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<p>1 Thursday, 15 November 2018 2 (10.00 am) 3 MR SO YIU WAH, GABRIEL (on former affirmation in Punti) 4 (All answers given via simultaneous interpreter 5 except where otherwise specified) 6 Cross-examination by MR BOULDING 7 MR BOULDING: Good morning, sir. Good morning, Professor 8 Good morning, Mr So. I'm acting for MTR and I would 9 like to ask you just one or two questions about 10 supervision of the works on site, if I may. 11 A. Understood. 12 Q. Yesterday, Mr Chow, who is counsel for the government, 13 referred you to a couple of photographs, and we need to 14 look at those. 15 Could you be shown D1/228. 16 Do you remember discussing that photograph with 17 Mr Chow? 18 A. Yes, I remember. 19 Q. Just to remind you of another photograph you were taken 20 to, could we go to D1, page 232. 21 Again, just to set the scene for our discussion, do 22 you remember being asked questions about that photograph 23 by Mr Chow? 24 A. Yes, I remember. 25 Q. The transcript records that Prof Hansford asked you</p>	<p>1 In the column on the left you've got the location; do 2 you see that? 3 A. Yes, I see it. 4 Q. Then we can forget folder number for the time being, but 5 then there's a reference to the bay number; do you see 6 that? 7 A. Yes, I see it. 8 Q. And all of the bays in each area of the EWL are 9 identified, are they not? 10 A. Yes. 11 Q. Then we've got a column entitled, "Completion of 12 blinding", but for present purposes I don't think I need 13 to take you there. 14 But then do you see a column entitled, "Commencement 15 of rebar"? 16 A. I see it. 17 Q. Then "Completion of rebar" is the next column; do you 18 see that? 19 A. Yes, I see it. 20 Q. Then a "Concrete pour date"; do you see that, Mr So? 21 A. Yes, I see it. 22 Q. If we scroll down in this summary and we look at 23 area C1 -- do you see area 1 under the "Location"? 24 A. Yes, I see it. 25 Q. And when you look at area C1, bay 4, under the column</p>
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<p>1 about the working hours of your supervision team, and 2 your answer was that you were working from 8 am to 6 pm. 3 Do you remember telling the good professor that? 4 A. Yes, I remember that. Those are the normal working 5 hours. 6 Q. Prof Hansford then pointed out to you, did he not, that 7 both of these photographs were taken on 22 September 8 2015, but after 6 pm; do you remember that? 9 A. Yes. 10 Q. At Day 18, page 157, lines 8 to 18, you explained, did 11 you not, that if overtime working was agreed with the 12 sub-contractor, Leighton's supervision would be arranged 13 to monitor the works; do you recall that? 14 A. Correct. 15 Q. Now, looking back at the photographs, if we may -- 16 D1/228 and D1/232 -- I'm going to ask you whether or not 17 you can identify that area. 18 For that purpose, I would invite your attention to 19 a document at B5/2902. 20 I don't know, Mr So, whether you will have seen this 21 document before, but it's the EWL track slab 22 construction pour summary. Do you see that title across 23 the top? 24 A. Yes, I see it's a summary. 25 Q. If we look at this document, we can see how IT works.</p>	<p>1 entitled "Bay no."-- do you see that? 2 A. Yes. 3 Q. Then if you would be kind enough to cast your eyes 4 across to the column entitled, "Commencement of 5 rebar" -- do you see that? 6 A. Yes, I see it. 7 Q. Do you see a commencement date of 14 September 2015? 8 A. Yes, I see it. 9 Q. Then if we go to "Completion of rebar" column, do you 10 see a completion date for rebar of 26 September 2015? 11 A. Yes, I see it. 12 Q. Then, finally, a concrete pour date of 29 September 13 2015; do you see that? 14 A. Yes, I see it. 15 Q. You can take it from me, Mr So, that this track slab 16 construction pour summary shows that the only bay, in 17 fact the only area, in the EWL track slab where rebar 18 work was going on on 22 September was area C1, bay 4. 19 Will you take that from me? 20 A. Yes. 21 Q. Then if we go back to the photos -- D1/228 -- go to 22 D1/232, if you would be kind enough -- we can see there, 23 can we not, that the workers, who I don't think you were 24 able to identify, are carrying out rebar work; is that 25 correct?</p>

<p style="text-align: right;">Page 5</p> <p>1 A. Correct.</p> <p>2 Q. In those circumstances, taking account of this EWL track</p> <p>3 slab construction pour summary, the likelihood, the</p> <p>4 strong likelihood, I suggest, is that this photograph,</p> <p>5 on 22 September 2015, is showing work going on in</p> <p>6 area C1, bay 4; that would be right, wouldn't it?</p> <p>7 A. Yes, that should be the case.</p> <p>8 Q. Now, I wonder if you would be kind enough to look at</p> <p>9 another document with me, please. We get this document</p> <p>10 at bundle B5, SD6164.</p> <p>11 So here we are. I don't suppose you will have seen</p> <p>12 this document before, Mr So, but you will see it's got</p> <p>13 the MTR logo on, and in the second part of the bar at</p> <p>14 the top do you see that it says, "Site diary"?</p> <p>15 A. Yes, I see it.</p> <p>16 Q. And it's for contract no. 1112.</p> <p>17 Then if we could look, please, at bundle B5, tab 45,</p> <p>18 SD6166 -- so we are moving on a couple of pages -- and</p> <p>19 just to get the date again, do you see in the top</p> <p>20 right-hand corner that there's a reference to</p> <p>21 22 September 2015?</p> <p>22 A. Yes, I see it.</p> <p>23 Q. Then if you'd be kind enough to scroll down so we can</p> <p>24 see what's at the bottom of the page -- do you see a bar</p> <p>25 at the bottom headed, "Remarks"?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Yes.</p> <p>2 Q. On the basis that this work and indeed various other</p> <p>3 works are recorded, but on the basis that the work for</p> <p>4 C1, bay 4 is recorded here and signed off, I assume that</p> <p>5 you would regard that as being agreed overtime; that</p> <p>6 would be right, wouldn't it?</p> <p>7 A. Yes, based on this summary, yes.</p> <p>8 Q. So, if it was agreed overtime, do I understand that</p> <p>9 Leighton's supervisors, Leighton's inspectors, would</p> <p>10 have stayed on the site after 6 pm to supervise that</p> <p>11 work and inspect it as necessary; would that be correct?</p> <p>12 A. If it's been planned, yes, definitely.</p> <p>13 Q. We can see, can we not, that Mr Tang has signed it on</p> <p>14 22 September 2015, and can I suggest that it's</p> <p>15 reasonable to infer from that that Mr Tony Tang would</p> <p>16 have witnessed that work going on and indeed recorded</p> <p>17 that fact or evidenced that fact by signing off this</p> <p>18 document; is that the way you would understand it?</p> <p>19 A. Yes.</p> <p>20 Q. So, on that basis, it would also appear, would it not,</p> <p>21 that MTR inspector of works, Mr Tony Tang, was on site,</p> <p>22 certainly up until 23:00 hours on that day, because</p> <p>23 that's when the rigger and the carpenter are recorded as</p> <p>24 working until? Is that the way you'd understand that?</p> <p>25 A. Yes, according to this summary.</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Yes, I see it.</p> <p>2 Q. And under the "Remarks" column, you can see, can you</p> <p>3 not, that someone has written in a blue pen various</p> <p>4 things concerning what was going on in parts of area C</p> <p>5 of the EWL slab; do you see that?</p> <p>6 A. Yes, I see it.</p> <p>7 Q. For present purposes, I'm interested in area C1, bay 4,</p> <p>8 because of the answers you've given me already.</p> <p>9 Do you see there written, "3 concrete breaker until</p> <p>10 19:00"; do you see that?</p> <p>11 A. Yes, I see it.</p> <p>12 Q. And then, "17 rebar fixer until 22:00"?</p> <p>13 A. Yes.</p> <p>14 Q. Then, "1 rigger & 1 carpenter until 23:00"; do you see</p> <p>15 that?</p> <p>16 A. Yes, I see it.</p> <p>17 Q. And on the basis that this is recorded in MTR's site</p> <p>18 diary for 22 September 2015, and signed off by various</p> <p>19 inspectors of works -- do you see that, signed off by</p> <p>20 Tony SH Tang, dated 22 September 2015, and endorsed by</p> <p>21 the senior inspector of works, a Mr Pedro So.</p> <p>22 We can see it's signed off, can we not, by a Mr Tony</p> <p>23 Tang on 22 September 2015; do you see that?</p> <p>24 A. Yes, I see that.</p> <p>25 Q. He's an inspector of works; correct?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. I wonder whether I can put a document to you, Mr So --</p> <p>2 and I do apologise, sir, in advance, because at the</p> <p>3 moment this has not been disclosed but it's</p> <p>4 a two-page email and I wonder whether I can hand it</p> <p>5 around and of course disclose it and put it in the</p> <p>6 bundle in the normal way.</p> <p>7 CHAIRMAN: Yes, of course.</p> <p>8 MR BOULDING: I'm much obliged. Thank you very much.</p> <p>9 (Handed).</p> <p>10 Do you have that document yet, Mr So?</p> <p>11 A. (In English) No.</p> <p>12 Q. Sorry. (Handed).</p> <p>13 You will not have seen this document before, Mr So,</p> <p>14 but do you see the heading, "Re: extended hours work on</p> <p>15 22 September 2015". Do you see that?</p> <p>16 A. Yes, I see that.</p> <p>17 Q. Just for the record, we're talking, are we not, about</p> <p>18 the very same day upon which the photographs D1/228 and</p> <p>19 D1/232 were taken; correct?</p> <p>20 A. Correct.</p> <p>21 Q. It's an email from Mr Andy Wong to various persons.</p> <p>22 Andy Wong, you will know, was an assistant inspector of</p> <p>23 works who worked for MTR; that's correct, isn't it?</p> <p>24 A. I don't remember the name Andy Wong.</p> <p>25 Q. Okay. He's coming to give evidence in due course, but</p>

Page 9	1 let's see how we go. 2 We can see, can we not, that the email goes to 3 a multitude of people, including a Tommy Leong. Did you 4 know that he was another inspector of works? Is that 5 someone you knew? 6 A. Yes, I know Tommy Leong. 7 Q. And also a Kobe Wong. Did you know Kobe Wong? 8 A. Yes, I know Kobe Wong. 9 Q. He's coming to give evidence, and he was, was he not, 10 an inspector of works; correct? 11 A. Correct. 12 Q. If we look at the date of the email, we can see that 13 it's sent on 22 September 2015; do you see that? 14 A. Yes, I see that. 15 Q. And at Hong Kong time 22:24:25? 16 A. Correct. 17 Q. So it's pretty late in the day, is it not? 18 A. Correct. 19 Q. Then we've got a whole load of attachments which for 20 present purposes I don't need to go to with you, but do 21 you see that Andy Wong is saying: 22 "Dear all, 23 Attached please find photos for the captioned and 24 manpower summary as following". 25 Do you see that, Mr So?	Page 11	1 a couple of discrepancies -- 2 COMMISSIONER HANSFORD: Can we blow up the corner of the 3 diary, please, on the screen. 4 MR BOULDING: Sorry, sir. 5 COMMISSIONER HANSFORD: It's not you. 6 That's it. 7 MR BOULDING: Broadly speaking, what I suggest to you, 8 Mr So, broadly speaking, is that what Andy is recording 9 agrees with what Tony Tang is recording. Andy Wong has 10 got 18 steel fixers, Tony Tang has 17 rebar fixers. 11 There are three labourers in Andy Wong's email, which 12 I take to be the three concrete breakers. Then we've 13 got some riggers, a mobile crane with an operator and 14 the crane lory -- that doesn't seem to appear in the 15 site diary -- and the activity, do you see that, "Steel 16 fixing of EWL slab and preparation works for 17 waterproofing, shift cable wheel"; do you see that, 18 Mr So? 19 A. I see that. 20 Q. So, again, and it must follow, for Andy Wong, an MTR 21 inspector of works to have recorded that at almost half 22 past ten on 22 September 2015, it must follow, mustn't 23 it, that he was there on site to see that and record it; 24 that must be right, mustn't it, Mr So? 25 A. Normally, yes.
Page 10	1 A. Yes, I see that. 2 Q. Then there are, are there not, a whole load of areas 3 from contract 1112 which are referred to by Andy Wong? 4 A. Yes, I see that. 5 Q. But the part of the document that I'm interested in for 6 present purposes is that bit which starts at the top of 7 the second page. There, do you see a reference to 8 area C1-4? 9 A. I see that. 10 Q. And that of course is the same bay, bay 4, area C1, that 11 we've been discussing over the course of the last five 12 minutes or so, is it not? 13 A. Yes. 14 Q. If we look below that, we can see, can we not, that Andy 15 Wong is recording the workers who were engaged working 16 on area C1, bay 4, from 6 o'clock in the evening to 17 10 o'clock in the evening; is that the way you 18 understand it? 19 A. Yes. 20 Q. Looking down -- I'm not going to go through them all -- 21 but, for example, we can see that he's recording 22 18 steel fixers? 23 A. I see that. 24 Q. If we were to carry out a comparison between the content 25 of this document and the site diary, whilst there are	Page 12	1 MR BOULDING: Thank you very much, Mr So. I've got no 2 further questions. 3 Thank you, sir. Thank you, Professor. 4 CHAIRMAN: Thank you. Is there anybody else? No. 5 MR SHIEH: Mr Chairman, I have no re-examination, but there 6 is one point on the transcript which I would wish to 7 draw to your attention which the Commission may find 8 helpful. 9 The Commission may remember that yesterday, when 10 Mr Chow for the government was asking questions of this 11 witness, he referred to the hydro-jetting and the effect 12 of the hydro-jetting on the couplers, and there was 13 a discussion as to whether or not that would cause quite 14 a number of damaged couplers. 15 I have located the transcript reference. It may or 16 may not be that anything turns on it, but because the 17 point has been raised, I think it may be helpful for me 18 to just get the transcript reference on record. 19 Can I ask the Commission to look at the transcript 20 of Day 14, which is 8 November, page 61. At the 21 beginning, we could see at line 3 Prof Hansford raising 22 the question about the styrofoam being removed by the 23 hydro-jetting. 24 If I were to ask the Commission to look at 25 page 63 -- or in fact we can look at 62, line 4:

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<p>1 "First of all, how often, how frequent was 2 a concrete residue problem or issue?" 3 This is Joe Cheung's evidence. 4 "I would not spend a lot of time dwelling on that. 5 I would perform a quick visual inspection, then I would 6 inform Leighton to rectify couplers with residue 7 concrete or damaged couplers, and then I would proceed 8 the works to install the couplers. 9 Question: How frequently would that happen, 10 Mr Cheung? 11 Answer: This is part of the process. After the 12 hydro-jetting, the diaphragm wall would not be complete 13 or clean anyway. So I would inform Leighton to clean it 14 up anyway. So I would inform Leighton to clean it up 15 before we resume the works. So if there's a lot of 16 trash in your home, then I would have it cleaned before 17 I go inside. 18 Question: I understand that, Mr Cheung, but what 19 I was trying to get you to help us on was how frequent 20 the problem was. Was the concrete residue issue 21 something that happened all the time, very 22 occasionally ...? 23 Answer: From what I saw, it happened to only very 24 few couplers. 25 Question: Okay. Thank you. Who at Leighton would</p>	<p>1 usually there would be water and trash. As for the 2 number of damaged couplers, there were very few damaged 3 couplers; there were only two or three." 4 So I would take it that this was probably the 5 passage in the exchange that the Commission recollected 6 yesterday as showing that the effect of the 7 hydro-jetting was perhaps more merciful, because in 8 relation to the exchange yesterday, so that we complete 9 the record -- it was yesterday's transcript, page 143 -- 10 in fact, page 142 at the bottom, line 22, and this is 11 Mr Chow asking: 12 "Mr So, my earlier question is whether you are aware 13 of the fact that after the couplers were exposed by way 14 of the hydro-demolition process, a significant number of 15 couplers were damaged?" 16 And then followed the exchange that took place 17 between the Commission and Mr Chow. 18 Then it carried on, and I think we can see 19 Mr Chairman remarking, at line 24: 20 "No, that's my firm recollection, that the hydro 21 system was much more merciful on couplers than the hand 22 system of hacking and chipping." 23 And Prof Hansford also confirmed that that was his 24 understanding. I hope I have referred the Commission to 25 the actual transcript of where Mr Joe Cheung gave that</p>
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<p>1 you notify ... 2 Answer: The site foreman of the area ... 3 Question: So is it right that Leighton had 4 designated foremen and engineers for specific areas; is 5 that what you're saying? 6 Answer: Correct. 7 Question: So you would know who they were and you 8 would speak to either the foreman or the engineer for 9 that particular area where you had a problem? 10 Answer: Correct. 11 Question: Once you had notified them, how quickly 12 would they be able to clear the concrete residue? 13 Answer: They would do it very quickly, within 14 a day. 15 Question: Okay. The picture I've got, Mr Cheung, 16 is that if you've inspected -- if you have a long line 17 of couplers in a number of different rows of couplers, 18 you would say to Leighton or the foreman ... 'Look, in 19 this area, along this stretch, I think there are just 20 two or three couplers with concrete residue; could you 21 come and fix it'? 22 Answer: There would not be two or three couplers. 23 Question: How many? Just one? 24 Answer: How should I put it? After the hydro-jet 25 blasts opened the couplers, the caps were gone, and</p>	<p>1 evidence. 2 I hope that assists. 3 CHAIRMAN: It does. Thank you very much. 4 Questioning by THE COMMISSIONERS 5 COMMISSIONER HANSFORD: I have one question for Mr So. 6 Mr So, perhaps you can help me with something. In 7 your witness statement -- could we go to the witness 8 statement, paragraph 15; it's on C24110. 9 I don't know the Chinese page, of course. But in 10 paragraph 15, you are referring to Mr Chu's statement 11 and you are giving your comment regarding a green 12 grinding/cutting machine, and you say this was a very 13 common hand tool to be used on the project for 14 legitimate purposes; is that right? That's what you 15 say? 16 A. Yes, correct. 17 COMMISSIONER HANSFORD: Now, I can understand what a cutting 18 tool is used for, and we've seen examples of cutting 19 tools, battery-operated hand-saws. We have seen those. 20 But I don't know what a grinding machine would be 21 commonly used for, so can you help me by telling me what 22 a grinding machine would be used for on site, for 23 legitimate purposes? 24 A. There are several uses for the grinder. If the grinding 25 plate is put on, the disc is put on, it could be for</p>

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<p>1 grinding the concrete, but if it's a cutter disc, then 2 it's for cutting tie bows or for the smaller 3 50 millimetre diameter bars, and so on. So it could be 4 used for those purposes. 5 COMMISSIONER HANSFORD: So when would you use a grinder as 6 opposed to using a cutter? When would you use 7 a grinder? 8 I can understand that the cutting machine was quite 9 common, but sometimes, you're saying, you would use 10 a grinder. So when would you need to use a grinder 11 rather than a cutter? 12 A. For grinders, maybe for some concrete, maybe there's 13 a cutting edge, so we would need to smooth out the 14 cutting edge and that's when we would need a grinder. 15 COMMISSIONER HANSFORD: So are you telling me that a grinder 16 is for grinding concrete, whereas a cutter is for 17 cutting steel and maybe other materials? Is that what 18 you are telling me; a grinder is primarily for concrete? 19 A. Correct. 20 COMMISSIONER HANSFORD: Okay. That's useful. Thank you. 21 CHAIRMAN: Good. Thank you very much indeed, Mr So. Your 22 evidence is completed now. You can go. Thank you. 23 WITNESS: (In English) Thank you. 24 (The witness was released) 25 MR CHANG: Chairman and Professor, the next witness will be</p>	<p>1 MR CHANG: So we have Mr Chan. 2 Good morning, Mr Chan. Please put your headphones 3 on and please take a seat. 4 We will be asking you questions in English, so 5 please wait for the interpretation through your 6 headphones. 7 A. (Via interpreter) Understood. 8 MR CHANG: For the record, can you state your full name to 9 the Commission? 10 WITNESS: (Via interpreter) Chan Chi Ip. 11 MR CHANG: Thank you. May the witness be shown bundle C27. 12 If Mr Chan can first take the affirmation. 13 MR CHAN CHI IP (affirmed in Punti) 14 (All answers given via simultaneous interpreter 15 except where otherwise specified) 16 Examination-in-chief by MR CHANG 17 Q. C27/20667. The English version starts from 20670. 18 Mr Chan, before you is what we can see, Chan 19 Chi Ip's first witness statement. You can either look 20 at the screen or look at the hard copy. 21 A. Yes. 22 Q. If you go all the way to C20669, there is a signature. 23 Can you confirm whether that's your signature? 24 A. Yes, it is. 25 Q. Is this your first witness statement for the purpose of</p>
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<p>1 Mr Chan Chi Ip. 2 Before he takes the stand, it might be useful to 3 show the Commission this document, the organisation 4 chart, so as to put Mr Chan on site as such. 5 If we can produce bundle C7, page 5535. 6 COMMISSIONER HANSFORD: What is the date of this one? 7 MR CHANG: This is as of 14 May 2015, as we can see from the 8 top-left corner. 9 COMMISSIONER HANSFORD: I can't yet, but okay, thank you. 10 MR CHANG: In fact this chart was put to Mr So yesterday, 11 when Mr Chow asked him questions. 12 If we can go to the left side of the chart, under 13 "Site manager", and if we can blow it up a bit, we can 14 see "Mr Gabriel So, general superintendent", and under 15 "HUH structure", "Chan Chi Ip, supervisor". That will 16 be the next witness. It's easy to identify him; he is 17 wearing pink. 18 CHAIRMAN: Thank you. Yes. 19 COMMISSIONER HANSFORD: Can I say, that was most useful, and 20 I know you've got a number of other witnesses. Will you 21 be doing the same, to help us pinpoint them in the 22 organisation chart? 23 MR CHANG: Yes. 24 MR PENNICOTT: We will now. 25 COMMISSIONER HANSFORD: You will now.</p>	<p>1 this Inquiry? 2 A. Yes. 3 Q. If we can go to bundle C32/24057. The English version 4 starts from 24065. 5 Before you, you should see this document titled, 6 "Second witness statement of Chan Chi Ip", and if the 7 witness could be shown the same bundle, C32, page 24064, 8 again we can see a signature. On the top, under the 9 date, can you confirm whether that's your signature? 10 A. Yes. 11 Q. Do you confirm this to be your second witness statement 12 for this Inquiry? 13 A. Yes. 14 Q. Do you confirm both witness statements, the contents to 15 be true and accurate? 16 A. Yes. 17 Q. Do you wish the Commission to accept the contents of 18 these two statements to be part of your evidence? 19 A. Yes. 20 MR CHANG: Please remain seated. There might be questions 21 from lawyers around the room, starting from 22 Mr Pennicott. 23 Examination by MR PENNICOTT 24 MR PENNICOTT: Good morning, Mr Chan. 25 A. Good morning.</p>

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<p>1 Q. As you have just been told, I'm one of the counsel to 2 the Commission and I'm going to ask you a few questions, 3 and then others may have some questions after that. 4 Also, the chairman and the professor may also have some 5 questions, and when we've all finished, if your counsel 6 feels it necessary or appropriate, they will ask some 7 further questions, if they think it's necessary. 8 Mr Chan, thank you very much, first of all, for 9 coming to give evidence this morning. 10 My understanding is you were a site supervisor on 11 the project from 2014 right through to July 2017; is 12 that correct? 13 A. Correct. 14 Q. You were specifically responsible, as I understand it, 15 for supervising areas C1, C2 and C3; is that correct? 16 A. Correct. 17 Q. That is in relation both to the EWL slab and the NSL 18 slab; is that right? 19 A. Right. 20 Q. As a site supervisor, as I understand it, you, broadly 21 speaking, apart from breaks and lunch hours and so 22 forth, would essentially be on site all day? 23 A. Yes. 24 Q. You tell us that you were not involved in any formal 25 inspection of the works, and as I understand it you</p>	<p>1 mentioned, then I see them doing that, but I wouldn't be 2 standing there for a long period of time. I see that 3 there are workers doing the work and then I would 4 continue to move on to another area or check another 5 sub-contractor. So I would continue with my round of 6 inspections. 7 Q. Yes. I appreciate there were perhaps at any one time 8 a number of sub-contractors working in any one area, and 9 you had to keep your eye on all of them. What sort of 10 percentage of time, approximately, do you think you 11 would spend watching over/supervising the Fang Sheung -- 12 the rebar fixers? 13 A. On the basis of a day, on the basis of a full day? 14 Q. Yes, just an ordinary day. 15 A. How should I put it? At a location, I might stay 15 or 16 20 minutes, and if there are problems to be resolved for 17 the workers or if there are safety issues that warrant 18 attention, I might stay longer. So I might stay one or 19 two hours, in that case. 20 So, over the course of a day, I would at least stay 21 there for one or two hours. 22 Q. Right. So that's, what, 15-20 per cent of a day, of 23 that order? 24 A. The 15 to 20 per cent applies to the hour rather than 25 the whole day. So it's just an average figure and</p>
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<p>1 would have left the formal inspections to the 2 engineering team; is that correct? 3 A. Correct. 4 Q. And that engineering team, broadly speaking, comprised, 5 is this right, Mr Andy Ip, Mr Joe Leung, Mr Edward Mok 6 and Man Sze Ho; is that right? 7 A. Correct. 8 Q. So far as routine inspections are concerned or routine 9 supervision is concerned, what did you actually do in 10 terms of supervising the installation of the rebar? 11 A. Every morning, after the morning drill, then I would go 12 out to the site and my supervisor would have arranged 13 the workers of the sub-contractors to do which part of 14 the task, and then we follow the progress, and then 15 every morning I would just watch over my areas. I would 16 see whether the sub-contractors have assigned the 17 required number of workers to do the work. 18 Q. But apart from identifying whether or not the right 19 number of workers were there for the sub-contractors, 20 did you actually watch them installing the rebar? Did 21 you get close to them, watch them screwing in the rebar 22 to couplers, for example? Did you actually see that 23 going on at close quarters? 24 A. When I get to that spot, if workers are working on 25 rebars, like screwing bars into couplers, as you</p>	<p>1 I would not go back and forth for the inspections. 2 Q. All right. So am I right or am I wrong: given 3 an ordinary day, working from 8 o'clock to 6 o'clock, 4 you've got a number of sub-contractors working in 5 a particular area, and you might spend, am I right or 6 wrong, about 20 per cent of that day looking at the 7 rebar work, and the rest of the day looking at other 8 matters? 9 A. Yes, I would at least spend that amount of time, and if 10 necessary I would spend even longer. So I would 11 distribute my time among all the contractors in my area. 12 Q. All right. Now, in area C1/C2/C3, where you were 13 supervising the sub-contractors' works, were you the 14 only supervisor in that area or were there more? From 15 Leightons, I mean. 16 A. No. 17 Q. Let me put it again: were you the only supervisor in 18 areas C1, C2 and C3? 19 A. No. 20 Q. How many were there? 21 A. What I meant was in my areas there would be other 22 supervisors, so I'm not the only one. 23 Q. Right. How many supervisors were there in areas C1, C2 24 and C3? 25 A. I can't remember how many supervisors there were. What</p>

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<p>1 I meant was, for certain processes, they would be 2 monitored by supervisors, and for other works, there 3 would be other supervisors. So, in my areas, there 4 would be other supervisors. 5 Q. All right. If a sub-contractor such as Fang Sheung was 6 required to work overtime, that is after 6 o'clock in 7 the evening, would you or any other supervisor stay 8 on site to supervise them and watch over them? 9 A. We would tell our superiors and they would make 10 arrangements. So a supervisor from my areas or from 11 another process would stay behind. 12 Q. Right. So I think the answer to my question is "yes", 13 that if a sub-contractor was required to do overtime, 14 and work, say, until 10 o'clock at night, doing the 15 rebar fixing, Leightons would ensure there was 16 a supervisor on site during that period? 17 A. Correct. 18 Q. Do you recall that you yourself supervised late into the 19 evening sometimes? 20 A. Yes, there were such occurrences. 21 Q. All right. Did it happen frequently? 22 A. I cannot quite remember. It did happen, and it occurred 23 quite frequently at times. 24 Q. Okay. Mr Chan, are you familiar with a document called 25 the site supervision plan?</p>	<p>1 A. Yes, I see that, but I have not seen it before. 2 Q. No, I appreciate that. 3 If you go down towards the bottom of the page, what 4 the MTR is submitting to the Buildings Department is, 5 amongst other things, a duly completed and signed site 6 supervision plan; do you see that? 7 A. Sorry, I -- if you tell me, then I would know, but my 8 English is bad so I don't understand it. 9 Q. Right. I hope this is being interpreted and translated 10 to you. 11 COMMISSIONER HANSFORD: It's the written copy. 12 MR PENNICOTT: I'm sorry. But all of that will be 13 interpreted to you. 14 The first box, under "Document", it says, "Duly 15 completed and signed site supervision plan", take it 16 from me. All right? Do you understand? 17 A. (In English) Okay. 18 Q. All right. Then if you would be good enough to go back 19 to 4539, at 4539, just under the first box, just over 20 halfway down the page, it says: 21 "The design of the excavation and lateral support 22 for area C3 ..." 23 Do you see that, area C3, so one of the areas you 24 were responsible for; do you see that? 25 A. Yes, I see that.</p>
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<p>1 A. I never saw it before. I never saw the document you 2 mentioned. 3 Q. Right. What about the quality supervision plan for -- 4 specifically in relation to couplers and the 5 installation of rebar? Is that something you're 6 familiar with? 7 A. I don't know. 8 Q. Right. I'd like to -- 9 CHAIRMAN: Sorry, I do apologise. The answer was slightly 10 ambiguous. I think I know what he means. But "are you 11 aware", "I don't know" -- I think he means, "No, I'm not 12 aware of it", but I would rather that was made clear. 13 MR PENNICOTT: Yes. Let me put it again. 14 There's a document, Mr Chan, called a quality 15 supervision plan, and there is such a document that 16 specifically relates to the installation of couplers and 17 rebar. Is that a document that you are familiar with? 18 A. I never dealt with this document. 19 Q. There's a first time for everything, Mr Chan. Could 20 I ask you, please, to be shown first of all the site 21 supervision plan, which is at H10/4539. 22 At 4539, Mr Chan, is a document, a letter dated 23 3 August 2015, and I appreciate that it's not a letter 24 you will have seen before. It's from the MTR to the 25 Buildings Department; do you see that?</p>	<p>1 Q. Then if you go to 4543, we see the front sheet of the 2 site supervision plan; do you see that? 3 A. Yes, I see that. 4 Q. It's in various parts, and I only need to trouble you 5 with part 3 which is on 4548, where we can see at the 6 top of the page, "Part III -- supervision plan of the 7 registered contractor"; do you see that? 8 A. I see that. 9 Q. That's Leighton, the registered contractor? 10 A. Yes. 11 Q. If you look in the box below, we see, three entries up 12 from the bottom, "T1 (alternative)" and then your name; 13 is that correct? 14 A. Correct. 15 Q. If you would be good enough, please, to go to 16 page 4555 -- this is an annex to the supervision plan, 17 as you can see in the top-right -- and again, three 18 entries up from the bottom, we see your name and your 19 signature; do you see that? 20 A. I see that. 21 Q. So you would have been asked to sign this document 22 presumably, Mr Chan, back in -- sometime in July/August 23 2015; do you recall? 24 A. It was a long time ago. It was definitely my signature, 25 but I can't remember the day when I signed it.</p>

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<p>1 Q. All right. And you don't remember being shown the whole 2 of this document and having it explained to you or 3 anything like that; would that be right? 4 A. It was a long time ago, so I do not remember whether it 5 was explained to me, but in any case it was my signature 6 but I can't remember the date. 7 Q. Right. So you have no recollection of this document 8 being translated to you and explained to you? 9 A. Correct. 10 Q. If we could then go to the quality supervision plan, for 11 which these purposes we need H9, and if you could please 12 be shown page 4265. 13 Mr Chan, you can see here a document entitled, 14 "Quality supervision plan on enhanced site supervision 15 and independent audit checking ... for installation of 16 couplers"; do you see that? 17 A. Yes, I see it. 18 Q. Is it a document you have seen before? 19 A. No. 20 Q. Let's see how far I can take this with you, Mr Chan. If 21 you go, please, to page 4267, towards the bottom, you 22 will see it says: 23 "The quality supervision is in addition to: 24 1. The site supervision plan 2009 submitted by the 25 registered contractor ..."</p>	<p>1 "Quality control supervisors (RC) and quality 2 control supervisors (MTRC) will be the quality control 3 supervisors. Quality control supervisors will 4 supervise" -- and I miss out some words -- "the 5 installation of the steel reinforcing bars to the 6 couplers." 7 Do you see that? 8 A. Yes, I see it. 9 Q. Then if we go to page 4269, the next page, please, under 10 the heading, "Supervision on site works", it says this: 11 "Beside the site supervision system as stipulated in 12 the Code of Practice for Site Supervision, the following 13 additional inspection will be carried out." 14 Do you see that? 15 A. Yes, I see it. 16 Q. Then it says: 17 "Supervision and inspection by RC on site -- 18 installation works. 19 Quality control supervisors (registered contractor) 20 will [be] responsible to carry out full-time and 21 continuous supervision of the splicing assemblies 22 on site." 23 Mr Chan, was there full-time and continuous 24 supervision of the installation of the steel reinforcing 25 bars to the couplers on site in areas C1, C2 and C3?</p>
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<p>1 Do you see that? 2 A. Yes, I see it. 3 Q. Then over the page, at 4268, it says at the top, under 4 the "Assignment of quality control supervisors personnel 5 (from MTR [and the registered contractor])": 6 "The same technically competent persons (TCPs) 7 proposed in the site supervision plan of the works, that 8 submitted to Buildings Department ... will be 9 responsible for the quality control of the work." 10 Do you see that? 11 A. Yes, I see it. 12 Q. And as you've seen, you were one of those technically 13 competent persons, ie a T1; do you recall? 14 A. You mean now, what we are reading out, I'm included 15 here -- what you are reading out and I'm included here, 16 is that what you are saying? 17 Q. What we read out before in the site supervision plan had 18 you listed as a T1; yes? 19 A. Yes. 20 Q. All I'm suggesting to you is this says the same 21 technically competent persons -- ie the T5, K4 and you, 22 T1 -- are to be responsible for the quality control of 23 the coupler work. 24 A. Yes. 25 Q. It goes on to say:</p>	<p>1 A. Every day I would conduct inspection and also watch 2 their work, yes. So there was. 3 Q. All right. So you regard approximately 20 per cent of 4 your time spent as fulfilling the requirement of 5 full-time and continuous supervision; is that your 6 position? 7 A. I said "yes" just now. 8 Q. All right. Then it says, at (ii): 9 "Supervision and inspection will be recorded in the 10 record sheet (appendix C) ..." 11 Sir, I interpose. That's a typo. It should be 12 appendix B, which we may or may not look at. 13 CHAIRMAN: Okay. 14 MR PENNICOTT: "Supervision and inspection will be recorded 15 in the record sheet ..." 16 Did you record, Mr Chan, your supervision and 17 inspection on any record sheet so far as the 18 installation of steel reinforcing bars into the couplers 19 was concerned? 20 A. The sheet you referred to, can I please take a look at 21 it? What does it look like? Because I have no 22 recollection now. 23 Q. I believe, Mr Chan, it is the document at 4277. I'll 24 look at it with you, and do my best to try to explain my 25 understanding of it.</p>

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<p>1 A. Yes.</p> <p>2 Q. All right. You've taken us to this. Is this a form,</p> <p>3 something similar to this, that you've seen before?</p> <p>4 A. No.</p> <p>5 CHAIRMAN: Sorry, I don't mean to cut across you.</p> <p>6 MR PENNICOTT: Of course.</p> <p>7 CHAIRMAN: Do you recall, on a daily basis, actually signing</p> <p>8 some written record to confirm your supervision and</p> <p>9 inspection that day?</p> <p>10 A. No.</p> <p>11 MR PENNICOTT: All right. Can we just go back to where</p> <p>12 I was. I won't go through that form with you; perhaps</p> <p>13 I will look at it with somebody else, in the light of --</p> <p>14 CHAIRMAN: Sorry, I didn't mean to stop you. I was just --</p> <p>15 MR PENNICOTT: Not at all, sir. I don't think we are really</p> <p>16 going to get anywhere with that document with this</p> <p>17 witness, but we may with others.</p> <p>18 CHAIRMAN: But sometimes you may just have a small notebook</p> <p>19 you sign into and then that's translated into a more</p> <p>20 formal document later.</p> <p>21 MR PENNICOTT: That's what I'm coming back to now, because</p> <p>22 if you go back to (ii) on page 4269, I had read the</p> <p>23 words "Supervision and inspection will be recorded in</p> <p>24 the record sheet", and we are passing on that for the</p> <p>25 moment. Then it says:</p>	<p>1 We know that the threaded rebar in certain areas</p> <p>2 needed to be screwed into the couplers; do you</p> <p>3 understand?</p> <p>4 A. Yes, I understand.</p> <p>5 Q. We've had some evidence that when that process takes</p> <p>6 place, it is permitted to have perhaps one or two</p> <p>7 threads showing, even when the bar has been screwed in;</p> <p>8 do you understand?</p> <p>9 A. Can you repeat your question, please?</p> <p>10 Q. I can. You've got a coupler and you're going to screw</p> <p>11 a piece of threaded rebar into it, or Fang Sheung are;</p> <p>12 do you understand?</p> <p>13 A. Yes.</p> <p>14 Q. We have seen some evidence, and there are documents,</p> <p>15 that permit perhaps one or two threads to be showing</p> <p>16 even after the threaded rebar has been screwed in; do</p> <p>17 you understand?</p> <p>18 A. Yes, I understand, but I have not heard that it's</p> <p>19 permitted to leave one or two threads exposed, because</p> <p>20 the MTRCL staff said that if we see threads then we</p> <p>21 should ask the Fang Sheung workers to screw them in as</p> <p>22 far as possible.</p> <p>23 Q. All right. Now, did you concern yourself, you</p> <p>24 personally concern yourself, on your supervision visits</p> <p>25 and your inspection visits, with whether or not threads</p>
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<p>1 "... and write into the inspection logbook by</p> <p>2 quality control supervisors."</p> <p>3 Mr Chan, did you ever make a record of your</p> <p>4 supervision and inspection in any form of logbook?</p> <p>5 A. No, I have not done that. As for the engineers, I don't</p> <p>6 know if they did so.</p> <p>7 Q. But you haven't personally?</p> <p>8 A. Correct.</p> <p>9 Q. Then (iii) says:</p> <p>10 "Checking includes length of thread and correct</p> <p>11 connection of 2 bars with couplers. Criteria are</p> <p>12 provided in appendix D."</p> <p>13 Again, Mr Chan, did you personally involve yourself</p> <p>14 in checking the length of the thread that was perhaps</p> <p>15 showing once the rebar had been screwed into the</p> <p>16 couplers?</p> <p>17 A. When the rebars arrived at the spot where installation</p> <p>18 was to take place, we would send our vehicles to help</p> <p>19 haul the materials to the site. For every dimensions of</p> <p>20 rebar, we have to measure them properly to make sure</p> <p>21 that they were not placed in the wrong spot. So, in</p> <p>22 that process, you could say that I have checked the</p> <p>23 length.</p> <p>24 Q. All right. I understand your answer, but let me try to</p> <p>25 put the question in a slightly different form.</p>	<p>1 were showing? Was that something you were interested</p> <p>2 in?</p> <p>3 A. Yes, yes, I would check that.</p> <p>4 Q. You would? Good. But you weren't required by your</p> <p>5 supervisors, your superiors, to make any written record</p> <p>6 of those inspections?</p> <p>7 A. No, they never asked me to.</p> <p>8 Q. Okay. I'll leave others to take that up with you if</p> <p>9 they wish.</p> <p>10 Could we then put H9 away. Mr Chan, just on the</p> <p>11 process of supervision and inspection, but not by</p> <p>12 reference to any of those documents -- we've heard some</p> <p>13 evidence which suggests that when Fang Sheung had done</p> <p>14 a layer of rebar, an inspection would take place of the</p> <p>15 connections of that rebar. Is that something you agree</p> <p>16 with?</p> <p>17 A. Are you referring to an inspection by themselves or by</p> <p>18 myself?</p> <p>19 Q. By yourself or by the engineers or by MTRC; by somebody.</p> <p>20 A. Yes.</p> <p>21 Q. So I'm absolutely clear and there's no ambiguity, we</p> <p>22 know that there are five or six layers of bottom rebar</p> <p>23 in the EWL slab; do you understand?</p> <p>24 A. Yes, I understand.</p> <p>25 Q. There are five or six layers at the top of the EWL slab;</p>

<p style="text-align: right;">Page 37</p> <p>1 do you understand?</p> <p>2 A. I understand.</p> <p>3 Q. What I'm suggesting to you, my question is directed at</p> <p>4 each -- just focus on the bottom five or six layers. My</p> <p>5 question is directed at whether an inspection took place</p> <p>6 of each layer within the bottom mat of rebar. Is your</p> <p>7 answer yes, that there was such inspection of each</p> <p>8 individual layer?</p> <p>9 A. Yes.</p> <p>10 Q. Could I ask you, please, to be shown the witness</p> <p>11 statement of Mr Kobe Wong of the MTRC, at B1/438.</p> <p>12 CHAIRMAN: Sorry, could I just ask one thing. You said that</p> <p>13 you would stay for a period of time, looking at the work</p> <p>14 of one particular sub-contractor, and then you would</p> <p>15 walk on to some other part of the site; is that right?</p> <p>16 A. Correct.</p> <p>17 CHAIRMAN: And you mentioned that there were other</p> <p>18 supervisors, but you didn't say how many, on site?</p> <p>19 A. Yes.</p> <p>20 CHAIRMAN: Were these supervisors doing the same sort of</p> <p>21 work as you?</p> <p>22 A. They were not looking at the things I am looking at.</p> <p>23 MR PENNICOTT: They weren't looking at the things you were</p> <p>24 looking at. What were they doing then? What was</p> <p>25 different? What were they looking at?</p>	<p style="text-align: right;">Page 39</p> <p>1 sub-contractor.</p> <p>2 Q. So how many foremen are there for areas C1, C2 and C3?</p> <p>3 A. Two.</p> <p>4 CHAIRMAN: And would these foremen under your supervision</p> <p>5 have to sign a logbook at the end of each day to show</p> <p>6 what they had done?</p> <p>7 A. No.</p> <p>8 CHAIRMAN: Was there any specific system that you and your</p> <p>9 two foremen employed as to how you moved around the</p> <p>10 site, or was it just done on the basis of what was</p> <p>11 happening, what was important and what was not? In</p> <p>12 other words, it was at your discretion?</p> <p>13 A. We have no records. If I have to instruct my</p> <p>14 subordinates, we would either use the walkie-talkie or</p> <p>15 we would use a phone, and we would arrange work this</p> <p>16 way. There are no records.</p> <p>17 CHAIRMAN: Okay. So you would decide during the course of</p> <p>18 the day who went where?</p> <p>19 A. Yes, you can put it that way.</p> <p>20 CHAIRMAN: All right. And you would be the one directing</p> <p>21 your two foremen where they should conduct their</p> <p>22 supervision?</p> <p>23 A. Yes.</p> <p>24 MR PENNICOTT: Thank you, sir.</p> <p>25 CHAIRMAN: Thank you.</p>
<p style="text-align: right;">Page 38</p> <p>1 A. I probably misunderstood your question. What I meant</p> <p>2 was, at the site, I was not the only supervisor. With</p> <p>3 regards to my areas or Fang Sheung or other matters</p> <p>4 within my areas, there would be foremen working under</p> <p>5 me. That was what I meant.</p> <p>6 Q. So you aren't talking about supervisors, if you like, at</p> <p>7 your T1 level; you were talking about foremen working</p> <p>8 for you? Is that right?</p> <p>9 A. Yes, in my areas. I probably misunderstood your</p> <p>10 question. If you are asking about T1, I'm the only one.</p> <p>11 Q. Right.</p> <p>12 A. Is that what you meant?</p> <p>13 Q. What we're driving at, I think, Mr Chan, is just trying</p> <p>14 to get a better understanding of the level of</p> <p>15 supervision in any particular area. Now, you are the</p> <p>16 site supervisor T1, areas C1, C2 and C3, and I think,</p> <p>17 from what you've just said, you were the only site</p> <p>18 supervisor for that area, and there would have been</p> <p>19 other site supervisors in other areas; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. But there would be a number of foremen, part of your</p> <p>22 team, who you would perhaps also rely upon for the</p> <p>23 purposes of watching and supervising the rebar work?</p> <p>24 A. It was one of the things we would supervise, and there</p> <p>25 are other works we work in collaboration with the</p>	<p style="text-align: right;">Page 40</p> <p>1 COMMISSIONER HANSFORD: Sorry, just on that, did one of your</p> <p>2 foremen look after rebar work full-time?</p> <p>3 A. Like me, at this bar fixing site, they would stay for</p> <p>4 a while and they would check if the work conducted is</p> <p>5 safe, and they would also check the access, and they</p> <p>6 would walk along or around our work areas.</p> <p>7 COMMISSIONER HANSFORD: Okay, in the same way that you did,</p> <p>8 that's what you're telling us?</p> <p>9 A. Yes.</p> <p>10 COMMISSIONER HANSFORD: Thank you.</p> <p>11 MR PENNICOTT: Just to -- I was going to come back to the</p> <p>12 layer-by-layer inspections a bit later, from a different</p> <p>13 angle, but I'm actually going to deal with it now. So</p> <p>14 park Mr Kobe Wong's witness statement for a couple of</p> <p>15 minutes.</p> <p>16 You explained to us, Mr Chan --</p> <p>17 MR SHIEH: Excuse me, there was one small point of</p> <p>18 translation. I think the witness actually said</p> <p>19 "(Chinese spoken)". I wonder whether that can be</p> <p>20 translated, "(Chinese spoken)". It was during the</p> <p>21 course of his answer that is currently translated as</p> <p>22 "they would walk along or around work areas", but my</p> <p>23 suggestion is that he said something to the effect of</p> <p>24 they would continuously patrol and circulate around that</p> <p>25 area. I wonder whether that would be an acceptable form</p>

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<p>1 of translation?</p> <p>2 I don't know how that sort of thing would be</p> <p>3 resolved, because the Chinese is "(Chinese spoken)",</p> <p>4 I remember.</p> <p>5 INTERPRETER: The Chinese is ...?</p> <p>6 CHAIRMAN: Yes, the Chinese is, as put forward by Mr Shieh?</p> <p>7 COMMISSIONER HANSFORD: Perhaps Mr Shieh could say the</p> <p>8 Chinese again.</p> <p>9 MR SHIEH: (Via interpreter) Kept circulating.</p> <p>10 (In English) I wonder whether this witness can be</p> <p>11 ask the same question and then he can re-put his answer,</p> <p>12 perhaps.</p> <p>13 CHAIRMAN: All right. Did you say earlier that they would</p> <p>14 walk around the site and keep circulating?</p> <p>15 A. Yes.</p> <p>16 CHAIRMAN: All right. Perhaps, if you wish -- they would</p> <p>17 walk around the site, they would circulate; would you</p> <p>18 give them specific instructions as to what in particular</p> <p>19 they were to check on at any given time?</p> <p>20 A. Yes. I would say to them, for example, for steel</p> <p>21 fixers -- you would have to watch them to see whether</p> <p>22 their work location or site is safe, and whether the</p> <p>23 bars are screwed in properly and whether there are loose</p> <p>24 objects at the site. If there are, they must be cleared</p> <p>25 up, or else, as the fixing works continue, those objects</p>	<p>1 A. Correct.</p> <p>2 Q. Thank you.</p> <p>3 Right, back to Mr Kobe Wong and his witness</p> <p>4 statement. That's at B1/417. I understand, Mr Chan,</p> <p>5 that this is a witness statement, Mr Kobe Wong's witness</p> <p>6 statement, that you have seen and have had interpreted</p> <p>7 to you, because you make some comments on it in your</p> <p>8 second witness statement. Do you understand? Do you</p> <p>9 remember?</p> <p>10 A. Yes, I understand and I remember that.</p> <p>11 Q. If we could first look, please, at page 438. At</p> <p>12 page 438, Mr Kobe Wong of the MTRC deals with a number</p> <p>13 of incidents relating to cut threaded rebar. Do you</p> <p>14 recall, Mr Chan?</p> <p>15 A. In his statement he mentioned that, and in my</p> <p>16 statement -- then I gave my statement, and that's what</p> <p>17 he said, yes.</p> <p>18 Q. What he does -- and I want to just look at the first and</p> <p>19 the third incidents, because this is where he indicates</p> <p>20 that he spoke to you in relation to those incidents.</p> <p>21 Now, the first incident he deals with starting at</p> <p>22 paragraph 68 of his witness statement. I'm not going to</p> <p>23 trouble you by reading all that out, but he says that</p> <p>24 the first incident happened in or around August or</p> <p>25 September 2015, and he concludes that that incident was</p>
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<p>1 might stack up." So this is the kind of supervision we</p> <p>2 would provide.</p> <p>3 MR PENNICOTT: I was going to go back to the question of the</p> <p>4 layer-by-layer inspections that we discussed earlier,</p> <p>5 just a short while ago, Mr Chan. You agree with me that</p> <p>6 inspections would take place on a layer-by-layer basis.</p> <p>7 Who would actually do those inspections?</p> <p>8 A. I often saw engineers on a daily basis, and together</p> <p>9 with the MTRC's inspectors they would carry out periodic</p> <p>10 inspections. The time was not fixed. They would carry</p> <p>11 out inspections of the steel fixing works, and after</p> <p>12 that they would look at something else, and I believe at</p> <p>13 that time they were doing the layer-by-layer inspection.</p> <p>14 They would not stay here for long time looking at the</p> <p>15 fixing works, they would check whether the bars were</p> <p>16 screwed in and then they would move on to another area</p> <p>17 or another aspect. After the bars are fixed, another</p> <p>18 layer might be installed or a third layer might be</p> <p>19 installed, and the inspectors would come back after some</p> <p>20 time to see whether the third layer is installed.</p> <p>21 So this is our approach.</p> <p>22 Q. Right. That's very helpful. So you actually witnessed</p> <p>23 what you understood to be this layer-by-layer inspection</p> <p>24 process by Leighton's engineers and the MTRC inspector</p> <p>25 of works?</p>	<p>1 most likely to have taken place in area C1-1 or C1-2,</p> <p>2 and those are areas for which you were responsible,</p> <p>3 Mr Chan; I think we agree on that?</p> <p>4 A. Yes.</p> <p>5 Q. What Mr Wong says at paragraph 70 is:</p> <p>6 "During this first incident, I noticed one or two</p> <p>7 non-compliant threaded rebars ... on the ground, at</p> <p>8 a time when there were rebar fixing works in progress in</p> <p>9 the area."</p> <p>10 Then he describes what he saw, and at paragraph 71</p> <p>11 he says this:</p> <p>12 "I immediately contacted Leighton's site supervisor,</p> <p>13 Mr Chan Chi Yip ..."</p> <p>14 Now, I appreciate there's a typo there because</p> <p>15 I don't think your name has a Y in its English spelling.</p> <p>16 "... and asked what was the deal with the threaded</p> <p>17 rebars. Mr Chan Chi Ip assured me that he would resolve</p> <p>18 the problem immediately."</p> <p>19 Mr Chan, do you have any recollection of that</p> <p>20 conversation with Mr Wong?</p> <p>21 A. I don't remember that, because every day I would have</p> <p>22 phone conversations with Mr Kobe Wong or I would come</p> <p>23 across him on site many times every day. So if you ask</p> <p>24 me to confirm the date, I said in my statement</p> <p>25 I honestly cannot be sure. Definitely he contacted me,</p>

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<p>1 but I couldn't be sure what date it was.</p> <p>2 Q. Do you remember having a conversation with Mr Wong about</p> <p>3 threaded rebars having been cut?</p> <p>4 A. I can't recall that, but in my recollection I heard --</p> <p>5 Mr Kobe Wong did approach me. That is, for the threaded</p> <p>6 bars of Fang Sheung, they could not be screwed in</p> <p>7 completely, and he asked me to contact the supervisors</p> <p>8 of Fang Sheung to follow up. So I could recall that.</p> <p>9 But honestly, I do not recall the exact date, but I did</p> <p>10 hear about such a case.</p> <p>11 Q. There are two separate issues here, Mr Chan. There's</p> <p>12 a conversation about threaded rebar that had been cut,</p> <p>13 on the one hand, and as I understand your evidence</p> <p>14 a conversation about threaded rebar that had not</p> <p>15 properly been screwed into the couplers.</p> <p>16 You accept, as I understand it, that you had</p> <p>17 a conversation about the second category, that is rebar</p> <p>18 having not been properly screwed in; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. But you have no recollection about a conversation</p> <p>21 concerning threaded rebar that had been cut?</p> <p>22 A. Correct.</p> <p>23 Q. All right.</p> <p>24 Then could I ask you, please, to be shown</p> <p>25 paragraph 77 of Mr Wong's witness statement. Mr Chan,</p>	<p>1 MR PENNICOTT: Yes, sir. Let me just finish this point, if</p> <p>2 I may.</p> <p>3 CHAIRMAN: Of course.</p> <p>4 MR PENNICOTT: I'm halfway through it.</p> <p>5 He goes on to say in paragraph 81:</p> <p>6 "I also asked Mr Wong ..."</p> <p>7 Now, I'm not sure whether he means "Mr Chan", but</p> <p>8 I'm going to assume for the moment that's what he means.</p> <p>9 "I also asked Mr Chan" -- let's assume that's what</p> <p>10 he means -- "to remain on site and oversee the</p> <p>11 rectification works."</p> <p>12 Do you have any recollection of being on site on</p> <p>13 15 December 2015 and overseeing some rectification works</p> <p>14 to the rebar?</p> <p>15 MR BOULDING: Sir, I wonder why my learned friend is</p> <p>16 suggesting that "Mr Wong" is a reference to Mr Chan,</p> <p>17 because if you look at the third incident which starts</p> <p>18 in paragraph 77, one can see that Mr Wong is referred to</p> <p>19 several times, and of course Mr Kobe Wong is coming to</p> <p>20 give evidence in due course, but it seems to follow, in</p> <p>21 my submission, that asking Mr Wong to remain on site and</p> <p>22 oversee the rectification works would be a perfectly</p> <p>23 normal thing to do.</p> <p>24 MR PENNICOTT: Sir, I hear what my learned friend says. All</p> <p>25 I've got to work with is paragraph 81. The two</p>
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<p>1 this third incident, as he calls it, is the one that</p> <p>2 many of us in this room are familiar with. It's the one</p> <p>3 that gave rise to NCR157.</p> <p>4 My understanding is, Mr Chan, you have no</p> <p>5 recollection or knowledge of being involved with NCR157;</p> <p>6 is that right?</p> <p>7 A. Correct.</p> <p>8 Q. All right. But, however, Mr Wong, in his witness</p> <p>9 statement, describes the circumstances in which he says</p> <p>10 this third incident arose, and at paragraph 81 of his</p> <p>11 witness statement he says:</p> <p>12 "In the late afternoon" -- and that is of</p> <p>13 15 December 2015 -- "I phoned Leighton's Mr Chan Chi Ip</p> <p>14 and asked him to deal with the problem."</p> <p>15 Pausing there, do you recall having a conversation</p> <p>16 at around about this time with Mr Wong, when he informed</p> <p>17 you of another problem with threaded rebar having been</p> <p>18 cut?</p> <p>19 A. I don't remember.</p> <p>20 Q. Do you deny having such a conversation, or is it</p> <p>21 a question of you just can't remember?</p> <p>22 A. I don't remember having this conversation.</p> <p>23 Q. All right. Back to paragraph 81.</p> <p>24 CHAIRMAN: I'm just wondering, an opportune moment, when you</p> <p>25 are ready.</p>	<p>1 sentences, when read together:</p> <p>2 "In the late afternoon, I phoned Leighton's Mr Chan</p> <p>3 and asked him to deal with the problem. I also</p> <p>4 asked ... to remain on site and oversee the</p> <p>5 rectification works."</p> <p>6 I just don't want to miss the opportunity --</p> <p>7 Mr Boulding may well be right, but --</p> <p>8 CHAIRMAN: Just to clarify, I'm happy.</p> <p>9 MR PENNICOTT: I would ask the general question: Mr Chan, do</p> <p>10 you have any recollection of being on site on</p> <p>11 15 December, overseeing or watching any remedial works</p> <p>12 to the rebar?</p> <p>13 A. I don't remember that.</p> <p>14 MR PENNICOTT: All right.</p> <p>15 Sir, I do have a few more questions, but perhaps</p> <p>16 this would be an appropriate moment.</p> <p>17 CHAIRMAN: Good. 15 minutes. Thank you.</p> <p>18 (11.42 am)</p> <p>19 (A short adjournment)</p> <p>20 (12.01 pm)</p> <p>21 MR PENNICOTT: Mr Chan, could I just begin asking you a few</p> <p>22 more questions.</p> <p>23 A. Of course.</p> <p>24 Q. I would like you, as it were, to spin forward in time to</p> <p>25 January 2017.</p>

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<p>1 In January 2017, I don't know whether you know this, 2 but a Mr Stephen Lumb, who I understand to be head of 3 engineering at Leighton -- do you know him? 4 A. No, I don't know him. 5 Q. He carried out a review and investigation into 6 allegations of rebar having been cut. I don't know 7 whether you are aware of that? 8 A. No, I'm not aware of that. 9 Q. Can I assume, therefore, that Mr Lumb, during the course 10 of his review and investigation, did not interview you? 11 A. No, he did not. 12 Q. Okay. Could I then ask you, please, to go to your 13 second witness statement, which is at C32/24057 in the 14 Chinese, 24065 in the English. 15 If you please could be shown paragraph 20, that's 16 certainly 24070 in the English, that's where, Mr Chan, 17 you deal with Mr Kobe Wong's statement that we were 18 discussing before the break. Do you understand? 19 A. Yes, I understand. 20 Q. In paragraph 21 you say: 21 "In response to ... Mr Wong's statement regarding 22 the five incidents ... I note that", then you say: 23 "(a) I do not recall the five alleged incidents; 24 (b) I do not recall receiving complaints from Kobe 25 Wong regarding his identification of rebars with</p>	<p>1 "... and required me to instruct Fang Sheung's 2 workers to undertake rectification work." 3 Mr Chan, I'm slightly puzzled by that, because we 4 have heard evidence from certainly Fang Sheung that it 5 was not their responsibility to carry out rectification 6 works to damaged couplers. Their responsibility was 7 simply to fix and install the rebar, and it was for you, 8 Leighton, to carry out any required rectification works. 9 Do you agree with that? 10 A. I agree. 11 Q. So do you agree, therefore, that you would not have 12 instructed Fang Sheung to undertake rectification work, 13 and that that part of your statement is inaccurate? 14 A. When I gave this statement, what I had in mind was to 15 ask the person in charge of Fang Sheung to follow up. 16 Perhaps I didn't give so much details. What I wanted to 17 say was to ask the person in charge of Fang Sheung to 18 follow up, in other words to ask them to screw the bars 19 in further, to see if we could then complete the act of 20 screwing the bars into the coupler. That's what 21 I meant. But it was not as detailed in the witness 22 statement as I have just explained to you now. 23 CHAIRMAN: Sorry, were you not told the nature of the 24 damage? Were you not told the nature of the damage that 25 had been identified and that required rectification?</p>
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<p>1 shortened threaded ends as I communicated with a lot of 2 people regularly every day". 3 And we've discussed those points already. 4 Then you say this: 5 "I recall that I received complaints from Kobe Wong 6 that he had identified damaged couplers and required me 7 to instruct Fang Sheung's workers to undertake 8 rectification work." 9 Pausing there. Mr Chan, did you yourself witness 10 damaged couplers? 11 A. No. It was Kobe Wong who told me that there were 12 damaged couplers. He asked me to get the person in 13 charge of Fang Sheung to rectify it. 14 Q. Before you -- and I'm coming to the question of 15 rectification in a moment -- took steps to have 16 rectification work carried out, did you yourself not go 17 and look at and inspect the damaged couplers that 18 Mr Wong had advised you of? 19 A. When he mentioned this case, now I cannot remember 20 whether I went to check. I can't remember. It was too 21 long ago. 22 Q. So you're not able to help us with the type of damage 23 that had been caused to the couplers; is that right? 24 A. Correct. 25 Q. All right. You say -- as I read just now:</p>	<p>1 A. If the supervisor of MTRCL approached me and told me 2 what the circumstances were, then I would ask the person 3 in charge to do it, and if they still could not resolve 4 certain problems, they would come back to me again. 5 That's what I meant to say, Chairman. 6 CHAIRMAN: Sorry, I have a little difficulty with that. Do 7 you have any actual memory of what you were told about 8 the damage to the couplers? 9 A. I thought they told me that the bars could be screwed in 10 completely, so they asked me to go back to Fang Sheung 11 and ask their people to follow up. So that's what 12 I thought it was about, and that's what I said in the 13 statement, that I would ask the Fang Sheung people to 14 follow up. 15 MR PENNICOTT: All right. Then at subparagraph (d), just 16 pursuing this a little bit further, Mr Chan, you say 17 this: 18 "I recall instructing the sub-contractors' workers 19 to undertake the rectification work ..." 20 Pausing there, which sub-contractor or 21 sub-contractors are you referring to? 22 A. It should be that if we were to ask workers to hack out 23 the concrete and expose the couplers, then I would ask 24 those responsible for concrete hacking, the workers of 25 the sub-contractors to do that, so they could replace</p>

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<p>1 the couplers.</p> <p>2 Q. So not Fang Sheung but somebody who was doing the</p> <p>3 concrete breaking works?</p> <p>4 A. Correct. Correct. For concrete hacking, we have</p> <p>5 a sub-contractor doing work for us, so it's not</p> <p>6 Fang Sheung who would do it.</p> <p>7 Q. Right. Indeed you go on to say:</p> <p>8 "... including to use an electric concrete breaker</p> <p>9 to remove the concrete around the damaged couplers and</p> <p>10 replace them with new couplers."</p> <p>11 Mr Chan, do you have a recollection of that type of</p> <p>12 rectification work taking place?</p> <p>13 A. Yes, this type of work was carried out, but at which</p> <p>14 location and when, I can't recall exactly.</p> <p>15 Q. Do you have any recollection of how often this type of</p> <p>16 rectification work would have taken place?</p> <p>17 A. If it's just about hacking out the concrete-exposed</p> <p>18 coupler, there wouldn't be many of such processes.</p> <p>19 Q. So it would happen occasionally, is that right; is that</p> <p>20 what you are telling us?</p> <p>21 A. In my recollection, yes.</p> <p>22 Q. All right.</p> <p>23 You say at subparagraph (e):</p> <p>24 "Whenever I received complaints regarding defective</p> <p>25 works, I always instructed the sub-contractor to perform</p>	<p>1 recollection as to how often or how frequent that type</p> <p>2 of rectification work was required?</p> <p>3 A. Not often. I'm sure about that.</p> <p>4 Q. Not often. Occasionally?</p> <p>5 A. I can't remember the frequency. I can only say that, as</p> <p>6 I remember, those works were required.</p> <p>7 Q. Okay. As I understand your evidence, if that type of</p> <p>8 rectification work was necessary, it would be the</p> <p>9 engineering team that would take the decision about the</p> <p>10 type of rectification work; is that right?</p> <p>11 A. Our engineers would tell me and I would follow their</p> <p>12 instructions.</p> <p>13 Q. Right. Do you know whether any record was kept of where</p> <p>14 the dowel bar type of rectification work took place?</p> <p>15 A. I don't, but I did not find out whether the engineers</p> <p>16 kept any record.</p> <p>17 Q. Right. You personally are unaware of any record; is</p> <p>18 that the position?</p> <p>19 A. Yes.</p> <p>20 Q. Mr Chan, this is a slight stab in the dark, but could</p> <p>21 you please be shown C27/20368. If we could first of all</p> <p>22 focus on the top photograph, the two workers kneeling</p> <p>23 down; do you see that?</p> <p>24 Have you seen this photograph before, Mr Chan?</p> <p>25 There's no reason why you should have done, but have you</p>
<p>Page 54</p> <p>1 the necessary rectification work."</p> <p>2 In that subparagraph, are you limiting your evidence</p> <p>3 to the rebar work or is it a much more general sort of</p> <p>4 statement that you're making there?</p> <p>5 A. I was referring to other complaints, so if there were</p> <p>6 other complaints, I would ask the sub-contractors or our</p> <p>7 hired workers to do the work.</p> <p>8 Q. Mr Chan, let me ask you a rather more direct question:</p> <p>9 do you have any recollection of rectification works</p> <p>10 taking place that involved drilling a hole into the</p> <p>11 diaphragm wall, perhaps nearby to a coupler, resin</p> <p>12 having been injected into the drilled hole, and a rebar</p> <p>13 then placed into the hole, sometimes known as a dowel</p> <p>14 bar? Do you have any recollection of that type of</p> <p>15 rectification work having taken place?</p> <p>16 A. In my recollection, yes, there was such work. The</p> <p>17 engineers told me that, our engineers, that they did it.</p> <p>18 But we would ask the concrete hackers of the</p> <p>19 sub-contractor to drill the hole and carry out the work.</p> <p>20 Yes, I remember it was done, but I could not be sure</p> <p>21 about the exact location.</p> <p>22 Q. All right. Did you actually personally witness that</p> <p>23 type of rectification taking place?</p> <p>24 A. Yes, probably.</p> <p>25 Q. Okay. Again, can I ask you, do you have any</p>	<p>Page 56</p> <p>1 seen it before?</p> <p>2 A. No.</p> <p>3 Q. Do you recognise either of the two workers in the</p> <p>4 photograph?</p> <p>5 A. I can't see their faces.</p> <p>6 Q. Okay. If we can focus on the bottom photograph, please.</p> <p>7 Again, it's difficult to see full faces, as it were, but</p> <p>8 is there anybody you recognise in this photograph?</p> <p>9 A. For the person in green from the MTRC, it was Andy Wong.</p> <p>10 Q. So that's the person nearest to the camera?</p> <p>11 A. Correct.</p> <p>12 Q. Anybody else?</p> <p>13 A. They were probably steel fixers.</p> <p>14 Q. Right. There's nobody you can identify by name, apart</p> <p>15 from Mr Wong?</p> <p>16 A. Correct.</p> <p>17 MR PENNICOTT: Sir, I have no further questions.</p> <p>18 Thank you very much, Mr Chan. Just wait there;</p> <p>19 somebody else may have some questions for you.</p> <p>20 WITNESS: I understand.</p> <p>21 MR TO: No questions from China Technology.</p> <p>22 MR CHOW: Mr Chairman, I have a few questions for Mr Chan.</p> <p>23 CHAIRMAN: Thank you.</p> <p>24 Cross-examination by MR CHOW</p> <p>25 MR CHOW: Good morning, Mr Chan.</p>

<p style="text-align: right;">Page 57</p> <p>1 A. Good morning. 2 Q. I represent the government and I have a few questions 3 for you. In fact, a lot of my questions that I intended 4 to explore with you have been covered by my learned 5 friend Mr Pennicott, counsel acting for the Commission. 6 So what I intended to do is just to supplement a few 7 more questions in respect of a number of different 8 areas. 9 A. I understand. 10 Q. If it may look a bit disorganised, please forgive me. 11 The first area I would like to ask is in relation to 12 the supervision of the actual installation of the 13 couplers by the steel fixers. This morning, you have 14 explained to us that, as a site supervisor, you have two 15 to three foremen working under you, responsible for the 16 inspection or the supervision of the steel fixing work. 17 Do you recall that? 18 A. They were involved in the work, and for other 19 sub-contract works and the site environment, those are 20 also within their ambit. 21 Q. Am I right to say that insofar as you, as a site 22 supervisor, and your foremen working under you, you were 23 not only looking after the steel fixing work but a lot 24 of other works as well; is that correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 59</p> <p>1 at 6 pm sharp? 2 A. I would not leave the site at 6 pm sharp. The time we 3 leave would depend on whether there were remaining 4 workers in our areas. For other teams or other areas, 5 I'm not sure whether they would work overtime. I cannot 6 guarantee or ensure that there was no single person at 7 the site by the time we got off. 8 CHAIRMAN: Could I ask this: what would happen if, when 9 6 o'clock came, you were aware of three or four men from 10 one of the sub-contractors still working? What would 11 you do? 12 A. I would tell them that I did not receive any order for 13 overtime work and I ... 14 INTERPRETER: The final part was not clear. 15 CHAIRMAN: So you would tell them that you had not received 16 any order for overtime work, and what else would you do, 17 if anything? 18 A. I would ask why there would still be workers there, and 19 for overtime work they would have to inform our 20 environmental team and they could only work after they 21 make an application. 22 CHAIRMAN: All right. So effectively you would tell them 23 that they would have to finish their work? 24 A. Yes, I would tell them. Now, if their person in charge 25 cannot come up with reasonable notice, then I would ask</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. And when you carry out your supervision work on site, 2 am I right to say that your main focus would be on the 3 progress and safety on site, rather than quality? 4 A. Yes, you can say that. Very often, the Leighton 5 standards are about ensuring worker safety on site, so 6 safety is very important to us and we place much 7 emphasis on that. 8 Q. Other than you yourself and your foremen, was there any 9 other site supervisor who would monitor or supervise the 10 steel fixing work in your area, C1 to C3? 11 A. No. We were the only ones in our areas. 12 Q. Regarding the supervision of works carried out after 13 normal working hours, that is the overtime work, before 14 you -- now, I understand from the evidence of Mr So and 15 also your evidence earlier, if there is any planned 16 overtime work, then the site supervision team would 17 ensure that there would be someone from the site 18 supervision team staying behind to monitor the overtime 19 work; do you recall that? 20 A. I remember. 21 Q. But on those days when there was no planned overtime 22 work, before you get off work, would you have a habit of 23 going out to have a look at the area for which you are 24 responsible, to make sure that all the workers from the 25 sub-contractor have left, or would you just leave site</p>	<p style="text-align: right;">Page 60</p> <p>1 them, "You should talk to your person in charge. If 2 there is no such arrangement, you don't need to work 3 here." 4 MR CHOW: Mr Chan, so these workers staying behind without 5 proper authorisation beforehand, has it ever really 6 happened before? Have you come across an actual 7 situation like that? 8 A. For my areas, I honestly could not remember, but I can 9 tell you that for the site as a whole, when I walked 10 back to my office to finish off, there may be no 11 overtime work for my areas, but there could still be 12 people there but I cannot tell you exactly the location 13 of those workers. 14 So what I'm trying to tell you is this. When 15 I finish up work, in my areas, if there's no one 16 there -- but there could still be people walking around 17 the site. It could happen. That's what I'm trying to 18 say. 19 Q. The next area I would like to further explore with you 20 is in relation to the inspection of the steel fixing 21 work by the engineer from the engineering team. 22 This morning, you also mentioned that there would be 23 engineers carrying out inspection of the coupling works, 24 together with inspectors from MTRC; do you recall that? 25 A. Yes, I remember that.</p>

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<p>1 Q. On the basis of your -- now, we know that you yourself 2 and members of your team basically work outside the site 3 office. You watch the works being carried out by 4 various sub-contractors and workers; right? 5 A. Correct. 6 Q. From your recollection, your colleagues, the engineers 7 from the engineering team, would they spend, like you, 8 most of the time going around different areas of the 9 site, inspecting the quality of the work, or would they 10 spend a lot more time inside the site office? 11 A. Now, off site, on the site, where there is need, they 12 would go out there. As for how long or how much time 13 they spend on site and how much time they spend at the 14 office, I honestly cannot tell you because I can't do 15 the calculation for you, no. 16 Q. But are you able to give us an approximate -- do you 17 have a general impression as to as compared with your 18 team, would your colleague from the engineering team 19 spend less time outside the site office? Would you be 20 able to give a general impression or an estimate on the 21 basis of your general impression? 22 A. You are referring to the engineers, how much time they 23 spend outside, on the site, approximately? 24 Q. Correct. 25 A. Very often, after 8.30 or 9 am, we would see the</p>	<p>1 Who would actually do those inspections?" 2 Your answer was: 3 "I often saw engineers on a daily basis, and 4 together with the MTRC's inspectors they would carry out 5 periodic inspections. The time was not fixed. They 6 would carry out inspections of the steel fixing works, 7 and after that they would look at something else, and 8 I believe at that time they were doing the 9 layer-by-layer inspection. They would not stay here for 10 long time looking at the fixing works, they would check 11 whether the bars were screwed in and then they would 12 move on to another area or another aspect. After the 13 bars are fixed, another layer might be installed or 14 a third layer might be installed, and the inspectors 15 would come back after some time to see whether the third 16 layer is installed. 17 So this is our approach." 18 Do you recall that? 19 A. Yes, I remember. 20 Q. My understanding of your answer is that the engineer 21 doing his inspection of the quality of, for example, the 22 coupling works, they did not stay there and look at how 23 various rebar was screwed into the couplers. They would 24 wait until certain quantity of the threaded rebar had 25 been screwed into the couplers, then they would come</p>
<p>Page 62</p> <p>1 engineers out on the site. For my areas, if it's under 2 the charge, also stay there, they would see whether 3 there's anything to check or follow up on, or maybe they 4 have charged with MTR inspectors to check something, 5 then they would come on site. When they have completed 6 what they wanted to do, maybe around 11 am they would go 7 back to the office. Then in the afternoon, maybe after 8 2 or 3 pm, they would come out on site again, and it 9 would be until almost they finish work. So that's the 10 only estimate I could give you. 11 Q. On the question of whether the reinforcing bar has been 12 inspected layer by layer -- do you recall that part of 13 the discussion between you and Mr Pennicott this 14 morning? 15 A. Yes, I remember. 16 Q. Perhaps it is appropriate for me to remind you of what 17 your answer was. In the transcript at [draft] 18 page 43 -- okay, I understand that that cannot be put on 19 the screen -- can I just read out the transcript of this 20 morning, starting at [draft] page 43, line 4, where the 21 question from Mr Pennicott was: 22 "I was going to go back to the question of the 23 layer-by-layer inspections that we discussed earlier, 24 just a short while ago, Mr Chan. You agree with me that 25 inspections would take place on a layer-by-layer basis.</p>	<p>Page 64</p> <p>1 back to look at the product. Was that the position? 2 A. Yes, correct. If, during their stay, for that layer of 3 threaded bars, if they haven't completed screwing the 4 bars, they would go and look at something else, and then 5 they would come back again later and see whether all the 6 bars were screwed in, and then they would do a proper 7 inspection on all the couplers, before the second layer 8 of work starts. 9 Q. So am I right to say that on a hypothetical situation, 10 if the threaded part of a reinforcement had been cut 11 short, the engineer would not be able to pick this up 12 during their inspection? Would you agree with me? 13 A. Well, if it's hypothetical, I honestly don't know how to 14 answer that question. 15 Q. Okay. 16 CHAIRMAN: Well, let me pursue that a little bit, if I may. 17 I am a steel fixer. I may not look like it, but 18 I am for the purposes of the next few minutes; all 19 right? I'm in my Leighton's uniform or not -- I'm 20 bare-chested, we'll assume that. It's not a nice sight 21 but there we go. 22 I and the people I'm working with, we have some 23 difficulty screwing in a rebar to a coupler, because we 24 discover there is some concrete residue and maybe the 25 coupler is a little bit off-angle. Okay?</p>

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<p>1 A. You are asking me?</p> <p>2 CHAIRMAN: No, I'm telling you at the moment.</p> <p>3 Now, I decide that the best way of dealing with this</p> <p>4 problem is to get a cutter and cut the threads of the</p> <p>5 rebar short, so that I don't have to screw in all the</p> <p>6 threads but just maybe one or two threads. That's what</p> <p>7 I decide to do. Okay? You just have to acknowledge</p> <p>8 this at the moment.</p> <p>9 A. Yes, I can follow that.</p> <p>10 CHAIRMAN: So I get a cutter and I cut the thread off one of</p> <p>11 the reinforced steel bars. Then myself and whoever is</p> <p>12 assisting me, we then screw in maybe just the two</p> <p>13 threads that are left, to make it look as if it's been</p> <p>14 properly put in. Okay?</p> <p>15 A. Yes, I follow that.</p> <p>16 CHAIRMAN: Now, this happens, perhaps, in the middle of the</p> <p>17 day, when the engineers are back in the office.</p> <p>18 Thinking about that, do you think that what I have</p> <p>19 suggested to you would in fact have been possible, or</p> <p>20 are you of the view that you or one of your engineers or</p> <p>21 one of your foremen would definitely have seen that and</p> <p>22 stopped it?</p> <p>23 Remembering how much site you have to cover,</p> <p>24 remembering that you are walking around, would what</p> <p>25 I have suggested been possible?</p>	<p>1 has raised -- of course, these guidelines are in</p> <p>2 English, and it appears that Mr Chan is not conversant</p> <p>3 or not able to read English, and of course it puts him</p> <p>4 at a disadvantage.</p> <p>5 I'm not talking about now, I'm talking about at the</p> <p>6 time, were these documents in Chinese characters?</p> <p>7 MR PENNICOTT: Sir, I thought but I will be correct me if</p> <p>8 I am wrong -- I thought I did ask Mr Chan whether at any</p> <p>9 time these documents would have been translated to him,</p> <p>10 explained to him.</p> <p>11 CHAIRMAN: You probably did and I have a short memory on</p> <p>12 that. My apologies.</p> <p>13 MR CHEUK: You did ask.</p> <p>14 MR PENNICOTT: I think I did ask, but I can't remember what</p> <p>15 the answer was.</p> <p>16 MR CHOW: Neither do I.</p> <p>17 COMMISSIONER HANSFORD: But I think the supplemental</p> <p>18 question is: would these documents have been in Chinese</p> <p>19 on site?</p> <p>20 MR PENNICOTT: Would there have been Chinese versions?</p> <p>21 COMMISSIONER HANSFORD: Yes.</p> <p>22 MR PENNICOTT: That I certainly didn't ask, I confess.</p> <p>23 Perhaps Mr Chow would like to ask.</p> <p>24 MR CHOW: Yes.</p> <p>25 Mr Chan, before I move on, can I ask you whether</p>
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<p>1 A. If we -- when we don't see them, I won't guarantee</p> <p>2 whether this might happen, but if we see it, definitely</p> <p>3 we would stop them, and then we would approach their</p> <p>4 person in charge, and I would also tell their superiors</p> <p>5 about this case, definitely.</p> <p>6 CHAIRMAN: Yes, I appreciate that. This is not in any way</p> <p>7 a question that is indicating that you weren't doing</p> <p>8 your job. What I want to find out is do you think it</p> <p>9 would have been possible for me to wait until you had</p> <p>10 wandered off and maybe there was nobody else there and</p> <p>11 then to have cut the threads and said to my fellow</p> <p>12 workmen, "Right, let's screw this in before anybody</p> <p>13 comes back"? Would that have been possible?</p> <p>14 A. I believe it is possible, and there would be such</p> <p>15 people.</p> <p>16 CHAIRMAN: Thank you very much.</p> <p>17 MR CHOW: Mr Chan, I would like to take you to a document</p> <p>18 which Mr Pennicott has already taken you to. It's the</p> <p>19 quality supervision plan. Bundle H9, starting at</p> <p>20 page 4265, please.</p> <p>21 This morning, Mr Pennicott has taken you to some of</p> <p>22 the provisions, and what I'm going to do is to take you</p> <p>23 to other provisions that may be relevant.</p> <p>24 Can I ask you to go to page 4267, please.</p> <p>25 CHAIRMAN: Could I ask -- it's a matter that Prof Hansford</p>	<p>1 there is a Chinese version of the quality supervision</p> <p>2 plan on site, to enable the workers who are not</p> <p>3 conversant in English to be able to know the content of</p> <p>4 this document?</p> <p>5 A. I'm not sure.</p> <p>6 Q. On site, have you ever seen documents related to quality</p> <p>7 supervision?</p> <p>8 A. No, not at the site.</p> <p>9 Q. Mr Chan, just now, when I intended to take you to</p> <p>10 page 4267, the relevant provisions that I intended to</p> <p>11 show to you is paragraph 1(a) and (b). Perhaps I will</p> <p>12 just read it out for the benefit of the Commission,</p> <p>13 because the question that I'm going to ask would be</p> <p>14 related to that.</p> <p>15 COMMISSIONER HANSFORD: Before you do, can I just check that</p> <p>16 Mr Chan can read this? Can you read these paragraphs</p> <p>17 (a) and (b)? You can't?</p> <p>18 A. I don't know English.</p> <p>19 MR CHOW: Perhaps it's easier for me to read it out so it</p> <p>20 can be translated.</p> <p>21 COMMISSIONER HANSFORD: So you need to read it out? Okay.</p> <p>22 Thank you.</p> <p>23 MR CHOW: "Prior to the application of consent, a quality</p> <p>24 supervision plan under the MTRC and registered</p> <p>25 contractor stream is required to be submitted to BD for</p>

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<p>1 the commencement of the mechanical coupler works. The</p> <p>2 quality supervision plan should include the following</p> <p>3 details:</p> <p>4 (a) Assignment of quality control supervisors from</p> <p>5 the MTRC and the registered contractor to supervise the</p> <p>6 manufacturing process of the connecting ends of the</p> <p>7 steel reinforcing bars, and the installation of the</p> <p>8 steel reinforcing bars to the couplers.</p> <p>9 (b) The frequency of the quality supervision should</p> <p>10 be full supervision by the registered contractor of the</p> <p>11 mechanical couplers works, and by MTRC a supervision of</p> <p>12 more than or equal to 20 per cent of the splicing</p> <p>13 assemblies.</p> <p>14 The minimum qualification and experience of the</p> <p>15 quality control supervisors are to be the same as grade</p> <p>16 T3 (TCP), as stipulated in the Code of Practice for Site</p> <p>17 Supervision."</p> <p>18 Mr Chan, am I right, without disrespect, at the time</p> <p>19 of the construction of the EWL slab, you were proposed</p> <p>20 by Leighton as a grade T1 supervisor?</p> <p>21 A. Yes.</p> <p>22 Q. As far as I understand, a T3 grade supervisor would be</p> <p>23 more qualified and more experienced; am I correct?</p> <p>24 A. Yes.</p> <p>25 Q. So you, at the time of the construction of the EWL slab,</p>	<p>1 grade supervisor?</p> <p>2 A. Yes, there was a T3 grade staff from the engineering</p> <p>3 team.</p> <p>4 CHAIRMAN: All right. So that person was one of the</p> <p>5 engineering team, it was not, obviously, you and nor</p> <p>6 your two foremen?</p> <p>7 A. Correct.</p> <p>8 CHAIRMAN: All right.</p> <p>9 MR CHOW: Thank you, Mr Chairman.</p> <p>10 CHAIRMAN: So would you agree that your job was not related</p> <p>11 and focused absolutely on the quality of the work, but</p> <p>12 it was more to do -- but it was primarily safety,</p> <p>13 cleaning up the rubbish, housekeeping that is, and</p> <p>14 making sure the right materials got to the right place</p> <p>15 on site. That is logistics. Those were your primary</p> <p>16 jobs, in addition to which you had to keep a lookout,</p> <p>17 for example, that the threads were being put in</p> <p>18 properly?</p> <p>19 A. Chairman, we have to do all the tasks you mentioned,</p> <p>20 yes.</p> <p>21 CHAIRMAN: All right.</p> <p>22 MR CHOW: Mr Chan, I would like to move on to another topic</p> <p>23 Mr Jason Poon of China Technology has produced a few</p> <p>24 photos to the Commission, and I would like to show you</p> <p>25 one of them. Bundle D1, page 228, please.</p>
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<p>1 would not be the designated quality control supervisor</p> <p>2 for the purpose of this quality supervision plan;</p> <p>3 am I correct?</p> <p>4 A. Yes. You talked about a T3 grade from the MTRC and</p> <p>5 myself; is that what you meant?</p> <p>6 Q. From reading the document, it appears to us that</p> <p>7 Leighton, as the main contractor, also has to designate</p> <p>8 a specific person with an appropriate qualification and</p> <p>9 experience equivalent to a T3 grade TCP, to fulfil the</p> <p>10 requirement of -- inspection requirement by a quality</p> <p>11 control supervisor, and you were not that person at the</p> <p>12 time, were you?</p> <p>13 A. Did you mean I was equivalent to a T3 grade staff?</p> <p>14 Q. No, that's not what I meant. Perhaps I can put it</p> <p>15 another way around. Do you know there is a T3 -- or</p> <p>16 a TCP with a grade T3 qualification and experience</p> <p>17 designated by Leighton to do the inspection or</p> <p>18 supervision of the coupling works?</p> <p>19 CHAIRMAN: Sorry, I've got -- are you aware that there's</p> <p>20 a direction that there should be a T3 person, or were</p> <p>21 you at the time aware of the fact that there was in fact</p> <p>22 a T3 person on site working with you?</p> <p>23 MR CHOW: The latter one, yes.</p> <p>24 CHAIRMAN: Were you aware, when you were working on site as</p> <p>25 a supervisor, that there was, working with you, a T3</p>	<p>1 I would also like to show you another photo at</p> <p>2 page 232. I wonder whether we can put the two photos</p> <p>3 side by side.</p> <p>4 CHAIRMAN: I think if one of them has to be at an angle it</p> <p>5 doesn't matter.</p> <p>6 MR CHOW: It doesn't matter then.</p> <p>7 Mr Chan, this morning, Mr Gabriel So has been shown</p> <p>8 these two photos --</p> <p>9 COMMISSIONER HANSFORD: I think you need to wait until we've</p> <p>10 got the photos on the screen.</p> <p>11 CHAIRMAN: Don't worry if one photograph is the wrong way</p> <p>12 up. We can still see what we're meant to see.</p> <p>13 MR CHOW: If there's any problem putting two photos side by</p> <p>14 side, I'm happy with having one at a time.</p> <p>15 CHAIRMAN: All right. Let's do that.</p> <p>16 COMMISSIONER HANSFORD: Let's have one at a time.</p> <p>17 CHAIRMAN: There we go. Well done.</p> <p>18 MR CHOW: Thank you.</p> <p>19 Mr Chan, these are the two photos which have been</p> <p>20 shown to various witnesses before, so all of us are very</p> <p>21 familiar with these two photos.</p> <p>22 At the bottom of the photos, you can see the time.</p> <p>23 At least it appears that these two photos were taken on</p> <p>24 22 September 2015; do you see that?</p> <p>25 A. Yes, I see that.</p>

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<p>1 Q. This morning, counsel for MTRC, Mr Boulding, produced 2 further document regarding the site diaries, and 3 Mr Boulding has established with Mr Gabriel So that as 4 at 22 September 2015, the only steel fixing work being 5 carried out would be in area C3-1. 6 MR PENNICOTT: C1-4. 7 COMMISSIONER HANSFORD: C1-4. 8 MR CHOW: C1, bay 4. Thank you. 9 Do you accept that? 10 CHAIRMAN: I rather like what Mr Boulding's expression is, 11 which is "you can take that from me", because he really 12 can't comment on his own memory, and then you can, on 13 that premise, advance. 14 MR CHOW: All right. Thank you. 15 So you can take it from me that on that day, the 16 only steel fixing work being carried out on site would 17 be in area C1-4. This morning Mr Boulding also showed 18 a site diary indicating that there were overtime work 19 carried out by the steel fixers on that day. 20 A. Yes, I see that. I saw the site diary produced this 21 morning. 22 Q. Am I right to say that on that basis, either you 23 yourself or your foremen would have stayed behind to 24 monitor the steel fixing work after 6 pm? 25 A. According to the document we saw this morning, probably,</p>	<p>1 that point, would he have reported to you? 2 A. I believe, for these photos, as the Chairman said in his 3 example, it was probably when the foremen were not 4 there, then they did something like this, and it's not 5 surprising. 6 MR CHOW: Mr Chairman, I think this is a convenient moment 7 to have the lunch break. 8 CHAIRMAN: Yes, certainly. Thank you very much. 9 Mr Chan, we are going to have the lunch break now, 10 but you're still giving your evidence and you do have to 11 return after lunch. We are going to start again at 12 2.15; okay? 13 I tell everybody this, not just you: because you are 14 in the middle of giving your evidence, you are not 15 entitled to discuss your evidence with anybody else. 16 Okay? So if people want to go up and say, "How did it 17 go, what did you say?", you have to answer that, "Sorry, 18 I'm under strict instructions that I cannot discuss my 19 evidence in any way until it is completed", and 20 hopefully you will complete it this afternoon. Okay? 21 WITNESS: Understood. Clear. Thank you. 22 CHAIRMAN: Thank you. 23 (1.04 pm) 24 (The luncheon adjournment) 25 (2.16 pm)</p>
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<p>1 yes. 2 Q. So, by looking at the photos, would you be able to tell 3 us who these workers worked for at that time? 4 A. Looking at the photos, they seem to be bar fixers. 5 Q. If you look at the photo at page 228 -- can we blow up 6 this photo, 228, please -- can you tell from the photo 7 what was that particular worker doing at the time? 8 A. Yes, if you blow it up. 9 Q. According to your experience, what was this worker doing 10 at the time? 11 A. He was cutting the threaded end. 12 Q. The threaded part of the rebar; is that right? 13 A. Yes, from what I see in the photo. 14 Q. So do you know why he did that? 15 A. I'm not sure. 16 Q. Do you think that would be wrongful? 17 A. From the photo, yes. 18 Q. Do you think, if you were there or your foremen were 19 there, they would have stopped this particular worker 20 from doing what it appears that he was doing; right? 21 A. I would tell him, definitely. 22 Q. Do you have any recollection of an incident like that 23 happening on that day? 24 A. No, I don't remember. 25 Q. If it was your foremen who was supervising the work at</p>	<p>1 MR CHOW: Good afternoon, Mr Chairman and Professor. 2 Good afternoon, Mr Chan. 3 A. Good afternoon. 4 Q. Can I ask you to look at another photo, at bundle C1, 5 page 40. 6 CHAIRMAN: Sorry, could I just say one thing very, very 7 quickly -- it's my habit to do it -- I was having coffee 8 with Prof Hansford, and Mr Coleman came by. We asked 9 how he was and we had a brief discussion in a public 10 area. All right? Just in case that should ever arise. 11 It was at our invitation. Nothing of course was said 12 about the Inquiry. 13 Yes, please continue. 14 MR CHOW: Mr Chan -- is the photo available? Yes. Can 15 I ask you to look at this photo. 16 A. Yes, I see it. 17 Q. Have you ever seen this electric cutter on site? 18 A. Yes. 19 Q. Do you know who this cutter belongs to? 20 A. I guess it should be Fang Sheung's. 21 Q. You mentioned earlier that you have seen this cutter 22 before on site. From your recollection, what did 23 Fang Sheung, assuming Fang Sheung was the owner -- what 24 did Fang Sheung do with this cutter on site? 25 A. When they prepared to fix the bars, and when working on</p>

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<p>1 the "sifu" bars which are thinner and they need the 2 exact dimension, they would use these cutters to cut 3 them to the required length. So that's how the cutters 4 were being used. 5 Q. So that's all that this particular cutter was put to use 6 at the time; right? 7 A. Yes, that's what I saw. 8 Q. So you have never seen this cutter being used to cut the 9 threaded part of a rebar, have you? 10 A. Correct. 11 Q. Now I would like to move on to the last subject matter, 12 which is about the several incidents of bar cutting 13 between September and December of 2015. 14 Your evidence earlier was that you have no 15 recollection of any of those incidents; do you recall 16 that? 17 A. Yes, that's what I said in the witness statement. 18 Q. How about as of today: do you have any recollection of 19 having been informed of any of these incidents that 20 happened back in 2015? 21 A. You showed me the photo and you blew it up, and there 22 was the cutting of the threads, and I saw that photo. 23 Q. Mr Chan, back in 2015 and 2016, was there anyone who 24 requested you to tighten your control of supervision of 25 the steel fixing work on site?</p>	<p>1 enquiries about that matter. 2 MR CHOW: Very well, Mr Chairman. Then I have no more 3 questions. Thank you. 4 CHAIRMAN: Good. 5 MR CHOW: Thank you for your patience, Mr Chan. 6 MR CHANG: There is no re-examination. 7 CHAIRMAN: Good. 8 Thank you very much, Mr Chan. Your evidence is 9 completed. You can go now. Thank you for your help. 10 WITNESS: Thank you. Thank you. 11 (The witness was released) 12 MR SHIEH: The next witness is Mr Joe Tam. 13 For the Commission's information, if one wants to 14 look at the relevant organisation chart, it can be found 15 in bundle C7, page 5535. That is the organisation chart 16 as of 14 May 2015. If the Commission wants to look for 17 Mr Tam -- if one takes Mr Plummer as the midway point, 18 he is somewhere to the right of Mr Plummer, and between 19 Mr Rawsthorne and Ms Emily Pin, if you move down, you 20 will see Mr Joe Tam. 21 At the next page, C7/5536 -- 22 COMMISSIONER HANSFORD: Sorry, just before you -- can we go 23 back, please. With Mr Joe Tam reporting to? 24 Mr Rawsthorne. Thank you. 25 MR SHIEH: If we move to the next page, 5536, this time he</p>
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<p>1 A. I can't remember. 2 Q. How about asking you to watch out for unauthorised 3 cutting of the threaded part of rebar on site? Have you 4 received such request back in 2015 or early 2016? 5 A. I can't remember. It was too long ago. 6 Q. Mr Chan, obviously, at the time when you prepared your 7 witness statements, you would have been informed of all 8 these incidents; right? 9 A. I learned from the media what happened, when I prepared 10 the witness statement. 11 Q. You would agree with me that cutting of the threaded end 12 of a bar would be a very serious non-conformance; do you 13 agree? 14 A. Agree. 15 Q. Having learned about this, have you made any enquiry 16 with your colleagues in the engineering team as to why 17 the site supervision team was not notified at the time? 18 CHAIRMAN: Sorry, notified of ...? 19 MR CHOW: Of the bar cutting incidents. 20 MR CHANG: It might be useful if the witness can be directed 21 at which time frame. Maybe if it was put to him as to 22 whether he made any enquiry, because there is no 23 specific time frame highlighted in the question. 24 CHAIRMAN: I don't think it helps us particularly to know 25 whether this witness actually went out and actively made</p>	<p>1 is actually -- if we take Mr Plummer as the midpoint, 2 move down, we see Mr Rawsthorne and Ms Emily Pin, and if 3 we move to the right, further down to the right, we can 4 also see Mr Joe Tam. 5 That places Mr Tam on -- 6 MR PENNICOTT: That's the December one, is it? 7 MR SHIEH: Yes. I've shown May 2015 and then December 2015. 8 COMMISSIONER HANSFORD: Okay. 9 MR SHIEH: Mr Tam -- 10 WITNESS: Yes. 11 MR SHIEH: -- welcome and good afternoon. 12 MR TAM CHI MING, JOE (affirmed in Punti) 13 (All answers given via simultaneous interpreter 14 except where otherwise specified) 15 Examination-in-chief by MR SHIEH 16 Q. Thank you, Mr Tam. Can you look at bundle C27, 17 page 20611. 18 A. Yes. 19 Q. 20611 is the front page of your first witness statement. 20 Do you see that, Mr Tam? 21 A. Yes, I see that. 22 Q. Then can you turn to page 20615. Can you see, above 23 your name, there appears to be a signature? 24 A. Yes. 25 Q. That is your signature; correct?</p>

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<p>1 A. Yes.</p> <p>2 Q. Can we now turn to bundle C34, page 25592. This is your</p> <p>3 second witness statement; correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you signed it at page 25593; do you see that?</p> <p>6 A. Correct.</p> <p>7 Q. Mr Tam, do you put forward the content of these two</p> <p>8 witness statements as your evidence in this Commission</p> <p>9 of Inquiry?</p> <p>10 A. Yes.</p> <p>11 Q. Thank you. Please remain seated. Lawyers for other</p> <p>12 parties will be asking you some questions and then</p> <p>13 the Commissioner and the Chairman may also have</p> <p>14 questions for you. Do you understand?</p> <p>15 A. Understood.</p> <p>16 Q. Then, after all that, I may have some follow-up</p> <p>17 questions for you.</p> <p>18 A. Understood.</p> <p>19 Q. Can I remind you, when you give your answers, please</p> <p>20 speak up and into the microphone, because we are</p> <p>21 recording everything into a written transcript, and</p> <p>22 simply nodding or making a gesture will not be captured</p> <p>23 by the transcript, so you have to speak out in words.</p> <p>24 Understand?</p> <p>25 A. Understood.</p>	<p>1 Q. 2016?</p> <p>2 A. Yes.</p> <p>3 Q. Because you say in your witness statement, at</p> <p>4 paragraph 4, that you worked on the EWL slab and the NSL</p> <p>5 slab from April 2016 to July 2017. So you are now</p> <p>6 telling us that it was the end of April 2016 that you</p> <p>7 switched; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. So, for one of the critical periods that we are</p> <p>10 interested in in the Inquiry, Mr Tam, that is from</p> <p>11 approximately August 2015 to December 2015, for that</p> <p>12 period, five-month period, you would not have been</p> <p>13 involved with area B or area C; you would have still</p> <p>14 been responsible for the SAT and the NAT, at that time,</p> <p>15 during that period?</p> <p>16 A. Yes. Yes.</p> <p>17 Q. Then, so far as the EWL and NSL slabs are concerned, you</p> <p>18 were the construction manager for those areas up to July</p> <p>19 2017?</p> <p>20 A. Yes.</p> <p>21 Q. Then I think you say you were transferred off to another</p> <p>22 project?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Now, could I ask you, please, to look at</p> <p>25 paragraph 11 of your witness statement.</p>
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<p>1 MR SHIEH: Thank you. Please remain seated while you are</p> <p>2 questioned by other parties.</p> <p>3 WITNESS: Yes, thank you.</p> <p>4 Examination by MR PENNICOTT</p> <p>5 MR PENNICOTT: Good afternoon, Mr Tam.</p> <p>6 A. Good afternoon.</p> <p>7 Q. My name is Pennicott, I'm one of the counsel to the</p> <p>8 Commission, and I'll be asking you some questions first</p> <p>9 and then others may follow, as Mr Shieh has just</p> <p>10 explained. Thank you very much for coming to give</p> <p>11 evidence this afternoon to the Commission.</p> <p>12 Mr Tam, may I first of all just make sure</p> <p>13 I understand the areas for which you were responsible at</p> <p>14 each of the time periods that I'm interested in.</p> <p>15 First of all, throughout your involvement with this</p> <p>16 project, I understand that you were a construction</p> <p>17 manager?</p> <p>18 A. Yes.</p> <p>19 Q. You started work on the project on 5 January 2015?</p> <p>20 A. Yes.</p> <p>21 Q. As I understand it, from 5 January 2015 to March 2016,</p> <p>22 you were the construction manager responsible for the</p> <p>23 South Approach Tunnel and the North Approach Tunnel; is</p> <p>24 that correct?</p> <p>25 A. It should be the end of April.</p>	<p>1 A. Yes.</p> <p>2 Q. Where you say, under the heading "Allegations that the</p> <p>3 threaded ends were cut off rebars":</p> <p>4 "I learnt subsequently from reviewing an email dated</p> <p>5 7 April 2016 ... of one occasion on 15 December 2015</p> <p>6 when rebars with the threaded ends cut off were</p> <p>7 identified in area C of the EWL slab."</p> <p>8 Then you make reference to a non-conformance report.</p> <p>9 Do you see that, Mr Tam?</p> <p>10 A. Yes, I see it.</p> <p>11 Q. You, as I understand it, from what we've just discussed,</p> <p>12 had no personal knowledge or involvement with that NCR</p> <p>13 which we know was dated in December 2015?</p> <p>14 A. Yes.</p> <p>15 Q. You only came to hear about it during a process, as</p> <p>16 I understand it, of a review that was carried out into</p> <p>17 NCRs that had not been closed out; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. In that case, I don't need to take you to the</p> <p>20 email which explains all of that.</p> <p>21 But can I ask you this general question: presumably,</p> <p>22 you are familiar with Leighton's non-conformance report</p> <p>23 process, in general terms?</p> <p>24 A. I am aware of a little bit of it.</p> <p>25 Q. And is it correct that when a non-conformance report is</p>

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<p>1 issued, there is a process by which Leighton requires it 2 to be closed out and finished; is that right? 3 A. Yes. Yes. We need to close the file after the matter 4 has been concluded. 5 Q. Yes. Who would normally be the person ultimately 6 responsible for closing out an NCR, or would it depend 7 upon who issued the NCR in the first place? 8 A. I think it depends on who was responsible for the work 9 or who is responsible for the area in question. So it's 10 not whoever issued the report would have to close out 11 the report. That's not the case. 12 Q. Right. It's the person who is ultimately responsible 13 for the area in which the non-conformance -- to which 14 the non-conformance report relates? 15 A. Yes. Typically, that is the case. 16 Q. Thank you very much. 17 Could I then ask you, please, to look at 18 paragraphs 14 through to 18 of your witness statement, 19 where you are dealing with, as we can see from the 20 heading above paragraph 14, "Allegations by Joe Cheung 21 of Fang Sheung"; do you see that, Mr Tam? 22 A. Yes, I see it. 23 Q. You say: 24 "I have been told that in the course of the MTRC 25 interview, part of its investigation into these matters,</p>	<p>1 thread and there's a bend, because the thread is longer, 2 the coupler could be inserted all the way 3 (demonstrating) and it can prevent the bend from moving. 4 So you don't have to move the bar; you can just 5 tighten the coupler and finish the work. So that is the 6 difference between the long thread and the short thread. 7 Do you follow my description? 8 Q. I think so. You're talking about the hook at, as it 9 were, the other end of the bar? 10 A. (In English) That other -- yeah, other end of the bar, 11 it's not talking about the thread. 12 Q. So the length of the thread may affect where that hook, 13 and the amount you screw it into the coupler may affect 14 where that hook ends up; is that the point? 15 CHAIRMAN: No, I think isn't it -- 16 A. No. 17 CHAIRMAN: -- when you turn it, the hook at the end may hit 18 against something, and then you can't turn? 19 A. Yes. 20 CHAIRMAN: So instead of Mohammed coming to the mountain, 21 it's the other way around, and then you have a situation 22 where: don't turn the bar, turn the coupler? 23 A. (In English) Yes. Exactly right. 24 COMMISSIONER HANSFORD: I don't follow that. I do 25 understand, Mr Tam, how type B couplers work. I do</p>
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<p>1 Joe Cheung made comments which suggested that 2 Fang Sheung had cut part of the threaded ends off rebars 3 with longer threaded ends to fit them into couplers that 4 were designed for rebars with shorter threaded ends. 5 Joe Cheung never made any such comments or 6 allegations to me during our regular communication in 7 the course of carrying out the project. 8 Both the rebars with the longer threaded ends and 9 shorter threaded ends are the same diameter and can both 10 be screwed into the same type of couplers. The only 11 difference is that the threaded section is longer to 12 prevent the hook at the end of the rebar from hitting 13 the adjacent rebar when the latter rebar was being 14 screwed into the coupler." 15 Now, Mr Tam, first of all, can you just explain what 16 you mean by that last sentence? I'm afraid I just don't 17 quite follow it: 18 "... the threaded section is longer to prevent the 19 hook at the end of the rebar from hitting the adjacent 20 rebar ..." 21 Can you explain that, please? 22 A. Yes, I can do so. For example, let's say we have 23 a coupler here (demonstrating with fingers) and this is 24 a normal bar. When you screw it in (demonstrating), the 25 end also turns, but if we have the ones with a longer</p>	<p>1 understand about how you move the coupler onto the long 2 thread of a type B bar and you don't have to then move 3 that type B bar. But I don't understand how it would 4 work in the situation you're talking about. 5 Can you just explain it again, just go through it 6 again for me. That would be helpful. Just use your 7 fingers again and explain to me how it really works. 8 A. The actual operation, it's not saying why I have to use 9 a long or short bar. I'm just explaining the longer 10 thread prevents the bend from moving. I'm not saying 11 that in that case we have to use a long or a short bar, 12 a type A or type B coupler. 13 Do you follow my description? 14 COMMISSIONER HANSFORD: I do, but I think it depends where 15 the coupling is made. Maybe I'll just hold that thought 16 and see if it comes up later. It's not straightforward. 17 MR PENNICOTT: No. I think I understand the point but we'll 18 have another look at it, Mr Tam, if we need to. 19 COMMISSIONER HANSFORD: Okay. 20 MR PENNICOTT: However, I want to go on to paragraph 17 of 21 your witness statement -- 22 A. Yes. 23 Q. -- which raises what might be regarded as a new sort of 24 point. You say this: 25 "If a rebar with longer threaded ends was screwed</p>

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<p>1 into a coupler, the only issue is that it would have 2 a more of the threaded end exposed out of the coupler." 3 We understand that. 4 "This would make it look like it was not properly 5 screwed into the couplers. However", you say, "in that 6 situation, the sub-contractor could simply notify 7 Leighton that it was using a rebar with longer threaded 8 ends, so that Leighton knew more of the threads would 9 stick out of the coupler when it was fully connected." 10 I guess the question on that, Mr Tam, is this. 11 Would Leighton, and perhaps more importantly the MTRC, 12 have allowed the sub-contractor to get away with what 13 you describe in your paragraph 17? 14 A. Let me explain paragraph 17. The purpose of writing 15 that is to explain the differences between type A/type B 16 couplers. Since we have type B, it has a longer thread, 17 that means when you finish the work, actually you will 18 still have threads being exposed. So that is 19 acceptable, essentially, because once it's connected, 20 it's connected. Whether there's a hook at the end, it's 21 still connected. 22 Do you follow my ... 23 Q. I follow you, but I don't quite understand what you mean 24 by paragraph 17. You are addressing Mr Joe Cheung's 25 scenario where a type B thread is shortened, essentially</p>	<p>1 MR PENNICOTT: The collar is identical, sir. 2 COMMISSIONER HANSFORD: But I think in your question you 3 implied -- 4 MR PENNICOTT: Sorry, I said type A. It should be type A or 5 type B coupler. 6 COMMISSIONER HANSFORD: In fact they are the same thing? 7 MR PENNICOTT: Yes, they are the same thing. 8 COMMISSIONER HANSFORD: Now I understand. 9 MR PENNICOTT: Of course, if it was -- that's right. You've 10 understood. 11 COMMISSIONER HANSFORD: I have understood. 12 MR PENNICOTT: So, Mr Tam, that is your answer, as 13 I understand it, to Mr Cheung's scenario about cutting 14 the type B threaded rebar, that you could have just used 15 the type B and had a greater length of thread showing, 16 provided that was something that was communicated to 17 Leighton? 18 A. Yes. 19 Q. All right. 20 Could I ask you this question, please, Mr Tam. 21 Could you please be shown an email at C12/7923. 22 Do you see that email, Mr Tam? 23 A. Yes, I see it. 24 Q. You refer to it in your witness statement. It's 25 an email that we've looked at a number of times over the</p>
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<p>1 to convert it into a type A thread. That's the scenario 2 you're addressing? 3 A. (In English) Yes. 4 (Via interpreter) Yes. 5 Q. What you seem to be saying is that it would be 6 permissible not to cut the type B thread but to use the 7 type B threaded rebar into a type A coupler, which 8 necessarily would mean you had quite a large amount of 9 thread showing, and that that would have been acceptable 10 to Leighton, had they been told by Fang Sheung that it 11 would have been done -- that had been done. Is that 12 what you're saying to us? 13 A. Yes. 14 Q. And do you think that would have been acceptable to the 15 MTRC? 16 A. Yes. 17 Q. Right. 18 COMMISSIONER HANSFORD: Sorry, Mr Pennicott, the reason I'm 19 looking quizzically at you, which I know the transcript 20 can't pick up, is I'm very clear about what's the 21 difference between a type A bar and a type B bar, but 22 I'm not clear about the difference between a type A 23 coupler and a type B coupler, because in my 24 understanding, the actual coupler part, the collar, is 25 identical.</p>	<p>1 last few weeks, sent by Mr Poon of China Technology to 2 Mr Zervaas and copied to you? 3 A. Yes. 4 Q. Indeed, it says copied to you, but in fact it starts, 5 "Dear Joe"; do you see that? 6 A. Yes, I see it. 7 Q. The only question I really want to ask you about, 8 Mr Tam, is: how come you got involved in this? What's 9 the background to your involvement in this email? Why 10 would Mr Poon be sending it to you, or at least copying 11 it to you? 12 A. As you said, I started working on HUH at the end of 13 April 2016, and after that I got more contact with 14 Mr Poon. So, because of this, he would cc me on this 15 email, mainly because of this. Is there any other 16 reason? I don't know. 17 Q. Were you having a significant amount of contact with 18 Mr Poon, Mr Tam, in the lead-up to this email? 19 A. Yes. Yes. 20 Q. Were you involved in the commercial negotiations that 21 preceded this email, back in December? 22 A. No. 23 Q. What was the nature of your involvement -- discussion 24 with Mr Poon in, let's say, the last quarter of 2016? 25 A. Progress of works, manpower, and I had to assess the</p>

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<p>1 payment sometimes. So he asked me about the progress of 2 the payment too. 3 Q. Okay. So that would explain, at least in part, why you 4 were copied in on this email? 5 A. Yes, perhaps so. 6 Q. But, as I understand it, what you say is that having 7 seen, no doubt, this email, you left it to Mr Zervaas to 8 follow it up? 9 A. Yes. 10 Q. And you had no subsequent involvement in any further 11 commercial discussions with Mr Poon? 12 A. Yes. 13 MR PENNICOTT: Sir, I have no further questions. I don't 14 know if anyone else does. 15 CHAIRMAN: Good. Thank you very much. 16 The next -- has there been an agreed order? 17 MR TO: Chairman and Commissioner, I just have a few 18 questions to ask, if that's okay. 19 CHAIRMAN: Certainly. 20 Cross-examination by MR TO 21 MR TO: Mr Tam, I represent China Technology. My name is 22 Christopher To. 23 Can I take you to your witness statement, C20611. 24 In particular, Mr Tam, can I take you to paragraph 7. 25 Mr Tam, one of your duties is to walk around the</p>	<p>1 says: 2 "I would talk to Jason Poon every day or every two 3 days." 4 Do you talk to him on the phone, in person, or how 5 do you communicate with him? 6 A. Well, different channels: by phone, face to face, and 7 WhatsApp. 8 Q. In terms of WhatsApp, telephone or face to face, how 9 often is face to face? 10 A. I don't know how to quantify how often. 11 Q. On site? 12 A. Yes. Sometimes on site, sometimes in the office. 13 Q. Okay. Another question, on paragraph 21. In your 14 statement -- I will just read it out to you, Mr Tam: 15 "I recall Stephen Lumb (head of engineering) and his 16 team coming to site to conduct an investigation, but 17 I do not recall the results." 18 I am going to ask you two questions. Have you seen 19 Mr Stephen Lumb's two reports? If you haven't, I can 20 show them to you. 21 A. No, I haven't seen those reports. 22 Q. I will not show you the reports then. 23 The second question is: were you involved in any way 24 or form in terms of the investigations leading to these 25 reports?</p>
<p>Page 94</p> <p>1 site with MTRC colleagues. Were there any other 2 sub-contractors walking around at the same time? 3 A. What do you mean -- what site walks are you talking 4 about? Are you talking about site walk together with 5 Aidan or who? I'm not very clear about your question. 6 Q. If you look at paragraph 7, Mr Tam, you have site walks 7 on Mondays and Thursdays. 8 A. Yes, correct. 9 Q. So on Mondays or Thursdays, do you walk with Mr Aidan 10 Rooney plus other sub-contractors, or you just walk with 11 Mr Aidan Rooney alone? 12 A. It depends. Sometimes, Aidan would ask for designated 13 sub-contractors to join in the site walks. As for 14 TM Lee's walks, very often the E&M sub-contractors would 15 join the walk. If my memory serves me right, no civil 16 sub-contractors will join TM Lee's walk. 17 Q. In terms of Jason Poon, did he walk on Mondays? 18 A. Yes, he did appear. He did appear. 19 Q. Often or a few times? 20 A. In the initial stage, when I first joined, that is April 21 2016, he appeared more often, but after that he did 22 not -- he was not there. But was he there every time or 23 how many times did he actually appear? I cannot recall. 24 Q. I understand. Can I move you to paragraph 9 of your 25 witness statement, Mr Tam. The first line, Mr Tam, it</p>	<p>Page 96</p> <p>1 A. No. 2 COMMISSIONER HANSFORD: Sorry, Mr To, I'm a little bit 3 confused. The transcript says, "Have you seen these 4 reports? If not, I can show them to you", and he said, 5 "No", and you said, "In that case I will not show them 6 to you." 7 MR TO: Okay. Maybe I will rephrase the question, 8 Mr Commissioner. Thank you. 9 COMMISSIONER HANSFORD: Or have I misunderstood what you 10 said? 11 MR TO: I was going to show him the reports, but I was going 12 to ask him whether he has actually seen the reports. 13 COMMISSIONER HANSFORD: Right. I'll leave it to you. I was 14 just confused by the transcript. 15 MR TO: Mr Tam, have you seen Mr Stephen Lumb's reports, two 16 reports? 17 A. No. 18 Q. Thank you. 19 My last question, Mr Tam, is -- there's a document 20 called non-conformance reports. Are you familiar with 21 those, NCRs? 22 A. I know of such kind of report. 23 Q. In your time during -- in the construction site of this 24 project, how many NCRs have been issued? 25 A. No, no calculations made.</p>

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<p>1 Q. Are you familiar with 157, NCR157?</p> <p>2 A. I heard about it a lot recently.</p> <p>3 Q. Have you seen the report yourself?</p> <p>4 A. Recently, I have seen it.</p> <p>5 Q. But not after it was released, in December?</p> <p>6 A. Yes.</p> <p>7 Q. Did you see it in December?</p> <p>8 COMMISSIONER HANSFORD: Sorry, which December are we</p> <p>9 MR TO: December 2015.</p> <p>10 A. As I said earlier, it was issued in December 2015. It</p> <p>11 was not under my portfolio so I didn't read it. But</p> <p>12 recently, because we have been retrieving a lot of</p> <p>13 records, so I've come across it and saw it.</p> <p>14 Q. "Recently" means October/November of this year?</p> <p>15 A. Yes, this year.</p> <p>16 MR TO: Okay. Mr Tam, thank you very much.</p> <p>17 Cross-examination by MR KHAW</p> <p>18 MR KHAW: Mr Tam, I'm acting for the government and I have</p> <p>19 a few questions for you.</p> <p>20 Earlier on, in response to Mr Pennicott's question,</p> <p>21 you told us that you started to work in respect of the</p> <p>22 EWL slab and NSL slab from April 2016. Do you remember</p> <p>23 that?</p> <p>24 A. Yes, end of April.</p> <p>25 Q. So you took over the work from Mr Gary Chow; is that</p>	<p>1 on other occasions? Are you talking about the latter?</p> <p>2 Q. Let's talk about these site walks first.</p> <p>3 A. Okay. Sometimes, we would have people from Fang Sheung</p> <p>4 and also China Technology.</p> <p>5 Q. Thank you.</p> <p>6 Then, in paragraph 7, you also talked about some</p> <p>7 occasional non-scheduled inspection site walks with MTR</p> <p>8 inspectors. Can you tell us more about these</p> <p>9 non-scheduled site walks?</p> <p>10 A. I think the occasional non-scheduled walk means it</p> <p>11 wasn't on a regular schedule. Sometimes we might have</p> <p>12 some urgent matters and we would go out together to see</p> <p>13 how we should arrange the works or how we should arrange</p> <p>14 the priority of the works, and so on.</p> <p>15 Q. So those were sort of ad hoc site walks, to deal with</p> <p>16 particular problems which arose at a particular point in</p> <p>17 time; is that right?</p> <p>18 A. Yes, you can put it that way.</p> <p>19 Q. So, again, in relation to these ad hoc site walks, apart</p> <p>20 from you yourself, were you accompanied by other people</p> <p>21 from Leighton to attend these ad hoc site walks?</p> <p>22 A. Well, I think it would depend on the circumstances. If</p> <p>23 the problem could be resolved or if I knew the context,</p> <p>24 then I could deal with it myself, but if I need</p> <p>25 colleagues' assistance I would invite other colleagues.</p>
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<p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. If I can take you to have a look at your witness</p> <p>4 statement, paragraph 7. Again, I would like to know</p> <p>5 more about the site walks that you mentioned there.</p> <p>6 You talk about the site walks carried out by you and</p> <p>7 sometimes with Mr Aidan Rooney, with Mr TM Lee,</p> <p>8 et cetera.</p> <p>9 First of all, I would like to know, in respect of</p> <p>10 each of these site walks, apart from you yourself, who</p> <p>11 else from Leighton took part in these site walks.</p> <p>12 A. Ian, PD, and sometimes OM, and I'm one of the</p> <p>13 construction managers and there would be other</p> <p>14 colleagues, and they would also take part.</p> <p>15 Q. Sorry, what is an OM?</p> <p>16 A. (In English) Operations.</p> <p>17 Q. Oh, operations manager. Thank you.</p> <p>18 What did these site walks cover? What did you do,</p> <p>19 in general, during these site walks?</p> <p>20 A. We would inspect the progress, we would see if there</p> <p>21 were any difficulties that were encountered, and</p> <p>22 sometimes we would look into solutions to the problems</p> <p>23 and also look into the work arrangements.</p> <p>24 Q. Did you ever attend any site walk with Fang Sheung?</p> <p>25 A. Are you referring to this particular walk or other walks</p>	<p>1 So there is no set way. I cannot say "yes" or "no"</p> <p>2 either way.</p> <p>3 Q. Were you ever, in any of these site walks, whether</p> <p>4 scheduled or non-scheduled, aware of any difficulties in</p> <p>5 the coupling works?</p> <p>6 A. No, I was not.</p> <p>7 Q. Thank you.</p> <p>8 I understand that since you are an engineer, you</p> <p>9 worked for the construction engineering team of</p> <p>10 Leighton?</p> <p>11 A. Yes.</p> <p>12 Q. We tried to understand the difference between inspection</p> <p>13 and supervision carried out by different teams,</p> <p>14 yesterday and also today. You confirm that supervision</p> <p>15 work in general was carried out by the site supervision</p> <p>16 team, not your team; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. So your team would be responsible for inspection after</p> <p>19 certain works were done at certain hold points; would</p> <p>20 that be correct?</p> <p>21 A. Yes.</p> <p>22 Q. As a construction manager, just as a matter of common</p> <p>23 sense, I would take it that your main duty was to ensure</p> <p>24 that all construction and installation activities were</p> <p>25 carried out in accordance with the required</p>

<p style="text-align: right;">Page 101</p> <p>1 specifications and plans? 2 A. Yes. 3 Q. And the other main duty of your job was to identify any 4 defects or problems that could be found on site; would 5 you agree? 6 A. I don't understand "difficulty". When you say 7 "defects", what do you mean? 8 Q. Maybe we can just focus on defects. 9 A. I don't understand what you mean by "defects" -- "to 10 identify defects"? 11 Q. Fair enough. Just in general, one of your main job 12 activities was to identify whether there were any 13 defects that would be found on site; is that correct? 14 Through the inspection process. 15 A. I'm sorry, I still don't fully comprehend your question. 16 Are you saying am I responsible for all defects, or 17 during my inspection, if I see defects, I have to raise 18 these? Are you talking about the latter? 19 Q. Yes. As a construction engineer, you would be 20 responsible -- 21 A. Yes. 22 Q. -- for carrying out inspection of the construction 23 works; do you agree? 24 A. I'm not responsible for all. I'm sorry, I'm a bit 25 confused.</p>	<p style="text-align: right;">Page 103</p> <p>1 A. Well, I think before it was issued or during the time 2 that it was going to be issued, we would be notified, 3 under normal circumstances. 4 Q. May I ask whether, at the time when you were working in 5 respect of the EWL slab and NSL slab, ie from April 2016 6 to July 2017, during that period were you aware of the 7 requirements under the QSP? 8 A. I'm not familiar. 9 Q. Did anyone ever mention QSP to you? 10 A. I have no recollection. 11 Q. Shall we take a look? It's H9/4249. If we can take 12 a look at 4269. 13 This is one part of the QSP in relation to the 14 installation of couplers. You can see from paragraph 5 15 that this is a heading in relation to "Supervision on 16 site works", and paragraph 1 deals with "Supervision and 17 inspection by RC [ie Leighton] on site -- installation 18 works", and then paragraph 2 deals with "Supervision and 19 inspection by MTRC on site -- installation works", and 20 you can see from paragraph 1(i) that there's 21 a requirement that quality control supervisors will be 22 responsible to carry out full-time and continuous 23 supervision of the splicing assemblies on site. 24 Were you ever referred to this particular document? 25 A. I don't know.</p>
<p style="text-align: right;">Page 102</p> <p>1 Q. I understand that you would not be responsible for 2 everything. I totally understand that. You would be 3 working with your team members -- you would be working 4 as a team to do the inspection. That I perfectly 5 understand. I'm not saying that all responsibilities 6 fall on you yourself. 7 A. Okay. I understand. 8 Q. So, when your team -- 9 A. Yes. 10 Q. -- was trying to discharge did its duties, one of the 11 main responsibilities of your team was to identify 12 whether there were any defects in the construction works 13 or activities; would you agree? 14 A. Yes. 15 Q. If there were defects found or if there were what we 16 call non-conformance issues, then would your team be 17 responsible for mapping out rectification works that 18 would be required? 19 A. Yes. 20 Q. Am I correct in saying that whenever there was an NCR 21 which would need to be issued, presumably your team 22 would be notified of that NCR? 23 A. Yes. 24 Q. Your team would normally be notified of an NCR when it 25 was issued; is that right?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Thank you. 2 CHAIRMAN: Sorry, what is a splicing assembly? 3 A. It's like coupling (demonstrating). 4 CHAIRMAN: Thank you. 5 MR KHAW: Were you aware of any guidelines or notes which 6 were issued to engineers or your team members in 7 relation to the requirements for supervision and 8 inspection in relation to coupler installation? 9 A. Not clear. 10 Q. Were you aware of any record sheet, or any kind of 11 record, which would record the inspection work in 12 relation to coupling works? 13 A. (Chinese spoken). 14 Q. Sorry? 15 A. When we inspect the rebars, we will also take a look at 16 the couplers as well. So would that be considered as 17 a record, as you referred to? 18 CHAIRMAN: No. I think a record means, having conducted 19 an inspection, do you write that down somewhere, so that 20 you and others have a record of what has been done? 21 A. Can you repeat the question, please? 22 CHAIRMAN: Having conducted an inspection, was there 23 somewhere where you were meant to write down that you 24 had done so, put it into a book or a logbook? 25 A. Not clear.</p>

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<p>1 CHAIRMAN: Sorry, do you mean you don't understand the 2 question or you're not clear whether there was in fact 3 a book? 4 A. I don't understand what you mean by a logbook. We have 5 an inspection form for inspecting the rebars. We have 6 pre-pour check and post-pour check and these are all 7 part of the records. 8 As for the couplers in particular, I have to check 9 into whether there is a particular logbook for the 10 couplers. I have to check. 11 CHAIRMAN: No, fine. That answers the question. Thank you. 12 MR KHAW: Mr Tam, I presume that you yourself had actually 13 taken part in the inspection process of the installation 14 of couplers; is that correct? 15 A. Do you mean formal inspection or general inspection? 16 Q. So you mean there was in fact a general inspection and 17 a formal inspection? 18 A. You talked about the inspection of the MTRC, but I was 19 not involved in those inspections. But then, when 20 I walked past the site and when together with MTRC and 21 sub-contractors, do you consider those as inspection? 22 If it is, then I did take part. But if these are not 23 considered inspections by yourself, then I didn't take 24 part. 25 Q. My question was simply this, Mr Tam. You yourself</p>	<p>1 A. No. 2 Q. So are you telling us that, as a construction manager, 3 you can't even tell us approximately what was the 4 percentage of the couplers which would be checked by 5 your team; is that your evidence? 6 A. I can't give you a definite percentage, but I can put it 7 this way. The team members spent a lot of time doing 8 inspections on the site, but as to the exact percentage 9 of the couplers having been inspected, then I don't 10 know. 11 CHAIRMAN: Sorry, were you ever aware of directions that you 12 should inspect a certain percentage of any of the 13 matters relevant to the construction, for example 14 a certain percentage of couplers or a certain percentage 15 of bend bars or whatever else may have been necessary to 16 check? 17 A. No. No. I can't recall. 18 MR KHAW: If we can take a look at paragraph 11 of your 19 first witness statement, C27/20613. You said you learnt 20 subsequently, from reviewing an email dated 7 April 21 2016, of one occasion on 15 December 2015 when rebars 22 with the threaded ends cut off were identified. Then 23 you said you understand from the non-conformance report 24 that there were five defective rebars rectified, 25 et cetera.</p>
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<p>1 actually took part in the inspection of couplers during 2 the course of your work, whether you are talking about 3 formal site walks or non-formal site walks. My question 4 was simply whether you yourself took part in the 5 inspection process of coupler installation, as simple as 6 that. 7 A. I saw. I saw that. 8 COMMISSIONER HANSFORD: Sorry, I'm confused with that 9 answer, because I'm not sure whether you saw other 10 people inspecting or whether you actually inspected 11 yourself. Which is it? 12 A. In my earlier answer -- well, inspections can be formal 13 inspections or we would walk past the coupler 14 installations works when we walked past the site, and 15 these are all considered inspections. 16 If we are talking about the latter case, I saw 17 people actually screwing the bars into the couplers or 18 the rebars being screwed into the couplers already. So 19 this is my answer. 20 MR KHAW: When you were doing the site walk, when you were 21 carrying out your duties, when you saw couplers having 22 been installed, were you aware of whether your team 23 members would check each installation of the coupler or 24 what percentage of the couplers that they would check 25 during the inspection process? Do you know?</p>	<p>1 Then you went on to say: 2 "I did not have any direct involvement in this 3 matter." 4 I'm just a bit curious as to why, Mr Tam, you as 5 a construction manager were not involved in this 6 particular NCR? Can you tell us why? 7 MR PENNICOTT: Sir, we know the answer to that. This 8 gentleman was working on the NAT and the SAT up until 9 April 2016. This all arose, we know, in C1-4. That's 10 been established. So it's a pretty obvious answer, with 11 respect. Indeed I'm a bit more concerned about some of 12 the more general questions that were asked earlier about 13 the inspections, because again, apart from the period 14 from April 2016 onwards, where we know the NSL was 15 certainly being constructed for a few months after April 16 2016, any other questions could only possibly be related 17 to the SAT and the NAT, where this gentleman was 18 working. 19 I'm not sure about the position on the NAT. 20 I accept that there may have been some coupler 21 installations on the SAT, but fairly limited, to my 22 understanding. So I think one needs to be a bit careful 23 about the scope of the evidence and the generality of 24 questions that are being put to this witness. 25 CHAIRMAN: Yes.</p>

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<p>1 MR KHAW: Thank you. I will move on. 2 You told us that when you were first aware of this 3 NCR, it was around April 2016? 4 A. Well, one of the emails was sent to me. 5 Q. That was an email dated 7 April 2016. 6 Now, when you received that NCR, did you have 7 a chance to look at the contents of that NCR? 8 A. There were a number of NCRs related to that email. 9 I was not responsible for that area at that time, so 10 I didn't read in detail the area which was not connected 11 to me. So I focused on what was relevant to me. 12 Q. Regardless of the contents of the NCR, when were you 13 first aware of the incident that cut threaded rebar were 14 found on site? When were you first notified of such 15 an incident? 16 A. "Notify" -- what do you mean by "notify"? Notify of the 17 incident of rebar cutting or what? 18 Q. As a construction manager, when were you first notified 19 of the incident where threaded rebars were cut? 20 A. End of 2016, there was an email from Jason. Sorry, it 21 should be an email in early 2017. 22 Q. Right. So you were only aware of the bar cutting 23 incident when you received Jason Poon's email dated 24 6 January? 25 A. (In English) Yes.</p>	<p>1 Q. What was the reason that he wanted to speak to you on 2 that occasion? 3 A. I didn't know what the reason was. 4 Q. But then you told us that you asked Jason Poon when he 5 would "finish playing the game", and by that you meant 6 making allegations to the media against Leighton in 7 relation to the project; right? 8 A. Yes. 9 Q. So, when you said this to Jason Poon, were you aware of 10 any result in relation to the bar cutting incident? Any 11 result in relation to the investigation of the bar 12 cutting incident? 13 A. I don't understand what you mean by the result of the 14 investigation of the bar cutting. 15 Q. I'll try to go through that step by step. You told us 16 that Mr Stephen Lumb came to the site, apparently to 17 carry out an investigation of the bar cutting incident, 18 or the allegation regarding bar cutting. Do you 19 remember that? 20 A. Yes. 21 Q. In your paragraph 21, you told us that you could not 22 recall the results of that investigation; is that right? 23 A. Yes. 24 Q. My question was very simple. My question was, in June 25 2018, when you told Jason Poon -- or when you asked him</p>
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<p>1 Q. And before that, you were not aware of what the NCR was 2 all about? 3 A. Correct. 4 Q. So, when you received Jason Poon's email dated 6 January 5 2017, were you then told about the NCR incident which 6 happened in December 2015? 7 A. I can't remember. 8 Q. At the time when you received Jason Poon's email in 9 January 2017, were you aware of any investigation 10 carried out by Leighton in respect of the bar cutting 11 incident? 12 A. I saw Stephen Lumb arrive at the construction site. 13 Q. And in your witness statement you told us that you could 14 not recall the result of such investigation; is that 15 correct? 16 A. Yes. 17 Q. If I can then take you to the last paragraph of your 18 first witness statement. You told us about a WhatsApp 19 message from Alex Ngai on 12 June 2018. 20 A. Yes. 21 Q. Then you said the WhatsApp message asked for a call to 22 speak about certain scaffolding issues, et cetera, and 23 it also said that Jason Poon would like to find a reason 24 to speak to you. You saw that? 25 A. Yes.</p>	<p>1 when he would "finish playing the game", ie making 2 allegations to the media, were you aware of any result 3 of the investigation carried out by about Mr Lumb? 4 A. I don't know. I didn't know. 5 Q. So you had no idea at that time whether the bar cutting 6 allegation could be substantiated or not; am I right? 7 A. Yes, you can say so. 8 Q. And, at that time, you were not aware of any previous 9 bar cutting incident which happened on site; is that 10 correct? 11 A. Sorry, could you repeat the question? 12 Q. At the time when you talked to Mr Jason Poon in June, 13 when you asked him when he would "finish playing the 14 game", ie, according to you, "playing the game" means 15 making allegations about bar cutting -- my question was, 16 before your conversation with Mr Jason Poon in June 17 2018, were you aware of any previous bar cutting 18 incidents which happened on site, including the one 19 covered under the NCR? 20 A. Are you asking whether I was aware there were bar 21 cutting incidents that were before 12 June 2018? Well, 22 at that time, there was widespread media reporting. 23 That's where I got my information. 24 Q. I'm not talking about the media reports. I'm talking 25 about whether you, as a construction manager of</p>

<p style="text-align: right;">Page 113</p> <p>1 Leighton --</p> <p>2 A. No, I didn't know.</p> <p>3 Q. After December 2015, were you aware of any instruction</p> <p>4 or guideline given by Leighton which would prevent or</p> <p>5 which sought to prevent bar cutting incidents on site?</p> <p>6 Were you aware of any such instruction or guideline?</p> <p>7 A. I'm not sure. I would have to look up my references.</p> <p>8 Q. Can I just clarify one more thing with you: when were</p> <p>9 you first aware of the NCR bar cutting incident; can</p> <p>10 I just clarify that with you?</p> <p>11 A. Very recently, I would think.</p> <p>12 Q. So you meant -- what you are saying is that despite the</p> <p>13 NCR issued in December 2015, since then you have never</p> <p>14 been told or you have never been -- or you have never</p> <p>15 discussed with anyone on the site regarding the</p> <p>16 discovery of particular bar cutting incidents on site;</p> <p>17 is that correct?</p> <p>18 A. I did not discuss. I've been told from the email.</p> <p>19 MR KHAW: I have no further questions.</p> <p>20 MR BOULDING: No questions from the MTR, sir.</p> <p>21 CHAIRMAN: Thank you.</p> <p>22 Ms Chong?</p> <p>23 MS CHONG: No questions from Fang Sheung.</p> <p>24 CHAIRMAN: Any re-examination?</p> <p>25 MR SHIEH: No re-examination.</p>	<p style="text-align: right;">Page 115</p> <p>1 there would be these types of confrontation, friction.</p> <p>2 COMMISSIONER HANSFORD: In your experience, is that natural,</p> <p>3 is that usual? On the construction sites you have been</p> <p>4 involved in, is that sort of level of friction between</p> <p>5 sub-contractors usual, or is this unusual or abnormal?</p> <p>6 A. It would depend on the division of labour. Then we</p> <p>7 could discuss whether it's normal or not. Because the</p> <p>8 nature of the work and the construction site, they are</p> <p>9 all different. This site, there's much more interaction</p> <p>10 between the parties and there's a lot more interface,</p> <p>11 and when we work under the podium it's more complex. So</p> <p>12 whether it's normal -- well, compared to my older sites,</p> <p>13 you can say it's not as normal. There's more friction.</p> <p>14 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>15 CHAIRMAN: Nothing arising? Good.</p> <p>16 Thank you very much indeed, Mr Tam. Your evidence</p> <p>17 is now completed. Thank you for your assistance.</p> <p>18 (The witness was released)</p> <p>19 MR PENNICOTT: 15 minutes, sir?</p> <p>20 CHAIRMAN: Yes, thank you.</p> <p>21 (3.43 pm)</p> <p>22 (A short adjournment)</p> <p>23 (4.05 pm)</p> <p>24 MR SHIEH: Mr Chairman and Mr Commissioner, we now have Gary</p> <p>25 Chow.</p>
<p style="text-align: right;">Page 114</p> <p>1 CHAIRMAN: Good.</p> <p>2 Questioning by THE COMMISSIONERS</p> <p>3 COMMISSIONER HANSFORD: I just have one question.</p> <p>4 Mr Tam, you talk about friction between</p> <p>5 sub-contractors. What do you mean by "friction" and</p> <p>6 could you just expand on the nature of the relationship</p> <p>7 between sub-contractors? This is your paragraph 9 in</p> <p>8 your first witness statement.</p> <p>9 A. Yes, Commissioner. I participated in the HUH project,</p> <p>10 and China Technology, they are in the middle, and there</p> <p>11 are other larger/smaller sub-contractors and</p> <p>12 contractors. So, to a certain extent, there's a bit of</p> <p>13 interfacing between them. Because the station, China</p> <p>14 Technology covers a large area of the station, and a lot</p> <p>15 of times there is some friction or there are some</p> <p>16 work/personnel/material/logistics/deployment, and there</p> <p>17 are some friction sometimes.</p> <p>18 COMMISSIONER HANSFORD: Just expand on the word "friction".</p> <p>19 What was the nature of that friction?</p> <p>20 A. Sometimes, there would be arguments, small arguments.</p> <p>21 COMMISSIONER HANSFORD: Small arguments?</p> <p>22 A. Yes, small arguments, because the material that they use</p> <p>23 is similar. They are almost doing the same work.</p> <p>24 Sometimes they would say, "Why you took my material?"</p> <p>25 Why did somebody else take somebody's material?" So</p>	<p style="text-align: right;">Page 116</p> <p>1 Just to place him on the corporate chart, could</p> <p>2 I ask the Commission to look at C7, first of all 5535,</p> <p>3 which is the corporate chart, as of 14 May 2015.</p> <p>4 COMMISSIONER HANSFORD: It's not up yet.</p> <p>5 MR SHIEH: C7/5535.</p> <p>6 COMMISSIONER HANSFORD: Yes.</p> <p>7 MR SHIEH: If we take the MTRC name in the middle as the</p> <p>8 starting point, and then Mr Plummer's photo, Mr Gary</p> <p>9 Chow is immediately below Mr Plummer on the corporate</p> <p>10 chart.</p> <p>11 CHAIRMAN: I've got it.</p> <p>12 COMMISSIONER HANSFORD: In a parallel position to Mr Joe Tam</p> <p>13 who we've just seen?</p> <p>14 MR SHIEH: Yes, that's right.</p> <p>15 Then, for the other corporate chart, which is the</p> <p>16 next page, 5536, as of 28 December 2015, if we take</p> <p>17 Mr Plummer again, under the MTRC name, Mr Gary Chow</p> <p>18 would be about 4 o'clock from Mr Plummer.</p> <p>19 CHAIRMAN: Yes. Thank you.</p> <p>20 COMMISSIONER HANSFORD: Sorry, hold on.</p> <p>21 MR SHIEH: 4 o'clock from Mr Plummer.</p> <p>22 COMMISSIONER HANSFORD: I'm just trying to work out my</p> <p>23 4 o'clock.</p> <p>24 Oh, yes.</p> <p>25 MR SHIEH: So that is Mr Gary Chow's position in those two</p>

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<p>1 corporate organisation charts. 2 Mr Chow, good afternoon. Welcome to this hearing. 3 MR CHOW MING YIN, GARY (affirmed in Punt) 4 (All answers given via simultaneous interpreter 5 except where otherwise specified) 6 Examination-in-chief by MR SHIEH 7 Q. Mr Chow, can you look at bundle C27, page 20713. You 8 see this is your first witness statement; can you see 9 that? 10 A. Yes. 11 Q. Can you turn to 20716. Is that your signature on that 12 page? 13 A. Yes. 14 Q. Can you then look at bundle C33, page 24777. That is 15 your second witness statement; do you see that? 16 A. Yes. 17 Q. Can you look at 24778. Is that your signature? 18 A. Yes. 19 Q. Do you confirm the content of these two witness 20 statements and put these forward as your evidence in 21 this Commission of Inquiry? 22 A. Yes. 23 MR SHIEH: Thank you. Please remain seated because lawyers 24 for other parties may ask you questions. The Commission 25 may also --</p>	<p>1 Examination by MR PENNICOTT 2 MR PENNICOTT: Mr Chow, good afternoon. My name is 3 Pennicott, I'm one of the counsel for the Commission, 4 and I get to ask you some questions first, and as 5 Mr Shieh has explained, others may do so after me. 6 Thank you very much for coming along to give 7 evidence to the Commission this afternoon. 8 I've just got a couple of topics I want to cover 9 with you, Mr Chow, and I doubt if I'll be very long. 10 Mr Chow, first of all, were you following Mr Shieh's 11 explanation of the organisation charts a few minutes 12 ago? 13 A. I understand. 14 Q. That seemed to show you, as at May 2015, under the 15 general heading of "HUH"; do you remember that? 16 A. Yes. 17 Q. But, by December 2015, it had become area B, area C and 18 HKC; do you remember that? 19 A. Yes. 20 Q. What was the difference? What was the change and when 21 did it happen? 22 A. I think roughly between May and June another colleague 23 was deployed to the Hung Hom site, and at the time SAT 24 and area A were divided to be handled by this new 25 colleague.</p>
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<p>1 MR PENNICOTT: There's a third statement. 2 MR SHIEH: Sorry, yes. There's a third statement also. 3 That is in bundle C35, page 26676. This is your third 4 witness statement, Mr Chow; correct? 5 A. Yes. 6 Q. Turn to the next page, please. That is your signature 7 there? 8 A. Yes. 9 Q. Do you confirm the contents of this witness statement 10 and put this forward as your evidence in this Commission 11 of Inquiry? 12 A. Yes. 13 Q. Please remain seated because lawyers for other parties 14 as well as the Commission may have some questions for 15 you, and then I may have some questions for you by way 16 of rounding-up. Do you understand? 17 A. Understand. 18 Q. And also, when you give your answers, can I ask you to 19 speak out and not simply nod or make a gesture, because 20 these cannot be captured by the recording system or 21 turned into the form of a written transcript. Do you 22 understand? 23 A. I understand. 24 MR SHIEH: Thank you very much. Please remain seated for 25 questioning.</p>	<p>1 Q. I see. But, in any event, can we just establish that 2 from paragraph 4 of your witness statement -- that's at 3 20713, that's your first statement -- that from about, 4 you say, late March 2015 to April 2016, you worked as 5 the construction manager on areas B, C1, C2 and C3 and 6 HKC, both in relation to the EWL slab and the NSL slab, 7 and that that is accurate? 8 A. Yes. 9 Q. Thank you very much. 10 Mr Chow, you refer in paragraph 12 of your witness 11 statement at 20715 to an incident that occurred on 12 15 December 2015. On that day, you say, correctly 13 I think, that you were copied in on an email sent by 14 Kobe Wong of the MTRC to a number of people at 15 Leightons. Do you recall that? 16 A. Yes, I recall that. 17 Q. I'm obliged. You say that you have no recollection of 18 receiving or acting on this email at that time. Is that 19 correct? 20 A. In the first statement, yes. 21 Q. Have you in recent times reviewed NCR157? 22 A. NCR157, I've seen it once, and that was in July this 23 year, I had assisted the MTR investigation and my 24 colleague showed me the document, and I've seen it once. 25 Q. Right. Have you not reviewed it for the purpose of</p>

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<p>1 coming to give evidence today? 2 A. No. 3 Q. Okay. Could I ask you, please, to be shown NCR157. 4 First of all, let's look at the email. If you 5 please could be shown C12/8127. That's the email from 6 Mr Kobe Wong which I just mentioned to you; do you see 7 that, Mr Chow? 8 A. Yes, I see that. 9 Q. And we can see that you were copied in. 10 Then if you would be good enough, please, to go to 11 C12/8134, this is the NCR, 157. We can see that 12 Mr Rawsthorne signed it, and on this page it is dated 13 18 December 2015; do you see that? 14 A. I see that. 15 Q. If we go right to the bottom of the page, under the 16 copyright note it says, "Prepared by: Andy Ip"; do you 17 see that? 18 A. Yes, I see that. 19 Q. If we go over the page, please, to page 8135 -- and this 20 is the second page, as I understand it, of the NCR, 21 Mr Chow -- if we could go to the bottom of the page, 22 please, this time, under the copyright, it says, 23 "Andy Ip", and it also has your name; do you see that? 24 A. I see that. 25 Q. So why does this NCR have, on its face, your name?</p>	<p>1 A. Yes, correct. 2 Q. Mr Chow, we know that this is, on Leighton's evidence, 3 particularly the evidence of Mr Edward Mok, the third of 4 three incidents of threaded rebar cutting that had 5 happened between about September and December 2015. 6 Were you aware of that? 7 A. No, I didn't know. 8 Q. So is it your evidence, Mr Chow, that at no time between 9 September and December 2015, nobody informed you of any 10 bar cutting incident? 11 A. Yes. 12 Q. You would agree, I assume, with all the witnesses who 13 have given evidence on this point so far that cutting 14 threaded rebar is something that should not be done; do 15 you agree? 16 A. Correct. 17 Q. It is a serious malpractice; would you agree? 18 A. Agree. 19 Q. Are you surprised, given that you were the construction 20 manager at the time for the relevant areas, looking back 21 on things, that you were not informed at the time? 22 A. Yes. 23 Q. Having recently, relatively recently, acquired knowledge 24 of this bar cutting incident and perhaps others have you 25 made any enquiries as to why you were not informed at</p>
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<p>1 A. I believe because Andy was in my team, and the usual 2 procedure was that he prepared it and he would show it 3 to me. Then I found that it was okay and put in 4 an initial there, before it was submitted to somebody 5 else. 6 Q. Right. That was my next question. The initials at the 7 bottom, one of those initials is yours; is that correct? 8 A. I haven't signed it. 9 Q. Are either of -- I don't know whether it's one or two 10 initials -- but is the initial or initials at the bottom 11 yours or not? 12 A. I didn't sign it. It was not the form of my initial 13 there. 14 Q. All right. So perhaps they are Mr Ip's initials. Do 15 you recognise them? 16 A. I guess so. 17 Q. All right. But, in any event, you simply have no 18 recollection whatsoever of this NCR; is that correct? 19 A. I've not seen it. It was only when I assisted in the 20 MTRC's investigation did I see it for the first time. 21 Q. You were the construction manager for the relevant area, 22 which we know to be C1-4, in December 2015; that's 23 right, isn't it? 24 A. Just C1 to C3, without C4. 25 Q. C1 hyphen 4 is what I meant.</p>	<p>1 the time? 2 A. I left Leighton already so I didn't have any contact 3 with the relevant colleagues. 4 Q. All right. You left in April 2016, I think, to be fair 5 to you. 6 A. I was redeployed to another site, and then earlier this 7 year I left Leighton. 8 MR PENNICOTT: Right. Thank you very much, Mr Chow. I have 9 no further questions. 10 MR TO: Chairman and Commissioner, I just have a few 11 questions. 12 CHAIRMAN: Yes. 13 Cross-examination by MR TO 14 MR TO: Good afternoon, Mr Chow. I represent China 15 Technology. I'm Christopher To. I'm just going to ask 16 you two or three questions, if that's okay. 17 The first question is -- Mr Pennicott asked you some 18 questions about NCR, non-conformance reports; you 19 recollect? 20 A. Yes, I do. 21 Q. During your time, how many NCR forms were issued? 22 A. I don't know. 23 Q. Are you familiar with a Stephen Lumb, L-U-M-B? 24 A. I don't know him. 25 Q. So are you familiar with a report or two reports done by</p>

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<p>1 Leighton relating to the incidents of rebar cutting? 2 A. Well, I saw that in the newspapers in the last couple of 3 days. 4 Q. My last question is: were you involved in any way or 5 form in terms of assisting in compiling these reports or 6 being interviewed in relation to these reports? 7 A. No. 8 MR TO: Thank you, Mr Chow. I have no further questions. 9 Cross-examination by MR KHAW 10 MR KHAW: Just one question, Mr Chow. I'm acting for the 11 government. While you were working for this particular 12 project, were you aware of any requirements in relation 13 to inspection and supervision as set out under the QSP? 14 A. I haven't read that QSP but, generally, for every site, 15 there are different acceptance procedures. 16 MR KHAW: I have no further questions. 17 MR BOULDING: No questions from MTR, sir. 18 MS CHONG: No question from Fang Sheung. 19 CHAIRMAN: Peter? 20 COMMISSIONER HANSFORD: I have nothing. 21 CHAIRMAN: I have nothing. 22 MR SHIEH: No re-examination. 23 CHAIRMAN: Good. Thank you very much indeed. That was 24 short, sharp and sweet for you, I hope. Thank you very 25 much for coming to the Commission to assist us. Your</p>	<p>1 insofar as we can avoid it -- 2 CHAIRMAN: Yes, of course. 3 MR PENNICOTT: -- in terms of putting things to the 4 witnesses time and time again. 5 HOUSEKEEPING 6 Could I raise, however, another administrative 7 matter which I haven't had a chance to raise with you 8 before. 9 It really relates to tomorrow. We will obviously 10 start with Mr Leung first thing in the morning, and he 11 will be followed by Mr Andy Ip. I'm reasonably 12 confident, subject to anybody behind me telling me I'm 13 wrong, that we will complete the evidence of Mr Leung 14 and Mr Ip during the course of tomorrow. 15 Sir, the problem then arises the next witness is 16 Mr Edward Mok. I anticipate, but I may be wrong, that 17 Mr Edward Mok could be in the witness box rather longer 18 than some of the other Leighton witnesses that we've had 19 to date, for reasons which obviously everybody is aware. 20 Sir, I've had a brief discussion with Mr Shieh and 21 Mr Wilken, and I think we all agree that it would be 22 inappropriate to have a witness in purdah when we break 23 tomorrow evening and for a week off. 24 So what I'm suggesting, I think, so that everybody 25 is aware -- and obviously you may have views -- is that</p>
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<p>1 evidence is now finished. 2 WITNESS: Thank you, Chairman. 3 (The witness was released) 4 MR SHIEH: Mr Chairman and Mr Commissioner, the next witness 5 in line is supposed to be Mr Joe Leung, but we have 6 miscalculated the time that everyone would take, and 7 therefore Mr Joe Leung is not on standby today. 8 CHAIRMAN: That's all right. 9 MR SHIEH: If we may ask for the matter to be adjourned 10 slightly earlier today and then for Mr Joe Leung to be 11 called first thing tomorrow morning. 12 CHAIRMAN: Yes, of course. 13 MR PENNICOTT: Sir, I'm afraid I just couldn't anticipate 14 this and I'm aware of the situation and I apologise as 15 well. 16 CHAIRMAN: No. The Inquiry has been running very much to 17 time, very efficiently. I think we've been making good 18 use of our time, and once in a while something like this 19 is unavoidable. You can't have people who have their 20 own lives, they are busy people, they have 21 responsibilities, simply waiting around at this court on 22 the basis they may be called today or maybe tomorrow, so 23 the odd hiccup like this is acceptable. 24 MR PENNICOTT: Sir, you will appreciate also, of course, 25 that I think all of us are trying not to be repetitive</p>	<p>1 tomorrow the business is Mr Leung and Mr Ip, and we can 2 probably stand down Mr Mok tomorrow, because even if we 3 start him, there's simply no chance we are going to 4 finish him. That would be my take on the situation, 5 unless anybody else has any contrary views. 6 CHAIRMAN: Does any counsel disagree with that assessment? 7 MR SHIEH: We would endorse that, Chairman. 8 COMMISSIONER HANSFORD: Can I just ask a question -- there 9 may be logical reasons why this wouldn't be the case -- 10 but would it be possible to skip over Mr Mok and go to 11 Mr Man? 12 MR PENNICOTT: I think it's a similar problem. 13 MR SHIEH: Well, the subject matter. 14 CHAIRMAN: That's fine. 15 May I mention that I have discussed matters briefly 16 with Mr Pennicott and those who assist him, and also 17 with Prof Hansford, and it would be good, I think, to 18 try to assess the amount of evidence we will have to 19 consider when we return on the basis that it may be 20 necessary to sit on Saturdays once we return. 21 So what I'd like Mr Pennicott to do, and those who 22 assist him, is to have a discussion with you, out of 23 this matter, to see administratively how that would 24 work, in the sense of whether it's necessary or not. 25 What we would anticipate would be full-day hearings</p>

1 from 10.00 in the morning through until 4.00 in the
2 afternoon on the Saturdays when we return. That's not
3 a definite, I'm not saying it will happen, but we do
4 need to have a better idea of the evidence and the
5 amount that we need to get through.
6 MR PENNICOTT: Yes, sir.
7 CHAIRMAN: Good. Anything more?
8 MR PENNICOTT: No, sir. Thank you very much.
9 CHAIRMAN: Thank you very much.
10 (4.31 pm)
11 (The hearing adjourned until 10.00 am the following day)
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