until it was more 18 recently put in front of me -- at that time, I don't 19 believe I had a recollection of it. 20 Q. I see. So when you said you were referring to the time 21 when you received Jason Poon's email in early January 22 2017, you did not actually apply your mind to this NCR 23 incident; is that correct? 24 A. I did not recall this NCR. 25 Q. But in that case, when you were reaching this consensus</p>
<p>Page 90</p> <p>1 Q. So this was the first time? 2 A. This is the only thing that I'm aware of. 3 Q. We just saw that in the NCRs issued to Fang Sheung, 4 Fang Sheung was required to carry out investigation, try 5 to find out the root cause of the problem, et cetera. 6 Do you know whether any follow-up actions were taken 7 in order to coordinate with Fang Sheung, to see whether 8 the root cause could be found or not? 9 A. No, I don't. 10 Q. At the time when -- you have probably answered this 11 question already, but just to clarify -- at the time 12 when you received this NCR or at the time when you were 13 required to sign on this NCR, were you aware of the 14 actual requirements for inspection and supervision of 15 coupling works? 16 A. The detailed requirements, no, I don't believe I was. 17 Q. Thank you. If we can then just move on to take a look 18 at a particular point you mentioned. It starts from 19 paragraph 25 of your witness statement: 20 "In early January 2017, I saw a copy of an email 21 from Jason Poon ... to Anthony Zervaas and our 22 construction manager alleging that threaded rebars had 23 been cut short, and not properly fixed to the diaphragm 24 wall couplers on the EWL slab. This email referred to 25 works that had been completed almost a year earlier.</p>	<p>Page 92</p> <p>1 opinion, who else participated in the discussion before 2 this consensus opinion was obtained? 3 A. I think I say that this is my belief; yes? At the time, 4 there was of course discussion about this allegation. 5 In the lead-up to this allegation, there had been more 6 and more frequent disagreements/dispute on payment with 7 China Technology. I think it was a general 8 understanding. 9 Could I say somebody agreed with it? No, 10 I couldn't, apart from what their witness statements 11 say. But is there a document that says that we all 12 agree it? No. 13 Q. I understand. But what you are trying to say here was 14 that at least in general, you reached a conclusion that 15 Mr Jason Poon had raised the allegation in order to 16 strike a better deal? 17 A. That was my belief at the time. That was absolutely my 18 belief at the time, and I understood that to be the 19 general understanding. 20 Q. You also came to the conclusion at that time that 21 Mr Jason Poon's allegation could not be substantiated; 22 it had no substance? 23 A. I had no knowledge that would substantiate it. I had no 24 hard document, I had no evidence that would substantiate 25 that, that I'm aware of.</p>

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<p>1 Q. Now, when you use this word "consensus", I would be 2 interested to know with whom you discussed this opinion, 3 before you could reach this consensus. 4 A. Again, it is an opinion that I held at the time; yes. 5 Q. Yes. 6 A. That is an opinion that I held at the time. 7 Q. Yes. 8 A. I think in discussions with Michael Fu from MTR, 9 perhaps, in forums where Aidan Rooney was present, 10 certainly with Anthony Zervaas, certainly with Joe Tam, 11 the understood underlying cause was commercial. 12 Q. So it was not just one occasion where you discussed 13 this; there was a series of discussions that you had on 14 this? 15 A. There may have been informal, ad hoc. Certainly my 16 office was right next door to Anthony, so there was 17 a fairly easy communication between ourselves. I spoke 18 with Joe Tam daily. I spoke with Michael Fu pretty much 19 daily, with Michael's team also. We met with Aidan at 20 least twice a week in those days. 21 Q. So am I correct in saying that, at the time when you met 22 the other gentleman from Leighton, the other gentleman 23 from MTR, at that time, the general view was that, "Oh, 24 come on, this must be fake allegation, we don't have to 25 worry about it"? Is it the general --</p>	<p>1 quality control coordinators, ie TCP T3 under the site 2 supervision plan? Were you aware of this person, Ho 3 Cheuk Yiu, Nigel? 4 A. Nigel Ho? Yes, I am aware of Nigel Ho. 5 Q. Would you agree that he was responsible for supervision 6 and inspection work? 7 A. Nigel, yes, but Nigel had an area allocation to the 8 works. The station build in HUH was split up into 9 areas, under construction managers, with site agents 10 under him looking after various parts of it. 11 Q. You remember a person called Wong Chi Ching was also 12 TCP T3? 13 A. Wong Chi Ching? I would need to see an English name or 14 a photograph, I'm sorry. 15 Q. Edward Lee; any idea? 16 A. I do recall an Edward Lee, yes. 17 Q. Was he also responsible for supervision and inspection 18 works? 19 A. I believe he would have been responsible for some 20 inspection work, yes. 21 COMMISSIONER HANSFORD: Sorry, Mr Khaw, we spent a little 22 while differentiating between supervision and 23 inspection, and now you are lumping them together again. 24 MR KHAW: I'm sorry. Yes. 25 COMMISSIONER HANSFORD: It would be helpful -- unless</p>
<p>Page 94</p> <p>1 A. I think the general view was that there was nothing that 2 was tangible proof that showed there was something 3 wrong. 4 As I said, at the time, I didn't have a recollection 5 and I'm going to assume the other people who were part 6 of this situation, I guess they didn't have 7 a recollection of the earlier NCR, so at the time, it's 8 12 months after the bulk of the concrete is cast, if 9 there was to be an allegation, you would expect it to 10 have come out much earlier, rather than all the work's 11 done, it's all covered, it can't be proved -- well, it 12 can't easily be proved -- and then the allegation comes 13 out. 14 Q. And, at that time, were you aware of any investigation 15 being conducted in relation to Mr Jason Poon's 16 allegations? 17 A. By Stephen Lumb? 18 Q. Yes. 19 A. Yes. 20 Q. Were you interviewed by him? 21 A. No. I've already spoken to Mr Pennicott about that, 22 I think. No, I wasn't. 23 Q. Finally, I just want to name a few individuals to see 24 whether you know of them. Are you aware of a person 25 called Ho Cheuk Yiu, who was one of the appointed</p>	<p>Page 96</p> <p>1 there's a very good reason for it, it would be helpful 2 if we could stick to either supervision or inspection. 3 MR KHAW: Yes, I will. 4 COMMISSIONER HANSFORD: Thank you. 5 MR KHAW: Perhaps it would be an appropriate time. 6 COMMISSIONER HANSFORD: Sorry, I didn't mean to stop you for 7 that reason. 8 MR KHAW: I could save time, make use of the time to just 9 review this point. 10 CHAIRMAN: Mr Boulding, will you have questions to ask? 11 MR BOULDING: I think at the moment just two or three 12 questions by way of clarification only. 13 CHAIRMAN: Then we will return after lunch. I thought if we 14 could dispose of it within five minutes, but probably 15 not, especially as Mr Khaw wants to do a little checking 16 over the luncheon. 17 MR KHAW: Yes. 18 CHAIRMAN: Mr Rawsthorne, I'm very sorry, I'm going to have 19 to ask you to come back after lunch. You are giving 20 your evidence at the moment and it's a rule of our law 21 that while you are giving evidence, you are not entitled 22 to discuss it with anybody else. The fact is lots of 23 people in these situations find they get all sorts of 24 unwarranted questions and suggestions, and you must 25 ignore all of them and not discuss.</p>

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<p>1 WITNESS: All right. 2 CHAIRMAN: Once you have completed your evidence, then 3 of course that's a matter for you, but not now. 4 WITNESS: Thank you. 5 CHAIRMAN: Thank you very much. 2.15. 6 (1.03 pm) 7 (The luncheon adjournment) 8 (2.18 pm) 9 MR KHAW: Mr Chairman and Mr Commissioner, upon review of 10 the transcript this morning, I understand that in fact, 11 the matters regarding the distinction between inspection 12 and supervision have been fully covered in 13 Mr Pennicott's questions. I probably missed it or 14 I probably just day-dreaming when he was doing it. 15 In that case, I will probably cut short the line of 16 questioning that I initially intended to pursue. 17 There is just one more question that I would like to 18 ask Mr Rawsthorne. 19 Mr Rawsthorne, do you have any personal knowledge as 20 to how the defective works under the NCR that we have 21 looked at were eventually rectified? 22 A. Personal direct knowledge, no. I understand from the 23 initiating email that they had been rectified 24 immediately at the time, but personal direct, no. 25 Q. Do you have any knowledge as to when this NCR was</p>	<p>1 correct? 2 A. In the period that I was talking about, which was 2015 3 to 2016, yes. 4 Q. Right. I think you also said, did you not, that the 5 construction managers would attend their section of the 6 walk? 7 A. Yes. 8 Q. What was the purpose of that? 9 A. The walk typically covered the vast majority of the 10 site, and we had a construction manager who looked 11 after -- or a construction manager, for want of 12 a different name, who looked after the HHS work, we had 13 a guy who looked after the NAT and SAT work, we had two 14 sections in the HUH, the station works. So those 15 gentlemen joined us for the part of the walk that was in 16 their area. 17 Q. I see. I think you also said that representatives from 18 MTR would attend? 19 A. Yes. 20 Q. I recall you mentioning a Mr Aidan Rooney; is that 21 correct? 22 A. Yes. 23 Q. And also a Brendan Reilly? 24 A. Yes. 25 Q. And a Kit Chan?</p>
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<p>1 eventually closed out, by using Leighton's terminology? 2 A. No. 3 MR KHAW: Thank you. I have no further questions. 4 Cross-examination by MR BOULDING 5 MR BOULDING: Good afternoon, Mr Rawsthorne. I appear for 6 MTR, and I would like to ask you one or two questions 7 about what you told my learned friend Mr Ian Pennicott 8 this morning, if I may. 9 Do you remember being asked by Mr Pennicott about 10 the weekly site walks? 11 A. Yes. 12 Q. It's right, is it not, that they took place on a Monday 13 morning? 14 A. Almost always, yes. 15 Q. And I think you said that they lasted something like two 16 or two and a half hours; correct? 17 A. I think it was two and a half, perhaps three hours, as 18 the norm. 19 Q. My recollection is that you said that Leighton 20 representatives would be there? 21 A. Yes. 22 Q. And I think you said you'd attend? 23 A. Yes. 24 Q. The project director would attend, and more often than 25 not the operations manager would also be there; is that</p>	<p>1 A. Yes, in that same time slot, that same window of time. 2 Q. Anyone else you remember from MTR attending -- 3 A. Subsequently, Michael Fu, and I think towards the end, 4 at times, James Ho and Joe Cheung would also join for 5 their parts. 6 Q. Right. My note records that you told the learned 7 Commissioners that sometimes sub-contractors would tag 8 along, I think was your phrase. 9 A. I can't remember exactly my phrase. If there was 10 a particular issue at a particular area, sometimes there 11 would be a request that, "Can we have the sub-contractor 12 there, please, so we can all get on the same page", so 13 to speak. 14 Q. It's right, is it not, that you told my learned friend 15 Mr Pennicott that from time to time Mr Poon of China 16 Technology would attend the weekly walks? 17 A. Yes. 18 Q. And presumably you are aware, are you not, that the 19 Commission of Inquiry has heard evidence from Mr Poon of 20 the wholesale cutting of threaded rebar; are you aware 21 of that? 22 A. I am aware of that, yes. 23 Q. And presumably you would agree that if that occurred, it 24 is in fact a serious malpractice? 25 A. Absolutely.</p>

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<p>1 Q. I think you used the phrase "alarming" just before 2 lunch, when you were discussing the matter with counsel 3 for government. 4 A. Perhaps. 5 Q. It's right, is it not, that if it indeed occurred on 6 a wholesale basis, it would have serious safety 7 implications for the works? 8 A. I would expect so, yes. 9 Q. During the course of these weekly walks, when Mr Poon 10 attended, was there anything to prevent Mr Poon from 11 telling Leightons that this wholesale cutting of rebar 12 was going on? 13 A. Not that I'm aware of, no. 14 Q. Was there anything to prevent him from telling MTR 15 representatives who were on the site walk that this 16 wholesale practice was going on? 17 A. Not that I'm aware of, no. 18 Q. To your knowledge, did Poon ever raise the matter of 19 wholesale cutting of threaded rebar during the course of 20 these walks? 21 A. To my knowledge, no. 22 Q. Did he in fact raise the issue that threaded rebar was 23 being cut at all during the course of the walks? 24 A. To my knowledge, no. 25 MR BOULDING: Thank you very much, Mr Rawsthorne.</p>	<p>1 Then over the page, at 13: 2 "Failure to implement or comply with permit-to-work 3 system applied on site ..." 4 Do you see that -- 5 A. Yes. 6 Q. -- another \$1,000? 7 The next topic. You were asked by Mr Pennicott and 8 Prof Hansford about how the rebar was inspected; do you 9 remember that line of questioning? 10 A. (Nodded head). 11 Q. Can I just take you to some evidence that you may not 12 have seen, or may not have seen recently. Can I take 13 you to the statement of Mr Mok, C12, page 8112, 14 paragraph 25(a). He says: 15 "There were in fact two formal inspections. The 16 first was undertaken after Fang Sheung had completed the 17 bottom layers of rebars and the second after the top 18 layers were completed." 19 Do you see that? 20 A. I do. 21 Q. Can I take you to another witness statement at 22 C27/20664, 17(a). 23 MR PENNICOTT: Whose is this? 24 MR WILKEN: This should be Mr Man Sze Ho: 25 "There were in fact two formal inspections. The</p>
<p>Page 102</p> <p>1 No further questions, sir. 2 CHAIRMAN: Thank you. 3 MR WILKEN: Sir, a brief re-examination, if I may. 4 CHAIRMAN: Yes. 5 Re-examination by MR WILKEN 6 MR WILKEN: Good afternoon. 7 At the beginning of your questioning by 8 Mr Pennicott, you were asked about the China Tech 9 sub-contract; do you remember that? 10 A. Yes. 11 Q. And you were asked about the provisions by which 12 China Tech would be charged if it did something wrong? 13 A. Yes. 14 Q. I just want to take you to some further examples of 15 that. Can we go to D1, page 130, and there you see, at 16 item 4: 17 "Failure to attend site safety induction given by 18 the contractor prior to commencing work, attend ... 19 refresher ... comply with safety and health 20 induction/refresher training procedures." 21 Do you see that? 22 A. Yes. 23 Q. And that's \$1,000. Then: 24 "Failure to attend site safety walk managed by the 25 contractor" is 2,000.</p>	<p>Page 104</p> <p>1 first was undertaken after Fang Sheung had completed the 2 bottom layers of rebars and the second after the top 3 layers were completed." 4 Finally on this line, can you go to B1, page 425, 5 and this is a statement from Mr Kobe Wong. 6 At 25.2: 7 "As far as I understand the ConEs [who I imagine are 8 construction engineers], typically, LCAL would request 9 MTRCL's ConE to inspect the bottom layer at early stage, 10 and then the ConE would subsequently return (upon LCAL's 11 further notification) to inspect the top layer once it 12 was complete." 13 So we see there that what in fact happened was that 14 the bottom mat was inspected, people went away and then 15 they came back and inspected the top layer? 16 A. Yes. 17 Q. Can I take you to the next topic, which is remedials. 18 You were asked just now about them. Can I take you to 19 B6/4131. 20 I'm going to need to zoom -- blow up the top 21 photograph, so we can look at the bottom right-hand 22 corner. 23 I think everyone agrees that this is the photograph 24 of the remedials being done under the NCR. Have you 25 seen it before?</p>

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<p>1 A. I think so.</p> <p>2 Q. Can you see the bottom right-hand corner and can you</p> <p>3 read out the date stamp?</p> <p>4 A. That's 15th of the 12th, is it not, 2015, 8.15?</p> <p>5 Q. So the remedials were done on 15 December?</p> <p>6 A. Of that I was aware.</p> <p>7 Q. Finally, you were asked some questions about your belief</p> <p>8 as to whether there was a consensus between you and</p> <p>9 MTRCL as to what you thought about Mr Poon. Again, can</p> <p>10 I take you to some evidence that you may not have seen.</p> <p>11 B1/20573. This is Mr Rooney's statement.</p> <p>12 This is Mr Rooney quoting from an email dated</p> <p>13 6 January 2017 which he sent to Mr TM Lee, and you see</p> <p>14 he said there, in the italics, second paragraph:</p> <p>15 "This is a part of Jason's strategy to put pressure</p> <p>16 on Leighton to pay him the extra \$3 million this week."</p> <p>17 A. Okay. I've never seen this before, but it's</p> <p>18 effectively, I think, what I said.</p> <p>19 MR WILKEN: Sir, I have no further questions for this</p> <p>20 witness.</p> <p>21 CHAIRMAN: Thank you very much.</p> <p>22 Peter?</p> <p>23 Thank you very much indeed. It's very good of you.</p> <p>24 You've finished your evidence now --</p> <p>25 WITNESS: Thank you.</p>	<p>1 MR SO YIU WAH, GABRIEL (affirmed in Puntì)</p> <p>2 (All answers given via simultaneous interpreter</p> <p>3 except where otherwise specified)</p> <p>4 Examination-in-chief by MR SHIEH</p> <p>5 MR SHIEH: Now, Mr So, can you look at bundle C27,</p> <p>6 page 20654, and the English is at 20657.</p> <p>7 Can you find it, Mr So?</p> <p>8 A. Yes, I see that.</p> <p>9 Q. This is your first witness statement; you see that?</p> <p>10 A. Yes, I see that.</p> <p>11 Q. Can you then turn to page 20656, and in the English</p> <p>12 version it is 20659. Above your Chinese name, you can</p> <p>13 see what appears to be a signature; do you see that?</p> <p>14 A. Yes, I see that.</p> <p>15 Q. That is your signature; correct?</p> <p>16 A. Correct.</p> <p>17 Q. Can I then ask you to look at bundle C32, 24103. The</p> <p>18 English is 24108. That is your second witness</p> <p>19 statement; do you see that?</p> <p>20 A. Yes, I see that.</p> <p>21 Q. Then turn to page 24107. In the English version, it's</p> <p>22 24112. Above your Chinese name, you see what appears to</p> <p>23 be your signature; do you confirm that?</p> <p>24 A. Correct.</p> <p>25 Q. Do you wish to put forward the contents of these two</p>
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<p>1 CHAIRMAN: -- and you can go. Thank you for attending.</p> <p>2 (The witness was released)</p> <p>3 MR WILKEN: Sir, I am remaining on my feet because I have to</p> <p>4 make a request to the Commissioners. We are due to have</p> <p>5 a changing of the guard on Leighton's team for the next</p> <p>6 few witnesses. Obviously no disrespect to the</p> <p>7 Commissioners, but I will be next door, as opposed to in</p> <p>8 the room.</p> <p>9 CHAIRMAN: All right.</p> <p>10 MR WILKEN: Due to site constraints of where we are, I need</p> <p>11 about five minutes to ship all my electronics out of</p> <p>12 here, into the room next door, so that Mr Chang can then</p> <p>13 move forward and take my place.</p> <p>14 CHAIRMAN: That's fine. Five minutes. Or rather five</p> <p>15 minutes, or until you tell us you are ready.</p> <p>16 MR WILKEN: Thank you, sir.</p> <p>17 (2.31 pm)</p> <p>18 (A short adjournment)</p> <p>19 (2.39 pm)</p> <p>20 MR SHIEH: Mr Chairman and Mr Commissioner, can I call Mr So</p> <p>21 Yiu Wah, Gabriel.</p> <p>22 Mr So, please put on your headphones. Good</p> <p>23 afternoon and welcome.</p> <p>24 WITNESS: (In English) Good afternoon.</p> <p>25</p>	<p>1 witness statements as your evidence in this Commission</p> <p>2 of Inquiry?</p> <p>3 A. No problem.</p> <p>4 Q. Just two things. First of all, please remain seated</p> <p>5 because lawyers for the other parties and also lawyers</p> <p>6 for the Commission of Inquiry will be asking you some</p> <p>7 questions.</p> <p>8 A. I understand.</p> <p>9 Q. The Commission, Mr Chairman and the Commissioner, will</p> <p>10 also be asking you some questions if they want to.</p> <p>11 A. No problem.</p> <p>12 Q. Then I may have a final roundup, to ask you questions if</p> <p>13 I want to. Do you understand?</p> <p>14 A. I understand.</p> <p>15 Q. Secondly, when you give an answer, can you speak up into</p> <p>16 the microphone, because any nodding or gestures may not</p> <p>17 be captured or will not be captured by the recording</p> <p>18 devices and won't go into the transcript.</p> <p>19 A. I understand.</p> <p>20 MR SHIEH: Thank you. Please remain seated.</p> <p>21 Examination by MR PENNICOTT</p> <p>22 MR PENNICOTT: Mr So, good afternoon.</p> <p>23 A. (In English) Good afternoon.</p> <p>24 Q. My name is Pennicott, I'm one of the counsel to the</p> <p>25 Commission, and as Mr Shieh has just indicated, I get to</p>

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<p>1 ask you some questions first, and others may do 2 afterwards. 3 Mr So, you tell us that you were the general 4 superintendent of the project between May 2015 and 5 January 2016; is that correct? 6 A. Correct. 7 Q. And, in January 2016, you then became the site manager? 8 A. Correct. 9 Q. For how long did you remain the site manager? 10 A. From January 2016 until now. 11 Q. You are still the site manager? 12 A. Correct. 13 Q. As I understand it, both in your role as the general 14 superintendent and the site manager, your 15 responsibilities covered the whole of the site; is that 16 correct? 17 A. Correct. 18 Q. Good. 19 Can I refer you, please, to paragraph 6 of your 20 witness statement. It's up on the screen or you can 21 look at the hard copy in Chinese, Mr So, whatever suits 22 you. 23 You say in paragraph 6: 24 "I was supported by the site supervision team. The 25 team comprises superintendents, supervisors and then</p>	<p>1 the whole site. 2 Q. So would there be a superintendent for each area, for 3 area C, B, A, HKC, SAT, NAT? 4 A. We have divided the site into four areas with 5 a superintendent: one is SAT, one NAT, HUH and HHS. For 6 concourse, there's no superintendent. 7 Q. Right. So there would be four superintendents? 8 A. Correct. 9 Q. For each area, how many supervisors would there be? 10 A. I can't recall the exact number. 11 Q. Would it vary from time to time? 12 A. There is this possibility, but the changes wouldn't be 13 substantial. 14 Q. All right. But are we talking two/three/four 15 supervisors for each area, approximately? 16 A. I would say at least four. 17 Q. Right. Then, so far as foremen were concerned, again 18 presumably there would be more foremen than there were 19 supervisors? 20 A. I mentioned four, and that includes both supervisors and 21 foremen, so in each area around four to five of them. 22 Q. All right, combined, supervisors and foremen? 23 A. Correct. 24 Q. Thank you very much. 25 Now, so far as the fixing of the rebar is</p>
<p>Page 110</p> <p>1 foremen from each of the areas of the project site. 2 While I would conduct general site supervision checks, 3 my team would carry out more detailed checks and report 4 back to me on material matters." 5 Now, let's start with the foremen. Did they have, 6 as it were, direct access to you, Mr So, as the general 7 superintendent, or, if they wished to raise any issues, 8 did they have to, as it were, go up through the 9 supervisors and the superintendent? Did they have 10 direct access to you? 11 A. Definitely, no problem, they could have accessed me 12 directly, because for foremen and supervisors, they are 13 Chinese and they might have some problems communicating 14 with Khyle, so they might speak to me directly, and then 15 I would go back to talk to Khyle if colleagues have 16 raised any issues. 17 Q. That was a reference to Mr Rodgers, Khyle Rodgers; yes? 18 A. Correct. 19 Q. Presumably, therefore, the same would apply to the 20 supervisors; they had direct access to you as well? 21 A. Correct. 22 Q. So far as the superintendents were concerned, how did 23 their role differ to yours? 24 A. For superintendents, they are in charge of certain area, 25 and I, as the general superintendent, would look after</p>	<p>Page 112</p> <p>1 concerned -- and let's focus on the EWL slab, fixing of 2 the rebar -- firstly, what would be the role of the 3 superintendents in relation to the fixing of the rebar? 4 A. For the role of the superintendents, the superintendent 5 would arrange for supervisors and foremen, because for 6 HUH it's further subdivided into C1, C2 and C3, so in 7 each area there would be supervisors working daily on 8 those sites, and then for the superintendent, would his 9 role be so detailed that he would actually go to the 10 site to observe the connection of these rebar? I don't 11 think so, because he's backed up by his own team. 12 Q. Right. So he would be organising the supervisors and 13 the foremen but not necessarily doing any direct 14 supervision himself; is that right? 15 A. Correct. 16 Q. Now, as far as the supervisors and foremen are 17 concerned -- and I'm still focusing on the fixing of the 18 rebar, nothing else at the moment -- what would their 19 role be as the fixing was taking place? 20 A. For their role -- now, every day we have a progress 21 meeting, together with the sub-contractors. So the day 22 before, we may have decided, let's say, we need to work 23 on the bay, a particular bay, and then they would have 24 to check whether there are enough resources as 25 previously discussed to carry out the work, whether they</p>

<p style="text-align: right;">Page 113</p> <p>1 are keeping to the schedule to complete work at 2 a certain stage. And of course they have to make sure 3 that it's safe and all that. 4 Now, as to whether it would be so detailed, to the 5 extent that they would actually check each and every 6 bar, I suppose no, they won't do that. They would stand 7 there and watch the people do the work, I mean, no. 8 Q. No. So they wouldn't -- let's suppose we've got a day 9 that runs from 8 o'clock in the morning to 6 o'clock in 10 the evening. You wouldn't expect the supervisors and 11 foremen to be there throughout those ten hours? 12 A. What I meant earlier was that they would not stand at 13 that spot for ten hours. Say for C1, it's of a certain 14 size, so they might be moving around a bit. 15 Q. Right. But, generally speaking, would there be one or 16 more supervisors or foremen in the area throughout the 17 day, always some presence at some level? 18 A. Yes, but for that area, it may not be the case that 19 there's just bar fixing going on; there could be other 20 works going on at the same time as well. 21 Q. Yes. So they would be keeping their eye on whatever 22 work was going on, bar fixing and other work? 23 A. Correct. 24 Q. All right. 25 Can I ask you this, Mr So: have you ever read or</p>	<p style="text-align: right;">Page 115</p> <p>1 "The technically competent persons for site 2 supervision under the registered geotechnical engineer's 3 stream required for the specified type of works are ..." 4 Then if we scroll down, please, we see you, as 5 I understand it, at the bottom. That is, you are a "T1 6 (alternative)"; do you see that? 7 A. Yes, I see it. 8 Q. Similarly, if we go back in the same bundle -- sorry, we 9 don't need to. 10 Could I ask you to put that file away, and could 11 I ask you then to be shown another document called the 12 quality supervision plan. 13 Have you seen Leighton's quality supervision plan, 14 as opposed to the site supervision plan, Mr So? Have 15 you seen before the quality supervision plan? 16 We'll show it to you, sorry. It's H9/4265. 17 A. I have not seen it. 18 Q. You will see that from 4265, it's the quality 19 supervision plan on enhanced site supervision and 20 independent audit checking, by MTRC and RC, that's 21 Leighton, for installation of couplers. Do you see 22 that? 23 A. Yes, I see that. 24 Q. If you go over the page to 4267, please, right at the 25 bottom, please, you will see it says:</p>
<p style="text-align: right;">Page 114</p> <p>1 seen the site supervision plan of Leightons? 2 A. No. 3 Q. In paragraph 7 of your witness statement, the last 4 sentence, you say: 5 "I was not responsible for overseeing or inspecting 6 the quality of the works, which was a matter for 7 Leighton's engineers to deal with the engineers of MTRC 8 and also the sub-contractors." 9 Do you see that? 10 A. Yes, I see it. 11 Q. Could I ask you, please, to be shown, firstly, 12 bundle H10, page 4543. That's the front sheet, if you 13 look on the screen, Mr So. The hard copy is just about 14 to be handed to you. It's the site supervision plan. 15 If you go over the page to 4544, you will see that 16 relates to Hung Hom Station, certain gridlines, 17 substructure for EWL track level and excavation and 18 lateral support works; do you see that? 19 A. Yes, I see that. 20 Q. If you go over the page to 4548, so a couple of pages 21 on, please, you will see at the top it says, 22 "Supervision plan of the registered contractor", that's 23 Leighton; do you see that? 24 A. Yes. 25 Q. Then at 13 it says:</p>	<p style="text-align: right;">Page 116</p> <p>1 "The quality supervision is in addition to: 2 1. The site supervision plan 2009 submitted by 3 [Leighton]". 4 Do you see that? 5 A. I see it. 6 Q. Then if you go over the page, at (2) at the top it says: 7 "The same technically competent persons proposed in 8 the site supervision plan of the works, that submitted 9 to Buildings Department as stipulated in the Code of 10 Practice for Site Supervision, will be responsible for 11 the quality control of the work." 12 Now, we've seen that you were a T1 or an alternative 13 T1. That's the technically competent person 14 classification. And, under this quality supervision 15 plan, you were responsible for the quality control of 16 the work. 17 So why is it, Mr So, that you say in your witness 18 statement that the quality of the work was a matter for 19 Leighton's engineers? 20 A. In my statement, I said that I was not the responsible 21 specialist, because there would be engineers and MTRC 22 staff responsible for that. 23 Q. So, as you saw it, irrespective of what the documents 24 might show, you regarded quality control as being in the 25 hands of Leighton's engineering team?</p>

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<p>1 A. Correct.</p> <p>2 Q. And you saw your role, is this right, primarily in</p> <p>3 relation to safety and to progress?</p> <p>4 A. Safety is my top priority.</p> <p>5 Q. All right. Could we move on to a different topic,</p> <p>6 Mr So.</p> <p>7 Could I ask you, please, to be shown a police</p> <p>8 statement of Mr Jason Poon, at D1/760 in the Chinese,</p> <p>9 D1/765.1 in the English.</p> <p>10 Do you have that, Mr So?</p> <p>11 A. Yes, I see that.</p> <p>12 Q. Can you go, please, to paragraph 7. Sorry, if you</p> <p>13 didn't catch it, this is a police statement given to the</p> <p>14 police by Mr Jason Poon on 10 July this year, 2018,</p> <p>15 Mr So, just for your information.</p> <p>16 Is this a document you've seen before?</p> <p>17 A. No, I haven't seen it before.</p> <p>18 Q. Right. That's what I anticipated and that's why I'm</p> <p>19 going to show it to you.</p> <p>20 Back to paragraph 7. This is Mr Poon speaking to</p> <p>21 the police and what they recorded. It says this:</p> <p>22 "At around 3 pm on a certain day in early September</p> <p>23 2015 (exact date could not be provided), I had a meeting</p> <p>24 with Mr So" -- don't worry about the typo -- "Leighton's</p> <p>25 supervisor of on-site works, and Mr Khyle Rodgers,</p>	<p>1 I encountered or met Mr Jason Poon at that time, but</p> <p>2 I am sure that Mr Jason Poon did not discuss the issue</p> <p>3 of cut threaded rebars with me.</p> <p>4 Q. Did you or did you not say to Mr Poon that you did not</p> <p>5 know which staff cut the threaded heads of rebar?</p> <p>6 A. As I said, we did not discuss this issue. Therefore,</p> <p>7 I would not provide this kind of reply.</p> <p>8 Q. Did you or did you not say to Mr Poon that you would</p> <p>9 investigate the matter?</p> <p>10 A. No.</p> <p>11 Q. Did you or did you not say to Mr Poon that you would</p> <p>12 order your staff not to cut the threaded heads of rebar?</p> <p>13 A. No.</p> <p>14 Q. Could I then ask you, please, to look at paragraph 9 of</p> <p>15 this same statement. What is recorded here, Mr So, is:</p> <p>16 "On a certain day between 15 ... and 22 September</p> <p>17 2015 ..., under the guise of inspection of safety</p> <p>18 facilities on site, I asked Mr So and Mr Rodgers to</p> <p>19 conduct site inspection of Hung Hom Station with me</p> <p>20 together."</p> <p>21 Do you have any recollection, Mr So, of such</p> <p>22 an inspection taking place with you, Mr Rodgers and</p> <p>23 Mr Poon, between 15 and 22 September?</p> <p>24 A. I cannot remember whether it took place during this</p> <p>25 time, but for safety and manpower issues I would</p>
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<p>1 a foreigner who was Mr So's superior ..."</p> <p>2 Now, don't worry about the error that Mr Poon has</p> <p>3 made there, or what I understand to be the error, which</p> <p>4 you and Mr Rodgers have explained, but you are</p> <p>5 Mr Rodgers' boss, not the other way around; do you</p> <p>6 understand? Don't worry about that.</p> <p>7 It goes on:</p> <p>8 "... [they] had a meeting ... at the Food Forum in</p> <p>9 level 'M' of Hung Hom Station to discuss about the</p> <p>10 incident of Leighton staff cutting short the threaded</p> <p>11 heads of rebars. When I verbally reflected to both of</p> <p>12 them about their company staff cutting short threaded</p> <p>13 heads of rebars, Mr So orally replied stating that he</p> <p>14 did not know which staff cut threaded heads of rebars,</p> <p>15 and would investigate into the matter and would order</p> <p>16 staff of his company not to cut threaded heads of</p> <p>17 rebars. Mr Rodgers did not provide any reply in respect</p> <p>18 of the incident. The meeting lasted for about</p> <p>19 20 minutes, and afterwards we left the meeting</p> <p>20 separately."</p> <p>21 Can I ask you this, please, Mr So: do you have any</p> <p>22 recollection of meeting Mr Poon and Mr Rodgers in early</p> <p>23 September at the Food Forum in level M of the Hung Hom</p> <p>24 Station?</p> <p>25 A. I did go to the Food Forum, but I do not know whether</p>	<p>1 communicate or approach Mr Poon.</p> <p>2 Q. All right. Let me just read on. Going down a few</p> <p>3 lines, picking it up at the sentence that begins, "The</p> <p>4 three of us", it is recorded that what Mr Poon said was</p> <p>5 this:</p> <p>6 "The three of us met at around 5 pm at the entrance</p> <p>7 of SAT in the site, and we walked towards bay 'C1-4'."</p> <p>8 Do you remember meeting Mr Poon at about 5 o'clock</p> <p>9 one late afternoon at the entrance of the SAT?</p> <p>10 A. I can't remember.</p> <p>11 Q. He goes on to say:</p> <p>12 "After walking for about 45 minutes, we reached bay</p> <p>13 'C1-4', I saw two Chinese men (about 30 to 40 years old,</p> <p>14 medium built, I recognised that they were staff</p> <p>15 responsible for carrying out welding process, other</p> <p>16 details could not be provided) wearing royal blue,</p> <p>17 orange and yellow coloured polo T-shirts as well as</p> <p>18 reflective vests bearing the logo of Leighton using</p> <p>19 hydraulic cutter to cut short the threaded heads of</p> <p>20 rebars in rebar bundles (with 10 or more rebars wrapped</p> <p>21 together in each bundle of rebars)."</p> <p>22 Now, Mr So, do you have any recollection of seeing</p> <p>23 what Mr Poon describes there?</p> <p>24 A. I did not see anyone cutting rebars.</p> <p>25 Q. Mr Poon goes on:</p>

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<p>1 "I used English to tell Mr So and Mr Rodgers to 2 watch those workers that were cutting short threaded 3 heads of rebars." 4 I assume, given your last answer, you don't accept 5 that either, Mr So; is that right? 6 A. I did not see it, so how could I accept that? 7 Q. Right. I could read on but I won't. If anybody else 8 wishes to take you to any more of that, they can, save 9 for this last point, Mr So. 10 Do you recall being with Mr Poon at any time, not 11 necessarily at this time but any time, when he took 12 photographs? 13 A. I can't remember. 14 Q. All right. 15 Could I then ask you, please -- a different topic -- 16 Mr So, there is a non-conformance report, NCR157. Could 17 you please be shown C12/8127. 18 Before we get to the non-conformance report, Mr So, 19 this is an email of 15 December 2015, from Mr Kobe Wong 20 of MTRC to Joe Leung and Andy Ip. Do you see that? 21 A. Yes, I see that. 22 Q. It was copied to a number of people, including yourself; 23 do you see that? 24 A. Yes, I see that. 25 Q. My understanding of your evidence, however, Mr So, is</p>	<p>1 Q. If you go to the next page, please. Could you go right 2 to the bottom of the page, please. 3 Do you see, Mr So, the bottom left-hand corner of 4 the second page, where it says, "Copyright Leighton 5 2008", then it's got "Ip Andy" and then "Chow Gary"; do 6 you see that? 7 A. Yes, I see it. 8 Q. Can you tell us, if you're able -- if you can't, please 9 say so -- whose those signatures or initials are, bottom 10 left? 11 A. I don't recognise it. 12 Q. Right. They're not yours? 13 A. No, not mine. 14 Q. Okay. Have you read the witness statement of 15 Mr Edward Mok, a Leighton engineer? 16 A. No. 17 Q. In that witness statement, amongst other things, he 18 describes three incidents where he says he discovered 19 threaded rebar that had been cut. One of those 20 incidents is what gave rise to this NCR. 21 To the best of your knowledge and recollection, 22 Mr So, did Mr Mok, or anybody else, talk to you back in 23 2015 about any of those incidents? 24 A. No one ever informed me. 25 Q. All right.</p>
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<p>1 that you have no recollection of seeing this email at 2 the time; is that correct? 3 A. Correct. 4 Q. My understanding of your position therefore is that you 5 never took any action upon receipt of this email? 6 A. I don't understand your question. 7 Q. Well, you received this email. You say you don't have 8 any recollection of it. All I'm trying to ascertain 9 from you, Mr So, because it would appear to follow: that 10 you didn't action anything after receiving and looking 11 at this email? 12 A. If I saw it at that time, I would have taken action, but 13 from my recollection I never saw this email. 14 Q. All right. 15 There was a non-conformance report issued after 16 receipt of this email, issued by Leighton. Do you have 17 any recollection of the issuing of that non-conformance 18 report? 19 A. Before I did not even know about this NCR, until about 20 a week ago. 21 Q. Right. Could we scroll down a few pages to find the 22 NCR, please. 23 This is the NCR which you say you've only very 24 recently seen; is that right, Mr So? 25 A. Yes.</p>	<p>1 Could I ask you, please, a question arising out of 2 your second witness statement. Please could we be 3 shown, first of all, C32/24111. I hope it's the witness 4 statement. 5 It's paragraph 19 I want to look at, that's very 6 helpful. 7 In paragraph 19, Mr So, of your second witness 8 statement, you deal with a number of photographs that 9 are attached to Mr Poon's witness statement. Do you 10 recall that? 11 A. Yes, I recall that. 12 Q. I just want to look at one of the photographs with you, 13 please, which is D1/227. It is this photograph, taken 14 on 4 September, that you describe as workers cutting the 15 top from vertical rebar; is that right? 16 A. Yes. 17 Q. I think you say that you do not know who these workers 18 are? 19 A. Judging from their appearances, I could not identify 20 them or which company they belong to. 21 Q. Right. That remains your position, does it, Mr So? 22 Even now, you can't recognise which company they worked 23 for? Is it likely that they are general labourers 24 engaged by Leighton? 25 A. There is this possibility, but still it's really hard to</p>

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<p>1 tell which company they belong to or even Leighton; it's 2 hard to tell. 3 Q. All right. Did Leighton have a cutter such as the one 4 we can see in the photograph? 5 A. That I really cannot remember. 6 Q. Mr So, one last question from me. I don't know whether 7 you know this but in January 2017, as a consequence of 8 Mr Poon writing a couple of emails to Mr Zervaas, 9 a review and investigation into the cutting of -- the 10 alleged cutting of threaded rebar was carried out by 11 a Mr Stephen Lumb, who I understand to be the head of 12 engineering at Leighton. Were you aware of that 13 investigation and review? 14 A. No, I was not aware of that. 15 Q. So does it follow, Mr So, that in January 2017, nobody, 16 Mr Lumb or anybody else, interviewed you about that 17 particular topic, that is cutting of threaded rebar? 18 A. No. 19 MR PENNICOTT: Thank you very much. I have no further 20 questions for Mr So. 21 CHAIRMAN: Thank you. 22 MR SHIEH: Mr Chairman, before anyone starts, perhaps it may 23 be helpful for me to correct one point of translation, 24 in case anything may turn on it by subsequent 25 questioning.</p>	<p>1 as well as sub-contractors." 2 So in Chinese version there is the phrase 3 "(Chinese spoken)", which may be what the witness was 4 referring to when he said "specialist". I just wish to 5 bring that to the Commission's attention, in case 6 anything shall turn on it by other people's questioning, 7 because words resembling that meaning were not there in 8 the English version. 9 CHAIRMAN: Thank you. Very good. And the next -- 10 MR PENNICOTT: I don't know if they have agreed -- 11 MR SO: Sir, I note the time. Would it be convenient to 12 have the break first, so I can clarify some matters with 13 my client? 14 CHAIRMAN: Yes, of course. 15 minutes. 15 MR SO: Thank you. 16 (3.27 pm) 17 (A short adjournment) 18 (3.59 pm) 19 CHAIRMAN: If we have kept you a little late, apologies. As 20 you are aware, matters do arise from time to time. 21 There's been a couple of matters that have arisen today, 22 and it's necessary for Mr Pennicott and those who 23 instruct him just to come through to discuss those 24 matters. They have been discussed. 25 If they are taken further, counsel will be kept</p>
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<p>1 Can I ask the Commission to turn to the transcript 2 just now, [draft] page 117, line 20, when Mr Pennicott 3 asked: 4 "So why is it, Mr So, that you say in your witness 5 statement that the quality of the work was a matter for 6 Leighton's engineers?" 7 And Mr So answered: 8 "In my statement, I said that I was not the 9 responsible specialist, because there would be engineers 10 and MTRC staff responsible for that." 11 And then Mr Pennicott followed up on a question. 12 It we look at the English translation, at bundle C, 13 page 20658, which is C27, incidentally, paragraph 7, 14 Mr So was recorded as saying there: 15 "I was not responsible for overseeing or inspecting 16 the quality of the works ..." 17 I just wish to point out that if one looks at the 18 Chinese version, the one that is actually signed by 19 Mr So -- can I just read out the relevant Chinese 20 sentence for the record and for simultaneous 21 interpretation. That sentence actually says: 22 "(Via interpreter) I was not specifically 23 responsible for supervising and inspecting the quality 24 of works, because for quality of works, that's to be 25 dealt with by Leighton's engineers and MTRCL's engineers</p>	<p>1 fully informed. All right? Thank you. 2 MR SO: Sir, no questions for China Technology. 3 CHAIRMAN: Thank you. 4 Cross-examination by MR KHAW 5 MR KHAW: Perhaps good news for those who can't stand my 6 voice anymore. Mr Anthony Chow of the government 7 counsel team will have some questions for Mr So. 8 CHAIRMAN: I thought for one moment you were going to say no 9 questions either. 10 MR KHAW: An anti-climax. 11 Cross-examination by MR CHOW 12 MR CHOW: Good afternoon, Mr So. I act on behalf of the 13 government and I have a few questions for you. 14 A. Good afternoon. 15 Q. Mr So, earlier, in answer to Mr Pennicott's question, 16 you have briefly explained to us the organisation or 17 structure of the site supervision team; do you recall 18 that? 19 A. Yes, I remember. 20 Q. Can I ask you to go to the organisation chart, the 21 version dated May 2015, at bundle C7, page 5535. 22 If you can blow it up a little bit and move a little 23 bit to the left. 24 We can see that under -- perhaps a little bit more 25 to the left -- yes, do you see your name, "Gabriel So,</p>

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<p>1 general superintendent"?</p> <p>2 A. Yes.</p> <p>3 Q. Earlier, you explained to us there are four different</p> <p>4 areas and for each area there was a site superintendent</p> <p>5 in charge of that particular area; right?</p> <p>6 A. Yes, correct.</p> <p>7 Q. We can see from the organisation chart, the part of the</p> <p>8 tree under your responsibility, there are more than four</p> <p>9 areas; do you see that?</p> <p>10 A. Yes, I see that.</p> <p>11 Q. Can you explain why?</p> <p>12 A. As I explained already to Mr Pennicott, for the Hung Hom</p> <p>13 Station project there are five areas. HUH is a combined</p> <p>14 area, and there would be excavation and night shift,</p> <p>15 et cetera. For NAT, SAT, et cetera, there are no</p> <p>16 changes, but for HUH, there are three job subtypes.</p> <p>17 Q. If we can now move a little bit back to the right, what</p> <p>18 we see there is a separate organisation, under the</p> <p>19 project manager, under the senior project manager; do</p> <p>20 you see that? We have several construction managers:</p> <p>21 Gary Chow and Joe Tam; can you see that?</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Under the responsibility of, for example, the</p> <p>24 construction manager, Gary Chow, we can see another tree</p> <p>25 of organisation containing senior site agent, site</p>	<p>1 to formal inspections at various stages of the</p> <p>2 construction work is defined in that inspection and test</p> <p>3 plan. Do you know or do you not know about it?</p> <p>4 A. I'm not sure about it.</p> <p>5 Q. Take it from me that a so-called hold point inspection</p> <p>6 are defined in that document.</p> <p>7 A. Are you referring to the so-called final inspection,</p> <p>8 when you talk about the hold point inspection?</p> <p>9 Q. The hold point inspection that I refer to is a formal</p> <p>10 inspection jointly carried out by Leighton and MTRC. So</p> <p>11 is that the final inspection that you are talking about?</p> <p>12 A. As far as I know, for each bay, our engineers and MTRC</p> <p>13 engineers would carry out inspections at different</p> <p>14 stages. But the head of concrete pouring, they would</p> <p>15 conduct a final inspection. I'm not sure whether this</p> <p>16 is what you were asking me about.</p> <p>17 Q. Now, you mentioned about before concreting.</p> <p>18 I understand that before concreting, there were other</p> <p>19 hold point inspections as well, like inspection of</p> <p>20 reinforcement. Are you aware of that?</p> <p>21 A. Yes, I know.</p> <p>22 Q. From the document, we understand there were at least two</p> <p>23 hold points in relation to inspection of documents. One</p> <p>24 is after the multiple layers of reinforcement for the</p> <p>25 bottom steel have been completed, and there would be</p>
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<p>1 agent, and graduate engineer; do you see that?</p> <p>2 A. Yes, I see that.</p> <p>3 Q. So is this part of the organisation what we hear as the</p> <p>4 construction engineering team of Leighton?</p> <p>5 A. Yes, for engineers.</p> <p>6 Q. The structure under you is responsible for the site</p> <p>7 supervision; is that right?</p> <p>8 A. Correct.</p> <p>9 Q. And the engineering team will take care of the formal</p> <p>10 inspection with MTRC; am I correct?</p> <p>11 A. Strictly speaking, it is responsible for the final</p> <p>12 inspection.</p> <p>13 Q. Right. We have heard evidence from various people and</p> <p>14 from the documents that, first of all, there is</p> <p>15 a quality supervision plan, which you have not heard of,</p> <p>16 I gather from your earlier evidence; right?</p> <p>17 A. Correct.</p> <p>18 Q. The site supervision plan, again, is a document that you</p> <p>19 have not seen before?</p> <p>20 A. I know about this system, but I'm not familiar with the</p> <p>21 specifications.</p> <p>22 Q. Have you heard of a document called inspection and test</p> <p>23 plan?</p> <p>24 A. I've never heard of it.</p> <p>25 Q. Okay. As I understand it, the requirement in relation</p>	<p>1 a hold point inspection for the bottom steel. Are you</p> <p>2 aware of that?</p> <p>3 A. I don't know about the details of the hold point, on</p> <p>4 whether it applies for the bottom layer or top layer,</p> <p>5 but I do know that there was an inspection.</p> <p>6 Q. Okay. Are you saying that you don't know how many</p> <p>7 formal inspection was required for the reinforcement</p> <p>8 during the -- before concreting; is that your evidence?</p> <p>9 A. What I said was, for the hold points you mention, I do</p> <p>10 not know whether it applied for the top layer or bottom</p> <p>11 layer, but every time they would be talking about</p> <p>12 conducting inspections, but I do not know whether they</p> <p>13 were conducting the so-called hold point inspections you</p> <p>14 mentioned.</p> <p>15 Q. Am I right to say you are not familiar with the</p> <p>16 procedure, the inspection procedure?</p> <p>17 A. Yes, in terms of the sequencing or flow.</p> <p>18 Q. So your answer is: are you familiar or are you not</p> <p>19 familiar? Can you clarify, please?</p> <p>20 A. I'm not familiar.</p> <p>21 Q. Okay.</p> <p>22 Mr So, can I ask you to go to paragraph 7 of your</p> <p>23 first statement, please, at page 20658. The Chinese</p> <p>24 version of your statement is at 20654, please.</p> <p>25 Paragraph 7 of the Chinese version is at 20655.</p>

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<p>1 In paragraph 7 you said:</p> <p>2 "I would start my day in the site office. There</p> <p>3 would be a briefing session for about half an hour with</p> <p>4 my team on general matters such as work progress and</p> <p>5 safety issues on site. I would then go down to the site</p> <p>6 to do the site walk and checking. Typically I would</p> <p>7 spend about 70 per cent of my time at work on site.</p> <p>8 I would check that the general work progress was on</p> <p>9 schedule, and if not, I would require the</p> <p>10 sub-contractors to bring in additional workers or work</p> <p>11 overtime. I would also monitor the safety issues</p> <p>12 on site and ensure works were carried out according to</p> <p>13 the requirements by Leighton, MTRCL and the Buildings</p> <p>14 Department."</p> <p>15 Pausing here. By ensuring the works are being</p> <p>16 carried out in accordance with the requirements of the</p> <p>17 Buildings Department, am I right to say that to do so</p> <p>18 you have, at the very least, to ensure that the works</p> <p>19 are carried out in accordance with the working drawings</p> <p>20 issued by MTRC, for example?</p> <p>21 A. Yes, you can say that.</p> <p>22 Q. You have to ensure the quality of the work or the</p> <p>23 workmanship are up to standard as well; do you agree?</p> <p>24 A. I agree.</p> <p>25 Q. If you focus on the subject matter of this Inquiry,</p>	<p>1 present, but I would just like to clarify one point.</p> <p>2 Full-time we would be in the area, but whether there's</p> <p>3 100 per cent focus on the screwing of bars -- well, that</p> <p>4 I cannot be sure.</p> <p>5 MR CHOW: But your earlier evidence given before the</p> <p>6 afternoon break is that your workers or your foremen</p> <p>7 would keep an eye on whatever work was going on at the</p> <p>8 time. Do you recall that?</p> <p>9 A. Yes, I recall that.</p> <p>10 Q. So is that the level of supervision that your team</p> <p>11 provided at the time; is that right?</p> <p>12 A. Yes, they would be in that area or near the bay, but</p> <p>13 they would not focus on one particular work process.</p> <p>14 CHAIRMAN: Again, I'm not attempting to be difficult, but</p> <p>15 I think what is being suggested is that obviously it was</p> <p>16 not a case of one supervisor for one worker. That</p> <p>17 obviously would be counter-productive. The supervisor</p> <p>18 might as well do it himself; all right? So that's not</p> <p>19 the issue.</p> <p>20 I think the issue is rather that in terms of these</p> <p>21 directions, the actual act of coupling, that is screwing</p> <p>22 in the reinforced steel into the couplers, was</p> <p>23 considered sufficiently important that when that actual</p> <p>24 act was taking place, it required to be witnessed by one</p> <p>25 of the supervisors or one of the inspectors.</p>
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<p>1 regarding the installation of the threaded bars into</p> <p>2 couplers, do you agree that you would have to, by</p> <p>3 carrying out day-to-day supervision, ensure that the</p> <p>4 threaded bars or at least the threaded part are not cut</p> <p>5 without proper justification, and the intact threaded</p> <p>6 part of the bar are properly screwed into the couplers;</p> <p>7 that would be something that your site inspection team</p> <p>8 has to ensure, is that right?</p> <p>9 A. Correct.</p> <p>10 Q. Are you aware of the requirement by the Building</p> <p>11 Authority, as well as under the quality supervision</p> <p>12 plan, that full-time and continuous supervision has to</p> <p>13 be provided by Leighton for the coupling works?</p> <p>14 A. I don't know that full-time supervision is required for</p> <p>15 the couplers. In other words, the workers must stay at</p> <p>16 the location of the works.</p> <p>17 CHAIRMAN: No, I think what is suggested is that there are</p> <p>18 directions that require Leightons to ensure they have</p> <p>19 somebody at the spot when the actual threading of rebars</p> <p>20 into couplers takes place.</p> <p>21 A. Yes.</p> <p>22 CHAIRMAN: You are aware of that?</p> <p>23 A. I am aware of that.</p> <p>24 CHAIRMAN: Was that followed, to the best of your knowledge?</p> <p>25 A. We did arrange for foreman or the foreman's team to be</p>	<p>1 A. Yes.</p> <p>2 CHAIRMAN: And, to your knowledge, was that actually done?</p> <p>3 Because it appears as if what you're saying is, "We had</p> <p>4 people there, they were taking an interest, but I cannot</p> <p>5 say that when each act of threading in the reinforced</p> <p>6 steel bar to a coupler took place, that they were</p> <p>7 standing by and watching."</p> <p>8 A. Correct.</p> <p>9 CHAIRMAN: So would it be correct to say this -- and I'm not</p> <p>10 suggesting there's anything wrong in it, so just to</p> <p>11 clarify -- that it may well be that in the course of</p> <p>12 a day, if the steel fixers were in part or in whole</p> <p>13 spending the day fixing the rebars into couplers, that</p> <p>14 while there would be general supervision, there would</p> <p>15 not necessarily be somebody standing by and watching</p> <p>16 each process of the coupling, if I can call it that?</p> <p>17 A. The correct way to put it: for the supervision team,</p> <p>18 I believe they would look at some, not all of the</p> <p>19 screwing -- coupling act.</p> <p>20 As for the engineering team, I'm not sure whether</p> <p>21 there was someone nearby to help with the supervision.</p> <p>22 CHAIRMAN: Okay. So, on that basis then, if every single</p> <p>23 act of coupling, as I have described it, was not</p> <p>24 overseen by an inspector or somebody similar, it's</p> <p>25 possible that perhaps it may not be threaded in to the</p>

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1 full extent, for example?
2 A. There is this possibility.
3 CHAIRMAN: Yes, and when the general checking took place,
4 would the coupling of each and every reinforced bar be
5 tested, or would it be done on a sample basis?
6 A. Chairman, do you mean whether it's been completely
7 screwed in?
8 CHAIRMAN: Yes.
9 A. Well, they would look at a small number of them.
10 CHAIRMAN: Okay. I notice you've said, if I may just for
11 a moment or two, just to finish off -- I notice you said
12 in your statement, and I'm not criticising it -- you
13 said you do not understand why anybody would have the
14 need to cut the threaded ends of rebars.
15 A. Yes.
16 CHAIRMAN: But isn't your job really to be the sensible,
17 immediate face of authority, checking that everything is
18 done correctly?
19 A. Yes, that's my authority.
20 CHAIRMAN: Would you agree that in pretty much most
21 endeavours, and construction is just one of them, people
22 will sometimes try to make short-cuts?
23 A. Yes, there is this chance of that happening.
24 CHAIRMAN: And in fact, I don't know if you're aware of it,
25 but there is evidence that certain rebars that had been

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1 cut were in fact discovered, and action was taken to
2 remedy that problem; are you aware of that?
3 A. Do you mean the NCR report?
4 CHAIRMAN: Yes.
5 A. For that NCR, honestly, I don't know about it. I've not
6 seen it.
7 CHAIRMAN: No, but you're aware of the fact that the subject
8 matter was the cutting of rebars?
9 A. No one informed me that there was anybody cutting rebars
10 on site.
11 CHAIRMAN: All right. You see, it's just -- and you can
12 educate me here -- that it seems to me there could be
13 a lot of reasons to cut rebars. You could have
14 a difficult coupler that, for some reason or another, is
15 maybe a little bit damaged but not heavily damaged. It
16 may be at a wrong angle. It may be that they're getting
17 near the end of the day and they've got another ten
18 rebars to fix, and this one is just causing a problem.
19 And it may be that they are under pressure and if they
20 ask Leightons to do the work, that they know is going to
21 take a couple of hours to get sorted, and that's going
22 to bring the matter over to the next day and cause more
23 delay. Okay?
24 So my question is simply this. In light of that,
25 wouldn't you agree that whether couplers would be cut or

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1 not was a matter that you had to consider, because you
2 would have known that there were in fact good reasons
3 for doing it?
4 A. There is a chance that someone would cut the threaded
5 ends, but personally I've not seen it and I've not heard
6 about it.
7 CHAIRMAN: All right. But when you say, "I do not
8 understand why a person would have the need to do it",
9 that's perhaps not 100 per cent accurate. You
10 understand the need -- just like people may steal from
11 a building site, you know it's going to happen every now
12 and then unless you take steps to stop it?
13 A. Yes, but --
14 CHAIRMAN: So equally somebody may try to take a short-cut
15 with the rebars, especially if there's over 2,000 of
16 them to be fitted, unless you keep a good eye on it;
17 would you agree?
18 A. Yes.
19 CHAIRMAN: And that may perhaps explain, would you agree,
20 why it is -- and we go back to the beginning -- there's
21 a direction that each actual act of fitting the rebar
22 into a coupler had to be witnessed?
23 A. Yes.
24 CHAIRMAN: Sorry about that.
25 MR CHOW: Mr So, given the role and responsibility of the

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1 site supervision team, do you agree that if your
2 subordinates were aware of the cutting of threaded bar
3 practices on site, at least they would report it to you?
4 A. If it did happen, I believe my team would report back to
5 me.
6 Q. Okay. So, on the basis of your answer, am I right to
7 infer that in relation to the incidents where threaded
8 part of the rebar has been cut, even your subordinates
9 were not aware of that?
10 A. Yes, you could infer that.
11 Q. From the witness statement of Mr Andrew [sic] Mok, we
12 know that he's a graduate engineer under the engineering
13 team.
14 MR PENNICOTT: Edward.
15 MR CHOW: You are aware of that; right?
16 A. Yes, I know that.
17 Q. He discovered several incidents where threaded rebar was
18 cut in the presence of MTRC's inspectors. I suppose you
19 are not aware of the details; right?
20 A. Right.
21 Q. According to your answers earlier, if your foreman or
22 supervisor were not aware of those incidents or the
23 practice of bar cutting, it sounds like there is not
24 much coordination between the site supervision team and
25 the engineering team. Is it a fair description?

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<p>1 A. I should say this. Edward Mok did not inform me, but 2 I'm not sure whether he informed the frontline team of 3 my area. 4 Q. Am I right to say that if Edward Mok had informed your 5 frontline staff -- and by "frontline staff", according 6 to the organisation chart, that is described as the 7 foreman or the supervisor; right? 8 A. Right, and also superintendents. 9 Q. Superintendents. They would have reported to you; 10 right? 11 A. You mean reported -- 12 Q. The cutting -- 13 A. Reporting what, about what? 14 Q. The cutting of the threaded part of a rebar. 15 A. The point is no one reported the case to me. 16 Q. Mr So, on the basis of your answers earlier, am I right 17 to say that there was actually -- or you are not aware 18 that there were actual inspection of the reinforcement 19 bar layer by layer on site? 20 A. I know about the layer-by-layer inspection, but as to 21 whether there was an actual document, I'm not sure. 22 Q. So, to your knowledge, by layer-by-layer inspection, 23 what do you know about the details of such inspection? 24 What do they see, what do they check; do you know? 25 A. I know that, for example, for B6 or B5, they would first</p>	<p>1 MR PENNICOTT: Sir, I'm sorry, if the question is put on the 2 basis that a "significant number" of couplers will have 3 been damaged, I think we ought to be given an evidential 4 reference to that, because I'm not convinced that that's 5 my own recollection, but I stand to be corrected. 6 CHAIRMAN: No, I think you're right. 7 COMMISSIONER HANSFORD: And is there evidence they were 8 damaged by the hydro-demolition process, or wasn't it 9 the jackhammer process? 10 MR PENNICOTT: That's the point, yes, from my recollection 11 of the evidence. 12 COMMISSIONER HANSFORD: There are two points. One is about 13 how significant, and one is what caused the damage -- 14 isn't it? Aren't there? Am I right? 15 MR PENNICOTT: Yes, sir. My recollection -- and as I say 16 I stand to be corrected because I've got a lot to 17 remember -- is that yes, he accepted that the damage 18 would certainly be caused by the breaker. 19 COMMISSIONER HANSFORD: Correct. 20 MR PENNICOTT: But using the hydro-demolition process, 21 whilst it might damage one or two couplers, would not 22 ordinarily damage the couplers. That was my 23 recollection. But as I say, I stand to be corrected. 24 CHAIRMAN: No, that's my firm recollection, that the hydro 25 system was much more merciful on couplers than the hand</p>
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<p>1 inspect the bars at B6. They would see whether they are 2 screwed properly before they move on to the next layer. 3 Q. And by whom such inspection was carried out? 4 A. Usually, Leighton's engineers would work with the MTRC's 5 engineers or inspectors. We would conduct joint 6 inspections with the MTRC. 7 Q. So what you have just said, is that the final inspection 8 that you mentioned earlier? 9 A. What I mentioned would be conducted before the final 10 inspection. After all the rebars are fixed and ahead of 11 concreting, a final inspection would be conducted. 12 Q. Mr So, I would like to move on to another topic. 13 Mr Joe Cheung of Fang Sheung, I believe, last week told 14 the Commission that when the couplers embedded in the 15 diaphragm wall were exposed by a process called 16 hydro-demolition process, a significant number of 17 couplers will have been damaged. Are you aware of that 18 phenomenon? 19 A. Apart from exposing couplers by hydro-demolition, we 20 would also do it by hand-jacking. So both methods would 21 be deployed. 22 Q. Mr So, my earlier question is whether you are aware of 23 the fact that after the couplers were exposed by way of 24 the hydro-demolition process, a significant number of 25 couplers were damaged?</p>	<p>1 system of hacking and chipping. 2 MR PENNICOTT: Yes. 3 COMMISSIONER HANSFORD: That's what I understood. 4 MR CHOW: Mr Chairman and Professor, my recollection is that 5 actually the evidence from Mr Cheung of Fang Sheung is 6 that after the couplers were exposed, almost every 7 single time there would be quite a number of couplers 8 damaged, but given some time I would be able to locate 9 the evidence where this is. 10 I'm not too concerned but I'm fine with somehow 11 modifying my question a little bit, in order not to 12 waste time. 13 CHAIRMAN: Yes, of course. 14 MR CHOW: Mr So, are you aware of the fact that the exposing 15 of the couplers process would result in some damages to 16 the couplers; are you aware of that fact? 17 A. Yes, I'm aware of that. 18 Q. Do you accept that in those situations, it was 19 Leighton's responsibility to fix or make good those 20 couplers, so as to enable Fang Sheung to continue with 21 the steel fixing work? 22 A. I agree. The contract is not the responsibility of 23 Fang Sheung. 24 Q. In those situations Leighton would deploy its own 25 workers to take care of the remedial work; is that</p>

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<p>1 right? 2 A. Yes. 3 Q. Am I right to say that at that time, Leighton has in 4 fact a team of workers at its disposal, and whenever 5 there is work to be performed by Leighton, then Leighton 6 would deploy those workers to take care of that work? 7 A. Yes, you may say that. 8 Q. Do you know whether those workers were directly employed 9 by Leighton or provided by a sub-contractor on a daywork 10 basis? 11 A. At HUH, most of them were daywork labour. 12 CHAIRMAN: Supplied by a sub-contractor? 13 A. Correct. 14 MR CHOW: Rankine; is that right? 15 A. Probably more than one company. 16 Q. So there was more than one sub-contractor supplying 17 daywork labour to Leighton? 18 A. Correct. Another company used jackhammering to expose 19 the couplers. 20 Q. Can you recall how many different sub-contractors were 21 there in total which supplied daywork labour to 22 Leighton? 23 A. Were you referring to the entire contract SCL1112 or 24 only the HUH contract? 25 Q. Perhaps only for HUH contract and during the period from</p>	<p>1 Q. You may not remember who did it, but you would accept 2 that it would not have been Fang Sheung's workers who 3 replaced the couplers; right? 4 A. I'm not sure whether we would issue a separate order for 5 Fang Sheung to replace the couplers outside of their 6 contract. I'm not sure about that. But for exposing 7 the couplers, it was certainly done by our daywork 8 labourers. 9 Q. So you say you are not sure, perhaps a separate order 10 was given to Fang Sheung to carry out the replacement 11 work, but outside its original scope of work; right? 12 A. It was a possibility, but I cannot remember clearly. 13 Q. To your knowledge, has this kind of arrangement been 14 ever done? 15 A. What kind of arrangement are you referring to? 16 Q. Giving extra order to Fang Sheung to carry out the 17 replacement of the damaged couplers. 18 A. There could be modifications to the drawings and it was 19 outside of the plan in the contract, so for such extra 20 work the engineering team had to issue an instruction to 21 them. 22 Q. But that would be variation work; is that right? 23 A. Yes. 24 Q. But just now I was asking about the replacement of the 25 damaged couplers during the exposure process, so that</p>
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<p>1 August 2015 to April 2016. Can you recall how many 2 different sub-contractors in total that have supplied 3 daywork labour to Leighton? 4 A. If I may remember correctly, there were three. 5 Q. And these daywork labour supplied by these 6 sub-contractors, when they work on site, what kind of 7 uniform, or if they wear uniform, what kind of uniform 8 did they wear? 9 A. I'm not sure. Leighton did distribute uniforms to 10 different sub-contractors, but as to whether the workers 11 chose to wear the uniform or they chose to wear 12 something else, this is something we don't know. 13 Q. Earlier, we have been talking about couplers being 14 damaged after the hacking off or hydro-demolition 15 process. Do you recall that? 16 A. Yes, I remember. 17 Q. You also accepted that for those damaged couplers, it 18 was Leighton's responsibility to fix it; correct? 19 A. Correct. 20 Q. Do you know how -- perhaps, first of all, were they 21 fixed by these daywork labours supplied by the various 22 suppliers or sub-contractors? 23 A. For damaged couplers, our daywork labourers would expose 24 them. As for unscrewing them and replacing them with 25 new couplers, I cannot remember who did it.</p>	<p>1 would not be a variation, would it? 2 A. Are you referring to variation of work for Fang Sheung 3 or ourselves? 4 Q. Perhaps I will ask again. In relation to those damaged 5 couplers, they have to be replaced. To your knowledge 6 or from your recollection, has Fang Sheung ever been 7 given extra order, paid extra, to carry out the 8 replacement work? 9 A. For the couplers, I cannot remember whether an extra 10 order was issued. I cannot remember. 11 Q. Are you aware that in relation to the problem that 12 Fang Sheung encountered, one of those problems is that 13 after exposing the couplers, some of them were closely 14 placed to such an extent that it is impossible to screw 15 in the reinforcing bar. Are you aware of that problem 16 at the time? 17 A. I know that apart from the fact that couplers were 18 damaged, there were some issues about the angles of the 19 couplers. 20 Q. What do you mean by "issues about the angles of the 21 couplers"? 22 A. That is, after exposing the couplers on the diaphragm 23 wall, the couplers are not in a straight line. It could 24 be skewed in one way or another. 25 Q. How was this kind of problem rectified by whoever you</p>

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<p>1 engaged to carry out the rectification work?</p> <p>2 A. Well, usually we cannot resolve the matter. We have to</p> <p>3 ask the engineer to discuss with the design team.</p> <p>4 Q. But surely, by now, a problem like that would have been</p> <p>5 dealt with, because the slab has been cast. So, from</p> <p>6 your recollection, what sort of remedial work had been</p> <p>7 carried out to deal with this kind of problem?</p> <p>8 A. As far as I could recall, they core holes to plant bars</p> <p>9 inside.</p> <p>10 Q. To your knowledge, would Leighton's workers occasionally</p> <p>11 screw in the threaded bars into the couplers before</p> <p>12 handing it back to Fang Sheung?</p> <p>13 A. You mean they screw the threaded ends into the couplers?</p> <p>14 Q. Yes.</p> <p>15 A. Definitely no, they won't do that.</p> <p>16 Q. Mr So, can I ask you to look at a few photographs</p> <p>17 disclosed by Mr Jason Poon. Bundle D1, page 227.</p> <p>18 Mr Joe Cheung of Fang Sheung said the workers that</p> <p>19 we see in the photos are unlikely to be Fang Sheung's</p> <p>20 workers. Do you have any idea who they work for?</p> <p>21 A. As I said earlier, if you just look at the appearance,</p> <p>22 it's really hard for us to tell which sub-contractor</p> <p>23 they are from or it's from our sub-contractor; we</p> <p>24 couldn't tell.</p> <p>25 Q. Do you recognise the uniform that they were wearing?</p>	<p>1 Leighton?</p> <p>2 Q. Yes.</p> <p>3 A. It's not possible to tell whether he's from</p> <p>4 a sub-contractor or from Leighton.</p> <p>5 Q. How about those that appear in photo 232?</p> <p>6 A. In this photo, if you look at the appearance again, it's</p> <p>7 not possible to tell, but they are screwing bars, that's</p> <p>8 what they're doing, so I would guess that they are</p> <p>9 Fang Sheung workers.</p> <p>10 Q. Mr So, do you agree that irrespective of who they work</p> <p>11 for, these workers were there under the permission of</p> <p>12 Leighton?</p> <p>13 A. Permission? By that you mean ...?</p> <p>14 Q. We have heard evidence about the control of entrance and</p> <p>15 exit of the site, and we have heard evidence about</p> <p>16 attending induction course before someone is allowed to</p> <p>17 work on site. And you were aware of this system, right,</p> <p>18 being implemented, or having been implemented on site?</p> <p>19 A. Yes, I know there is this system.</p> <p>20 Q. So am I right to say that these workers being able to</p> <p>21 perform what they appear to be performing in this photo,</p> <p>22 they must have been under the permission of the main</p> <p>23 contractor, Leighton?</p> <p>24 A. You could put it that way. If they have completed --</p> <p>25 they have to first complete the induction training of</p>
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<p>1 Who provides those uniforms?</p> <p>2 A. The blue top, that, I'm not sure. The red top, I think</p> <p>3 that's provided by Leighton.</p> <p>4 Q. So, if the red uniform were provided which Leighton, on</p> <p>5 what basis do you say you are not sure that at least the</p> <p>6 worker wearing the red uniform were not Leighton's</p> <p>7 worker?</p> <p>8 A. Because for the red uniform or red helmet, in Leighton,</p> <p>9 that represents the banksmen. That symbolises the</p> <p>10 banksmen. So for any sub-contractors, their workers or</p> <p>11 their staff, after they attended the course, we would</p> <p>12 provide that to them. So that's why it's not possible</p> <p>13 for me to tell whether they are from Leighton or from</p> <p>14 the sub-contractors.</p> <p>15 Q. While we are still on this photo, Mr Rodgers gave</p> <p>16 evidence that he was 100 per cent sure that the workers</p> <p>17 that appear in these photos were Leighton's workers. Do</p> <p>18 you have any response to that?</p> <p>19 A. It's possible that they were his staff, that's why he</p> <p>20 could recognise them, but I honestly could not recognise</p> <p>21 them.</p> <p>22 Q. Thank you.</p> <p>23 Can I now ask you to go to the next photo, 228. Can</p> <p>24 you tell whose worker is this person, from this photo?</p> <p>25 A. You mean whether he's from a sub-contractor or from</p>	<p>1 Leighton before they could come into the site, so you</p> <p>2 could put it that way.</p> <p>3 CHAIRMAN: Sorry, could I just interrupt again -- I do</p> <p>4 apologise. If you have a look at this photograph, you</p> <p>5 are saying it appears to show people, or two men,</p> <p>6 screwing the reinforced steel bars into couplers?</p> <p>7 A. Right.</p> <p>8 CHAIRMAN: Okay. And in fact you can see a wrench, a little</p> <p>9 red wrench down there, in front. Can you see it?</p> <p>10 A. Yes, I see it.</p> <p>11 CHAIRMAN: And that would sometimes be used to help them</p> <p>12 screw or turn the rebars; correct?</p> <p>13 A. Correct.</p> <p>14 CHAIRMAN: If you have a look, actually, you can see on the</p> <p>15 left-hand side a yellow hose, or what appears to be</p> <p>16 a yellow hose; do you see that?</p> <p>17 A. Yes, I see it.</p> <p>18 CHAIRMAN: Then if you go back to the photograph of the</p> <p>19 person cutting the thread -- there we are.</p> <p>20 MR CHOW: 228.</p> <p>21 CHAIRMAN: If you make that photograph smaller -- there we</p> <p>22 are -- do you see a yellow hose just at the top?</p> <p>23 A. Yes.</p> <p>24 CHAIRMAN: And the photographs were taken almost -- they</p> <p>25 were taken within seconds of each other; okay? I'm just</p>

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<p>1 wondering, why would there be somebody seemingly -- and 2 I put it no higher than that -- seemingly very close to 3 the other two men who are putting rebars into 4 couplers -- why would there be somebody very close by 5 cutting the threaded end or about to cut the threaded 6 end off a reinforced steel bar? 7 A. That I'm not sure about. 8 CHAIRMAN: No. But from what you've said, there would be no 9 reason for anybody to do it, and if you saw this 10 happening what would you have done? 11 A. If on the spot I see someone doing that, I would ask his 12 foreman or even his boss to come, and I would send this 13 worker off site, because this is a very serious matter. 14 CHAIRMAN: Yes. But would you agree that on the face of 15 it -- and I don't put it any higher than that -- what 16 these two photographs appear to show is somebody on site 17 about to cut into the threads of a reinforced steel bar, 18 and doing so in close proximity to a couple of other 19 workers who are actually putting steel bars into 20 couplers? 21 A. Yes, you could make that inference from these two 22 photos, or deduction. 23 CHAIRMAN: Then you might say to yourself: If this steel bar 24 that's being cut is going to be put into the wall as 25 well, could it be perhaps one of the couplers there was</p>	<p>1 A. Yes, agreed. 2 COMMISSIONER HANSFORD: My only supplementary question to 3 Mr So is: what time did your supervision team finish? 4 CHAIRMAN: A good point. 5 A. We normally work from 8 am to 6 pm. 6 COMMISSIONER HANSFORD: And these photos were taken after 7 6 pm. Both of these photos, if you look at the bottom 8 of the photos, I think I'm right in saying that both of 9 them were after 6 pm? 10 A. Yes, I see the time of these two photos. They were 11 after 6 pm. 12 CHAIRMAN: And are you aware of the fact, from what you've 13 learnt, that Mr Jason Poon alleged that the workers were 14 cutting rebars after normal working hours, that is after 15 6 o'clock; they were taking that opportunity to do so? 16 Had you ever heard anything to that effect? 17 A. No. 18 MR CHOW: Mr So, earlier you mentioned you spent about 19 70 per cent of your time on site. Am I right to say 20 that what you mean by that is that you spent about 21 70 per cent of your time working around the site, 22 instead of staying in the site office? 23 A. Correct. 24 Q. So presumably your subordinates, the foremen and the 25 site supervisor, would have spent even more time</p>
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<p>1 not in good order, and they decided to just cut the 2 thread a little, before putting that in, to make it 3 work? I appreciate it's not really a question. My 4 apologies for putting it to you. That's more a comment, 5 I think, than anything else. 6 But on its face, would you agree it's difficult to 7 find any permissible reason for what this man is about 8 to do? 9 A. Yes, you could put it that way. 10 CHAIRMAN: And yet he appears to be doing it in the open? 11 A. Yes, from the photo. 12 CHAIRMAN: And from your evidence, as I understand it, there 13 would be inspectors there who would be keeping an eye on 14 all of this; correct? 15 A. Yes. At every spot I have my supervision team there. 16 CHAIRMAN: And yet the inspectors would appear to be 17 allowing it to happen, if they're seeing it? 18 A. If, on the day, during that time, my supervision team 19 was there, then yes, it's a problem. But I am not sure 20 that for that particular period, whether there was still 21 someone from my supervision team there, and I don't even 22 know which area this is now. 23 CHAIRMAN: But that's the point I'm making, that either it 24 should have been stopped or your supervision people were 25 just not there? Would you agree?</p>	<p>1 on site, running around the site; is that correct? 2 A. Yes, supposedly they are on the site full-time. 3 Q. So full-time staying outside the workplace and 4 overseeing the work being carried out; is that what you 5 mean? 6 A. Can you repeat your question, please. 7 Q. Full-time on site means not staying in the site office 8 but going around various places on site, looking at the 9 works being carried out by workers or sub-contractors; 10 is that what you mean? 11 A. When I said full-time, I meant they would stay in the 12 vicinity of the areas they are responsible for, and 13 after work or during lunchtime they would return to the 14 office. 15 CHAIRMAN: Is that an opportune moment? 16 MR CHOW: Mr Chairman, I believe that I may only have a few 17 minutes, then I will be finished. 18 CHAIRMAN: All right. 19 MR CHOW: So I wonder whether -- I'm entirely in your hands. 20 CHAIRMAN: I'm happy for you to continue. 21 MR CHOW: Thank you. 22 In your statement, you also mentioned about working 23 overtime for yourself; do you recall that? 24 A. Yes, I remember. 25 Q. Am I right to say that whenever there are works or there</p>

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<p>1 remain works to be carried out after normal working 2 hours, you would ensure that one of your team or more 3 than one of your team members would stay behind to look 4 after the sub-contractor or the workers who were 5 carrying out the work? 6 A. If overtime work is necessary, someone would certainly 7 be sent. 8 COMMISSIONER HANSFORD: Sorry, can I just understand that, 9 because I asked you earlier what time your supervisors 10 left, and I thought you told me they would leave at 11 6 pm. But are you now saying that if sub-contractors 12 were working beyond 6 pm, they would stay? What is the 13 answer? Would they stay if sub-contractors were working 14 after 6 pm, or would they go at 6 pm? 15 A. As I explained, the normal working hours are from 8 am 16 to 6 pm. We have a progress meeting every single day, 17 and if overtime work is agreed, we would arrange 18 supervision to monitor the work. 19 COMMISSIONER HANSFORD: So could workers, sub-contract 20 workers, be working on the site with no supervisors 21 being on the site? Is that a possible situation? Did 22 that ever happen? 23 A. Normally, for work planned by us, there would be 24 supervision, but for workers who decide to work behind 25 the scenes, they can certainly enter the site and we</p>	<p>1 sub-contractor made his own decision to stay behind 2 without informing your team? 3 A. Normally, no. Many people know about this system. 4 Q. So, to your knowledge, has it ever happened that 5 a sub-contractor sort of continues to work without 6 informing the main contractor, or sneaks back onto site 7 after 6 pm, without the supervision of the main 8 contractor? Has it ever happened, to your knowledge? 9 A. I can't remember whether such incident happened. 10 Q. One last question. Given that now you are aware of the 11 previous bar cutting incidents, do you have any idea as 12 to why such incidents took place? 13 A. Were you referring to the cutting of threaded ends of 14 rebars? 15 Q. Correct. 16 A. I don't know why they cut the threaded ends of rebars. 17 MR CHOW: Mr Chairman, I have no more questions. Thank you. 18 CHAIRMAN: All right. Thank you very much. 19 Yes? 20 MS CHONG: I have two questions. 21 CHAIRMAN: All right. Let's ask them. 22 Cross-examination by MS CHONG 23 MS CHONG: You said you were responsible for the work 24 progress of this project and you would discuss with the 25 sub-contractors and also your workers as to the work</p>
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<p>1 cannot stop them from entering the site because they 2 have the relevant pass. 3 CHAIRMAN: No, but we're talking here about bar fixers 4 working openly on site after 6 o'clock at night, as per 5 the photographs. 6 COMMISSIONER HANSFORD: Yes, exactly. So if you had 7 a situation of people had been bar fixing all day, and 8 6 o'clock comes along, and the bar fixers are continuing 9 working on site, would the supervisors leave or would 10 they stay? 11 A. As I explained already, for planned overtime work, our 12 foremen and supervisors would stay. If we do not plan 13 for the overtime work, we have no idea whether or when 14 the workers would stay. 15 CHAIRMAN: So you go? 16 A. For overtime work, we have to apply for a permit. If no 17 application for overtime work is needed, I would not 18 arrange for supervision. In that case, we would go 19 home. 20 CHAIRMAN: All right. So you would go. So a chance is 21 there, if a sub-contractor is a bit under pressure, 22 telling his people to keep on, but it hasn't been 23 pre-arranged, that supervision would head off home? 24 A. Correct. 25 MR CHOW: Mr So, is it really possible that the</p>	<p>1 progress. 2 Is it the case that Fang Sheung had -- there is no 3 issue of Fang Sheung falling behind the work schedule of 4 Leighton during this project? 5 A. This is not strictly the case. You have to look at it 6 bay by bay. It might be that there is budget for one 7 bay but not for another. 8 Q. But with the arrangement of Leighton, Fang Sheung was 9 always able to comply with the work schedule of Leighton 10 as assigned by Leighton; do you agree? 11 A. I agree. We agreed with the increase of resources and 12 they would be able to meet our progress. 13 Q. And after the arrangement of Leighton, there was not 14 much -- is it fair to say that there was not much 15 pressure from Leighton, pressing Fang Sheung to hurry up 16 with their work? 17 A. We asked them to supply more workers to complete the 18 work within a time frame. Do you call that pressure? 19 Q. But what I meant was Fang Sheung was able to comply with 20 those work schedules as designed or laid down by 21 Leighton, after all the arrangements of Fang Sheung with 22 your supervisor; is that correct? 23 A. At the beginning, there was a time when that was not 24 true. 25 Q. Yes.</p>

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<p>1 A. We received complaints from the MTRC but after that 2 there was an improvement. 3 Q. "Initially", you are talking about what time? 4 A. I think the first two or three months of the EWL works. 5 I cannot remember the exact time. 6 Q. Is it early 2015 or 2014, or any time; can you recall? 7 A. It was probably mid 2015. 8 Q. That is around June 2015? 9 A. Yes, around that time. I remember that at the beginning 10 we worked on areas C2 and C3. There was a walk every 11 week between the seniors of our company and MTRC. We 12 received several complaints from Fang Sheung and 13 China Tech complaining about a lack of resources. 14 Q. But this problem, as you said, improved after a few 15 months, is it, after -- 16 A. Correct. Correct. 17 Q. So by what time would this problem have been improved? 18 A. Actually, every day, at the progress meeting, we kept 19 monitoring the situation. For every sub-contractor, we 20 asked them to provide more resources, manpower or 21 machinery. Of course they can't do it right away. 22 Maybe it took three-odd days or so, they might have to 23 make arrangement to do that, but as to when exactly 24 there was improvement, honestly I could not remember. 25 Q. But it's fair to say that after, say, a few months,</p>	<p>1 invited by Leighton to return a quotation on this 2 additional job, but that was never returned -- the 3 quotation was never returned by Fang Sheung to Leighton. 4 Do you know that? 5 A. I'm not sure about that. I was just saying that I don't 6 know whether there is a chance that the engineers might 7 give site instructions to Fang Sheung to replace that. 8 Q. And as a result of this piece of work falling outside of 9 Fang Sheung's work duties, China Technology was 10 approached then by Leighton to give a quotation; do you 11 know this? 12 A. For that, if I recall correctly, it was to expose the 13 couplers. 14 Q. And throughout the contract, throughout this contract, 15 it was never the contractual duty of Fang Sheung to 16 replace those damaged couplers; do you know this? 17 A. In the original contract, yes. 18 Q. And there was no additional contract signed on this 19 replacement of couplers? 20 A. I said outside of the original I don't know whether 21 there would be site instructions. But it's not 22 something I could confirm. I was just wondering if this 23 might happen. 24 Q. So outside the original contract you cannot give any 25 evidence on --</p>
<p>Page 162</p> <p>1 Fang Sheung was able to comply with all the work 2 schedule as laid down by Leighton? 3 A. You could put it that way. 4 Q. As to the overtime work, it's our case that whenever 5 Fang Sheung has to work overtime, there would be -- 6 definitely there would be a supervisor from Leighton, 7 supervising the workers. Do you agree? It can't be 8 that Fang Sheung was on the site working themselves, 9 without the supervision of anyone from Leighton. 10 A. Well, you can't just say it's Fang Sheung. For any 11 sub-contractor, if they want to do overtime work, there 12 must be supervisory staff of Leighton present. 13 Q. And it can't be that the sub-contractors, such as 14 Fang Sheung, would make their own decision to stay 15 overtime on the site, without informing the main 16 contractor, such as Leighton. It can't be that case, 17 that Fang Sheung workers can stay of their own volition, 18 without telling Leighton, or sneak back to the site to 19 work without informing the Leighton workers? 20 A. Normally, it would not happen. 21 Q. Yes, under normal circumstances. 22 One more question. Talking about this replacement 23 of coupler issue, it's our case that this replacement of 24 damaged couplers was never the contractual duty of 25 Fang Sheung, and as a result of such Fang Sheung was</p>	<p>Page 164</p> <p>1 CHAIRMAN: I think whether this gentleman does or doesn't 2 know is not really the point. I think the point is what 3 was in fact objectively the case, which can be shown on 4 the documentation, I'm sure. 5 MS CHONG: In that case, I have no further questions. 6 CHAIRMAN: Any -- 7 MR BOULDING: Sir, I might have a couple of questions as 8 a result of something the witness has said today. I see 9 it's 5.20 and I would appreciate the opportunity to take 10 instructions. 11 CHAIRMAN: No, that's absolutely fine. Of course, 12 Mr Boulding. 13 MR BOULDING: Thank you very much. 14 CHAIRMAN: So we will adjourn now. 15 I do regret that we have to ask you to come back 16 tomorrow, okay, 10 o'clock in the morning. 17 WITNESS: (In English) Okay. 18 CHAIRMAN: And because you are in the middle of giving your 19 evidence, you are not allowed in law to discuss your 20 evidence overnight, with anybody. 21 WITNESS: (In English) Understand. 22 CHAIRMAN: Okay, good. Thank you very much. 23 (5.21 pm) 24 (The hearing adjourned until 10.00 am the following day) 25</p>

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