

Page 1	Page 3
<p>1 Monday, 3 December 2018</p> <p>2 (10.00 am)</p> <p>3 MR LEUNG FOK VENG, ANDY (on former affirmation in Punt)</p> <p>4 (All answers given via simultaneous interpreter</p> <p>5 except where otherwise specified)</p> <p>6 Examination by MR PENNICOTT (continued)</p> <p>7 MR PENNICOTT: Good morning, Mr Leung.</p> <p>8 A. Good morning.</p> <p>9 Q. When we finished on Friday afternoon, I was asking you</p> <p>10 some questions about your email of 25 July 2015. In</p> <p>11 that context, could I ask you, please, to look at</p> <p>12 a paragraph in Mr Kit Chan's witness statement. You</p> <p>13 will find that at B1 -- the document starts at 262, and</p> <p>14 the paragraph I need is paragraph 51, which is at</p> <p>15 page 280.</p> <p>16 Have you read Mr Chan's witness statement, Mr Leung?</p> <p>17 A. Yes.</p> <p>18 Q. What he says here at paragraph 51 is:</p> <p>19 "LCAL [that's Leighton] proceeded with the</p> <p>20 'through-bar method' in constructing the EWL slab in the</p> <p>21 rest of areas B and C starting with area C1-3 on</p> <p>22 29 August 2015. The construction management team was</p> <p>23 under the impression that the design management team</p> <p>24 would update the working drawings of the EWL slab</p> <p>25 reinforcement and thereafter obtain approval from BD."</p>	<p>1 slab, for the first and second bay -- this email was</p> <p>2 25 July. Well, for bay C1-1, it was done in accordance</p> <p>3 with the couplers, the detail, the original couplers'</p> <p>4 detail. If that's the impression of theirs on 25 July,</p> <p>5 then I don't understand why they didn't follow this in</p> <p>6 respect of C1-1 and they just follow the original</p> <p>7 drawings.</p> <p>8 I just cannot find the logic here.</p> <p>9 Q. All right. We can ask, obviously, Mr Chan in due course</p> <p>10 why he was under that impression.</p> <p>11 Can I ask you this, however, perhaps more</p> <p>12 importantly, Mr Leung. If you had known about the</p> <p>13 through-bar method, as Mr Chan calls it, in let's say</p> <p>14 August 2015, would you have regarded that change as</p> <p>15 something that you needed to consult the Buildings</p> <p>16 Department about?</p> <p>17 A. Definitely, yes.</p> <p>18 Q. Do you say that you would have consulted the Buildings</p> <p>19 Department before that change was implemented?</p> <p>20 A. If I had known that, I would certainly have informed the</p> <p>21 BD.</p> <p>22 Q. Before the change was implemented?</p> <p>23 A. Correct. Correct.</p> <p>24 Q. Okay. So, just wrapping this point up, Mr Leung, it's</p> <p>25 quite clear, is it not, that there was a difference of</p>
Page 2	Page 4
<p>1 Mr Chan goes on to say:</p> <p>2 "This was because in the email dated 25 July ...</p> <p>3 from Andy Leung to Mr Justin Taylor" -- the one we were</p> <p>4 looking at on Friday -- "which was copied to James Ho,</p> <p>5 Mr Andy Leung pointed out that ..."</p> <p>6 Then he sets out the text of your email. Then he</p> <p>7 says:</p> <p>8 "Reading this email together with the email chain</p> <p>9 prior to this email, James Ho and I understood this to</p> <p>10 mean that the sensible thing to do was to cast the EWL</p> <p>11 slab, OTE wall and the top of the east diaphragm wall</p> <p>12 monolithically so that there would not be multiple</p> <p>13 construction joints between the EWL slab, diaphragm wall</p> <p>14 and OTE slab."</p> <p>15 Mr Leung, can I ask you this: was, in your view,</p> <p>16 Mr Chan and apparently Mr Ho justified in being under</p> <p>17 the impression that you would update the working</p> <p>18 drawings?</p> <p>19 A. It's not justified.</p> <p>20 Q. Why do you say he was not justified?</p> <p>21 A. I should explain clearly. In this statement, it</p> <p>22 mentioned C1-3 and also the date of 29 August. The work</p> <p>23 started on that day. And it said I would update the</p> <p>24 working drawings.</p> <p>25 Actually, what they didn't tell you is that for EWL</p>	<p>1 view or a difference of impression, a miscommunication,</p> <p>2 however you wish to describe it, between yourself, as</p> <p>3 the head of the design team, and Mr Kit Chan, the head</p> <p>4 of the construction team, about this particular issue?</p> <p>5 A. In this particular case -- last Friday, we were talking</p> <p>6 about the first change. It was not due to</p> <p>7 a miscommunication, in my view. The design management</p> <p>8 team was not aware of this change. For the first change</p> <p>9 that we talked about last Friday, as I said in my</p> <p>10 statement, the change was covered by an email sent to my</p> <p>11 design team. Therefore, we would say that we bear some</p> <p>12 responsibility. But, in this case, we were totally kept</p> <p>13 in the dark. For me, I only knew about this in early</p> <p>14 July this year.</p> <p>15 So, in response to your question, I would like to</p> <p>16 say this. It's not a question of a problem of</p> <p>17 miscommunication.</p> <p>18 Q. Well, miscommunication in this sense, Mr Leung, that the</p> <p>19 construction team clearly knew about the change and they</p> <p>20 didn't communicate it to you, on your evidence.</p> <p>21 A. That's the correct way of putting it.</p> <p>22 Q. Right. Whereas Mr Chan's position appears to be -- and</p> <p>23 obviously we'll ask him some questions about it soon --</p> <p>24 that he was under the impression that you did know about</p> <p>25 it and that you were going to produce some working</p>

Page 5	Page 7
<p>1 drawings?</p> <p>2 A. Could you please repeat your question?</p> <p>3 Q. Yes: whereas Mr Chan was under the impression that you</p> <p>4 did know about the change and that you were going to</p> <p>5 produce some working drawings reflecting the change?</p> <p>6 A. I don't know why he had this impression. As I've said,</p> <p>7 the design management team did not know about this</p> <p>8 change.</p> <p>9 Q. Okay. Can I just move on -- it's sort of on the same</p> <p>10 topic but a different arena. Could I ask you, please,</p> <p>11 to be shown J1/92.</p> <p>12 This is, as we can see, Mr Leung, a report,</p> <p>13 deliverable number TWD-004B2, dated May 2015, and it was</p> <p>14 a design report prepared by Atkins on behalf of Leighton</p> <p>15 for the primary structure, primary slabs for temporary</p> <p>16 load cases area C, part I; do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. If we could look, please, at the next page, I think, and</p> <p>19 the next page -- right, pause there; that's J94 -- this</p> <p>20 was the fourth issue, as we can see, of this document,</p> <p>21 and what one can see is "May 2015", and I think prepared</p> <p>22 or reviewed and approved -- revised by a number of</p> <p>23 people, that's "Various", reviewed by Mr David Wilson</p> <p>24 and approved by Mr McCrae; do you see?</p> <p>25 A. Correct.</p>	<p>1 A. I see that.</p> <p>2 Q. And again reviewed -- sorry, revised by various,</p> <p>3 reviewed by Mr Wilson and approved by Mr Rob McCrae.</p> <p>4 And obviously you did see this version of the report</p> <p>5 at the time, Mr Leung, because you were submitting it to</p> <p>6 the Buildings Department?</p> <p>7 A. Strictly speaking, I did not personally deal with this</p> <p>8 report, and after my team dealt with it I signed the</p> <p>9 letter, which was submitted to the Buildings Department.</p> <p>10 Q. All right. So are you saying that you didn't review the</p> <p>11 report before you sent it?</p> <p>12 A. Correct. Yes, as I said in my statement, in 2015 I did</p> <p>13 not personally read this report. When I prepared my</p> <p>14 statement, I reviewed the relevant reports, including</p> <p>15 this report.</p> <p>16 Q. Right. If we could go, please, to page 7277. Right.</p> <p>17 You see in paragraph 1.3.5 there, Mr Leung, the</p> <p>18 first sentence is the same as I read out in relation to</p> <p>19 the earlier report; do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. The next sentence or subparagraph is new; do you see</p> <p>22 that?</p> <p>23 A. I see that.</p> <p>24 Q. And -- we can check over the page if necessary but</p> <p>25 I don't think we need to -- the figure, 1.4, the diagram</p>
Page 6	Page 8
<p>1 Q. Then if you could go, please, to page 106 in this file,</p> <p>2 J1/106, we see there paragraph 1.3.5. I'm not going to</p> <p>3 read it all out, but the first sentence says:</p> <p>4 "Secondary measures of provision of additional rebar</p> <p>5 at mid-span due to missing U-bar in diaphragm wall."</p> <p>6 And so forth, and so on.</p> <p>7 Then if we could go over the page, please, one sees</p> <p>8 this diagram, figure 1.4, "Rebar arrangement for EWL and</p> <p>9 OTE slab"; do you see that, Mr Leung?</p> <p>10 A. Yes, I see that.</p> <p>11 Q. In May of 2015, Mr Leung, did you see this version of</p> <p>12 the report?</p> <p>13 A. No.</p> <p>14 Q. If you could please, therefore, go to B10/7256. This is</p> <p>15 a letter of 29 July, which we looked at briefly on</p> <p>16 Friday, 2015, where you're submitting a design report,</p> <p>17 amongst other things, to the Buildings Department; do</p> <p>18 you see that?</p> <p>19 A. Correct.</p> <p>20 Q. If we could go, please, to page 7262, that's the front</p> <p>21 sheet of the report, and if we could go two more pages</p> <p>22 on, please -- thank you, and slightly blow that up;</p> <p>23 thank you very much -- so this is the fifth issue of the</p> <p>24 report that we were just looking at in the previous</p> <p>25 file; do you see that, Mr Leung?</p>	<p>1 that we saw in the previous report, has disappeared.</p> <p>2 I think, in the light of your previous answers, you're</p> <p>3 not going to be able to answer this question: do you</p> <p>4 know why figure 1.4 and the remainder of paragraph 1.3.5</p> <p>5 was removed in this version?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. I will ask you, please, Mr Leung, to look at</p> <p>8 paragraph 60 of your witness statement. It's at B1/257.</p> <p>9 At paragraph 60, you refer to the fact that there were</p> <p>10 weekly technical meetings between Leighton and MTR's</p> <p>11 construction management and design management teams; do</p> <p>12 you see that?</p> <p>13 A. I see that.</p> <p>14 Q. You say in the last sentence:</p> <p>15 "However, I have also reviewed the minutes of</p> <p>16 [those] meetings but no proposals in relation to the</p> <p>17 demolition of the top portion of the diaphragm wall were</p> <p>18 mentioned or discussed in the weekly technical</p> <p>19 meetings."</p> <p>20 A. Correct.</p> <p>21 Q. Mr Leung, am I right in thinking that reports were</p> <p>22 prepared, weekly reports were prepared, for those</p> <p>23 meetings, in consideration of those meetings?</p> <p>24 A. Correct.</p> <p>25 Q. Could I ask you, please, to be shown B16/12540. If we</p>

Page 9	Page 11
<p>1 could blow the top up just slightly so we can get the 2 date. This is week 31/15, that is the period 24 July to 3 30 July 2015, Mr Leung; do you see that? 4 A. I see that. 5 Q. If you could please go to page 12545, and drop down to 6 the bottom of the page, please, at 3.11, right at the 7 bottom of the page, it says this: 8 "The alignment between couplers at D-wall panels and 9 rebar at EWL slab had deviated by 40 to [70] millimetres 10 were found in area C1. Breaking out of D-wall to remove 11 the installed couplers is the short-term solution. 12 A longer solution is still being sought to overcome this 13 problem especially for the NSL slab." 14 If we could go over the page, please, and then it 15 says this at 3.12: 16 "LCAL Atkins [Atkins B] recently advised that the 17 OTE wall and EWL slab must be cast together, which was 18 not the original plan since such criteria was not stated 19 on the drawing. Therefore OTE wall and EWL slab will 20 have to be cast in one go for future pours." 21 Do you recall reading either of those two paragraphs 22 that we've just looked at, Mr Leung, either at the time 23 or more recently? 24 A. No. Not at that time nor recently. This is the first 25 time I see these two statements.</p>	<p>1 saying they wish to have -- it was a condition of 2 acceptance, they wished to have a quality supervision 3 plan of the competent person, the registered building 4 contractor and the registered specialist contractor, in 5 relation to the mechanical coupler works; do you see 6 that? 7 A. I see that. 8 Q. If you can agree this with me, Mr Leung, we don't need 9 to go to the documents: there were similar acceptance 10 letters and similar conditions in relation to both 11 areas B and C? 12 A. Correct. 13 Q. And if we could, please, to H9/4263, on 12 August 2013 14 you submitted, on behalf of MTR, to the Buildings 15 Department, the quality supervision plan? 16 A. Correct. 17 Q. As I understand it -- well, let's ask this question: did 18 you read the quality supervision plan at the time, 19 Mr Leung? 20 A. No. It was because QSPs were prepared by our 21 construction team, and as design manager we were the 22 coordinators responsible for submission to BD. The 23 information was prepared by the construction team. 24 Q. Right. My understanding is that this QSP was a bit of 25 a joint effort, Mr Leung, prepared by Leighton, by BOSA,</p>
Page 10	Page 12
<p>1 Q. Right. They are in fact referred to in the witness 2 statement of Mr Ho, James Ho, one of your colleagues. 3 That's why we've managed to find them; we probably 4 wouldn't have done otherwise. But you've not looked at 5 this, Mr Leung? 6 A. Correct. 7 Q. It's just that obviously this report is for the week of 8 25 to 30 July, the very week that you submitted the 9 report that we were just looking at, on 29 July, to the 10 Buildings Department, and the same week, 25 July, when 11 you sent your email. It was all happening during that 12 week, Mr Leung, but you don't have any recollection of 13 seeing this at the time? 14 A. I have no recollection. 15 Q. Okay. Could we look at something entirely different 16 now, Mr Leung, the quality supervision plan. I think 17 I can do this very quickly. 18 First of all, could you be shown, please, H9/3873. 19 This is the BD's acceptance letter in relation to 20 area A, I believe. Yes. One can pick that up from the 21 gridlines, Mr Leung. 22 A. Correct. 23 Q. At page 3903, please, at the bottom of the page -- we 24 don't need to read all this out; we've looked at it 25 before -- this is where the Buildings Department are</p>	<p>1 and perhaps with some input by MTRC, but certainly 2 MTRC's approval was given to it. Is that your 3 understanding, or don't you know? 4 A. As I said and as I've mentioned in my witness statement, 5 for construction-related requirements, our construction 6 team would be responsible. Whether Leighton, BOSA and 7 our construction team had input -- well, I have no such 8 knowledge to it. 9 Q. Okay. Would this also be right, Mr Leung, that we can 10 see from the quality site supervision plan, if we read 11 it, that it requires -- I will put it in general 12 terms -- various records to be prepared and kept, and 13 would I be right in thinking that you played no part, as 14 it were, going forward, as to whether or not those 15 records were indeed kept? 16 A. That's correct. 17 Q. Okay. In that case, that saves more questions. 18 A final topic, Mr Leung. In October 2015, you had 19 a bit of a disagreement with Mr Justin Taylor of 20 Leighton, about the updating of working drawings; do you 21 recall that in general terms, Mr Leung? 22 A. Yes, I can remember that. It's not a disagreement. 23 It's more an issue of management, a management topic. 24 The subject should be more about management. 25 Q. Right. So there was some discussion between you and</p>

Page 13	Page 15
<p>1 Mr Taylor about this particular design management issue; 2 would that be a better way of putting it? 3 A. I think that's much more accurate. 4 Q. Right. Good. Essentially, you were suggesting to 5 Mr Taylor that he had failed to provide certain 6 proposals in respect of design changes? 7 A. Correct. Correct. 8 Q. And he was suggesting to you that he, in a rather 9 detailed response, with lots of accompanying 10 documents -- that he had or Leighton had done what they 11 were required to do and it was MTRC that had failed to 12 update the working drawings? 13 A. As I have mentioned in my statement, I think both sides 14 should bear some responsibility. They did not give us 15 the proposals, and on our part some of the drawings were 16 not updated. The Hung Hom Station project was 17 complicated, and I would say it was not uncommon to have 18 this. 19 Q. But in your own words now, Mr Leung, what was the 20 underlying issue exactly between you and Mr Taylor? 21 What was the real problem, as you saw it? 22 A. The main problem was that prior to my email, this email, 23 I pursued with Mr Justin Taylor for the proposals on the 24 changes to the permanent work. I have to emphasise that 25 in this email I was not asking for the presentation of</p>	<p>1 It could be regarded as a management technique, that 2 when you have pursued something for some time without 3 soliciting any proper response or action, I would have 4 to take a harder position on the matter. That is, if 5 they still fail to present the proposals, I will not 6 allow Atkins to further amend my drawings. 7 As I mentioned in this email, there would be another 8 meeting the following Thursday, and very quickly after 9 this email we resolved the matter of updating drawings. 10 Q. Right. And throughout that process of resolving the 11 issue that had arisen, you're clear, are you, in your 12 own mind that this second change that we've been talking 13 about was never raised, that is the through-bar change? 14 A. It was not mentioned in any of Leighton's proposals. 15 MR PENNICOTT: Sir, I have no further questions for 16 Mr Leung. 17 MR CHANG: No questions from Leighton. 18 MR SO: No questions from China Technology. 19 Cross-examination by MR CHOW 20 MR CHOW: Mr Chairman, I have a few questions for Mr Leung 21 Good morning, Mr Leung. My name is Anthony Chow and 22 I represent the government. We have just a few 23 questions for you. 24 Mr Leung, in relation to the incident of missing bar 25 at the top of the diaphragm wall which were not</p>
Page 14	Page 16
<p>1 prep drawings but rather for proposals. At that time, 2 many of our working drawings had incorporated their 3 changes, changes proposed by them, without informing me. 4 It's not a healthy thing to do in design management. As 5 the design manager, I had to be responsible for all the 6 working drawings under the project. If you compare what 7 happened with the first change and the change we were 8 talking about, that's the problem, that if there were no 9 formal proposals, the design team could not really take 10 the appropriate follow-up action with the BD, so as to 11 secure the approval of the BD, and we would update the 12 drawings accordingly. 13 Q. Mr Leung, I and others have read the email exchange that 14 you had with Mr Taylor, and indeed Mr Taylor was taken 15 through that exchange by Mr Cheuk, and what we can't 16 find is whether this issue that you had in October 2015 17 was actually resolved. Did you sort it all out with 18 Mr Taylor? 19 A. Of course. Of course. Every Thursday -- in 2015-2016, 20 every Thursday we would have a senior design 21 coordination meeting with -- the directors of LCAL, our 22 GM, myself, Mr Justin Taylor were all at the meeting. 23 Before I issued this particular email, I had pursued him 24 for some time for the presentation of formal proposal, 25 and I did not receive that before the date of my email.</p>	<p>1 discovered until a very late stage -- as far as I know, 2 it's until as-built drawings were prepared and the 3 certificate of completion was applied for -- do you 4 recall that incident? 5 A. Yes. 6 Q. Now, because of that incident, MTRC has prepared 7 an incident report. 8 A. Correct. 9 Q. Have you got a chance to look at the details of the 10 incident report? 11 A. Yes. 12 Q. Can I trouble you to go to one particular part of your 13 report, at bundle H11, page 5545, please. 14 Basically, what MTRC does in this report is to 15 report as to why the incidents occurred and make 16 recommendation as to how to prevent similar incidents 17 from recurring, and this report was submitted to the 18 Buildings Department. 19 Now, in paragraph 3.3.6 of the report, MTR says: 20 "In order to improve the robustness of the controls 21 to track progress of all proposed design changes until 22 they are approved and incorporated into the working 23 drawings, the contractor has developed and is 24 implementing an additional control procedure defined as 25 the technical query process. TQs will be used to</p>

Page 17	Page 19
<p>1 provide robust monitoring of design progress, 2 clarification of design, instruction of design change, 3 modification and/or carrying out new design works." 4 Mr Leung, are you aware of how these -- first of 5 all, perhaps, was there a new additional procedure 6 implemented by Leighton regarding the so-called 7 technical queries process? 8 A. Yes, there was a new -- there was a procedure adopted. 9 But was it because of this incident report that TQ was 10 adopted? TQ is actually -- was a process between 11 Leighton and Atkins team B. I don't know whether it was 12 a new one or it was already there. 13 Q. Right. Over the past few days, we have heard about 14 TQ33, TQ34. Am I correct in saying that, for example, 15 for those two TQs, they were issued under the usual TQ 16 procedure but may not be under a so-called additional TQ 17 procedure; is that right? 18 A. As I've said, that's something between Leighton and 19 team B of Atkins, a TQ process between them. I think it 20 would be better that they answer this question. 21 Q. Okay. Thank you. 22 Now, the next topic I would like to discuss with 23 you -- just now, Mr Pennicott has taken you to the two 24 versions of the design report, 4B2 and 4B3. Do you 25 still recall that?</p>	<p>1 Department's response; right? 2 COMMISSIONER HANSFORD: Sorry, Mr Chow, which section have 3 you just taken us to? 4 MR PENNICOTT: Where are you reading from? 5 MR CHOW: Perhaps this is the second response. I beg your 6 pardon. Yes. Can I invite you to paragraph 50(b) at 7 bundle B1/254, please. Under subparagraph (b), you set 8 out paragraph 15 of the Buildings Department response 9 dated 8 December 2015, in which the Buildings Department 10 said: 11 "It is noted that the reinforcement details of 12 permanent slab of the station have been included in this 13 temporary works design submission. In order to avoid 14 ambiguity, it is recorded that the said reinforcement 15 details were submitted for information only and you are 16 required to ensure the corresponding permanent station 17 structure submission are fully compatible with this ELS 18 design submission." 19 Right? So this is part of the BD's response to the 20 first submission. 21 Professor, the paragraph that I just cited actually 22 is BD's response to the second submission, so they are 23 of similar nature. 24 COMMISSIONER HANSFORD: Okay. Thank you. 25 MR CHOW: Mr Leung, actually I only have one question in</p>
Page 18	Page 20
<p>1 A. Yes, I can remember that. 2 Q. The later version, 4B3, was submitted to the Buildings 3 Department on 29 July 2015 as part of the temporary 4 works submission; correct? 5 A. Correct. 6 Q. In your witness statement, you also mentioned the 7 response from the Buildings Department dated 8 December 8 2015. You also recall that part of your statement; 9 right? 10 A. Correct. 11 Q. In your statement, you specifically mention what the 12 Buildings Department said in its response under 13 paragraph 15, where the Buildings Department said -- 14 I beg your pardon, I need to find -- yes. The Buildings 15 Department said: 16 "It is noted that steel rebar details of permanent 17 station structure has been included in this temporary 18 works design submission. In order to avoid ambiguity, 19 the steel rebar details is treated as providing 20 information to justify that the ELS effects has been 21 considered in the permanent works design. You are 22 required to submit all change in the permanent station 23 structure in the appropriate design package for 24 consultation/agreement." 25 So you also recall that part of the Buildings</p>	<p>1 relation to this. After receiving a response from BD -- 2 now, earlier you told us that you actually did not look 3 at the details of the submission, version 4B3, because 4 it was prepared by your colleague and you just signed on 5 the covering letter and despatched it to the Buildings 6 Department; right? 7 Now, having received a response, specific response 8 from the Buildings Department, at the time have you got 9 a chance to look at BD's detailed responses, including 10 this particular paragraph? 11 A. No. 12 Q. So obviously you were not in a position at that time to 13 follow up on this matter, in that case; right? 14 A. Correct. 15 Q. Mr Leung, the last area I would like to explore with you 16 is -- Mr Clement Ngai, in paragraph 13 of his witness 17 statement, bundle B1, page 238.1. Mr Ngai said, after 18 he had received the email from Mr Jason Poon, he 19 forwarded the email to you and asked you to follow up. 20 My only question to you is: have you taken any 21 action to follow up on this matter at that time? 22 A. No. Design-wise, we did not do anything. 23 MR CHOW: Thank you, Mr Leung. I have no more questions for 24 you. 25 MR CONNOR: No questions from Atkins, sir. Thank you.</p>

Page 21	Page 23
1 CHAIRMAN: Thank you. 2 Re-examination by MR BOULDING 3 MR BOULDING: Good morning, Mr Leung. I just have one 4 matter I'd like to ask you about. I would like you to 5 cast your mind back to Friday, please. 6 Do you remember being asked about the first change 7 by counsel for the Commission of Inquiry? 8 A. Yes. 9 Q. It involved, did it not, in simple terms, the removal of 10 the U-bars at the top of the diaphragm wall; correct? 11 A. Correct. 12 Q. Do you remember agreeing with counsel for the Inquiry 13 that the first change should have been submitted to the 14 Buildings Department for agreement or consultation prior 15 to commencement of the work that changed the detail? 16 A. Correct. 17 Q. The transcript records you saying that your complaint so 18 far as Leighton was concerned was that they made no 19 formal submission to the MTR and sought to amend the 20 permanent works design by way of a shop drawing 21 submission. Do you remember giving that answer to 22 Mr Pennicott? 23 A. Can you repeat that part, please, because I cannot quite 24 catch that? 25 Q. Yes, okay.	1 Q. Now, I wonder whether you can assist me with identifying 2 the provision or provisions in contract 1112 that you 3 had in mind. For that purpose, can we please go to 4 C3/2217. 5 There, do you see, Mr Leung, clause 7.6.2 of the 6 Particular Specification? 7 A. I see that. 8 Q. Is that one of the provisions you had in mind when you 9 gave your answer that I have just read to you, Mr Leung? 10 A. Yes, it was part of it. 11 Q. And, if it was part of it, perhaps we can look at C3 at 12 2209. If you could look there, please, at 13 clause P7.1.4, is that another provision of the contract 14 that you had in mind when you gave your answer to 15 Mr Pennicott? 16 A. Correct. 17 Q. Then finally, I think, if you could stay on page 2209 18 but if we could focus on clause 7.1.1, and if you could 19 just read that to yourself, and then tell me whether 20 that is another provision you have in mind when you gave 21 the answer to my learned friend. 22 A. Correct. 23 MR BOULDING: Thank you very much, Mr Leung. I have no 24 further questions for you. I don't know whether the 25 learned professor or the Commissioner have anything to
Page 22	Page 24
1 The transcript records you saying that your 2 complaint so far as Leighton was concerned was that they 3 made no formal submission to the MTR, and instead sought 4 to amend a permanent works design by way of a shop 5 drawing submission. Do you remember that? 6 A. I remember. 7 Q. I wonder if we could just look at the transcript for 8 Friday, at page 121. If you could look at line 15, 9 where Mr Pennicott says: 10 "Just one last question on that then, Mr Leung. 11 When you say, or when you agreed with me that some 12 formal proposal should have been made, what form should 13 that have taken? What do you mean by a formal 14 proposal?" 15 Then you answer at line 19: 16 "In contract 1112, there was a work proposal 17 mechanism, a work proposal meeting, and in those 18 meetings, the contractor was provided with a forum to 19 raise proposals relating to changes in permanent works, 20 and on that platform or at the proposal group, then we 21 could discuss whether to proceed with the changes, 22 considering whether there were benefits to be brought to 23 the project." 24 You will remember giving that evidence, I assume? 25 A. Yes, I recall that.	1 ask you. 2 CHAIRMAN: No. Thank you very much indeed, Mr Leung. Your 3 evidence is now completed. Thank you very much. 4 (The witness was released) 5 MR BOULDING: My next witness, sir, is Mr Kit Chan. 6 MR PENNICOTT: Sir, before Mr Chan -- Mr Boulding has just 7 remembered what I told him -- is called -- 8 COMMISSIONER HANSFORD: He's coming in now. 9 MR PENNICOTT: It doesn't matter if he hears this. It's 10 fine. It's nothing to do with his evidence. 11 If you would like to take a seat, please, Mr Chan. 12 WITNESS: Thank you, sir. 13 MR PENNICOTT: We'll be with you shortly. 14 WITNESS: No problem. 15 H O U S E K E E P I N G 16 MR PENNICOTT: Sir, I've got six, I think, an ever-growing 17 list, of housekeeping matters that I would like to 18 mention. They are as follows. They are not in any 19 particular order but I'll mention perhaps the most 20 important one first. 21 Sir, on 14 November 2018, the solicitors for the 22 Commission received a letter from the Director of Public 23 Prosecutions. The content of the letter, in gist, was 24 that the ICAC had taken and obtained a statement from 25 Mr Jason Poon, and the letter from the Director of

Page 25	Page 27
<p>1 Public Prosecutions offered to give the Commission 2 a copy of that witness statement. 3 That offer was taken up by the Commission, the 4 Commission's legal team, and on 15 November a copy of 5 the statement provided by Mr Poon to the ICAC was 6 provided to us. 7 Due consideration has been given to the witness 8 statement by me, junior counsel and by those instructing 9 us, and sir, I know that you have also seen a copy, as 10 has Prof Hansford. 11 We have formed the considered view, and it has taken 12 us a little while to look at it and form a proper view, 13 that it would not be appropriate to introduce that 14 statement into these proceedings. We do not think it 15 takes any of the matters that have been ventilated in 16 this Inquiry any further, and therefore we are satisfied 17 that it can, as it were, remain with us and not be taken 18 any further. 19 Sir, that was the first thing I wished to mention, 20 so that everybody knows and that there is no attempt by 21 us, as it were, to not be as transparent as we possibly 22 can. 23 CHAIRMAN: Thank you very much. On behalf of myself and 24 Prof Hansford, it just needs to be recorded that when we 25 were informed that a statement had been made and that it</p>	<p>1 to the new timetable, can I just emphasise a couple of 2 points so there are no misunderstandings. 3 The first point to note, chronologically, is that 4 Mr Aidan Rooney, one of the MTR's witnesses, will, 5 because of logistical issues, be called this week, on 6 Wednesday, 5 December. Precisely when he will go into 7 the witness box, it will certainly be in the morning, 8 whether we need to finish off a witness and whether he 9 will be able to go straight in at 10 o'clock we will see 10 how we are fixed tomorrow night, but Mr Rooney will be 11 giving evidence on Wednesday. 12 The next point is that in discussions and ultimate 13 agreement with Pypun and their legal team, the two Pypun 14 witnesses will be giving evidence on 13 December, that 15 is Thursday week. We've also reserved the 14th as well, 16 but at the moment we're not anticipating that two days 17 will be required. So the Pypun witnesses will be on 18 13 December. 19 Sir, the next point is that Mr Robert McCrae, one of 20 the Atkins witnesses, will be giving evidence by 21 videolink from London. A date has yet to be fixed for 22 that to take place. I'm in discussions with Mr Connor 23 about that and we are working towards trying to achieve 24 a date that is agreeable to everybody, but I'm afraid 25 that it is going to require at least one evening where</p>
Page 26	Page 28
<p>1 could be put before us for consideration, both myself 2 and Prof Hansford were of the view that it should be, 3 and we therefore supported the request. 4 The statement was provided. We were aware that 5 Mr Pennicott and his team had looked at it. Entirely 6 separately, without any consultation with Mr Pennicott, 7 both myself and Prof Hansford had a look at it, and 8 entirely separately and independently the two of us 9 reached the view that it would not advance any of the 10 matters which have arisen in this Commission of Inquiry, 11 and therefore that statement itself would form no part 12 whatsoever, direct or indirect, of this Commission's 13 decision-making process. 14 We then informed Mr Pennicott, who informed us that 15 his team had come to the same decision independently. 16 So that is the position. The document was put 17 forward so that we could exhaust any possibilities of 18 relevance, and we have done so. Thank you. 19 MR PENNICOTT: Thank you very much, sir. 20 Sir, the remaining items are really to do with the 21 witnesses, as we go forward. A further provisional 22 timetable for the next three weeks, or at least part of 23 it, was uploaded on to the Commission's website on 24 Friday evening, I believe, and whilst I'm sure those 25 sitting behind me have been paying particular attention</p>	<p>1 we probably have to start Mr McCrae at perhaps 4 o'clock 2 in the afternoon and sit for as long as it takes to take 3 his evidence, but as I say I will advise everybody as 4 soon as I possibly can when we have a fixed date and 5 time for that to happen. 6 CHAIRMAN: I can mention here at this stage that both myself 7 and Prof Hansford have also looked at our diaries, if it 8 may assist everybody. The only evening next week which 9 causes us difficulties is the 13th. I in fact have 10 a hearing in another tribunal starting in the evening, 11 after this conclusion, so I can't obviously set that 12 aside. Otherwise, every evening that week we are 13 available. 14 MR PENNICOTT: Thank you for that indication, sir. I should 15 have added it won't be this week. It's likely, if it's 16 not the following week, it may well be the last week, if 17 necessary. 18 COMMISSIONER HANSFORD: Just to add to what the Chairman 19 said, in the last week I am unavailable late evening on 20 the 18th. 21 MR PENNICOTT: Right, which is the Tuesday. 22 COMMISSIONER HANSFORD: Yes. 23 MR PENNICOTT: That's helpful. I think the two dates we 24 were looking at were indeed the 13th and the 17th, which 25 is the Monday. So it looks as though we are honing in</p>

Page 29	Page 31
<p>1 on the Monday, the 17th.</p> <p>2 CHAIRMAN: That's effectively two weeks' time.</p> <p>3 MR PENNICOTT: Yes. We will work on that. Thank you very</p> <p>4 much for that.</p> <p>5 The next thing is this. The government witnesses --</p> <p>6 first of all, as I think may have been mentioned</p> <p>7 already, all parties are agreed that eight of the</p> <p>8 government witnesses need not be called for any</p> <p>9 examination or cross-examination, but their witness</p> <p>10 statements will in due course be uploaded onto the</p> <p>11 website in the usual way and their witness statements</p> <p>12 can be referred to and relied upon as necessary or</p> <p>13 appropriate.</p> <p>14 What has happened this morning, after some further</p> <p>15 weekend working, is I have given Mr Khaw, on</p> <p>16 a provisional basis, a running list of the government</p> <p>17 witnesses, as I say, for his consideration and to see</p> <p>18 whether there are any difficulties that may arise with</p> <p>19 that running order.</p> <p>20 Going out to all parties, I think, at some stage</p> <p>21 today will be that provisional list -- I emphasise that</p> <p>22 it is provisional, not yet set in stone -- and the</p> <p>23 parties will see that against four of the government</p> <p>24 witness names there will be an asterisk. What that</p> <p>25 asterisk means, as will be indicated in the covering</p>	<p>1 indulgence. Thank you very much indeed. So 4.30 today.</p> <p>2 MR PENNICOTT: Unless anybody else has any observations,</p> <p>3 those were my six points. At that point, I will sit</p> <p>4 down and let Mr Boulding deal with Mr Chan.</p> <p>5 CHAIRMAN: Good.</p> <p>6 MR BOULDING: Good morning, Mr Chan.</p> <p>7 WITNESS: Good morning, sir.</p> <p>8 MR CHAN KIT LAM, KIT (affirmed)</p> <p>9 Examination-in-chief by MR BOULDING</p> <p>10 MR BOULDING: You have given us your full name, so what I'd</p> <p>11 like to do now is go to the two witness statements that</p> <p>12 you've provided for the assistance of the Commission.</p> <p>13 If you could be taken first, please, to page B262. Do</p> <p>14 we there see, Mr Chan, the first page of your first</p> <p>15 witness statement?</p> <p>16 A. Yes.</p> <p>17 Q. If you could go on to page B287, we see, do we not, your</p> <p>18 signature under the date of 13 September 2018?</p> <p>19 A. Yes.</p> <p>20 Q. But I understand that you'd like to make some</p> <p>21 corrections to that. If we then go to B287.1, and do we</p> <p>22 there see a corrigendum to your first witness statement,</p> <p>23 Mr Chan?</p> <p>24 A. Yes.</p> <p>25 Q. Subject to those corrections, are the contents of your</p>
Page 30	Page 32
<p>1 letter, is that the Commission itself -- that's me, in</p> <p>2 this regard -- the Commission's team, will not wish to</p> <p>3 ask any questions of those four government witnesses.</p> <p>4 Three of them deal with the visit to the MTRC's offices</p> <p>5 to view various records in June of this year, and as</p> <p>6 I say the Commission will not wish or I will not wish to</p> <p>7 ask those four witnesses any questions.</p> <p>8 However, of course I recognise fully that other</p> <p>9 interested parties may wish to ask questions, and the</p> <p>10 other interested parties will be invited to say whether</p> <p>11 they wish to ask those identified witnesses, as</p> <p>12 probably -- yes, I've just been told that's going out</p> <p>13 already and all parties are being asked to indicate</p> <p>14 whether they wish to cross-examine the four witnesses by</p> <p>15 6 December, so by Thursday.</p> <p>16 So that's that.</p> <p>17 Lastly, sir, I haven't managed to speak to everybody</p> <p>18 but I have spoken to most people: I understand we will</p> <p>19 be having a 4.30 finish today.</p> <p>20 CHAIRMAN: Yes. Thank you. I feel somewhat embarrassed.</p> <p>21 I set myself up as the task master, and then I'm the</p> <p>22 first seeking an indulgence, under my own strict regime.</p> <p>23 I'm a trustee of a particular organisation and a matter</p> <p>24 has blown up over the weekend, and in order to get into</p> <p>25 town to attend that meeting I've had to seek your</p>	<p>1 first witness statement true to the best of your</p> <p>2 knowledge and belief?</p> <p>3 A. Yes, true to the best of my knowledge.</p> <p>4 Q. Then if we could go, please, to your reply witness</p> <p>5 statement, and for that purpose we need to go to B13619.</p> <p>6 We're there already; excellent.</p> <p>7 There do we see the first page of your reply witness</p> <p>8 statement, Mr Chan?</p> <p>9 A. Yes.</p> <p>10 Q. Please go on to page B13621. There do we see your</p> <p>11 signature under the date of 12 October 2018?</p> <p>12 A. Yes.</p> <p>13 Q. Are the contents of those statements true to the best of</p> <p>14 your knowledge and belief?</p> <p>15 A. Yes.</p> <p>16 Q. Do you adopt those statements for the purpose of giving</p> <p>17 your evidence to the Commission of Inquiry?</p> <p>18 A. Yes.</p> <p>19 Q. What I'd just like to do, before you are questioned by</p> <p>20 various of the lawyers in this room, is just to show</p> <p>21 your position, if I may, in the MTR organisation.</p> <p>22 If you could be taken, please, to B566. We can see,</p> <p>23 can we not, from the top left-hand corner, that this was</p> <p>24 effective as of January 2015; correct?</p> <p>25 A. Yes.</p>



Page 33	Page 35
<p>1 Q. Then we can see your smiling face, can we not, right at 2 the top, with your name against it? 3 A. Yes. 4 Q. But things moved on slightly, so to get a true picture 5 of where you were, if you could then go on, please, to 6 B576, and this, we can see, was effective as at 31 March 7 2016, the top left-hand corner; correct? 8 A. Yes. 9 Q. So far as your picture is concerned, you are now one 10 line down; is that correct? 11 A. Yes. 12 Q. Both of those organisation charts show, do they not, 13 where you were in the MTR organisation at those 14 particular times? 15 A. Yes. 16 Q. Thank you, Mr Chan, what's going to happen now is that 17 you will be cross-examined by various lawyers in the 18 room, starting with Mr Pennicott or Mr Cheuk for the 19 Commission of Inquiry, and then at the end I might need 20 to ask you one or two additional questions, and 21 of course Prof Hansford and the Commissioner can ask you 22 anything they want at any time, if it takes their 23 interest. 24 A. Thank you, sir. 25 MR BOULDING: Thank you very much.</p>	<p>1 Q. So I'm not going to go through all that with you. 2 Would I be right in thinking, Mr Chan, that insofar 3 as other witnesses that are coming along to give us some 4 evidence, Mr James Ho, Mr Derek Ma and Mr Louis Kwan 5 were all members of your team? 6 A. Yes. 7 Q. And they reported to you? 8 A. Yes. 9 Q. And they reported to you? 10 A. Yes. 11 Q. Generally, as I understand it, your role was to oversee 12 the supervision and the supervision requirements for the 13 contract? 14 A. Yes. 15 Q. And you were responsible for allocating supervisory 16 resources to the contract? 17 A. Yes. 18 Q. And, in a nutshell, you had to try to ensure that you 19 got the right people in the right place at the right 20 time? 21 A. Yes. 22 Q. So far as the competent person's representative is 23 concerned, my understanding is that initially you 24 reported to Mr Rooney, that is between September 2013 25 and February 2015; is that right?</p>
Page 34	Page 36
<p>1 Examination by MR PENNICOTT 2 MR PENNICOTT: Good morning, Mr Chan. 3 A. Good morning, sir. 4 Q. As Mr Boulding has indicated, I'm one of the counsel for 5 the Commission and I'm going to ask you some questions 6 first. 7 A. No problem. 8 Q. Thank you very much for coming to give evidence to the 9 Commission this morning. 10 Mr Chan, as we've just seen from the organisation 11 chart, you were MTRC's construction manager for 12 contract 1112 for the period November 2014 to May 2016? 13 A. Yes, sir. 14 Q. And, in effect, as I understand it, you were the head of 15 the construction management team for that particular 16 contract? 17 A. Yes. 18 Q. You also tell us that you were appointed as the 19 competent person's representative in December 2014? 20 A. Yes. 21 Q. And you have explained in various paragraphs of your 22 witness statement the duties and responsibilities as the 23 construction manager and as the competent person's 24 representative? 25 A. Yes.</p>	<p>1 A. Can you repeat your question? 2 Q. Yes. So far as the competent person's representative is 3 concerned, you would first of all be assisting 4 Mr Rooney, who was the competent person between 5 September 2013 and February 2015? 6 A. Yes. 7 Q. And then subsequently to Mr Jason Wong? 8 A. Yes. 9 Q. As we know and we have been discussing with various 10 witnesses, Mr Chan, there were at least two changes, the 11 first change and the second change -- 12 A. Agree. 13 Q. -- to the design or the detail, and my understanding is 14 that you have no personal knowledge of the first 15 change -- to the diaphragm wall, the missing U-bars -- 16 because that all happened before you took up your 17 position? 18 A. Yes, sir. 19 Q. So far as the second change is concerned, however, you 20 have quite a lot to say about it? 21 A. I agree. 22 Q. We are going to spend a little time just looking at what 23 you do say about that second change. 24 Could I ask you, in that context, please, to go to 25 paragraph 40 of your witness statement, where you deal</p>

Page 37	Page 39
<p>1 with panel EH74 and technical query 34.</p> <p>2 A. Yes.</p> <p>3 Q. As I understand it, because of the problem that was</p> <p>4 raised in the technical query, there was, as it were,</p> <p>5 two elements to the solution which you have set out at</p> <p>6 (i) and (ii) of paragraph 40.</p> <p>7 A. Yes.</p> <p>8 Q. If you like, the most significant change was that, at</p> <p>9 (i), the T1 layer of cast-in couplers and diaphragm wall</p> <p>10 concrete were trimmed down, and a through-bar was used</p> <p>11 at T1?</p> <p>12 A. Yes.</p> <p>13 Q. But the layers T3 and T5, the starter bars and couplers,</p> <p>14 were retained?</p> <p>15 A. Yes.</p> <p>16 Q. As I understand it, from paragraph 41 of your statement,</p> <p>17 that same solution was adopted for area C1-2; is that</p> <p>18 correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Going into paragraph 42 of your witness statement, and</p> <p>21 indeed paragraph 41 right through to paragraph 47 -- can</p> <p>22 I summarise those paragraphs in this way, Mr Chan.</p> <p>23 A. No problem.</p> <p>24 Q. What you do is you describe a number of issues or</p> <p>25 difficulties which were discovered or encountered during</p>	<p>1 couplers on the excavation side of the east diaphragm</p> <p>2 wall."</p> <p>3 A. Yes.</p> <p>4 Q. Therefore, in paragraph 49, you say:</p> <p>5 "Based on [those discussions that you had with</p> <p>6 Leighton], the construction management teams of both MTR</p> <p>7 and Leighton eventually ..."</p> <p>8 And this is the bit I'm most concerned with for you</p> <p>9 to explain, Mr Chan, to start with:</p> <p>10 "... the construction management teams of both MTR</p> <p>11 and Leighton eventually decided in or around August 2015</p> <p>12 to revert back to the original construction detail of</p> <p>13 having two layers of reinforcement bars with uniform</p> <p>14 spacing at the top of the east diaphragm wall for the</p> <p>15 rest of the panels in areas B and C ..."</p> <p>16 What do you mean by "reverting back to the original</p> <p>17 construction detail"? The original construction detail</p> <p>18 was starter bars and couplers, as I understand it, so</p> <p>19 I'm a bit confused by what you mean there.</p> <p>20 A. I would like to clarify that.</p> <p>21 Q. Please do.</p> <p>22 A. Back in 2013, the first approved drawing for rebar for</p> <p>23 EWL slab showed two layers of top rebar connected to</p> <p>24 coupler inside the top portion of the D-wall, two</p> <p>25 layers, uniform spacing. That is the reason why I say</p>
Page 38	Page 40
<p>1 the fixing of the rebar to the eastern D-wall.</p> <p>2 A. Yes, sir.</p> <p>3 Q. Then you refer to a number of communications that</p> <p>4 themselves refer to casting the OTE wall and the EWL</p> <p>5 slab monolithically.</p> <p>6 A. Yes.</p> <p>7 Q. The upshot of that, that is the encountering the</p> <p>8 difficulties and casting monolithically, we come to</p> <p>9 paragraph 48 of your witness statement. If you could</p> <p>10 look at that, please. You say:</p> <p>11 "In light of the need to proceed in accordance with</p> <p>12 the design intent/assumption and to overcome various</p> <p>13 problems relating to the couplers connections as noted</p> <p>14 [above], which would be time-consuming and costly,</p> <p>15 I discussed the matter with my team and the</p> <p>16 representatives of ..."</p> <p>17 Then you mention Mr Plummer, Mr Rawsthorne and</p> <p>18 Mr Gary Chow, all of whom we have heard from, but you</p> <p>19 say you can't remember in particular who you spoke to</p> <p>20 and when?</p> <p>21 A. Yes.</p> <p>22 Q. The conclusion was, following those discussions:</p> <p>23 "... it was not feasible to continue implementing</p> <p>24 the construction detail of connecting reinforcement bars</p> <p>25 of the EWL slab with the three or four layers of cast-in</p>	<p>1 "original construction detail", that back to the 2013</p> <p>2 approved shop drawings.</p> <p>3 Q. Right.</p> <p>4 A. That is what I mean by "original construction detail".</p> <p>5 It's always saying that the top rebar, two layers,</p> <p>6 uniform spacing, from EWL slab all the way to the top of</p> <p>7 the east diaphragm wall.</p> <p>8 Q. Right. So you are reverting to that, two layers,</p> <p>9 uniform spacing --</p> <p>10 A. Exactly.</p> <p>11 Q. -- but, as I understand it, not, this time, with</p> <p>12 couplers?</p> <p>13 A. Exactly.</p> <p>14 Q. So with through-bars?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. You then go on to say -- obviously, there's</p> <p>17 an exception with regard to areas C1-1 and C1-2, because</p> <p>18 effectively they've already been done, as we've seen --</p> <p>19 and you say:</p> <p>20 "... which was possible because the concrete had</p> <p>21 been cast for the east diaphragm wall by then and the</p> <p>22 tremie pipes had since been abandoned, although Atkins</p> <p>23 did not formalise any revisions to the working drawings</p> <p>24 at the time as far as I am aware."</p> <p>25 Now, did you expect Atkins to formalise revisions to</p>

Page 41	1 the working drawings at the time? 2 A. I would like to explain my view on this topic. I think 3 all staff from the end of July, around 24 July, the 4 Leighton design team issued an email to the construction 5 team of both Leighton and MTR, saying that there's a new 6 design requirement. During the construction of EWL 7 slab, D-wall and OTE, we've got to cast these three 8 portions monolithically. That is a very important new 9 design requirement, from a construction point of view, 10 we consider may cast monolithically, these three 11 elements must be cast in one go, at the same time. 12 And again, in the reply to TQ33, Leighton designer 13 reiterated that, the same new design requirement, saying 14 that the three elements -- the EWL slab, the top portion 15 of the east diaphragm wall and the OTE -- must be cast 16 monolithically. 17 When you go to other available documents, this new 18 design requirement basically comes from the permanent 19 works design report, to address the missing U-bar at the 20 D-wall; right? That means based on all this relevant 21 information, I understand that the design team is fully 22 aware that there's a new requirement, the three elements 23 must be cast monolithically, somehow they should make 24 some changes, although the changes are very minor as far 25 as I'm concerned. They can do the changes at any time	Page 43	1 position? 2 A. Can you repeat your question again? Sorry about that. 3 Q. It's no problem. Your belief/impression/understanding 4 was that in August 2015, it was unnecessary for Atkins 5 team B to produce the working drawings at that time? 6 A. No. I prefer they would update the working drawings, if 7 possible, but I mention there is no time limit to update 8 the working drawings, because it's minor changes. 9 According to my past experience in other MTR projects, 10 as long as they did that before they submit the BA14, 11 they can do it. If they do that, update working 12 drawings, better than not doing it; right? But 13 I emphasise that there's no time limit to update these 14 drawings. 15 Q. All right. And you realise, I think, that there is 16 quite a fundamental clash between your view and the view 17 of Mr Leung, from whom we have just heard, who said not 18 only should working drawings have been produced but the 19 BD should have been informed and consulted prior -- 20 before this change was implemented. That sounds to me 21 as though that's not a view you share. 22 A. I didn't share his view because I considered, from the 23 very beginning, the second change is very minor in 24 nature. But, based on my past experience in any MTR 25 project and IoE, these changes can be addressed as long
Page 42	1 they like, as long as you do the changes before the BA14 2 submission. This is based on my past experience in any 3 MTR projects. 4 Q. Can we just pause for a moment, Mr Chan. In your 5 witness statement, as I just read out, you say that 6 "although Atkins did not formalise any revisions to the 7 working drawings". 8 Now, my question was, having, as it were, had your 9 discussions with Leighton, jointly agreed, it would 10 appear, to adopt the through-bar solution, was your 11 expectation that Atkins would produce formal revised 12 working drawings? 13 A. At that time, I was under the impression that this 14 change was very minor, and as long as the contractor and 15 his design consultant team make these changes before the 16 BA14 submission for EWL slab, it will be okay. There is 17 no urgency to make these changes in writing, to me. 18 Q. All right. Let me try again. So, first of all, when 19 you say "Atkins", do you mean Atkins team A or -- 20 A. Team B. 21 Q. All right. So Leighton/Atkins? 22 A. Agree. 23 Q. But, you say, you did not believe or you were not under 24 the impression that those revised working drawings 25 needed to be produced back in August 2015? Is that your	Page 44	1 as before the BA14 submission for EWL slab while the 2 final amendment. 3 Q. And when you say -- 4 CHAIRMAN: Sorry, I just want to make sure -- you say the 5 BA14 or the B14 -- 6 A. No. Chairman, it's BA14 submission for EWL slab, which 7 we haven't done yet. 8 COMMISSIONER HANSFORD: Okay. 9 MR PENNICOTT: So this is the submission, as I understand 10 it, Mr Chan, that comes right at the end of the day -- 11 A. Exactly. 12 Q. -- when everything is completed and you make a BA14 13 submission, and a certificate of completion and so 14 forth, right at the end of the day? 15 A. What I'm trying to say is that before you submit the 16 BA14 submission for EWL slab, you've got to address all 17 the minor amendments while a final amendment submission 18 to BD, like what we did for the D-wall; right? Before 19 you submit the BA14 for D-wall, you also make a final 20 amendment for D-wall. That's the process. 21 Q. Yes. I understand that, Mr Chan. As I understand it, 22 the reason why you say this alteration, this change, was 23 minor is that the principle of the rebar fixing, that is 24 the two layers, albeit it was through-bars rather than 25 couplers, the principle was essentially the same?

Page 45	Page 47
<p>1 A. Agree. Can I elaborate my view on the second change? 2 If you look at the second change, basically, we 3 consider two parts. The first part is deletion two 4 vertical joints, one between the EWL slab and the 5 D-wall; another vertical joint is between the D-wall and 6 OTE. This change to me is a change of construction 7 sequence. It provides a better construction detail for 8 the whole connection between the slab and the wall. 9 The second point is we -- going back to the same 10 original construction detail for the rebar fixing from 11 EWL slab to the D-wall, I mean two layers of top rebar 12 at uniform spacing. In fact, these changes, we don't 13 need any design calculation or justification, because 14 this arrangement, they already approved by the BD back 15 in 2013. So, from an engineering point of view, this is 16 very simple and no change. 17 Q. I understand those two points that you make, Mr Chan, 18 but are you forgetting one rather important aspect of 19 the change: that is, that the D-wall has already been 20 built and completed, and you've got to knock down the 21 top half a metre of it in order to effect the changes? 22 A. My view on this topic is that the BA14 submission D-wall 23 is the work done by Intrafor. What I'm doing now is 24 something totally different from the Intrafor work. 25 Q. You are changing the permanent work for which approval</p>	<p>1 possible." That is the impression I had and the 2 judgment I made at that particular point. 3 Q. Right. We looked at a couple of reports earlier today 4 with Mr Leung. Those were the temporary works design 5 reports 4B2 and 4B3. Do you have knowledge of those two 6 reports, Mr Chan? 7 A. I have some knowledge now because I go through the 8 report, but I can't remember whether I read the report 9 three years ago, but recently I go through the report. 10 Q. Right, that was my question, the question I was going to 11 ask you: whether you personally saw those reports back 12 in 2015? 13 A. I can't remember, honestly. There are so many things 14 I read; right? But based on what I saw, that report 15 copied to me, I should have read it or someone had 16 consult me there's a certain element in that report. 17 But actually whether I read it, I can't remember, 18 honestly. 19 Q. Right. And the permanent works report -- those were 20 both temporary works design reports? 21 A. Yes. 22 Q. And the permanent report that you're referring to is 23 which one? 24 A. I think 59, because the permanent works design report do 25 address the missing U-bar, that is the fundamental,</p>
Page 46	Page 48
<p>1 has already or is in the course of being obtained. 2 That's the problem, isn't it, Mr Chan? 3 A. That is the opinion I make at that time, like the shear 4 key; right? We also knock down some D-wall concrete to 5 form the shear key. A very similar situation; agree, 6 sir? We have to form the shear key afterwards, right? 7 When you do the EWL slab, we also don't inform the BD 8 that we knock down the shear key. They know that. It's 9 part of the construction for the superstructure. It's 10 very common, from a construction point of view. 11 Q. Do you agree that the decision as to whether the BD 12 should be consulted and approval be obtained for the 13 second change, let's call it -- the decision rested with 14 your design management team? 15 A. I shouldn't put in that way. I didn't specifically ask 16 the design management team to make that change, because 17 I was under the impression that they knew that that 18 second change has come from the recommendation in the 19 permanent works design report. They should know it; 20 right? Because this report was prepared, a joint effort 21 between MTR and Leighton. That monolithic requirement 22 has come from that permanent works design report. I got 23 the impression that if they want to make the change, 24 they will do in due course. That's why I didn't 25 specifically ask them, "Make the change as quickly as</p>	<p>1 that's where the monolithic requirement come from, and 2 the designers from both teams should be aware of that 3 recommendation. That's why the Leighton design team 4 issued an email to the construction team of MTR, say, 5 "Look, there's a new design requirement. You got to 6 case OTE, D-wall and EWL monolithically." That's why 7 the construction team follow that requirement 8 straightaway. If you look at the record, except the 9 first bay, C1-1, we cannot follow that requirement, 10 however we got a concession from the CP and decide this 11 is a special case, it can do without monolithic 12 requirement. Start from C1-2, we cast monolithically 13 already. 14 Q. But you're referring to the permanent works design 15 report 59A3; is that right? 16 A. Yes, I think so. This all comes from that monolithic 17 recommendation. 18 Q. Let's have a quick look at that. It's at B10/7322, 19 I hope. 20 CHAIRMAN: At a time when you think it's convenient for the 21 mid-morning break. 22 MR PENNICOTT: I'll just deal with this point. 23 CHAIRMAN: When you're ready. 24 MR PENNICOTT: Thank you, sir. 25 7324 is the front sheet. Have you got the front</p>

	Page 49		Page 51
1 sheet, 7324, Mr Chan? Is this the report you're 2 referring to? 3 A. Yes, sir. 4 Q. As I understand it, as I think you've just indicated, 5 the primary purpose of this report was to provide 6 justification to the Buildings Department for the 7 approval of the certificate of completion and plans for 8 the diaphragm walls -- 9 A. Agree. 10 Q. -- as constructed by Intrafor? 11 A. Yes, sir. 12 Q. And the remedial proposal put forward here was to 13 address the change of the missing U-bars and so forth; 14 yes? 15 A. Agree. 16 Q. And there's no -- am I right in thinking, Mr Chan, 17 there's no actual specific reference to trimming down 18 the D-wall in this report, or would you say there is? 19 A. I think you have to look at the context of the last -- 20 page 6, the conclusion. Page 6, paragraph 5, 21 "Conclusion". 22 Q. Yes. So that's -- 23 A. Second-last paragraph. 24 Q. So that's page B10/7334? 25 A. Exactly, right. It's the second-last paragraph. That	1 A. Totally agree, but it's implicit term; right? In order 2 to achieve that one, very sensible thing is to remove 3 the coupler. Since you remove the concrete, the cover 4 all gone, and then you just look at through-bar, back to 5 the original construction details. 6 Q. You see, Mr Chan, I think that's where I have some 7 difficulty. I understand your first point about 8 monolithic construction -- well, you might be able to 9 imply that you've got to take out some of the D-wall in 10 order to enable you to construct monolithically, I can 11 see that -- but, on the other hand, monolithic 12 construction is not inconsistent or incompatible with 13 retaining the couplers. You can have the bars, you can 14 have the couplers in situ, you can have the starter 15 bars, and you can have it as per the approved drawings, 16 that is the couplers, and then cast it monolithically. 17 I mean, why get rid of all the couplers if they're 18 perfectly all right? 19 A. I think if you look at the other documents like TQ34 and 20 TQ33 -- right, TQ34 mentioned that they have problem of 21 misalignment of the top layer, the best solution is 22 knock off the concrete and then cast monolithically and 23 solve that problem. This kind of problem quite commonly 24 happened in other panels, and TQ33, if you look at TQ33, 25 they list out a lot of rebar fixing problems caused by		
1 is where it comes from, the monolithically. 2 Q. Right. 3 A. And from a construction point of view, when you want to 4 cast three elements monolithically, you've got to make 5 sure that the top of the diaphragm wall got to knock 6 down, otherwise you can't fulfil this requirement. 7 I just make my professional judgment at that time, 8 although they didn't specify how much to knock it down, 9 but as a construction professional that's what we did 10 on site. 11 Q. So what you're saying, as I understand it, is although 12 there's no specific reference to trimming down or 13 reducing the height of the as-built diaphragm wall, 14 implicit in what is said here, that is the monolithic 15 construction method, it would necessarily involve some 16 trimming down? 17 A. Agree, plus when you look at the other temporary work 18 design, 6.2, they also mention this idea about knock 19 down 450. In fact I think there's a lot of discussion 20 among different people at that time. That's why they 21 won't have the 6.2 in the report. All these statements 22 are compatible. 23 Q. Right. But the other thing it doesn't mention 24 specifically in this report is the use of through-bars, 25 does it?	1 the cast in situ coupler. 2 When you look at the monolithic requirement and the 3 difficulty facing the site team, the sensible thing is 4 to knock all down this together. That's why come to 5 that conclusion, based on TQ33 and TQ34, and also the 6 new design requirements, all these come together, not 7 one individual instance. That's why we develop that 8 construction detail, C1-1, only one panel, C1-2, all 9 panels, and the remaining panel, knock off everything. 10 It's gradual progression, to meet all the design 11 requirements to solve all the site problems together, at 12 one go. 13 Q. I know you've said you can't recall whether you saw this 14 report at the time -- 15 A. Which report? 16 Q. The one we were just looking at. Sorry, did you -- 17 perhaps I should ask you the question about this one -- 18 did you see this report? 19 A. 4B3? 20 Q. No, the one we've just been looking at, 59, PWD; did you 21 see this report at the time? 22 A. I can't remember whether I see that one. But I was 23 copied this one, I assume that I read it. Plus, when 24 you look at other emails, I just tell you that the 25 requirement all come from this report, fundamental.		

Page 53	Page 55
<p>1 Very, very important. The design team aware that.</p> <p>2 Q. But, Mr Chan, the problem is you've given us your</p> <p>3 explanation this morning, and we can see what you say</p> <p>4 about what is implicit in that particular paragraph --</p> <p>5 why wasn't it spelt out in clear, unequivocal terms to</p> <p>6 the Buildings Department that, "By the way, we're going</p> <p>7 to take off the top half a metre of this diaphragm wall,</p> <p>8 we are going to take away the couplers, we are going to</p> <p>9 put in through-bars"; why wasn't that absolutely</p> <p>10 clearly, unequivocally, stated to the Buildings</p> <p>11 Department?</p> <p>12 A. Again, I mention to you I considered at that time, the</p> <p>13 material time, this is very minor changes, based on my</p> <p>14 past experience in MTR projects. These changes, as long</p> <p>15 as we address that before we submit the BA14 for EWL,</p> <p>16 that should be okay. There's no time limit that you</p> <p>17 must make all these changes. There are many other</p> <p>18 changes, we did the same thing, practical, because at</p> <p>19 that time there are so many more important issues to be</p> <p>20 addressed by the design team, like underpinning, ground</p> <p>21 settlement, all this. In real life, always have</p> <p>22 everything agreed, but in practice it's not practical to</p> <p>23 have everything agreed with BD before we proceed</p> <p>24 on site, especially for any minor changes.</p> <p>25 Q. But the BD might say to you, Mr Chan, well, the reason</p>	<p>1 minor changes, that can be addressed later on. We don't</p> <p>2 want to give too much on the literal meaning of changes.</p> <p>3 We are practical. We've got to address the site issues</p> <p>4 and proceed as quickly as possible, not to affect the</p> <p>5 progress and quality of the works. That's my major</p> <p>6 concern. If you don't make these changes, the quality</p> <p>7 of the work will be compromised because too many coupler</p> <p>8 connections is no good for the construction. I think</p> <p>9 I've got to make a professional judgment at that time.</p> <p>10 As I mentioned earlier, that changes, based on my</p> <p>11 past experience, not necessary to make those changes --</p> <p>12 there's no time limit, you've got to make the changes</p> <p>13 before you proceed. As long as you can make the changes</p> <p>14 while the final amendment submission, before you submit</p> <p>15 the BA14 submission, that should be okay. That is the</p> <p>16 judgment we make. I have to reiterate my view on that</p> <p>17 one. Although the BD may have a different view -- sorry</p> <p>18 about that -- it's not my intention to upset. I just</p> <p>19 want to get the job done, in good quality and within</p> <p>20 time limit. That is my own purpose.</p> <p>21 MR PENNICOTT: Understood. I have a few more questions</p> <p>22 about this area and from your statements. Perhaps we</p> <p>23 will come back to them in 15 minutes.</p> <p>24 CHAIRMAN: Yes, certainly. 15 minutes.</p> <p>25 MR PENNICOTT: Thank you.</p>
Page 54	Page 56
<p>1 you didn't spell out what you had in mind was that, on</p> <p>2 the one hand, you were applying for the certificate of</p> <p>3 completion for the diaphragm walls as completed by</p> <p>4 Intrafor, but on the other hand you'd be telling them</p> <p>5 you were about to knock down the top half a metre of the</p> <p>6 wall, and those two things were completely incompatible.</p> <p>7 A. I do not really share your view on that particular</p> <p>8 topic. BA14 for D-wall reflects the work done by</p> <p>9 Intrafor independently. Cannot mix up with the</p> <p>10 subsequent changes. As far as I'm concerned, it's just</p> <p>11 the BD submission process or strategy. Like I mentioned</p> <p>12 earlier, the shear key, we also knock it down, because</p> <p>13 it's shown in the drawings; right?</p> <p>14 Q. But the problem here, Mr Chan, is that these two things</p> <p>15 were happening at exactly the same time. You were</p> <p>16 submitting on 30 July this report, and then within</p> <p>17 days -- in fact you know this is going to happen</p> <p>18 already -- you're discussing with Leighton the</p> <p>19 demolition of the top half-metre of the wall and the</p> <p>20 changing of the detail of the rebar. It's going on at</p> <p>21 the same time. And that really is a fundamental</p> <p>22 difficulty that both you and Leighton were facing</p> <p>23 vis-a-vis the Buildings Department at the time. That's</p> <p>24 right, isn't it?</p> <p>25 A. Again, I mention that as long as we can consider it's</p>	<p>1 (11.47 am)</p> <p>2 (A short adjournment)</p> <p>3 (12.05 pm)</p> <p>4 MR PENNICOTT: Mr Chan, a few more questions from me.</p> <p>5 Can I ask you, please, to look at paragraph 51 of</p> <p>6 your witness statement, a paragraph that we looked at</p> <p>7 with Mr Leung earlier. It's on page B1/280.</p> <p>8 You say there:</p> <p>9 "Leighton proceeded with the 'through-bar method' in</p> <p>10 constructing the EWL slab in the rest of areas B and C</p> <p>11 starting with area C1-3 on 29 August 2015."</p> <p>12 Just pausing there, Mr Chan, I think -- have you</p> <p>13 been involved in the preparation of the as-built</p> <p>14 material, the agreed statement between Leighton and MTR,</p> <p>15 that's been produced recently? Have you been involved</p> <p>16 in that process or not?</p> <p>17 A. Yes. I assist in certain aspect.</p> <p>18 Q. Right. I think, looking at that, without going into any</p> <p>19 detail with you, you would accept, I think, that in</p> <p>20 certain bays or panels in area B, in fact the coupler</p> <p>21 solution or the coupler design was retained?</p> <p>22 A. Yes.</p> <p>23 Q. So it wasn't all of the areas in area B; it was done</p> <p>24 much more, presumably, what, on an as-necessary basis;</p> <p>25 is that right?</p>

<p style="text-align: right;">Page 57</p> <p>1 A. Agree, sir.</p> <p>2 Q. So, as you worked your way along the diaphragm wall, in</p> <p>3 the different areas of the different bays, a decision</p> <p>4 would be made whether to run with the through-bars or to</p> <p>5 retain, in certain areas, the coupler connections?</p> <p>6 A. Agree.</p> <p>7 Q. Would that be done by a process of discussion and</p> <p>8 agreement between yourselves, that's the MTRC</p> <p>9 construction team, and the Leighton construction team?</p> <p>10 A. I would put it that way, because the decision to go for</p> <p>11 the through-bar had been established. Those minor site</p> <p>12 details should be resolved at a working level between my</p> <p>13 SConE and their construction managers, as it requires,</p> <p>14 because there are so many things happening every day so</p> <p>15 those are minor. As long as they follow the same</p> <p>16 principle, I will delegate that authority to them to</p> <p>17 work out the details.</p> <p>18 Q. Let me follow up that a little bit. So, when you</p> <p>19 started to do area B, which I think was sort of at the</p> <p>20 end of 2015/going into 2016 --</p> <p>21 A. Agree.</p> <p>22 Q. -- and you encountered a particular area where we now</p> <p>23 know or we now believe that couplers were retained --</p> <p>24 A. Agree, because those areas are basically to cater for</p> <p>25 the underpinning support.</p>	<p style="text-align: right;">Page 59</p> <p>1 work together. Then you know exactly the extent of the</p> <p>2 area affected by -- anyway, shown in the shop drawing.</p> <p>3 So I think the site team would use the shop drawing for</p> <p>4 underpinning work plus the relevant record photo will</p> <p>5 record all the changes.</p> <p>6 COMMISSIONER HANSFORD: Okay. I haven't quite worked out</p> <p>7 where the underpinning was required yet, but that is</p> <p>8 something I can do offline. Thank you.</p> <p>9 A. In fact all those areas which the couplers are still</p> <p>10 there, mainly caused by the underpinning works, that we</p> <p>11 checked on site on our existing records they are</p> <p>12 compatible.</p> <p>13 COMMISSIONER HANSFORD: Thank you very much. That's</p> <p>14 helpful.</p> <p>15 MR PENNICOTT: When you carried out the process of looking</p> <p>16 at the photographs, and so forth, which I was going to</p> <p>17 come to a little bit later, what about the Fang Sheung</p> <p>18 drawings that we looked at with some of the Fang Sheung</p> <p>19 witnesses? Did you look at or have access to and look</p> <p>20 at those drawings?</p> <p>21 A. Fang Sheung, the bending schedules. Normally in</p> <p>22 Hong Kong, when the steel fixers start to cut and bend</p> <p>23 the steel, they have their foremen prepare the bending</p> <p>24 schedule, although it's not required under the contract</p> <p>25 submitted to us, but this is general good practice.</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. Right.</p> <p>2 A. That is quite a logical decision to leave that one,</p> <p>3 because we cannot remove the coupler otherwise the</p> <p>4 underpinning work will be affected.</p> <p>5 Q. I'm not making any criticism, all I'm suggesting is that</p> <p>6 as you worked your way along different areas, different</p> <p>7 bays, decisions, practical decisions, had to be made as</p> <p>8 the matter developed?</p> <p>9 A. Totally agree.</p> <p>10 COMMISSIONER HANSFORD: Sorry, Mr Chan, just to understand</p> <p>11 that a bit further. When those decisions were made, was</p> <p>12 it recorded which sections had through-bars and which</p> <p>13 sections the couplers were retained?</p> <p>14 A. According to the available records, those changes are</p> <p>15 not put in writing but we use the record photos to</p> <p>16 support what are the changes. That's why we can produce</p> <p>17 the changes now, based on the record -- we get a lot of</p> <p>18 photos. The record photo is more reliable than</p> <p>19 sketches.</p> <p>20 COMMISSIONER HANSFORD: So the only way you could -- the</p> <p>21 only records you had of which sections this detail had</p> <p>22 been changed and which sections it had not been changed,</p> <p>23 the only records were photographs; is that right?</p> <p>24 A. Not necessarily, plus the underpinning shop drawing,</p> <p>25 that photo and the shop drawing for underpinning can</p>	<p style="text-align: right;">Page 60</p> <p>1 They will base on the relevant working drawings, the RC</p> <p>2 drawings, and other RFI, underpinning work, to make</p> <p>3 their first planning, I would put it that way. This may</p> <p>4 not be exactly what they put on site. Normally they got</p> <p>5 first planning, they roughly cut 80 or 90 per cent of</p> <p>6 the rebar, based on the major dimensions, then go to</p> <p>7 site, they do another on site amendment, and bending</p> <p>8 schedule Leighton produced to MTR sometime in July.</p> <p>9 So that's another objective evidence to support what</p> <p>10 had been built on site.</p> <p>11 Q. So you did look at those bending schedules?</p> <p>12 A. Yes.</p> <p>13 Q. More recently?</p> <p>14 A. Recently, yes. And it makes sense, all these bending</p> <p>15 schedules are compatible with other information.</p> <p>16 Q. Right.</p> <p>17 A. Like monolithically record -- there are all, like</p> <p>18 a puzzle, all matched together.</p> <p>19 Q. All right. Understood.</p> <p>20 Back to your witness statement, paragraph 51 -- you</p> <p>21 say:</p> <p>22 The construction management team was under the</p> <p>23 impression that the design management team would update</p> <p>24 the working drawings of the EWL slab reinforcement and</p> <p>25 thereafter obtain approval from BD."</p>

Page 61	Page 63
<p>1 Now, we know that didn't happen; there were no 2 updated working drawings, correct? 3 A. Agree. 4 Q. And I assume, given the stance that you take, that is 5 that all this could be done at the stage of the BA14 6 submission, you didn't think it was necessary, back in 7 2015, to chase the design team for revised working 8 drawings? 9 A. Agree. That is the judgment I made at that time, and 10 based on my past experience in other MTR projects. As 11 long as it's a minor change, we can do that. 12 Q. Okay. Anyway -- 13 CHAIRMAN: Could I just ask here -- I confess this does not 14 come from myself but in discussing progress of the 15 Inquiry, Prof Hansford has mentioned to me an issue of 16 the relevant parties in any construction project 17 liaising with each other and communicating. Looking 18 back now, what was your view as to the daily 19 communications between the various parties so that you 20 could work together to make sure that there were no 21 misunderstandings? Because clearly here there was one, 22 I think. 23 A. Chairman, I agree with you. There's always room for 24 improvement in what we did every day. With hindsight, 25 you have better communication, you sit down and put some</p>	<p>1 project. They are bound to have something that may not 2 be perfect, they are bound to have some designers -- 3 there are too many people involved in these big 4 projects, right, so fast track? You can't expect 5 everything we did is perfect and no misunderstanding. 6 That to me would be a surprise -- if everything we did 7 was perfect, it would be a surprise to me. That's why 8 we kept a check and balance system. That's why we know 9 if any misunderstanding, we can address with final 10 amendment, as long as it's minor changes at that time. 11 Q. The reason I'm asking that question, about Atkins in 12 particular, Mr Chan, is that in a passage that we read 13 earlier, in paragraph 49 of your statement, you say 14 Atkins did not formalise any revisions to the working 15 drawings, and then down at paragraph 51 you say 16 the design management team, that's of MTR, would update 17 the working drawings of EWL slab, and I'm just a little 18 unclear as to what you think -- forget about the time -- 19 what the process ought to have been. Was it Atkins B 20 that should have produced revised working drawings, 21 given them to either the MTRC design management team or 22 Atkins A, to produce, as it were, the final version of 23 the working drawings? How did you see the process? 24 A. In a perfect world, team B of Atkins should submit 25 updated working drawings to reflect these changes as</p>
Page 62	Page 64
<p>1 schedule, then we don't have this problem. But in real 2 life things are not perfect, and those misunderstandings 3 quite often happen everywhere; right? But as long as 4 this misunderstanding doesn't lead to any major problem, 5 that should be addressed later on. We are in a big 6 construction project, we have several hundreds of people 7 working, there are so many things happening at the same 8 time. So some minor misunderstanding to me is 9 unavoidable, as long as this misunderstanding can be 10 addressed later on. I think we are in a big 11 construction site, under a lot of pressure, we don't 12 expect that we do everything perfectly. We always have 13 room for improvement in what we did every day. 14 CHAIRMAN: Okay, good. Thank you. 15 MR PENNICOTT: Just pursuing that point a bit further, since 16 the Chairman has asked the question, perhaps I can ask 17 a similar but perhaps more specific question. How did 18 you, Mr Chan, view the liaison that ought to have taken 19 place between Atkins A and Atkins B? Did you have any 20 view about that at the time? 21 A. The communication system that we adopt on this 22 particular project serves most of the function, although 23 there is always room for improvement to improve the 24 communication, in hindsight; right? Bear in mind we are 25 talking about a very fast-track, very complicated</p>	<p>1 soon as possible, in a timely manner. But, however, in 2 real life, they may be too busy and forget to update 3 these minor changes on time; right? There are so many 4 things happening. That, to me, these changes are very 5 minor in nature compared with other important issues 6 relating to underpinning works, to attaching of the 7 railway line of Hung Hom Station and ground settlement. 8 There are many more changes, more pressing, more 9 complicated, more urgent than these minor changes. That 10 may be the reason why team B, Leighton/Atkins, did not 11 update the drawings in a timely manner. That's the only 12 thing I can think of. 13 But we have a mechanism to address this work, as 14 long as we sort it out in the BA14 submission, while the 15 final amendment. We still have a mechanism to address 16 all these imperfections we did on site. 17 Q. Okay. 18 A. So frankly speaking, please understand the difficulty 19 facing the construction team at that time. We are not 20 superhuman beings. We are bound to make some mistakes. 21 As long as the mistakes can be addressed and rectified 22 later on, that we should be more considerate. 23 CHAIRMAN: Could I just -- for me, where I have a little 24 difficulty in understanding matters as to communication 25 is, for example, the communication from Mr Leung of the</p>



Page 65	Page 67
<p>1 design team, which you say that you read as being 2 an agreement to proceed or an instruction to proceed to 3 a monolithic pour -- I think it's in one of the 4 paragraphs in your statement; okay? 5 A. Yes. 6 CHAIRMAN: Now, Mr Leung didn't -- from my understanding of 7 his evidence, he didn't see that as being an instruction 8 to go ahead. He saw it as something I think a little 9 more ambiguous, a discussion point. You saw it as 10 an instruction to go ahead. 11 Now, often simple confirmations in simple English 12 would perhaps avoid that, eg, you know, "Do I take this 13 as a confirmation to proceed to this?" "No." Do you 14 see what I mean? It seems that sometimes, because you 15 are busy, that simple English confirmation of what's 16 happening can avoid proceeding to expensive issues 17 wrongfully, but also, often more importantly, can avoid 18 proceeding to dangerous issues. 19 A. I agree with you, Chairman. There's always room for 20 improvement, to improve our communication. But 21 I emphasise that this misunderstanding doesn't lead to 22 any major problem on site. We still got time based on 23 the current arrangement to address this misperfection; 24 right? It's not the end of the day, not the end of the 25 world. We still can manage to address this imperfection</p>	<p>1 A. I totally agree, Chairman. My practice, I will note to 2 my colleague -- I don't like to discuss issues by email. 3 That's why most of the emails are not copied to me. 4 When I have a problem, I normally talk to my 5 counterpart, agree what we agree and put it in very 6 simple English. This is my style. 7 But in this particular instance, you see the emails 8 are not copied to me. 9 CHAIRMAN: No, they weren't. 10 A. If it is copied to me, I probably adopt my style: talk 11 to your counterpart and say, "Look, that's what it 12 means, put it in very simple, 'Agree, further to our 13 discussion, I wish to record the salient points', blah, 14 blah, blah; that would solve all this problem. 15 CHAIRMAN: Yes. 16 A. But, as I mentioned, I totally agree with your 17 suggestion, that I will recommend my team in future to 18 follow your recommendation, agree first and put 19 something in writing, rather than use email for 20 discussion purpose. That's what happened, leading to 21 all this misunderstanding, unfortunately; I totally 22 agree. 23 CHAIRMAN: Thank you very much. Sorry, while I'm at it, and 24 I know I'm moving slightly backwards but it does help me 25 because I might forget it otherwise -- I notice at the</p>
Page 66	Page 68
<p>1 or misunderstanding with the current system. 2 CHAIRMAN: Yes, I'm not talking about this particular issue. 3 I appreciate the point you are making here. But 4 sometimes that lack of communication, simply by plain 5 English "Confirm and agree", it seems to me can perhaps 6 lead to dangerous outcomes, as opposed to merely 7 procedural difficulties with the Buildings Department or 8 some other arm of government. 9 A. Chairman, I totally agree with what you said. With 10 hindsight, next time when you do a similar thing, I can 11 probably improve that, make sure simple English, a note 12 for confirmation. Make sure you have a discussion 13 rather than communication by email; direct discussion 14 face to face, that may be helpful. 15 CHAIRMAN: I suppose it's easy for me. I'm sitting here -- 16 so many, many years ago, as a judge, I discovered that 17 one of the great benefits you have is ignorance, because 18 you are able then to turn to counsel and say, "Explain 19 this to me in simple terms", and if they don't, then 20 it's their fault, not yours, because counsel are paid 21 good money to explain in clear, comprehensive terms 22 difficult concepts. And so it seems often, whatever 23 profession you are in, even engineering, sometimes you 24 can get lost in the science of your own language. Do 25 you see the point I make?</p>	<p>1 beginning of your statement you talk about NCRs. 2 A. Yes. 3 CHAIRMAN: And you talk about NCRs in terms of you will only 4 issue them if they repeat or if they are serious, and 5 I just wonder, again, there's an issue, as Prof Hansford 6 and I have followed this forward, that it interests us 7 that NCRs are non-conformance reports, and that 8 sometimes waiting until it's really serious, even though 9 there's been non-conformance before, may not perhaps be 10 the wisest way of proceeding. 11 So, in this instance, for example, with the cutting 12 of the rebars, the engineer said that there had been two 13 earlier incidents but they just hadn't been that big. 14 So those had been tolerated, even though that's not bad 15 workmanship, that's -- you can't cut a rebar and pretend 16 to stick it in -- of course it's bad workmanship, but 17 it's more than that; it's intended incorrect 18 workmanship. And maybe if there had been earlier NCRs, 19 that might have stopped the matter. 20 A. Look at that, the incident, in that way; right? In MTR, 21 NCR, we are not going to issue NCR that easily. It's 22 normally a last resort. Like the PIMs, the guideline 23 says if any minor defect discovered in a routine 24 inspection, it does not justify the issue of NCR. 25 CHAIRMAN: I appreciate that, but I think if you're talking</p>

Page 69	Page 71
<p>1 about what clearly is some form of intended malpractice, 2 even if it just happens once, it means somebody has 3 said, "Okay, I will make sure nobody is looking and 4 I will now cut the end off -- the threads off this bar 5 and I will stick it in." He does it once, it's found, 6 everybody says, "Redo it properly", and you do that. 7 But that's clearly a non-conformance. I just wonder if 8 that whole process might sometimes be done where there 9 are issues that could have serious ramifications or 10 where they indicate an intention to avoid proper 11 construction process -- could be done and thereby 12 prevent greater damage later, and Prof Hansford, in our 13 discussion, spoke of dangerous issues, for example. 14 So an NCR, where there's been a near miss, may 15 prevent an actual accident at a later stage. I know we 16 are off the subject slightly, and please accept my 17 apologies. 18 A. I understand your concern, but look at the available 19 records. My inspector discovered these minor defects, 20 like according to the records there are five instances 21 discovered by my inspector. The first instance, he 22 discovered less than five couplers had been spotted 23 during the routine inspection and had been rectified on 24 the same day under MTR supervision. The same instance, 25 similar things. But if you look at that, every bay we</p>	<p>1 out of several hundreds and they happen maybe once 2 a month in different locations. You've got to accept 3 the Hong Kong practice. A lot of steel fixers, they 4 don't have a lot of sense of belonging of what they did. 5 They just get paid daily. They get a job done and go 6 away. That's why we need full-time supervision on site, 7 to prevent all this substandard workmanship carried out 8 by unconscious steel fixers. 9 I don't believe that there's a systematic or 10 widespread cheating on site, because otherwise we see 10 11 or 20 in a single location and that happening very 12 often. 13 CHAIRMAN: No, I'm not talking here about conspiracies or 14 some form of "Let's try and do wholesale deceit." I'm 15 talking about the sort of things you're talking about, 16 but even though you're poorly paid -- I'm not saying 17 poorly paid -- even though you're on a daily wage as 18 opposed to a monthly salary, it's a tough job; no doubt 19 there's lots of temptations, at the end of a day, your 20 muscles are weary, to perhaps try to cut corners. But 21 there would not be mortal sins, would there not, one of 22 them being don't cut the threads off the end of rebars? 23 A. Based on the recent incident, I'm sure MTR has 24 strengthened their supervision. Now we have video or 25 100 per cent supervision of coupler installation to</p>
<p style="text-align: right;">Page 70</p> <p>1 have hundreds of couplers, we are talking about less 2 than 1 per cent. In Hong Kong you are aware that many 3 steel fixers are daily paid. The quality of the steel 4 fixers varies a lot. That's the reason why we have 5 these minor defects happen quite a lot. I'm pretty sure 6 that if you go to other construction sites in Hong Kong, 7 this kind of defect about couplers improperly installed 8 is not uncommon. 9 Then we've got a checking system in Hong Kong that 10 the inspector will go there continuously regularly, 11 anything they discover, they rectify at the same time. 12 Then on the third instance, because the number of 13 discoveries is five number, that's why they elevate that 14 one more step. They do it step by step; right? Elevate 15 to the counterpart by email saying that, "You got to do 16 something", that's why Leighton issued an NCR. After 17 that, there may be two more minor incidents around the 18 same time, but after that no more. That means probably 19 the message passed to the sub-contractor or the relevant 20 person you that cannot do any more non-conforming work 21 in coupler installation. 22 I think my inspector still making a proper judgment 23 in carrying out due diligence. Discover some minor 24 defect about coupler installation in Hong Kong, it's not 25 surprising to me. You are talking one to three number</p>	<p style="text-align: right;">Page 72</p> <p>1 prevent similar things happen. In hindsight we don't 2 know that's causing so much public concern. Once we 3 know the public is so much concerned about this issue, 4 MTR stepped up the supervision on coupler installation 5 on site for all existing projects now. 6 CHAIRMAN: I think the concern is that the public aren't 7 structural engineers. One in a few thousand maybe, but 8 otherwise not, so they see this kind of thing and it 9 understandably raises concern. 10 I don't want to go too deeply into it, but I see 11 what you mean, that the NCR, would it be correct as far 12 as you were concerned, was something to indicate real 13 concern? If you can deal with it earlier, before 14 there's any real concern, on site, quickly, then do so. 15 If it's persisting then the NCR comes in almost like 16 it's a yellow card saying, "You get one more and you're 17 off for the entire project"? 18 A. Exactly. I do agree with you. That's why we issue -- 19 CHAIRMAN: That's how you saw them? 20 A. Yes. That's why Leighton issued an NCR in the third 21 instance. 22 CHAIRMAN: Thank you. I'm sorry I've digressed sideways, 23 Mr Pennicott. My apologies. 24 COMMISSIONER HANSFORD: There was a very small point a 25 little earlier on. You talked about you might get</p>

Page 73	Page 75
<p>1 "unconscious steel fixers". I assume you mean 2 "unconscientious" or something like that? 3 A. Yes. Sorry about that. English is not my mother 4 language. 5 COMMISSIONER HANSFORD: I assume that was the case. I just 6 want to get the record straight. 7 A. Yes. Sorry about that. 8 CHAIRMAN: We can return now to questions. 9 MR PENNICOTT: I will just actually ask the couple of 10 questions I had on NCRs, since we are here. We know -- 11 as the Chairman has pointed out, Mr Chan, you deal 12 briefly with NCR no. 157 at the beginning of your 13 statement, in paragraphs 24 and 25. 14 A. Yes. 15 Q. And you were copied in, I think, on the email and the 16 NCR. 17 The situation with regard to NCR157 was that MTR, 18 Mr Kobe Wong -- 19 A. Yes. 20 Q. -- sent the email to Leighton with the photographs. 21 There was no instruction by -- first of all, MTR itself 22 did not feel it necessary or appropriate to issue an NCR 23 to Leighton for that particular incident. That's 24 correct, is it not? 25 A. Yes, because according to the guideline in the relevant</p>	<p>1 Q. So MTR receive a copy of Leighton's NCR to Fang Sheung. 2 A. Yes. 3 Q. What does MTR actually do about it? I mean, does it 4 just put it in a file? Does it follow it up? Does it 5 monitor what's happening? 6 A. No. 7 Q. What's the position? What does MTR do? 8 A. I will tell you my recollection; right? When I read 9 this NCR to end of December, after I come back from my 10 three weeks' holiday in December, I return to work on 11 28 December, when I received -- read this NCR, 12 immediately I talked to my colleague who had knowledge 13 about the history and I asked him, "What happened? Have 14 you resolved it?" Then I the reply from my colleague is 15 saying that the issue had been resolved satisfactorily 16 on the same day. Then I talked to -- second action 17 I did, I talked to my counterpart from Leighton who knew 18 the history, most likely Gary or Ian, because that's the 19 name shown in the NCR. 20 Q. So Gary Chow -- 21 A. I asked Gary or Ian, because these are the two names 22 right? I won't talk to everyone because too many 23 people, too many things happened. So I talked to one of 24 them and he gave me a similar reply. 25 After that, I also reminded all my team members,</p>
Page 74	Page 76
<p>1 PIMS, it always prefers to ask the contractor to issue 2 their own NCR first. If it doesn't work, then we 3 issue NCR to Leighton. That is the recommendation of 4 guidelines stated in the PIMS. 5 Q. Although Mr Wong's email itself didn't instruct or 6 request Leighton to issue an NCR, he just told them to 7 make sure their sub-contractor didn't do it again. So 8 it was Leighton's decision to issue the NCR? 9 A. I think there's a kind of mutual understanding during 10 the construction; right? If there's something 11 non-conforming that is significant, he always prefer 12 Leighton to do the job first. If Leighton cannot 13 resolve the problem, but agent ends up to their 14 sub-contractor, MTR will step in and help. That is the 15 process, we are working on that. 16 Q. Understood. 17 A. And then to avoid too many administrative matters. 18 Q. But MTR require any contractor's NCR that's issued to 19 a sub-contractor to be copied to MTR, understandably, 20 and that's what happened? 21 A. Yes. This is good practice. Because Leighton have to 22 respond to our concern saying, "Thank you for your 23 reminder, I did what I have to do, to keep you informed 24 about what happened on site." I think this is a good 25 practice.</p>	<p>1 "Please let me know directly if similar incidents recur 2 on site." To put the record straight, the two previous 3 incidents, nobody informed me, for some reason. Perhaps 4 they think it's so minor thing, there's so many minor 5 defects every day, they can't report everything to me, 6 otherwise they are not doing their job. They have to 7 make their own judgment, like I make my own judgment 8 which thing I've got to report to my CP or to my senior, 9 I can't report everything to them otherwise I'm not 10 doing my job. That's the three actions I take. If 11 anyone reports to me, I definitely take a yellow card as 12 suggested by the Chairman, yellow card, then red card, 13 off. This is my style. I have must take this action. 14 No more tolerance. Three times is the limit. 15 Q. You've explained quite clearly what further action you 16 took when -- 17 A. Yes. 18 Q. -- you came to see the NCR, but what I was driving at 19 was a rather more general question which you may or may 20 not know the answer to, Mr Chan, which is does MTR have 21 a process by which it follows up the contractor's NCRs 22 and monitors that they have all been closed out and 23 dealt with satisfactorily? I know this particular one 24 was virtually dealt with there and then, on the spot, as 25 it were, but what is the general process?</p>

Page 77	Page 79
<p>1 A. General process, for NCRs issued by MTR to Leighton, 2 I will regularly review that on a monthly basis on the 3 progress report, progress meeting. For Leighton's own 4 NCRs, I most likely rely on its own internal process, 5 but my inspectors involved in this kind of NCR will 6 definitely make sure it's closed off, although may not 7 be a piece of paper, they must have a RISC form to 8 record that the matters stated in Leighton's NCR had 9 been closed off on time. If they are not closed off, 10 they will definitely elevate to his senior or me during 11 the weekly meetings with them.</p> <p>12 Q. Ultimately, when this came to be closed out, I think 13 Leighton asked you for some sort of confirmation.</p> <p>14 A. Yes, they confirmed that, because that NCR had been 15 closed off on the same day, according to the answer from 16 my colleague to me, had been closed off on the same day 17 under MTR supervision.</p> <p>18 Q. The documents may have been completed later -- 19 A. Yes, maybe.</p> <p>20 Q. -- but the actual physical work was done on the same 21 day?</p> <p>22 A. I would like to explain to everyone this project is very 23 complicated, probably the most complicated project on 24 NSL-EWL line. So many things happened. The site team 25 may not follow 100 per cent the documentation but the</p>	<p>1 A. My view on this topic is that it's always better to 2 resolve all these changes as soon as possible, but it's 3 not the end of the day if you didn't do it. Let's say 4 I just should have; right? It's always good practice, 5 housekeeping as soon as possible, but you somehow miss 6 out one minor thing, it's not the end of the world, 7 because we've still got a check and balance system to 8 address this missing, at the end of the day.</p> <p>9 Q. But we know what's happened, Mr Chan, is that because of 10 the absence of the issue of working drawings at the time 11 that this change was implemented back in August 2015, 12 you now, together with all your colleagues, have to 13 resort to looking at photographs to try to establish the 14 as-built position. It's not very satisfactory, is it?</p> <p>15 A. I totally agree. With hindsight, always record all 16 these changes on the spot, but as I mentioned to you, 17 during the course of construction, especially in that 18 August 2015, there are so many things that happened at 19 the same time need our attention more urgently than 20 that. Think about it, this is not in a factory, it's 21 a construction site, it's so difficult, it's 22 a brownfield site, that means we are working adjacent to 23 a live railway station. The more pressing problems for 24 the construction team to address is to prevent any 25 disruption to the railway station; public safety,</p>
Page 78	Page 80
<p>1 main thing is the work had been done, whether recorded 2 properly on time, that may be secondary. With 3 hindsight, you are mindful to look at every procedure. 4 It's bound to have some imperfection, but the key thing 5 is whether the job was done properly under the 6 supervision of the responsible party. That is the key 7 point.</p> <p>8 Q. All right.</p> <p>9 Back to the second change, briefly. If you would be 10 good enough, please, to go back to paragraph 52 of your 11 witness statement and I'll try to summarise where we had 12 reached or where you had reached in your evidence. You 13 say there:</p> <p>14 "Leighton/Atkins team B should have submitted 15 proposal for change in permanent works design to the 16 design management team [that is the MTRC design 17 management team] and Atkins team A for their review and 18 approval, who would then issue working drawings for 19 construction to Leighton. On this occasion, they failed 20 to do so."</p> <p>21 Now, again, I don't want to split hairs with you, 22 Mr Chan, but you do say there that working drawings 23 should be issued for construction, not at the end of the 24 day when the BA14 is being submitted. Do you see the 25 distinction?</p>	<p>1 a major concern. So two major concerns that draw our 2 attention to all these more important, pressing 3 problems.</p> <p>4 This updated drawing, they make other drawings 5 update, because they update at the same time, they are 6 not in our top priority list, put it that way. We most 7 consider about the pressures facing the construction 8 team. We've got to prioritise what we have to do every 9 day.</p> <p>10 Q. All right.</p> <p>11 A. Sorry about that, but please consider it; right? The 12 construction team is under a lot of pressure at that 13 time. There's so many things happening more important 14 this thing, as far as I'm concerned.</p> <p>15 CHAIRMAN: I think you can accept from the Commission, 16 Mr Chan -- one of the reasons why I sit with 17 Prof Hansford is because he has day-to-day experience, 18 over many years, of actually working on these types of 19 projects, and I wouldn't like you to think that we don't 20 have empathy for the very real challenges that you face 21 on a day-to-day basis. We do, and certainly neither of 22 us will try to impose entirely unrealistic expectations 23 on you or those who have worked with you.</p> <p>24 A. Chairman, I totally have confidence on your impartial 25 and your experience. Don't worry about that.</p>

Page 81	Page 83
<p>1 CHAIRMAN: No, that's not the issue. The issue is purely 2 one of -- I think you can take it that we have empathy. 3 We accept that to get a job done in these circumstances 4 requires good, practical leadership, and we have to take 5 that into account. 6 That's all I wish to say. Thank you. 7 A. Thank you very much, Chairman, for your statement on 8 this topic. I appreciate that. Professor too. 9 MR PENNICOTT: Good. Can I just explore one further 10 possibly related topic with you, Mr Chan. I don't know 11 whether I need to show you any documents -- possibly 12 I do, maybe I don't; let's just try. Mr Gillard from 13 Intrafor -- I don't know whether you know him? 14 A. Recently -- I can remember briefly now, because three 15 years ago, to be honest, my memory is not that good, but 16 I should know him; right? 17 Q. He gave some evidence, what seems a lifetime ago now but 18 some weeks ago, about some particular panels: 104, 105, 19 I think, 106, 108 and 109. I may not have got the 20 numbers exactly right but we can -- 21 A. I know what you are talking about. I read the 22 transcript of -- no problem on that. 23 Q. So five particular panels where Intrafor was instructed 24 to reduce the level of concrete at the diaphragm wall in 25 relation to those panels, or at least not take it up to</p>	<p>1 look at the drawing in a moment -- is was that 2 instruction in any way related to the through-bar 3 ultimately used solution, or was it completely 4 unconnected? 5 A. I don't think they are 100 per cent the same, because 6 those email chains, if you look at that, it's not clear, 7 just saying there is an intention to knock off concrete 8 at certain panels due to missing U-bar or whatever; 9 right? I don't know the exact technical reason, but 10 there's a discussion that there's an intention to reduce 11 the concrete level because they will knock off some 12 concrete at that time, and that concrete is 1.5 metres, 13 that shouldn't relate to the through-bar. Through-bar 14 only 400 to 500; right? It may not be the same. 15 But eventually they didn't adopt this scheme, 16 I guess. They had no more discussion on that. They 17 just say that, "In order to avoid extensive abortive 18 work, please don't cast the concrete too high because we 19 can do it afterwards." That is a sensible thing to me; 20 right? 21 Q. Okay. But, as I understand it, in relation to those 22 five panels, what's shown on the joint statement from 23 Leighton and MTR is that the through-bar solution was 24 ultimately adopted on those panels. 25 A. Agree.</p>
Page 82	Page 84
<p>1 2.82. Do you remember that? 2 A. I remember reading this transcript, and then I checked 3 the real records and I fully know the history about this 4 one. 5 Q. You do? Excellent. I have obviously struck upon the 6 right witness to ask. What a relief! 7 What is your recollection, Mr Chan, as to why that 8 instruction was given to Intrafor? 9 A. I saw some email back in 2015, there's an intention for 10 Leighton to address the missing U-bar problem so that 11 they want to reduce the concrete level for those 12 particular panels. In fact, according to my memory, 13 they only instruct him for one panel, but somehow the 14 second do five panels, right, for some reason. 15 Q. Your memory is very good, Mr Chan, if I may say so, 16 because there's a specific instruction to 106. 17 A. Because all these emails -- this is the main reason 18 because, from a practical point of view, you want to 19 knock off the concrete to cater for some anchorage bar, 20 there's no point to cast too high. It's a sensible 21 thing; right? That's why there's a discussion in some 22 email, saying that, "Why not reduce the concrete level, 23 to a certain level, so that in future we don't have to 24 knock off so many concrete?" That is the logic. 25 Q. I think the point I really want to get to -- and we will</p>	<p>1 Q. Okay. And so presumably that made life easier in the 2 sense that you didn't have to reduce the concrete 3 because it wasn't there in the first place? 4 A. Yes. 5 Q. So, whether the two things were related, it certainly 6 had that consequence? 7 A. Yes, exactly. I agree with you. 8 COMMISSIONER HANSFORD: Sorry, just trying to understand 9 that -- Mr Chan, if the concrete had been -- given that 10 the concrete had been stopped at a lower level, would 11 there have ever been any point of having couplers? Was 12 there any need for couplers? 13 A. No more, because no need to install the coupler. 14 COMMISSIONER HANSFORD: Exactly. 15 A. Ah, I would put it this way -- sorry about that, 16 Professor -- although the concrete at those panels has 17 been reduced, but the steel cage fixing had no change. 18 COMMISSIONER HANSFORD: Yes. 19 A. That's why the cut-off level remains the same, because 20 the cut-off level has a direct relationship with the top 21 of the steel cages, because the steel cages never 22 changed. They still fix the steel cage in the same 23 configuration. 24 COMMISSIONER HANSFORD: I do understand that. But wasn't 25 the point of couplers in the original design to enable</p>

Page 85	Page 87
<p>1 a connection between reinforcement that had been 2 concreted and the next bay? Wasn't that the whole point 3 of couplers? And if the concrete had not been put in 4 place for the diaphragm walls, why would couplers be 5 needed at all? 6 A. I think, when we look at that one, this discussion just 7 starts off very quickly. The stage cage, probably have 8 a shop drawing to work with; right? 9 COMMISSIONER HANSFORD: Yes. 10 A. And the steel fixers don't get the message, just still 11 fix the steel cages according to the shop drawing. 12 COMMISSIONER HANSFORD: Yes. 13 A. No one tells them to change the steel cages, only reduce 14 the concrete level, to avoid unnecessary abortive work. 15 That's the reason why the couplers still there. 16 COMMISSIONER HANSFORD: Ah. Now I understand. 17 MR PENNICOTT: I think the point is, Mr Chan, that the cages 18 for the diaphragm wall would have been fabricated in any 19 event -- 20 A. Yes, already. 21 Q. -- already, and the instruction not to concrete all the 22 way up came after all that had been done? 23 A. Yes. 24 Q. And the diaphragm wall cages had been, as it were, 25 dropped into the diaphragm wall itself?</p>	<p>1 Q. What is said here is: 2 "Please be informed that we have agreed with MTR 3 regards the concrete cut-off level in panel EH106, taken 4 into account the problem with the rebar anchorage ... 5 for slab connections." 6 Then it says about the conclusion and the level. 7 "Therefore, for EH106, please cast the concrete up 8 to plus 2 ... we need to make sure the concrete quality 9 below plus 1 ...", and so forth. 10 So this is the email that you researched when you 11 saw Mr Gillard's statement? 12 A. Yes. 13 Q. Right. If you go to page 23947, we have a front sheet 14 introduction of a report by Atkins. Did you look at 15 this when you were doing your research? 16 A. No, I don't think I read this report. 17 Q. All right. Not to worry. 18 If you go to the next page, please, at 23948, what 19 it says is: 20 "This task involves the checking of coupler shop 21 drawings against design drawings. This submission is 22 with respect to the future panels as listed below." 23 The ones I'm interested in are 105 and 107; do you 24 see those? That's EH -- 25 A. Yes. 105, 107, yes.</p>
Page 86	Page 88
<p>1 A. Yes. 2 COMMISSIONER HANSFORD: I totally understand. Thank you. 3 MR PENNICOTT: I will just look at the email that I think 4 you made mention of just a moment ago, Mr Chan, because 5 there are a couple of quite interesting drawings 6 attached which may help to explain one or two points. 7 If we can go, please, to F34/23935. Is this the 8 email that you made reference to earlier, Mr Chan? 9 A. Yes, this is the email issued by the Leighton engineer 10 to Intrafor -- 11 Q. Yes, that's right. 12 A. -- saying they want to reduce the concrete level for one 13 particular panel only. 14 Q. Yes, EH106? 15 A. Yes. 16 Q. It's dated 24 April 2015. So, on one view, slightly 17 before -- a month or two, three or four months perhaps, 18 before the through-bar solution really came into effect? 19 A. Yes. 20 Q. Thank you. We can see there -- and this is sent to 21 Intrafor but also copied to a number of your colleagues 22 in the construction management team? 23 A. Agree. 24 Q. Mr Ho being one of them, and that's James Ho? 25 A. Agree.</p>	<p>1 Q. Dropping down to the third paragraph, he says: 2 "However as the slab reinforcement has been made 3 continuous over the D-wall support without proper 4 anchorage into the D-wall for panel ... 107, it is 5 proposed to demolish the top portion of D-wall and add 6 the required number and diameter of rebar as per design 7 drawings and achieve the full anchorage length with the 8 D-wall vertical reinforcement. For details, refer to 9 attached sketch." 10 And that's 107. If you could be taken, please, to 11 23970. That's the sketch for 107; do you see that? 12 I appreciate this is probably not a document you've 13 seen before, Mr Chan, and I can ask others about it, if 14 necessary, in particular Atkins, if I feel like it. Do 15 you understand what they are talking about when they say 16 "demolish the top portion of D-wall and add the required 17 number and diameter of rebar as per design"? 18 A. I think, what my understanding from the sketch is, if 19 the D-wall are cast to the original concrete level, the 20 contractor had to knock off about 1.5 metre concrete 21 afterwards to provide this anchorage arrangement. That 22 is my understanding. That's the reason why the site 23 team say, "Look, I have to knock off, why not reduce the 24 concrete, to save the abortive work." That is the whole 25 logic.</p>

Page 89	Page 91
<p>1 Q. Right. But this is not, as I understand it, showing 2 a through-bar arrangement? 3 A. No, I don't think it is, because you see the time is 4 sometime April/May -- 5 Q. It's February, actually. 6 A. -- before we know there's a monolithic requirement, in 7 fact in July. So they are not related. 8 Q. Understood. This is the point I'm coming to. They seem 9 to be, as I understand it, unrelated. 10 A. Yes, because the timing, it doesn't make sense; right? 11 Q. All right. Understood. 12 But so far as EH105 is concerned, again it says -- 13 sorry, back at 23948, the last paragraph: 14 "... for panel EH105 as the D-wall reinforcement 15 [does] not have the required anchorage length with the 16 slab reinforcement to transfer the forces, [again] it is 17 proposed to demolish the top portion of D-wall and add 18 the required number and diameter of rebar as per design 19 drawings and achieve the full anchorage length ..." 20 If you go then to the sketch at 23971, again there's 21 a slightly different detail this time? 22 A. Agree. 23 Q. Still requiring the demolition of part of the concrete, 24 but still retaining couplers? 25 A. Yes.</p>	<p>1 they are having a little difficulty catching every 2 single word Mr Chan is saying so could we please ask him 3 if he would slow down a bit. 4 That's the request, if you would be so good. 5 WITNESS: Okay. 6 Cross-examination by MR SO 7 MR SO: Chairman, Professor, I'm told I will be going first, 8 instead of the government. I have some questions for 9 Mr Chan. 10 Mr Chan, I am Simon So, I am counsel for China 11 Technology. I have some few questions to discuss with 12 you on different areas. 13 Mr Chairman, this morning my learned friend 14 Mr Pennicott was discussing the NCRs with you. Do you 15 recall that, about the systems of NCR? 16 A. Yes, sir. 17 Q. And we have been discussing NCRs that MTR issued to 18 Leighton and NCRs that Leighton issued to 19 sub-contractors; right? 20 A. Yes. 21 Q. I would like to focus on the NCRs that Leighton issued 22 to sub-contractors now, for the time being; all right? 23 A. Okay. 24 Q. Can I bring you back to your witness statement, which is 25 on B271. I want to focus on paragraphs 24 and 25. This</p>
Page 90	Page 92
<p>1 Q. So, despite these changes that appear to have been made 2 in February -- April or February 2015, nonetheless, some 3 months later, Leighton/MTR agreed that this area would 4 have through-bars? 5 A. I think so. 6 MR PENNICOTT: Okay. 7 Sir, thank you. I have no further questions for 8 Mr Chan. 9 CHAIRMAN: Thank you very much indeed. 10 MR CHANG: No questions from Leighton. 11 CHAIRMAN: Thank you. 12 MR CHOW: Mr Chairman, there are some questions from the 13 government, but I see the time is almost 1 o'clock. 14 CHAIRMAN: Yes. That's fine. 15 Perhaps just as an indication for this afternoon -- 16 will there be questions other than from government? 17 MR SO: There will be some questions from China Technology. 18 MR CONNOR: And a few from Atkins. 19 CHAIRMAN: All right. Thank you. Good. 20 2.15. Thank you. 21 (12.58 pm) 22 (The luncheon adjournment) 23 (2.18 pm) 24 MR PENNICOTT: Sir, good afternoon. Before I sit down, I've 25 just had a brief chat with the transcript writers, and</p>	<p>1 is the paragraphs which you have described how you come 2 to notice an NCR that Leighton issued to the 3 sub-contractor, Fang Sheung, and we are all very 4 familiar with this NCR, the NCR157; correct? 5 A. Yes. 6 Q. You told us this morning, which you have repeated in 7 your oral answers to my learned friend Mr Pennicott, 8 that you were brought to awareness of this NCR after you 9 had leave in December; correct. 10 A. Yes. 11 Q. Can I bring you back to the draft transcript of today's 12 answers, which is in [draft] page 75 of the draft 13 transcript, line 24. I'm afraid that I would not be 14 able to show for you, but I can read it out for 15 convenience. 16 You were being asked by my learned friend 17 Mr Pennicott on how you come to notice that, and that's 18 your answer. You said: 19 "I will tell you my recollection; right? When 20 I read this NCR to end of December, after I come back 21 from my three weeks' holiday in December, I return to 22 work on 28 December, when I received -- read this NCR, 23 immediately I talked to my colleague who had knowledge 24 about the history and I asked him, "What happened? Have 25 you resolved it?" Then I the reply from my colleague is</p>

Page 93	Page 95
<p>1 saying that the issue had been resolved satisfactorily</p> <p>2 on the same day. Then I talked to -- second action</p> <p>3 I did, I talked to my counterpart from Leighton who knew</p> <p>4 the history, most likely Gary or Ian ..."</p> <p>5 Pausing there, Mr Chan, "Gary" later you have</p> <p>6 clarified to be Gary Chow of Leighton; right?</p> <p>7 A. Yes.</p> <p>8 Q. And when you talked about "Ian", do you mean Mr Ian</p> <p>9 Rawsthorne?</p> <p>10 A. Yes.</p> <p>11 Q. Right. During your conversation with Mr Rawsthorne or</p> <p>12 Mr Chow, which you told us now that you could not be too</p> <p>13 sure who you actually talked to, did you ask them, "Hey,</p> <p>14 after your investigation or review, do you know who</p> <p>15 actually cut the rebars?"</p> <p>16 A. I can't remember I asked this question because so many</p> <p>17 years ago. I just asked him, comes to my recollection,</p> <p>18 "How did you resolve this problem? Did you resolve this</p> <p>19 satisfactorily, all this?"</p> <p>20 Q. We all know that there needs to be continuous</p> <p>21 supervision on the part of Leighton on the rebar fixers;</p> <p>22 is that your understanding too?</p> <p>23 A. According to relevant requirement in the QSP plan for</p> <p>24 ductile coupler, that is the requirement.</p> <p>25 Q. So, when you received this NCR, did it not shock you or</p>	<p>1 incident to me immediately, then I will take action."</p> <p>2 Just like what the Chairman said today, we've got to</p> <p>3 give a yellow card first, give them a chance to correct</p> <p>4 their mistake. If they repeat the same thing, we issue</p> <p>5 a red card.</p> <p>6 Q. Let me go back to the conversation you had with either</p> <p>7 Mr Chow or Mr Rawsthorne.</p> <p>8 Did you ask about the particulars of the NCR with</p> <p>9 Mr Chow or Mr Rawsthorne?</p> <p>10 A. I think if we look at the NCR, this says there are about</p> <p>11 five numbers of couplers, scattered in different areas,</p> <p>12 within bay C2-2 or C2-3, and ask him how they are going</p> <p>13 to resolve that. They give the same answer: that had</p> <p>14 been resolved on the same day under MTR supervision, it</p> <p>15 had been rectified.</p> <p>16 Q. And most importantly, in NCR157, you know, Mr Rawsthorne</p> <p>17 knows or Mr Chow knows, there are five couplers being</p> <p>18 cut; is that correct?</p> <p>19 A. According to the NCR, that's what they recorded, five</p> <p>20 couplers scattered at different locations in that bay,</p> <p>21 not in one location.</p> <p>22 Q. Being cut?</p> <p>23 A. Yes.</p> <p>24 Q. Would you agree with me, the incident recorded by the</p> <p>25 NCR is not just poor workmanship; it is a deliberate,</p>
<p>Page 94</p> <p>1 did it not come to your mind that you should go and find</p> <p>2 Gary or Ian, in your words, to see who actually cut the</p> <p>3 rebars?</p> <p>4 A. According to my understanding at that time, these minor</p> <p>5 defects was discovered by my inspector during routine</p> <p>6 inspection. It looked to me that the system worked. If</p> <p>7 my inspector don't discover this kind of minor defect</p> <p>8 during this kind of routine inspection, I would be</p> <p>9 surprised.</p> <p>10 Q. So, in short, you did not ask Mr Chow or Mr Rawsthorne</p> <p>11 whether they know which particular worker cut the</p> <p>12 rebars; did I put it fairly?</p> <p>13 A. As I mentioned earlier, I can't remember the exact</p> <p>14 conversation I talked to either Gary or Ian. I just</p> <p>15 remember that -- I just want to know whether the problem</p> <p>16 had been resolved satisfactorily, in a timely manner.</p> <p>17 That is the most important thing I would concern.</p> <p>18 Q. Let me put it another way. It has never been your</p> <p>19 concern to find out who actually, which particular</p> <p>20 worker actually cut the rebars; is that correct?</p> <p>21 A. I wouldn't say that because this is the first time</p> <p>22 I aware that. With benefit of the doubt, we have to</p> <p>23 give all relevant parties a second chance. That's the</p> <p>24 reason why, when I aware this NCR, I talked to my</p> <p>25 colleagues saying, "You've got to report similar</p>	<p>Page 96</p> <p>1 conscientious decision to cheat, in effect, correct?</p> <p>2 A. Sorry, sir, I don't agree with you. As I mentioned</p> <p>3 earlier, these minor defects were discovered by my</p> <p>4 inspector during regular, routine inspection; right? As</p> <p>5 I earlier mentioned --</p> <p>6 CHAIRMAN: Sorry, I think the question was that the cutting</p> <p>7 of rebars is not merely an accident or bad workmanship;</p> <p>8 it has to be a conscious decision to cheat on the part</p> <p>9 of the workman who does it.</p> <p>10 A. You can say that one particular workman, maybe he</p> <p>11 intends to cheat. Let's say he do it; right? You can</p> <p>12 put it that way.</p> <p>13 CHAIRMAN: Yes.</p> <p>14 A. But as I mentioned earlier, there are so many workers</p> <p>15 working on the site, some workers are not as good as</p> <p>16 others, that's why we have these kind of minor defects</p> <p>17 occur on site. I think in many construction projects in</p> <p>18 Hong Kong, this kind of thing can happen too, because</p> <p>19 couplers have been used in Hong Kong for many, many</p> <p>20 projects, many years, and they are using the same system</p> <p>21 to check all this kind of installation.</p> <p>22 MR SO: Mr Chow, I recall this morning, when you were having</p> <p>23 an exchange with the learned Chairman, you also did</p> <p>24 mention similar things, and therefore you said, in order</p> <p>25 to prevent the rebar fixers to cheat, there must be good</p>



Page 97	Page 99
<p>1 supervision, and good supervision is very crucial. Do 2 you remember your answers? 3 A. Agree, good supervision, that's what we have on site, 4 good supervision. That's why my inspector discovered 5 these minor defects during the routine inspection. 6 Q. Mr Chan, then I was a bit curious, why did you not go or 7 ask your subordinates to go and find which particular 8 worker is cheating outside? 9 A. I think even you ask this question, they may not find 10 the answers. There are so many people working on there, 11 no one will admit it in front of you, unless you caught 12 them on the spot. It's impractical to find the truth, 13 because that happened already. 14 Q. So what measures have you done in order to have 15 a strengthened supervision to ensure the worker does not 16 do the same thing? 17 A. I believe my inspector carried out their work in due 18 diligence. That's why they discovered these minor 19 defects. And I take my last action after I aware of 20 this answer, is ask them to report any incident to me in 21 future so that I can take more stringent action. This 22 is the first time I know. I think this is -- you've 23 give the benefit of the doubt, or this sub-contractor, 24 they've got to be given an opportunity to resolve their 25 supervision themselves.</p>	<p>1 Q. I see. I understand what you mean. Thank you. 2 The last thing is can I bring you to two parts of 3 the transcript. Do you know that Mr Gary Chow and 4 Mr Ian Rawsthorne have given evidence in this Commission 5 of Inquiry? 6 A. Yes. 7 Q. Can I bring you to the transcript of Day 18, page 51, 8 line 25. This is Mr Rawsthorne being cross-examined by 9 my learned friend Mr Pennicott. Mr Pennicott said: 10 "NCR157, perhaps we can take a look at that. 11 C12/1834, please. This is a document that we've looked 12 at a number of times and no doubt this won't be the 13 last, NCR157. You mention this in your witness 14 statement. 15 Answer: Yes. 16 Question: I think broadly you say you have no 17 specific recollection of it; would that be right? 18 Answer: This is the truth, yes." 19 I wish to take you to another part of the 20 transcript. It's Day 19, page 122, line 17. This is 21 Mr Gary Chow, again being cross-examined by my learned 22 friend Mr Pennicott: 23 "Question: All right. But, in any event, you 24 simply have no recollection whatsoever of this NCR; is 25 that correct.</p>
Page 98	Page 100
<p>1 Q. Mr Chan, I wish to turn to another topic. Is 2 paragraph 24 still in front of you? 3 A. Yes. 4 Q. I want you to focus on the last sentence of 5 paragraph 24. In the last sentence, you said that you 6 understood that the NCR had since been closed out. 7 My question is this: from whom do you know this NCR 8 was closed out? 9 A. From my colleagues, and from my counterpart from 10 Leighton. He said the defect had been rectified on the 11 same day, under MTR supervision. That's why 12 I considered that NCR had been closed. 13 Q. In terms of the time frame, is that the same day that 14 when you come back after your holiday and read the NCR, 15 that you know the NCR has been closed out since then? 16 A. When I say NCR had been closed, it's when I read the 17 NCR, around end of December, I can't remember exactly 18 day, then I talked to my colleague, I talked to my 19 counterpart on the same day. They gave me the similar 20 answer. So I think all the minor defects had been 21 rectified on the same day, namely on 15 December, so 22 I considered physically the NCR had been closed. Maybe 23 the paperwork not been closed, that's possible, but the 24 work had been rectified. That is what I mean by NCR had 25 been closed.</p>	<p>1 Answer: I've not seen it. It was only when 2 I assisted in the MTRC's investigation [which is in this 3 year, 2018] did I see it for the first time." 4 Mr Chan, can you please tell us, are you saying that 5 Mr Chow and Mr Rawsthorne were not being truthful in 6 these answers? Is that your position? 7 A. No, because the conversation happened many years ago. 8 You can't rely on people's recollection of what 9 happened. Even myself, I can't exactly remember who 10 I talked to, because you're talking three years ago. 11 MR SO: Thank you very much, Mr Chan. I have no further 12 questions. 13 CHAIRMAN: Thank you. 14 Yes, Mr Chow. 15 Cross-examination by MR CHOW 16 MR CHOW: Good afternoon, Mr Chan. 17 A. Good afternoon. 18 Q. My name is Anthony Chow and I represent the government 19 and we have a few questions for you. 20 Mr Chan, this morning you had a discussion with 21 Mr Pennicott on the issue of whether changes involving 22 hacking down part of the completed diaphragm wall need 23 to have a prior consultation with BD. Do you recall 24 that part of the exchange? 25 A. Yes.</p>

Page 101	Page 103
<p>1 Q. Then you quote an example regarding shear key, the 2 formation of shear key; do you recall that? 3 A. Yes. 4 Q. You quote this example to show that performing further 5 work on the completed diaphragm wall does not 6 necessarily require prior consultation with BD, and that 7 was the reason why you quoted that example; is that 8 correct? 9 A. Yes, this is my judgment at that time. 10 Q. Would you agree with me that the fact that you allowed 11 at the time Leighton to form a shear key on the 12 diaphragm wall is because the shear key was shown on 13 an accepted plan? 14 A. Yes. 15 Q. So do you see the distinction here? The shear key, the 16 example that you use, is actually something that has 17 been accepted by BD, and that was the reason why, when 18 later on Leighton performed further work on the 19 completed diaphragm wall, Leighton of course, or MTRC 20 for that matter, would not need to have a prior 21 consultation with BD? 22 A. What I'm trying to say is that to remove part of the 23 D-wall is a minor change; right? It's not necessary to 24 seek the approval of the BD, based on our past 25 experience in other MTR projects. This is the main</p>	<p>1 on the website of the registered professional engineers, 2 the list of registered professional engineers of the 3 Engineers Registration Board yesterday, and we noticed 4 that you are registered as a civil engineer, under the 5 civil engineer list. 6 A. Yes. 7 Q. Without disrespect, can you confirm that you are not 8 a structural engineer? 9 A. Yes, I'm not a structural -- no, I'm not a structural 10 engineer. 11 Q. So presumably you would not be a registered structural 12 engineer in Hong Kong? 13 A. No, I'm not. 14 Q. Is it fair to say that you have no expertise in relation 15 to the statutory procedure of the Buildings Department? 16 A. Not really. I based on my judgment, on my past 17 experience in other MTR projects under IoE arrangement. 18 Q. Mr Chan, I'm talking about the procedure in relation to 19 submission of plan and approval for projects governed by 20 the Buildings Ordinance. Do you have any expertise or 21 experience in relation to -- 22 A. I have some experience about BD submission, but not as 23 good as other -- RSE or AP. 24 Q. May I move on to my third topic, the quality supervision 25 plan. Are you familiar with the quality supervision</p>
Page 102	Page 104
<p>1 reason. 2 Q. Just to complete the picture, could I refer you to the 3 relevant drawings, at bundle H14, page 32918. 4 If we can go to look at the diagram at the top 5 left-hand corner. Can we blow it up a little bit? Yes. 6 Now, you see, at the middle of the diagram, we see -- is 7 that the shear key that you talk about? 8 A. Yes, sir. 9 Q. With two dimensions, A and B. Do you see the 10 dimension B represents the height of the inner part of 11 the shear key; right? 12 A. Yes. 13 Q. And also we see another dimension, represented by 14 a letter A; do you see that? 15 A. Yes. 16 Q. If we can now move down a little bit to the table, so 17 the table below shows, at various areas, the dimension 18 of the shear key to be formed; is that correct? 19 A. Yes. 20 Q. So this is something that formed part of the original 21 design, which has been accepted by the Buildings 22 Department; can you confirm that? 23 A. Yes. 24 Q. The next topic I would like to explore with you is 25 that -- those instructing me have carried out a search</p>	<p>1 plan? 2 A. Yes. When I start to assist the CP to prepare the BA14 3 submission for D-wall in early 2015, where there's 4 a requirement in the QSP for ductile coupler 5 installation. 6 Q. Right. So you will be familiar with the enhanced 7 supervision requirement in relation to the splicing 8 assembly works, as required under the QSP? 9 A. Yes, QSP for ductile coupler. 10 Q. Right. So you would agree with me that one of those 11 requirements concerns the appointment of a quality 12 control supervisor on the part of the competent person, 13 to supervise the couplers installation work? 14 A. Yes. 15 Q. And that quality control supervisor has to be of 16 an experience equivalent to a grade T3 TCP? 17 A. Yes. 18 Q. Can you tell us who was the person that MTRC designated 19 at the time to be the quality control supervisor for the 20 purpose of the coupling works? 21 A. It should be my -- during the D-wall construction, it 22 should be the inspector of works, Kobe Wong, or 23 equivalent. 24 Q. How about the EWL and NSL slabs? 25 A. The requirement for QSP plan for ductile coupler also</p>

Page 105	Page 107
<p>1 apply to D-wall and slab construction. As long as they 2 are ductile coupler, the same requirement applies. So 3 I expect my inspector to know the requirement for 4 ductile coupler in the QSP for EWL slab too, because the 5 inspector who supervised the D-wall are also the same 6 inspector who supervise the EWL slab.</p> <p>7 Q. So are you telling us that for the purpose of the QSP, 8 the quality control supervisor designated to take care 9 of the supervision of the ductile couplers installation 10 was Kobe Wong?</p> <p>11 A. Yes.</p> <p>12 Q. So it's not Derek Ma?</p> <p>13 A. No. Derek Ma is an engineer who's responsible for rebar 14 checking. The coupler installation checking, based on 15 the arrangement at that time, material time, are the 16 inspectors.</p> <p>17 Q. Right. And do you know whether Mr Kobe Wong himself was 18 aware of that special responsibility?</p> <p>19 A. Based on my understanding, Kobe Wong should know it, 20 because when we submit the QSP plan for ductile coupler, 21 that submission was copied to the construction manager, 22 back in 2013, and based on that an arrangement, the 23 senior inspector at that time should know the 24 requirement, and the senior inspector has a duty to 25 inform the inspector about the requirement for QSP plan</p>	<p>1 splicing assembly, during the BA14 submission for 2 D-wall, so I expect the same team to follow the same 3 arrangement.</p> <p>4 Q. Okay. Can I ask you to go back to paragraph 22 of your 5 statement, bundle B1, page 270, please.</p> <p>6 The part that I would like to refer you to is 7 actually paragraph 23, the last sentence, where you 8 said:</p> <p>9 "... I assisted the CP in checking the logbooks 10 signed by the quality control supervisor and quality 11 control coordinator, as the case may be. I also signed 12 off two QSRs as TCP-T5."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. The logbooks that you refer to, am I right that what you 16 refer to is the logbook in relation to the diaphragm 17 wall?</p> <p>18 A. What I refer is the quality supervision record or 19 report, which we submit to BD for record. It's not the 20 logbook I refer to. The QSR means quality supervision 21 report, as specified in the requirement for QSP for 22 ductile coupler installation.</p> <p>23 Q. Sorry, it is my fault. It's the second-last sentence. 24 In the second-last sentence, you said: 25 "... I assisted the CP in checking the logbooks</p>
Page 106	Page 108
<p>1 for ductile coupler. So I expect Kobe Wong should know 2 the requirement.</p> <p>3 Q. Kobe Wong, in his witness statement, tells us that he 4 was only the T3 under the registered geotechnical 5 engineer stream and he was not supposed to countersign 6 on the record sheets.</p> <p>7 A. My understanding --</p> <p>8 Q. Do you have any comment on that?</p> <p>9 A. My understanding about the T3 requirement -- the QSP 10 says that that person must have a qualification equal to 11 T3; doesn't mean that he had to be a T3 in the CP 12 stream. As long as he has that qualification, he can do 13 the job.</p> <p>14 Q. So, if he was aware of a special responsibility in 15 relation to the steel fixing work of the slab, then he 16 would have agreed to sign or countersign on the record 17 sheets prepared or to be prepared by Leighton, because 18 that was what was required under the QSP?</p> <p>19 A. So what is your question?</p> <p>20 Q. Do you agree with my proposition?</p> <p>21 A. I think, at that time, I expect Kobe Wong should know 22 the requirement for QSP for ductile coupler; right? He 23 should follow the requirement, at that time. That is my 24 understanding. Because I never come across any problem, 25 when I collect the information for checking of the</p>	<p>1 signed by the quality control supervisor and quality 2 control coordinator ..."</p> <p>3 So the logbooks that you refer to there are the 4 logbooks in relation to the diaphragm wall prepared by 5 Intrafor?</p> <p>6 A. Yes, this is the logbook I refer to, not the EWL slab.</p> <p>7 Q. I see. So you would expect similar checklists would 8 have to be prepared for recording the supervision and 9 inspection of the coupler installation for the slab; do 10 you agree?</p> <p>11 A. Yes.</p> <p>12 Q. And do you agree that, as a matter of fact, at the time 13 of the execution of the slab, no such checklist was ever 14 devised by either Leighton or MTRC, no such record was 15 kept?</p> <p>16 A. I only aware that when I found out recently, because 17 I left the project in mid-2016, right? During my time, 18 I didn't specifically ask for this checklist, because 19 I think that should be automatically carried out by both 20 teams.</p> <p>21 Q. Right. So you expect your subordinates would do it 22 automatically because of what is set out in the QSP and 23 you personally have not verified whether that was 24 complied with; is that right?</p> <p>25 A. Exactly, because they did a good job in the D-wall</p>

<p style="text-align: right;">Page 109</p> <p>1 supervision, I expect they would do a similar thing for 2 EWL slab, because carried out by the same people. 3 Q. Okay. I need to move on to the NCR -- sorry, I have to 4 go back to this, but my angle is a little bit different. 5 This morning, when you answer to questions from 6 Mr Pennicott and also just now to Mr So, you repeatedly 7 described the cutting of the threads as "minor defects". 8 A. Yes. 9 Q. Is that what you -- 10 A. Yes. 11 Q. The question of whether someone cutting the threaded 12 part of the rebar was a serious defect actually has been 13 posed to a number of witnesses before, and from my 14 recollection you are really the first one who says that 15 this is a minor defect. All the others thought it was 16 quite serious, it's a quite serious non-conformance. 17 Can you tell us why this kind of conduct is considered 18 by you as a minor defect? 19 A. When I say "minor defect", this is according to the 20 non-conformance, minor in nature. Maybe the guy who 21 actually cut is not very good reason. 22 Q. Right. 23 A. That's the reason why my inspector follow the same 24 principle. They are minor, they spot it, rectify it, 25 then report to me. If they consider it a serious</p>	<p style="text-align: right;">Page 111</p> <p>1 A. When you look at the whole thing in a more holistic 2 picture, we are talking about several hundreds of 3 couplers in each layer. Then you are talking about one 4 or two where some minor defects have been spotted. That 5 shouldn't be a major alarm to anyone, because we are 6 talking much less than 1 per cent. There are many 7 non-conformities, like I say, not enough cover, the lap 8 length is not enough, there's bound to have certain 9 things happen on site, and then if you are talking about 10 the percentage so small, and that minor defect has been 11 rectified on the same day, on the same spot, that 12 shouldn't be a major concern to us. That keeps 13 repeating and repeating and in bigger and bigger 14 numbers. 15 Q. You told us that when you returned from your leave, you 16 immediately looked at the details of the NCR, and 17 obviously you would have noticed by then that it 18 involved someone cutting the threaded part of the bars; 19 right? 20 A. Yes. 21 Q. Do you agree with me that as a matter of common sense, 22 it would at least appear to you that -- or to 23 an ordinary person, one would immediately think why was 24 there a need to cut it in the first place? What is the 25 problem encountered by the steel fixer which led them to</p>
<p style="text-align: right;">Page 110</p> <p>1 non-conformance, they will elevate it to his senior and 2 to my level in the first instance. That's why I say 3 minor. That kind of non-conformance can be resolved 4 very quickly, without any major problems, because 5 sometimes this term "serious" or "minor" is very 6 subjective, depending on your definition. 7 Q. All right. I'm sure you will agree with me that the 8 load transfer capacity of the couplers really depends on 9 whether the threaded part are fully screwed into the 10 couplers? 11 A. Agree. 12 Q. Right. So if someone cuts half of the threaded part, we 13 can safely deduce that at least half of the capacity has 14 gone; do you agree? 15 A. Yes, for that particular coupler. 16 CHAIRMAN: Would that actually be the case? If you were to 17 sit down with the necessary mechanics and mathematics, 18 would it become half, or would you be able to say that 19 there would be a material reduction? 20 A. I agree with you, Chairman. I think you interpret 21 better than my answer. I can't say just half, but some 22 adverse effect; right? But how much, I can't just say 23 based on this information. 24 MR CHOW: So in terms of the nature of this conduct, would 25 you agree with me it's quite serious?</p>	<p style="text-align: right;">Page 112</p> <p>1 cut the threaded bar? Did it occur to you that this 2 kind of question -- does it arise? 3 A. As I mentioned earlier this morning, many steel fixers 4 in Hong Kong are daily pay. Their standard differs 5 quite a lot, depends one worker from the others; right? 6 I'm pretty sure these kind of minor defects happen in 7 many other construction sites occasionally. Right? 8 Q. Right. 9 A. You go other sites, they probably have similar discovery 10 during the routine inspection. As long as that one will 11 not recur again, or not in a widespread manner, that 12 should give them a chance to rectify. That's why, this 13 is the first time I know, 157, then I immediately inform 14 my colleague, "You've got to report to me in future", 15 then I will take more drastic action. I give him 16 a yellow card first. If he don't listen to our warning, 17 then I give him a red card, and off site immediately. 18 Q. You are absolutely right. Do you agree with me that in 19 order to prevent are the same thing from happening 20 again, the safest way is to find out the reason why in 21 the first place that particular unknown steel fixer 22 finds it necessary to cut the threaded bar so that then 23 you can take care of the difficulties that they 24 encounter and there won't be any further need to do it 25 again?</p>

Page 113	Page 115
<p>1 A. I think it's so easy to say you can find out the reason, 2 because there are so many workers on each particular 3 day, maybe that minor defect, that cut had been there 4 for one or two days already. You will never know who 5 did it. Even the guy who knows it, he won't tell anyone 6 because he may have left the site already. To spend 7 effort to find out the answer may not be productive. 8 No one will tell you the truth. The only thing they 9 want to do is tighten the supervision, make sure that no 10 more minor defects like that happen again or in 11 a systematic or widespread manner. That is the key, the 12 end product counts. Like the QSP just say make sure the 13 supervision of splicing assembly, that is the key. The 14 end product is always the most important part to look 15 after.</p> <p>16 CHAIRMAN: Sorry, I do apologise for interrupting. I think 17 perhaps the concern may be -- and it's been expressed 18 earlier -- that if you come across several cutting of 19 rebars, and the evidence is that in fact when the NCR 20 was issued there had been two earlier occasions when 21 rebars had been found cut, is this the tip of the 22 iceberg? In other words, this has been seen; what is 23 the risk, what is the danger, that there may be a number 24 of others that were not picked up, and therefore you may 25 have a larger problem than at first appears?</p>	<p>1 all issues, he never made any effort to tell me. If he 2 did one occasion, definitely I guarantee you I will take 3 a lot of action to be prevent this thing to happen. 4 I don't have an opportunity to do that.</p> <p>5 CHAIRMAN: Could you tell me, just as a matter of interest, 6 what was your relationship like with Mr Jason Poon? 7 He's a man of quite strong character.</p> <p>8 A. I only know him when he started work in my project back 9 in second quarter of 2015. Initially, what he did 10 on site are very simple work, only some formwork for 11 construction joint, blinding concrete, and his 12 performance was reasonable, because it's so simple, they 13 only got about 50 workers on site, on average, from 14 mid-September to end 2015. Then his performance starts 15 to create more problems; when he gets more difficult 16 work like back of house and other works in second 17 quarter of 2016, then he had more problems.</p> <p>18 CHAIRMAN: Okay.</p> <p>19 A. Whether he's a strong character, it's just like ordinary 20 sub-contractor too. When there's no problem, you can't 21 really see the nature of this gentleman.</p> <p>22 CHAIRMAN: Good. Thank you very much. 23 Sorry, Mr Chow.</p> <p>24 MR CHOW: Not at all, Mr Chairman. 25 Mr Chan, from the evidence before this Commission,</p>
<p>Page 114</p> <p>1 A. I not 100 per cent agree with your interpretation, 2 because this is the first time I aware that one to five 3 numbers out of several hundreds, and my colleagues keep 4 assuring me that that has been rectified in a timely 5 manner. I've got to give the benefit of the doubt to 6 all these people, to have second chance. That's why 7 I ask my team to let me know if their second chance, 8 similar incident happen again, then I will definitely 9 take more drastic action to address this issue. Is it 10 fair to you?</p> <p>11 CHAIRMAN: No, I'm not in any way debating that. I'm just 12 pointing to the fact that earlier evidence has 13 suggested -- in fact Mr Jason Poon suggested -- that 14 what he was able to see, if he worked on the basis that 15 these people probably didn't just do it for his benefit 16 but we doing it more as a concerted action as and when 17 they came across difficulties, that there might 18 therefore be a larger number of incidents than are 19 actually identified from time to time.</p> <p>20 A. Based on what I aware, end of December 2015, this is the 21 first instance I'm aware. No one tells me others. If 22 other people tell me same, I probably take more drastic 23 action. If Jason Poon tells me, in September 2015, the 24 things are totally different. He never tell me, 25 although we had a lot of opportunity to communicate on</p>	<p>Page 116</p> <p>1 what we see is the several incidents of bar cutting were 2 discovered by MTRC's inspector, not by Leighton's 3 supervisor or inspector. Is that also your 4 understanding?</p> <p>5 A. I can't comment on that topic.</p> <p>6 Q. Okay.</p> <p>7 A. Because I only aware there's only one incident, in 8 December. The other incident, I just read from the 9 report prepared by MTR, because I believe at that time, 10 when my inspector discovered the first and second 11 incidents, they think they are very minor defects, 12 that's why he made a judgment not to report to his 13 superior, because non-conforming couplers are quite 14 common in the industry; right? You don't expect all the 15 steel fixers will do their job 100 per cent correct. 16 Some steel fixers maybe do all kinds of things, you 17 never know. There's no point to find a reason. You 18 better spend more effort to stop that happen.</p> <p>19 Q. Right. One of the core issues that this Commission is 20 to hopefully find out and determine is whether rebar 21 cutting was a widespread or systemic problem. 22 Now, I note that in your paragraph 25, you sort of 23 conclude that there was no reason at all to suspect any 24 systemic or widespread problem. Do you see that, 25 paragraph 25, page 271?</p>

Page 117	Page 119
<p>1 A. Yes.</p> <p>2 Q. Of course this conclusion, I believe that everyone in</p> <p>3 this room would hope that this is what happened, but the</p> <p>4 evidence before us is there were several incidents</p> <p>5 discovered. They were not discovered by Leighton; they</p> <p>6 were discovered by MTRC's inspectors. The cause of bar</p> <p>7 cutting was never ascertained. In other words, the</p> <p>8 reason why the steel fixers carrying out the steel</p> <p>9 fixing work needed to cut the threaded part of the rebar</p> <p>10 was still an unknown.</p> <p>11 Given that is the position, we want to understand</p> <p>12 why are you so confident that all the cut bars had been</p> <p>13 spotted by MTRC inspectors and it was not a widespread</p> <p>14 problem on site?</p> <p>15 A. I have mentioned earlier, when I made the statement,</p> <p>16 25th -- paragraph 24, I base on -- I only know about one</p> <p>17 incident at all. In end of December 2015, I'm not aware</p> <p>18 of any other incidents. Only have one incident and</p> <p>19 spotted by my inspector and have been rectified on the</p> <p>20 same day in a timely manner. I've got to give the</p> <p>21 benefit of the doubt to people involved, give them</p> <p>22 a second chance. If they do the same thing again,</p> <p>23 I share with you, that is a serious problem, I would</p> <p>24 take action.</p> <p>25 Q. I then move on to the last topic I would like to explore</p>	<p>1 "In order to mitigate the impacts to the permanent</p> <p>2 works and prevent the recurrence of non-conformity of</p> <p>3 this nature, CP has instructed the following actions to</p> <p>4 be taken by his TCPs and the contractor".</p> <p>5 Then turn over the page, paragraph 4.4:</p> <p>6 "In additional to the procedures ... stipulated for</p> <p>7 reviewing contractor's submissions in MTRC's project</p> <p>8 integrated management system which is included in the</p> <p>9 PMP of SCL, TCPs shall not allow changes to be made to</p> <p>10 the permanent works in contractor's shop drawing</p> <p>11 submissions. TCPs in the CP stream shall supervise the</p> <p>12 works to ensure they are executed in accordance with the</p> <p>13 working drawings/accepted plans. They should bring CP's</p> <p>14 attention to any deviations in a timely manner".</p> <p>15 Now, this is the report submitted at the time when</p> <p>16 the temporary works design was submitted to BD, in which</p> <p>17 there is a section about construction sequence in which</p> <p>18 the designer foreshadowed hacking down of part of the</p> <p>19 diaphragm wall, that sort of thing. Do you recall that?</p> <p>20 That is at about at the same time.</p> <p>21 A. Yes, sir.</p> <p>22 Q. Can I then now refer you to the inspection test plan, at</p> <p>23 bundle B6, page 3772.</p> <p>24 This is part of the inspection and testing</p> <p>25 requirement. Under item 9, it talks about "Inspect</p>
Page 118	Page 120
<p>1 with you, and that is in relation to the change. Before</p> <p>2 that, are you aware that after the incident of the</p> <p>3 U-bar, there was an incident report prepared by MTRC</p> <p>4 which was submitted to BD, in which MTRC set out the</p> <p>5 background and the reason why that problem occurred and</p> <p>6 the recommendation that they would propose to the BD?</p> <p>7 Are you aware of that incident report?</p> <p>8 A. Yes, I aware this incident report.</p> <p>9 Q. If I may refer you to part of the report: bundle H11,</p> <p>10 starting at page 5538.</p> <p>11 At 5538 is the covering letter, dated 29 July, so</p> <p>12 this is the date when the incident report was submitted</p> <p>13 by MTR to the Buildings Department. If we may then go</p> <p>14 to paragraph 3.3.1 at page 5544. Under this paragraph,</p> <p>15 if I may read it out:</p> <p>16 "This non-conformity was largely as a result of</p> <p>17 communicating and formalising the changes made by the</p> <p>18 contractor. In this connection, CP has instructed his</p> <p>19 TCPs and the construction manager to strictly follow the</p> <p>20 working drawings which are prepared in accordance with</p> <p>21 plans accepted by the Authority such as BD/GEO (accepted</p> <p>22 plans) in the execution of the works. TCPs should bring</p> <p>23 CP's attention to any deviations in a timely manner."</p> <p>24 Then if we may turn over the page to 5545, under the</p> <p>25 "Conclusions" section, paragraph 4.3, where MTRC says:</p>	<p>1 rebar fixing", and under the column with the heading</p> <p>2 "Conformance criteria" -- do you see that column?</p> <p>3 A. Yes.</p> <p>4 Q. It is put down clearly and precisely that it has to be</p> <p>5 the working drawings; in other words, the acceptance</p> <p>6 criteria is whether the reinforcement fixed on site has</p> <p>7 to comply -- complies with the working drawings.</p> <p>8 Do you agree with my interpretation?</p> <p>9 A. Yes.</p> <p>10 Q. Given that almost at the same time MTRC emphasised to</p> <p>11 the Buildings Department that they would not commit</p> <p>12 similar error in relation to the diaphragm wall before,</p> <p>13 and given that there is a clear requirement under the</p> <p>14 inspection and test form for your inspector on site,</p> <p>15 when they carry out steel inspection, to make sure that</p> <p>16 the works carried out are in compliance with the working</p> <p>17 drawings.</p> <p>18 Now, can you tell us whether there was any reason</p> <p>19 why this has not been implemented in the case of the</p> <p>20 second change?</p> <p>21 A. First of all, I would like to explain to you, when</p> <p>22 I read the incident report, I got the impression that</p> <p>23 this referred to any major change in future, like what</p> <p>24 we did for the diaphragm wall, like omission of U-bar</p> <p>25 and other changes.</p>

Page 121	Page 123
<p>1 And the second change, the later second change, is 2 a completely category from the first change. First of 3 all, when you talk about working drawing, our second 4 change, just to go back to the working drawings for RC 5 arrangement for D-wall, on top of the D-wall, back to 6 2013, which had been approved by BD already. We're not 7 changing this design. We just want to go back to the 8 original design intent. And hacking off the concrete 9 just to fit the new design requirement, just a matter of 10 change of construction sequence, it provides better 11 detail. That means the second change and the first 12 change are totally different categories. That's why we 13 don't think that we have to seek approval from the BD 14 prior to the execution of work, because there are so 15 many similar minor changes on the site. That is our 16 judgment and our interpretation of that report. Maybe 17 that may not be your interpretation but that is our 18 understanding at that time. 19 Q. All right. 20 My last question is if I may refer you back to the 21 incident report, bundle H11, page 5545, paragraph 3.3.6, 22 where MTRC said: 23 "In order to improve the robustness of the controls 24 to track progress of all proposed design changes until 25 they are approved and incorporated into the working</p>	<p>1 Good afternoon, Mr Chan. I am Vincent Connor; I'm 2 going to ask you some questions on behalf of Atkins 3 China. 4 A. Thank you. 5 Q. Mr Chan, if you have on the screen, please, your witness 6 statement, which is B1/19. If you would have, in 7 particular, paragraph 49 on the screen in front of you. 8 You may recall being asked some questions about this by 9 Mr Pennicott this morning, but you will see in this 10 paragraph that you talk about -- at page B279 -- the 11 construction management teams of MTR and LCAL deciding 12 to revert back to original construction detail, and you 13 go on at the top of paragraph 49 on B280 to describe 14 what has happened. 15 Then you finished by saying, halfway down that 16 paragraph: 17 "... which is possible because the concrete had been 18 cast for the east diaphragm wall by then and the tremie 19 pipes had since been abandoned, although Atkins did not 20 formalise any revisions to the working drawings at the 21 time as far as I am aware." 22 Just focusing upon that last part of the sentence, 23 "although Atkins did not formalise any revisions to the 24 working drawings at the time as far as I am aware" -- 25 you remember Mr Pennicott asked you some questions about</p>
Page 122	Page 124
<p>1 drawings, the contractor has developed and is 2 implementing an additional control procedure defined as 3 the technical query process." 4 Do you know whether Leighton has, in reality, 5 developed an additional procedure to make sure that the 6 working drawings will be updated timeously? 7 A. I'm not sure exactly what they did, but they had issued 8 a lot of TQs during the EWL construction, to address all 9 kinds of unexpected site problems. 10 Q. So am I right to say that as at the time of the 11 submission of the incident report, you didn't find any 12 additional procedure being implemented by Leighton; 13 right? 14 A. I can't quantify what additional measure they did, but 15 they have keep using TQ system to address all kinds of 16 potential site problems. 17 Q. But the TQ system had been in place all along, well 18 before July 2015; is that right? 19 A. Yes. 20 MR CHOW: Thank you, Mr Chan. 21 WITNESS: Thank you, sir. 22 MR CHOW: I have no more questions, Mr Chairman. 23 CHAIRMAN: Thank you very much. 24 Cross-examination by MR CONNOR 25 MR CONNOR: Thank you, sir.</p>	<p>1 that, Mr Chan? 2 A. Yes. 3 Q. Of course, if I may just ask you this, sir, the 4 preparation of working drawings insofar as they were 5 required would be a matter for team B; is that so? 6 A. Yes, if the design change proposal are initiated by the 7 contractor, should be prepared by team B, Atkins. 8 Q. So, insofar as Atkins team B was asked or required to 9 prepare those working drawings, that's not something 10 within your knowledge? 11 A. Can you repeat your question? 12 Q. It is not within your knowledge as to whether or not 13 Atkins team B was asked or not to produce such drawings? 14 A. I expect the contractor will request their team B to 15 carry out these works. 16 Q. "As far as I am aware" are your words there; you're not 17 aware of whether or not they were asked? 18 A. What I say is that I would expect the contractor will 19 finalise these updated working drawings in due course. 20 When they do it, I don't know. 21 Q. I understand. We'll come back to that in a just 22 a moment. But just to close your evidence on that 23 point, as for when Atkins may do this, that's a point 24 I think in your evidence on which you are quite 25 comfortable, because we're not at the stage of</p>

Page 125	Page 127
<p>1 a submission to BD for the completion of this work; is 2 that right? 3 A. Yes. 4 Q. Thank you. If you pause there, please. Going down that 5 page, page B280, you will come to the description of the 6 work sequence which ensued on site; you will see that's 7 through to the end of paragraph 49. Then, skipping 8 paragraph 50, you come to paragraph 51 where there's 9 a reference to the through-bar method that you've told 10 the Commission about already. 11 Then you go on, in the course of paragraph 51, to 12 refer to an email. This is an email which is dated 13 25 July, where Mr Leung has written to Mr Taylor; do you 14 see that? 15 A. Yes. 16 Q. Then if you go over the page, please, to B281, you 17 eventually get to paragraph 52, and it's there that you 18 say: 19 "LCAL/Atkins team B should have submitted proposal 20 for change in permanent works ... for their review and 21 approval ..." 22 Again, we will come back to this, but your position 23 on this is that a proposal for change in permanent works 24 does require to be submitted, but again in your view 25 this can be done, and we are not within any time</p>	<p>1 Q. Now, you make a couple of points about this, but firstly 2 you talk about a complaint where you are complaining to 3 Mr Taylor about the lack of proposals to incorporate 4 changes initiated by the team. Do you see that? 5 A. Yes. 6 Q. I'm sorry, this is a complaint by Mr Leung. 7 A. Mr Leung, not by me. 8 Q. Not by you, but one on which you have given evidence; 9 yes? Then you go on -- or rather Mr Leung goes on to 10 refer to Mr Rob, who I take to be Mr Rob McCrae of 11 Atkins? 12 A. Yes. 13 Q. He goes on to say: 14 "Please take note of this and you, as the C1106 DDC, 15 should not change any permanent works drawings under 16 C1106 without my instruction." 17 Do you see that? 18 A. Yes. 19 Q. Just pausing at that point, a couple of things you might 20 help us with here. The point that Mr Leung appeared to 21 be making to Mr McCrae at that time isn't a complaint 22 about the failure on his part to incorporate changes, 23 it's more of a reminder, isn't it, that as far as the 24 C1106 DDC is concerned, he has to await instruction 25 before he makes any such changes to permanent works?</p>
Page 126	Page 128
<p>1 constraint for that? 2 A. Yes. 3 Q. Thank you. What you go on to say at paragraph 53 is 4 that -- you refer to the non-submission by the stage of 5 your written statement for approval for change in 6 permanent works as a kind of failure on the part of 7 Leightons and Atkins team B which was persistent during 8 the construction phase of contract 1112; do you see 9 that? 10 A. Yes. 11 Q. Then you go on to say: 12 "The design management team frequently had to chase 13 them to submit proposal for changes in construction 14 details." 15 Do you see that? 16 A. Yes. 17 Q. At this point, you refer to an email which I would ask 18 to have before you, in tab C6, and described as 19 B16/12529. Thank you. 20 Just pausing at that point, this is an email that 21 you received at the time. You will see that you are 22 copied in on this, and it's an email of 19 October 2015 23 from Mr Andy Leung to Mr Justin Taylor at Leighton; do 24 you see that? 25 A. Yes.</p>	<p>1 A. Yes. That is a reminder from Andy Leung. 2 Q. Thank you very much. And in terms of what you open with 3 in this paragraph as being the persistent failures on 4 behalf of Leightons and Atkins team B, this is the only 5 example that you give really in relation to such 6 failures? 7 A. Yes. 8 Q. Thank you. And therefore it's the only one that you 9 offer to this Commission? 10 A. Yes. 11 Q. Thank you. Thank you very much. If you put this 12 statement to one side but we may come back to it. 13 Continuing the theme in relation to the preparation 14 of drawings -- you will remember this morning that 15 Mr Pennicott asked you some questions, and I will refer, 16 really for the purposes of the transcript, you to some 17 evidence that you gave, because we don't have the 18 transcript available for you yet to see. But you will 19 recall that Mr Pennicott had referred you to 20 paragraph 51 of your witness statement, which you've 21 just looked at. That is the paragraph, again, just for 22 fairness to you -- and this is witness statement B1/19, 23 it's B280 at paragraph 51. 24 Just to help you with the context here of my 25 question, and it's there that Mr Pennicott had put to</p>



Page 129	Page 131
<p>1 you the paragraph that begins: 2 "LCAL proceeded with the 'through-bar method' in 3 constructing the EWL slab in the rest of areas B 4 and C ..." 5 Do you see that? 6 A. Which paragraph? 7 Q. Paragraph 51, I beg your pardon, at page B280. 8 A. Mmm. 9 Yes, 51. 10 Q. You say: 11 "[They have] proceeded with the 'through-bar method' 12 in constructing the EWL slab in the rest of areas B and 13 C starting with area C1-3 on 29 August 2015." 14 Yes? 15 A. Yes. 16 Q. It was at that point that Mr Pennicott then asked you 17 about your involvement, if you might remember, Mr Chan, 18 this morning, in the preparation of the as-built 19 material between Leighton and MTR that forms part of the 20 joint statement presented to this Commission. 21 A. Yes. 22 Q. He had asked you whether or not you had been involved in 23 that process, and just for the transcript purposes this 24 is at [draft] pages 57 to 58 and those following, and 25 you confirm that you had been involved in that, Mr Chan.</p>	<p>1 fact they were not asked to produce working drawings, 2 then in fact that would be consistent with the fact that 3 the work that was done on the diaphragm wall was done on 4 an ad hoc, rolling basis as the work went along the 5 diaphragm wall. 6 A. Can you repeat your question? 7 Q. So the lack of preparation of working drawings, which is 8 something that you mention in your evidence, is not 9 really surprising in a situation where, as you have 10 described it to this Commission, the work in fact was 11 decided by yourselves and Leighton on an ongoing basis, 12 as you moved along the diaphragm wall? 13 A. I would put it that way. During the construction of the 14 EWL slab in areas B and C, Leighton should have 15 communicated or liaised with his team B to update the 16 changes. How they do it, I don't know. This is clearly 17 between Leighton and its team B. 18 Q. So it's not something you can help with? 19 A. I can't. 20 Q. Thank you very much. 21 What we do know then is, as you described earlier 22 on, there was discussed a change to the permanent works 23 design, and that's the one which is referred to in what 24 you've told the Commission about in terms of PWD-59A; do 25 you recall that?</p>
Page 130	Page 132
<p>1 What you were asked about was -- I think 2 Mr Pennicott put this way -- that without getting into 3 any detail, you would accept that in certain days or 4 panels in area B, the coupler solution was retained, and 5 you confirmed that that was so? 6 A. Yes. 7 Q. He went on to say: 8 "So it wasn't all of the areas in area B; it was 9 done much more, presumably, what, on an as-necessary 10 basis; is that right?" 11 And I think you confirmed that? 12 A. Yes. 13 Q. "So, as you worked your way along the diaphragm wall, in 14 the different areas of the different bays, a decision 15 would be made whether to run with the through-bars or to 16 retain, in certain areas, the coupler connections?" 17 And you agreed with that? 18 A. Yes. 19 Q. And I think, just to complete that, he put to you that 20 that would be done by a process of discussion and 21 agreement between MTR and Leighton as you went along? 22 A. Yes. 23 Q. Against that background, on this rolling basis of 24 decision as to what to do about the diaphragm wall panel 25 by panel, if it is the position of Atkins team B that in</p>	<p>1 A. Yes. 2 Q. If you might have before you, please, the statement of 3 Mr Blackwood, which appears at J70, that should be 4 appearing on the screen just in front of you now. If we 5 turn to paragraph 74 of that -- I just pause at this 6 point, Mr Chan, to ask you a short question: have you 7 seen Mr Blackwood's statement before today? 8 A. Yes. 9 Q. Thank you. Then at paragraph 74 you will see that he is 10 referring there to paragraph 1.3.5 of TWD-004B3 and 11 a reference made to permanent works submission which he 12 goes on to describe as being subsequently issued as 13 "Discussion on design amendment works D-wall 14 (PWD-059A3)"; yes? 15 A. Yes. 16 Q. He goes on to describe that as: 17 "This submission addressed the as-built 18 reinforcement to the D-wall and insufficient anchorage 19 for the tension reinforcement of the EWL slab. However, 20 it made no reference to the breaking down of the 21 D-wall." 22 Do you see that? 23 A. Yes. 24 Q. As a statement of the content of PWD-59A3, do you agree 25 with Mr Blackwood there?</p>

Page 133	Page 135
<p>1 A. I think what Blackwood said, literally there is no 2 mention in the report that you've got to break down the 3 D-wall, but it's an implied term in the report, that 4 says monolithically. From a construction point of view, 5 as a construction engineer, I would interpret that as 6 got to somehow break down some part of the D-wall, 7 become -- you can then EWL slab, D-wall and OTE cast 8 monolithically, it's an implied term. Although it's not 9 explicitly mentioned in the report, it's a judgment we 10 make between MTR construction team and Leighton 11 construction team.</p> <p>12 Q. Yes, you have already advised the Commission of that.</p> <p>13 A. It is our judgment at the time.</p> <p>14 Q. And it is the case that at that time this particular 15 submission is related only to EH74 of the eastern 16 D-wall?</p> <p>17 A. What do you mean by that? Can you pardon me?</p> <p>18 Q. This submission PWD-059A3 relates simply to one panel?</p> <p>19 A. I don't think so, relate to the omission of U-bar, 20 because that PWD report reply addressed all the issues 21 associated with the omission of U-bar for the east 22 diaphragm wall, not only one panel, all the panels.</p> <p>23 Q. Okay. If you turn the page then at paragraph 77, where 24 there is reference there again to 59A3, the appendix 25 "provided the location of the remedial works and</p>	<p>1 monolithically. That is a very implied term. 2 I mentioned the conclusion in the report.</p> <p>3 Q. So, if you carry on then to paragraph 84, you will see 4 reference in Mr Blackwood's statement on page J72 to the 5 raising of technical query 34 that was covered this 6 morning and I think also earlier this afternoon, and 7 that regarded the misalignment between rebar at the EWL 8 slab and couplers at panel EH74.</p> <p>9 So, going back to correct myself, this is the 10 reference to EH74 that arises. And TQ34 I think, 11 Mr Chan, referred only to this particular panel?</p> <p>12 A. Yes. TQ34 applied to the problem encountered at EH74.</p> <p>13 Q. Yes.</p> <p>14 A. However, the solution also inherits the spirit of "cast 15 monolithically".</p> <p>16 Q. Thank you. I was just coming to that, because you will 17 see at paragraph 85 that: 18 "[That TQ] was raised in response to a construction 19 problem on panel EH74 where the top layer of 20 reinforcement had been incorrectly located. The 21 proposal ... break out the D-wall to just below this bar 22 and replace with a straight through-bar with a coupler 23 on the OTE side of the D-wall. This would be concreted 24 at the same time as the adjacent EWL slab and OTE." 25 Now, that, as a statement of what was required by</p>
Page 134	Page 136
<p>1 indicative slab/D-wall detail. This was based on 2 couplers for the top steel and did not identify the need 3 to break down the D-wall."</p> <p>4 Again, that's Mr Blackwood's view, but you say that 5 you understand what you says but it is implicit in it, 6 from your perspective?</p> <p>7 A. Exactly. Monolithic, from a construction engineering 8 point of view, I reiterate that, that means the EWL 9 slab, the D-wall and OTE have to be cast at the same 10 time, together, as one piece.</p> <p>11 Q. Okay. Moving along then down to paragraph 78, there's 12 then further reference by Mr Blackwood to the 13 development of a submission in response to technical 14 query 44, and that, we understand, again was based on 15 the use of couplers. This is TQ44, and again he says it 16 did not mention that the D-wall was to be broken down, 17 but he does go on to say: 18 "It showed that the OTE slab had to be cast at the 19 same time/monolithically, consistent with what was shown 20 in the working drawings and PWD-59A3."</p> <p>21 A. Yes.</p> <p>22 Q. Again, your position remains that despite the absence of 23 reference to the breaking down of the D-wall, one should 24 read that into it?</p> <p>25 A. Exactly, I read the conclusion to say cast</p>	<p>1 TQ34 and the work that proceeded, is something you agree 2 with?</p> <p>3 A. Yes. What TQ34 exactly says is "replace with a straight 4 through-bar", in other words implies that part of the 5 D-wall has to be knocked off, otherwise it can't be 6 replaced by a straight through-bar. That means the 7 reply to TQ34 incorporates the spirit of monolithic.</p> <p>8 Q. So, taking your evidence and what is set out by 9 Mr Blackwood then, the only distinction that you make is 10 that you agree with that genesis and evolution of the 11 various permanent works design submissions, the 12 technical queries 44 and 34, the limited nature of TQ34, 13 and the absence to an express reference to breaking down 14 the D-wall in those, but it's the monolithic or pouring 15 concurrently point that you say should be read from all 16 of that?</p> <p>17 A. Exactly, because not only TQ34, even TQ33, the reply 18 also reiterates that cast OTE and D-wall and EWL slab 19 monolithically. It repeat and repeat in many different 20 locations, not only one-off.</p> <p>21 Q. Yes. By this point, then, the work is proceeding, as 22 you have described already to the Commission, in terms 23 of breaking down the D-wall on an ongoing basis. 24 But if you move on to paragraphs 86 and 87, finally, 25 of Mr Blackwood's statement, you will see that the</p>

Page 137	Page 139
<p>1 following is said:</p> <p>2 "On 29 July ... this detail was confirmed by team B</p> <p>3 as acceptable and returned to Leighton. I believe that</p> <p>4 Leighton then in turn submitted to MTR. However, team A</p> <p>5 was not instructed to include this detail in</p> <p>6 a subsequent BD submission."</p> <p>7 Then he goes on in 87:</p> <p>8 "I have learned subsequently (in 2018 following</p> <p>9 requests for preparation of the as-built drawings) that</p> <p>10 the upper part of the D-wall was broken out in a series</p> <p>11 of works commencing in August 2015."</p> <p>12 Just pausing at that point, you're aware of the</p> <p>13 breaking out of the D-wall. From this evidence, it</p> <p>14 would appear that Mr Blackwood at least was not aware of</p> <p>15 it until June of 2018, when as-built drawings were</p> <p>16 requested of Atkins. As far as that is concerned,</p> <p>17 you're not in a position to help us in relation to the</p> <p>18 state of knowledge of Atkins in relation to the breaking</p> <p>19 out?</p> <p>20 A. As I mentioned in my witness statement, I got under the</p> <p>21 impression the design team from MTR and Leighton should</p> <p>22 aware the monolithic, they should update the drawing in</p> <p>23 due course. But obviously my understanding or</p> <p>24 impression doesn't turn out to be correct, because both</p> <p>25 design teams don't aware that monolithic means break</p>	<p>1 MR CONNOR: Thank you very much, Mr Chan.</p> <p>2 Sir, I've got no further questions. Thank you.</p> <p>3 CHAIRMAN: Thank you very much.</p> <p>4 Re-examination by MR BOULDING</p> <p>5 MR BOULDING: Good afternoon, Mr Chan. I have just one or</p> <p>6 two questions for you arising out of questioning by</p> <p>7 Mr Pennicott and Mr Connor in the first instance, and</p> <p>8 I trust you will remember being asked by both of them</p> <p>9 whether you were involved in the preparation of the</p> <p>10 as-built drawings for the EWL slab and the agreed</p> <p>11 statement between Leighton and MTR. Do you remember</p> <p>12 that line of questioning?</p> <p>13 A. Yes.</p> <p>14 Q. You said to Mr Pennicott you had assisted in certain</p> <p>15 respects; do you remember that?</p> <p>16 A. For the second change, not the first change.</p> <p>17 Q. The first change, yes.</p> <p>18 A. The second change. The second change; right?</p> <p>19 Q. And you told the Commissioners that in certain bays or</p> <p>20 panels in area B, the coupler solution or design was</p> <p>21 retained?</p> <p>22 A. Yes.</p> <p>23 Q. And you said -- and perhaps I can read from the</p> <p>24 transcript here; this is [draft] page 59, lines 8 to</p> <p>25 16 -- the question was put to you:</p>
Page 138	Page 140
<p>1 down some parts of the D-wall, and they update the</p> <p>2 drawing accordingly. But anyway, whether they did that</p> <p>3 or not is not the key issue. The key issue, from what</p> <p>4 I understand, these minor changes can be addressed</p> <p>5 before the BA14 submission, while the BA -- final</p> <p>6 amendment. That is the key point.</p> <p>7 Q. Just to conclude on your key point there, and to sum all</p> <p>8 of that up, even if, from an Atkins perspective, the</p> <p>9 evolution of those TQs and changes to design did not</p> <p>10 signal to them that there was going to be a breakdown of</p> <p>11 the D-wall, and even if they never knew that it had</p> <p>12 happened, in your submission it doesn't matter because</p> <p>13 there is still time to fix this and to do it through the</p> <p>14 normal channels?</p> <p>15 A. Can I put it that way: I don't know whether they know</p> <p>16 about this requirement, I can't tell on their behalf.</p> <p>17 But the second point, I agree with you. These minor</p> <p>18 changes can be addressed while the final amendment</p> <p>19 submission, before the BA14 submission. Two aspects.</p> <p>20 The first part, I can't tell on behalf of Atkins whether</p> <p>21 he know about how they should update the drawing, I</p> <p>22 can't tell. It seems to be -- different people have</p> <p>23 different understanding on this issue. But the second</p> <p>24 part we all agree that this is minor change, we can</p> <p>25 address that later on.</p>	<p>1 "-- and you encountered a particular area where we</p> <p>2 now know or we now believe that couplers were</p> <p>3 retained --"</p> <p>4 And you said:</p> <p>5 "Agree, because those areas are basically to cater</p> <p>6 for the underpinning support.</p> <p>7 Question: Right.</p> <p>8 Answer: That is quite a logical decision to leave</p> <p>9 that one, because we cannot remove the coupler otherwise</p> <p>10 the underpinning work will be affected."</p> <p>11 Do you remember that exchange?</p> <p>12 A. Yes, I remember.</p> <p>13 Q. Can you explain, at least for my benefit, how the</p> <p>14 underpinning work would be affected if you removed the</p> <p>15 couplers?</p> <p>16 A. When you look at the working drawing, the shop drawing</p> <p>17 for underpinning, in fact the support for the</p> <p>18 underpinning above sit on top of the D-wall panel.</p> <p>19 There's no way physically -- if you remove the coupler,</p> <p>20 the support to the underpinning will be affected.</p> <p>21 There's no more support to the underpinning. That's</p> <p>22 physically impossible.</p> <p>23 Q. I see. I wonder whether looking at a photograph might</p> <p>24 at least assist me. Can you look at a photograph at</p> <p>25 B25578. If we can turn that so we can look at it, and</p>

Page 141	Page 143
<p>1 perhaps we can reduce it slightly in size. 2 What are we looking at here, Mr Chan? 3 A. Here, you can see the support for the underpinning 4 column, the steel column, is the support for the 5 underpinning work, and then it sits on top of the 6 as-built D-wall. That's why, if you remove the coupler, 7 the support will be affected. That's why you've got to 8 keep the coupler there intact until we can finish the 9 underpinning works on top. 10 Q. Okay. Just for the avoidance of doubt, am I right in 11 thinking that this shows the underpinning frame? 12 A. Yes. The steel members are part of the underpinning 13 frames. 14 Q. And in layman's terms, what's the purpose of that 15 underpinning frame, please, Mr Chan; do you know? 16 A. I think in principle the underpinning is to provide 17 a temporary support, during the EWL's construction, 18 because during the EWL construction we excavate the 19 ground, and that means the support would be weakened. 20 That's why we use other kind of support, to support the 21 superstructure on top. That's what we call 22 underpinning. 23 Q. I see. Do you recall telling the learned Commissioners 24 that so far as the preparation of the as-built drawings 25 for the EWL slab was concerned, the site team would use</p>	<p>1 drawing, that photo and the shop drawing for 2 underpinning can work together. Then you know exactly 3 the extent of the area affected by -- anyway, shown in 4 the shop drawing. So I think the site team would use 5 the shop drawing for underpinning work plus the relevant 6 record photo will record all the changes." 7 Do you remember that answer? 8 A. Yes, I remember that. 9 Q. In terms of "working together", for my benefit, can you 10 just explain exactly what you meant by "the photos and 11 the shop drawings can work together"? 12 A. When you look at the photos, you know some couplers 13 a still intact; right? And the steel column, when you 14 look at the shop drawing, you know the gridline or 15 location of the steel column, then you compare the panel 16 number of the D-wall, then make sure all these 17 configurations are compatible. 18 Q. I see. And so far as you are concerned, does that 19 provide a sound basis for producing the as-built 20 drawings and what's in the EWL slab? 21 A. I believe so. 22 MR BOULDING: Thank you. Thank you, Mr Chan. 23 Sir, Professor, any further questions? 24 CHAIRMAN: No. Thank you. Mr Chan, thank you for your 25 help. Your evidence has been concluded. Thank you.</p>
Page 142	Page 144
<p>1 the shop drawings for the underpinning works to record 2 all the changes? Do you remember giving that evidence? 3 A. Yes, this is part of the evidence to support the 4 as-built records. 5 Q. And why, tell me, would the site team, in addition to 6 the photographs, use the shop drawings for the 7 underpinning works to record all the changes in the EWL 8 slab? 9 A. Can you repeat your question? 10 Q. Yes. Why would the site team use the shop drawings for 11 the underpinning works in addition to the site 12 photographs to record all the changes in the EWL slab? 13 A. Because, with the help of the shop drawing, you have 14 more certainty about the location of these couplers we 15 have retained on site. There's a check and balance 16 system. It gives more certainty about the exact 17 location of where the through-bar is. 18 Q. I see. Just to read an extract from the transcript 19 concerning this element of your evidence, Prof Hansford 20 said to you -- this is page [draft] 60: 21 "So the only way you could -- the only records you 22 had of which sections this detail had been changed and 23 which sections it had not been changed, the only records 24 were photographs; is that right? 25 Answer: Not necessarily, plus the underpinning shop</p>	<p>1 You can go now. 2 (The witness was released) 3 MR BOULDING: Sir, my next witness is Mr Ho. Would you like 4 to take the afternoon break? 5 CHAIRMAN: Yes, that's a good idea. 15 minutes. 6 (3.42 pm) 7 (A short adjournment) 8 (4.00 pm) 9 MR BOULDING: Good afternoon, Mr Ho. 10 WITNESS: Good afternoon. 11 MR HO HO PONG, JAMES (affirmed in Puntì) 12 (All answers given via simultaneous interpreter 13 except where otherwise specified) 14 Examination-in-chief by MR BOULDING 15 MR BOULDING: Thank you, Mr Ho. You have given your name to 16 the Commissioner, and it's right, is it not, that you've 17 produced two witness statements for the Commissioner's 18 assistance in this Commission of Inquiry? 19 A. Correct. 20 Q. If we could look at the first statement together, 21 please. I hope we will find the first page at 22 page B320. Is that the first page of your first 23 statement, Mr Ho? 24 A. Correct. 25 Q. If we could scroll down to B354, do we there see your</p>

Page 145	Page 147
<p>1 signature under the date of 14 September 2018?</p> <p>2 A. Yes.</p> <p>3 Q. Are the contents of that statement true to the best of</p> <p>4 your knowledge and belief?</p> <p>5 A. Yes, correct.</p> <p>6 Q. Now we will go on to a second statement, if we may, and</p> <p>7 B14482.</p> <p>8 Mr Ho, do you want to put the headset on?</p> <p>9 A. (In English) I'm okay.</p> <p>10 Q. There, it's in Chinese, so it's not much good to me, but</p> <p>11 that's the first page of your second statement, is it</p> <p>12 not?</p> <p>13 A. Yes, that is a statement for the police.</p> <p>14 Q. Yes. If we go through to page B14486, there do we see</p> <p>15 your signature, under the date of 8 October 2018?</p> <p>16 A. Correct.</p> <p>17 Q. Just for good measure, if we go to the following page,</p> <p>18 I'm told that that's your signature under the same date,</p> <p>19 8 October 2018, and that's the statement of truth;</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Not least for my benefit, we can find, can we not, the</p> <p>23 English version starting at B14496.1. Splendid.</p> <p>24 So far as the contents of that second statement are</p> <p>25 concerned, Mr Ho, are the contents true to the best of</p>	<p>1 Q. Thank you very much for coming to give evidence to the</p> <p>2 Inquiry. My name is Ian Pennicott, I'm one of the</p> <p>3 counsel for the Commission, and I do have a few</p> <p>4 questions for you.</p> <p>5 Mr Ho, you have been, as I understand it, MTRC's</p> <p>6 senior construction engineer for contract 1112 since</p> <p>7 February 2015?</p> <p>8 A. Correct.</p> <p>9 Q. As we've just seen with Mr Boulding, you report to</p> <p>10 Mr Kit Chan?</p> <p>11 A. Yes.</p> <p>12 Q. I'm going to ask you, first of all, Mr Ho, some</p> <p>13 questions about the coupler inspection records or the</p> <p>14 lack thereafter.</p> <p>15 A. (In English) Okay.</p> <p>16 Q. Are you sure you don't need the headphones on?</p> <p>17 A. (In English) I'm okay, thank you.</p> <p>18 Q. All right. Now, paragraph 64 your witness statement,</p> <p>19 please. You refer to the quality supervision plan for</p> <p>20 the installation of couplers; do you see that?</p> <p>21 A. (In English) Yes.</p> <p>22 Q. When you joined the project in February 2015, were you</p> <p>23 made aware of the quality supervision plan?</p> <p>24 A. When I joined the diaphragm wall BA14 project?</p> <p>25 Q. Yes, when you joined in February 2015, the diaphragm</p>
<p>1 your knowledge and belief?</p> <p>2 A. Yes, correct.</p> <p>3 Q. Are those statements the evidence that you'd like to put</p> <p>4 before the Commission of Inquiry today?</p> <p>5 A. Yes.</p> <p>6 Q. Just to see where you were in the MTR organisation,</p> <p>7 please could you go to B567. If you look, we've got</p> <p>8 Mr Kit Chan at the very top, we can see his secretary,</p> <p>9 and then if you just come down a bit, we can see that</p> <p>10 you're on the second row, so to speak, "James Ho"?</p> <p>11 A. (In English) Yes.</p> <p>12 Q. And that accurately sets out, does it not, your position</p> <p>13 in the MTR organisation chart as at the beginning of</p> <p>14 February 2015; correct?</p> <p>15 A. Yes.</p> <p>16 MR BOULDING: Thank you. You probably realise how this</p> <p>17 works, but first of all the counsel for the Commission</p> <p>18 will ask you some questions, then you might be asked</p> <p>19 some questions by other lawyers in the room. You can be</p> <p>20 asked question by the Chairman and the professor at any</p> <p>21 time, and I might ask you some questions at the end.</p> <p>22 Thank you very much, Mr Ho. Please stay there.</p> <p>23 Examination by MR PENNICOTT</p> <p>24 MR PENNICOTT: Mr Ho, good afternoon.</p> <p>25 A. (In English) Good afternoon.</p>	<p>1 wall works had about three or four months to go, because</p> <p>2 they had finished around May/June 2015; yes?</p> <p>3 A. (In English) Yes, but the first submission went in in</p> <p>4 January 2015, first batch.</p> <p>5 Q. All right. That's right. So, sorry, let me just recap.</p> <p>6 When you first arrived in February 2015, you were</p> <p>7 deployed to the diaphragm wall works, were you?</p> <p>8 A. (In English) Yes.</p> <p>9 Q. Okay. And it was in that context that you were made</p> <p>10 aware, initially, of the quality supervision plan?</p> <p>11 A. (In English) Correct.</p> <p>12 Q. Okay. As I understand it, if you go to paragraph 46 of</p> <p>13 your witness statement, you accept, as I understand it,</p> <p>14 that the QSP applies not just to the diaphragm wall</p> <p>15 works but also to the EWL slab works?</p> <p>16 A. Correct.</p> <p>17 Q. You say, in the last sentence of paragraph 46:</p> <p>18 "... at the time of the EWL slab works, Leighton has</p> <p>19 not provided any record sheets or inspection logbook to</p> <p>20 MTR to be countersigned."</p> <p>21 A. Correct.</p> <p>22 Q. When you had finished and the diaphragm walls were</p> <p>23 completed, as I understand it, you then were involved</p> <p>24 with the EWL slab works; is that right?</p> <p>25 A. Correct.</p>

Page 149	Page 151
<p>1 Q. Were you conscious of the fact, when you joined -- you 2 started having duties and responsibilities for the EWL 3 slab works, were you conscious of the fact that there 4 were no similar records as there had been on the 5 diaphragm wall works? 6 A. At that time, I didn't know. 7 Q. Well, you must have known that there weren't any 8 records, surely? 9 A. When you say "records" are you referring to the 10 logbooks? 11 Q. I'm referring to record sheets or inspection logbooks, 12 because I'm looking at the last sentence of paragraph 46 13 of your statement. So let's start with record sheets. 14 You were aware, presumably, when you were working on 15 the EWL slab works, that there were no individual record 16 sheets of connection inspections? 17 A. Let me clarify what I'm saying here. When I was -- back 18 in February 2017, I didn't know that there were 19 inspection records or log sheets. 20 Q. Sorry, back in February 2015, do you mean? 21 A. (In English) 2017. 22 Q. Okay. Sorry, let's just recap, Mr Ho, because it may be 23 that I'm misunderstanding you. You were involved with 24 the EWL slab works? 25 A. Yes.</p>	<p>1 for that. And the diaphragm wall works, our inspector 2 had made those records and was working along those 3 assumptions. So I didn't make specific enquiries. 4 Q. Right. So you made the assumption that there would be 5 such records? 6 A. Correct. 7 Q. Likewise, does that assumption apply to the inspection 8 logbook as well as record sheets? 9 A. Yes. 10 Q. Okay. Then you say: 11 "In or around early February 2017, Mr Carl Wu, 12 Mr Peter Fung, Mr Kobe Wong and [yourself] took part in 13 an internal quality assurance and quality control 14 review" -- which you have called an "internal review" -- 15 "as a result of the email from China Technology to 16 Leighton which [you] have referred to ... above. At the 17 time, it came to light that Leighton did not keep any 18 record sheets or inspection logbook, and the inspectors 19 of works also confirmed that they had not been provided 20 with any record sheets for countersigning." 21 You go on to say: 22 "After the internal review, a report was issued on 23 8 February 2017 ..." 24 With some excitement, Mr Ho, we are going to look at 25 a document we've never looked at before, but don't get</p>
Page 150	Page 152
<p>1 Q. What were your duties and responsibilities in relation 2 to those works, the EWL slab works? 3 A. At that time I had a lot of duties, all 4 construction-related duties, including submissions, 5 temporary works, and subsequently planning/logistics. 6 Q. Right. Were you involved in any way with the inspection 7 of those works? 8 A. (In English) Inspection? 9 (Via interpreter) if you are referring to checking 10 works, I was not involved. 11 Q. Right. Were you involved in any way with the collation 12 of records and documents in relation to the EWL slab 13 works? 14 A. In my role in TCP, I had some involvement. 15 Q. Right. What I'm trying to understand, Mr Ho, is 16 whether, even in your limited involvement, you were 17 aware that there were no record sheets of inspections of 18 the rebar connections to the couplers at the time, back 19 in 2015 and 2016. 20 A. I wasn't aware at that time. 21 Q. Right. Is that because you simply hadn't turned your 22 mind to it, or it wasn't something that you were 23 particularly responsible for? 24 A. A bit of both, because I didn't work on the rebar or 25 coupler installation inspection. I wasn't responsible</p>	<p>1 too excited: B7/4516. 2 Now, you've probably heard or probably know, Mr Ho, 3 that in January 2017 going into February 2017, Mr Lumb 4 and his colleagues at Leighton provided or produced 5 an internal report into the bar cutting allegations; 6 yes? 7 A. I'm aware. 8 Q. As I understand it, the document we are just about to 9 look at -- it's B7/4516 -- is the MTR internal report. 10 A. Correct. 11 Q. Sort of the equivalent of the Leighton document, the 12 major difference being it's a lot shorter. 13 First of all, as we can see here from 4516, you and 14 Mr Kobe Wong were interviewed to assist in the 15 preparation of this report? 16 A. That's right. 17 Q. The review, it says, is to examine the construction 18 records to confirm that the steel reinforcement and 19 coupler for the EWL track slab have been installed in 20 accordance with the requirements of the quality 21 assurance and quality control regimes. That was the 22 objective. 23 Then we can see -- let's just look at the end of 24 it -- at 4520, the two authors of this report are 25 Mr Carl Wu, who we will be hearing from in the not too</p>

Page 153	Page 155
<p>1 distant future, and Mr Peter Fung?</p> <p>2 A. Correct.</p> <p>3 Q. We can see they date this 8 February 2017, two days</p> <p>4 earlier than the final version of the Leighton report.</p> <p>5 Did you get a chance of reviewing this report,</p> <p>6 Mr Ho, back in February 2017?</p> <p>7 A. I did.</p> <p>8 Q. You were shown a copy of it?</p> <p>9 A. Yes.</p> <p>10 Q. And the recommended follow-up actions are at</p> <p>11 paragraph 4.3 at 4518. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What it says at the first bullet point there is:</p> <p>14 "Obtain from Leighton the latest 'For Construction'</p> <p>15 version of the ITP ... as described in the relevant</p> <p>16 method statement", and then, importantly, "and confirm</p> <p>17 that the construction records were consistent with the</p> <p>18 requirements of the prescribed inspection and test</p> <p>19 regime."</p> <p>20 Mr Ho, to your recollection and knowledge, was that</p> <p>21 follow-up action -- sorry, was that action followed up</p> <p>22 or not?</p> <p>23 A. Yes, because there was an ITP at that time.</p> <p>24 Q. Right. Did you discover whether or not the records were</p> <p>25 consistent with that ITP?</p>	<p>1 Q. And there was no record sheet, was there, Mr Ho, in</p> <p>2 respect of the rebar -- starter bars connected to the</p> <p>3 couplers for the purposes of the slab?</p> <p>4 A. Right.</p> <p>5 Q. And the third bullet point says:</p> <p>6 "Obtain confirmation from Leighton that their TCP</p> <p>7 records could demonstrate full-time T3 supervision of</p> <p>8 the mechanical coupler works per the BD requirement ..."</p> <p>9 Did you ever obtain that confirmation, Mr Ho?</p> <p>10 A. We did check the TCP record from Leighton.</p> <p>11 Q. And what was the result of that check?</p> <p>12 A. Basically, at that time, when we checked it, it was in</p> <p>13 order. There were TCP records.</p> <p>14 Q. Of a TP?</p> <p>15 A. (In English) Of T3.</p> <p>16 Q. All right.</p> <p>17 Then at number 6 in the report, there's the "Control</p> <p>18 of non-confirming" -- I think that should say</p> <p>19 "non-conforming" -- "works", and there's a reference to</p> <p>20 NCR157 under that heading; all right --</p> <p>21 A. Yes.</p> <p>22 Q. -- which I'm not going to trouble you with.</p> <p>23 Could I then just draw your attention to the</p> <p>24 conclusion at 4520, where it says:</p> <p>25 "It is concluded that, based on the above review of</p>
Page 154	Page 156
<p>1 A. By "record" you mean ...?</p> <p>2 Q. Well, in this here, it says the action is to confirm</p> <p>3 that the construction records -- construction records,</p> <p>4 it's the words in this report -- were consistent with</p> <p>5 the requirements of the inspection and test regime.</p> <p>6 A. (In English) Sorry.</p> <p>7 (Via Interpreter) Yes, because here it refers to</p> <p>8 RISC form, and, yes, they were all in order, followed</p> <p>9 the ITP regime.</p> <p>10 Q. So that's a reference to the RISC forms?</p> <p>11 A. Correct.</p> <p>12 Q. We can go on from there to the quality assurance scheme</p> <p>13 of couplers. There's a reference to the QSP which we</p> <p>14 have touched upon already, and then you or the report,</p> <p>15 rather, sets out the key requirements of the QSP, which</p> <p>16 we're familiar with. Then over the page, at 4519,</p> <p>17 there's another heading "Recommended follow-up actions";</p> <p>18 do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. At the second bullet point, it says:</p> <p>21 "Confirm the frequency of Leighton and MTR</p> <p>22 supervision were in compliance with the requirement of</p> <p>23 the QSP, and were recorded on the record sheet</p> <p>24 (appendix C of QSP)".</p> <p>25 A. Yes.</p>	<p>1 the construction records, the steel reinforcement and</p> <p>2 coupler for the EWL track slab ... had been installed in</p> <p>3 accordance with the requirements of the [QA and QC]</p> <p>4 regimes."</p> <p>5 Is that a conclusion that you genuinely agreed with,</p> <p>6 Mr Ho?</p> <p>7 A. Well, this report wasn't prepared by me, the conclusion</p> <p>8 wasn't drawn by me, but in general terms I agree with</p> <p>9 its conclusion.</p> <p>10 Q. Despite the fact that, as you accept, there were no</p> <p>11 records by reference to appendix C to the QSP?</p> <p>12 A. Right. At that time, I asked the inspectors. It was</p> <p>13 very sure that BD requirements were fulfilled.</p> <p>14 Q. Right, even though you were not shown any such records</p> <p>15 and you know such records do not exist now?</p> <p>16 A. Right. I believe the inspectors, that they have done</p> <p>17 the inspections.</p> <p>18 Q. Right. So you just relied on their say-so that they had</p> <p>19 done the inspections, even though there were no physical</p> <p>20 records?</p> <p>21 A. And the internal quality system using RISC form by MTR,</p> <p>22 and there were RISC forms, all were there.</p> <p>23 (In English) For rebar fixing work.</p> <p>24 Q. All right. So, it's having spoken to the various</p> <p>25 inspectors and the RISC forms combined?</p>

Page 157

1 A. (In English) Correct?

2 Q. All right. Now, could you please go to paragraph 50 of

3 your witness statement. Let's start at 49, I'm sorry,

4 which is at 335. You say:

5 "In or around early June 2018, after the media

6 reports on 30 May 2018 alleging defective steel works

7 and coupler installations in the diaphragm walls and EWL

8 slab, Leighton provided MTR with folders containing RISC

9 forms for each of the 32 bays, which attached certain

10 checklists entitled 'As-built for on-site assembly of

11 EWL slab to D-wall/slab couplers' ..."

12 Now, pausing there, Mr Ho -- prior to providing

13 those records or those checklists, they did in fact

14 provide a previous version or an earlier version, as

15 I understand it, which didn't have the words "As-built"

16 on it but had "Checklist"; do you recall that?

17 A. That's right.

18 Q. And it was those original checklists that found their

19 way or being attached to the RISC forms?

20 A. Right.

21 Q. And it was those checklists which were viewed by the

22 government officers who visited MTRC's offices in early

23 June this year?

24 A. Right.

25 Q. And only subsequently was their name changed from

Page 158

1 "Checklist" to "As-built"?

2 A. Right.

3 Q. All right.

4 You then go on in paragraph 50 to say this:

5 "Given that Leighton had never prepared any record

6 sheets or inspection logbook as required by the QSP ..."

7 And so, Mr Ho, just to get it clear, as I read your

8 evidence, you accept the proposition that such record

9 sheets and inspection logbook ought to have been

10 prepared by Leighton pursuant to the QSP?

11 A. Right.

12 Q. You go on to say:

13 "... there was simply nothing for MTR to countersign

14 to fulfil the requirement under the QSP."

15 A. That's right.

16 Q. Now, you've given your evidence about the fact that you

17 assumed that such records would have been prepared.

18 Who, amongst the MTR personnel, would have known that

19 those records didn't exist at the time, in 2015-2016?

20 A. I believe they would be the inspectors.

21 Q. The inspectors?

22 A. That's right.

23 MR PENNICOTT: All right. We can ask them, as they are

24 coming soon.

25 Sir, I'm conscious of the fact that it must be about

Page 159

1 4.26 or 4.27.

2 CHAIRMAN: If you are going to move on to a new topic --

3 MR PENNICOTT: I am. This is going to take a little while,

4 actually, so rather than pursue it, it's probably best

5 just to duck out at this stage.

6 CHAIRMAN: All right. Thank you. Good.

7 Mr Ho, you're giving your evidence at the moment.

8 We're adjourning now a little earlier than usual, but

9 we'll start tomorrow at 10.00, and so I would ask you to

10 return tomorrow.

11 Because you're in the middle of giving your

12 evidence, you're not entitled to discuss your evidence

13 with anybody else; okay?

14 WITNESS: Okay.

15 CHAIRMAN: Until that evidence is concluded. That's a thing

16 I tell all the witnesses.

17 WITNESS: Okay.

18 CHAIRMAN: So you must keep your evidence and everything

19 about it to yourself until it is completed.

20 WITNESS: Okay.

21 CHAIRMAN: Good. Thank you very much.

22 (4.28 pm)

23 (The hearing adjourned until 10.00 am the following day)

24

25

Page 160

1 INDEX

2 PAGE

3 MR LEUNG FOK VENG, ANDY (on former affirmation in ....1

4 Punti)

5 Examination by MR PENNICOTT (continued) .....1

6 Cross-examination by MR CHOW .....15

7 Re-examination by MR BOULDING .....21

8 (The witness was released) .....24

9 H O U S E K E E P I N G .....24

10 MR CHAN KIT LAM, KIT (affirmed) .....31

11 Examination-in-chief by MR BOULDING .....31

12 Examination by MR PENNICOTT .....34

13 Cross-examination by MR SO .....91

14 Cross-examination by MR CHOW .....100

15 Cross-examination by MR CONNOR .....122

16 Re-examination by MR BOULDING .....139

17 (The witness was released) .....143

18 MR HO HO PONG, JAMES (affirmed in Punti) .....144

19 Examination-in-chief by MR BOULDING .....144

20 Examination by MR PENNICOTT .....146

21

22

23

24

25