

	Page 1	Page 3
<p>1 Tuesday, 27 November 2018</p> <p>2 (10.03 am)</p> <p>3 MR SHIEH: Good morning, Mr Chairman and Professor.</p> <p>4 Our next witness is Mr Man Sze Ho. Just to put him</p> <p>5 on the organisation chart, could I ask the Commission to</p> <p>6 look at bundle C7, page 5535. This is as of 14 May.</p> <p>7 If the Commission can, as before, look at the MTRC</p> <p>8 blue box at the very top, and move down a bit, we see</p> <p>9 Mr Malcolm Plummer. If we look at 5 o'clock of</p> <p>10 Mr Plummer, go furthest down the page, around 5 o'clock,</p> <p>11 further down -- yes -- we see Mr Man Sze Ho there.</p> <p>12 CHAIRMAN: Thank you.</p> <p>13 MR SHIEH: If we then turn to the next page, C7/5536, this</p> <p>14 time, again, we look at Mr Plummer's photo and this time</p> <p>15 it's around 4 o'clock. Move further down, and, yes, we</p> <p>16 see Mr Man Sze Ho there.</p> <p>17 CHAIRMAN: Thank you.</p> <p>18 MR SHIEH: Mr Man, good morning.</p> <p>19 WITNESS: (Via interpreter) Good morning.</p> <p>20 MR SHIEH: First of all, when I ask you questions and when</p> <p>21 you give an answer, can I trouble you to please speak up</p> <p>22 into the microphone, so that your answer can be captured</p> <p>23 in words on the transcript, instead of just nodding; do</p> <p>24 you understand?</p> <p>25 WITNESS: (Via interpreter) No problem.</p>	<p>1 A. (In English) Okay.</p> <p>2 Q. Look at paragraph 4.</p> <p>3 A. Yes.</p> <p>4 Q. Do you see the first sentence:</p> <p>5 "From around June 2013 until around May 2015, I was</p> <p>6 responsible for the piling works at the project."</p> <p>7 And again we see:</p> <p>8 "From around June 2013 until around May 2015,</p> <p>9 I worked on area C of the East West Corridor platform</p> <p>10 slab ... and area B and area C of the North South</p> <p>11 Corridor platform slab at the project."</p> <p>12 Do you see that?</p> <p>13 A. Yes, I see that.</p> <p>14 Q. So, according to what's written here, during the same</p> <p>15 period you were doing two different things, or is there</p> <p>16 anything you want to comment or correct about that or</p> <p>17 you want to explain?</p> <p>18 A. I'm sorry, I think when I checked the witness statement,</p> <p>19 I put down the years wrongly, because between June 2013</p> <p>20 and May 2015 I was responsible for the piling works.</p> <p>21 Q. Pause for a while because you have to allow the</p> <p>22 translation to go through.</p> <p>23 A. Sorry.</p> <p>24 Q. Carry on, yes.</p> <p>25 A. Then, after May 2015, starting from June 2015, I changed</p>	
	Page 2	Page 4
<p>1 MR MAN SZE HO (affirmed in Punti)</p> <p>2 (All answers given via simultaneous interpreter</p> <p>3 except where otherwise specified)</p> <p>4 Examination-in-chief by MR SHIEH</p> <p>5 MR SHIEH: Mr Man, can I trouble you to turn up bundle C27,</p> <p>6 page 20660.</p> <p>7 A. Yes.</p> <p>8 Q. This is your first witness statement; do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Can you turn to page 20666.</p> <p>11 A. Yes.</p> <p>12 Q. Do you see your signature there?</p> <p>13 A. Correct.</p> <p>14 Q. Can you next turn to bundle C32/24087.</p> <p>15 A. Yes.</p> <p>16 Q. This is your second witness statement?</p> <p>17 A. Correct.</p> <p>18 Q. Turn to page 24085.</p> <p>19 A. Yes.</p> <p>20 Q. That is your signature there; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Could I trouble you to turn back to your first witness</p> <p>23 statement, at bundle C27.</p> <p>24 A. Yes.</p> <p>25 Q. At 20660.</p>	<p>1 to the platform slabs of EWL and NSL of the project. So</p> <p>2 it was after May 2015 that I switched to EWL slab.</p> <p>3 Q. Thank you. So, basically, the second sentence, instead</p> <p>4 of "From around June 2013", you would want to amend that</p> <p>5 to June 2015 or May 2015? Because it is your evidence,</p> <p>6 I want you to give us the month.</p> <p>7 A. Right, from around June 2015 I changed to EWL slab.</p> <p>8 Q. Right. "From around June 2015", until which month?</p> <p>9 Because here in this sentence you wrote "May 2015". So</p> <p>10 the end date should be ...?</p> <p>11 A. Around May 2016.</p> <p>12 Q. "... until around June 2016"?</p> <p>13 A. Yes.</p> <p>14 Q. Sorry, May, until May 2016, you worked on area C of the</p> <p>15 East West Corridor and area B and C of the North South</p> <p>16 Corridor; is that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Thank you. Subject to this correction, do you put</p> <p>19 forward the content of these two witness statements as</p> <p>20 your evidence in this Commission of Inquiry?</p> <p>21 A. No problem. All right.</p> <p>22 Q. Thank you. Please remain seated. Mr Pennicott for the</p> <p>23 Commission and other lawyers will have some questions</p> <p>24 for you. The Commission itself may have some questions</p> <p>25 also, and I may have some follow-up questions after they</p>	

Page 5	Page 7
<p>1 have all finished. Do you understand?</p> <p>2 A. Yes, understood.</p> <p>3 MR SHIEH: Thank you. Please remain seated.</p> <p>4 Examination by MR PENNICOTT</p> <p>5 MR PENNICOTT: Good morning, Mr Man. As Mr Shieh says --</p> <p>6 A. (In English) Good morning.</p> <p>7 Q. -- my name is Pennicott, I am one of the counsel for the</p> <p>8 Commission and I have a few questions for you. Thank</p> <p>9 you very much for coming along to give evidence this</p> <p>10 morning to the Commission.</p> <p>11 Mr Man, you have corrected paragraph 4 of your</p> <p>12 witness statement. That took us up to June 2016 or May</p> <p>13 2016, when you, as I understand it, ceased working on</p> <p>14 the project; is that right?</p> <p>15 A. Not true.</p> <p>16 Q. What happened after May 2016?</p> <p>17 A. In May or June 2016, I was still working for the project</p> <p>18 SCL1112, but at that time the slabs had been completed.</p> <p>19 I then moved on to engage in the works of walls and also</p> <p>20 pillars, not track slabs.</p> <p>21 Q. Right. And how long did you continue with those duties?</p> <p>22 A. Until June 2017. June 2017, when I finally left the</p> <p>23 Hung Hom Station project and moved on to another project</p> <p>24 of Central-Wan Chai Bypass for Leighton.</p> <p>25 Q. I see. And you are still working for Leighton, are you?</p>	<p>1 of all can I just get you to confirm this: you had no</p> <p>2 involvement whatsoever with the diaphragm walls; is that</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And your seniors, superiors, were Andy Ip and Joe Leung,</p> <p>6 in that period that I'm talking about, June 2015 to May</p> <p>7 2016?</p> <p>8 A. Correct.</p> <p>9 Q. And you were working in a team with Edward Mok and</p> <p>10 Sasa Leung, a team of engineers?</p> <p>11 A. Yes.</p> <p>12 Q. And you were an assistant engineer at that time?</p> <p>13 A. Yes, in June 2015.</p> <p>14 Q. And were you the senior of the three of you, that is you</p> <p>15 were the senior to Sasa Leung and Edward Mok?</p> <p>16 A. At that time, we, the three of us, were partners, and</p> <p>17 there was no specific seniority. In terms of the rank,</p> <p>18 Sasa might be of a higher rank, but the three of us</p> <p>19 worked together and our seniors were Andy Ip and</p> <p>20 Joe Leung.</p> <p>21 Q. Right. So you saw yourself as equals, working in a team</p> <p>22 together, carrying out duties and responsibilities that</p> <p>23 were given to you by Mr Ip and/or Mr Leung?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Mr Mok told us yesterday that his main priority,</p>
Page 6	Page 8
<p>1 A. Yes.</p> <p>2 Q. I understand that earlier this year you were asked to</p> <p>3 come back to the office and help compile and collate</p> <p>4 various documents that were being requested by various</p> <p>5 parties. Is that right?</p> <p>6 A. In 2018, in April, there was a period of four days when</p> <p>7 I returned to Hung Hom Station to collate the RISC forms</p> <p>8 and the concrete records for the company.</p> <p>9 Q. Right, in April this year?</p> <p>10 A. April, yes.</p> <p>11 Q. That was just for a short period of four days and that</p> <p>12 was it; is that correct?</p> <p>13 A. In my case, yes, but let me add that in August 2018,</p> <p>14 around the 20th in my recollection, I was formally</p> <p>15 redeployed to Hung Hom Station again to carry out</p> <p>16 remedial works. That is regarding the defect of</p> <p>17 concreting. So, at the moment, I'm working at the site</p> <p>18 office of Hung Hom.</p> <p>19 Q. Right, so you're back at Hung Hom now and you are</p> <p>20 dealing with concrete defects?</p> <p>21 A. Correct.</p> <p>22 Q. So I think we've now got the full story. Thank you very</p> <p>23 much, Mr Man, for that.</p> <p>24 Going back -- the period I'm most interested in,</p> <p>25 obviously, is the period June 2015 to May 2016. First</p>	<p>1 possibly about 70 per cent of his time, 70 per cent of</p> <p>2 the work that he did, was very much focused on the rebar</p> <p>3 fixing and installation. Did you have any particular</p> <p>4 priority in your work?</p> <p>5 A. In terms of this ratio of work, Mr Mok was mainly</p> <p>6 responsible for working with Fang Sheung, who were the</p> <p>7 steel fixers, so 70 per cent of his time was on steel</p> <p>8 fixing, whereas for me, I mainly worked with China Tech,</p> <p>9 so about 70 per cent of my work was related to cast-in</p> <p>10 items or formworks, and I was also involved with steel</p> <p>11 fixing. So perhaps 70 per cent formwork and 30 per cent</p> <p>12 rebar fixing.</p> <p>13 Q. Does this mean, would this be fair, Mr Man, you would</p> <p>14 have, in that role, that is the 70 per cent on formwork</p> <p>15 for China Technology, seen Mr Jason Poon on a regular</p> <p>16 basis, throughout the period that we're talking about,</p> <p>17 June 2015 to May 2016?</p> <p>18 A. Usually, I worked with the foreman or supervisors</p> <p>19 working under Jason Poon and I did not often see Jason</p> <p>20 Poon personally.</p> <p>21 Q. Okay. How often did you see him, do you think? Can you</p> <p>22 estimate, approximately?</p> <p>23 A. I knew he was often at the site but I would see him</p> <p>24 about once a week.</p> <p>25 Q. Okay. Did you have any detailed conversations with him</p>

Page 9	Page 11
<p>1 about the formwork, and the work that China Technology 2 were doing generally? 3 A. We seldom had such conversation. 4 Q. So your conversations, insofar as you needed them, were 5 with his foremen and supervisors; is that right? 6 A. Correct. 7 Q. I assume -- is this right -- that you never had 8 a conversation with him about the cutting of threaded 9 rebar? 10 A. Do you mean Jason Poon? 11 Q. Yes, I do mean Jason. 12 A. No. 13 Q. What about any of his foremen or supervisors; did you 14 have any such conversation with them? 15 A. No. 16 Q. Okay. 17 Can I ask you, please, to look at paragraph 15 of 18 your first witness statement. That's at page C27/20662, 19 where you say this: 20 "During my routine informal inspections when I was 21 doing my rounds of site visit as described above, 22 I would visually inspect the connections between rebars 23 and couplers, the arrangement and alignment of the 24 installed rebars, and the general cleanliness of the 25 area before concreting."</p>	<p>1 Q. Right. And presumably, what, you were satisfied if you 2 could only see one or two threads? 3 A. Yes. 4 Q. Right. Mr Mok told us yesterday that BOSA gave some 5 instructions or tuition about the rebar fixing and the 6 coupler connections. Did you benefit from those 7 instructions and that tuition yourself, Mr Man? 8 A. At that time, BOSA did not issue any such instructions, 9 but Edward Mok did mention to me this incident. 10 Q. Right. So you didn't attend any BOSA training sessions 11 but Mr Mok did; is that correct? 12 A. Correct. 13 Q. Okay. 14 CHAIRMAN: Sorry, could I ask -- 15 MR PENNICOTT: Of course. 16 CHAIRMAN: -- you would check to see if one or two threads 17 were showing only and that was fine, anything more was 18 not; is that correct? 19 A. Correct. 20 CHAIRMAN: And how was it that you came to appreciate that 21 one or two threads showing was permissible? You've 22 mentioned that Edward Mok had spoken to you, but had you 23 looked the matter up in any other way, or had you been 24 formally advised of this in any other way? 25 A. At that time, Mr Edward Mok was very familiar with the</p>
Page 10	Page 12
<p>1 Now, in terms of your visual inspections of the 2 connections between rebars and couplers, what was it 3 that you were looking for or watching out for, Mr Man? 4 A. Were you asking about the things I would look out for 5 during my rounds at the site? 6 Q. Yes, indeed. 7 A. At that time, I was assistant engineer and I was 8 responsible for checking the site every day and see 9 whether the sub-contractors ran into any issues. For 10 the platform slabs, there were a lot of processes apart 11 from steel fixing. There were some tremie pipes as well 12 as ELS screws. So we would check all these at the site. 13 We carried out inspections on the coupler 14 connections because we knew it was an area of focus in 15 the incidents, so in my routine inspections I would 16 check these processes. So I would spend one or two 17 hours at each workfront and I would be able to identify 18 those issues. 19 Q. All right. You say you inspected the coupler 20 connections because it was an area of focus, you say in 21 the incidents but forget about that for the moment. 22 When you were inspecting the coupler connections, what 23 was it that you were checking? 24 A. After the threaded ends are screwed into the coupler, 25 I would see how many threads were left.</p>	<p>1 application of couplers at the D-wall. So, for the 2 platform slab works, I looked into the issue with 3 Mr Edward Mok and he told me, and he said that with only 4 one or two threads, this would be acceptable, and there 5 has been no issues at the site in this regard, so I did 6 not personally look into the issue myself. 7 CHAIRMAN: No, no. So you were assisting him then; would 8 that be correct? I know you inspected independently, 9 but you have accepted he seemed to have greater 10 knowledge in this area than you did? 11 A. Yes, correct. 12 CHAIRMAN: And, when you were inspecting, would you inspect 13 every single coupler? Would you walk along and then 14 stop and inspect two or three at a time? What was your 15 process for checking? 16 A. When I reached a spot and the coupler works were 17 ongoing, then I would follow the alignment, I would walk 18 along the alignment, and check whether there were only 19 one or two screws left in the threads. 20 CHAIRMAN: Right. 21 MR PENNICOTT: Can I just take you back a couple of 22 questions, Mr Man, just to identify for us what 23 a particular document is all about. 24 Could you go to I think it's C27/20562. Do you see 25 something there, a piece of paper, "Leighton Contractors</p>

Page 13	Page 15
<p>1 (Asia) Ltd" at the top of the page, and then it says 2 "Briefing record"; do you see that, Mr Man? 3 A. Yes, I see that. 4 Q. My understanding is that this is a briefing by BOSA. 5 Sorry, a briefing record in relation to the installation 6 of the couplers, in particular in area C3; do you see 7 that? The document is dated 15 December 2015. 8 A. Yes, I see that. 9 Q. Can you explain to us what this is? 10 A. After the NCR was issued, my superiors asked me to 11 approach Fang Sheung's foremen to remind them how the 12 couplers can be applied correctly. I cannot remember 13 whether BOSA was invited as well. 14 Q. Right. So this relates -- the date is familiar to us 15 all, 15 December 2015, when the five threaded rebar, cut 16 rebar, were discovered. So is this a briefing -- it 17 says, the box at the top is ticked, "Field control 18 briefing"; do you see that? 19 A. I see that. 20 Q. Suggesting perhaps that this is a briefing that took 21 place on site? 22 A. Yes. 23 Q. Then it says on the right-hand side, "Convenor/company". 24 So who convened this briefing? 25 A. Joe Cheung, Joe Cheung from Fang Sheung.</p>	<p>1 telling him to remind workers about the installation of 2 couplers. So, in my recollection, I do recall this 3 meeting. 4 For the exact date, I believe it shouldn't be the 5 15th, but because the incident took place on the 15th we 6 put down the 15th. It should be just a matter of a few 7 days. 8 CHAIRMAN: All right. Sorry, you have to -- because this 9 seems to have cropped up on a number of occasions, when 10 there seems to be retrospective dating -- I mean, if the 11 briefing took place on the 18th in respect of 12 an incident that had occurred on the 15th, why not just 13 say, "Briefing took place on the 18th"? Because 14 otherwise you are distorting the truth, aren't you? 15 A. I understand, but at the time perhaps I didn't think 16 that much. 17 CHAIRMAN: No, but I'm just trying to work out why you would 18 feel that you can put down a date that isn't the true 19 date. Do you see what I mean? People come back to this 20 later in order to check records, and they can have no 21 real reliance on the true chronology of these records 22 because the dates appear to be pretty much how people 23 feel they should be as opposed to what they really are. 24 It doesn't strike me -- I'm not an engineer but it 25 doesn't strike me as the most stringent and correct way</p>
Page 14	Page 16
<p>1 Q. Right. And you were an observer at that briefing? 2 A. Correct. 3 Q. And I assume -- perhaps you can tell us -- that the 4 names that we can see, the eight names, are Fang Sheung 5 workers? 6 A. Normally, it should be, but I don't know them. 7 Q. Okay. So, to the best of your recollection, this was 8 a briefing that was convened by Mr Cheung after the 9 incident that led to the issuing of the NCR no. 157 and 10 took place on 15 December, and you were just 11 an observer? 12 A. In my recollection, this briefing session was held by 13 Joe Cheung and me and the workers, but I would like to 14 add that in terms of the time frame, it might not have 15 taken place exactly on the 15th, perhaps on 18 or 16 19 December. We just wanted to backdate that to the 17 15th. 18 Q. All right. I am told that under the column "Company" -- 19 CHAIRMAN: Sorry, I do apologise -- why would you want to 20 backdate it? I do apologise. 21 MR PENNICOTT: No, no. You are quite right. 22 A. I recall this incident because, at the time, according 23 to the NCR report, I was on leave. So, after I returned 24 from leave, I was told about the incident, and 25 I immediately held this briefing with Joe Cheung,</p>	<p>1 of dealing with this kind of thing. 2 COMMISSIONER HANSFORD: Well, I am an engineer, and it's 3 not. But I don't understand when this form was 4 completed. What date was the form actually made out? 5 You say you backdated it to the 15th, but when was the 6 form itself completed? 7 A. Yes, good morning. I cannot recall when it was 8 completed. I could only say that it was towards the end 9 of December 2015, around the 20th. I reckon I put down 10 the 15th at the time because this form could relate to 11 the incident that happened on the 15th. That is why 12 I put down that date. At the time, I didn't think that 13 I should put down the date of that date. 14 COMMISSIONER HANSFORD: And you even put 15:00 hours for the 15 time at the top. So you were recollecting that this had 16 taken place at 3 pm in the afternoon, 15:00 hours; is 17 that correct? 18 A. Well, about the 15:00 hours, I think it was the time 19 when the incident happened. The form was trying to 20 record that incident. 21 COMMISSIONER HANSFORD: No, no, no, that's not correct, is 22 it, Mr Man? The form is trying to record the briefing, 23 not the incident, surely; isn't that correct? 24 A. You are right. 25 COMMISSIONER HANSFORD: Okay. There's still a bit of</p>

Page 17	Page 19
<p>1 a puzzle then, as to why you would date it 15/12 at 2 3 pm. Maybe I'll leave that puzzle. 3 MR PENNICOTT: Yes. All right. 4 Sir, this is obviously a document that has obviously 5 been there for a long time, but unfortunately only very 6 recently spotted by us as being relevant to what 7 happened in the aftermath of the discovery of the five 8 cut rebars on the 15th. Clearly, Mr Man's signature is 9 on here, so we thought it appropriate to put it to him, 10 although I have to confess I thought BOSA was involved 11 in this briefing as well, but from Mr Man's evidence 12 that appears to be perhaps not the case, but there we 13 are. 14 Can I just check one thing before I move on? 15 CHAIRMAN: Sorry, while counsel is looking -- you were at 16 this briefing. Do you recall anything being said to the 17 persons who were at that briefing condemning and 18 prohibiting future cutting of rebars, threads? 19 A. I just recall, on that date, together with Fang Sheung's 20 Joe Cheung, we gathered his workers and told his workers 21 that they should refrain from cutting any more rebars, 22 and they were also told that if there was any problem 23 they should approach either me or Edward, that is 24 Edward Mok, because we would help find our foremen to 25 try to replace all the couplers to make sure that the</p>	<p>1 If we go to bundle C8/5552. If we blow the top part 2 of it up, please, and go to the left, you will see 3 Mr Man is about nine or ten names down on the left-hand 4 side, "Man Sze Ho". Then if we scroll across, please, 5 to December 2015, on the right-hand side, you will 6 see -- you must have had a long holiday, Mr Man. You 7 seem to have left on 9 November and come back on 8 16 December. Do you see? 9 A. Yes. 10 Q. So I think what you were saying earlier is that you were 11 absent, on annual leave, on 14, 15 and 16 December; is 12 that right? 13 A. Correct. 14 Q. And that's why you believe this briefing perhaps took 15 place on the 17th or 18th? 16 A. Well, I remember the briefing was conducted afterwards, 17 but now I'm not sure why I put down that date. Perhaps 18 I wanted this form to be related to the incident. 19 Q. Yes, I understand. Okay. 20 Back to paragraph 15 of your witness statement. You 21 say you would visually inspect the connections between 22 the rebars and the couplers, and so forth. 23 Mr Man, as I understand it, you weren't asked to 24 keep any records of those inspections, those routine 25 inspections?</p>
Page 18	Page 20
<p>1 works could be carried out. 2 CHAIRMAN: The reason I ask is because if one accepts what 3 they purport to show, there are a couple of photographs 4 dated 22 September, just a few days later, which seem 5 perhaps to show a worker -- 6 MR SHIEH: This is December. 7 MR PENNICOTT: This is December. 8 CHAIRMAN: Oh, this is December? My apologies. Thank you 9 very much. In which case ignore that; I got the dates 10 wrong. 11 COMMISSIONER HANSFORD: Actually, before we leave this form, 12 Mr Man, just so I can understand the content -- you have 13 completed this form; is that correct? 14 A. Correct. 15 COMMISSIONER HANSFORD: Could you read the contents box 16 that's currently in Chinese, and in that way it will be 17 translated and I will be able to hear what it says. 18 A. Yes, no problem. It says: 19 "Remind workers how to correctly use coupler and to 20 install them." 21 COMMISSIONER HANSFORD: Thank you. 22 MR PENNICOTT: Sir, just to wrap this point up, if I may, 23 and to be fair to Mr Man -- he indicated in an earlier 24 answer that he was on annual leave on 15 December. The 25 record suggests that that is correct.</p>	<p>1 A. Correct. 2 Q. Could I then please ask you to go to paragraph 16(e) of 3 your first witness statement. This is in the section 4 that's dealing with formal inspections. You say: 5 "It was standard practice that MTR's 6 engineer/inspector of works would verbally approve the 7 inspected works and authorise Leighton to proceed after 8 the formal inspections. The only exception would be if 9 MTR engineer/inspector of works required rectification 10 work. If the defect was minor, I would ensure that such 11 remedial work was completed immediately by the 12 sub-contractor during the inspection." 13 Mr Man, can you give us an example of a minor defect 14 that would be corrected or completed immediately, in the 15 way that you describe? 16 A. Say when I inspected the site together with MTRCL's 17 engineer or IoW, we would sometimes discover very minor 18 defects. For example, some wooden planks might not have 19 been cleared, or there might be hydrophilic strips not 20 yet completed, and also perhaps the tubes for grouting. 21 These could be normal workmanship issues that could be 22 rectified immediately and I would regard them as minor 23 defects. 24 Q. All right. Then you say: 25 "Otherwise, if more time was required to complete</p>

Page 21	Page 23
<p>1 the rectification work, further inspection would be 2 arranged with MTR." 3 Can you give us an example of something that wasn't 4 minor, ie the "otherwise" that you're referring to 5 there, something more major, presumably? 6 A. I put it down in the statement because if there were 7 major defects requiring rectification, then more time 8 would be needed to make arrangements for rectification. 9 But, in my personal experience, there was not 10 an occasion when re-inspection was needed. 11 Q. All right. 12 Now, you say at paragraph 17(a) of your first 13 witness statement, that's at the top of 20664: 14 "There were in fact two formal inspections. The 15 first was undertaken after Fang Sheung had completed the 16 bottom layers of rebars and the second after the top 17 layers were completed." 18 Mr Mok gave evidence to similar effect yesterday and 19 I'm not going to go over all that again. But could 20 I just ask you, please, to look with me at a couple of 21 documents, just to give that point a little bit more 22 detail. 23 Could I ask you, please, first of all, to be shown 24 H1/186. 25 Mr Man, this is a RISC form. It relates to bay</p>	<p>1 202 but let's just focus on 201 for now -- this is 2 described as the "Cast in situ concrete quality control 3 checklist", a document you're familiar with, I imagine, 4 Mr Man? 5 A. Correct. 6 Q. And indeed we see that this document contains your 7 signature on the right-hand side in respect of the 8 various items? 9 A. Yes. 10 Q. So far as the reinforcement fixing is concerned, that's 11 item 5, it says: 12 "Size, number, length and spacing of bars, lap 13 lengths, starter bar lengths and levels, cover, tying 14 wire ... rigidity, surface condition, welds, 15 spacers/chairs." 16 Would I be right in thinking, Mr Man, that when 17 you're doing the pre-pour check that this document 18 relates to, you don't re-inspect all the rebar for that 19 purpose; you simply rely upon the fact that the RISC 20 form in relation to the rebar has been signed off by 21 Leighton and MTR, and you simply rely upon that fact to 22 tick the box against item 5; is that correct? 23 A. Before we compile this pre-pour checklist and submit the 24 RISC form, there would be a RISC form for rebar fixing. 25 When that rebar fixing form was submitted, myself and</p>
Page 22	Page 24
<p>1 C2-3; do you see that, towards the top? 2 A. Correct. 3 Q. And it's dated 2 October 2015; do you see that? 4 A. Yes, I see that. 5 Q. One can see, at item (2) under "Part A": 6 "Work to be inspected/surveyed: Inspection of rebar 7 fixing for bay C2-3 EWL slab (top and bottom steel)". 8 Do you see that? 9 A. I see that. 10 Q. So, as we discussed with Mr Mok yesterday, even though 11 the bottom steel and the top steel may be separately 12 inspected at two different times, there would just be 13 one RISC form in relation to those inspections; is that 14 your understanding? 15 A. Yes. 16 Q. If you would then be good enough to go to page 200 in 17 the same bundle, one can see that this also relates to 18 the same bay, C2-3, and it's dated a few days later, 19 5 October; do you see that? 20 A. Yes, I see that. 21 Q. And this time, item (2) under "Part A, the work to be 22 inspected or surveyed is described as "Pre-pour check 23 (final condition)"; do you see that? 24 A. I see that. 25 Q. If we go over the page to 201 -- this also continues on</p>	<p>1 Edward Mok were sure that the steel fixing at the bay 2 was completed according to the approved drawing, and the 3 MTRC's engineers would have accepted it before we 4 proceeded to the top mat, and that's why I felt 5 confident of signing this form. 6 Q. Right, and ticking the box against number 5 and signing 7 it? 8 A. (In English) Yes. 9 Q. Okay. 10 Mr Man, a question I've been asking a lot of 11 witnesses: have you heard of the site supervision plan? 12 A. (In English) Sorry, SSP? 13 Q. Yes. 14 A. (In English) SSP? Yes. 15 (Via interpreter) Yes, I've heard about it. 16 Q. Is it a document you've read? 17 A. No, not at that time. 18 Q. That was my next question: you didn't read the site 19 supervision plan, you weren't shown it back in 2015? 20 A. Yes. 21 Q. It's a document you only recently read? 22 A. Yes. 23 Q. Would I also be right in thinking that so far as the 24 quality supervision plan is concerned, the QSP, that was 25 also not a document that you were shown or read back in</p>

Page 25	Page 27
<p>1 2015?</p> <p>2 A. Correct.</p> <p>3 Q. Have you read the quality supervision plan recently?</p> <p>4 A. Yes, recently.</p> <p>5 Q. All right.</p> <p>6 Now, Mr Man, can I ask you to cast your mind back to</p> <p>7 January 2017; all right? The reason I ask you to do</p> <p>8 that is you may recall that Mr Lumb, Stephen Lumb, head</p> <p>9 of engineering at Leighton, and/or a gentleman called</p> <p>10 Guntung, carried out a review and investigation in</p> <p>11 relation to allegations concerning cut threaded rebar.</p> <p>12 Do you recall that?</p> <p>13 A. Yes.</p> <p>14 CHAIRMAN: Sorry, I'm obviously getting my dates a bit</p> <p>15 confused this morning.</p> <p>16 MR PENNICOTT: That's all right.</p> <p>17 CHAIRMAN: January 2017, I thought that was when the actual</p> <p>18 letter of 6 January or the email --</p> <p>19 MR PENNICOTT: Yes, which gave rise to --</p> <p>20 COMMISSIONER HANSFORD: Stephen Lumb's report.</p> <p>21 CHAIRMAN: Thank you very much.</p> <p>22 MR PENNICOTT: I was doubting myself there.</p> <p>23 Yes, the investigation or review by Mr Lumb and</p> <p>24 Guntung was triggered by some emails in early January</p> <p>25 2017, but I'm not troubling you with those, Mr Man.</p>	<p>1 see there on that page, Mr Man, a heading "Remedial</p> <p>2 measures"; do you see that?</p> <p>3 A. Yes, I see that.</p> <p>4 Q. Do you recall discussing with Guntung or Mr Lumb the</p> <p>5 subject of remedial works that might be required to</p> <p>6 couplers and starter bars?</p> <p>7 A. We did mention the remedial measures we carried out.</p> <p>8 Q. Right. So what it says here is that:</p> <p>9 "During the investigation, it was advised that</p> <p>10 remedial works were required to the coupled starter bars</p> <p>11 in several conditions:</p> <p>12 1. Coupler misaligned in level (resulting starter</p> <p>13 bar with inadequate cover).</p> <p>14 2. Coupler misaligned in level (resulting in</p> <p>15 starter bar clashing with other rebar)."</p> <p>16 To your recollection, Mr Man, were remedial works</p> <p>17 required when conditions such as described there</p> <p>18 occurred? Do you recall yourself, going back to</p> <p>19 2015/2016, that these types of remedial -- these types</p> <p>20 of problems gave rise to remedial works?</p> <p>21 A. When myself and Mr Guntung discussed the issue, we</p> <p>22 talked about these two conditions. From my</p> <p>23 recollection, I told him two remedial measures. One was</p> <p>24 for the EWL slabs in 2015. As for the couplers in the</p> <p>25 west, they were in sub-par condition after the couplers</p>
Page 26	Page 28
<p>1 Do you recall being interviewed by Guntung back in</p> <p>2 January 2017?</p> <p>3 A. Yes.</p> <p>4 Q. And the two people, the two site people who were</p> <p>5 interviewed, were I think yourself and Mr Ip? The</p> <p>6 others seem to be people from the design team?</p> <p>7 You probably don't know that, sorry.</p> <p>8 A. From my recollection, Mr Guntung interviewed me in</p> <p>9 a room. He wanted to learn about our views on this</p> <p>10 incident. So it was an independent interview. I did</p> <p>11 not know whether other people were also interviewed.</p> <p>12 Q. Understood. And Mr Lumb ultimately produced a report</p> <p>13 following his review and investigation and the interview</p> <p>14 that he had with you and others. Were you shown a copy</p> <p>15 of that report, back in January or February 2017?</p> <p>16 A. No, not at that time.</p> <p>17 Q. Have you seen it more recently?</p> <p>18 A. Two days ago.</p> <p>19 Q. Two days ago.</p> <p>20 A. I saw it two days ago.</p> <p>21 Q. Right. You were given some homework. Good.</p> <p>22 Could I ask you, please, to look at the report.</p> <p>23 That's in C27 and it starts at 20242.</p> <p>24 There's just one aspect of it I want to look at with</p> <p>25 you, Mr Man, and that's at 20254, I believe. You will</p>	<p>1 were installed, so there was wholesale replacement of</p> <p>2 the couplers at that time. So that was the first</p> <p>3 remedial measure.</p> <p>4 As for the second measure --</p> <p>5 CHAIRMAN: Sorry, what sort of condition?</p> <p>6 A. Because in fact --</p> <p>7 MR SHIEH: I think he said "poor condition".</p> <p>8 A. -- for D-wall, couplers were used in two directions.</p> <p>9 They could be aligned like this and like this</p> <p>10 (demonstrating with fingers), as shown. If it goes</p> <p>11 vertically upward, like this (demonstrating with</p> <p>12 fingers), then the couplers in the D-wall would mainly</p> <p>13 be there for the purpose of protecting the threads of</p> <p>14 the bar. So, for the vertical couplers, we would</p> <p>15 replace all of them for installation.</p> <p>16 MR PENNICOTT: It goes on here in this record -- look back</p> <p>17 at item 8 or paragraph 8.</p> <p>18 A. Yes.</p> <p>19 Q. It says, under the remedial measures which were</p> <p>20 implemented:</p> <p>21 "When the starter bar was at the correct level but</p> <p>22 installed in the incorrect direction (ie not</p> <p>23 perpendicular to the face of the diaphragm wall), the</p> <p>24 starter bar was mechanically bent to the intended</p> <p>25 alignment."</p>

Page 29	Page 31
<p>1 Mr Man, do you have a recollection of those types of 2 incidents happening and that type of remedial measure 3 taking place? 4 A. I think you are referring to item 1; is that right? 5 Q. I am. 6 A. Yes, it happened before at the site, because some 7 couplers might have been misaligned when they were 8 installed on the D-wall. We therefore needed to screw 9 the starter bar in first and then bend them 10 mechanically. So that's a common scenario in the site. 11 Q. Right. You say it's a common scenario. So this would 12 happen on a regular basis, would it? 13 A. Well, yes, it happened, but then we would not make too 14 much of it. 15 Q. All right. 16 A. I mean, for this condition, because I just read this 17 a few days ago. My understanding is that as long as 18 there was misalignment, mechanical bending would be 19 required, and that would be done, that would be 20 practised in the site. 21 Q. In practical terms, Mr Man, is that sort of remedial 22 measure implemented when the misalignment is not very 23 great, it's just a minor misalignment and so it can be 24 put right simply by screwing in the rebar and then just 25 pulling it to get it perpendicular or horizontal?</p>	<p>1 the addition of one additional T25 starter bar? 2 A. Correct. 3 Q. And, so far as 2 is concerned, would that happen simply 4 on site, with Fang Sheung in attendance, without any TQ 5 having been issued, just a site instruction and just to 6 put in that additional starter bar or dowel bar as 7 I think some people have called it? 8 A. In my recollection, on that day, because when we started 9 with NSL slab we discovered this issue, we then agreed 10 with the engineer of MTRCL that we could drill in 11 an additional bar to rectify such case as remedial 12 measure, to make up for the bent bar. 13 Q. All right. I think I had better just get this a bit 14 clearer, Mr Man. So far as the EWL is concerned -- 15 let's just focus on the EWL for now -- 1 and 2 remedial 16 measures, how often were they required on the EWL? 17 A. Well, just for EWL, I had not seen any scenario of 18 number 2. For number 1, I think roughly 5 per cent, 19 because after all some couplers might have tilted up, 20 and then another layer might be used to bend it 21 downwards. So my understanding of mechanically bent it 22 in number 1 is that. 23 Q. All right. But you think, or recollect, rather, that so 24 far as number 2 is concerned, that didn't happen on the 25 EWL --</p>
Page 30	Page 32
<p>1 A. Well, let me clarify. For item 1, I think this is 2 suggesting that the misalignment angle is not great. 3 Let me put it more clearly. 4 Q. Okay. 5 A. The method that I provided to Mr Guntung on that day was 6 that -- was something that I encountered at the NSL 7 slab, and it is different from the EWL slab because for 8 the NSL slab all the couplers were in the D-wall. They 9 could not be installed by us. So, if a coupler tilts up 10 or if it is misaligned -- I mean, the percentage is 11 higher, it is more common, although not really common. 12 So, as to how we rectify the tilted couplers or 13 misaligned couplers, we would use method 2 in this 14 report, and that is, after screwing the starter bar in, 15 we manually bent it, and then we add an additional T25 16 starter bar next to it. Together with RE500, we fix 17 them together. 18 Well, this is what I personally told Mr Guntung and 19 what was done at the site. 20 Q. All right. But can I just distinguish between 1 and 2: 21 1 would be implemented and is just screwing in the rebar 22 and mechanically bending the bar into the correct 23 alignment, where the misalignment was not great, it was 24 minor; whereas, so far as 2 is concerned, that was 25 a slightly worse condition, and therefore necessitated</p>	<p>1 A. Correct. 2 Q. -- east diaphragm wall? 3 A. Well, to put it correctly, for EWL, as far as I could 4 recollect, number 2 remedial measure wasn't taken. It 5 only happened in NSL. 6 Q. Okay. We may have to come back to that specific point 7 in a moment, when we look at some of the records. 8 What about 3, Mr Man: 9 "When the starter bar was installed at the incorrect 10 level (ie installed too high or too low) and therefore 11 needed to be abandoned, one additional T25 starter bar 12 was drilled and fixed using ... chemical resin ... 13 adjacent to the abandoned T40 coupler ..." 14 Then there's a reference to a drawing. Don't worry 15 about the drawing for the moment. 16 How often did that remedial measure happen, if at 17 all, on the EWL? 18 A. I never saw number 3 happen. 19 Q. On the EWL. What about the NSL? 20 A. To put it more precisely, I never saw this remedial 21 measure being implemented in area C of EWL or areas B 22 and C of NSL. 23 Q. And so I think that probably gives rise to this obvious 24 question: how did item 3 come to be recorded in this 25 report by Mr Lumb? Was it not something you told him?</p>

Page 33	Page 35
<p>1 A. I'm not sure. I have no idea why he would put this 2 down. Perhaps he asked somebody else. It's one of the 3 remedial measures but it's not one I've ever seen. 4 Q. So number 3, you are telling us, is not something that 5 you informed Mr Lumb or Guntung about? 6 A. Correct. I did not tell him about this measure. 7 Q. Okay. I'll ask him later. Thank you for that. 8 Could we then just look, finally so far as I'm 9 concerned, at a couple of documents which we have looked 10 at before with other witnesses, in C13. 11 Sorry, just give me a moment. 12 It should be 8648, please, in C13. 13 Mr Man, we touched on a point earlier, when you 14 indicated that you came back for a few days in April to 15 head office or the site office, to assist in putting 16 together certain documents. 17 A. Mmm. 18 Q. Can I ask you to look at C13/8648. Is this a document 19 that you recognise? 20 A. I saw that before. 21 Q. Did you participate in the preparation of this document? 22 A. No, I did not take part in this document. 23 Q. So you have seen it before, but, again, recently? 24 A. I saw this within the past month. 25 Q. All right. So you didn't have any role in preparing</p>	<p>1 asked to dig out certain documents, so you compiled 2 documents? 3 A. Correct. In April 2018, I returned to the office to 4 help compile the documents. 5 Q. May I ask who actually asked you to dig out the relevant 6 documents and compile the documentation? 7 A. I can't really remember, but at that time I was 8 assisting Andy Ip. 9 Q. Did he tell you the reason why you were required to dig 10 out the documents? 11 A. It was probably because the engineering team was 12 familiar with those documents, so we compiled a box file 13 of documents for him. 14 Q. You told us that you saw this document recently. 15 A. Yes. 16 Q. Who showed you this document? 17 A. I can't really remember. 18 Q. Did anyone tell you who was responsible for filling in 19 the box, ie the box at the bottom of this document with 20 items 1 to 6, and then somebody actually put in a circle 21 indicating "S", et cetera? Do you know who was 22 responsible for filling in these details? 23 A. I don't know. 24 Q. And certainly that was not you; right? 25 A. Yes, it wasn't me.</p>
Page 34	Page 36
<p>1 this document. Can you just help us with this. When 2 you came back for your few days in April, precisely what 3 is it that you did? What were you asked to do? 4 A. In April 2018, I returned to the Hung Hom office. 5 I helped compile the dates of concreting and rebar 6 fixing, and I dug out all the RISC forms and I compiled 7 those documents for my company. 8 Q. All right. That was the limit of your input? 9 A. Yes, correct. 10 MR PENNICOTT: All right. So no more questions on those 11 documents, subject to just checking. 12 Sir, yes, I have no more questions for Mr Man. 13 CHAIRMAN: Thank you very much. 14 MR TO: No questions from me. 15 CHAIRMAN: Thank you. 16 Cross-examination by MR KHAW 17 MR KHAW: Mr Man, I am acting for the government. I have 18 just a few questions for you. 19 If we can have a look at the document on the screen 20 that Mr Pennicott was just referring you to. You told 21 us that the first time you saw this document was within 22 a month from today; is that correct? 23 A. Yes, around that time. 24 Q. And you told us that in fact all you did was that after 25 you returned to Hung Hom office in April 2018, you were</p>	<p>1 Q. Earlier on this morning, Mr Chairman asked you a 2 question, and his question was, when you were 3 inspecting, would you inspect every single coupler; do 4 you remember that? 5 A. I remember. 6 Q. And your answer was that you would walk along the 7 alignment and check whether the threaded rebars had been 8 properly connected? 9 A. Correct. 10 Q. Just one follow-up question on that. When you were 11 inspecting the threaded rebars, ie when you were 12 inspecting the coupler connections, were there 13 situations where, for example, one layer of -- well, 14 let's put it this way. If we say there's one mat of 15 reinforcement bars, consisting of, say, four layers of 16 reinforcement bars -- okay? Let's take that point for 17 the time being. Were there situations where you went to 18 inspect after one layer at the bottom was completed, and 19 then you went elsewhere to see something else? 20 A. Sorry, I don't quite catch the translation. Can you 21 repeat the question? 22 Q. If we take, say, one mat of reinforcement bars, let's 23 assume that one mat of reinforcement bars consists of, 24 say, four layers of reinforcement bars. So far, so 25 good?</p>

<p style="text-align: right;">Page 37</p> <p>1 A. Yes.</p> <p>2 Q. So, when you were inspecting the coupler installations,</p> <p>3 after one particular layer, say at the bottom, was</p> <p>4 completed, were there situations where, after one layer</p> <p>5 was completed, you had a look at it and then you went</p> <p>6 elsewhere to see other works?</p> <p>7 A. Yes.</p> <p>8 Q. And there were situations where, when you came back to</p> <p>9 look at the coupler installations again, perhaps another</p> <p>10 two or three layers were completed?</p> <p>11 A. Generally, I do two rounds at the site every day and</p> <p>12 I would pass by every workfront, unless I am on leave,</p> <p>13 of course. For inspections on a daily basis, from my</p> <p>14 recollection, only one to one and a half layers could be</p> <p>15 completed in terms of steel fixing, and from my</p> <p>16 recollection, after I come back to the same site,</p> <p>17 I would not see another two or three layers being</p> <p>18 completed.</p> <p>19 COMMISSIONER HANSFORD: Sorry, just so that I can understand</p> <p>20 that, Mr Man -- you say, "From my recollection, one to</p> <p>21 one and a half layers could be completed" -- do you mean</p> <p>22 within one day? What do you mean by that?</p> <p>23 A. One day.</p> <p>24 MR SHIEH: I think the words "within one day" were omitted</p> <p>25 in the translation.</p>	<p style="text-align: right;">Page 39</p> <p>1 about the difficulties that they encountered in coupling</p> <p>2 works?</p> <p>3 A. I can't specifically recall whether he approached me</p> <p>4 before December 2015, but the answer was probably yes,</p> <p>5 because before December we focused on the EWL slab</p> <p>6 works, and for the couplers in the west, they -- well,</p> <p>7 he asked us to replace them all. So he did approach us</p> <p>8 on that.</p> <p>9 Q. Can you tell us what was the cause of the problems which</p> <p>10 warranted the replacement of the couplers?</p> <p>11 A. As I said, if the couplers face upwards, they would</p> <p>12 easily be damaged where the concrete is exposed. So, in</p> <p>13 that case, all the couplers would be replaced, and we</p> <p>14 have a hydro-demolition machine at the site and it was</p> <p>15 a machine to clean the shear keys. That machine might</p> <p>16 lead to damage of some threads due to debris, and in</p> <p>17 that case the foreman would replace them.</p> <p>18 Q. And these were the only problems you knew about in</p> <p>19 relation to coupling works; is that right?</p> <p>20 A. Yes, at area C of the EWL slab.</p> <p>21 Q. Any other problems that you heard about in relation to</p> <p>22 other areas in the EWL slab?</p> <p>23 A. From what I know, at area A there were some problematic</p> <p>24 couplers and the issue would be resolved by TQ, but I do</p> <p>25 not know the details. I do not know completely about</p>
<p style="text-align: right;">Page 38</p> <p>1 COMMISSIONER HANSFORD: Within one day?</p> <p>2 MR SHIEH: He did say "(Chinese spoken)".</p> <p>3 COMMISSIONER HANSFORD: Thank you.</p> <p>4 MR KHAW: In your witness statement you told us that you</p> <p>5 actually know Mr But of China Tech reasonably well;</p> <p>6 remember that?</p> <p>7 A. Yes, I remember that.</p> <p>8 Q. At the time, that is after June 2015, when you started</p> <p>9 to be responsible for platform slabs, et cetera, were</p> <p>10 you ever told by any worker, either from China Tech or</p> <p>11 from Fang Sheung or even other sub-contractors,</p> <p>12 regarding the difficulties that they encountered in</p> <p>13 relation to coupling works?</p> <p>14 A. From my recollection, only Fang Sheung told us about the</p> <p>15 problem.</p> <p>16 Q. So I gather that Fang Sheung told you about the problem,</p> <p>17 and that was before the NCR incident in December 2015;</p> <p>18 right?</p> <p>19 A. Let me put it this way. Whether they told us before or</p> <p>20 after the incident, if the Fang Sheung person in charge,</p> <p>21 Joe Cheung, learned of any issue, he would notify us</p> <p>22 immediately.</p> <p>23 Q. Let's focus on the time before December 2015, ie before</p> <p>24 the NCR incident; okay? Did Joe Cheung or anyone of</p> <p>25 Fang Sheung actually approach you and tell you anything</p>	<p style="text-align: right;">Page 40</p> <p>1 the arrangements.</p> <p>2 Q. Right.</p> <p>3 Regarding the investigation carried out by Mr Lumb,</p> <p>4 you told us that you were interviewed by Mr Guntung;</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Were you actually interviewed by Mr Lumb himself?</p> <p>8 A. I don't remember.</p> <p>9 Q. How long did your interview with Mr Guntung last?</p> <p>10 A. If I remember correctly, it was around an hour or two,</p> <p>11 but then he had spent a day or a day and a half at the</p> <p>12 site office and he would ask me whenever he needed more</p> <p>13 information.</p> <p>14 Q. Do you remember whether you talked about the NCR</p> <p>15 incident in 2015 during the interview?</p> <p>16 A. I don't remember exactly that I told him at the time but</p> <p>17 so far around that period of time I did call out that</p> <p>18 NCR report and I think he should have got hold of the</p> <p>19 information as well.</p> <p>20 Q. You just told us that you were given a copy of the</p> <p>21 investigation report prepared by Mr Lumb about two days</p> <p>22 ago?</p> <p>23 A. Because I was given by a lawyer.</p> <p>24 Q. Finally, I would like -- if I may trouble you to have</p> <p>25 a look at H19, page 39704.</p>

Page 41	Page 43
<p>1 This is an NCR issued by MTR to Leighton, and 2 I believe that was issued recently, in September 2018. 3 It is in relation to certain problems on the soffit of 4 the EWL slab. 5 If we can turn to the next page -- another page on, 6 sorry; there should be a photograph -- 39706, the next 7 page, yes -- the NCR identifies problems such as 8 insufficient spacing of shear links, insufficient 9 anchorage length, et cetera. 10 Were you aware of this particular NCR? 11 A. I saw this report before. 12 Q. When did you know about this NCR? 13 A. Like I said before, in August I returned to the Hung Hom 14 site office to help deal with the concrete defect. So, 15 when NCR was issued by the MTR, at the time I was also 16 told about it. 17 Q. Were you aware of any reasons why there were such 18 problems identified? 19 A. The main reason is that for EWL soffit, we discovered 20 honeycomb, and in breaking open the honeycomb part some 21 rebars were exposed, and then it was discovered that the 22 installation method for shear links at the time was not 23 entirely in compliance with the MTR's drawings. 24 Let me put it more clearly. You could see that this 25 second picture is 350 for the shear link, and to be more</p>	<p>1 well because I'm also involved in the NCR, in the 2 rectification works. 3 Q. Was there any inspection of the spacing at the bottom? 4 The spacing of the shear links, I mean. 5 MR SHIEH: At what time? When? 6 MR KHAW: The hold point inspection. 7 A. On that day, when carrying out the hold point inspection 8 of rebars, for shear links, we just looked down from the 9 top mat. We did not arrange for MTRCL's engineers to 10 check them one by one. 11 MR KHAW: Thank you, Chairman. Thank you, Professor. 12 COMMISSIONER HANSFORD: Sorry, just on that, is it possible 13 for shear links to be dislodged during concreting? So 14 the shear links are fixed at certain spacings. Could 15 they then be dislodged or moved in position during the 16 concreting process, or is that not possible? 17 A. Yes, it's possible, because after all it's not secured 18 by way of a wire. It's just hooked onto the bar. 19 COMMISSIONER HANSFORD: It's not secured by tying wire? 20 A. For the top part, definitely wires would be used to 21 secure it. 22 CHAIRMAN: But not for the bottom part? 23 A. I am not sure whether this is done. 24 COMMISSIONER HANSFORD: Okay. Thank you. 25 MR BOULDING: I think my points have been covered, sir, but</p>
Page 42	Page 44
<p>1 precise it should go upward, but here, as shown, this 2 hasn't been done. The MTRCL therefore issued the NCR to 3 us. 4 Q. Thank you. You just told us that it was discovered that 5 the installation method for shear links was not entirely 6 in compliance with MTR's specifications. 7 What I would like to ask you is, were they not 8 supposed to be checked before concreting, ie as a hold 9 point inspection? 10 A. I'd like to add that, first of all, for this shear link, 11 it was done only at the end of the stage of bar fixing, 12 and our requirement for accepting the shear link was 13 that it should be deep enough and long enough and also 14 meeting the spacing requirement. The engineer checked 15 the spacing on the day and found that it was right. But 16 in photo 3, it shows insufficient spacing. This has to 17 do with the installation method. 18 After all, for the 3 metre clearance between the two 19 layers, we usually would install the shear link starting 20 from the top to the bottom. So it would be possible 21 that the link was properly secured at the top layer but 22 not the bottom layer, because of the 3 metre length. 23 Looking from the top, I reckon that the spacing was 24 all right before the MTRCL accepted the works. As for 25 the other issue, I need to get a better understanding as</p>	<p>1 I see the time. If I can have the coffee break to think 2 of any. 3 CHAIRMAN: That's perfectly all right. 4 MR BOULDING: Thank you. 5 CHAIRMAN: Quarter of an hour. Thank you. 6 (11.39 am) 7 (A short adjournment) 8 (12.04 pm) 9 CHAIRMAN: Apologies for keeping you. A couple of things 10 came in, as they often do, I think some written 11 submissions. 12 MR PENNICOTT: Yes, sir. 13 CHAIRMAN: In addition to which just a couple of other 14 things that needed to be discussed. Thank you. 15 MR PENNICOTT: Yes, sir. 16 MR BOULDING: Good afternoon, sir. On reflection, the 17 points we intended to make have been covered already, in 18 particular by Mr Pennicott, so nothing further from us 19 for this witness. Thank you. 20 CHAIRMAN: Thank you very much. 21 MS CHONG: No questions from Fang Sheung. 22 CHAIRMAN: Thank you. 23 Re-examination by MR SHIEH 24 MR SHIEH: Very briefly by way of re-examination. 25 Can I ask you, Mr Man, to look at bundle C27,</p>

Page 45	Page 47
<p>1 page 20254.</p> <p>2 A. Yes.</p> <p>3 Q. This is Mr Lumb's report that you have seen this</p> <p>4 morning; do you remember?</p> <p>5 A. Yes.</p> <p>6 Q. The three points under heading number 8, "Remedial</p> <p>7 measures"; do you remember that?</p> <p>8 A. Yes.</p> <p>9 Q. Now, you were asked some questions about which bullet</p> <p>10 point came from you; remember?</p> <p>11 A. Yes.</p> <p>12 Q. You were also asked about what you actually told</p> <p>13 Guntung; correct?</p> <p>14 A. Correct.</p> <p>15 Q. I want to do a simple exercise of trying to match up</p> <p>16 which bits of what you said to Guntung found themselves</p> <p>17 into these points.</p> <p>18 Let's start with point number 3, the point which</p> <p>19 involved appendix K, et cetera. You gave evidence that</p> <p>20 you did not give this point to Guntung; was that</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. Now, point number 2, did this come from you?</p> <p>24 A. Yes.</p> <p>25 Q. This is what Mr Pennicott has referred to as the bigger</p>	<p>1 problematic couplers, you remember you told Guntung</p> <p>2 about it; yes?</p> <p>3 A. Yes, I remember I did.</p> <p>4 Q. Right. But it did not find its way into these three</p> <p>5 points; correct?</p> <p>6 A. Correct.</p> <p>7 Q. So we've sorted out what you said and which bits here</p> <p>8 are referable to you. Can I move on to the last</p> <p>9 point --</p> <p>10 COMMISSIONER HANSFORD: Actually, before we move off that</p> <p>11 point, I have a related question for Mr Man.</p> <p>12 Mr Man, you've just told us that you provided the</p> <p>13 remedial measures points 1 and 2 to Guntung. Do you</p> <p>14 know who would decide whether to go for remedial</p> <p>15 measure 1 or remedial measure 2? How was the decision</p> <p>16 made as to which of those two remedial measures should</p> <p>17 be used?</p> <p>18 A. Good afternoon. For minor defects requiring mechanical</p> <p>19 bending in method 1, this should be done by Fang Sheung</p> <p>20 on its own, without our involvement, or perhaps they</p> <p>21 might ask for our assistance. But, for this scenario,</p> <p>22 it could be done by site arrangement. Whereas for</p> <p>23 number 2, as I explained just now, number 2 happened in</p> <p>24 NSL, not EWL, and if it happened in NSL, the coupler was</p> <p>25 installed either too high or too tilted, Leighton would</p>
Page 46	Page 48
<p>1 bending, the more serious bending, which necessitated</p> <p>2 putting in the T25 bar next to the original T40 bar;</p> <p>3 remember?</p> <p>4 A. Yes.</p> <p>5 Q. So this came from you?</p> <p>6 A. Yes.</p> <p>7 Q. Point number 1, which Mr Pennicott referred to as the</p> <p>8 lesser or more minor bending, did this come from you, to</p> <p>9 your best recollection?</p> <p>10 A. In my recollection, I suppose I also talked about this</p> <p>11 to Mr Guntung.</p> <p>12 Q. Thank you. Apart from point number 1 and point</p> <p>13 number 2, I think you also gave evidence about the need</p> <p>14 sometimes to make large-scale or wholesale replacement</p> <p>15 of some couplers; remember?</p> <p>16 A. Correct.</p> <p>17 Q. And the reason for the need to replace a number of</p> <p>18 couplers was, as you have explained, for various</p> <p>19 reasons, because they may be damaged or they may be</p> <p>20 facing the wrong direction as a result of making the</p> <p>21 diaphragm wall?</p> <p>22 A. Mmm.</p> <p>23 Q. Remember that?</p> <p>24 A. Yes, I remember.</p> <p>25 Q. For that exercise, for the need to wholesale replace</p>	<p>1 drill a T25 next to it. Sometimes, we could not</p> <p>2 distinguish with naked eye and it was possible that</p> <p>3 Joe Cheung from Fang Sheung would inform us of this</p> <p>4 problem as they go about their works.</p> <p>5 COMMISSIONER HANSFORD: Thank you. I hear your answer, but</p> <p>6 I still don't quite understand, because what's written</p> <p>7 here, in Mr Lumb's report, is that remedial measure 1 is</p> <p>8 used "When the starter bar was at the correct level but</p> <p>9 installed in the incorrect direction (ie not</p> <p>10 perpendicular to the face of the diaphragm wall)", and</p> <p>11 remedial measure 2 is exactly the same wording: "When</p> <p>12 the starter bar was at the correct level but installed</p> <p>13 in the incorrect direction (ie not perpendicular to the</p> <p>14 face of the diaphragm wall)".</p> <p>15 It's not clear to me when they would go for</p> <p>16 solution 1 and when they would go for solution 2 and who</p> <p>17 would make that decision.</p> <p>18 MR PENNICOTT: Sir, certainly when I was asking the</p> <p>19 questions earlier, recognising the similarity in the</p> <p>20 wording of 1 and 2, the distinction I was trying to</p> <p>21 draw, and I don't know, perhaps I didn't make it clear</p> <p>22 enough -- perhaps that's where Mr Shieh was going; I'm</p> <p>23 not sure -- was the extent or the degree of</p> <p>24 misalignment. When it was just perhaps a minor</p> <p>25 misalignment, then it was capable of being dealt with</p>

Page 49	Page 51
<p>1 mechanically; but if it was rather more fundamental than 2 that, rather greater a misalignment, then something else 3 could be used. But perhaps you can explore with the 4 witness -- 5 COMMISSIONER HANSFORD: That sounds awfully subjective to 6 me. 7 MR PENNICOTT: I agree entirely, which is why your follow-up 8 question, if I may say so, is obviously entirely 9 relevant, as to whose call it is. 10 COMMISSIONER HANSFORD: Yes, exactly. 11 Mr Man, Fang Sheung made the decision to use 12 option 1, if it were possible to do that, but it would 13 appear that somebody then made a decision that in 14 addition to bending the bar, it was necessary to install 15 a T25 starter bar drilled alongside, and I wondered if 16 you knew who would make that decision. 17 A. Let me explain this way. It wasn't me who prepared the 18 report, and the final version of the report was not read 19 by me in advance. So my understanding of the report was 20 based on what I could recollect. Whilst reading the 21 report last week about measure 1, it was simply talking 22 about a starter bar being slightly tilted or misaligned, 23 and Fang Sheung could mechanically bend the bar to 24 correct the alignment, and if that is possible, that 25 could be done by option 1. After all, if all couplers</p>	<p>1 A. Yes, I remember. 2 Q. You then gave an answer which involved -- I'm not going 3 to read out the transcript because it's so close in 4 terms of time that we all remember that -- first saying 5 that in terms of the speed or rate of fixing the rebars, 6 it would be one to one and a half layers per day; do you 7 remember that? 8 A. Correct. 9 Q. That was when I think Prof Hansford actually asked it's 10 one to one and a half layers and then the translation 11 issue got sorted out and it's per day; remember that? 12 A. Yes, correct. It was the rate per day. 13 Q. You the gave an answer -- this turns again on the 14 nuances of the Cantonese language -- you then said 15 because of this, one to one and a half layers per day, 16 and because of the way you patrol or walk around, there 17 would not be a situation where, after one layer was 18 fixed, when you returned then (Chinese spoken) -- 19 I would have to ask that to be translated. It's not 20 M-O, L-A, L-A; it's "(Chinese spoken)" in Cantonese -- 21 INTERPRETER: In Cantonese it means "for no reason". 22 MR SHIEH: -- suddenly two or three layers more. 23 I want you to tell us, in your language, what 24 exactly was the message you were trying to convey by 25 "(Chinese spoken) two or three layers more", when you</p>
Page 50	Page 52
<p>1 had been installed in D-wall already, it could be 2 possible that that might be tilted sideways. 3 So number 1 is possible. For number 2, as 4 I explained, I also took part in proposing this remedial 5 measure, because in the NSL slab project we discovered 6 that some couplers' alignment was too high or that there 7 was a rather major degree of tilting. We therefore 8 needed to rely on some equipment to bend it, and then we 9 agreed that an additional T25 starter bar should be 10 added to reinstate the T40 starter bar's alignment. 11 So, as to who gave the instruction, my reply, 12 I believe, would be that the Leightons engineer could 13 instruct us to do that. 14 COMMISSIONER HANSFORD: But you were the Leighton engineer 15 A. (In English) Yes. 16 COMMISSIONER HANSFORD: I'll take that as an answer for now, 17 but I'll give it further consideration. Thank you very 18 much. 19 Sorry, Mr Shieh. 20 MR SHIEH: My final question was -- do you remember Mr Khaw, 21 for the government, asked you this question: whether or 22 not, after seeing, let's say, the first layer of rebars 23 being fixed, you would have come back and seen maybe 24 more than one layer already being fixed the next time 25 you went back. Remember that question?</p>	<p>1 went back? 2 A. In one day, one to one and a half layers of steel can be 3 fixed, so unless I am on leave, if I go to work, I would 4 do a round in the morning and a round in the afternoon, 5 and there would not be any situation in which two or 6 three layers of rebars are fixed out of the blue. That 7 was what I meant. 8 COMMISSIONER HANSFORD: Okay. 9 MR SHIEH: Thank you. I think I've got that now. Thank you 10 very much. 11 CHAIRMAN: Thank you very much indeed, Mr Man. Your 12 evidence is completed now. Thank you. 13 WITNESS: (In English) Thank you. 14 MR SHIEH: I think it's the "out of the blue" that -- 15 COMMISSIONER HANSFORD: Yes, I've got it. 16 (The witness was released) 17 MR PENNICOTT: The next witness, indeed the next three 18 witnesses, from Leighton, are Mr Brewster, Mr Buckland 19 and Mr Taylor. 20 Since the coffee break, ie in the last 10 to 21 15 minutes, I have been given a letter from the 22 Department of Justice, dated today, which has attached 23 to it a further witness statement from Mr Ho Hon Kit, 24 that's Humphrey Ho. I read the first paragraph of the 25 letter from the DoJ:</p>

Page 53	Page 55
<p>1 "We refer to the third witness statement of Brett 2 Buckland, the third witness statement of Justin Taylor, 3 the second witness statement of Raymond Brewster and the 4 third witness statement of Stephen Lumb, all filed on 5 2 November 2018." 6 I won't read the rest of it out but essentially 7 instructions -- leave is being sought to put in this 8 further witness statement which responds to the witness 9 statements I've just mentioned. I've not had a chance 10 to look at it, evidently. More importantly, Leightons 11 and their team have not had an opportunity of looking at 12 it, and perhaps, yet more importantly, neither have 13 Mr Buckland, Mr Taylor or Mr Brewster had a chance of 14 looking at it. 15 In the circumstances, I'm in I think Mr Wilken's 16 hands but it does seem to me that certainly before we 17 start examining any of the three next witnesses, we 18 would need an opportunity to look at this. It's 10 or 19 11 pages long. I simply have not had a chance to see. 20 It looks as though it's in some detail, but as I say, 21 I've literally had it about two minutes and not had 22 a chance to look at it either and Mr Wilken has not had 23 any chance at all. So I'm in your hands but I feel we 24 might have hit just the buffers, at least until 25 lunchtime, because you will obviously need to have a</p>	<p>1 MR PENNICOTT: Sir, I'm certainly content with that 2 approach. It seems very sensible to me. 3 I should also add that in fact so far as the 4 Commission's legal team is concerned, Mr Cheuk is 5 actually taking the next three witnesses so it's not my 6 problem, on one view, but of course I will need to look 7 at this and discuss this with Mr Cheuk as well. 8 CHAIRMAN: All right. 9 MR PENNICOTT: So I commend Mr Wilken's approach to you, 10 unless you have any further observations you wish to 11 make. 12 CHAIRMAN: No. That seems to me to be eminently sensible. 13 I'm aware there's a very large flow and counterflow of 14 documents that take place behind the scenes, and 15 considering the volume of all the evidential matters 16 I think we have run this very smoothly so far, and 17 I would suggest that we adjourn until 2 o'clock, and 18 then that will give you time, everybody knows where they 19 stand, and then you can tell us what is the best way 20 forward when we return. 21 MR PENNICOTT: Thank you, sir. 22 CHAIRMAN: Thank you. 23 MR BOULDING: If I can just put on record, I don't know 24 whether this is going to affect me, but to the extent it 25 does I would obviously reserve my position until I've</p>
Page 54	Page 56
<p>1 look at it as well. 2 CHAIRMAN: Yes. 3 MR WILKEN: Sir, obviously I'm in an even worse position 4 than Mr Pennicott because I don't even have a piece of 5 paper that I can show anyone. 6 In terms of my initial response, obviously as 7 a matter of fairness, the witness has to be able to have 8 seen this, to see what is being said against him. 9 Obviously in terms of timetabling, the procedural order 10 is responsive witness statements are served within 11 14 days. That would take you to 16 or 17 November. 12 It's now 27 November, when this witness has been 13 scheduled to appear this afternoon for some time. That 14 is merely a marker for present, but obviously everyone 15 needs time to look at this. It may well be that 16 instructions have to be taken from people who aren't 17 here. It may well be that further documents may need to 18 be located in the bundle; I do not know. 19 It is now 12.21-ish. Would perhaps the best course 20 be as follows: to break for lunch now, take the usual 21 hour and a quarter, which would take us, say, to 1.45. 22 I can then pass a message to Mr Pennicott saying, "Fine, 23 fire at will", or, "Have you seen paragraphs (a), (b), 24 (c), (d), (e), (f), (g), (h), et cetera", and we can 25 then have a discussion about where we go from there.</p>	<p>1 seen it. 2 CHAIRMAN: Obviously, yes. I appreciate that. The same 3 with everybody else. 4 MR KHAW: Yes, Mr Chairman. Just on behalf of the 5 government we wish to say that we certainly appreciate 6 that other parties would need time to consider this 7 additional witness statement. 8 The reason why we had a bit of difficulty in putting 9 that in earlier was that there were matters in relation 10 to the joint statement which were actually issued before 11 we took the break last time, ie about a week ago, that 12 we had to deal with in this particular witness 13 statement. That is why it took more time for us to 14 prepare this witness statement. 15 CHAIRMAN: Yes. I appreciate, as the Commissioner, that not 16 a great deal of time is given for often complex matters 17 to be prepared, and it's inevitable that there's going 18 to be some movement, catching up and re-assessing 19 matters during the course of the proceedings. 20 Thank you. 2 o'clock. 21 (12.26 pm) 22 (The luncheon adjournment) 23 (2.04 pm) 24 MR PENNICOTT: Sir, good afternoon. As you are aware, and 25 I know that you have now seen it yourself, just before</p>

Page 57	Page 59
<p>1 lunch the government served a further witness statement 2 from Mr Ho. 3 I've had an opportunity of reading it, together with 4 the rest of the Commission's legal team. It's obviously 5 10-11 pages long, there's a fair amount of detail in it, 6 and it seeks to respond to four of the various witness 7 statements served by Leighton, four of the witnesses 8 served by Leighton. 9 The situation is not a happy one. It's not terribly 10 satisfactory. The statement itself appears to us to 11 contain matters of submission, matters of fact, genuine 12 fact, and sometimes these matters are intertwined and 13 quite difficult to differentiate one from the other. 14 We feel, the Commission feels, that whilst we could 15 continue with Mr Brewster this afternoon, because 16 primarily most of the statement deals with assertions 17 made by Mr Buckland as opposed to Mr Brewster -- 18 although I have to accept that the tail end of the 19 statement does deal with a number of allegations 20 affecting Mr Brewster's evidence, which he will need to 21 have time to deal with. 22 Sir, I am trying to maintain as neutral a position 23 as I can. Obviously we need to make progress, we need 24 to get on, we know the time constraints we are under at 25 the moment. Having thought that I had worked out</p>	<p>1 I have to put all of the statements to all of the four 2 witnesses, and maybe some others, and my expert, which 3 will inevitably take time. 4 It is now Tuesday afternoon. It is unlikely, from 5 years of bitter experience, that that will be achieved 6 this side of the weekend. This statement, I would 7 therefore say, is a derailing statement. It pushes this 8 Inquiry off the rails. 9 That puts Leighton in a further difficulty. 10 Leighton wants this Inquiry to proceed as quickly and as 11 efficiently and as cost effectively as possible. This 12 is our aim. We have no desire to incur extra costs, 13 extra time or extra delay. 14 We therefore suggest there are four options for the 15 Inquiry. 16 First, to dismiss this statement in its entirety. 17 Second, to require the government to list out, on 18 one page of A4, the actual new facts, not opinion, not 19 inference, not argument, on which he wishes to rely by 20 6 pm today. We will then see whether we can proceed 21 tomorrow, because hopefully, if that exercise is done, 22 I will have a document I can put to my witnesses and 23 say, "What's your answer?", and we won't be, as this 24 statement does at present, going back through previous 25 statements, seeing whether the government has made this</p>
Page 58	Page 60
<p>1 Saturdays with you, I'm now a bit worried about it, 2 which nobody is going to be very happy about, I'm sure. 3 I know that Leightons feel very strongly about the 4 position. I know they have a number of alternative 5 proposals to make to you. Perhaps in the circumstances, 6 since they are obviously the most directly affected 7 party, you should hear from them first as to the options 8 that might be available. 9 CHAIRMAN: Mr Wilken. 10 MR WILKEN: Good afternoon, sir and professor. 11 This statement is on any view late, and we would say 12 it is most surprising for this statement to be presented 13 at this late stage as responsive to the joint statement. 14 It is patently not. 15 Further, this statement seeks to join issue on the 16 questions of safety and design, in circumstances in 17 which the government has had the evidence listed out in 18 our submission this morning, which turns out to be quite 19 prophetic, for quite some considerable time. 20 This statement is, putting it as politely as I can, 21 a melange of argument, submission, impression and 22 opinion. No one appears to address their minds to the 23 questions of relevance or what will assist you, sir and 24 professor, in resolving the issues. 25 My difficulty therefore is, in its current form,</p>	<p>1 point before. 2 Third, to start the witnesses now, on the 3 understanding that the government cannot put anything in 4 this statement to them, in my submission, allowing the 5 government to cross-examine on the basis of this 6 statement would be unfair and prejudicial. The reverse 7 of this course of action would be that witnesses may 8 have to be recalled if there turned out to be anything 9 in this statement. 10 Fourth, to adjourn until the other side of the 11 weekend, to allow for responsive statements and 12 consideration by the experts. 13 Those are the four choices as we see them, and that 14 the Commission has been put in this bind by the 15 government serving this statement in this form now. We 16 accept none of them are massively attractive. Going 17 from excluding it in its entirety, there might be some 18 factual evidence in there which is kicked out as 19 a result. Therefore, as they are all invidious, we 20 think the least worse and allows us to press on and make 21 progress is for government to be required to list out 22 the actual new facts on which it relies by 6 pm today, 23 because I then have a document I can efficiently and 24 fairly put to my witnesses. 25 CHAIRMAN: Yes. Thank you.</p>

Page 61	Page 63
<p>1 MR WILKEN: Sir, I apologise for those submissions, but 2 those seem to us to be the only courses we can -- 3 CHAIRMAN: Not at all, they are helpful. Thank you very 4 much. 5 MR PENNICOTT: I don't know whether MTR and government would 6 like to respond. MTR first, probably. 7 CHAIRMAN: Perhaps what I will do is leave it for government 8 to answer; it's their document. 9 MR PENNICOTT: Yes. 10 MR BOULDING: Sir, we are not as directly affected as 11 Mr Wilken, because our witnesses have still a day or two 12 before they are likely to come into the witness box. 13 Notwithstanding, we do have to take instructions from 14 various witnesses, sit down with them, and that's going 15 to take time, it's going to be more work, but we are 16 quite used to working 24/7 now. 17 So I'm not asking for any of the four options that 18 my learned friend Mr Wilken is asking for. What I do 19 say is that in circumstances where we were talking about 20 timetabling yesterday, it's absolutely astonishing, in 21 my submission, that government knowing this was coming 22 said absolutely nothing about it. That's the first 23 point I make. 24 Secondly, I agree with my learned friend Mr Wilken 25 that it's completely disingenuous to say that the reason</p>	<p>1 (2.13 pm) 2 (A short adjournment) 3 (2.33 pm) 4 MR KHAW: Mr Chairman. 5 CHAIRMAN: Yes, Mr Khaw. 6 MR KHAW: First of all, I wish to emphasise that all the 7 matters set out in Mr Ho's third witness statement are 8 in response to the evidence put forward by Leighton in 9 relation to the design change. Hence, the evidence of 10 Mr Ho is to address the matters which have been covered 11 in at least six witness statements of Leighton on the 12 design change. 13 Mr Chairman and Mr Commissioner, I would like to 14 take this opportunity to remind everybody that the 15 government's case on design change has all along been 16 rather straightforward, ie Leighton has failed to 17 provide the amendment submissions as required; as simple 18 as that. But it is Leighton's case that first of all 19 amendment submissions were not required. Secondly, they 20 say, according to their factual witnesses' evidence, the 21 design change had been accepted by the Buildings 22 Department. That is their case. Hence, Mr Ho's third 23 submission is to address further details as set out in 24 Leighton's witness statements on their case on this 25 design change.</p>
<p>Page 62</p> <p>1 this turned up so late was because of the joint 2 statement which was served last Friday. If you look in 3 the 11-page witness statement, the reference to the 4 joint statement covers two paragraphs, 31 and 32, and 5 even if it were a reason for serving some additional 6 document, there's no explanation as to why the rest 7 could not have been served far earlier than today. 8 They are my observations, sir -- 9 CHAIRMAN: Thank you. 10 MR BOULDING: -- more in pity than anything else. 11 CHAIRMAN: Does any party other than government wish to make 12 any submissions? Good. 13 Yes. 14 MR KHAW: Mr Chairman, those sitting behind me, ie those 15 instructing me, have just told me they would like to 16 have a short discussion with me before making any reply. 17 My reply will be short. I wonder whether I may have the 18 indulgence of having the matter stood down for about 19 five minutes so that I can take whatever instructions 20 that those sitting behind me would like to give me. 21 CHAIRMAN: Of course, absolutely. 22 MR KHAW: Very grateful. 23 CHAIRMAN: Let's make it you will tell us when you are ready 24 to resume. If it goes beyond quarter of an hour, I will 25 lose my sense of humour; okay? Thank you.</p>	<p>Page 64</p> <p>1 Mr Chairman and Mr Commissioner, upon reflection, to 2 save everybody's time, I can confirm that we only need 3 to rely on nine paragraphs of Mr Ho's third witness 4 statement, if that would be helpful to everybody. We 5 will only be relying on paragraphs 13, 14, 26 to 32. 6 Mr Chairman -- 7 CHAIRMAN: Numbers 13 and 14? 8 MR KHAW: 13 and 14. 9 CHAIRMAN: Yes, and then? 10 MR KHAW: And then 26, all the way to 32. 11 Just to elaborate a bit, 26 to 32 actually deal with 12 the question as to whether their alleged amendment 13 submissions actually incorporated all the structural 14 changes in relation to their design change. 15 Hence, we don't need the time until 6 pm today, as 16 suggested by Mr Wilken. We can confirm that those are 17 the matters that we will rely upon in relation to the 18 third witness statement of Mr Ho. 19 Mr Chairman, if I may, apart from Mr Wilken's 20 objection to the third witness statement of Mr Ho, 21 comment on the submissions made by Leighton today 22 regarding how we should deal with the factual witnesses 23 on the design change. 24 I'm afraid these four-page submissions completely 25 ignore one important point. That is, what is Leighton's</p>

Page 65	Page 67
<p>1 own case regarding the design change? I have already 2 summarised their case earlier in my submissions. I do 3 not wish to repeat the same. But, if I may, can I draw 4 the Commission's attention to paragraph 11 of their 5 submissions, paragraphs 11 and 12, where they say: 6 "Government ... has two points: 7 (a) Was the change in detail set out in a permanent 8 work submission? This is a simple question of fact and 9 one where the documents speak for themselves; and 10 (b) Should the change in detail have been set out in 11 a permanent works submission? To the extent that this 12 is an issue for the Inquiry, this is a matter for legal 13 submissions." 14 Mr Chairman and Mr Commissioner, I only wish to 15 remind everyone that it has been Leighton's own decision 16 to put forward at least six factual witnesses' 17 statements in order to illustrate this point. They 18 never actually indicated any of these points could be 19 addressed purely by way of written submissions, and in 20 fact they put forward factual case in relation to their 21 alleged case on the design change. 22 If we look at paragraph 12, they say: 23 "Government may contend that it is entitled to 24 explore, by way of cross-examination, what individual 25 witnesses thought the position was in relation to the</p>	<p>1 the regime is not clear, then that is the fault of 2 government". 3 It simply presents a wholly one-sided picture, 4 because it is their case that the design change had been 5 accepted by the government, so what the Commission has 6 to determine is whether Leighton has failed to provide 7 amendment submissions as required. If they fail to do 8 so, the fault is apparently on them. 9 So I just cannot accept Leighton's presentation of 10 a wholly one-sided picture. 11 Further, it will be rather unfair if they now, on 12 the one hand, maintain their factual case that design 13 change had been accepted by the government; on the other 14 hand, according to their submission, they are trying to 15 say we should not cross-examine their factual witnesses 16 on this point. This is grossly unfair. Since they have 17 put forward their case on the design change, they have 18 to accept the fact that their witnesses will have to be 19 subject to cross-examination. 20 Mr Chairman and Mr Commissioner, we do not 21 anticipate that our cross-examination on design change 22 will be long. In fact, we anticipate that there are 23 matters which can be properly addressed by way of 24 submissions. We totally agree on that. But there are 25 certainly factual matters which need to be put to</p>
Page 66	Page 68
<p>1 alleged design change." 2 We can immediately confirm that we are not 3 interested in trying to ascertain what individual 4 witnesses subjectively thought about the position in 5 relation to the alleged design change. What we are 6 interested to know -- and we are perfectly entitled to 7 do -- is to test Leighton's factual case on whether the 8 design change had been accepted by the government or 9 not, and to put our case to their witnesses, seeking 10 their response regarding the government's factual case 11 that the design change had not been accepted. 12 What is more objectionable, I am afraid, is 13 paragraph 13, where Leighton's team said: 14 "If that is government's position, then 15 (a) This would be opinion evidence from factual 16 witnesses ...", as Mr Pennicott has indicated after 17 lunch today. 18 In relation to design change, yes, there will be 19 matters in relation to opinion, there will be matters in 20 relation to factual evidence, and they are interrelated, 21 and it is difficult to separate one from the other. 22 What is rather unfair and inappropriate is their 23 subsection (b), which says: 24 "If admissible, what people thought can only be 25 relevant if the regulatory regime is not clear ... If</p>	<p>1 relevance witnesses in order to test their factual case 2 on the design change, and I am sure that the Commission 3 will appropriately intervene or stop us if our questions 4 are not appropriate in relation to the design change. 5 Perhaps it is easy for me to say so because Mr Anthony 6 Chow will be dealing with the questions regarding design 7 change. 8 Those are my submissions. 9 CHAIRMAN: Mr Wilken, yes? 10 MR WILKEN: Firstly, dealing with my learned friend's 11 response to his witness statement, before we get into 12 getting his retaliation in first on a submission I have 13 not yet formally made to the Inquiry. He points out 14 that everything in Mr Ho's third witness statement is in 15 response. If so, it should have been before us by 16 or 16 17 November and it wasn't. 17 His second point, putting aside his rather Freudian 18 slip of describing Mr Ho's third witness statement as 19 his third submission, is that he can reduce this down to 20 these paragraphs. I'm afraid, on that, I obviously need 21 to take instructions as to how that makes it more 22 manageable. One point I do notice is he doesn't rely on 23 any paragraphs as against Mr Brewster, and therefore it 24 may well be that we can get on with Mr Brewster this 25 afternoon.</p>

Page 69	Page 71
<p>1 Turning to getting his retaliation in first on this 2 submission, it is simply inappropriate, we would submit, 3 for witnesses to have their subjective comments or 4 thoughts dragged out in Inquiry over cross-examination, 5 so we are very grateful to Mr Khaw's express statement 6 on the transcript that they will not be going there in 7 their cross-examination.</p> <p>8 We accept that whether or not the change was 9 approved by Buildings Department is a question of fact, 10 but it's a fact that can be derived solely from the 11 documents. It's not a case where we say someone went 12 along to Buildings Department and said, "Oh, it's all 13 right, isn't it?", and Buildings Department said, "Yes, 14 of course it is." It's not. They are documents, and 15 that's all we rely on.</p> <p>16 So the scope for forensic fireworks or detailed 17 cross-examination on that point must be quite limited, 18 and therefore, we say, fairly, having regard to what 19 Mr Khaw said in opening, that their position was it 20 should have been in a permanent works submission and it 21 wasn't, and, after questioning from the Commission, they 22 accepted that the proposed change in detail did not come 23 from nowhere. I think the learned Commissioner used 24 something, "out of the dark", or something like that, 25 and Mr Khaw accepted that.</p>	<p>1 and professor are happy with that course of action.</p> <p>2 MR PENNICOTT: Sir, just on that very last point, I won't 3 make any observations about any of the other points that 4 have been going to and fro between Mr Wilken and 5 Mr Khaw -- yes, we are ready for Mr Brewster this 6 afternoon, but certainly if Mr Wilken and Leighton would 7 like to take a few moments just to reflect on the nine 8 paragraphs that Mr Khaw has identified, then that seems 9 to me to be entirely appropriate.</p> <p>10 CHAIRMAN: Yes. Thank you.</p> <p>11 MR WILKEN: Sir, I have noticed that there are two of us in 12 the front row here. I am taking Mr Brewster, so 13 Mr Shieh of course can go out and take instructions 14 while we get started on Mr Brewster.</p> <p>15 CHAIRMAN: Yes, of course. Thank you.</p> <p>16 I would mention just one thing, if I may, at this 17 stage, as the Chairman, and matters of law being for 18 myself.</p> <p>19 It is obviously a matter I have discussed with my 20 fellow Commissioner, but we have looked carefully at the 21 terms of reference and their breadth. But what we are 22 not prepared to do is to be enticed into a determination 23 of a limited civil matter between Leighton and the 24 Buildings Department, as to, for example, what 25 constitutes a permanent structure in terms of the</p>
<p>Page 70</p> <p>1 So we took that and we said, "Hang on, if you 2 analyse the case, there are the simple two issues: was 3 it in there, in the permanent works submission, and need 4 it be?" I quite accept Mr Khaw can explore whether or 5 not this is a minor or major change, because that's what 6 it turns on, but the question ultimately comes as to the 7 extent that assists the Commission. Is it the 8 Commission's role to decide whether this was in 9 a foundation or not -- I can't find that in the terms of 10 reference. Is it the Commission's role to say whether 11 it should have been a permanent works submission -- 12 again, I can't see that in the terms of reference. Is 13 it the Commission's role to decide whether or not 14 overall the design was at least as safe, if not 15 superior, to the original conception? We say yes, and 16 we say the evidence goes all one way, that the design 17 was superior and is at least as safe if not safer than 18 the original. We have listed those out at paragraph 8, 19 that's all the references to date.</p> <p>20 Sir, that is all I propose to say on that at 21 present. If I can have a very brief opportunity to take 22 instructions on the paragraphs my learned friend has 23 just identified -- and by "quick" I do mean quick -- we 24 can see if we can proceed with Mr Brewster this 25 afternoon, if Mr Pennicott and his team and you, sir,</p>	<p>Page 72</p> <p>1 regulations, what constitutes a major or minor structure 2 in terms of the regulations, where you are seeking 3 definitions based essentially on issues going to private 4 law matters. I don't think that that is a matter for 5 this Commission.</p> <p>6 Equally, I am aware and my co-Commissioner is aware 7 that government took certain steps by way of action that 8 involved Leighton at the beginning of this Commission or 9 just before it started. Whether it did so and the 10 merits or lack of merits involved therein is irrelevant 11 to this Commission. It's an entirely separate issue.</p> <p>12 What this Commission will take unto itself and 13 determine is the facts and circumstances surrounding the 14 reinforcing fixing works and the facts and circumstances 15 surrounding any other works which may raise concerns 16 about public safety, and then to look at the adequacy of 17 project management and supervision systems.</p> <p>18 Now, project management and supervision systems of 19 a very large project such as this must include going 20 forward and going backwards, and going forward, that is 21 with your builders and your construction people, and 22 going backwards, by making sure you have the correct 23 basis upon which you can proceed in law, by complying 24 with relevant regulations.</p> <p>25 Insofar as that is concerned, and we think that</p>

Page 73	Page 75
<p>1 obviously is relevant, let me state -- this is not 2 a ruling -- that this is an indication of our thinking, 3 subject to argument and in all respects being 4 provisional at this moment, insofar as those 5 observations may be of some assistance to counsel. 6 Good. May I just say in passing, I think Mr Wilken 7 to some degree actually did point the way when he spoke 8 about permanent works, minor or major changes, safety 9 provisions and the like. All right? So I will step in 10 if I find that we are starting to enter into esoteric 11 debates about whether a foundation is a foundation or is 12 not a foundation. All right? Those are not matters for 13 this Commission. 14 Thank you. So are we going to start now? 15 MR PENNICOTT: Yes. 16 MR WILKEN: I think we are. I think I'm calling 17 Mr Brewster. 18 CHAIRMAN: Good. Should there be agreement as to the 19 changes to -- the truncation of this witness statement, 20 what we would like, Mr Khaw, if possible, is to have 21 a new document prepared, even if it's just a copy. We 22 don't need it to be attested to again. But at least 23 then we can look at the one document, and we can know 24 it's an extract from this larger document. 25 MR KHAW: We will certainly do it in accordance with what</p>	<p>1 Q. Is that dated 2 November 2018? 2 A. Correct. 3 Q. Are those the two witness statements which you have put 4 forward to the Commission as your evidence? 5 A. That is correct. 6 Q. Is there anything you'd like to change or alter in them? 7 A. No, not at the moment, no. 8 Q. Are those statements true? 9 A. They are true to the best of my knowledge, yes. 10 MR WILKEN: Thank you. If you wait there, there will be 11 some questions from the gentleman immediately to my 12 left, and you will notice there are various other 13 counsel dotted around the room who may or may not ask 14 you questions. In addition to that, the Commissioner or 15 the Professor may ask you questions, and then I may ask 16 you some more at the end. 17 Thank you. 18 Examination by MR CHEUK 19 MR CHEUK: Good afternoon, Mr Brewster. My name is Calvin 20 Cheuk, I'm one of the counsel representing the 21 Commission. I don't know whether it's lucky or unlucky 22 for you, but you have me this afternoon, instead of 23 Mr Pennicott, to ask you some questions on behalf of the 24 Commission. 25 By now you probably know how this operates. I will</p>
Page 74	Page 76
<p>1 I have got. 2 CHAIRMAN: Thank you. And we are not ducking around 3 obsolete paragraphs. Thank you. 4 MR WILKEN: Good afternoon, Mr Brewster. 5 WITNESS: Good afternoon. 6 MR WILKEN: Can you give your full name to the Commission, 7 please. 8 WITNESS: Raymond David Brewster. 9 MR WILKEN: Thank you. 10 MR RAYMOND DAVID BREWSTER (sworn) 11 Examination-in-chief by MR WILKEN 12 Q. Can I take you to C27/20104, and it should appear on the 13 screen to your left. 14 Is that the first page of your first witness 15 statement? 16 A. Yes, it is. 17 Q. If you can go to 20109, is that your signature? 18 A. It is. 19 Q. Is it dated 2 October 2018? 20 A. Correct. 21 Q. Then can you go to C35/26539. Is that the front page of 22 your second witness statement? 23 A. It is. 24 Q. If you then go to 26542, is that your signature? 25 A. It is.</p>	<p>1 have the first go at you, and afterwards some other 2 parties might have some questions for you, and at the 3 end Mr Wilken will have some re-examination and rounding 4 up the whole series of questions for you. Is that okay? 5 A. Yes, I understand. 6 Q. My first question, Mr Brewster, for you is this. 7 Usually, when each Leightons witness starts, they will, 8 by reference to their site organisation chart, point to 9 their position in the chart. I've tried to look for 10 your name in various charts adduced in this Inquiry, and 11 I haven't found your name in any of the charts. Did 12 I miss anything? 13 A. I've looked at the charts and my name is not there, yes. 14 Q. Thank you. Okay. Let me ask you, how often did you go 15 to the site during the project? 16 A. Only occasionally, when situation arose that required me 17 to go there. 18 Q. Let's say between 2013, 1 January 2013, to the end of 19 2015, can you recall how many times you went there? 20 A. No, I can't recall how many times that I went there, 21 yes. 22 Q. I don't need the exact figure but are we talking about, 23 like, less than ten times or, you know, 20 times, or 24 once a week or once a month? Can you give us some 25 estimate, the frequency that you go to the site, during</p>

Page 77	Page 79
<p>1 that period?</p> <p>2 A. It wasn't very often, no, certainly not of the order of</p> <p>3 20. Less than that.</p> <p>4 Q. Less than 20? That's your evidence.</p> <p>5 Can I ask you, when you went to the site during</p> <p>6 those, let's say, less than 20 times, what did you do</p> <p>7 when you were at the site?</p> <p>8 A. Well, depending on why I was there -- sometimes, I walk</p> <p>9 around, other times, it was to the site office to talk</p> <p>10 to people.</p> <p>11 Q. How long did you stay for each time during -- at the</p> <p>12 site?</p> <p>13 A. I can't remember that.</p> <p>14 Q. Shall we say less than one hour or, you know, one hour</p> <p>15 to two hours?</p> <p>16 A. I can't remember.</p> <p>17 Q. Let's go to your witness statement then. C27/20104,</p> <p>18 paragraph 5. You say in this paragraph that you became</p> <p>19 Leighton's authorised signatory since April 2013; is</p> <p>20 that correct?</p> <p>21 A. That's what I've written there, yes.</p> <p>22 Q. If we turn over the page to paragraph 7, you say here,</p> <p>23 as the AS, the shortform for "authorised signatory",</p> <p>24 your primary responsibility was to ensure that the works</p> <p>25 were constructed in accordance with statutory</p>	<p>1 "We ... registered general building contractor,</p> <p>2 accept such appointment to carry out the above works in</p> <p>3 connection with the MTR railway.</p> <p>4 We confirm that the works will be commenced on</p> <p>5 15 March 2013 and undertake to carry out the works in</p> <p>6 strict compliance with standards in accordance with or</p> <p>7 equivalent to those required under the Buildings</p> <p>8 Ordinance and Regulations, recognising the special</p> <p>9 requirements for railways, as stipulated in the</p> <p>10 exemption letter dated 5 December 2012."</p> <p>11 Do you see that?</p> <p>12 A. I see that, yes.</p> <p>13 Q. Then under that you see your signature?</p> <p>14 A. Correct.</p> <p>15 Q. So I suppose you should at least be aware of the</p> <p>16 undertaking as shown?</p> <p>17 A. I am aware of the undertaking, but I don't necessarily</p> <p>18 recall seeing the letter.</p> <p>19 Q. I see. I think the important bit I need you to focus on</p> <p>20 is really the undertaking you gave --</p> <p>21 A. Yes.</p> <p>22 Q. -- on behalf of Leighton.</p> <p>23 Do I understand correctly, this undertaking was in</p> <p>24 relation to the whole contract 1112 generally, including</p> <p>25 the diaphragm walls and slabs; do I understand --</p>
Page 78	Page 80
<p>1 requirements?</p> <p>2 A. Yes.</p> <p>3 Q. Now if I may trouble you or I may trouble those</p> <p>4 controlling the computer to show you H20/40121. In this</p> <p>5 page, what we can see are two things. One is the</p> <p>6 appointment of Leighton. This is a letter from MTR to</p> <p>7 BD. First of all, you should have seen this letter</p> <p>8 before; right?</p> <p>9 A. Was it copied to Leighton? It's an MTR letter.</p> <p>10 Q. Yes, but if we -- this letter was MTR submitting the</p> <p>11 signed notice of appointment of contractor, and then</p> <p>12 notice of commencement of works and undertaking by</p> <p>13 contractor under IoE in contract 1112 to the BD; okay?</p> <p>14 You can see that first.</p> <p>15 A. Yes.</p> <p>16 Q. If we turn over the page, then what you can see is that</p> <p>17 from the above, the first part, the last sentence</p> <p>18 basically is MTRC say, appointing:</p> <p>19 "I hereby give notice that Leighton ... has been</p> <p>20 appointed to carry out these works ... in connection</p> <p>21 with the MTR railway will be commenced on 15 March</p> <p>22 2013."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Then if you go down, then Leighton say:</p>	<p>1 A. I believe it's commencement of the contract, yes.</p> <p>2 Q. Thank you. Am I correct in understanding that you were</p> <p>3 also the person who was named as the AS in the site</p> <p>4 supervision plan?</p> <p>5 A. AS, site supervision plan, yes.</p> <p>6 Q. Now if we turn to H10/4563 -- we can see from this</p> <p>7 letter, again a letter from MTRC to the Buildings</p> <p>8 Department, dated 19 August 2015 -- again, what it's</p> <p>9 concerned with is the first paragraph, saying:</p> <p>10 "... herewith a duly completed and signed site</p> <p>11 supervision plan, notice of commencement of works and</p> <p>12 undertaking by contractor for the following works".</p> <p>13 Then we see "Description of works to be commenced"</p> <p>14 in relation to "Hung Hom Station (grid 15/22 and J/N) --</p> <p>15 substructure for EWL Track level"; do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Did you receive and read this letter at the time; do you</p> <p>18 recall?</p> <p>19 A. I don't know if it was copied to me. I can't recall</p> <p>20 reading it.</p> <p>21 Q. I think you can tell us that the gridline 15 to 22 is in</p> <p>22 area B; I think that's correct?</p> <p>23 A. I'm not sure exactly what that description means.</p> <p>24 Q. You are not sure gridline 15 to 22 is area B? Okay, you</p> <p>25 cannot recall?</p>

Page 81	Page 83
<p>1 A. I would have to look at the drawing, sorry. 2 Q. Okay, no problem. 3 Let's look at 4572, we see this is an enclosure to 4 this letter, which is the site supervision plan of the 5 registered contractor, ie Leighton; correct? 6 A. Correct. 7 Q. Then we see, in the table, "AS" says -- that's your 8 name? 9 A. It is. 10 Q. Then we see other parties under it, including 11 Mr Buckland and Andy Ip, Kobe Law, et cetera. 12 A. Correct. 13 Q. First of all, were you involved in the preparation of 14 this site supervision plan? 15 A. Specifically preparing it, no, I wasn't. 16 Q. So you were just named by someone in Leighton to be the 17 AS? 18 A. I was appointed the AS under the contract, so naturally 19 they would put my name on that sheet. 20 Q. Yes. But I suppose someone within Leighton nominated 21 you to be the AS and accepted by MTRC? Is that the 22 process, as I understand? 23 A. No, it doesn't require MTRC's approval. I was nominated 24 as AS by a technical director, to be the AS for this 25 contract.</p>	<p>1 and C2. 2 Can you see the letter? 3 A. Yes. 4 Q. Again, similar to what I have just shown to you, if you 5 look at 4512, we can again find you being the AS in the 6 site supervision plan representing Leighton here; 7 correct? 8 A. Correct. 9 Q. Then, similarly, if you go to 4506 -- similarly, you 10 repeat the same undertaking; correct? 11 A. Correct. 12 Q. Finally, I trouble you one more time maybe -- if you go 13 to 4539, there is another similar letter, again MTRC's 14 submission to the BD. Again, a similar site supervision 15 plan, commencement of works and undertaking by 16 contractor, but this time it's in relation to area C3. 17 If you look at the third paragraph, you can see it's for 18 area C3. 19 A. Yes, I can see that. 20 Q. If we again can be kind enough to be shown 4548, we see 21 essentially a similar arrangement; you again nominated 22 as the AS of the team. 23 Then 4542, you again repeated the same undertaking; 24 correct? 25 A. Correct.</p>
Page 82	Page 84
<p>1 Q. And who was that, the technical director? 2 A. Barry Sin. 3 Q. Do I understand, as the AS of registered contractor as 4 set out here, the role is to be the leader of the team 5 under you, including Mr Buckland, Andy Ip, Kobe Law, 6 et cetera? 7 A. Yes, the role is to be the contractor's representative, 8 which entails those responsibilities, yes. 9 Q. Do I understand correctly, as the AS set out in the site 10 supervision plan, that's the highest representative of 11 Leighton within the team, among all of the names set out 12 here; do I understand that correctly? 13 A. Well, I represent the contractor, yes, so I'm the leader 14 of that team, yes. 15 Q. Also, if you turn to 4566, within the same letter's 16 enclosure, we see you again gave the same undertaking on 17 behalf of Leighton in the position of AS; is that 18 correct? 19 A. Correct. 20 Q. Now, actually, we can find the same submission in 21 relation to other areas. If you can just be shown 22 H10/4502. We see this is a letter again in 2015. 23 Again, this is a submission by MTRC of site supervision 24 plan, notice of commencement, and undertaking by 25 contractor, but this time it was in relation to areas C1</p>	<p>1 Q. So that sets out what I can find from the documents, 2 your involvement in the project. 3 Now if I may discuss a little bit with you the 4 content and the meaning of the undertaking; can we do 5 that? 6 We have seen that the undertaking, at the last bit, 7 refers to the exemption letter dated 5 December 2012. 8 You see that; right? 9 A. On that screen? 10 Q. Mmm. 11 A. Yes. 12 Q. If you can be shown H7/2220. 13 You can take it from me, this is the exception 14 letter dated 5 December 2012. 15 First of all, have you seen it, by April 2013? 16 A. I can't remember that. 17 Q. Let's look at this together, because you did sign 18 an undertaking which refers to this letter, so let's see 19 if you can help us to understand this letter; okay? 20 This letter, if we turn from 2220 to the next page, 21 2221, that's the covering letter -- 22 A. Mm-hmm. 23 Q. -- part of this exemption letter. 24 Then if we carry on from 2222 to 2224, this is what 25 I call or what the BD or MTRC refer to as the IoE,</p>

Page 85	Page 87
<p>1 instrument of exemption. You can find the reference at 2 the top of page 2222. Do you see that? 3 A. Yes, I see that. 4 Q. This is the second bit of the whole letter. 5 Then the third part of this letter, if you carry on 6 with 2225, we can see there's a reference schedule here; 7 okay? From here, all the way up to 2228, this is the 8 reference schedule -- 9 A. Yes. 10 Q. -- the third part of this exemption letter. 11 If we may carry on from 2229 onwards, we see the 12 fourth part of this letter, that is the general notes 13 and conditions to the reference schedule that we have 14 just seen. These general notes go all the way to 2233. 15 That's the four parts of this exemption letter. 16 If I may first discuss with you the first part, the 17 covering letter. If you go back to 2220, the covering 18 letter, let's look at the second paragraph. It says: 19 "In recognition of the exceptional nature of the 20 said buildings and associated building works and having 21 regard to the draft 'project management plan' dated 22 22 November 2012, I now grant exemption from the BO 23 [Buildings Ordinance] in respect of the said buildings 24 and associated building works, details of which are as 25 listed in the reference schedule to the instrument of</p>	<p>1 undertaking on behalf of Leighton, should at least ask 2 for a copy of the PMP at the time? 3 A. If I'm understanding everything, yes, I should have, but 4 I would be relying on, in the main, project staff to 5 have a copy of that for sure, and to advise me if there 6 was anything that I should be made aware of in 7 particular. 8 Q. Thank you. 9 Now let's move on to the second part, ie the IoE, 10 the instrument of exemption, which you can find from 11 2222. 12 First of all, I think the paragraph 1, I only need 13 you to focus on the last sentence, which starts from 14 "Moreover": 15 "... the exemption is confined to those procedures 16 and requirements relating to the appointment 17 of authorised person and registered structural engineer 18 as appropriate, approval of plans, consent to 19 commencement and resumption of works and occupation of 20 buildings provided for in section 4, sections 14 to 17A 21 and sections 19 to 21 of the Buildings Ordinance, such 22 that my duties and sanctioning powers to ensure 23 standards of health and safety are not undermined." 24 First of all, can you confirm that this is also your 25 understanding at the time, ie the exemption of Buildings</p>
Page 86	Page 88
<p>1 exemption attached. I would like to remind you to 2 submit the formal 'project management plan' as soon as 3 possible." 4 The "you" refers to MTRC; this letter is addressed 5 to MTRC. Okay? 6 First of all, did you or other staff in Leighton 7 receive or read this letter before this Inquiry? 8 A. Well, I have read it. I can't speak for other people. 9 Q. Have you, sorry? 10 A. I have. I can't speak for other people. 11 Q. So you did receive the draft PMP at the time? 12 A. I don't know. I can't recall ever seeing it. You asked 13 me if I had read this. I have read this recently. 14 Q. Sorry, it's my fault. I should clarify my question. 15 My question should have been: did you read or 16 receive the PMP, the project management plan, dated 17 22 November 2012? 18 A. Me personally, I don't remember receiving it, but I may 19 well have done. I don't remember. 20 Q. You don't remember. I assume you also don't remember 21 whether you have read or received other subsequent 22 formal submissions of PMP afterwards; is that correct? 23 A. Correct, I don't recall. 24 Q. Now, with the benefit of hindsight, you are sitting 25 here, do you agree that you, as the AS signing an</p>	<p>1 Ordinance is not complete but only in respect of certain 2 sections as stated here? 3 A. Can I confirm when I knew this -- sorry, can you repeat 4 the question? 5 Q. I am proceeding on the basis that because you signed 6 an undertaking -- 7 A. Right. 8 Q. -- that you have read the instrument of exemption at the 9 material time when you signed the undertaking. But 10 of course if your position is saying you have not read 11 or received this IoE at the time when you signed this 12 undertaking, then you can tell me, but I am proceeding 13 assuming that you did this. 14 A. As I said earlier, I can't recall whether I've got it or 15 I didn't have it. 16 Q. Fine. Let's see if you can help us a little bit more. 17 If you go to paragraph 2, it says: 18 "As conditions to be imposed under section 54(2) of 19 the Mass Transit Railway Ordinance, I require the MTR 20 Corporation Ltd to: 21 (a) submit such drawings, plans and calculations and 22 other details as may be necessary to implement the 23 consultation process detailed in the reference schedule 24 and to comply with any reasonable request made during 25 such consultation, including any requirement for</p>

Page 89	Page 91
<p>1 modification or variation of designs and working 2 procedures as may be reasonably necessary to maintain 3 standards of health and safety". 4 Did you have any recollection that you actually read 5 this paragraph or were aware of this paragraph about the 6 need of a consultation process, at the time when you 7 signed the undertaking? 8 A. I've said I can't recall reading it, so ... 9 Q. Yes. 10 CHAIRMAN: Even if you hadn't read it, looking at it now, 11 does anything there take you by surprise? 12 A. No, Mr Chairman, it doesn't. 13 CHAIRMAN: So you would have expected the sort of 14 requirements that are listed here? 15 A. Yes. 16 CHAIRMAN: Including consultation where necessary? 17 A. It's a reasonably well-understood process. 18 CHAIRMAN: Yes. 19 MR CHEUK: And if we again turn to 2225, going to the third 20 part of the letter, that is the reference schedule, we 21 see first of all category 1, that's "Station at 22 Sung Wong Toi". That's another station of the SCL which 23 does not concern us so we can jump over it; correct? 24 A. I'll take your word for it, yes. 25 Q. And category 2, we see that's the station which concerns</p>	<p>1 Q. What it suggests to me, if we read -- the second box, we 2 see "New submission/amendment"; can you see that? 3 A. Yes. 4 Q. If we go down, we see -- the arrows go down, and then 5 "BD/RDO reply", and then go down. It says, on the 6 left-hand side of the arrow, "Issuance of acceptance 7 letter enclosing imposed conditions (by BD/RDO) once 8 comments closed out", and then the "Commencement of 9 works". We see the flow from "New submission/amendment" 10 to "Commencement of works". Do you see that? 11 A. I can see the chart, yes. 12 Q. What it suggests to me is that this procedure requires 13 the acceptance by BD before -- of the plans submitted to 14 the BD, before any commencement of the works, whether in 15 relation to new submission or amendment. Do you have 16 any comment, or accept that or disagree? 17 A. Well, it's not really something I get very involved 18 with, so I'm probably not the best person to be asking. 19 Q. Can I also ask you this question. You did give various 20 undertakings under the IoE which refers to PMP. By 21 undertaking to comply with the standards as stipulated 22 in the exemption letter, do you accept that Leighton, 23 apart from MTRC, also had a duty to ensure that work 24 should be commenced and carried out only after BD has 25 accepted the relevant drawings, whether in relation to</p>
Page 90	Page 92
<p>1 us at the moment. That is the Hung Hom Station 2 compound. 3 A. Yes. 4 Q. I take it that you also agree that the consultation 5 process applies to our project, ie the Hung Hom Station? 6 A. I said I don't necessarily recall reading it, but 7 I understand what it means now, yes. 8 Q. Now, if we go to another document, B4/2075. 9 Before we look at this document, you can take it 10 from me that after the exemption letter, covering letter 11 we have seen, MTRC did submit the formal PMP afterwards. 12 From January 2013, there are several versions of formal 13 PMPs submitted by MTRC to the BD. In particular, if we 14 look at this bundle, 1950, this is the covering letter 15 dated 2 August 2013, and this is one of the formal 16 submissions by MTRC to the BD of the project management 17 plan here. We can see the title here; right? 18 Now if I may trouble you to go back to 2075. Again, 19 you can take it from me that this is the appendix 9 to 20 the PMP that I just showed you; okay? What this 21 appendix 9 sets out, as I read it, is the consultation 22 procedure under the IoE. Do you have any recollection 23 of this diagram? 24 A. No. I've seen one similar recently, but I can't recall 25 seeing it.</p>	<p>1 new submission or amendment? 2 A. Again, I'm not that close to the design side of things 3 or the documents. 4 Q. Yes. I understand your position. Let's move on. 5 Do you have any knowledge about the difference 6 between the Buildings Department's originally accepted 7 design and the as-built condition carried out by 8 Intrafor? 9 A. Intrafor had their own AS, so I didn't get involved with 10 that at all. 11 Q. You didn't get involved at all? 12 A. No. 13 Q. Do you have any knowledge about what happened after 14 Intrafor's as-built condition afterwards, some changes 15 made to Intrafor's as-built condition? Are you aware of 16 that -- were you aware of that at the time? 17 A. At the time -- when? 18 Q. Before this Inquiry, let's say. 19 A. That's a long time. 20 Q. Before May -- 21 CHAIRMAN: Sorry, can you help me? Intrafor's as-built 22 condition, can you remind me -- I obviously know about 23 what has happened; I didn't know there was any actual 24 change, was there? You need to remind me briefly. 25 There's been a lot of evidence.</p>

Page 93	Page 95
<p>1 MR CHEUK: Yes. It's my fault, Chairman, actually. I will 2 ask those questions in more detail with Mr Buckland. 3 Actually, with Buckland we deal with that in more 4 detail. 5 But the long and the short of the story, I don't 6 think it's controversial, is that the BD originally 7 accepted drawing is different from what Intrafor 8 actually built. 9 CHAIRMAN: All right. 10 MR CHEUK: Back in -- finished before June. 11 CHAIRMAN: All right. And presumably the as-built drawings 12 were submitted to the Buildings Department and they 13 agreed to them? 14 MR CHEUK: Retrospectively. 15 CHAIRMAN: Yes, retrospectively, obviously, yes. 16 MR CHEUK: That's why there was first change, I will try to 17 call it conveniently -- that's the first change. That 18 doesn't involve the through-bar or hacking down that we 19 have discussed. 20 CHAIRMAN: No. 21 MR CHEUK: The through-bar and what we have discussed about 22 hacking down is what I will call the second change. 23 That happens after Intrafor's as-built condition. 24 CHAIRMAN: Yes. 25 MR CHEUK: So can I confirm with you, Mr Brewster: you were</p>	<p>1 Q. Then let's look at H9/3873. We can see that this is 2 a letter from the Buildings Department to MTRC, dated 3 25 February 2013; okay? 4 A. Yes. 5 Q. Basically, this is -- you can take it from me, this is 6 an acceptance letter by the BD in respect of some 7 drawings; okay? 8 Were you aware of this letter at the time? 9 A. No. Was it copied to us? 10 Q. It doesn't say it was copied to you, but I was trying to 11 explore whether you, in any event, did receive such 12 a letter from MTRC. 13 A. I don't recall seeing it, but if it wasn't even copied 14 to us, there'd be no chance I'd see it in any event. 15 Q. If we go to 3903, you can take it from me that this has 16 conditions attached to the letter, which concerns the 17 frequency and the requirements in respect of coupler 18 supervision. 19 Were you aware of this requirement at the time? 20 A. Sorry, what letter is this one? What's the date of this 21 one? 22 Q. If we go back to the covering letter, it's dated 23 25 February 2013. 24 A. Right. I don't recall seeing it. I've obviously seen 25 it a lot recently.</p>
<p>Page 94</p> <p>1 not aware of the changes that happened to the top of the 2 diaphragm wall after Intrafor's as-built condition; is 3 that correct? 4 A. At the time, no. Recently, I'm aware, yes. 5 Q. Is it fair to say that you did sign undertaking as 6 the leader of the SSP, we have seen, but from what you 7 have told us so far, it seems that you basically were 8 not aware of many other things that happened on the 9 site. It seems to me odd that, as the leader of the 10 SSP, or as the AS signing the undertaking, you were not 11 aware of anything at all. Do you want to comment on 12 that? 13 A. I wouldn't say not anything at all. If situations 14 warranted my involvement, I was consulted. I relied on 15 the site staff, the project management team and my 16 representatives to comply with their obligations, and if 17 anything required my attention they would let me know. 18 Q. Let's move on to a slightly different topic. In respect 19 of couplers used in this project, you were aware of the 20 use of couplers, first, in this project, is that 21 correct, at the time? 22 A. At the time I wasn't aware, no. 23 Q. At the time you were not aware -- 24 A. It's one of those routine things. I wouldn't be told 25 about couplers, no.</p>	<p>Page 96</p> <p>1 Q. If we go back to the first page of the letter at 3873, 2 we can see that basically those drawings were in 3 relation to gridline 0 to 15. That you can see from the 4 table, the first row: 5 "Hung Hom Station (grid 0/15 and grid I/N) ..." 6 This, you don't have any recollection of receiving 7 this letter? 8 A. No. 9 Q. If we turn to another page, the same bundle, 3908, this 10 is another BD acceptance letter, you can take it from 11 me, of the same date, but this time it's in relation to 12 a separate area, gridlines 22 to 49; okay? 13 A. Yes. 14 Q. Then if we turn to 3930, in paragraph 3 we see the same 15 requirements about coupler inspections. Were you aware 16 of these requirements at the time? 17 A. I can't recall but I have seen them since, recent times. 18 Q. When you say "recent times", how recent is that? 19 A. Since June this year. 20 Q. Since June this year. If we go in the same bundle to 21 4029, we see this is another BD acceptance letter, this 22 time in respect of drawings at gridlines 15 to 22; okay? 23 A. (Nodded head). 24 Q. If we turn to 4041, we again see the same provisions 25 about coupler inspection requirements. I take it you</p>

Page 97	Page 99
<p>1 cannot recall whether you read it?</p> <p>2 A. No, same comment as before. I don't recall seeing it</p> <p>3 and it wasn't even copied to us. I imagine it was but</p> <p>4 I can't recall seeing it at the time.</p> <p>5 Q. If we turn to --</p> <p>6 CHAIRMAN: Sorry, could I just ask you -- you can help me</p> <p>7 here, I think, thanks, just to understand some technical</p> <p>8 terms, if I can.</p> <p>9 Under subparagraph (b) of paragraph 3 at the bottom</p> <p>10 of that page, it says:</p> <p>11 "Frequency of quality supervision, which should be</p> <p>12 at least 20 per cent of the splicing assemblies by the</p> <p>13 quality control supervisor ..."</p> <p>14 Splicing assemblies?</p> <p>15 A. That means the whole assembly of two bars screwed into</p> <p>16 one coupler.</p> <p>17 CHAIRMAN: The assembly, okay.</p> <p>18 So what's required is at least 20 per cent of those</p> <p>19 assemblies taking place?</p> <p>20 A. Yes.</p> <p>21 CHAIRMAN: And supervision should be by the quality control</p> <p>22 supervisor of the competent person.</p> <p>23 Then it says:</p> <p>24 "... and full-time continuous supervision by the</p> <p>25 quality control coordinator ..."</p>	<p>1 MR CHEUK: Yes.</p> <p>2 COMMISSIONER HANSFORD: Is there any indication on these</p> <p>3 letters who they are copied to? Does it say at the top</p> <p>4 or bottom anywhere? I can't see.</p> <p>5 MR CHEUK: I can't see either. If we look, for example, at</p> <p>6 4031, it only says copied to RGE, which is the</p> <p>7 registered geotechnical engineer, which should be a role</p> <p>8 performed by Atkins, as I understand. So it doesn't, on</p> <p>9 the record of this document, say it was sent or copied</p> <p>10 to Leighton.</p> <p>11 COMMISSIONER HANSFORD: Thank you. That helps me.</p> <p>12 MR CHEUK: If we carry on, look at the bundle, 4263.</p> <p>13 This is a submission, you can take it from me, by</p> <p>14 MTRC, to the Buildings Department, attaching the quality</p> <p>15 supervision plan, QSP.</p> <p>16 In the previous three letters I just took you to,</p> <p>17 they set out a requirement of submission of QSP, and</p> <p>18 this is the response by MTRC to submit the QSP to the</p> <p>19 Buildings Department; okay?</p> <p>20 If we look at the QSP itself, turn over to 4265, we</p> <p>21 see in the title it says, "Quality supervision plan ...</p> <p>22 by MTRC & RC", and "RC", I understand, refers to</p> <p>23 Leighton, registered contractor?</p> <p>24 A. Registered contractor, Leighton, yes.</p> <p>25 Q. So I presume from reading of this document, Leighton had</p>
Page 98	Page 100
<p>1 "Full-time continuous supervision", what does</p> <p>2 that -- is that a term that you come across day to day</p> <p>3 in your long career or ...</p> <p>4 A. Not explicitly in those terms. Continuous supervision</p> <p>5 is something we provide through the contract by having</p> <p>6 the right number of people in the right places at the</p> <p>7 right names --</p> <p>8 CHAIRMAN: Okay.</p> <p>9 A. -- to cover the period. Full-time, I'm not sure what</p> <p>10 that means. What I know it doesn't mean is people</p> <p>11 standing out there 100 per cent of their working day.</p> <p>12 It's got to be something in between.</p> <p>13 CHAIRMAN: Yes.</p> <p>14 MR CHEUK: But I think you can also help us, the RGBC/RSC,</p> <p>15 that's a shortform of registered general building</p> <p>16 contractor --</p> <p>17 A. Yes. There are two requirements here. There's</p> <p>18 20 per cent for the competent person, which is MTR;</p> <p>19 full-time supervision for the registered building</p> <p>20 contractor, which is ourselves; the RSC is a registered</p> <p>21 specialist contractor which in this case is Intrafor.</p> <p>22 CHAIRMAN: Good.</p> <p>23 COMMISSIONER HANSFORD: Mr Cheuk, in order to help me</p> <p>24 you've had a series of letters here that have been from</p> <p>25 the Buildings Department to MTR.</p>	<p>1 a hand in preparing this document. Do you know anything</p> <p>2 about it?</p> <p>3 A. At the time I didn't, but I've become aware that we did</p> <p>4 submit something to MTRC, either informally or formally.</p> <p>5 There's usually a discussion process that goes on with</p> <p>6 these things; it's not just a one-sided show.</p> <p>7 Q. I also find in the bundles, there's another submission,</p> <p>8 B5/2659.</p> <p>9 This is what people, all parties, generally call</p> <p>10 contractor's submission form, which is something</p> <p>11 submitted by Leighton to MTRC; correct?</p> <p>12 A. That's what it looks like, yes.</p> <p>13 Q. It says from Malcolm Plummer, LCA, Leighton, project</p> <p>14 director, to construction manager Mr Patrick Cheng,</p> <p>15 works contract 1112; do you see that?</p> <p>16 A. I do.</p> <p>17 Q. It also says, the document title:</p> <p>18 "Quality supervision plan for installation of</p> <p>19 couplers for diaphragm wall and barrettes by BOSA --</p> <p>20 second submission."</p> <p>21 So do you have any knowledge whether the QSP was</p> <p>22 actually originated from Leighton and then forwarded</p> <p>23 from Leighton to MTRC, and then from MTRC to Buildings</p> <p>24 Department? Is that something you know?</p> <p>25 A. I don't know but I can read that this document is going</p>

Page 101	Page 103
<p>1 from Leighton to MTR. 2 Q. Yes, but the difficulty I have is you see this 3 contractor's submission form is dated 23 August. 4 A. Yes. 5 Q. That is after the previous submission by MTRC to 6 Buildings Department, so I just wonder, is this 7 a formality that Leighton tried to do so as to, you 8 know, have a record of Leighton's submission to MTRC, or 9 is this something new; do you know? 10 A. Well, I don't know, but as I said earlier, there's 11 usually a discussion goes on on site and drafts are 12 discussed. So what actually happened, I couldn't say; 13 I'm not the one to answer that. 14 Q. Did you read the QSP at the time? 15 A. I don't recall reading it, no. 16 Q. If we look at -- back to the QSP, H9/4263 -- if we go to 17 4269, paragraph 1, we see the requirements of inspection 18 of couplers set out here, which is similar to the 19 requirements that we have seen in the BD's acceptance 20 letters that we have seen before. 21 It again provides for full-time continuous 22 supervision; that's the wording that Mr Chairman has 23 just asked you. 24 Do you know that actually, according to Leighton's 25 letter to the BD -- I'll take you to it, Leighton's own</p>	<p>1 Q. Yes, I understand. 2 Let's go back to H9, if I may trouble you to look at 3 4269, paragraph 1 again, the requirement of QSP. What 4 it also provides is that the supervision details should 5 be recorded by Leighton in a record sheet. 6 If you look at paragraph 1(ii): 7 "Supervision and inspection will be recorded in the 8 record sheet ..." 9 "Appendix C" is a typo; it should be "appendix B". 10 "... and write into the inspection logbook by 11 quality control supervisors." 12 Do you see that? 13 A. Yes, I see that. 14 Q. There is also a requirement, if we go down a bit to the 15 next page, 4270, the last sentence: 16 "The logbook should be kept at the site office and 17 when required produced to officers of the Buildings 18 Department for inspection." 19 Do you see that requirement? 20 A. I can read that, yes. 21 Q. Now if we go to 4277, H9/4277, this is the sample record 22 sheet referred to in paragraph 1(ii) that I just 23 discussed with you. 24 What it shows to me is that there should be a record 25 of each and single coupler connection.</p>
Page 102	Page 104
<p>1 letter -- Leighton, not by you, by Mr Karl Speed, their 2 position is that full-time continuous supervision refers 3 to 100 per cent. Are you aware of that? 4 A. 100 per cent of what? 5 Q. 100 per cent of each and every coupler connection. 6 A. I can't recall reading that letter, for a start. Can 7 you tell me what it says? 8 Q. Go to C1/379. This is a recent letter by Leighton -- 9 you can see the date, 26 June 2018 -- to the Works 10 Branch, Development Bureau, of the Hong Kong government. 11 A. I see that. 12 Q. If we go down, we see that this letter says: 13 "We confirm that full-time and continuous (ie 14 100 per cent) on-site supervision of reinforcement bars 15 and coupler splicing assemblies was carried out in 16 accordance with the requirements set out in the 17 Buildings Department's consultation letters." 18 I just wonder, your interpretation of that letter, 19 would that be different from this letter? 20 A. No, I don't think so. That's what I just explained 21 a minute ago to the Chairman, that "continuous" means 22 provision of all the site staff to do the work in 23 accordance with the contract, and "full-time" means the 24 time that is needed to supervise the work on site. It 25 doesn't mean you are out there 100 per cent of the time.</p>	<p>1 CHAIRMAN: Sorry, this document comes from ...? 2 MR CHEUK: QSP. 3 CHAIRMAN: That's within the QSP? 4 MR CHEUK: Within the QSP. It's appendix B. 5 CHAIRMAN: Yes. 6 MR CHEUK: This suggests to me that it requires the record 7 of each and every single coupler connection. Do you 8 have any comment in relation to that? 9 A. Well, that's drawn up for the D-walls, essentially, and 10 that's what they've done. But, you know, in the case of 11 the slab reinforcement connections into the couplers, we 12 can't rely on these sheets because they don't actually 13 work, so we fall back to inspect that work under the 14 usual RISC forms and pre-pour checks, quality management 15 system. 16 Q. Yes, which I'm coming back to you. If you look at your 17 own witness statement, C35 -- 18 COMMISSIONER HANSFORD: Sorry, Mr Brewster, you say this 19 form applies to the D-walls. How do you know that? 20 Because I'm reading at the top that it applies to 21 "couplers in any location". 22 A. The context of the table and also the note at the top 23 there, that talks about the "Arrival date of threading 24 rebars and couplers on site: based on purchase order for 25 each panel from Intrafor."</p>

Page 105	Page 107
<p>1 COMMISSIONER HANSFORD: Right. 2 A. So it's essentially an Intrafor form. The form also 3 shows a verticality check there on the 4 third-from-the-right field. It's essentially designed 5 for the vertical cage of the diaphragm wall panels. 6 COMMISSIONER HANSFORD: Okay. That's clear. Thank you very 7 much. 8 MR CHEUK: And, Professor, thank you for your question. 9 I'm coming to that, but I'm aware of the time. 10 I wonder if it's time for a short break. 11 CHAIRMAN: All right. Thanks. 15 minutes. Thank you. 12 (3.50 pm) 13 (A short adjournment) 14 (4.06 pm) 15 COMMISSIONER HANSFORD: Mr Cheuk, before we continue, I'm 16 just still trying to place the role of Mr Brewster, and 17 I wonder if I could be taken to one of the organisation 18 charts, maybe B835. 19 Sorry for the interruption. 20 MR CHEUK: No probably. That would be extremely helpful. 21 COMMISSIONER HANSFORD: I'm just trying to be clear about 22 this. Is it B835? C, sorry. The organisation chart 23 for 2015. I got the wrong reference, forgive me. 24 Okay. Can we go right to the top? That's the one. 25 There's a box there called "Contractor's representative"</p>	<p>1 -- Ensuring that non-conformities are immediately 2 acted on and that rectification is carried out 3 forthwith." 4 That's the responsibilities, and I don't need to go 5 through with you other duties, but that's basically your 6 statutory role; do I understand correctly? 7 A. That's what the Code of Practice requires, yes. 8 COMMISSIONER HANSFORD: Thank you. That's helpful. 9 CHAIRMAN: Can I also, just before you continue, ask 10 a couple of questions. We're aware that authorised 11 signatories have certain specific roles in Hong Kong. 12 That's set out in the document we've looked at. It may 13 be that, at the end of the day, Atkins may be able to 14 help a little bit more, but I'm just interested in this. 15 From the documents to which you have just been taken 16 prior to the tea break, it would appear -- and I haven't 17 seen the documents as a whole -- but it would appear 18 that some particular concern was given to the question 19 of couplers, in the sense that they are not just like 20 bricks or door knobs, they are actually identified, and 21 certain requirements are imposed in regard to them; 22 okay? 23 As a pre-question, in a way, had you, in the past, 24 come across a situation in any of the contracts in which 25 you were involved where quite this number of couplers</p>
Page 106	Page 108
<p>1 and a name in it Mr Boyd Merrett. That's a different 2 role, is it? 3 A. Yes. He was actually the general manager for the Hong 4 Kong branch at the time. 5 COMMISSIONER HANSFORD: I thought you said you were the 6 authorised signatory and contractor's representative? 7 A. Representative of the general building contractor, yes, 8 but that's not that role there. 9 COMMISSIONER HANSFORD: That's not that role? Okay. Rec 10 herring. 11 MR CHEUK: If I may just follow up a little bit. That role 12 should be a role designated in the contract itself? 13 A. I believe so, yes, that's what it looks like, yes. 14 Q. And authorised signatory is a statutory role, that's 15 defined in the Code of Practice; is that correct? 16 A. Correct, yes. 17 Q. If we may follow up, just clarify, B5/2692, please. You 18 can take it from me that this is part of the Code of 19 Practice. In this table it sets out the 20 responsibilities of authorised signatory, and we can 21 see: 22 "-- Assuming overall responsibilities in the 23 appointment of his representative and TCPs. 24 -- Ensuring the full implementation of the 25 supervision plan regarding his own stream.</p>	<p>1 were required in quite this concentrated expanse 2 geographically? 3 A. One other time, but it's not normal. 4 CHAIRMAN: A number of people have said earlier that this 5 number of couplers was not normal, which may explain, 6 would you agree, why particularity was given to how 7 couplers were to be dealt with in the contracts? 8 A. If I may read into that, I think that there was more 9 focus given to the couplers because there was a lot more 10 of them than normal in the D-walls, because of the low 11 headroom and smaller cages, which necessitated, if you 12 like, a higher density of couplers per tonne of rebar, 13 for example, than normal D-wall cages would require. So 14 that's why there was more focus given to it, I suspect. 15 CHAIRMAN: Yes. That sounds very fair, thank you. And also 16 in a very plain, simple way, it helps me greatly, it 17 really does. Thank you. We will probably quote you on 18 that. 19 But it leads me on to say this, that it obviously 20 follows that if for any particular reason, whether it's 21 a good reason or a bad one contractually, particular 22 concern is focused on something like couplers, then 23 there should be some in-built systems to ensure that 24 those who are responsible for the building of the 25 construction works will actually follow through on the</p>

Page 109	Page 111
<p>1 contractual obligation?</p> <p>2 A. It would follow and I think that's what Intrafor have</p> <p>3 done with theirs, given more perspective to it. It's</p> <p>4 not altogether uncommon to have couplers in slabs and</p> <p>5 building work. They don't necessarily have the same</p> <p>6 focus on them.</p> <p>7 CHAIRMAN: And the building people, Leightons, the</p> <p>8 contractor --</p> <p>9 A. Yes.</p> <p>10 CHAIRMAN: -- you would have seen it as a requirement that</p> <p>11 necessary procedures be put in place to ensure that</p> <p>12 obligations in respect of splicing operations for</p> <p>13 couplers were properly done in accordance with the</p> <p>14 contract?</p> <p>15 A. Well, normally it's part of our pre-pour checklist for</p> <p>16 all those things in the reinforcement, and it's covered</p> <p>17 that way. It's identified separately, to get a separate</p> <p>18 sign-off. So it does have focus.</p> <p>19 CHAIRMAN: Yes.</p> <p>20 A. But, you know, in normal building -- I'll turn it the</p> <p>21 other way around. Every job's got couplers in it. In</p> <p>22 this day and age, it's difficult to avoid them. So it's</p> <p>23 not abnormal to have couplers.</p> <p>24 CHAIRMAN: Yes.</p> <p>25 A. And it's covered in our pre-pour checklist as a quality</p>	<p>1 or make particular note of and pay particular concern to</p> <p>2 a certain thing, that what should follow through</p> <p>3 naturally would be that the relevant procedures would be</p> <p>4 put in place, and it seems as if documentation</p> <p>5 concerning those procedures was put into place, but</p> <p>6 a number of people, at critical instances, didn't know</p> <p>7 about it. I'm just asking -- it seems to me it's</p> <p>8 a question, really perhaps a statement, but would you</p> <p>9 agree that would be a lapse, of oversight?</p> <p>10 A. As far as we're concerned, the couplers are not</p> <p>11 uncommon, and our quality management procedures provide</p> <p>12 a process through which rebar and the concrete pre-pour</p> <p>13 is a hold point, and our pre-pour checklist, one of the</p> <p>14 items on it is to check couplers. There are other items</p> <p>15 on there, for other cast-ins, et cetera.</p> <p>16 So there is a process in place and that's how</p> <p>17 fundamentally we operate.</p> <p>18 CHAIRMAN: Okay. Thank you very much. Thank you. That</p> <p>19 helps. Thank you.</p> <p>20 MR CHEUK: Mr Brewster, if we can take a look at C35, your</p> <p>21 witness statement, on your position on this point,</p> <p>22 26540, paragraph 5. You essentially set out your</p> <p>23 position on the inspection of couplers and the</p> <p>24 compliance of QSP in this paragraph.</p> <p>25 If I may try to summarise your position, one, you</p>
Page 110	Page 112
<p>1 concern.</p> <p>2 CHAIRMAN: You see, the only reason I mention it -- and I'm</p> <p>3 open to correction here -- but there's been a lot of</p> <p>4 evidence that's come forward, and my recollection is</p> <p>5 that certain documents relating to quality and</p> <p>6 requirements vis-a-vis couplers were there but people</p> <p>7 didn't know about them.</p> <p>8 A. No, I don't think that's the case.</p> <p>9 CHAIRMAN: And therefore they didn't pass on what their</p> <p>10 obligations were in terms of those documents. I may be</p> <p>11 wrong, and that's said very hesitantly, but that's my</p> <p>12 recollection of the evidence so far.</p> <p>13 If that was the case, that would not be right; is</p> <p>14 that correct?</p> <p>15 A. Like I said, I think all jobs have got couplers, so</p> <p>16 engineers should be quite familiar with it. It's just</p> <p>17 another form of lapping reinforcement. You either lap</p> <p>18 it, weld it or put couplers in, and where you have</p> <p>19 spatial constraints because of laps, then you have to</p> <p>20 resort to using couplers. So it's quite common.</p> <p>21 CHAIRMAN: We perhaps are passing each other a little bit</p> <p>22 like ships in the night. My suggestion -- forgive me,</p> <p>23 I'm being a lawyer and you are quite rightly being</p> <p>24 an engineer -- but it seems to me, to some extent, that</p> <p>25 if there's a contractual obligation to pay particular --</p>	<p>1 state there that the sample record sheet, as you have</p> <p>2 just told the professor, only applies to coupler</p> <p>3 connections within diaphragm walls, but not those</p> <p>4 between diaphragm walls and the slabs. That's the first</p> <p>5 point you try to make; correct?</p> <p>6 A. Correct.</p> <p>7 Q. The second point you try to make is that Leighton's</p> <p>8 pre-pour quality control checklist and the RISC form</p> <p>9 have already satisfied the requirements of QSP. That's</p> <p>10 your second point; do I understand you correctly?</p> <p>11 A. Yes.</p> <p>12 Q. Let's discuss your two points a bit more in detail. If</p> <p>13 you can be shown C13/8581. This is Leighton's record</p> <p>14 submitted to this Inquiry, Commission of Inquiry, for</p> <p>15 area C1-1. Are you aware of this summary sheet,</p> <p>16 basically?</p> <p>17 A. I don't recall seeing this.</p> <p>18 Q. You don't recall?</p> <p>19 A. No.</p> <p>20 Q. But we can -- I think it's uncontroversial, it's</p> <p>21 submitted by Leighton. If we go to, for example,</p> <p>22 item 7, we see an item, "Pre-pour check"; right?</p> <p>23 A. Right.</p> <p>24 Q. Do you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 113</p> <p>1 Q. Then if you look over it to the column, "Form reference 2 number", we see that there's a reference 3 "1112-CIV-008149"; do you see that? 4 A. I think that's a RISC form, yes. 5 Q. Yes, there's a RISC form. If we can go to the RISC form 6 itself, that's at 8600. We can see that -- if we can 7 blow it up a little bit -- paragraph (2), work to be 8 inspected is called "Pre-pour checking (final 9 condition)". 10 A. Yes. 11 Q. As I understand, that's your reference to pre-pour 12 quality control checklist -- 13 A. Yes. 14 Q. -- and MTRC's prescribed RISC forms? 15 A. I'm actually referring to the other form that's 16 attached, the checklist form. 17 Q. Yes. If we go to the previous page, 8599, this is 18 another RISC form, which if we look at paragraph (2), 19 "Work to be inspected", ie the top and bottom rebar. Do 20 I understand correctly -- please correct me if I am 21 wrong -- that your reliance and reference to quality 22 control checklist and MTRC's prescribed RISC forms, you 23 are essentially referring to these two kinds of RISC 24 forms. One is the checking of the rebars after the top 25 mat and the bottom mat are finished. The second one is</p>	<p style="text-align: right;">Page 115</p> <p>1 looked at here is a general inspection record rather 2 than a coupler-by-coupler inspection record? 3 A. The records themselves are general, but there's a 4 specific checklist item on that sheet, which is not on 5 that page, if you scroll down to see it, for couplers. 6 COMMISSIONER HANSFORD: Can we scroll down. Number 6, is 7 that the one? 8 MR CHEUK: Yes. 9 Yes, we can see 6 there, but if you compare with the 10 sample record sheet that we have seen, which you refer 11 to only applies to Intrafor's works, we can see almost 12 each coupler connection requires some checking? 13 A. We haven't listed each coupler, yes. We don't list them 14 but it covers the couplers. 15 Q. Yes. We have heard evidence from Mr Edward Mok 16 yesterday -- and I certainly stand to be corrected -- 17 and Mr Chairman has asked him whether there was any 18 watching of each coupler connection process. He 19 admitted that no, he didn't do that, although he did 20 carry out regular, informal and routine inspections 21 regularly. 22 Do you have any comment to that, in relation to the 23 coupler-by-coupler requirements? 24 A. No. I think we've achieved what we've been asked to 25 achieve.</p>
<p style="text-align: right;">Page 114</p> <p>1 the pre-pour checking, ie after the checking of the top 2 mat and the bottom mat, there's another formal checking, 3 before the pouring of concrete? 4 A. Yes, there's another check before concrete is poured, 5 yes. 6 Q. If we go to page 8605, we see this "Cast in situ 7 concrete quality control checklist"? 8 A. Yes. 9 Q. Which is attached to the pre-pour check RISC form. 10 A. Yes. 11 Q. From what I understand, your position is that you rely 12 on the two RISC forms and this cast in situ concrete 13 quality control checklist to satisfy the QSP 14 requirements; that's your position? 15 A. Yes, and the fact that we've got a management plan in 16 place, an organisation chart. There is a lot of people 17 there to provide all the superintendence. 18 Q. Yes. Of course that's the general background, but I'm 19 referring to your witness statement. You refer to 20 pre-pour quality control checklist -- 21 A. These are the forms, yes. 22 Q. -- and RISC forms, you are essentially referring to the 23 three documents that I just discussed with you? 24 A. Yes. 25 Q. And is it fair to say that the three forms that we have</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Is it also fair to say that the sample record sheet 2 relates to coupler connections, the vertical connections 3 that you have just mentioned, within the diaphragm 4 walls, Leighton could have modified it to record the 5 condition of each coupler connection between diaphragm 6 wall and the slab, easily; is it fair? 7 A. Anything can be modified. Why modify something when 8 we've got a system that already covers it? 9 Q. I have taken you to the acceptance -- BD's acceptance 10 letters, imposing the conditions of coupler inspection 11 requirements. Then I have also taken you to the QSP 12 itself, which Leighton has a role in preparing it, you 13 just told us. 14 Is it fair to say, when reading everything together, 15 despite the record sample sheet looks, on its face, only 16 to relate to Intrafor's vertical cover connection? 17 Actually the real understanding between everybody is 18 that not just limited to that but the connection between 19 the coupler of the slab and the diaphragm wall should 20 also be similarly recorded? Is it a fair reading of the 21 whole set of documents? 22 A. Well, I think you've got different operations, so within 23 the same QSP you've just got a different process for 24 achieving the outcome that you want. 25 Q. And do you know that Leighton was trying to create</p>

Page 117	Page 119
<p>1 something similar, what I call coupler-by-coupler record 2 sheets, around June this year? Are you aware of that? 3 A. You'd have to show me what you're talking about. 4 Q. Yes. If we go to B1, that's a witness statement of 5 MTRC's witness, 335. It's Mr James Ho's witness 6 statement. Page 335 at paragraph 49, where he says: 7 "In or around early June 2018, after the media 8 reports on 30 May 2018 alleging defective steelworks and 9 coupler installations in the diaphragm walls and EWL 10 slab, Leighton provided MTRCL with folders containing 11 RISC forms for each of 32 bays, which attached certain 12 checklists entitled 'As-built for on site assembly of 13 EWL slab to D-wall/slab couplers' -- these were similar 14 to (but not the same as) the template in appendix B of 15 the QSP and were plainly based on the information 16 contained in the as-built BA14 drawings for the 17 diaphragm wall as submitted to the BD. Leighton's 18 checklists were only formally submitted to MTRCL for the 19 first time on 13 June 2018 by means of a contractor's 20 submission form." 21 Are you aware of that fact or allegation by MTRC's 22 witness? 23 A. I haven't read this before, but certainly in June we 24 were asked to produce summary documents. There was 25 a lot of focus on collation of documents, for them to be</p>	<p>1 Q. Yes. I'm certainly not alleging, you know, that there's 2 any trying to fake any records. I'm not going into that 3 arena. 4 Well, let's move on. Another point actually 5 mentioned by Mr Chairman earlier is that we have heard 6 evidence from various Leighton's frontline staff. From 7 my records so far, and I stand to be corrected, except 8 Mr Edward Mok, no one had any knowledge of the QSP at 9 the time of construction. 10 A. At the time of ...? 11 Q. The construction of the couplers. 12 A. Oh, construction. 13 Q. Are you aware of that? 14 A. I wasn't aware of that, no. If I was, I can't remember 15 being told about it. 16 Q. The next question I have for you is that -- we've seen 17 authorised signatory has many statutory roles, 18 responsibilities and duties. As the AS of Leighton in 19 this project, what steps did you take to make sure the 20 QSP requirements would be complied with by the frontline 21 staff? What did you exactly do? 22 A. If we can go back to the previous question, I would not 23 expect the field staff to be necessarily aware of the 24 QSP because we were -- as Leighton, we were following 25 our own QMP -- sorry, quality management system plan --</p>
<p>Page 118</p> <p>1 looked at. I wasn't the one who prepared the thing, so 2 I know of it, I know that there's a lot of discussion 3 about it on site, but I didn't prepare it. 4 Q. So you were not involved -- 5 A. No. 6 Q. -- in the preparation process? 7 A. No. 8 Q. I suppose -- if we look at B5(TS), page 44251. Probably 9 TS2; yes, the last folder. This is the sheet, as-built 10 checklist, referred to by Mr James Ho of MTRC. You were 11 not involved in the preparation of these checklists? 12 A. Correct, I was not. 13 Q. You are not aware who made those circles on "S", 14 "satisfactory"? 15 A. No. Sorry, I can't help you. 16 Q. The point I wish to make to you, Mr Brewster, is that if 17 you or Leighton genuinely believed that pre-pour quality 18 checklist or those RISC forms could satisfy the 19 requirements of QSP, why would they have bothered to 20 create these records subsequently? 21 A. I'm not really the one to answer that, except to my 22 knowledge this is a summary document that was meant to 23 be an aid to understanding the documents that had been 24 collected along the way. Nothing more, nothing less. 25 It wasn't purporting to be anything.</p>	<p>Page 120</p> <p>1 which has got the RISC forms and the pre-pour checks in 2 it. That's all that they needed to know. 3 As for your second question, well, I relied on my AS 4 reps and also the main project management team to 5 construct the contract in accordance -- conduct the 6 works in accordance with the contract, which also 7 entails compliance with the Buildings Ordinance. 8 Q. For example, did you know that the QSP work was, for 9 example -- obviously in English, but many of the 10 frontline staff actually did not read English? Did you 11 try to provide translation to those staff? 12 A. I think I just answered that question by saying 13 I wouldn't necessarily expect field staff to know about 14 the QSP, because we were following our quality 15 management plan, and within that system we do have 16 bilingual documents. 17 Q. Let's move on to another topic. Let's go to bundle C3, 18 page 2131. 19 You can take it from me, this is a contract 20 documentation itself, the General Conditions of Contract 21 1112. 22 A. It looks like a General Specification to me. 23 Q. You are absolutely right. My fault. It's the General 24 Specification. 25 In clause G15.4.1 -- please read it yourself -- it</p>

Page 121	Page 123
<p>1 seems to me to suggest that Leighton has an obligation, 2 contractual obligation, to provide as-built drawings, 3 including the diaphragm walls and the slab, to MTR. Is 4 that correct? 5 A. That's what that says. It's my understanding that we 6 have to do as-built drawings anyway, yes. 7 Q. Further, if we go to B4/2075, this is PMP appendix 9 8 that we have seen. If we go down to the bottom of the 9 page, on the right-hand side we can see "As-built record 10 plan"; do you see the bullet point? 11 A. I can see the box, yes. 12 Q. Then the last box, "Acknowledgement of as-built record 13 by BD/RDO"? 14 A. Yes. 15 Q. Is it correct that Leighton is also under a statutory or 16 IoE obligation to provide as-built records of diaphragm 17 walls and slab to the BD upon completion? 18 A. Of the project, yes. 19 Q. You are probably aware of some -- the present conditions 20 now we face, ie the recent joint statement by MTRC and 21 Leighton in respect of the as-constructed details along 22 the diaphragm walls. You probably have read that 23 document; right? 24 A. I'm aware of it. I haven't read it. 25 Q. If you haven't read it, if we go to B19/25480 -- you can</p>	<p>1 Photographs are a pretty good record. 2 Q. Isn't it the proper way is not really to rely on site 3 photos after the completion of a structure, but to have 4 some contemporaneous records of what was being built; 5 isn't it a far better way? 6 A. Photos are contemporaneous records. There's different 7 ways of recording it. 8 Q. Now I'm going to move on to a different topic. 9 The Buildings Department, in their witness 10 statements, have cited various provisions in the 11 Buildings Ordinance -- 12 CHAIRMAN: Sorry, just coming back to that -- the way 13 I would see it, perhaps, of putting the question is -- 14 wouldn't the better way to have been, even if it's minor 15 works, minor changes, to have had some system for 16 recording what the changes were on the spot, on paper, 17 maybe with some form of tablet or something like that, 18 and then you've got it there and you've got some 19 measurements and you know where you are, as opposed to 20 coming back and looking at photographs later? 21 A. In an ideal world, I think that probably is the right 22 way to deal with it, but in this case they did have the 23 details but they just didn't have the exact extent to 24 which those details were constructed and just relied on 25 photographs to, if you like, nail it down to the exact</p>
Page 122	Page 124
<p>1 take it from me this is the joint statement recently 2 produced last week by Leighton and MTRC. 3 One of the purposes of this joint statement is to 4 set out, to the best they can, the two parties again, 5 the as-built details. 6 We can see, if we turn to B25485, this is one of the 7 plans produced in the joint statement, and then if you 8 look at the right-hand side -- can we show it -- there's 9 a remark here, "Interim as-constructed record draft and 10 confidential". So even as of last week, what this 11 Commission and all parties have received, despite the 12 joint effort of MTRC and Leighton, is something interim 13 and draft of what was built in the diaphragm wall. You 14 are aware of that, probably, the situation? 15 A. I understand what that says but I haven't read the 16 document. 17 Q. And the method of identifying the details -- and you can 18 take it from me -- is to use site photos and ask site 19 staff to review those site photos so that they can try 20 their best to tell everybody what was built at the 21 material time. You can take it from me on this point. 22 My question to you is that: is it fair to say this 23 is quite an unsatisfactory way to produce as-built 24 drawings? 25 A. There are obviously many ways to produce drawings.</p>	<p>1 point. That's my understanding. 2 CHAIRMAN: Thank you very much. 3 COMMISSIONER HANSFORD: Just to expand on that, if I may, 4 Mr Brewster -- so your understanding is there weren't 5 any marked-up drawings? Because in my experience 6 as-built drawings are normally produced from marked-up 7 contract or working drawings, and that is then turned 8 into as-built drawings at the end of the contract. But 9 perhaps your experience is different. 10 A. That's certainly the way it can work, but in this case 11 these are not the as-built drawings. These are the 12 interim ones. 13 COMMISSIONER HANSFORD: Right. 14 A. The as-built drawings are still being developed, and 15 they will be submitted in accordance with the contract. 16 COMMISSIONER HANSFORD: So, just developing my question -- 17 when the as-built drawings are eventually produced, will 18 they have been produced from marked-up drawings? 19 A. They will be produced from a number of drawing changes, 20 yes, along the way. 21 COMMISSIONER HANSFORD: Right. 22 A. Drawing amendments, changes that came about through 23 responses to requests for information, perhaps some 24 things were clarified in letters, there's the technical 25 queries; there's a whole host of different sources.</p>

<p style="text-align: right;">Page 125</p> <p>1 COMMISSIONER HANSFORD: So, somewhere, we would find 2 ultimately, would we -- somewhere we would find 3 marked-up drawings? 4 A. We will get there, yes. That's what we are working 5 through now. We are putting in all those individual 6 details together, collating them. 7 COMMISSIONER HANSFORD: Okay. But the base document -- 8 sorry to keep labouring this but I'm just trying to get 9 there -- the base documents that will enable you to 10 produce these as-built drawings will include already 11 marked-up drawings, will they? 12 A. There's not marked-up drawings as such. As I understand 13 it, they are miscellaneous changes to drawings -- 14 COMMISSIONER HANSFORD: All right. 15 A. -- that are going to be incorporated. 16 COMMISSIONER HANSFORD: Thank you. 17 MR CHEUK: Just to clarify the point, the question asked by 18 the professor, my understanding is that there is only 19 limited documents available to know, to ascertain the 20 as-built details, and that's why two parties, MTRC and 21 Leighton, had to resort to site photos review in order 22 to come up with this joint statement, because they find 23 those other documents are not complete or not completely 24 reliable. 25 Are you aware of any of the situation?</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. No problem. Thank you. 2 The next provision is in A1/408. This is the 3 Building (Administration) Regulation 41(1). What it 4 says is: 5 "The registered general building contractor [which 6 is Leighton] ... appointed in respect of building works 7 or street works shall, during the carrying out thereof, 8 give continuous supervision thereto to ensure that the 9 buildings works or street works, as the case may be, are 10 carried out in accordance with the provisions of the 11 Ordinance and regulations and with the plans approved in 12 respect thereof and with any order made or condition 13 imposed, pursuant to any provision of the Ordinance or 14 regulations in that behalf, by the Building Authority 15 and the supervision plan prepared in compliance with the 16 technical memorandum issued under section 39A of the 17 Ordinance ..." 18 I take it that you were also aware of this 19 provision? 20 A. Yes. 21 Q. I think I only need to trouble you to look at one final 22 provision: H8/2692. This is the Code of Practice, 6.5. 23 It says: 24 "The RC [the registered contractor, again, which is 25 Leighton], represented by their AS, should have</p>
<p style="text-align: right;">Page 126</p> <p>1 A. I'm not across all the detail. I'm looking at the 2 overview of it. But that is just one example. 3 Q. Let's move on. As I said, I wish to ascertain whether 4 you know or you knew at the material time some statutory 5 provisions as the AS. 6 The first provision I would like to refer you to is 7 in A1/368. This is section 9(5) of the buildings 8 Ordinance. What it provides is, in subsection (5): 9 "A registered general building contractor [which is 10 Leighton] appointed to carry out building works or 11 street works other than specialised works is required 12 to -- 13 (a) provide continuous supervision to the carrying 14 out of the works in accordance with his supervision 15 plan; 16 (b) notify the Building Authority of any 17 contravention of the regulations that would result from 18 carrying out the works shown in the plan approved by the 19 Building Authority for the works; and 20 (c) comply generally with this Ordinance." 21 Were you aware of this provision or the duties under 22 the Buildings Ordinance of Leighton before now? I ask 23 you this question. 24 A. I was aware of it when I became an AS. If I didn't know 25 that, I wouldn't be one.</p>	<p style="text-align: right;">Page 128</p> <p>1 a similar system of supervision as that of the RSE 2 and/or RGE above ..." 3 "RSE" is registered structural engineer; is that 4 correct, and "RGE" is registered geotechnical engineer? 5 A. Yes. 6 Q. "... but they should give continuous supervision in 7 accordance with B(A)R 41(1)." 8 B(A)R41(1) is the Building (Administration) 9 Regulation which we just read. 10 "Even if some of the building works are carried out 11 by their sub-contractors, it remains the responsibility 12 of the RC to ensure that the building works and 13 continuous supervision are properly done in accordance 14 with the provisions of the BO and the system of 15 supervision described above." 16 I again take it that you were aware of the duties? 17 A. I was. 18 Q. Finally, I think I can go to a final topic. Go back to 19 your witness statement, bundle C27, page C20108, at 20 paragraph 22. You say: 21 "I do not have any direct or contemporaneous 22 knowledge of the threaded ends of rebars being cut off 23 or shortened." 24 And presumably you did not have contemporaneous 25 knowledge of the famous NCR157. Do you have any</p>

Page 129	Page 131
<p>1 recollection of NCR157? 2 A. No, not until June this year. 3 Q. This year? 4 A. (Nodded head). 5 Q. And if we go back to B5/2740. You can take it from me 6 that this is a flow chart in the Code of Practice for 7 dealing with non-conformity. 8 What it provides is that TCP, a technically 9 competent person, informs the representative of his 10 stream, who will in turn inform the AP, RSE, RGE and the 11 RC, and complete part 1 of form B. 12 "RC" is Leighton, the registered contractor; right? 13 A. Correct. 14 Q. According to this flow chart, do I understand correctly 15 that those frontline people of Leighton, when they were 16 trying to deal with the non-conformity, 157, they should 17 also actually inform you of the existence of this 18 non-conformity; is that correct? 19 A. Well, this chart doesn't necessarily mean that. I mean, 20 the escalation of these non-conformances depends on 21 whether they have a major impact, safety impact, concern 22 for the safety of the project, surrounding areas, 23 people, that sort of thing. So I wouldn't necessarily 24 expect to see this, 157, I mean. 25 Q. But let's put aside the specific 157. As a general</p>	<p>1 informed of? 2 A. Yes, sir. 3 COMMISSIONER HANSFORD: Thank you. 4 MR CHEUK: I have no further questions. 5 CHAIRMAN: Thank you very much. 6 MR WILKEN: I don't know who next wishes to cross-examine or 7 how long they would be, but I do notice the time. 8 MR CHOW: Mr Chairman, we have questions for Mr Brewster, 9 but I note that we are less than ten minutes to 5.00, 10 and my cross-examination will be longer than that. I'm 11 ready to start; I'm in your hands. 12 CHAIRMAN: How long do you think you will be? 13 MR CHOW: I think it's going to be perhaps one hour or 14 slightly more than an hour. 15 CHAIRMAN: All right. 16 MR WILKEN: Normally, I would urge us to proceed, but 17 unfortunately I know that both Mr Shieh and I have to be 18 at a consultation at 6.00. 19 CHAIRMAN: All right. 20 COMMISSIONER HANSFORD: I have one question. Given that we 21 have the time at the moment, perhaps now is the time to 22 raise it. I was going to see if it was raised by 23 counsel, but perhaps I can't hold my suspense any 24 longer. 25 Mr Brewster, in your witness statement, you have</p>
Page 130	Page 132
<p>1 proposition, non-conformity is something, if serious, 2 let's put it this way, should be informed to you? 3 A. If it's serious, for the grounds that I just stated, 4 yes. 5 Q. Have you been informed of any non-conformity? 6 A. I have. 7 Q. I see. But not 157? 8 A. Not 157. It was one earlier. 9 Q. Again, presumably you did not carry out any 10 investigation of 157? 11 A. I did not, no. 12 COMMISSIONER HANSFORD: Sorry, could I just clarify that, 13 Mr Brewster. You were asked, "Have you been informed of 14 any non-conformity?", you said you had, but "Not 157. 15 It was one earlier." 16 A. Yes, it was earlier than 157. 17 COMMISSIONER HANSFORD: And the subject matter? 18 A. It was under the podium. There was an issue where 19 a crane got stuck and somebody cut a beam or something, 20 cut a flange. 21 COMMISSIONER HANSFORD: Right. 22 A. Yes, cut a flange. So I was informed of that one 23 because we had to report that to BD and had to do 24 an incident report, which I got involved in. 25 COMMISSIONER HANSFORD: And that was the only one you were</p>	<p>1 a footnote. It's a footnote number 1, and it goes with 2 your paragraph 17(a). I would just like to 3 understand -- you say: 4 "All of the couplers cast into the construction 5 joints within the EWL slab and NSL slab were 6 non-ductile." 7 So, to your knowledge, which, if any, couplers on 8 this project had a ductility requirement? 9 A. What I was referring to with that note is the 10 construction joint couplers, basically. 11 COMMISSIONER HANSFORD: Yes. But that includes the couplers 12 between the slabs and the diaphragm walls? 13 A. No. 14 COMMISSIONER HANSFORD: It doesn't? 15 A. In this statement here, that's what I'm talking about, 16 so -- because the ones in the D-wall we've viewed as 17 ductile. 18 COMMISSIONER HANSFORD: Right. So the ones in the D-wall 19 are viewed as ductile, to your knowledge, and the ones 20 in the construction joints between adjacent slabs -- 21 A. In bays, yes. 22 COMMISSIONER HANSFORD: In bays -- between adjacent bays, 23 that's right -- were non-ductile? 24 A. Non-ductile, yes. 25 COMMISSIONER HANSFORD: Okay. That clears it up for me.</p>

Page 133	Page 135
<p>1 Thank you.</p> <p>2 MR WILKEN: Sir, one final point of housekeeping which is</p> <p>3 outstanding is Mr Khaw's redaction of his latest witness</p> <p>4 statement.</p> <p>5 We have taken instructions and, provided it is</p> <p>6 redacted to the paragraphs he has suggested, we are</p> <p>7 content to continue on that basis.</p> <p>8 CHAIRMAN: All right. Thank you very much indeed.</p> <p>9 Mr Khaw, so you will attend to the necessary outside</p> <p>10 of normal hours.</p> <p>11 MR PENNICOTT: It has been attended to.</p> <p>12 CHAIRMAN: Excellent. Thank you.</p> <p>13 I think what we will do -- if it's going to be</p> <p>14 an hour, that's quite long tonight, especially as</p> <p>15 counsel have other matters outside of normal court</p> <p>16 hours.</p> <p>17 I have, in respect of the way forward, spoken to</p> <p>18 Mr Pennicott, who has put some rational arguments to me,</p> <p>19 which have persuaded me that in fact we can still make</p> <p>20 up time where necessary, without having to block off</p> <p>21 Saturdays, which, without intending in any way, I'm not</p> <p>22 meaning to be supercilious, I do appreciate, in all</p> <p>23 seriousness, is a time that often counsel can get</p> <p>24 together with their solicitors, with clients, take</p> <p>25 further instructions and prepare matters for the week</p>	<p>1 something I say to all witnesses and it's just</p> <p>2 a standard reminder.</p> <p>3 Thank you very much indeed. Tomorrow morning,</p> <p>4 10 o'clock.</p> <p>5 (5.00 pm)</p> <p>6 (The hearing adjourned until 10.00 am the following day)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 134	Page 136
<p>1 ahead.</p> <p>2 So we will reserve 15 December, which is a Saturday,</p> <p>3 in case we find ourselves running behind. We will not</p> <p>4 take up any other Saturdays. But what we will do, and</p> <p>5 right at this moment is perhaps a good example, is that</p> <p>6 we will eat into the late afternoons if necessary, or</p> <p>7 start that bit earlier if necessary, in order to deal</p> <p>8 with witnesses more fruitfully and quickly; all right?</p> <p>9 So I hope that assists you all. We will adjourn</p> <p>10 tonight, and we will work together in the sense that</p> <p>11 I will work with Mr Pennicott. If I suggest to him at</p> <p>12 lunchtime, "Look, we may have to sit until 6.00 this</p> <p>13 evening", he will no doubt come and sound you out, and</p> <p>14 we will see where we get to. But it has to be a joint</p> <p>15 effort, otherwise a dictatorship will take over; all</p> <p>16 right?</p> <p>17 Good. Thank you very much indeed.</p> <p>18 Mr Brewster, I'm sorry you haven't finished your</p> <p>19 evidence. You have to come back tomorrow.</p> <p>20 When a witness is giving their evidence and they are</p> <p>21 in the middle of their evidence, they are not entitled</p> <p>22 to speak to anybody about their evidence, including</p> <p>23 their own solicitors actually, because it's not like</p> <p>24 a game of rugby where you can get the coach saying, "Do</p> <p>25 something else", which I'm sure you understand. It's</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 MR MAN SZE HO (affirmed in Punti)2</p> <p>4 Examination-in-chief by MR SHIEH2</p> <p>5 Examination by MR PENNICOTT5</p> <p>6 Cross-examination by MR KHAW34</p> <p>7 Re-examination by MR SHIEH44</p> <p>8 (The witness was released)52</p> <p>9 MR RAYMOND DAVID BREWSTER (sworn)74</p> <p>10 Examination-in-chief by MR WILKEN74</p> <p>11 Examination by MR CHEUK75</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>