

1 Tuesday, 27 November 2018

2 (10.03 am)

3 MR SHIEH: Good morning, Mr Chairman and Professor.

4 Our next witness is Mr Man Sze Ho. Just to put him
5 on the organisation chart, could I ask the Commission to
6 look at bundle C7, page 5535. This is as of 14 May.

7 If the Commission can, as before, look at the MTRC
8 blue box at the very top, and move down a bit, we see
9 Mr Malcolm Plummer. If we look at 5 o'clock of
10 Mr Plummer, go furthest down the page, around 5 o'clock,
11 further down -- yes -- we see Mr Man Sze Ho there.

12 CHAIRMAN: Thank you.

13 MR SHIEH: If we then turn to the next page, C7/5536, this
14 time, again, we look at Mr Plummer's photo and this time
15 it's around 4 o'clock. Move further down, and, yes, we
16 see Mr Man Sze Ho there.

17 CHAIRMAN: Thank you.

18 MR SHIEH: Mr Man, good morning.

19 WITNESS: 早晨。

20 MR SHIEH: First of all, when I ask you questions and when
21 you give an answer, can I trouble you to please speak up
22 into the microphone, so that your answer can be captured
23 in words on the transcript, instead of just nodding; do
24 you understand?

25 WITNESS: 冇問題。

26

1 MR MAN SZE HO (affirmed in Punti)

2 Examination-in-chief by MR SHIEH

3 MR SHIEH: Mr Man, can I trouble you to turn up bundle C27,
4 page 20660.

5 A. 係。

6 Q. This is your first witness statement; do you see that?

7 A. 係。

8 Q. Can you turn to page 20666.

9 A. 係。

10 Q. Do you see your signature there?

11 A. 冇錯。

12 Q. Can you next turn to bundle C32/24087.

13 A. 係。

14 Q. This is your second witness statement?

15 A. 冇錯。

16 Q. Turn to page 24085.

17 A. 係。

18 Q. That is your signature there; correct?

19 A. 係。

20 Q. Could I trouble you to turn back to your first witness
21 statement, at bundle C27.

22 A. 係。

23 Q. At 20660.

24 A. Okay.

25 Q. Look at paragraph 4.

1 A. 係。

2 Q. Do you see the first sentence:

3 "From around June 2013 until around May 2015, I was
4 responsible for the piling works at the project."

5 And again we see:

6 "From around June 2013 until around May 2015,
7 I worked on area C of the East West Corridor platform
8 slab ... and area B and area C of the North South
9 Corridor platform slab at the project."

10 Do you see that?

11 A. 見到。

12 Q. So, according to what's written here, during the same
13 period you were doing two different things, or is there
14 anything you want to comment or correct about that or
15 you want to explain?

16 A. 唔好意思，我諗呢度可能我對嗰份witness statement嘅時候打錯咗啲年
17 份，因為我13年6月去到15年5月嘅時候就係做打樁嘅工程嘅，但係之後...

18 Q. Pause for a while because you have to allow the
19 translation to go through.

20 A. 唔好意思。

21 Q. Carry on, yes.

22 A. Okay。15年嘅5月之後，即係15年嘅6月開始，我就轉咗過去跟嗰個南北線
23 同埋東西線嘅月台層板工程嘅，就應該係個年份嗰度有少少錯誤，我係之後
24 先再轉過去，即係15年5月就轉過去做個EWL slab嘅。

25 Q. Thank you. So, basically, the second sentence, instead

1 of "From around June 2013", you would want to amend that
2 to June 2015 or May 2015? Because it is your evidence,
3 I want you to give us the month.

4 A. 係，即係from around 2015年嘅6月就轉過去EWL slab。

5 Q. Right. "From around June 2015", until which month?

6 Because here in this sentence you wrote "May 2015". So
7 the end date should be ...?

8 A. 大概應該2016年嘅5月。

9 Q. "... until around June 2016"?

10 A. 係。

11 Q. Sorry, May, until May 2016, you worked on area C of the
12 East West Corridor and area B and C of the North South
13 Corridor; is that correct?

14 A. 喺。

15 Q. Thank you. Subject to this correction, do you put
16 forward the content of these two witness statements as
17 your evidence in this Commission of Inquiry?

18 A. 冇問題，係。

19 Q. Thank you. Please remain seated. Mr Pennicott for the
20 Commission and other lawyers will have some questions
21 for you. The Commission itself may have some questions
22 also, and I may have some follow-up questions after they
23 have all finished. Do you understand?

24 A. 明白。

25 MR SHIEH: Thank you. Please remain seated.

1 Examination by MR PENNICOTT

2 MR PENNICOTT: Good morning, Mr Man. As Mr Shieh says --

3 A. Good morning.

4 Q. -- my name is Pennicott, I am one of the counsel for the
5 Commission and I have a few questions for you. Thank
6 you very much for coming along to give evidence this
7 morning to the Commission.

8 Mr Man, you have corrected paragraph 4 of your
9 witness statement. That took us up to June 2016 or May
10 2016, when you, as I understand it, ceased working on
11 the project; is that right?

12 A. 唔係。

13 Q. What happened after May 2016?

14 A. 2016年嘅5、6月，我仲喺呢個1112沙中線呢個紅磡站嘅工程嘅，只不過嗰
15 陣嘅月台層板就已經完成咗，我就轉咗去睇其他牆身或者係其他嗰啲柱頭嗰
16 啲嘅工程，就唔係再牽涉喺嗰個track slab嗰度，所以我就咁樣講啫，頭
17 先。

18 Q. Right. And how long did you continue with those duties?

19 A. 我約莫做到2017年嘅6月，2017年6月我先離開呢個紅磡站嘅工程，就轉咗
20 去禮頓嘅第二個工程，就係中環-灣仔繞道。

21 Q. I see. And you are still working for Leighton, are you?

22 A. 係。

23 Q. I understand that earlier this year you were asked to
24 come back to the office and help compile and collate
25 various documents that were being requested by various

1 parties. Is that right?

2 A. 我曾經喺2018年4月，有一次大概四日嘅，就返去紅磡站幫手，就整理番我
3 哋曾經入過嘅RISC form同埋啲啲石屎紀錄，就畀番公司嘅。

4 Q. Right, in April this year?

5 A. 4月，係。

6 Q. That was just for a short period of four days and that
7 was it; is that correct?

8 A. 我本人係，但係之後，我補充多少少，就係2018年8月around 20號嘅喇，
9 我記得，我就正式調番返去紅磡，就幫紅磡手做番一啲remedial works，
10 即係啲啲石屎啲啲defect嘅執番。我而家本人就喺紅磡個寫字樓做緊嘢。

11 Q. Right, so you're back at Hung Hom now and you are
12 dealing with concrete defects?

13 A. 係。

14 Q. So I think we've now got the full story. Thank you very
15 much, Mr Man, for that.

16 Going back -- the period I'm most interested in,
17 obviously, is the period June 2015 to May 2016. First
18 of all can I just get you to confirm this: you had no
19 involvement whatsoever with the diaphragm walls; is that
20 correct?

21 A. 正確。

22 Q. And your seniors, superiors, were Andy Ip and Joe Leung,
23 in that period that I'm talking about, June 2015 to May
24 2016?

25 A. 啱。

1 Q. And you were working in a team with Edward Mok and
2 Sasa Leung, a team of engineers?

3 A. 係。

4 Q. And you were an assistant engineer at that time?

5 A. 2015年6月嗰陣--唔係，15年6月，係，仲係，嗰陣。

6 Q. And were you the senior of the three of you, that is you
7 were the senior to Sasa Leung and Edward Mok?

8 A. 其實當時我哋三個嘅關係就係好partnering嘅，冇話邊個係senior啲嘅，
9 如果齋計職位上嚟講，就Sasa可能個職位高少少，但係其實我哋三個都係夾
10 埋一齊做，我哋嘅senior都係跟番Andy同埋Joe Leung。

11 Q. Right. So you saw yourself as equals, working in a team
12 together, carrying out duties and responsibilities that
13 were given to you by Mr Ip and/or Mr Leung?

14 A. 係。

15 Q. Okay. Mr Mok told us yesterday that his main priority,
16 possibly about 70 per cent of his time, 70 per cent of
17 the work that he did, was very much focused on the rebar
18 fixing and installation. Did you have any particular
19 priority in your work?

20 A. 當時工作嘅分配方面，莫先生就主要係同紮鐵嘅泛--即係紮鐵嘅分判商泛迅
21 去夾嘅，所以佢七成嘅時間就可能係著重於rebar fixing，我就主要同另
22 外一個分判商中科合作嘅--唔係，即係夾，就變咗我就主要係七成反而係可
23 能係啲釘板、cast-in item啲嘢嘅，就都有involve喺紮鐵方面嘅，我
24 諗我同佢嘅比例啱啱調轉，就我七成喺formwork，就三成喺番rebar

1 fixing。

2 Q. Does this mean, would this be fair, Mr Man, you would
3 have, in that role, that is the 70 per cent on formwork
4 for China Technology, seen Mr Jason Poon on a regular
5 basis, throughout the period that we're talking about,
6 June 2015 to May 2016?

7 A. 我通常都係同潘焯鴻先生嘅對落啲啲科文或者supervisor夾嘅，我本人就
8 唔係經常性見到潘焯鴻先生。

9 Q. Okay. How often did you see him, do you think? Can you
10 estimate, approximately?

11 A. 我知佢應該多時間喺地盤嘅，但係我自己大概就一個禮拜嘅見佢一次。

12 Q. Okay. Did you have any detailed conversations with him
13 about the formwork, and the work that China Technology
14 were doing generally?

15 A. 比較少。

16 Q. So your conversations, insofar as you needed them, were
17 with his foremen and supervisors; is that right?

18 A. 正確。

19 Q. I assume -- is this right -- that you never had
20 a conversation with him about the cutting of threaded
21 rebar?

22 A. 你嘅「佢」嘅意思係Jason?

23 Q. Yes, I do mean Jason.

24 A. 冇。

25 Q. What about any of his foremen or supervisors; did you

1 have any such conversation with them?

2 A. 冇。

3 Q. Okay.

4 Can I ask you, please, to look at paragraph 15 of
5 your first witness statement. That's at page C27/20662,
6 where you say this:

7 "During my routine informal inspections when I was
8 doing my rounds of site visit as described above,
9 I would visually inspect the connections between rebars
10 and couplers, the arrangement and alignment of the
11 installed rebars, and the general cleanliness of the
12 area before concreting."

13 Now, in terms of your visual inspections of the
14 connections between rebars and couplers, what was it
15 that you were looking for or watching out for, Mr Man?

16 A. 你嘅意思係我平時喺地盤檢查嘅時候會睇啲咩嘢，係咪呀？

17 Q. Yes, indeed.

18 A. 其實我嗰陣作為一個助理工程師，我就有責任每日到地盤睇一睇成個工程嘅
19 進度，同埋睇下各個判頭有冇遇到啲咩嘢問題，因為嗰陣其實除咗個月台層
20 板除咗紮鐵之外，仲有其他好多唔同嘅工序，例如係種啲drain pipe，即
21 係啲疏水啲嘢，同埋有啲係ELS啲螺絲，即係擺嚟做加固啲螺絲，
22 向下做頂啲嘢，變咗其實我哋落到去就會睇晒咁多嘢嘅。

23 點解我呢一度會寫話inspect個connection of coupler呢？因
24 為我知道呢一份嘢大家都專注喺啲個事件上面，所以我都--平時嘅我嘅
25 routine inspection都會有睇到啲紮鐵嘅工序嘅，因為始終一個

1 workfront我一落去睇，可能一、兩個鐘咁，始終都一定會睇到嘅，所以
2 變咗我就喺呢度講埋呢啲我睇咗嘅嘢。

3 Q. All right. You say you inspected the coupler
4 connections because it was an area of focus, you say in
5 the incidents but forget about that for the moment.
6 When you were inspecting the coupler connections, what
7 was it that you were checking?

8 A. 我會睇下個coupler，即係個螺絲帽當絞咗入--即係嗰條絞牙螺絲入咗去個
9 螺絲帽嘅時候個牙數剩番幾多。

10 Q. Right. And presumably, what, you were satisfied if you
11 could only see one or two threads?

12 A. 係。

13 Q. Right. Mr Mok told us yesterday that BOSA gave some
14 instructions or tuition about the rebar fixing and the
15 coupler connections. Did you benefit from those
16 instructions and that tuition yourself, Mr Man?

17 A. 嗰陣人和嗰個--即係BOSA嗰個廠就有安排到呢個指示畀我嘅，但係阿活，
18 即係Edward係有同我講到呢件事嘅。

19 Q. Right. So you didn't attend any BOSA training sessions
20 but Mr Mok did; is that correct?

21 A. 正確。

22 Q. Okay.

23 CHAIRMAN: Sorry, could I ask --

24 MR PENNICOTT: Of course.

25 CHAIRMAN: -- you would check to see if one or two threads

1 were showing only and that was fine, anything more was
2 not; is that correct?

3 A. 正確。

4 CHAIRMAN: And how was it that you came to appreciate that
5 one or two threads showing was permissible? You've
6 mentioned that Edward Mok had spoken to you, but had you
7 looked the matter up in any other way, or had you been
8 formally advised of this in any other way?

9 A. 因為嗰陣莫嘉晉先生就喺D-wall嗰陣已經係好熟習嗰個coupler嘅應用，
10 變咗當我進行呢個月台層板工程嘅時候，我同莫嘉晉先生有探討過呢件事，
11 佢就講咗畀我聽，就剩番一至兩道牙係我哋收貨嘅標準，呢件事亦都係so
12 far喺地盤照行咁樣運作都有問題，所以變咗我哋就--我自己本人就有繼
13 續去考究呢個出處喺邊度。

14 CHAIRMAN: No, no. So you were assisting him then; would
15 that be correct? I know you inspected independently,
16 but you have accepted he seemed to have greater
17 knowledge in this area than you did?

18 A. 係，正確。

19 CHAIRMAN: And, when you were inspecting, would you inspect
20 every single coupler? Would you walk along and then
21 stop and inspect two or three at a time? What was your
22 process for checking?

23 A. 我係--即係如果我去到嗰個位置，而佢係做緊呢一個擰螺絲頭嘅工程嘅時候，
24 我係會可能係跟住個alignment行住嚟睇一睇，就睇下佢之前嗰啲係咪擰到
25 剩番一至兩道牙咁。

1 CHAIRMAN: Right.

2 MR PENNICOTT: Can I just take you back a couple of
3 questions, Mr Man, just to identify for us what
4 a particular document is all about.

5 Could you go to I think it's C27/20562. Do you see
6 something there, a piece of paper, "Leighton Contractors
7 (Asia) Ltd" at the top of the page, and then it says
8 "Briefing record"; do you see that, Mr Man?

9 A. 見到。

10 Q. My understanding is that this is a briefing by BOSA.
11 Sorry, a briefing record in relation to the installation
12 of the couplers, in particular in area C3; do you see
13 that? The document is dated 15 December 2015.

14 A. 見到。

15 Q. Can you explain to us what this is?

16 A. 呢一份簡報會應該就係當嗰個NCR事件發生咗之後，我嘅上司叫我去搵泛迅
17 嘅管工去講一講，提醒番佢哋點樣可以正確咁使用個coupler嘅，我記憶所
18 及，嗰陣係好似--我唔記得咗有冇搵到BOSA嗰邊一齊，呢個就係。

19 Q. Right. So this relates -- the date is familiar to us
20 all, 15 December 2015, when the five threaded rebar, cut
21 rebar, were discovered. So is this a briefing -- it
22 says, the box at the top is ticked, "Field control
23 briefing"; do you see that?

24 A. 見到。

25 Q. Suggesting perhaps that this is a briefing that took

1 place on site?

2 A. 係。

3 Q. Then it says on the right-hand side, "Convenor/company".

4 So who convened this briefing?

5 A. Joe Cheung, 張釗峰, 泛迅。

6 Q. Right. And you were an observer at that briefing?

7 A. 正確。

8 Q. And I assume -- perhaps you can tell us -- that the
9 names that we can see, the eight names, are Fang Sheung
10 workers?

11 A. 正常應該係, 但係我唔認識佢哋。

12 Q. Okay. So, to the best of your recollection, this was
13 a briefing that was convened by Mr Cheung after the
14 incident that led to the issuing of the NCR no. 157 and
15 took place on 15 December, and you were just
16 an observer?

17 A. 以我所記憶, 呢一個簡報會的而且確係Joe Cheung同我一齊同佢班工人進
18 行嘅, 但係就我可能有少少補充, 就係個時間方面可能未必exactly係15號
19 嗰日進行嘅, 可能係後咗嗰幾日, 即係可能18號、19號嘅, 但係只不過我哋
20 想當日就backdate番, 寫番15號啫。

21 Q. All right. I am told that under the column "Company" --

22 CHAIRMAN: Sorry, I do apologise -- why would you want to
23 backdate it? I do apologise.

24 MR PENNICOTT: No, no. You are quite right.

25 A. 因為--點解我會咁樣記得呢? 因為嗰陣我係根據呢個NCR嘅時間, 我係放咗

1 假嘅，可能係因為我放完假返嚟，佢哋同我講有呢件事嘅情況下，我就即刻
2 同Joe Cheung做番呢個briefing去話番畀佢聽，叫佢哋提醒番個工人點
3 樣去做個coupler嘅安裝。所以你問我，我自己嘅記憶，我係記得有呢個
4 meeting嘅，但係exactly個日子，我相信就唔係15號嘅，只不過係嗰日
5 可能我哋15號件事發生嘅，就寫番15號，所以就係咁嘅啫，爭幾日嘅咋。

6 CHAIRMAN: All right. Sorry, you have to -- because this
7 seems to have cropped up on a number of occasions, when
8 there seems to be retrospective dating -- I mean, if the
9 briefing took place on the 18th in respect of
10 an incident that had occurred on the 15th, why not just
11 say, "Briefing took place on the 18th"? Because
12 otherwise you are distorting the truth, aren't you?

13 A. 明白，但係嗰陣嗰一刻我可能冇諗到咁多嘢。

14 CHAIRMAN: No, but I'm just trying to work out why you would
15 feel that you can put down a date that isn't the true
16 date. Do you see what I mean? People come back to this
17 later in order to check records, and they can have no
18 real reliance on the true chronology of these records
19 because the dates appear to be pretty much how people
20 feel they should be as opposed to what they really are.
21 It doesn't strike me -- I'm not an engineer but it
22 doesn't strike me as the most stringent and correct way
23 of dealing with this kind of thing.

24 COMMISSIONER HANSFORD: Well, I am an engineer, and it's
25 not. But I don't understand when this form was

1 completed. What date was the form actually made out?

2 You say you backdated it to the 15th, but when was the
3 form itself completed?

4 A. 你好，其實我就自己就記唔番起係幾時，但係我可以話畀你聽係15年嘅12月
5 尾嘅嘅，即係我諗20號around咁樣，但係我諗想當日點解我會寫15號，就
6 係因為我想嗰件事，即係呢個form可以relate番去15號嗰件事，所以就咁
7 樣寫個時間同埋地點落--即係時間同埋個日子落去嘅，所以我嗰一刻就有諗
8 到要寫番嗰一日嘅exactly日子。

9 COMMISSIONER HANSFORD: And you even put 15:00 hours for the
10 time at the top. So you were recollecting that this had
11 taken place at 3 pm in the afternoon, 15:00 hours; is
12 that correct?

13 A. 呢個15:00大概應該係事情嘅發生嘅時間嚟，即係我哋呢一張form係想記錄
14 番嗰件事。

15 COMMISSIONER HANSFORD: No, no, no, that's not correct, is
16 it, Mr Man? The form is trying to record the briefing,
17 not the incident, surely; isn't that correct?

18 A. Yes, 正確。

19 COMMISSIONER HANSFORD: Okay. There's still a bit of
20 a puzzle then, as to why you would date it 15/12 at
21 3 pm. Maybe I'll leave that puzzle.

22 MR PENNICOTT: Yes. All right.

23 Sir, this is obviously a document that has obviously
24 been there for a long time, but unfortunately only very
25 recently spotted by us as being relevant to what

1 happened in the aftermath of the discovery of the five
2 cut rebars on the 15th. Clearly, Mr Man's signature is
3 on here, so we thought it appropriate to put it to him,
4 although I have to confess I thought BOSA was involved
5 in this briefing as well, but from Mr Man's evidence
6 that appears to be perhaps not the case, but there we
7 are.

8 Can I just check one thing before I move on?

9 CHAIRMAN: Sorry, while counsel is looking -- you were at
10 this briefing. Do you recall anything being said to the
11 persons who were at that briefing condemning and
12 prohibiting future cutting of rebars, threads?

13 A. 我淨係記得我嗰日就同泛迅張釗峰，就叫佢集合部分嘅工人，就同班工人
14 講番，就叫佢哋唔好再剪任何嘅鋼筋，同埋亦都就同佢哋講話如果有咩嘢
15 問題，記住可以搵番我或者Edward Mok，就我哋會幫佢手搵我哋嘅科文去
16 儘量換晒啲杯，去令到佢可以順利咁進行佢嘅工程。

17 CHAIRMAN: The reason I ask is because if one accepts what
18 they purport to show, there are a couple of photographs
19 dated 22 September, just a few days later, which seem
20 perhaps to show a worker --

21 MR SHIEH: This is December.

22 MR PENNICOTT: This is December.

23 CHAIRMAN: Oh, this is December? My apologies. Thank you
24 very much. In which case ignore that; I got the dates
25 wrong.

1 COMMISSIONER HANSFORD: Actually, before we leave this form,
2 Mr Man, just so I can understand the content -- you have
3 completed this form; is that correct?

4 A. 正確。

5 COMMISSIONER HANSFORD: Could you read the contents box
6 that's currently in Chinese, and in that way it will be
7 translated and I will be able to hear what it says.

8 A. 好呀，冇問題，嗰一句就係寫「提醒工友如何正確使用coupler及安裝。」

9 COMMISSIONER HANSFORD: Thank you.

10 MR PENNICOTT: Sir, just to wrap this point up, if I may,
11 and to be fair to Mr Man -- he indicated in an earlier
12 answer that he was on annual leave on 15 December. The
13 record suggests that that is correct.

14 If we go to bundle C8/5552. If we blow the top part
15 of it up, please, and go to the left, you will see
16 Mr Man is about nine or ten names down on the left-hand
17 side, "Man Sze Ho". Then if we scroll across, please,
18 to December 2015, on the right-hand side, you will
19 see -- you must have had a long holiday, Mr Man. You
20 seem to have left on 9 November and come back on
21 16 December. Do you see?

22 A. 係。

23 Q. So I think what you were saying earlier is that you were
24 absent, on annual leave, on 14, 15 and 16 December; is
25 that right?

1 A. 正確。

2 Q. And that's why you believe this briefing perhaps took
3 place on the 17th or 18th?

4 A. 我係記得呢個簡報會係之後先做番嘅，但係我就唔清楚點解嗰陣我會寫咗
5 呢個日子，可能係因為我想大家緊扣番呢件事，就唔係以為我之後做。

6 Q. Yes, I understand. Okay.

7 Back to paragraph 15 of your witness statement. You
8 say you would visually inspect the connections between
9 the rebars and the couplers, and so forth.

10 Mr Man, as I understand it, you weren't asked to
11 keep any records of those inspections, those routine
12 inspections?

13 A. 正確。

14 Q. Could I then please ask you to go to paragraph 16(e) of
15 your first witness statement. This is in the section
16 that's dealing with formal inspections. You say:

17 "It was standard practice that MTR's
18 engineer/inspector of works would verbally approve the
19 inspected works and authorise Leighton to proceed after
20 the formal inspections. The only exception would be if
21 MTR engineer/inspector of works required rectification
22 work. If the defect was minor, I would ensure that such
23 remedial work was completed immediately by the
24 sub-contractor during the inspection."

25 Mr Man, can you give us an example of a minor defect

1 that would be corrected or completed immediately, in the
2 way that you describe?

3 A. 如果即係我同地鐵嘅engine或者IOW去行地盤嘅時候--即係去巡--即係做
4 inspection嘅時候，我哋有時會有機會發現一啲好minor嘅defect，例
5 如可能係下面有啲板方未清理好，或者係有啲嘅hydrophilic strip，即
6 係紙水條喺嗰個CJ嗰度未做好，又或者有啲regroutable tube，即係灌
7 番漿嘅喉，就so far係呢啲可能係普通workmanship嘅問題，我哋即刻可
8 以rectify到嘅，我就會視嗰啲為minor defect。

9 Q. All right. Then you say:

10 "Otherwise, if more time was required to complete
11 the rectification work, further inspection would be
12 arranged with MTR."

13 Can you give us an example of something that wasn't
14 minor, ie the "otherwise" that you're referring to
15 there, something more major, presumably?

16 A. 我嗰陣寫呢句statement嘅意思就係話如果有啲大型嘅嘢要執嘅話，我
17 就會可能要安排多啲時間去rectify，但係so far喺我個人嘅經驗嚟講，
18 就有試過要再re-inspect嘅。

19 Q. All right.

20 Now, you say at paragraph 17(a) of your first
21 witness statement, that's at the top of 20664:

22 "There were in fact two formal inspections. The
23 first was undertaken after Fang Sheung had completed the
24 bottom layers of rebars and the second after the top
25 layers were completed."

1 Mr Mok gave evidence to similar effect yesterday and
2 I'm not going to go over all that again. But could
3 I just ask you, please, to look with me at a couple of
4 documents, just to give that point a little bit more
5 detail.

6 Could I ask you, please, first of all, to be shown
7 H1/186.

8 Mr Man, this is a RISC form. It relates to bay
9 C2-3; do you see that, towards the top?

10 A. 正確。

11 Q. And it's dated 2 October 2015; do you see that?

12 A. 10月2號，見到。

13 Q. One can see, at item (2) under "Part A":

14 "Work to be inspected/surveyed: Inspection of rebar
15 fixing for bay C2-3 EWL slab (top and bottom steel)".

16 Do you see that?

17 A. 見到。

18 Q. So, as we discussed with Mr Mok yesterday, even though
19 the bottom steel and the top steel may be separately
20 inspected at two different times, there would just be
21 one RISC form in relation to those inspections; is that
22 your understanding?

23 A. 係。

24 Q. If you would then be good enough to go to page 200 in
25 the same bundle, one can see that this also relates to

1 the same bay, C2-3, and it's dated a few days later,
2 5 October; do you see that?

3 A. 見到。

4 Q. And this time, item (2) under "Part A, the work to be
5 inspected or surveyed is described as "Pre-pour check
6 (final condition)"; do you see that?

7 A. 見到。

8 Q. If we go over the page to 201 -- this also continues on
9 202 but let's just focus on 201 for now -- this is
10 described as the "Cast in situ concrete quality control
11 checklist", a document you're familiar with, I imagine,
12 Mr Man?

13 A. 冇錯。

14 Q. And indeed we see that this document contains your
15 signature on the right-hand side in respect of the
16 various items?

17 A. 係。

18 Q. So far as the reinforcement fixing is concerned, that's
19 item 5, it says:

20 "Size, number, length and spacing of bars, lap
21 lengths, starter bar lengths and levels, cover, tying
22 wire ... rigidity, surface condition, welds,
23 spacers/chairs."

24 Would I be right in thinking, Mr Man, that when
25 you're doing the pre-pour check that this document

1 relates to, you don't re-inspect all the rebar for that
2 purpose; you simply rely upon the fact that the RISC
3 form in relation to the rebar has been signed off by
4 Leighton and MTR, and you simply rely upon that fact to
5 tick the box against item 5; is that correct?

6 A. 因為我哋做呢張pre-pour checklist同埋入呢一個pre-pour checking
7 嘅RISC form之前，我哋就一定有一張RISC form for呢個rebar fixing
8 嘅，當入嗰個rebar fixing嘅時候，我同Edward Mok基本上都其實好--
9 sure咗現場嗰個bay嘅兩塊mat嘅紮鐵已經係according to咗嗰個我哋
10 approve嘅drawing。而下面嗰浸一定係搵地鐵嘅engine已經驗收咗，
11 我哋先會上上面嗰浸，當我哋check埋上面嗰浸嘅時候，我就會有信心可
12 以喺呢一度簽埋個名。

13 Q. Right, and ticking the box against number 5 and signing
14 it?

15 A. Yes.

16 Q. Okay.

17 Mr Man, a question I've been asking a lot of
18 witnesses: have you heard of the site supervision plan?

19 A. Sorry, SSP?

20 Q. Yes.

21 A. SSP? Yes.

22 有，有聽過，係。

23 Q. Is it a document you've read?

24 A. 當時有。

25 Q. That was my next question: you didn't read the site

1 supervision plan, you weren't shown it back in 2015?

2 A. 係。

3 Q. It's a document you only recently read?

4 A. 係。

5 Q. Would I also be right in thinking that so far as the
6 quality supervision plan is concerned, the QSP, that was
7 also not a document that you were shown or read back in
8 2015?

9 A. 正確。

10 Q. Have you read the quality supervision plan recently?

11 A. Recently就有，即係最近有。

12 Q. All right.

13 Now, Mr Man, can I ask you to cast your mind back to
14 January 2017; all right? The reason I ask you to do
15 that is you may recall that Mr Lumb, Stephen Lumb, head
16 of engineering at Leighton, and/or a gentleman called
17 Guntung, carried out a review and investigation in
18 relation to allegations concerning cut threaded rebar.
19 Do you recall that?

20 A. 有。

21 CHAIRMAN: Sorry, I'm obviously getting my dates a bit
22 confused this morning.

23 MR PENNICOTT: That's all right.

24 CHAIRMAN: January 2017, I thought that was when the actual
25 letter of 6 January or the email --

1 MR PENNICOTT: Yes, which gave rise to --

2 COMMISSIONER HANSFORD: Stephen Lumb's report.

3 CHAIRMAN: Thank you very much.

4 MR PENNICOTT: I was doubting myself there.

5 Yes, the investigation or review by Mr Lumb and
6 Guntung was triggered by some emails in early January
7 2017, but I'm not troubling you with those, Mr Man.

8 Do you recall being interviewed by Guntung back in
9 January 2017?

10 A. 有。

11 Q. And the two people, the two site people who were
12 interviewed, were I think yourself and Mr Ip? The
13 others seem to be people from the design team?

14 You probably don't know that, sorry.

15 A. 我個人記得當時嘅狀況就係Guntung先生就叫我去有一間房嗰度interview，
16 就呢件事，佢想睇下我哋當時有咩睇法或者做法嘅，所以嗰個interview
17 就好independent嘅，我唔知道有冇其他人佢再interview過。

18 Q. Understood. And Mr Lumb ultimately produced a report
19 following his review and investigation and the interview
20 that he had with you and others. Were you shown a copy
21 of that report, back in January or February 2017?

22 A. 嗰陣有。

23 Q. Have you seen it more recently?

24 A. 兩日前。

25 Q. Two days ago.

1 A. 兩日前睇過。

2 Q. Right. You were given some homework. Good.

3 Could I ask you, please, to look at the report.

4 That's in C27 and it starts at 20242.

5 There's just one aspect of it I want to look at with
6 you, Mr Man, and that's at 20254, I believe. You will
7 see there on that page, Mr Man, a heading "Remedial
8 measures"; do you see that?

9 A. 見到。

10 Q. Do you recall discussing with Guntung or Mr Lumb the
11 subject of remedial works that might be required to
12 couplers and starter bars?

13 A. 我有同佢提供過我哋有做過嘅修補措施。

14 Q. Right. So what it says here is that:

15 "During the investigation, it was advised that
16 remedial works were required to the coupled starter bars
17 in several conditions:

18 1. Coupler misaligned in level (resulting starter
19 bar with inadequate cover).

20 2. Coupler misaligned in level (resulting in
21 starter bar clashing with other rebar)."

22 To your recollection, Mr Man, were remedial works
23 required when conditions such as described there
24 occurred? Do you recall yourself, going back to
25 2015/2016, that these types of remedial -- these types
26 of problems gave rise to remedial works?

1 A. 你好。我記得就其實想當日我同Guntung先生就喺嗰度傾嘅時候都有談論過
2 呢兩個condition嘅應該，喺二零--即係我就個人，我而家記得嘅話，我
3 就同佢講咗兩樣嘅remedial measure嘅，第一個就係常見發生喺EWL嘅--
4 即係2015年EWL層板嘅時候，因為西面嗰啲coupler嗰啲落完D-wall之後
5 個condition係比較差嘅，所以嗰陣係需要好大量咁換咗個coupler嘅，
6 呢個係我同佢嘅remedial measure，就係成個coupler可以換咗佢。
7 第二個remedial measure，就係通常會發...

8 CHAIRMAN: Sorry, what sort of condition?

9 A. 因為其實coupler...

10 MR SHIEH: I think he said "poor condition".

11 A. ...喺D-wall嘅應用有兩個direction嘅，佢有機會係咁樣嘅，有機
12 會係咁樣嘅(demonstrating with fingers)，但係當佢vertically
13 upward嘅時候，即係向上嘅話(demonstrating with fingers)，佢嗰
14 個本身落落去個D-wall嗰個coupler個作用最主要係保護番本身嗰條rebar
15 嗰個thread嘅，所以向上嗰啲通常我哋全部都會換番個新嘅coupler去畀
16 佢擰嘅。

17 MR PENNICOTT: It goes on here in this record -- look back
18 at item 8 or paragraph 8.

19 A. 係，係。

20 Q. It says, under the remedial measures which were
21 implemented:

22 "When the starter bar was at the correct level but
23 installed in the incorrect direction (ie not
24 perpendicular to the face of the diaphragm wall), the

1 starter bar was mechanically bent to the intended
2 alignment."

3 Mr Man, do you have a recollection of those types of
4 incidents happening and that type of remedial measure
5 taking place?

6 A. 我相信你係講緊item 1, 即係嗰個1號嗰個remedial measure。

7 Q. I am.

8 A. 嗰個係曾經會發生喺個地盤嘅, 因為始終有啲螺絲帽有機會喺落D-wall嘅
9 情況下會歪咗嘅, 所以變咗我哋係需要係可能擰完嗰個starter bar入去
10 之後, 需要manually將佢拗番入去嘅, 但係呢個其實就--係喇, 係喇, 呢
11 個應該係地盤一個好common嘅事嚟嘅咋呢件。

12 Q. Right. You say it's a common scenario. So this would
13 happen on a regular basis, would it?

14 A. 可以--即係發生咗都唔會特登去理, 因為呢個, 其實。

15 Q. All right.

16 A. 即係佢呢一個condition, 因為我都係啱啱, 即係我幾日前睇過一次呢份
17 report, 我嘅理解就係話佢總之係唔啱位置, 需要manually去bend佢
18 嘅話, 佢哋就會bend佢, 呢個做法係會喺地盤見到嘅。

19 Q. In practical terms, Mr Man, is that sort of remedial
20 measure implemented when the misalignment is not very
21 great, it's just a minor misalignment and so it can be
22 put right simply by screwing in the rebar and then just
23 pulling it to get it perpendicular or horizontal?

24 A. 我諗我澄清番少少, 第一點, 我諗佢想講嘅嘢就係唔係話太過大嘅角度嘅,

1 因為我提供咗--我或者清楚地講少少，...

2 Q. Okay.

3 A. ...就係想當日我提供畀Mr Guntung嘅方法就係我喺NSL層板嘅時候會遇
4 見嘅，因為NSL層板就同EWL有啲唔--比較特別嘅，就係NSL嘅coupler係
5 全部係喺個D-wall入面，而唔係上面嗰一浸係可以我哋自己裝㗎嘛，變咗
6 佢嗰個tilt up或者係左右個alignment唔啱嘅情況會比較常見，即係會
7 比較多啲，即係個percentage多啲，又唔係話去到好常見嘅。

8 但係嗰陣我哋就cater--即係我哋點樣去rectify嗰啲高咗或者唔啱
9 嗰啲嘅coupler呢，就係用我哋而家呢一度見到嘅第二個方法，就係將嗰個
10 starter bar擰咗落去之後，再manually bend佢之後，隔離加多條
11 additional嘅25鐵，就用埋個RE500去將佢fix埋一齊。呢一個反而係我
12 就真係有親口同Guntung講過我哋現場有做過嘅嘢嚟嘅。

13 Q. All right. But can I just distinguish between 1 and 2:
14 1 would be implemented and is just screwing in the rebar
15 and mechanically bending the bar into the correct
16 alignment, where the misalignment was not great, it was
17 minor; whereas, so far as 2 is concerned, that was
18 a slightly worse condition, and therefore necessitated
19 the addition of one additional T25 starter bar?

20 A. 正確。

21 Q. And, so far as 2 is concerned, would that happen simply
22 on site, with Fang Sheung in attendance, without any TQ
23 having been issued, just a site instruction and just to
24 put in that additional starter bar or dowel bar as

1 I think some people have called it?

2 A. 以我嘅記憶，想當日，因為我哋一開始做個NSL層板嘅時候，就發現咗呢個
3 問題，嗰陣係同地鐵嘅engine係agree咗，我哋係可以咁樣鑽一條鐵去
4 cater番呢個case，即係去做番個remedial measure去補償番嗰條我哋
5 bend咗嘅鐵。

6 Q. All right. I think I had better just get this a bit
7 clearer, Mr Man. So far as the EWL is concerned --
8 let's just focus on the EWL for now -- 1 and 2 remedial
9 measures, how often were they required on the EWL?

10 A. 如果淨係講東西線，第2個情況，我未見過。第1個情況，我諗大概可能5%
11 左右，因為始終嗰啲coupler一定係會有機會tilt up咗，變咗佢一定係可
12 能搵第二個layer砸番住佢或者盛，因為我眼--即係以我嘅理解，第1個嘅
13 manually bend就係咁嘅意思。

14 Q. All right. But you think, or recollect, rather, that so
15 far as number 2 is concerned, that didn't happen on the
16 EWL --

17 A. 正確。

18 Q. -- east diaphragm wall?

19 A. 唔係，正確啲嚟講，係東西線係我自己記憶就有發生過第2件嘅remedial嘅，
20 淨係喺南北線有發生啫，呢個。

21 Q. Okay. We may have to come back to that specific point
22 in a moment, when we look at some of the records.

23 What about 3, Mr Man:

24 "When the starter bar was installed at the incorrect

1 level (ie installed too high or too low) and therefore
2 needed to be abandoned, one additional T25 starter bar
3 was drilled and fixed using ... chemical resin ...
4 adjacent to the abandoned T40 coupler ..."

5 Then there's a reference to a drawing. Don't worry
6 about the drawing for the moment.

7 How often did that remedial measure happen, if at
8 all, on the EWL?

9 A. 我有見過第3件事嘅發生。

10 Q. On the EWL. What about the NSL?

11 A. 正確啲嚟講，我有見過呢一個remedial measure喺EWL嘅area C，同埋
12 NSL嘅area B同C都有見過呢一個情況。

13 Q. And so I think that probably gives rise to this obvious
14 question: how did item 3 come to be recorded in this
15 report by Mr Lumb? Was it not something you told him?

16 A. 我唔肯定，可能係佢--真係唔知點解佢會寫落去，可能佢問過其他人，總之
17 呢一個方法就唔係我見過嘅方法。

18 Q. So number 3, you are telling us, is not something that
19 you informed Mr Lumb or Guntung about?

20 A. 正確，我有同佢講過呢一個measure。

21 Q. Okay. I'll ask him later. Thank you for that.

22 Could we then just look, finally so far as I'm
23 concerned, at a couple of documents which we have looked
24 at before with other witnesses, in C13.

25 Sorry, just give me a moment.

1 It should be 8648, please, in C13.

2 Mr Man, we touched on a point earlier, when you
3 indicated that you came back for a few days in April to
4 head office or the site office, to assist in putting
5 together certain documents.

6 A. Mmm.

7 Q. Can I ask you to look at C13/8648. Is this a document
8 that you recognise?

9 A. 見過。

10 Q. Did you participate in the preparation of this document?

11 A. 我有參與準備呢份文件。

12 Q. So you have seen it before, but, again, recently?

13 A. 上星--我諗一個月之內喇，我見過呢份嘢。

14 Q. All right. So you didn't have any role in preparing
15 this document. Can you just help us with this. When
16 you came back for your few days in April, precisely what
17 is it that you did? What were you asked to do?

18 A. 我只不過係嗰陣18年4月，我就係返咗紅磡個office，就幫手就將所有嘅
19 exactly落石屎嘅日期或者係rebar fixing嗰啲嘅大概嘅日期，就同埋想
20 當日我哋入過嘅所有RISC form同埋嗰啲pre-pour checking嗰啲form
21 就搵番晒出嚟畀番公司，就group up番可能話EWL slab C1-1、C1-2咁
22 就一查咁樣就畀番公司。

23 Q. All right. That was the limit of your input?

24 A. 係，正確。

25 MR PENNICOTT: All right. So no more questions on those

1 documents, subject to just checking.

2 Sir, yes, I have no more questions for Mr Man.

3 CHAIRMAN: Thank you very much.

4 MR TO: No questions from me.

5 CHAIRMAN: Thank you.

6 Cross-examination by MR KHAW

7 MR KHAW: Mr Man, I am acting for the government. I have
8 just a few questions for you.

9 If we can have a look at the document on the screen
10 that Mr Pennicott was just referring you to. You told
11 us that the first time you saw this document was within
12 a month from today; is that correct?

13 A. 大概係咁嘅日子。

14 Q. And you told us that in fact all you did was that after
15 you returned to Hung Hom office in April 2018, you were
16 asked to dig out certain documents, so you compiled
17 documents?

18 A. 正確，我喺18年4月再返嚟幫手執番啲文件嘅啫。

19 Q. May I ask who actually asked you to dig out the relevant
20 documents and compile the documentation?

21 A. 唔係太記得喇，但係嗰陣返嚟，我應該係幫Andy手，Andy Ip。

22 Q. Did he tell you the reason why you were required to dig
23 out the documents?

24 A. 純粹可能我哋之前嗰啲record可能就我哋自己入嗰班engine就最熟悉喺邊
25 個位置，所以我哋咪幫佢手整合番一個個box file，就等如邊一倉，refer

1 番邊份文件，咁樣幫佢整合番嘅啫。

2 Q. You told us that you saw this document recently.

3 A. Yes. 係。

4 Q. Who showed you this document?

5 A. 唔係太記得喇呢個。

6 Q. Did anyone tell you who was responsible for filling in
7 the box, ie the box at the bottom of this document with
8 items 1 to 6, and then somebody actually put in a circle
9 indicating "S", et cetera? Do you know who was
10 responsible for filling in these details?

11 A. 唔清楚。

12 Q. And certainly that was not you; right?

13 A. 肯定唔係。

14 Q. Earlier on this morning, Mr Chairman asked you a
15 question, and his question was, when you were
16 inspecting, would you inspect every single coupler; do
17 you remember that?

18 A. 記得。

19 Q. And your answer was that you would walk along the
20 alignment and check whether the threaded rebars had been
21 properly connected?

22 A. 正確。

23 Q. Just one follow-up question on that. When you were
24 inspecting the threaded rebars, ie when you were
25 inspecting the coupler connections, were there

1 situations where, for example, one layer of -- well,
2 let's put it this way. If we say there's one mat of
3 reinforcement bars, consisting of, say, four layers of
4 reinforcement bars -- okay? Let's take that point for
5 the time being. Were there situations where you went to
6 inspect after one layer at the bottom was completed, and
7 then you went elsewhere to see something else?

8 A. 唔好意思，我聽個翻譯好似--唔係好聽得準確，可唔可以講多一次？唔該。

9 Q. If we take, say, one mat of reinforcement bars, let's
10 assume that one mat of reinforcement bars consists of,
11 say, four layers of reinforcement bars. So far, so
12 good?

13 A. 係。

14 Q. So, when you were inspecting the coupler installations,
15 after one particular layer, say at the bottom, was
16 completed, were there situations where, after one layer
17 was completed, you had a look at it and then you went
18 elsewhere to see other works?

19 A. 有呢啲咁嘅情況。

20 Q. And there were situations where, when you came back to
21 look at the coupler installations again, perhaps another
22 two or three layers were completed?

23 A. 因為一般嚟講，我每日行地盤都會兩次嘅，每一次都會每一個workfront都
24 經嘅，除非可能我放大假，咁我有計喇啲，我相信如果我係有放假，daily
25 basis咁行嘅話，以我嘅印象中，紮鐵嘅速度最多係一倉至--唔係，一個

1 layer至到1.5個layer一日嘅啫，變咗如果我上晝加下晝去行嘅話，我印
2 象中就唔會有情況係無撐撐可能多咗兩、三個layer嘅，一定係我每一次行
3 最多可能半個半個--唔係，即係一個一個咁上，每一次行嘅話，唔該。

4 COMMISSIONER HANSFORD: Sorry, just so that I can understand
5 that, Mr Man -- you say, "From my recollection, one to
6 one and a half layers could be completed" -- do you mean
7 within one day? What do you mean by that?

8 A. 一日。

9 MR SHIEH: I think the words "within one day" were omitted
10 in the translation.

11 COMMISSIONER HANSFORD: Within one day?

12 MR SHIEH: He did say "一日".

13 COMMISSIONER HANSFORD: Thank you.

14 MR KHAW: In your witness statement you told us that you
15 actually know Mr But of China Tech reasonably well;
16 remember that?

17 A. 記得。

18 Q. At the time, that is after June 2015, when you started
19 to be responsible for platform slabs, et cetera, were
20 you ever told by any worker, either from China Tech or
21 from Fang Sheung or even other sub-contractors,
22 regarding the difficulties that they encountered in
23 relation to coupling works?

24 A. 記憶中，淨係泛迅會同我哋講呢個問題嘅啫。

25 Q. So I gather that Fang Sheung told you about the problem,

1 and that was before the NCR incident in December 2015;
2 right?

3 A. 或者咁講，其實無論係之前定之後，總之泛迅個打埋人，如果Joe Cheung
4 知道有咩嘢問題嘅話，佢都會即刻通知我哋。

5 Q. Let's focus on the time before December 2015, ie before
6 the NCR incident; okay? Did Joe Cheung or anyone of
7 Fang Sheung actually approach you and tell you anything
8 about the difficulties that they encountered in coupling
9 works?

10 A. 其實我唔exactly recall到12月之前，佢會唔會話搵過我呢啲咁嘅問題，
11 但係總之我哋--應該其實嗰陣都有嘅，因為我好記得12月之前，我哋mainly
12 focus咗喺EWL slab個construction，而佢嘅西面個頂頭嗰浸coupler
13 係好經常性要我哋一定換晒佢，所以嗰一度就佢都有搵過我哋嘅一定。

14 Q. Can you tell us what was the cause of the problems which
15 warranted the replacement of the couplers?

16 A. 或者頭先都講過，如果個coupler係垂直向上嘅話，佢哋嗰啲--因為當
17 我哋係打嗰啲石屎嘅時候，露番佢個杯出嚟嘅時候，就好易打爛嘅，嗰
18 一啲通常就會換晒佢嘅，另外有啲情況係因為我哋現場地盤有一隻叫做
19 hydro-demolition machine，即係攞嚟洗個shear key嘅一個機器，
20 嗰部機器就亦都有機會令到部分嘅螺絲頭可能畀啲沙石損壞咗，嗰啲就會--
21 我哋會搵科文打番出嚟，換番佢。

22 Q. And these were the only problems you knew about in
23 relation to coupling works; is that right?

24 A. 喺EWL area C嘅月台層板係咁多。

1 Q. Any other problems that you heard about in relation to
2 other areas in the EWL slab?

3 A. 如果根據我自己嘅資料，我自己知道嘅認知，我淨係知道area A個邊就會有
4 啲couple alignment唔啱嘅問題喺EWL slab個度，佢哋就有佢哋嘅TQ、
5 佢哋嘅方法解決咗佢，但係詳情我就唔肯定嘅呢個，即係我唔係好100%了解
6 呢個嘅安排。

7 Q. Right.

8 Regarding the investigation carried out by Mr Lumb,
9 you told us that you were interviewed by Mr Guntung;
10 correct?

11 A. 正確。

12 Q. Were you actually interviewed by Mr Lumb himself?

13 A. 我唔記得呢個。

14 Q. How long did your interview with Mr Guntung last?

15 A. 我有記錯，應該around一、兩個鐘嘅，但係佢就持續可能係日半至兩日喺
16 個地盤，就夾住可能話要啲資料就問我，要啲資料就問我。

17 Q. Do you remember whether you talked about the NCR
18 incident in 2015 during the interview?

19 A. 我唔exactly記得我嗰陣有同佢講過呢件事，但係so far around嗰段日
20 子，我都有call out番嗰個NCR出嚟嘅，我諗佢應該都會知道呢個資訊。

21 Q. You just told us that you were given a copy of the
22 investigation report prepared by Mr Lumb about two days
23 ago?

24 A. 因為有律師畀過我睇過呢個。

1 Q. Finally, I would like -- if I may trouble you to have
2 a look at H19, page 39704.

3 This is an NCR issued by MTR to Leighton, and
4 I believe that was issued recently, in September 2018.
5 It is in relation to certain problems on the soffit of
6 the EWL slab.

7 If we can turn to the next page -- another page on,
8 sorry; there should be a photograph -- 39706, the next
9 page, yes -- the NCR identifies problems such as
10 insufficient spacing of shear links, insufficient
11 anchorage length, et cetera.

12 Were you aware of this particular NCR?

13 A. 我見過呢份報告。

14 Q. When did you know about this NCR?

15 A. 因為我頭先都講過我8月嘅時候已經返咗紅磡嗰度就幫手執嗰啲--即係處理
16 嗰啲concrete defect, 呢一個當時地鐵出呢個NCR嘅時候, 都有同我講
17 過。

18 Q. Were you aware of any reasons why there were such
19 problems identified?

20 A. 其實最主要嘅原因係因為而家個EWL slab soffit嗰度, 我哋就發現咗一
21 啲黃蜂竇, 喺打嗰啲黃蜂竇過程嘅時候, 就有啲rebar--即係本身喺入面紮
22 咗嘅鐵就露咗出嚟, 就發現咗嗰啲shear link當時嘅安裝方法原來係未可
23 以跟足晒港鐵嘅圖則嘅, 所以變咗--應該咁講, 其實我清楚啲咁講, 唔可以
24 咁講, 應該話佢嗰個鈎嗰個--即係你見到第二張圖咪度咗個鈎係唔知350咁
25 長嘅, 嗰個鈎其實如果最準確嚟講, 應該要向上再平埋佢嘅, 但係而家呢一

1 度就可能冇做到，所以變咗港鐵就issue咗呢一個嘅NCR畀我哋。

2 Q. Thank you. You just told us that it was discovered that
3 the installation method for shear links was not entirely
4 in compliance with MTR's specifications.

5 What I would like to ask you is, were they not
6 supposed to be checked before concreting, ie as a hold
7 point inspection?

8 A. 喺呢度我有少少補充先，首先，因為呢個shear link係喺成個slab嘅紮鐵
9 過程最後先做嘅，而我哋嗰陣收呢個shear link嘅requirement，就係
10 話個長度、深度夠深先，同埋個spacing嘅，我哋想當日嘅spacing的而
11 且確係已經搵engine係收得好清楚有嘅。

12 但係點解個photo 3嗰度會show到insufficient spacing呢？可
13 能最主要原因係因為我哋安裝嘅時候嘅方法，因為始終嗰一塊3 metre層板
14 頂同底嘅距離有3 metre高，我哋要裝嗰條shear link，就永遠都喺上面
15 安裝落去番下面，而扣番去下面嗰條鐵嘅，可能有機會佢喺上面嗰度扣得靚，
16 但係下面嗰一下扣得唔靚，歪咗少少嘅話，個spacing就可能已經大咗好多，
17 因為嗰度有3米咩嘛。但係so far嚟講，喺頂度望落去，我相信想當日嘅
18 spacing一定係冇問題，港鐵嘅engine先會驗收簽話approve嘅。

19 另外，至於嗰個anchorage嗰個問題，我都要再去了解嘅，呢個，因
20 為我都係參與緊呢個NCR，睇下有咩嘢方法解決番佢嘅呢個。

21 Q. Was there any inspection of the spacing at the bottom?
22 The spacing of the shear links, I mean.

23 MR SHIEH: At what time? When?

24 MR KHAW: The hold point inspection.

1 A. 想當日，如果我哋做嗰個rebar fixing嘅hold point inspection嘅
2 時候，for shear link，就淨係喺個top mat上面望番落去嘅啫，我哋
3 就有安排到地鐵嘅工程師同我哋一齊入去入面去逐個逐個睇。

4 MR KHAW: Thank you, Chairman. Thank you, Professor.

5 COMMISSIONER HANSFORD: Sorry, just on that, is it possible
6 for shear links to be dislodged during concreting? So
7 the shear links are fixed at certain spacings. Could
8 they then be dislodged or moved in position during the
9 concreting process, or is that not possible?

10 A. 有咁嘅可能性，因為始終佢都係落去扣住，而唔係搵條鐵線紮實晒。

11 COMMISSIONER HANSFORD: It's not secured by tying wire?

12 A. 佢個頂嗰一part就一定搵鐵線紮實晒。

13 CHAIRMAN: But not for the bottom part?

14 A. 我唔肯定有冇，呢個。

15 COMMISSIONER HANSFORD: Okay. Thank you.

16 MR BOULDING: I think my points have been covered, sir, but
17 I see the time. If I can have the coffee break to think
18 of any.

19 CHAIRMAN: That's perfectly all right.

20 MR BOULDING: Thank you.

21 CHAIRMAN: Quarter of an hour. Thank you.

22 (11.39 am)

23 (A short adjournment)

24 (12.04 pm)

25 CHAIRMAN: Apologies for keeping you. A couple of things

1 came in, as they often do, I think some written
2 submissions.

3 MR PENNICOTT: Yes, sir.

4 CHAIRMAN: In addition to which just a couple of other
5 things that needed to be discussed. Thank you.

6 MR PENNICOTT: Yes, sir.

7 MR BOULDING: Good afternoon, sir. On reflection, the
8 points we intended to make have been covered already, in
9 particular by Mr Pennicott, so nothing further from us
10 for this witness. Thank you.

11 CHAIRMAN: Thank you very much.

12 MS CHONG: No questions from Fang Sheung.

13 CHAIRMAN: Thank you.

14 Re-examination by MR SHIEH

15 MR SHIEH: Very briefly by way of re-examination.

16 Can I ask you, Mr Man, to look at bundle C27,
17 page 20254.

18 A. 係。

19 Q. This is Mr Lumb's report that you have seen this
20 morning; do you remember?

21 A. 記得。

22 Q. The three points under heading number 8, "Remedial
23 measures"; do you remember that?

24 A. 見到。

25 Q. Now, you were asked some questions about which bullet
26 point came from you; remember?

1 A. 記得。

2 Q. You were also asked about what you actually told
3 Guntung; correct?

4 A. 係。

5 Q. I want to do a simple exercise of trying to match up
6 which bits of what you said to Guntung found themselves
7 into these points.

8 Let's start with point number 3, the point which
9 involved appendix K, et cetera. You gave evidence that
10 you did not give this point to Guntung; was that
11 correct?

12 A. 正確。

13 Q. Now, point number 2, did this come from you?

14 A. 係。

15 Q. This is what Mr Pennicott has referred to as the bigger
16 bending, the more serious bending, which necessitated
17 putting in the T25 bar next to the original T40 bar;
18 remember?

19 A. 記得。

20 Q. So this came from you?

21 A. 係。

22 Q. Point number 1, which Mr Pennicott referred to as the
23 lesser or more minor bending, did this come from you, to
24 your best recollection?

25 A. 以我嘅記憶，呢個我都應該有講過嘅可能，對住Guntung，即係Mr Guntung。

1 Q. Thank you. Apart from point number 1 and point
2 number 2, I think you also gave evidence about the need
3 sometimes to make large-scale or wholesale replacement
4 of some couplers; remember?

5 A. 正確。

6 Q. And the reason for the need to replace a number of
7 couplers was, as you have explained, for various
8 reasons, because they may be damaged or they may be
9 facing the wrong direction as a result of making the
10 diaphragm wall?

11 A. Mmm.

12 Q. Remember that?

13 A. 記得。

14 Q. For that exercise, for the need to wholesale replace
15 problematic couplers, you remember you told Guntung
16 about it; yes?

17 A. 我記得有。

18 Q. Right. But it did not find its way into these three
19 points; correct?

20 A. 係。

21 Q. So we've sorted out what you said and which bits here
22 are referable to you. Can I move on to the last
23 point --

24 COMMISSIONER HANSFORD: Actually, before we move off that
25 point, I have a related question for Mr Man.

1 Mr Man, you've just told us that you provided the
2 remedial measures points 1 and 2 to Guntung. Do you
3 know who would decide whether to go for remedial
4 measure 1 or remedial measure 2? How was the decision
5 made as to which of those two remedial measures should
6 be used?

7 A. 你好。如果第一個方法，即係可能好minor嘅，就咁mechanical bend嘅
8 話，應該係泛迅自行會做得到㗎喇，呢個動作，就唔需要係我哋去involve
9 嘅，或者佢可能會叫我哋幫下手，但係就呢一個情況總之係其實by site
10 arrangement就做得到嘅。

11 而第2個情況就係我頭先都講過，第2個情況係會發生嘅NSL，而唔係嘅
12 EWL，如果嘅NSL發生咗呢個狀況，我哋notify到嗰個coupler係高過--太
13 高或者太過斜嘅話，我哋禮頓會搵人去鑽條25鐵嘅隔離。當然我哋有可能憑
14 肉眼分辨唔到有陣時，有陣時係會有機會係泛迅Joe Cheung佢哋做緊嘅時候
15 會同我哋講有呢個問題。

16 COMMISSIONER HANSFORD: Thank you. I hear your answer, but
17 I still don't quite understand, because what's written
18 here, in Mr Lumb's report, is that remedial measure 1 is
19 used "When the starter bar was at the correct level but
20 installed in the incorrect direction (ie not
21 perpendicular to the face of the diaphragm wall)", and
22 remedial measure 2 is exactly the same wording: "When
23 the starter bar was at the correct level but installed
24 in the incorrect direction (ie not perpendicular to the
25 face of the diaphragm wall)".

1 It's not clear to me when they would go for
2 solution 1 and when they would go for solution 2 and who
3 would make that decision.

4 MR PENNICOTT: Sir, certainly when I was asking the
5 questions earlier, recognising the similarity in the
6 wording of 1 and 2, the distinction I was trying to
7 draw, and I don't know, perhaps I didn't make it clear
8 enough -- perhaps that's where Mr Shieh was going; I'm
9 not sure -- was the extent or the degree of
10 misalignment. When it was just perhaps a minor
11 misalignment, then it was capable of being dealt with
12 mechanically; but if it was rather more fundamental than
13 that, rather greater a misalignment, then something else
14 could be used. But perhaps you can explore with the
15 witness --

16 COMMISSIONER HANSFORD: That sounds awfully subjective to
17 me.

18 MR PENNICOTT: I agree entirely, which is why your follow-up
19 question, if I may say so, is obviously entirely
20 relevant, as to whose call it is.

21 COMMISSIONER HANSFORD: Yes, exactly.

22 Mr Man, Fang Sheung made the decision to use
23 option 1, if it were possible to do that, but it would
24 appear that somebody then made a decision that in
25 addition to bending the bar, it was necessary to install
26 a T25 starter bar drilled alongside, and I wondered if

1 you knew who would make that decision.

2 A. 或者咁樣去解釋下，因為呢份report嘅寫個個唔係我嚟嘅，同埋佢最靚個
3 report嗰個版本都有畀我一齊睇過嘅，變咗其實我對佢嘅理解，都係base
4 on我上個禮拜睇佢嘅時候而記得番出嚟嘅嘢嚟嘅。而我頭先解釋過就係第1
5 個方案，因為其實純粹係講緊嗰條鐵係可能係好少副度嘅tilt咗或者係
6 misalign咗，泛迅自己manually就做一個mechanical bend，就可以
7 令到佢個alignment啱番嘅話，呢個就係會第1個情況，因為始終所有螺絲
8 帽如果種咗喺D-wall入面嘅話，都有機會向左、向右有少少嘅tilt嘅，所
9 以變咗佢係有呢個做法係--即係第1個做法係會出現嘅。

10 但係第2個做法，我頭先都所講話我有份去提出呢一個嘅remedial
11 measure嘅原因，係因為喺NSL嘅月台層板工程嘅時候，我哋發現有部分嘅
12 螺絲頭個alignment係高咗或者係--即係tilt嘅幅度比較大，變相我哋係
13 需要用到有啲嘅工具，譬如係chain block去幫手去擰番--拗番直佢嘅。
14 嗰陣時我哋就agree咗喺隔離加多條T25鐵去reinstate番嗰個我哋bend
15 過嘅starter bar，咁樣呢個情況，所以就如果你話係邊一個去instruct
16 佢哋做嘅，我相信我嘅答案就係禮頓嘅engine可以instruct我哋會做呢樣
17 嘢。

18 COMMISSIONER HANSFORD: But you were the Leighton engineer.

19 A. Yes.

20 COMMISSIONER HANSFORD: I'll take that as an answer for now,
21 but I'll give it further consideration. Thank you very
22 much.

23 Sorry, Mr Shieh.

24 MR SHIEH: My final question was -- do you remember Mr Khaw,

1 for the government, asked you this question: whether or
2 not, after seeing, let's say, the first layer of rebars
3 being fixed, you would have come back and seen maybe
4 more than one layer already being fixed the next time
5 you went back. Remember that question?

6 A. 記得。

7 Q. You then gave an answer which involved -- I'm not going
8 to read out the transcript because it's so close in
9 terms of time that we all remember that -- first saying
10 that in terms of the speed or rate of fixing the rebars,
11 it would be one to one and a half layers per day; do you
12 remember that?

13 A. 喎。

14 Q. That was when I think Prof Hansford actually asked it's
15 one to one and a half layers and then the translation
16 issue got sorted out and it's per day; remember that?

17 A. 係，正確，每日嘅。

18 Q. You then gave an answer -- this turns again on the
19 nuances of the Cantonese language -- you then said
20 because of this, one to one and a half layers per day,
21 and because of the way you patrol or walk around, there
22 would not be a situation where, after one layer was
23 fixed, when you returned then 無撐撐 -- I would have to
24 ask that to be translated. It's not M-O, L-A, L-A;
25 it's "無撐撐" in Cantonese --

1 INTERPRETER: In Cantonese it means "for no reason".

2 MR SHIEH: -- suddenly two or three layers more.

3 I want you to tell us, in your language, what
4 exactly was the message you were trying to convey by
5 "無揸揸two or three layers more", when you went back?

6 A. 我諗我頭先嘅意思就係話因為紮鐵嘅工序約莫一日就大概一層至到1.5層最
7 多，變相如果我唔係有任何放假嘅情況或者--唔係有任何放假嘅情況，而我
8 每日返工嘅話，正常我上晝同下晝都會行一轉地盤嘅情況下，就唔會突然之
9 間多咗三浸鐵紮好嘅。O唔okay? 即係我係咁嘅意思。

10 COMMISSIONER HANSFORD: Okay.

11 MR SHIEH: Thank you. I think I've got that now. Thank you
12 very much.

13 CHAIRMAN: Thank you very much indeed, Mr Man. Your
14 evidence is completed now. Thank you.

15 WITNESS: Thank you.

16 MR SHIEH: I think it's the "out of the blue" that --

17 COMMISSIONER HANSFORD: Yes, I've got it.

18 (The witness was released)

19 MR PENNICOTT: The next witness, indeed the next three
20 witnesses, from Leighton, are Mr Brewster, Mr Buckland
21 and Mr Taylor.

22 Since the coffee break, ie in the last 10 to
23 15 minutes, I have been given a letter from the
24 Department of Justice, dated today, which has attached
25 to it a further witness statement from Mr Ho Hon Kit,

1 that's Humphrey Ho. I read the first paragraph of the
2 letter from the DoJ:

3 "We refer to the third witness statement of Brett
4 Buckland, the third witness statement of Justin Taylor,
5 the second witness statement of Raymond Brewster and the
6 third witness statement of Stephen Lumb, all filed on
7 2 November 2018."

8 I won't read the rest of it out but essentially
9 instructions -- leave is being sought to put in this
10 further witness statement which responds to the witness
11 statements I've just mentioned. I've not had a chance
12 to look at it, evidently. More importantly, Leightons
13 and their team have not had an opportunity of looking at
14 it, and perhaps, yet more importantly, neither have
15 Mr Buckland, Mr Taylor or Mr Brewster had a chance of
16 looking at it.

17 In the circumstances, I'm in I think Mr Wilken's
18 hands but it does seem to me that certainly before we
19 start examining any of the three next witnesses, we
20 would need an opportunity to look at this. It's 10 or
21 11 pages long. I simply have not had a chance to see.
22 It looks as though it's in some detail, but as I say,
23 I've literally had it about two minutes and not had
24 a chance to look at it either and Mr Wilken has not had
25 any chance at all. So I'm in your hands but I feel we
26 might have hit just the buffers, at least until

1 lunchtime, because you will obviously need to have a
2 look at it as well.

3 CHAIRMAN: Yes.

4 MR WILKEN: Sir, obviously I'm in an even worse position
5 than Mr Pennicott because I don't even have a piece of
6 paper that I can show anyone.

7 In terms of my initial response, obviously as
8 a matter of fairness, the witness has to be able to have
9 seen this, to see what is being said against him.
10 Obviously in terms of timetabling, the procedural order
11 is responsive witness statements are served within
12 14 days. That would take you to 16 or 17 November.
13 It's now 27 November, when this witness has been
14 scheduled to appear this afternoon for some time. That
15 is merely a marker for present, but obviously everyone
16 needs time to look at this. It may well be that
17 instructions have to be taken from people who aren't
18 here. It may well be that further documents may need to
19 be located in the bundle; I do not know.

20 It is now 12.21-ish. Would perhaps the best course
21 be as follows: to break for lunch now, take the usual
22 hour and a quarter, which would take us, say, to 1.45.
23 I can then pass a message to Mr Pennicott saying, "Fine,
24 fire at will", or, "Have you seen paragraphs (a), (b),
25 (c), (d), (e), (f), (g), (h), et cetera", and we can
26 then have a discussion about where we go from there.

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
26 seen it.

1 CHAIRMAN: Obviously, yes. I appreciate that. The same
2 with everybody else.

3 MR KHAW: Yes, Mr Chairman. Just on behalf of the
4 government we wish to say that we certainly appreciate
5 that other parties would need time to consider this
6 additional witness statement.

7 The reason why we had a bit of difficulty in putting
8 that in earlier was that there were matters in relation
9 to the joint statement which were actually issued before
10 we took the break last time, ie about a week ago, that
11 we had to deal with in this particular witness
12 statement. That is why it took more time for us to
13 prepare this witness statement.

14 CHAIRMAN: Yes. I appreciate, as the Commissioner, that not
15 a great deal of time is given for often complex matters
16 to be prepared, and it's inevitable that there's going
17 to be some movement, catching up and re-assessing
18 matters during the course of the proceedings.

19 Thank you. 2 o'clock.

20 (12.26 pm)

21 (The luncheon adjournment)

22 (2.04 pm)

23 MR PENNICOTT: Sir, good afternoon. As you are aware, and
24 I know that you have now seen it yourself, just before
25 lunch the government served a further witness statement
26 from Mr Ho.

1 I've had an opportunity of reading it, together with
2 the rest of the Commission's legal team. It's obviously
3 10-11 pages long, there's a fair amount of detail in it,
4 and it seeks to respond to four of the various witness
5 statements served by Leighton, four of the witnesses
6 served by Leighton.

7 The situation is not a happy one. It's not terribly
8 satisfactory. The statement itself appears to us to
9 contain matters of submission, matters of fact, genuine
10 fact, and sometimes these matters are intertwined and
11 quite difficult to differentiate one from the other.

12 We feel, the Commission feels, that whilst we could
13 continue with Mr Brewster this afternoon, because
14 primarily most of the statement deals with assertions
15 made by Mr Buckland as opposed to Mr Brewster --
16 although I have to accept that the tail end of the
17 statement does deal with a number of allegations
18 affecting Mr Brewster's evidence, which he will need to
19 have time to deal with.

20 Sir, I am trying to maintain as neutral a position
21 as I can. Obviously we need to make progress, we need
22 to get on, we know the time constraints we are under at
23 the moment. Having thought that I had worked out
24 Saturdays with you, I'm now a bit worried about it,
25 which nobody is going to be very happy about, I'm sure.

26 I know that Leightons feel very strongly about the

1 position. I know they have a number of alternative
2 proposals to make to you. Perhaps in the circumstances,
3 since they are obviously the most directly affected
4 party, you should hear from them first as to the options
5 that might be available.

6 CHAIRMAN: Mr Wilken.

7 MR WILKEN: Good afternoon, sir and professor.

8 This statement is on any view late, and we would say
9 it is most surprising for this statement to be presented
10 at this late stage as responsive to the joint statement.
11 It is patently not.

12 Further, this statement seeks to join issue on the
13 questions of safety and design, in circumstances in
14 which the government has had the evidence listed out in
15 our submission this morning, which turns out to be quite
16 prophetic, for quite some considerable time.

17 This statement is, putting it as politely as I can,
18 a melange of argument, submission, impression and
19 opinion. No one appears to address their minds to the
20 questions of relevance or what will assist you, sir and
21 professor, in resolving the issues.

22 My difficulty therefore is, in its current form,
23 I have to put all of the statements to all of the four
24 witnesses, and maybe some others, and my expert, which
25 will inevitably take time.

26 It is now Tuesday afternoon. It is unlikely, from

1 years of bitter experience, that that will be achieved
2 this side of the weekend. This statement, I would
3 therefore say, is a derailing statement. It pushes this
4 Inquiry off the rails.

5 That puts Leighton in a further difficulty.
6 Leighton wants this Inquiry to proceed as quickly and as
7 efficiently and as cost effectively as possible. This
8 is our aim. We have no desire to incur extra costs,
9 extra time or extra delay.

10 We therefore suggest there are four options for the
11 Inquiry.

12 First, to dismiss this statement in its entirety.

13 Second, to require the government to list out, on
14 one page of A4, the actual new facts, not opinion, not
15 inference, not argument, on which he wishes to rely by
16 6 pm today. We will then see whether we can proceed
17 tomorrow, because hopefully, if that exercise is done,
18 I will have a document I can put to my witnesses and
19 say, "What's your answer?", and we won't be, as this
20 statement does at present, going back through previous
21 statements, seeing whether the government has made this
22 point before.

23 Third, to start the witnesses now, on the
24 understanding that the government cannot put anything in
25 this statement to them, in my submission, allowing the
26 government to cross-examine on the basis of this

1 statement would be unfair and prejudicial. The reverse
2 of this course of action would be that witnesses may
3 have to be recalled if there turned out to be anything
4 in this statement.

5 Fourth, to adjourn until the other side of the
6 weekend, to allow for responsive statements and
7 consideration by the experts.

8 Those are the four choices as we see them, and that
9 the Commission has been put in this bind by the
10 government serving this statement in this form now. We
11 accept none of them are massively attractive. Going
12 from excluding it in its entirety, there might be some
13 factual evidence in there which is kicked out as
14 a result. Therefore, as they are all invidious, we
15 think the least worse and allows us to press on and make
16 progress is for government to be required to list out
17 the actual new facts on which it relies by 6 pm today,
18 because I then have a document I can efficiently and
19 fairly put to my witnesses.

20 CHAIRMAN: Yes. Thank you.

21 MR WILKEN: Sir, I apologise for those submissions, but
22 those seem to us to be the only courses we can --

23 CHAIRMAN: Not at all, they are helpful. Thank you very
24 much.

25 MR PENNICOTT: I don't know whether MTR and government would
26 like to respond. MTR first, probably.

1 CHAIRMAN: Perhaps what I will do is leave it for government
2 to answer; it's their document.

3 MR PENNICOTT: Yes.

4 MR BOULDING: Sir, we are not as directly affected as
5 Mr Wilken, because our witnesses have still a day or two
6 before they are likely to come into the witness box.
7 Notwithstanding, we do have to take instructions from
8 various witnesses, sit down with them, and that's going
9 to take time, it's going to be more work, but we are
10 quite used to working 24/7 now.

11 So I'm not asking for any of the four options that
12 my learned friend Mr Wilken is asking for. What I do
13 say is that in circumstances where we were talking about
14 timetabling yesterday, it's absolutely astonishing, in
15 my submission, that government knowing this was coming
16 said absolutely nothing about it. That's the first
17 point I make.

18 Secondly, I agree with my learned friend Mr Wilken
19 that it's completely disingenuous to say that the reason
20 this turned up so late was because of the joint
21 statement which was served last Friday. If you look in
22 the 11-page witness statement, the reference to the
23 joint statement covers two paragraphs, 31 and 32, and
24 even if it were a reason for serving some additional
25 document, there's no explanation as to why the rest
26 could not have been served far earlier than today.

1 They are my observations, sir --

2 CHAIRMAN: Thank you.

3 MR BOULDING: -- more in pity than anything else.

4 CHAIRMAN: Does any party other than government wish to make
5 any submissions? Good.

6 Yes.

7 MR KHAW: Mr Chairman, those sitting behind me, ie those
8 instructing me, have just told me they would like to
9 have a short discussion with me before making any reply.
10 My reply will be short. I wonder whether I may have the
11 indulgence of having the matter stood down for about
12 five minutes so that I can take whatever instructions
13 that those sitting behind me would like to give me.

14 CHAIRMAN: Of course, absolutely.

15 MR KHAW: Very grateful.

16 CHAIRMAN: Let's make it you will tell us when you are ready
17 to resume. If it goes beyond quarter of an hour, I will
18 lose my sense of humour; okay? Thank you.

19 (2.13 pm)

20 (A short adjournment)

21 (2.33 pm)

22 MR KHAW: Mr Chairman.

23 CHAIRMAN: Yes, Mr Khaw.

24 MR KHAW: First of all, I wish to emphasise that all the
25 matters set out in Mr Ho's third witness statement are
26 in response to the evidence put forward by Leighton in

1 relation to the design change. Hence, the evidence of
2 Mr Ho is to address the matters which have been covered
3 in at least six witness statements of Leighton on the
4 design change.

5 Mr Chairman and Mr Commissioner, I would like to
6 take this opportunity to remind everybody that the
7 government's case on design change has all along been
8 rather straightforward, ie Leighton has failed to
9 provide the amendment submissions as required; as simple
10 as that. But it is Leighton's case that first of all
11 amendment submissions were not required. Secondly, they
12 say, according to their factual witnesses' evidence, the
13 design change had been accepted by the Buildings
14 Department. That is their case. Hence, Mr Ho's third
15 submission is to address further details as set out in
16 Leighton's witness statements on their case on this
17 design change.

18 Mr Chairman and Mr Commissioner, upon reflection, to
19 save everybody's time, I can confirm that we only need
20 to rely on nine paragraphs of Mr Ho's third witness
21 statement, if that would be helpful to everybody. We
22 will only be relying on paragraphs 13, 14, 26 to 32.

23 Mr Chairman --

24 CHAIRMAN: Numbers 13 and 14?

25 MR KHAW: 13 and 14.

26 CHAIRMAN: Yes, and then?

1 MR KHAW: And then 26, all the way to 32.

2 Just to elaborate a bit, 26 to 32 actually deal with
3 the question as to whether their alleged amendment
4 submissions actually incorporated all the structural
5 changes in relation to their design change.

6 Hence, we don't need the time until 6 pm today, as
7 suggested by Mr Wilken. We can confirm that those are
8 the matters that we will rely upon in relation to the
9 third witness statement of Mr Ho.

10 Mr Chairman, if I may, apart from Mr Wilken's
11 objection to the third witness statement of Mr Ho,
12 comment on the submissions made by Leighton today
13 regarding how we should deal with the factual witnesses
14 on the design change.

15 I'm afraid these four-page submissions completely
16 ignore one important point. That is, what is Leighton's
17 own case regarding the design change? I have already
18 summarised their case earlier in my submissions. I do
19 not wish to repeat the same. But, if I may, can I draw
20 the Commission's attention to paragraph 11 of their
21 submissions, paragraphs 11 and 12, where they say:

22 "Government ... has two points:

23 (a) Was the change in detail set out in a permanent
24 work submission? This is a simple question of fact and
25 one where the documents speak for themselves; and

26 (b) Should the change in detail have been set out in

1 a permanent works submission? To the extent that this
2 is an issue for the Inquiry, this is a matter for legal
3 submissions."

4 Mr Chairman and Mr Commissioner, I only wish to
5 remind everyone that it has been Leighton's own decision
6 to put forward at least six factual witnesses'
7 statements in order to illustrate this point. They
8 never actually indicated any of these points could be
9 addressed purely by way of written submissions, and in
10 fact they put forward factual case in relation to their
11 alleged case on the design change.

12 If we look at paragraph 12, they say:

13 "Government may contend that it is entitled to
14 explore, by way of cross-examination, what individual
15 witnesses thought the position was in relation to the
16 alleged design change."

17 We can immediately confirm that we are not
18 interested in trying to ascertain what individual
19 witnesses subjectively thought about the position in
20 relation to the alleged design change. What we are
21 interested to know -- and we are perfectly entitled to
22 do -- is to test Leighton's factual case on whether the
23 design change had been accepted by the government or
24 not, and to put our case to their witnesses, seeking
25 their response regarding the government's factual case
26 that the design change had not been accepted.

1 What is more objectionable, I am afraid, is
2 paragraph 13, where Leighton's team said:

3 "If that is government's position, then

4 (a) This would be opinion evidence from factual
5 witnesses ...", as Mr Pennicott has indicated after
6 lunch today.

7 In relation to design change, yes, there will be
8 matters in relation to opinion, there will be matters in
9 relation to factual evidence, and they are interrelated,
10 and it is difficult to separate one from the other.

11 What is rather unfair and inappropriate is their
12 subsection (b), which says:

13 "If admissible, what people thought can only be
14 relevant if the regulatory regime is not clear ... If
15 the regime is not clear, then that is the fault of
16 government".

17 It simply presents a wholly one-sided picture,
18 because it is their case that the design change had been
19 accepted by the government, so what the Commission has
20 to determine is whether Leighton has failed to provide
21 amendment submissions as required. If they fail to do
22 so, the fault is apparently on them.

23 So I just cannot accept Leighton's presentation of
24 a wholly one-sided picture.

25 Further, it will be rather unfair if they now, on
26 the one hand, maintain their factual case that design

1 change had been accepted by the government; on the other
2 hand, according to their submission, they are trying to
3 say we should not cross-examine their factual witnesses
4 on this point. This is grossly unfair. Since they have
5 put forward their case on the design change, they have
6 to accept the fact that their witnesses will have to be
7 subject to cross-examination.

8 Mr Chairman and Mr Commissioner, we do not
9 anticipate that our cross-examination on design change
10 will be long. In fact, we anticipate that there are
11 matters which can be properly addressed by way of
12 submissions. We totally agree on that. But there are
13 certainly factual matters which need to be put to
14 relevance witnesses in order to test their factual case
15 on the design change, and I am sure that the Commission
16 will appropriately intervene or stop us if our questions
17 are not appropriate in relation to the design change.
18 Perhaps it is easy for me to say so because Mr Anthony
19 Chow will be dealing with the questions regarding design
20 change.

21 Those are my submissions.

22 CHAIRMAN: Mr Wilken, yes?

23 MR WILKEN: Firstly, dealing with my learned friend's
24 response to his witness statement, before we get into
25 getting his retaliation in first on a submission I have
26 not yet formally made to the Inquiry. He points out

1 that everything in Mr Ho's third witness statement is in
2 response. If so, it should have been before us by 16 or
3 17 November and it wasn't.

4 His second point, putting aside his rather Freudian
5 slip of describing Mr Ho's third witness statement as
6 his third submission, is that he can reduce this down to
7 these paragraphs. I'm afraid, on that, I obviously need
8 to take instructions as to how that makes it more
9 manageable. One point I do notice is he doesn't rely on
10 any paragraphs as against Mr Brewster, and therefore it
11 may well be that we can get on with Mr Brewster this
12 afternoon.

13 Turning to getting his retaliation in first on this
14 submission, it is simply inappropriate, we would submit,
15 for witnesses to have their subjective comments or
16 thoughts dragged out in Inquiry over cross-examination,
17 so we are very grateful to Mr Khaw's express statement
18 on the transcript that they will not be going there in
19 their cross-examination.

20 We accept that whether or not the change was
21 approved by Buildings Department is a question of fact,
22 but it's a fact that can be derived solely from the
23 documents. It's not a case where we say someone went
24 along to Buildings Department and said, "Oh, it's all
25 right, isn't it?", and Buildings Department said, "Yes,
26 of course it is." It's not. They are documents, and

1 that's all we rely on.

2 So the scope for forensic fireworks or detailed
3 cross-examination on that point must be quite limited,
4 and therefore, we say, fairly, having regard to what
5 Mr Khaw said in opening, that their position was it
6 should have been in a permanent works submission and it
7 wasn't, and, after questioning from the Commission, they
8 accepted that the proposed change in detail did not come
9 from nowhere. I think the learned Commissioner used
10 something, "out of the dark", or something like that,
11 and Mr Khaw accepted that.

12 So we took that and we said, "Hang on, if you
13 analyse the case, there are the simple two issues: was
14 it in there, in the permanent works submission, and need
15 it be?" I quite accept Mr Khaw can explore whether or
16 not this is a minor or major change, because that's what
17 it turns on, but the question ultimately comes as to the
18 extent that assists the Commission. Is it the
19 Commission's role to decide whether this was in
20 a foundation or not -- I can't find that in the terms of
21 reference. Is it the Commission's role to say whether
22 it should have been a permanent works submission --
23 again, I can't see that in the terms of reference. Is
24 it the Commission's role to decide whether or not
25 overall the design was at least as safe, if not
26 superior, to the original conception? We say yes, and

1 we say the evidence goes all one way, that the design
2 was superior and is at least as safe if not safer than
3 the original. We have listed those out at paragraph 8,
4 that's all the references to date.

5 Sir, that is all I propose to say on that at
6 present. If I can have a very brief opportunity to take
7 instructions on the paragraphs my learned friend has
8 just identified -- and by "quick" I do mean quick -- we
9 can see if we can proceed with Mr Brewster this
10 afternoon, if Mr Pennicott and his team and you, sir,
11 and professor are happy with that course of action.

12 MR PENNICOTT: Sir, just on that very last point, I won't
13 make any observations about any of the other points that
14 have been going to and fro between Mr Wilken and
15 Mr Khaw -- yes, we are ready for Mr Brewster this
16 afternoon, but certainly if Mr Wilken and Leighton would
17 like to take a few moments just to reflect on the nine
18 paragraphs that Mr Khaw has identified, then that seems
19 to me to be entirely appropriate.

20 CHAIRMAN: Yes. Thank you.

21 MR WILKEN: Sir, I have noticed that there are two of us in
22 the front row here. I am taking Mr Brewster, so
23 Mr Shieh of course can go out and take instructions
24 while we get started on Mr Brewster.

25 CHAIRMAN: Yes, of course. Thank you.

26 I would mention just one thing, if I may, at this

1 stage, as the Chairman, and matters of law being for
2 myself.

3 It is obviously a matter I have discussed with my
4 fellow Commissioner, but we have looked carefully at the
5 terms of reference and their breadth. But what we are
6 not prepared to do is to be enticed into a determination
7 of a limited civil matter between Leighton and the
8 Buildings Department, as to, for example, what
9 constitutes a permanent structure in terms of the
10 regulations, what constitutes a major or minor structure
11 in terms of the regulations, where you are seeking
12 definitions based essentially on issues going to private
13 law matters. I don't think that that is a matter for
14 this Commission.

15 Equally, I am aware and my co-Commissioner is aware
16 that government took certain steps by way of action that
17 involved Leighton at the beginning of this Commission or
18 just before it started. Whether it did so and the
19 merits or lack of merits involved therein is irrelevant
20 to this Commission. It's an entirely separate issue.

21 What this Commission will take unto itself and
22 determine is the facts and circumstances surrounding the
23 reinforcing fixing works and the facts and circumstances
24 surrounding any other works which may raise concerns
25 about public safety, and then to look at the adequacy of
26 project management and supervision systems.

1 Now, project management and supervision systems of
2 a very large project such as this must include going
3 forward and going backwards, and going forward, that is
4 with your builders and your construction people, and
5 going backwards, by making sure you have the correct
6 basis upon which you can proceed in law, by complying
7 with relevant regulations.

8 Insofar as that is concerned, and we think that
9 obviously is relevant, let me state -- this is not
10 a ruling -- that this is an indication of our thinking,
11 subject to argument and in all respects being
12 provisional at this moment, insofar as those
13 observations may be of some assistance to counsel.

14 Good. May I just say in passing, I think Mr Wilken
15 to some degree actually did point the way when he spoke
16 about permanent works, minor or major changes, safety
17 provisions and the like. All right? So I will step in
18 if I find that we are starting to enter into esoteric
19 debates about whether a foundation is a foundation or is
20 not a foundation. All right? Those are not matters for
21 this Commission.

22 Thank you. So are we going to start now?

23 MR PENNICOTT: Yes.

24 MR WILKEN: I think we are. I think I'm calling
25 Mr Brewster.

26 CHAIRMAN: Good. Should there be agreement as to the

1 changes to -- the truncation of this witness statement,
2 what we would like, Mr Khaw, if possible, is to have
3 a new document prepared, even if it's just a copy. We
4 don't need it to be attested to again. But at least
5 then we can look at the one document, and we can know
6 it's an extract from this larger document.

7 MR KHAW: We will certainly do it in accordance with what
8 I have got.

9 CHAIRMAN: Thank you. And we are not ducking around
10 obsolete paragraphs. Thank you.

11 MR WILKEN: Good afternoon, Mr Brewster.

12 WITNESS: Good afternoon.

13 MR WILKEN: Can you give your full name to the Commission,
14 please.

15 WITNESS: Raymond David Brewster.

16 MR WILKEN: Thank you.

17 MR RAYMOND DAVID BREWSTER (sworn)

18 Examination-in-chief by MR WILKEN

19 Q. Can I take you to C27/20104, and it should appear on the
20 screen to your left.

21 Is that the first page of your first witness
22 statement?

23 A. Yes, it is.

24 Q. If you can go to 20109, is that your signature?

25 A. It is.

26 Q. Is it dated 2 October 2018?

1 A. Correct.

2 Q. Then can you go to C35/26539. Is that the front page of
3 your second witness statement?

4 A. It is.

5 Q. If you then go to 26542, is that your signature?

6 A. It is.

7 Q. Is that dated 2 November 2018?

8 A. Correct.

9 Q. Are those the two witness statements which you have put
10 forward to the Commission as your evidence?

11 A. That is correct.

12 Q. Is there anything you'd like to change or alter in them?

13 A. No, not at the moment, no.

14 Q. Are those statements true?

15 A. They are true to the best of my knowledge, yes.

16 MR WILKEN: Thank you. If you wait there, there will be
17 some questions from the gentleman immediately to my
18 left, and you will notice there are various other
19 counsel dotted around the room who may or may not ask
20 you questions. In addition to that, the Commissioner or
21 the Professor may ask you questions, and then I may ask
22 you some more at the end.

23 Thank you.

24 Examination by MR CHEUK

25 MR CHEUK: Good afternoon, Mr Brewster. My name is Calvin
26 Cheuk, I'm one of the counsel representing the

1 Commission. I don't know whether it's lucky or unlucky
2 for you, but you have me this afternoon, instead of
3 Mr Pennicott, to ask you some questions on behalf of the
4 Commission.

5 By now you probably know how this operates. I will
6 have the first go at you, and afterwards some other
7 parties might have some questions for you, and at the
8 end Mr Wilken will have some re-examination and rounding
9 up the whole series of questions for you. Is that okay?

10 A. Yes, I understand.

11 Q. My first question, Mr Brewster, for you is this.
12 Usually, when each Leightons witness starts, they will,
13 by reference to their site organisation chart, point to
14 their position in the chart. I've tried to look for
15 your name in various charts adduced in this Inquiry, and
16 I haven't found your name in any of the charts. Did
17 I miss anything?

18 A. I've looked at the charts and my name is not there, yes.

19 Q. Thank you. Okay. Let me ask you, how often did you go
20 to the site during the project?

21 A. Only occasionally, when situation arose that required me
22 to go there.

23 Q. Let's say between 2013, 1 January 2013, to the end of
24 2015, can you recall how many times you went there?

25 A. No, I can't recall how many times that I went there,
26 yes.

1 Q. I don't need the exact figure but are we talking about,
2 like, less than ten times or, you know, 20 times, or
3 once a week or once a month? Can you give us some
4 estimate, the frequency that you go to the site, during
5 that period?

6 A. It wasn't very often, no, certainly not of the order of
7 20. Less than that.

8 Q. Less than 20? That's your evidence.

9 Can I ask you, when you went to the site during
10 those, let's say, less than 20 times, what did you do
11 when you were at the site?

12 A. Well, depending on why I was there -- sometimes, I walk
13 around, other times, it was to the site office to talk
14 to people.

15 Q. How long did you stay for each time during -- at the
16 site?

17 A. I can't remember that.

18 Q. Shall we say less than one hour or, you know, one hour
19 to two hours?

20 A. I can't remember.

21 Q. Let's go to your witness statement then. C27/20104,
22 paragraph 5. You say in this paragraph that you became
23 Leighton's authorised signatory since April 2013; is
24 that correct?

25 A. That's what I've written there, yes.

26 Q. If we turn over the page to paragraph 7, you say here,

1 as the AS, the shortform for "authorised signatory",
2 your primary responsibility was to ensure that the works
3 were constructed in accordance with statutory
4 requirements?

5 A. Yes.

6 Q. Now if I may trouble you or I may trouble those
7 controlling the computer to show you H20/40121. In this
8 page, what we can see are two things. One is the
9 appointment of Leighton. This is a letter from MTR to
10 BD. First of all, you should have seen this letter
11 before; right?

12 A. Was it copied to Leighton? It's an MTR letter.

13 Q. Yes, but if we -- this letter was MTR submitting the
14 signed notice of appointment of contractor, and then
15 notice of commencement of works and undertaking by
16 contractor under IoE in contract 1112 to the BD; okay?
17 You can see that first.

18 A. Yes.

19 Q. If we turn over the page, then what you can see is that
20 from the above, the first part, the last sentence
21 basically is MTRC say, appointing:

22 "I hereby give notice that Leighton ... has been
23 appointed to carry out these works ... in connection
24 with the MTR railway will be commenced on 15 March
25 2013."

26 Do you see that?

1 A. Yes.

2 Q. Then if you go down, then Leighton say:

3 "We ... registered general building contractor,
4 accept such appointment to carry out the above works in
5 connection with the MTR railway.

6 We confirm that the works will be commenced on
7 15 March 2013 and undertake to carry out the works in
8 strict compliance with standards in accordance with or
9 equivalent to those required under the Buildings
10 Ordinance and Regulations, recognising the special
11 requirements for railways, as stipulated in the
12 exemption letter dated 5 December 2012."

13 Do you see that?

14 A. I see that, yes.

15 Q. Then under that you see your signature?

16 A. Correct.

17 Q. So I suppose you should at least be aware of the
18 undertaking as shown?

19 A. I am aware of the undertaking, but I don't necessarily
20 recall seeing the letter.

21 Q. I see. I think the important bit I need you to focus on
22 is really the undertaking you gave --

23 A. Yes.

24 Q. -- on behalf of Leighton.

25 Do I understand correctly, this undertaking was in
26 relation to the whole contract 1112 generally, including

1 the diaphragm walls and slabs; do I understand --

2 A. I believe it's commencement of the contract, yes.

3 Q. Thank you. Am I correct in understanding that you were
4 also the person who was named as the AS in the site
5 supervision plan?

6 A. AS, site supervision plan, yes.

7 Q. Now if we turn to H10/4563 -- we can see from this
8 letter, again a letter from MTRC to the Buildings
9 Department, dated 19 August 2015 -- again, what it's
10 concerned with is the first paragraph, saying:

11 "... herewith a duly completed and signed site
12 supervision plan, notice of commencement of works and
13 undertaking by contractor for the following works".

14 Then we see "Description of works to be commenced"
15 in relation to "Hung Hom Station (grid 15/22 and J/N) --
16 substructure for EWL Track level"; do you see that?

17 A. I do.

18 Q. Did you receive and read this letter at the time; do you
19 recall?

20 A. I don't know if it was copied to me. I can't recall
21 reading it.

22 Q. I think you can tell us that the gridline 15 to 22 is in
23 area B; I think that's correct?

24 A. I'm not sure exactly what that description means.

25 Q. You are not sure gridline 15 to 22 is area B? Okay, you
26 cannot recall?

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.

26 Q. And who was that, the technical director?

1 A. Barry Sin.

2 Q. Do I understand, as the AS of registered contractor as
3 set out here, the role is to be the leader of the team
4 under you, including Mr Buckland, Andy Ip, Kobe Law,
5 et cetera?

6 A. Yes, the role is to be the contractor's representative,
7 which entails those responsibilities, yes.

8 Q. Do I understand correctly, as the AS set out in the site
9 supervision plan, that's the highest representative of
10 Leighton within the team, among all of the names set out
11 here; do I understand that correctly?

12 A. Well, I represent the contractor, yes, so I'm the leader
13 of that team, yes.

14 Q. Also, if you turn to 4566, within the same letter's
15 enclosure, we see you again gave the same undertaking on
16 behalf of Leighton in the position of AS; is that
17 correct?

18 A. Correct.

19 Q. Now, actually, we can find the same submission in
20 relation to other areas. If you can just be shown
21 H10/4502. We see this is a letter again in 2015.
22 Again, this is a submission by MTRC of site supervision
23 plan, notice of commencement, and undertaking by
24 contractor, but this time it was in relation to areas C1
25 and C2.

26 Can you see the letter?

1 A. Yes.

2 Q. Again, similar to what I have just shown to you, if you
3 look at 4512, we can again find you being the AS in the
4 site supervision plan representing Leighton here;
5 correct?

6 A. Correct.

7 Q. Then, similarly, if you go to 4506 -- similarly, you
8 repeat the same undertaking; correct?

9 A. Correct.

10 Q. Finally, I trouble you one more time maybe -- if you go
11 to 4539, there is another similar letter, again MTRC's
12 submission to the BD. Again, a similar site supervision
13 plan, commencement of works and undertaking by
14 contractor, but this time it's in relation to area C3.
15 If you look at the third paragraph, you can see it's for
16 area C3.

17 A. Yes, I can see that.

18 Q. If we again can be kind enough to be shown 4548, we see
19 essentially a similar arrangement; you again nominated
20 as the AS of the team.

21 Then 4542, you again repeated the same undertaking;
22 correct?

23 A. Correct.

24 Q. So that sets out what I can find from the documents,
25 your involvement in the project.

26 Now if I may discuss a little bit with you the

1 content and the meaning of the undertaking; can we do
2 that?

3 We have seen that the undertaking, at the last bit,
4 refers to the exemption letter dated 5 December 2012.
5 You see that; right?

6 A. On that screen?

7 Q. Mmm.

8 A. Yes.

9 Q. If you can be shown H7/2220.

10 You can take it from me, this is the exception
11 letter dated 5 December 2012.

12 First of all, have you seen it, by April 2013?

13 A. I can't remember that.

14 Q. Let's look at this together, because you did sign
15 an undertaking which refers to this letter, so let's see
16 if you can help us to understand this letter; okay?

17 This letter, if we turn from 2220 to the next page,
18 2221, that's the covering letter --

19 A. Mm-hmm.

20 Q. -- part of this exemption letter.

21 Then if we carry on from 2222 to 2224, this is what
22 I call or what the BD or MTRC refer to as the IoE,
23 instrument of exemption. You can find the reference at
24 the top of page 2222. Do you see that?

25 A. Yes, I see that.

26 Q. This is the second bit of the whole letter.

1 Then the third part of this letter, if you carry on
2 with 2225, we can see there's a reference schedule here;
3 okay? From here, all the way up to 2228, this is the
4 reference schedule --

5 A. Yes.

6 Q. -- the third part of this exemption letter.

7 If we may carry on from 2229 onwards, we see the
8 fourth part of this letter, that is the general notes
9 and conditions to the reference schedule that we have
10 just seen. These general notes go all the way to 2233.

11 That's the four parts of this exemption letter.

12 If I may first discuss with you the first part, the
13 covering letter. If you go back to 2220, the covering
14 letter, let's look at the second paragraph. It says:

15 "In recognition of the exceptional nature of the
16 said buildings and associated building works and having
17 regard to the draft 'project management plan' dated
18 22 November 2012, I now grant exemption from the BO
19 [Buildings Ordinance] in respect of the said buildings
20 and associated building works, details of which are as
21 listed in the reference schedule to the instrument of
22 exemption attached. I would like to remind you to
23 submit the formal 'project management plan' as soon as
24 possible."

25 The "you" refers to MTRC; this letter is addressed
26 to MTRC. Okay?

1 First of all, did you or other staff in Leighton
2 receive or read this letter before this Inquiry?

3 A. Well, I have read it. I can't speak for other people.

4 Q. Have you, sorry?

5 A. I have. I can't speak for other people.

6 Q. So you did receive the draft PMP at the time?

7 A. I don't know. I can't recall ever seeing it. You asked
8 me if I had read this. I have read this recently.

9 Q. Sorry, it's my fault. I should clarify my question.

10 My question should have been: did you read or
11 receive the PMP, the project management plan, dated
12 22 November 2012?

13 A. Me personally, I don't remember receiving it, but I may
14 well have done. I don't remember.

15 Q. You don't remember. I assume you also don't remember
16 whether you have read or received other subsequent
17 formal submissions of PMP afterwards; is that correct?

18 A. Correct, I don't recall.

19 Q. Now, with the benefit of hindsight, you are sitting
20 here, do you agree that you, as the AS signing an
21 undertaking on behalf of Leighton, should at least ask
22 for a copy of the PMP at the time?

23 A. If I'm understanding everything, yes, I should have, but
24 I would be relying on, in the main, project staff to
25 have a copy of that for sure, and to advise me if there
26 was anything that I should be made aware of in

1 particular.

2 Q. Thank you.

3 Now let's move on to the second part, ie the IoE,
4 the instrument of exemption, which you can find from
5 2222.

6 First of all, I think the paragraph 1, I only need
7 you to focus on the last sentence, which starts from
8 "Moreover":

9 "... the exemption is confined to those procedures
10 and requirements relating to the appointment
11 of authorised person and registered structural engineer
12 as appropriate, approval of plans, consent to
13 commencement and resumption of works and occupation of
14 buildings provided for in section 4, sections 14 to 17A
15 and sections 19 to 21 of the Buildings Ordinance, such
16 that my duties and sanctioning powers to ensure
17 standards of health and safety are not undermined."

18 First of all, can you confirm that this is also your
19 understanding at the time, ie the exemption of Buildings
20 Ordinance is not complete but only in respect of certain
21 sections as stated here?

22 A. Can I confirm when I knew this -- sorry, can you repeat
23 the question?

24 Q. I am proceeding on the basis that because you signed
25 an undertaking --

26 A. Right.

1 Q. -- that you have read the instrument of exemption at the
2 material time when you signed the undertaking. But
3 of course if your position is saying you have not read
4 or received this IoE at the time when you signed this
5 undertaking, then you can tell me, but I am proceeding
6 assuming that you did this.

7 A. As I said earlier, I can't recall whether I've got it or
8 I didn't have it.

9 Q. Fine. Let's see if you can help us a little bit more.
10 If you go to paragraph 2, it says:

11 "As conditions to be imposed under section 54(2) of
12 the Mass Transit Railway Ordinance, I require the MTR
13 Corporation Ltd to:

14 (a) submit such drawings, plans and calculations and
15 other details as may be necessary to implement the
16 consultation process detailed in the reference schedule
17 and to comply with any reasonable request made during
18 such consultation, including any requirement for
19 modification or variation of designs and working
20 procedures as may be reasonably necessary to maintain
21 standards of health and safety".

22 Did you have any recollection that you actually read
23 this paragraph or were aware of this paragraph about the
24 need of a consultation process, at the time when you
25 signed the undertaking?

26 A. I've said I can't recall reading it, so ...

1 Q. Yes.

2 CHAIRMAN: Even if you hadn't read it, looking at it now,
3 does anything there take you by surprise?

4 A. No, Mr Chairman, it doesn't.

5 CHAIRMAN: So you would have expected the sort of
6 requirements that are listed here?

7 A. Yes.

8 CHAIRMAN: Including consultation where necessary?

9 A. It's a reasonably well-understood process.

10 CHAIRMAN: Yes.

11 MR CHEUK: And if we again turn to 2225, going to the third
12 part of the letter, that is the reference schedule, we
13 see first of all category 1, that's "Station at
14 Sung Wong Toi". That's another station of the SCL which
15 does not concern us so we can jump over it; correct?

16 A. I'll take your word for it, yes.

17 Q. And category 2, we see that's the station which concerns
18 us at the moment. That is the Hung Hom Station
19 compound.

20 A. Yes.

21 Q. I take it that you also agree that the consultation
22 process applies to our project, ie the Hung Hom Station?

23 A. I said I don't necessarily recall reading it, but
24 I understand what it means now, yes.

25 Q. Now, if we go to another document, B4/2075.

26 Before we look at this document, you can take it

1 from me that after the exemption letter, covering letter
2 we have seen, MTRC did submit the formal PMP afterwards.
3 From January 2013, there are several versions of formal
4 PMPs submitted by MTRC to the BD. In particular, if we
5 look at this bundle, 1950, this is the covering letter
6 dated 2 August 2013, and this is one of the formal
7 submissions by MTRC to the BD of the project management
8 plan here. We can see the title here; right?

9 Now if I may trouble you to go back to 2075. Again,
10 you can take it from me that this is the appendix 9 to
11 the PMP that I just showed you; okay? What this
12 appendix 9 sets out, as I read it, is the consultation
13 procedure under the IoE. Do you have any recollection
14 of this diagram?

15 A. No. I've seen one similar recently, but I can't recall
16 seeing it.

17 Q. What it suggests to me, if we read -- the second box, we
18 see "New submission/amendment"; can you see that?

19 A. Yes.

20 Q. If we go down, we see -- the arrows go down, and then
21 "BD/RDO reply", and then go down. It says, on the
22 left-hand side of the arrow, "Issuance of acceptance
23 letter enclosing imposed conditions (by BD/RDO) once
24 comments closed out", and then the "Commencement of
25 works". We see the flow from "New submission/amendment"
26 to "Commencement of works". Do you see that?

1 A. I can see the chart, yes.

2 Q. What it suggests to me is that this procedure requires
3 the acceptance by BD before -- of the plans submitted to
4 the BD, before any commencement of the works, whether in
5 relation to new submission or amendment. Do you have
6 any comment, or accept that or disagree?

7 A. Well, it's not really something I get very involved
8 with, so I'm probably not the best person to be asking.

9 Q. Can I also ask you this question. You did give various
10 undertakings under the IoE which refers to PMP. By
11 undertaking to comply with the standards as stipulated
12 in the exemption letter, do you accept that Leighton,
13 apart from MTRC, also had a duty to ensure that work
14 should be commenced and carried out only after BD has
15 accepted the relevant drawings, whether in relation to
16 new submission or amendment?

17 A. Again, I'm not that close to the design side of things
18 or the documents.

19 Q. Yes. I understand your position. Let's move on.

20 Do you have any knowledge about the difference
21 between the Buildings Department's originally accepted
22 design and the as-built condition carried out by
23 Intrafor?

24 A. Intrafor had their own AS, so I didn't get involved with
25 that at all.

26 Q. You didn't get involved at all?

1 A. No.

2 Q. Do you have any knowledge about what happened after
3 Intrafor's as-built condition afterwards, some changes
4 made to Intrafor's as-built condition? Are you aware of
5 that -- were you aware of that at the time?

6 A. At the time -- when?

7 Q. Before this Inquiry, let's say.

8 A. That's a long time.

9 Q. Before May --

10 CHAIRMAN: Sorry, can you help me? Intrafor's as-built
11 condition, can you remind me -- I obviously know about
12 what has happened; I didn't know there was any actual
13 change, was there? You need to remind me briefly.
14 There's been a lot of evidence.

15 MR CHEUK: Yes. It's my fault, Chairman, actually. I will
16 ask those questions in more detail with Mr Buckland.
17 Actually, with Buckland we deal with that in more
18 detail.

19 But the long and the short of the story, I don't
20 think it's controversial, is that the BD originally
21 accepted drawing is different from what Intrafor
22 actually built.

23 CHAIRMAN: All right.

24 MR CHEUK: Back in -- finished before June.

25 CHAIRMAN: All right. And presumably the as-built drawings
26 were submitted to the Buildings Department and they

1 agreed to them?

2 MR CHEUK: Retrospectively.

3 CHAIRMAN: Yes, retrospectively, obviously, yes.

4 MR CHEUK: That's why there was first change, I will try to
5 call it conveniently -- that's the first change. That
6 doesn't involve the through-bar or hacking down that we
7 have discussed.

8 CHAIRMAN: No.

9 MR CHEUK: The through-bar and what we have discussed about
10 hacking down is what I will call the second change.
11 That happens after Intrafor's as-built condition.

12 CHAIRMAN: Yes.

13 MR CHEUK: So can I confirm with you, Mr Brewster: you were
14 not aware of the changes that happened to the top of the
15 diaphragm wall after Intrafor's as-built condition; is
16 that correct?

17 A. At the time, no. Recently, I'm aware, yes.

18 Q. Is it fair to say that you did sign undertaking as
19 the leader of the SSP, we have seen, but from what you
20 have told us so far, it seems that you basically were
21 not aware of many other things that happened on the
22 site. It seems to me odd that, as the leader of the
23 SSP, or as the AS signing the undertaking, you were not
24 aware of anything at all. Do you want to comment on
25 that?

26 A. I wouldn't say not anything at all. If situations

1 warranted my involvement, I was consulted. I relied on
2 the site staff, the project management team and my
3 representatives to comply with their obligations, and if
4 anything required my attention they would let me know.

5 Q. Let's move on to a slightly different topic. In respect
6 of couplers used in this project, you were aware of the
7 use of couplers, first, in this project, is that
8 correct, at the time?

9 A. At the time I wasn't aware, no.

10 Q. At the time you were not aware --

11 A. It's one of those routine things. I wouldn't be told
12 about couplers, no.

13 Q. Then let's look at H9/3873. We can see that this is
14 a letter from the Buildings Department to MTRC, dated
15 25 February 2013; okay?

16 A. Yes.

17 Q. Basically, this is -- you can take it from me, this is
18 an acceptance letter by the BD in respect of some
19 drawings; okay?

20 Were you aware of this letter at the time?

21 A. No. Was it copied to us?

22 Q. It doesn't say it was copied to you, but I was trying to
23 explore whether you, in any event, did receive such
24 a letter from MTRC.

25 A. I don't recall seeing it, but if it wasn't even copied
26 to us, there'd be no chance I'd see it in any event.

1 Q. If we go to 3903, you can take it from me that this has
2 conditions attached to the letter, which concerns the
3 frequency and the requirements in respect of coupler
4 supervision.

5 Were you aware of this requirement at the time?

6 A. Sorry, what letter is this one? What's the date of this
7 one?

8 Q. If we go back to the covering letter, it's dated
9 25 February 2013.

10 A. Right. I don't recall seeing it. I've obviously seen
11 it a lot recently.

12 Q. If we go back to the first page of the letter at 3873,
13 we can see that basically those drawings were in
14 relation to gridline 0 to 15. That you can see from the
15 table, the first row:

16 "Hung Hom Station (grid 0/15 and grid I/N) ..."

17 This, you don't have any recollection of receiving
18 this letter?

19 A. No.

20 Q. If we turn to another page, the same bundle, 3908, this
21 is another BD acceptance letter, you can take it from
22 me, of the same date, but this time it's in relation to
23 a separate area, gridlines 22 to 49; okay?

24 A. Yes.

25 Q. Then if we turn to 3930, in paragraph 3 we see the same
26 requirements about coupler inspections. Were you aware

1 of these requirements at the time?

2 A. I can't recall but I have seen them since, recent times.

3 Q. When you say "recent times", how recent is that?

4 A. Since June this year.

5 Q. Since June this year. If we go in the same bundle to
6 4029, we see this is another BD acceptance letter, this
7 time in respect of drawings at gridlines 15 to 22; okay?

8 A. (Nodded head).

9 Q. If we turn to 4041, we again see the same provisions
10 about coupler inspection requirements. I take it you
11 cannot recall whether you read it?

12 A. No, same comment as before. I don't recall seeing it
13 and it wasn't even copied to us. I imagine it was but
14 I can't recall seeing it at the time.

15 Q. If we turn to --

16 CHAIRMAN: Sorry, could I just ask you -- you can help me
17 here, I think, thanks, just to understand some technical
18 terms, if I can.

19 Under subparagraph (b) of paragraph 3 at the bottom
20 of that page, it says:

21 "Frequency of quality supervision, which should be
22 at least 20 per cent of the splicing assemblies by the
23 quality control supervisor ..."

24 Splicing assemblies?

25 A. That means the whole assembly of two bars screwed into
26 one coupler.

1 CHAIRMAN: The assembly, okay.

2 So what's required is at least 20 per cent of those
3 assemblies taking place?

4 A. Yes.

5 CHAIRMAN: And supervision should be by the quality control
6 supervisor of the competent person.

7 Then it says:

8 "... and full-time continuous supervision by the
9 quality control coordinator ..."

10 "Full-time continuous supervision", what does
11 that -- is that a term that you come across day to day
12 in your long career or ...

13 A. Not explicitly in those terms. Continuous supervision
14 is something we provide through the contract by having
15 the right number of people in the right places at the
16 right names --

17 CHAIRMAN: Okay.

18 A. -- to cover the period. Full-time, I'm not sure what
19 that means. What I know it doesn't mean is people
20 standing out there 100 per cent of their working day.
21 It's got to be something in between.

22 CHAIRMAN: Yes.

23 MR CHEUK: But I think you can also help us, the RGBC/RSC,
24 that's a shortform of registered general building
25 contractor --

26 A. Yes. There are two requirements here. There's

1 20 per cent for the competent person, which is MTR;
2 full-time supervision for the registered building
3 contractor, which is ourselves; the RSC is a registered
4 specialist contractor which in this case is Intrafor.

5 CHAIRMAN: Good.

6 COMMISSIONER HANSFORD: Mr Cheuk, in order to help me,
7 you've had a series of letters here that have been from
8 the Buildings Department to MTR.

9 MR CHEUK: Yes.

10 COMMISSIONER HANSFORD: Is there any indication on these
11 letters who they are copied to? Does it say at the top
12 or bottom anywhere? I can't see.

13 MR CHEUK: I can't see either. If we look, for example, at
14 4031, it only says copied to RGE, which is the
15 registered geotechnical engineer, which should be a role
16 performed by Atkins, as I understand. So it doesn't, on
17 the record of this document, say it was sent or copied
18 to Leighton.

19 COMMISSIONER HANSFORD: Thank you. That helps me.

20 MR CHEUK: If we carry on, look at the bundle, 4263.

21 This is a submission, you can take it from me, by
22 MTRC, to the Buildings Department, attaching the quality
23 supervision plan, QSP.

24 In the previous three letters I just took you to,
25 they set out a requirement of submission of QSP, and
26 this is the response by MTRC to submit the QSP to the

1 Buildings Department; okay?

2 If we look at the QSP itself, turn over to 4265, we
3 see in the title it says, "Quality supervision plan ...
4 by MTRC & RC", and "RC", I understand, refers to
5 Leighton, registered contractor?

6 A. Registered contractor, Leighton, yes.

7 Q. So I presume from reading of this document, Leighton had
8 a hand in preparing this document. Do you know anything
9 about it?

10 A. At the time I didn't, but I've become aware that we did
11 submit something to MTRC, either informally or formally.
12 There's usually a discussion process that goes on with
13 these things; it's not just a one-sided show.

14 Q. I also find in the bundles, there's another submission,
15 B5/2659.

16 This is what people, all parties, generally call
17 contractor's submission form, which is something
18 submitted by Leighton to MTRC; correct?

19 A. That's what it looks like, yes.

20 Q. It says from Malcolm Plummer, LCA, Leighton, project
21 director, to construction manager Mr Patrick Cheng,
22 works contract 1112; do you see that?

23 A. I do.

24 Q. It also says, the document title:

25 "Quality supervision plan for installation of
26 couplers for diaphragm wall and barrettes by BOSA --

1 second submission."

2 So do you have any knowledge whether the QSP was
3 actually originated from Leighton and then forwarded
4 from Leighton to MTRC, and then from MTRC to Buildings
5 Department? Is that something you know?

6 A. I don't know but I can read that this document is going
7 from Leighton to MTR.

8 Q. Yes, but the difficulty I have is you see this
9 contractor's submission form is dated 23 August.

10 A. Yes.

11 Q. That is after the previous submission by MTRC to
12 Buildings Department, so I just wonder, is this
13 a formality that Leighton tried to do so as to, you
14 know, have a record of Leighton's submission to MTRC, or
15 is this something new; do you know?

16 A. Well, I don't know, but as I said earlier, there's
17 usually a discussion goes on on site and drafts are
18 discussed. So what actually happened, I couldn't say;
19 I'm not the one to answer that.

20 Q. Did you read the QSP at the time?

21 A. I don't recall reading it, no.

22 Q. If we look at -- back to the QSP, H9/4263 -- if we go to
23 4269, paragraph 1, we see the requirements of inspection
24 of couplers set out here, which is similar to the
25 requirements that we have seen in the BD's acceptance
26 letters that we have seen before.

1 It again provides for full-time continuous
2 supervision; that's the wording that Mr Chairman has
3 just asked you.

4 Do you know that actually, according to Leighton's
5 letter to the BD -- I'll take you to it, Leighton's own
6 letter -- Leighton, not by you, by Mr Karl Speed, their
7 position is that full-time continuous supervision refers
8 to 100 per cent. Are you aware of that?

9 A. 100 per cent of what?

10 Q. 100 per cent of each and every coupler connection.

11 A. I can't recall reading that letter, for a start. Can
12 you tell me what it says?

13 Q. Go to C1/379. This is a recent letter by Leighton --
14 you can see the date, 26 June 2018 -- to the Works
15 Branch, Development Bureau, of the Hong Kong government.

16 A. I see that.

17 Q. If we go down, we see that this letter says:

18 "We confirm that full-time and continuous (ie
19 100 per cent) on-site supervision of reinforcement bars
20 and coupler splicing assemblies was carried out in
21 accordance with the requirements set out in the
22 Buildings Department's consultation letters."

23 I just wonder, your interpretation of that letter,
24 would that be different from this letter?

25 A. No, I don't think so. That's what I just explained
26 a minute ago to the Chairman, that "continuous" means

1 provision of all the site staff to do the work in
2 accordance with the contract, and "full-time" means the
3 time that is needed to supervise the work on site. It
4 doesn't mean you are out there 100 per cent of the time.

5 Q. Yes, I understand.

6 Let's go back to H9, if I may trouble you to look at
7 4269, paragraph 1 again, the requirement of QSP. What
8 it also provides is that the supervision details should
9 be recorded by Leighton in a record sheet.

10 If you look at paragraph 1(ii):

11 "Supervision and inspection will be recorded in the
12 record sheet ..."

13 "Appendix C" is a typo; it should be "appendix B".

14 "... and write into the inspection logbook by
15 quality control supervisors."

16 Do you see that?

17 A. Yes, I see that.

18 Q. There is also a requirement, if we go down a bit to the
19 next page, 4270, the last sentence:

20 "The logbook should be kept at the site office and
21 when required produced to officers of the Buildings
22 Department for inspection."

23 Do you see that requirement?

24 A. I can read that, yes.

25 Q. Now if we go to 4277, H9/4277, this is the sample record
26 sheet referred to in paragraph 1(ii) that I just

1 discussed with you.

2 What it shows to me is that there should be a record
3 of each and single coupler connection.

4 CHAIRMAN: Sorry, this document comes from ...?

5 MR CHEUK: QSP.

6 CHAIRMAN: That's within the QSP?

7 MR CHEUK: Within the QSP. It's appendix B.

8 CHAIRMAN: Yes.

9 MR CHEUK: This suggests to me that it requires the record
10 of each and every single coupler connection. Do you
11 have any comment in relation to that?

12 A. Well, that's drawn up for the D-walls, essentially, and
13 that's what they've done. But, you know, in the case of
14 the slab reinforcement connections into the couplers, we
15 can't rely on these sheets because they don't actually
16 work, so we fall back to inspect that work under the
17 usual RISC forms and pre-pour checks, quality management
18 system.

19 Q. Yes, which I'm coming back to you. If you look at your
20 own witness statement, C35 --

21 COMMISSIONER HANSFORD: Sorry, Mr Brewster, you say this
22 form applies to the D-walls. How do you know that?
23 Because I'm reading at the top that it applies to
24 "couplers in any location".

25 A. The context of the table and also the note at the top
26 there, that talks about the "Arrival date of threading

1 rebars and couplers on site: based on purchase order for
2 each panel from Intrafor."

3 COMMISSIONER HANSFORD: Right.

4 A. So it's essentially an Intrafor form. The form also
5 shows a verticality check there on the
6 third-from-the-right field. It's essentially designed
7 for the vertical cage of the diaphragm wall panels.

8 COMMISSIONER HANSFORD: Okay. That's clear. Thank you very
9 much.

10 MR CHEUK: And, Professor, thank you for your question.

11 I'm coming to that, but I'm aware of the time.

12 I wonder if it's time for a short break.

13 CHAIRMAN: All right. Thanks. 15 minutes. Thank you.

14 (3.50 pm)

15 (A short adjournment)

16 (4.06 pm)

17 COMMISSIONER HANSFORD: Mr Cheuk, before we continue, I'm
18 just still trying to place the role of Mr Brewster, and
19 I wonder if I could be taken to one of the organisation
20 charts, maybe B835.

21 Sorry for the interruption.

22 MR CHEUK: No probably. That would be extremely helpful.

23 COMMISSIONER HANSFORD: I'm just trying to be clear about
24 this. Is it B835? C, sorry. The organisation chart
25 for 2015. I got the wrong reference, forgive me.

26 Okay. Can we go right to the top? That's the one.

1 There's a box there called "Contractor's representative"
2 and a name in it Mr Boyd Merrett. That's a different
3 role, is it?

4 A. Yes. He was actually the general manager for the Hong
5 Kong branch at the time.

6 COMMISSIONER HANSFORD: I thought you said you were the
7 authorised signatory and contractor's representative?

8 A. Representative of the general building contractor, yes,
9 but that's not that role there.

10 COMMISSIONER HANSFORD: That's not that role? Okay. Red
11 herring.

12 MR CHEUK: If I may just follow up a little bit. That role
13 should be a role designated in the contract itself?

14 A. I believe so, yes, that's what it looks like, yes.

15 Q. And authorised signatory is a statutory role, that's
16 defined in the Code of Practice; is that correct?

17 A. Correct, yes.

18 Q. If we may follow up, just clarify, B5/2692, please. You
19 can take it from me that this is part of the Code of
20 Practice. In this table it sets out the
21 responsibilities of authorised signatory, and we can
22 see:

23 "-- Assuming overall responsibilities in the
24 appointment of his representative and TCPs.

25 -- Ensuring the full implementation of the
26 supervision plan regarding his own stream.

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
26 were required in quite this concentrated expanse

1 geographically?

2 A. One other time, but it's not normal.

3 CHAIRMAN: A number of people have said earlier that this
4 number of couplers was not normal, which may explain,
5 would you agree, why particularity was given to how
6 couplers were to be dealt with in the contracts?

7 A. If I may read into that, I think that there was more
8 focus given to the couplers because there was a lot more
9 of them than normal in the D-walls, because of the low
10 headroom and smaller cages, which necessitated, if you
11 like, a higher density of couplers per tonne of rebar,
12 for example, than normal D-wall cages would require. So
13 that's why there was more focus given to it, I suspect.

14 CHAIRMAN: Yes. That sounds very fair, thank you. And also
15 in a very plain, simple way, it helps me greatly, it
16 really does. Thank you. We will probably quote you on
17 that.

18 But it leads me on to say this, that it obviously
19 follows that if for any particular reason, whether it's
20 a good reason or a bad one contractually, particular
21 concern is focused on something like couplers, then
22 there should be some in-built systems to ensure that
23 those who are responsible for the building of the
24 construction works will actually follow through on the
25 contractual obligation?

26 A. It would follow and I think that's what Intrafor have

1 done with theirs, given more perspective to it. It's
2 not altogether uncommon to have couplers in slabs and
3 building work. They don't necessarily have the same
4 focus on them.

5 CHAIRMAN: And the building people, Leightons, the
6 contractor --

7 A. Yes.

8 CHAIRMAN: -- you would have seen it as a requirement that
9 necessary procedures be put in place to ensure that
10 obligations in respect of splicing operations for
11 couplers were properly done in accordance with the
12 contract?

13 A. Well, normally it's part of our pre-pour checklist for
14 all those things in the reinforcement, and it's covered
15 that way. It's identified separately, to get a separate
16 sign-off. So it does have focus.

17 CHAIRMAN: Yes.

18 A. But, you know, in normal building -- I'll turn it the
19 other way around. Every job's got couplers in it. In
20 this day and age, it's difficult to avoid them. So it's
21 not abnormal to have couplers.

22 CHAIRMAN: Yes.

23 A. And it's covered in our pre-pour checklist as a quality
24 concern.

25 CHAIRMAN: You see, the only reason I mention it -- and I'm
26 open to correction here -- but there's been a lot of

1 evidence that's come forward, and my recollection is
2 that certain documents relating to quality and
3 requirements vis-a-vis couplers were there but people
4 didn't know about them.

5 A. No, I don't think that's the case.

6 CHAIRMAN: And therefore they didn't pass on what their
7 obligations were in terms of those documents. I may be
8 wrong, and that's said very hesitantly, but that's my
9 recollection of the evidence so far.

10 If that was the case, that would not be right; is
11 that correct?

12 A. Like I said, I think all jobs have got couplers, so
13 engineers should be quite familiar with it. It's just
14 another form of lapping reinforcement. You either lap
15 it, weld it or put couplers in, and where you have
16 spatial constraints because of laps, then you have to
17 resort to using couplers. So it's quite common.

18 CHAIRMAN: We perhaps are passing each other a little bit
19 like ships in the night. My suggestion -- forgive me,
20 I'm being a lawyer and you are quite rightly being
21 an engineer -- but it seems to me, to some extent, that
22 if there's a contractual obligation to pay particular --
23 or make particular note of and pay particular concern to
24 a certain thing, that what should follow through
25 naturally would be that the relevant procedures would be
26 put in place, and it seems as if documentation

1 concerning those procedures was put into place, but
2 a number of people, at critical instances, didn't know
3 about it. I'm just asking -- it seems to me it's
4 a question, really perhaps a statement, but would you
5 agree that would be a lapse, of oversight?

6 A. As far as we're concerned, the couplers are not
7 uncommon, and our quality management procedures provide
8 a process through which rebar and the concrete pre-pour
9 is a hold point, and our pre-pour checklist, one of the
10 items on it is to check couplers. There are other items
11 on there, for other cast-ins, et cetera.

12 So there is a process in place and that's how
13 fundamentally we operate.

14 CHAIRMAN: Okay. Thank you very much. Thank you. That
15 helps. Thank you.

16 MR CHEUK: Mr Brewster, if we can take a look at C35, your
17 witness statement, on your position on this point,
18 26540, paragraph 5. You essentially set out your
19 position on the inspection of couplers and the
20 compliance of QSP in this paragraph.

21 If I may try to summarise your position, one, you
22 state there that the sample record sheet, as you have
23 just told the professor, only applies to coupler
24 connections within diaphragm walls, but not those
25 between diaphragm walls and the slabs. That's the first
26 point you try to make; correct?

1 A. Correct.

2 Q. The second point you try to make is that Leighton's
3 pre-pour quality control checklist and the RISC form
4 have already satisfied the requirements of QSP. That's
5 your second point; do I understand you correctly?

6 A. Yes.

7 Q. Let's discuss your two points a bit more in detail. If
8 you can be shown C13/8581. This is Leighton's record
9 submitted to this Inquiry, Commission of Inquiry, for
10 area C1-1. Are you aware of this summary sheet,
11 basically?

12 A. I don't recall seeing this.

13 Q. You don't recall?

14 A. No.

15 Q. But we can -- I think it's uncontroversial, it's
16 submitted by Leighton. If we go to, for example,
17 item 7, we see an item, "Pre-pour check"; right?

18 A. Right.

19 Q. Do you see that?

20 A. Yes.

21 Q. Then if you look over it to the column, "Form reference
22 number", we see that there's a reference
23 "1112-CIV-008149"; do you see that?

24 A. I think that's a RISC form, yes.

25 Q. Yes, there's a RISC form. If we can go to the RISC form
26 itself, that's at 8600. We can see that -- if we can

1 blow it up a little bit -- paragraph (2), work to be
2 inspected is called "Pre-pour checking (final
3 condition)".

4 A. Yes.

5 Q. As I understand, that's your reference to pre-pour
6 quality control checklist --

7 A. Yes.

8 Q. -- and MTRC's prescribed RISC forms?

9 A. I'm actually referring to the other form that's
10 attached, the checklist form.

11 Q. Yes. If we go to the previous page, 8599, this is
12 another RISC form, which if we look at paragraph (2),
13 "Work to be inspected", ie the top and bottom rebar. Do
14 I understand correctly -- please correct me if I am
15 wrong -- that your reliance and reference to quality
16 control checklist and MTRC's prescribed RISC forms, you
17 are essentially referring to these two kinds of RISC
18 forms. One is the checking of the rebars after the top
19 mat and the bottom mat are finished. The second one is
20 the pre-pour checking, ie after the checking of the top
21 mat and the bottom mat, there's another formal checking,
22 before the pouring of concrete?

23 A. Yes, there's another check before concrete is poured,
24 yes.

25 Q. If we go to page 8605, we see this "Cast in situ
26 concrete quality control checklist"?

1 A. Yes.

2 Q. Which is attached to the pre-pour check RISC form.

3 A. Yes.

4 Q. From what I understand, your position is that you rely
5 on the two RISC forms and this cast in situ concrete
6 quality control checklist to satisfy the QSP
7 requirements; that's your position?

8 A. Yes, and the fact that we've got a management plan in
9 place, an organisation chart. There is a lot of people
10 there to provide all the superintendence.

11 Q. Yes. Of course that's the general background, but I'm
12 referring to your witness statement. You refer to
13 pre-pour quality control checklist --

14 A. These are the forms, yes.

15 Q. -- and RISC forms, you are essentially referring to the
16 three documents that I just discussed with you?

17 A. Yes.

18 Q. And is it fair to say that the three forms that we have
19 looked at here is a general inspection record rather
20 than a coupler-by-coupler inspection record?

21 A. The records themselves are general, but there's a
22 specific checklist item on that sheet, which is not on
23 that page, if you scroll down to see it, for couplers.

24 COMMISSIONER HANSFORD: Can we scroll down. Number 6, is
25 that the one?

26 MR CHEUK: Yes.

1 Yes, we can see 6 there, but if you compare with the
2 sample record sheet that we have seen, which you refer
3 to only applies to Intrafor's works, we can see almost
4 each coupler connection requires some checking?

5 A. We haven't listed each coupler, yes. We don't list them
6 but it covers the couplers.

7 Q. Yes. We have heard evidence from Mr Edward Mok
8 yesterday -- and I certainly stand to be corrected --
9 and Mr Chairman has asked him whether there was any
10 watching of each coupler connection process. He
11 admitted that no, he didn't do that, although he did
12 carry out regular, informal and routine inspections
13 regularly.

14 Do you have any comment to that, in relation to the
15 coupler-by-coupler requirements?

16 A. No. I think we've achieved what we've been asked to
17 achieve.

18 Q. Is it also fair to say that the sample record sheet
19 relates to coupler connections, the vertical connections
20 that you have just mentioned, within the diaphragm
21 walls, Leighton could have modified it to record the
22 condition of each coupler connection between diaphragm
23 wall and the slab, easily; is it fair?

24 A. Anything can be modified. Why modify something when
25 we've got a system that already covers it?

26 Q. I have taken you to the acceptance -- BD's acceptance

1 letters, imposing the conditions of coupler inspection
2 requirements. Then I have also taken you to the QSP
3 itself, which Leighton has a role in preparing it, you
4 just told us.

5 Is it fair to say, when reading everything together,
6 despite the record sample sheet looks, on its face, only
7 to relate to Intrafor's vertical cover connection?
8 Actually the real understanding between everybody is
9 that not just limited to that but the connection between
10 the coupler of the slab and the diaphragm wall should
11 also be similarly recorded? Is it a fair reading of the
12 whole set of documents?

13 A. Well, I think you've got different operations, so within
14 the same QSP you've just got a different process for
15 achieving the outcome that you want.

16 Q. And do you know that Leighton was trying to create
17 something similar, what I call coupler-by-coupler record
18 sheets, around June this year? Are you aware of that?

19 A. You'd have to show me what you're talking about.

20 Q. Yes. If we go to B1, that's a witness statement of
21 MTRC's witness, 335. It's Mr James Ho's witness
22 statement. Page 335 at paragraph 49, where he says:

23 "In or around early June 2018, after the media
24 reports on 30 May 2018 alleging defective steelworks and
25 coupler installations in the diaphragm walls and EWL
26 slab, Leighton provided MTRCL with folders containing

1 RISC forms for each of 32 bays, which attached certain
2 checklists entitled 'As-built for on site assembly of
3 EWL slab to D-wall/slab couplers' -- these were similar
4 to (but not the same as) the template in appendix B of
5 the QSP and were plainly based on the information
6 contained in the as-built BA14 drawings for the
7 diaphragm wall as submitted to the BD. Leighton's
8 checklists were only formally submitted to MTRCL for the
9 first time on 13 June 2018 by means of a contractor's
10 submission form."

11 Are you aware of that fact or allegation by MTRC's
12 witness?

13 A. I haven't read this before, but certainly in June we
14 were asked to produce summary documents. There was
15 a lot of focus on collation of documents, for them to be
16 looked at. I wasn't the one who prepared the thing, so
17 I know of it, I know that there's a lot of discussion
18 about it on site, but I didn't prepare it.

19 Q. So you were not involved --

20 A. No.

21 Q. -- in the preparation process?

22 A. No.

23 Q. I suppose -- if we look at B5(TS), page 44251. Probably
24 TS2; yes, the last folder. This is the sheet, as-built
25 checklist, referred to by Mr James Ho of MTRC. You were
26 not involved in the preparation of these checklists?

1 A. Correct, I was not.

2 Q. You are not aware who made those circles on "S",
3 "satisfactory"?

4 A. No. Sorry, I can't help you.

5 Q. The point I wish to make to you, Mr Brewster, is that if
6 you or Leighton genuinely believed that pre-pour quality
7 checklist or those RISC forms could satisfy the
8 requirements of QSP, why would they have bothered to
9 create these records subsequently?

10 A. I'm not really the one to answer that, except to my
11 knowledge this is a summary document that was meant to
12 be an aid to understanding the documents that had been
13 collected along the way. Nothing more, nothing less.
14 It wasn't purporting to be anything.

15 Q. Yes. I'm certainly not alleging, you know, that there's
16 any trying to fake any records. I'm not going into that
17 arena.

18 Well, let's move on. Another point actually
19 mentioned by Mr Chairman earlier is that we have heard
20 evidence from various Leighton's frontline staff. From
21 my records so far, and I stand to be corrected, except
22 Mr Edward Mok, no one had any knowledge of the QSP at
23 the time of construction.

24 A. At the time of ...?

25 Q. The construction of the couplers.

26 A. Oh, construction.

1 Q. Are you aware of that?

2 A. I wasn't aware of that, no. If I was, I can't remember
3 being told about it.

4 Q. The next question I have for you is that -- we've seen
5 authorised signatory has many statutory roles,
6 responsibilities and duties. As the AS of Leighton in
7 this project, what steps did you take to make sure the
8 QSP requirements would be complied with by the frontline
9 staff? What did you exactly do?

10 A. If we can go back to the previous question, I would not
11 expect the field staff to be necessarily aware of the
12 QSP because we were -- as Leighton, we were following
13 our own QMP -- sorry, quality management system plan --
14 which has got the RISC forms and the pre-pour checks in
15 it. That's all that they needed to know.

16 As for your second question, well, I relied on my AS
17 reps and also the main project management team to
18 construct the contract in accordance -- conduct the
19 works in accordance with the contract, which also
20 entails compliance with the Buildings Ordinance.

21 Q. For example, did you know that the QSP work was, for
22 example -- obviously in English, but many of the
23 frontline staff actually did not read English? Did you
24 try to provide translation to those staff?

25 A. I think I just answered that question by saying
26 I wouldn't necessarily expect field staff to know about

1 the QSP, because we were following our quality
2 management plan, and within that system we do have
3 bilingual documents.

4 Q. Let's move on to another topic. Let's go to bundle C3,
5 page 2131.

6 You can take it from me, this is a contract
7 documentation itself, the General Conditions of Contract
8 1112.

9 A. It looks like a General Specification to me.

10 Q. You are absolutely right. My fault. It's the General
11 Specification.

12 In clause G15.4.1 -- please read it yourself -- it
13 seems to me to suggest that Leighton has an obligation,
14 contractual obligation, to provide as-built drawings,
15 including the diaphragm walls and the slab, to MTR. Is
16 that correct?

17 A. That's what that says. It's my understanding that we
18 have to do as-built drawings anyway, yes.

19 Q. Further, if we go to B4/2075, this is PMP appendix 9
20 that we have seen. If we go down to the bottom of the
21 page, on the right-hand side we can see "As-built record
22 plan"; do you see the bullet point?

23 A. I can see the box, yes.

24 Q. Then the last box, "Acknowledgement of as-built record
25 by BD/RDO"?

26 A. Yes.

1 Q. Is it correct that Leighton is also under a statutory or
2 IoE obligation to provide as-built records of diaphragm
3 walls and slab to the BD upon completion?

4 A. Of the project, yes.

5 Q. You are probably aware of some -- the present conditions
6 now we face, ie the recent joint statement by MTRC and
7 Leighton in respect of the as-constructed details along
8 the diaphragm walls. You probably have read that
9 document; right?

10 A. I'm aware of it. I haven't read it.

11 Q. If you haven't read it, if we go to B19/25480 -- you can
12 take it from me this is the joint statement recently
13 produced last week by Leighton and MTRC.

14 One of the purposes of this joint statement is to
15 set out, to the best they can, the two parties again,
16 the as-built details.

17 We can see, if we turn to B25485, this is one of the
18 plans produced in the joint statement, and then if you
19 look at the right-hand side -- can we show it -- there's
20 a remark here, "Interim as-constructed record draft and
21 confidential". So even as of last week, what this
22 Commission and all parties have received, despite the
23 joint effort of MTRC and Leighton, is something interim
24 and draft of what was built in the diaphragm wall. You
25 are aware of that, probably, the situation?

26 A. I understand what that says but I haven't read the

1 document.

2 Q. And the method of identifying the details -- and you can
3 take it from me -- is to use site photos and ask site
4 staff to review those site photos so that they can try
5 their best to tell everybody what was built at the
6 material time. You can take it from me on this point.

7 My question to you is that: is it fair to say this
8 is quite an unsatisfactory way to produce as-built
9 drawings?

10 A. There are obviously many ways to produce drawings.
11 Photographs are a pretty good record.

12 Q. Isn't it the proper way is not really to rely on site
13 photos after the completion of a structure, but to have
14 some contemporaneous records of what was being built;
15 isn't it a far better way?

16 A. Photos are contemporaneous records. There's different
17 ways of recording it.

18 Q. Now I'm going to move on to a different topic.

19 The Buildings Department, in their witness
20 statements, have cited various provisions in the
21 Buildings Ordinance --

22 CHAIRMAN: Sorry, just coming back to that -- the way

23 I would see it, perhaps, of putting the question is --
24 wouldn't the better way to have been, even if it's minor
25 works, minor changes, to have had some system for
26 recording what the changes were on the spot, on paper,

1 maybe with some form of tablet or something like that,
2 and then you've got it there and you've got some
3 measurements and you know where you are, as opposed to
4 coming back and looking at photographs later?

5 A. In an ideal world, I think that probably is the right
6 way to deal with it, but in this case they did have the
7 details but they just didn't have the exact extent to
8 which those details were constructed and just relied on
9 photographs to, if you like, nail it down to the exact
10 point. That's my understanding.

11 CHAIRMAN: Thank you very much.

12 COMMISSIONER HANSFORD: Just to expand on that, if I may,
13 Mr Brewster -- so your understanding is there weren't
14 any marked-up drawings? Because in my experience
15 as-built drawings are normally produced from marked-up
16 contract or working drawings, and that is then turned
17 into as-built drawings at the end of the contract. But
18 perhaps your experience is different.

19 A. That's certainly the way it can work, but in this case
20 these are not the as-built drawings. These are the
21 interim ones.

22 COMMISSIONER HANSFORD: Right.

23 A. The as-built drawings are still being developed, and
24 they will be submitted in accordance with the contract.

25 COMMISSIONER HANSFORD: So, just developing my question --
26 when the as-built drawings are eventually produced, will

1 they have been produced from marked-up drawings?

2 A. They will be produced from a number of drawing changes,
3 yes, along the way.

4 COMMISSIONER HANSFORD: Right.

5 A. Drawing amendments, changes that came about through
6 responses to requests for information, perhaps some
7 things were clarified in letters, there's the technical
8 queries; there's a whole host of different sources.

9 COMMISSIONER HANSFORD: So, somewhere, we would find
10 ultimately, would we -- somewhere we would find
11 marked-up drawings?

12 A. We will get there, yes. That's what we are working
13 through now. We are putting in all those individual
14 details together, collating them.

15 COMMISSIONER HANSFORD: Okay. But the base document --
16 sorry to keep labouring this but I'm just trying to get
17 there -- the base documents that will enable you to
18 produce these as-built drawings will include already
19 marked-up drawings, will they?

20 A. There's not marked-up drawings as such. As I understand
21 it, they are miscellaneous changes to drawings --

22 COMMISSIONER HANSFORD: All right.

23 A. -- that are going to be incorporated.

24 COMMISSIONER HANSFORD: Thank you.

25 MR CHEUK: Just to clarify the point, the question asked by
26 the professor, my understanding is that there is only

1 limited documents available to know, to ascertain the
2 as-built details, and that's why two parties, MTRC and
3 Leighton, had to resort to site photos review in order
4 to come up with this joint statement, because they find
5 those other documents are not complete or not completely
6 reliable.

7 Are you aware of any of the situation?

8 A. I'm not across all the detail. I'm looking at the
9 overview of it. But that is just one example.

10 Q. Let's move on. As I said, I wish to ascertain whether
11 you know or you knew at the material time some statutory
12 provisions as the AS.

13 The first provision I would like to refer you to is
14 in A1/368. This is section 9(5) of the buildings
15 Ordinance. What it provides is, in subsection (5):

16 "A registered general building contractor [which is
17 Leighton] appointed to carry out building works or
18 street works other than specialised works is required
19 to --

20 (a) provide continuous supervision to the carrying
21 out of the works in accordance with his supervision
22 plan;

23 (b) notify the Building Authority of any
24 contravention of the regulations that would result from
25 carrying out the works shown in the plan approved by the
26 Building Authority for the works; and

1 (c) comply generally with this Ordinance."

2 Were you aware of this provision or the duties under
3 the Buildings Ordinance of Leighton before now? I ask
4 you this question.

5 A. I was aware of it when I became an AS. If I didn't know
6 that, I wouldn't be one.

7 Q. No problem. Thank you.

8 The next provision is in A1/408. This is the
9 Building (Administration) Regulation 41(1). What it
10 says is:

11 "The registered general building contractor [which
12 is Leighton] ... appointed in respect of building works
13 or street works shall, during the carrying out thereof,
14 give continuous supervision thereto to ensure that the
15 buildings works or street works, as the case may be, are
16 carried out in accordance with the provisions of the
17 Ordinance and regulations and with the plans approved in
18 respect thereof and with any order made or condition
19 imposed, pursuant to any provision of the Ordinance or
20 regulations in that behalf, by the Building Authority
21 and the supervision plan prepared in compliance with the
22 technical memorandum issued under section 39A of the
23 Ordinance ..."

24 I take it that you were also aware of this
25 provision?

26 A. Yes.

1 Q. I think I only need to trouble you to look at one final
2 provision: H8/2692. This is the Code of Practice, 6.5.
3 It says:

4 "The RC [the registered contractor, again, which is
5 Leighton], represented by their AS, should have
6 a similar system of supervision as that of the RSE
7 and/or RGE above ..."

8 "RSE" is registered structural engineer; is that
9 correct, and "RGE" is registered geotechnical engineer?

10 A. Yes.

11 Q. "... but they should give continuous supervision in
12 accordance with B(A)R 41(1)."

13 B(A)R41(1) is the Building (Administration)
14 Regulation which we just read.

15 "Even if some of the building works are carried out
16 by their sub-contractors, it remains the responsibility
17 of the RC to ensure that the building works and
18 continuous supervision are properly done in accordance
19 with the provisions of the BO and the system of
20 supervision described above."

21 I again take it that you were aware of the duties?

22 A. I was.

23 Q. Finally, I think I can go to a final topic. Go back to
24 your witness statement, bundle C27, page C20108, at
25 paragraph 22. You say:

26 "I do not have any direct or contemporaneous

1 knowledge of the threaded ends of rebars being cut off
2 or shortened."

3 And presumably you did not have contemporaneous
4 knowledge of the famous NCR157. Do you have any
5 recollection of NCR157?

6 A. No, not until June this year.

7 Q. This year?

8 A. (Nodded head).

9 Q. And if we go back to B5/2740. You can take it from me
10 that this is a flow chart in the Code of Practice for
11 dealing with non-conformity.

12 What it provides is that TCP, a technically
13 competent person, informs the representative of his
14 stream, who will in turn inform the AP, RSE, RGE and the
15 RC, and complete part 1 of form B.

16 "RC" is Leighton, the registered contractor; right?

17 A. Correct.

18 Q. According to this flow chart, do I understand correctly
19 that those frontline people of Leighton, when they were
20 trying to deal with the non-conformity, 157, they should
21 also actually inform you of the existence of this
22 non-conformity; is that correct?

23 A. Well, this chart doesn't necessarily mean that. I mean,
24 the escalation of these non-conformances depends on
25 whether they have a major impact, safety impact, concern
26 for the safety of the project, surrounding areas,

1 people, that sort of thing. So I wouldn't necessarily
2 expect to see this, 157, I mean.

3 Q. But let's put aside the specific 157. As a general
4 proposition, non-conformity is something, if serious,
5 let's put it this way, should be informed to you?

6 A. If it's serious, for the grounds that I just stated,
7 yes.

8 Q. Have you been informed of any non-conformity?

9 A. I have.

10 Q. I see. But not 157?

11 A. Not 157. It was one earlier.

12 Q. Again, presumably you did not carry out any
13 investigation of 157?

14 A. I did not, no.

15 COMMISSIONER HANSFORD: Sorry, could I just clarify that,
16 Mr Brewster. You were asked, "Have you been informed of
17 any non-conformity?", you said you had, but "Not 157.
18 It was one earlier."

19 A. Yes, it was earlier than 157.

20 COMMISSIONER HANSFORD: And the subject matter?

21 A. It was under the podium. There was an issue where
22 a crane got stuck and somebody cut a beam or something,
23 cut a flange.

24 COMMISSIONER HANSFORD: Right.

25 A. Yes, cut a flange. So I was informed of that one
26 because we had to report that to BD and had to do

1 an incident report, which I got involved in.

2 COMMISSIONER HANSFORD: And that was the only one you were
3 informed of?

4 A. Yes, sir.

5 COMMISSIONER HANSFORD: Thank you.

6 MR CHEUK: I have no further questions.

7 CHAIRMAN: Thank you very much.

8 MR WILKEN: I don't know who next wishes to cross-examine or
9 how long they would be, but I do notice the time.

10 MR CHOW: Mr Chairman, we have questions for Mr Brewster,
11 but I note that we are less than ten minutes to 5.00,
12 and my cross-examination will be longer than that. I'm
13 ready to start; I'm in your hands.

14 CHAIRMAN: How long do you think you will be?

15 MR CHOW: I think it's going to be perhaps one hour or
16 slightly more than an hour.

17 CHAIRMAN: All right.

18 MR WILKEN: Normally, I would urge us to proceed, but
19 unfortunately I know that both Mr Shieh and I have to be
20 at a consultation at 6.00.

21 CHAIRMAN: All right.

22 COMMISSIONER HANSFORD: I have one question. Given that we
23 have the time at the moment, perhaps now is the time to
24 raise it. I was going to see if it was raised by
25 counsel, but perhaps I can't hold my suspense any
26 longer.

1 Mr Brewster, in your witness statement, you have
2 a footnote. It's a footnote number 1, and it goes with
3 your paragraph 17(a). I would just like to
4 understand -- you say:

5 "All of the couplers cast into the construction
6 joints within the EWL slab and NSL slab were
7 non-ductile."

8 So, to your knowledge, which, if any, couplers on
9 this project had a ductility requirement?

10 A. What I was referring to with that note is the
11 construction joint couplers, basically.

12 COMMISSIONER HANSFORD: Yes. But that includes the couplers
13 between the slabs and the diaphragm walls?

14 A. No.

15 COMMISSIONER HANSFORD: It doesn't?

16 A. In this statement here, that's what I'm talking about,
17 so -- because the ones in the D-wall we've viewed as
18 ductile.

19 COMMISSIONER HANSFORD: Right. So the ones in the D-wall
20 are viewed as ductile, to your knowledge, and the ones
21 in the construction joints between adjacent slabs --

22 A. In bays, yes.

23 COMMISSIONER HANSFORD: In bays -- between adjacent bays,
24 that's right -- were non-ductile?

25 A. Non-ductile, yes.

26 COMMISSIONER HANSFORD: Okay. That clears it up for me.

1 Thank you.

2 MR WILKEN: Sir, one final point of housekeeping which is
3 outstanding is Mr Khaw's redaction of his latest witness
4 statement.

5 We have taken instructions and, provided it is
6 redacted to the paragraphs he has suggested, we are
7 content to continue on that basis.

8 CHAIRMAN: All right. Thank you very much indeed.

9 Mr Khaw, so you will attend to the necessary outside
10 of normal hours.

11 MR PENNICOTT: It has been attended to.

12 CHAIRMAN: Excellent. Thank you.

13 I think what we will do -- if it's going to be
14 an hour, that's quite long tonight, especially as
15 counsel have other matters outside of normal court
16 hours.

17 I have, in respect of the way forward, spoken to
18 Mr Pennicott, who has put some rational arguments to me,
19 which have persuaded me that in fact we can still make
20 up time where necessary, without having to block off
21 Saturdays, which, without intending in any way, I'm not
22 meaning to be supercilious, I do appreciate, in all
23 seriousness, is a time that often counsel can get
24 together with their solicitors, with clients, take
25 further instructions and prepare matters for the week
26 ahead.

1 So we will reserve 15 December, which is a Saturday,
2 in case we find ourselves running behind. We will not
3 take up any other Saturdays. But what we will do, and
4 right at this moment is perhaps a good example, is that
5 we will eat into the late afternoons if necessary, or
6 start that bit earlier if necessary, in order to deal
7 with witnesses more fruitfully and quickly; all right?

8 So I hope that assists you all. We will adjourn
9 tonight, and we will work together in the sense that
10 I will work with Mr Pennicott. If I suggest to him at
11 lunchtime, "Look, we may have to sit until 6.00 this
12 evening", he will no doubt come and sound you out, and
13 we will see where we get to. But it has to be a joint
14 effort, otherwise a dictatorship will take over; all
15 right?

16 Good. Thank you very much indeed.

17 Mr Brewster, I'm sorry you haven't finished your
18 evidence. You have to come back tomorrow.

19 When a witness is giving their evidence and they are
20 in the middle of their evidence, they are not entitled
21 to speak to anybody about their evidence, including
22 their own solicitors actually, because it's not like
23 a game of rugby where you can get the coach saying, "Do
24 something else", which I'm sure you understand. It's
25 something I say to all witnesses and it's just
26 a standard reminder.

1 Thank you very much indeed. Tomorrow morning,
2 10 o'clock.
3 (5.00 pm)
4 (The hearing adjourned until 10.00 am the following day)

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