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<p>1 Tuesday, 4 December 2018</p> <p>2 (10.01 am)</p> <p>3 MR HO HO PONG, JAMES (on former affirmation in Punti)</p> <p>4 (Simultaneous interpretation used only where specified)</p> <p>5 Examination by MR PENNICOTT (continued)</p> <p>6 CHAIRMAN: Yes.</p> <p>7 MR PENNICOTT: Good morning, sir and professor.</p> <p>8 Good morning, Mr Ho. When we finished yesterday</p> <p>9 afternoon, we were looking at paragraph 50 of your</p> <p>10 witness statement. If you could go back to that,</p> <p>11 please.</p> <p>12 We had discussed the first sentence of that</p> <p>13 paragraph last night, and I asked you about the lack of</p> <p>14 records under the QSP. Do you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Let's move on from there.</p> <p>17 You then go on in your witness statement to describe</p> <p>18 the background to and the manner in which various</p> <p>19 retrospective records for coupler installation were</p> <p>20 prepared by yourself and others in your team.</p> <p>21 A. Correct.</p> <p>22 Q. The people involved were Michael Fu, Derek Ma, Kobe Wong</p> <p>23 and yourself, as I understand it, following certain</p> <p>24 instructions that you had received from Mr Rooney?</p> <p>25 A. Correct.</p>	<p>1 the RDO?</p> <p>2 A. Correct.</p> <p>3 Q. And they were for internal purposes only?</p> <p>4 A. Yes.</p> <p>5 Q. You explain to us that the records, the retrospective</p> <p>6 records that we see here, were prepared by reference to</p> <p>7 the BA14 as-built drawings for the diaphragm wall?</p> <p>8 A. Correct.</p> <p>9 Q. The problem with that, as was subsequently discovered,</p> <p>10 was that the second change to the top, that is the</p> <p>11 change to the top of the east diaphragm wall, was</p> <p>12 overlooked when the checklists were prepared?</p> <p>13 A. Correct.</p> <p>14 Q. And that was a point that was only picked up</p> <p>15 subsequently?</p> <p>16 A. Correct.</p> <p>17 Q. The importance of that point is that the number of</p> <p>18 couplers was calculated by reference to these</p> <p>19 checklists, and because you had used the diaphragm wall</p> <p>20 as-built drawings that number, the calculation, turned</p> <p>21 out to be incorrect?</p> <p>22 A. Yes.</p> <p>23 Q. All right. Now, you say that that oversight was due to</p> <p>24 the time pressure that you were under, and also, you</p> <p>25 say -- I'm looking at paragraph 56 of your statement,</p>
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<p>1 Q. The upshot of the exercise we can see I think at</p> <p>2 B7/4537, where first of all we see a summary sheet,</p> <p>3 a checklist; yes?</p> <p>4 A. Yes.</p> <p>5 Q. Then, over the page, we see the start of a collection of</p> <p>6 similar documents relating to each area, or each bay in</p> <p>7 each area?</p> <p>8 A. Yes.</p> <p>9 Q. We know that ultimately they bore the signature of</p> <p>10 Mr Kobe Wong?</p> <p>11 A. Yes.</p> <p>12 Q. They were prepared this year, we know, in or about June</p> <p>13 2018?</p> <p>14 A. Yes.</p> <p>15 Q. But you say, despite that, a date was put on the</p> <p>16 documents of 10 February 2017, so retrospective and</p> <p>17 backdated?</p> <p>18 A. Correct.</p> <p>19 Q. The justification for the backdating to 10 February was</p> <p>20 that you wanted to tie these checklists in to the</p> <p>21 document we looked at yesterday afternoon, that is the</p> <p>22 report prepared by Carl Wu?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. You seek to emphasise that these checklists were</p> <p>25 not intended to form part of any submission to the BD or</p>	<p>1 penultimate sentence:</p> <p>2 "This was because back in 2015, we did not consider</p> <p>3 this to be a major issue, and there were numerous more</p> <p>4 pressing matters which I had to deal with on</p> <p>5 a day-to-day basis."</p> <p>6 A. Yes.</p> <p>7 Q. Of course, one reason, perhaps, Mr Ho, that all this was</p> <p>8 overlooked was that the appropriate records for the</p> <p>9 rebar inspection were not in place and, had they been,</p> <p>10 this error may not have happened; do you agree with</p> <p>11 that?</p> <p>12 A. I agree, but may I supplement a little bit?</p> <p>13 Q. Of course.</p> <p>14 A. At that time when we prepare the checklist or count the</p> <p>15 numbers, actually we also make reference to Leighton's</p> <p>16 provided numbers as well. So, in other words, apart</p> <p>17 from base on the diaphragm wall as-built drawings, we</p> <p>18 also base on -- make reference to Leighton's provision</p> <p>19 of their numbers as well.</p> <p>20 Q. Okay. So you, as it were -- there was a cross-check</p> <p>21 with Leighton's material and they had come up with the</p> <p>22 same number?</p> <p>23 A. Yes.</p> <p>24 Q. Probably because they were looking at the same material?</p> <p>25 A. Exactly.</p>

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<p>1 CHAIRMAN: Sorry, on that basis, when you say cross-check 2 with their numbers, do you know the source of their 3 numbers? 4 A. I'm not sure but I think they were also based on the 5 diaphragm wall as-built drawings. 6 CHAIRMAN: So you cross-checked with Leighton, whose 7 information, as far as you could tell, was sourced from 8 the same source as your information? 9 A. Correct. 10 MR PENNICOTT: Sir, thank you. 11 Mr Ho, are you going to continue to give your 12 evidence in English, in which case I'll take my 13 headphones off, as indeed I see the Chairman and the 14 professor have? It's up to you, Mr Ho. 15 A. I'll try to do it in English. 16 Q. You don't have to. It's a matter entirely for you. But 17 at the moment I'll take the headphones off. Thanks very 18 much. 19 Back to your witness statement, to a different 20 topic. You then go on to deal, in your witness 21 statement, with the change in the construction detail 22 from the couplers to the through-bars. 23 A. Yes. 24 Q. I'm going to try to go over this reasonably quickly but 25 unfortunately I'm going to have to put some of the</p>	<p>1 Q. It was not followed through generally, and different 2 solutions were adopted, ie the through-bars. 3 A. Actually, we adopt this solution for most of the areas, 4 apart from the hacked-off area, but where we have the 5 tremie pipe at the bottom and also the west side wall 6 and NSL as well, we have to do the drill-in bar at the 7 tremie pipe location. 8 Q. All right. Let me just -- I probably didn't quite 9 understand that. Let me just see if I can follow it. 10 So, in the hacked-off areas, this solution was not 11 adopted? 12 A. Correct. 13 Q. But where you have -- but it was adopted in the NSL? 14 A. NSL, plus also the EWL but the bottom layer as well. 15 Q. Sorry -- 16 A. Because the tremie pipe is all the way down to the NSL. 17 Q. So, so far as the EWL is concerned, in the bottom mat of 18 rebars -- 19 A. Correct. 20 Q. -- it was also adopted; right? 21 A. Yes. 22 Q. And that would have been throughout? 23 A. Yes. 24 Q. Understood. Got it. 25 Then you go on to deal with, in your witness</p>
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<p>1 material that Mr Cheuk put last week, I think it was 2 last week, to Mr Buckland, but we'll see how we go. 3 Just to pick up a point at paragraph 60 of your 4 witness statement -- it's a point that is really just 5 a matter of history and chronology which we perhaps 6 haven't looked at before -- where you make reference to 7 TQ12 and TQ13, by which problems had been picked up in 8 the context of a clash, as you say, with the rows of 9 couplers and the spacing at the top layers of the rebar 10 in the slab, the EWL slab. 11 A. Yes. 12 Q. And Atkins' original response to those TQs was what 13 might be broadly described as a drill-in dowel bar 14 solution; yes? 15 A. Yes. 16 Q. You've got a diagram at the top of page 339 which 17 describes or illustrates, rather, that point, and you 18 say that, at that time, you considered this solution was 19 not at all ideal; it would have involved the drilling of 20 a very large number of holes across the diaphragm walls, 21 and also Leighton had expressed or queried whether there 22 were any other options. 23 As I understand it, to be clear, Mr Ho, this type of 24 solution was not pursued; is that correct? 25 A. What do you mean by "not pursued"?</p>	<p>1 statement, TQ33. 2 A. Yes. 3 Q. Again, that arose because of another problem that was 4 encountered in a particular area, and this is where we 5 start to get into the problem or the issue, the 6 discussion, of what is meant by "monolithic" and 7 "monolithic construction". 8 What you say, in paragraph 61 of your witness 9 statement, last sentence, is: 10 "The entire construction management team ..." 11 By that you mean the MTRC construction management 12 team? 13 A. Yes, MTR. 14 Q. "... understood (from an engineering perspective) that 15 the word 'monolithic' meant that the two structures must 16 be cast together as one whole slab rather than as two 17 separate components." 18 Now, what do you mean, first of all, by the words 19 "the two structures"? What two structures are you 20 referring to? 21 A. Sorry, I may not be very clear here, but what I meant 22 was the monolithic applies to the EWL slab, the top of 23 the diaphragm wall, plus the OTE. 24 Q. Right. That's what I thought you meant. That is, on 25 one view, three structures.</p>

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<p>1 A. Yes.</p> <p>2 Q. And, indeed, for purposes of illustration in a moment,</p> <p>3 can we call the EWL slab number one; the diaphragm wall</p> <p>4 in the middle number two; and the OTE wall on the other</p> <p>5 side number three?</p> <p>6 A. Okay.</p> <p>7 Q. My understanding of your position is that your</p> <p>8 interpretation of "monolithic" would involve the</p> <p>9 construction of one, two and three together?</p> <p>10 A. Yes.</p> <p>11 Q. All at one time.</p> <p>12 Now, you're aware, presumably, that other people did</p> <p>13 not necessarily take that view; yes?</p> <p>14 A. Yes.</p> <p>15 Q. And another alternative view that was taken was that</p> <p>16 numbers one and three would be cast together, at the</p> <p>17 same time -- at the same time, concurrently -- and that</p> <p>18 was the sense in which "monolithic" was used by other</p> <p>19 people. Do you understand that?</p> <p>20 A. Yes, but because they use the word "monolithic", which</p> <p>21 applies -- the whole thing has to be cast in one</p> <p>22 element, in one go.</p> <p>23 Q. Yes, but my understanding of why they say that is that</p> <p>24 of course you're assuming that all the rebar is</p> <p>25 connected up. You've got the rebar coming in from the</p>	<p>1 "By the time of TQ33 and Atkins B's response,</p> <p>2 however, the east diaphragm wall between the OTE</p> <p>3 structure and the EWL slab had already been completed.</p> <p>4 As a matter of common sense from an engineering</p> <p>5 perspective, the requirement to cast the OTE and EWL</p> <p>6 slabs monolithically meant that Leighton would have to</p> <p>7 trim down the top of the diaphragm wall (along with the</p> <p>8 cast-in couplers therein), and this was implemented</p> <p>9 accordingly on site."</p> <p>10 Then you set out Mr WC Lee's response to TQ33. You</p> <p>11 rightly point out that the date is wrong; I think it's</p> <p>12 29 July --</p> <p>13 A. Yes.</p> <p>14 Q. -- or a date shortly thereafter. And you see Its quite</p> <p>15 small type, but we might be able to blow it up on the</p> <p>16 screen, which we have. The last two lines of Mr Lee's</p> <p>17 response says this:</p> <p>18 "Please be reminded that in order to comply with the</p> <p>19 design assumption, the OTE "wall" -- so that's number</p> <p>20 three -- "the OTE wall must be concrete/pour together at</p> <p>21 the same time (monolithically), with the 3 metre EWL</p> <p>22 slab ..."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Ie number one.</p>
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<p>1 EWL slab, connected to the rebar going through the</p> <p>2 diaphragm wall, you've got the rebar on the OTE wall.</p> <p>3 So you've got a full length, full stretch, of rebar</p> <p>4 going right the way through. And what they're saying is</p> <p>5 provided you concrete one and three at the same time,</p> <p>6 before you put any further load on the top, that's what</p> <p>7 they meant by "monolithic".</p> <p>8 A. Right.</p> <p>9 Q. Rather different to you.</p> <p>10 A. Sorry, but our understanding at that time was different.</p> <p>11 Q. Was different.</p> <p>12 A. Yes.</p> <p>13 Q. I'm putting that to you because, as it happens,</p> <p>14 yesterday, indeed last night as far as I was concerned,</p> <p>15 we received some witness statements from Atkins, some</p> <p>16 further witness statements from Atkins, and this is one</p> <p>17 of the points that is made by Mr WC Lee, who we'll be</p> <p>18 coming to in a moment.</p> <p>19 So can we go back to your witness statement, because</p> <p>20 it is Mr WC Lee who deals with TQ33, as indeed you</p> <p>21 relate in your witness statement, so a very timely</p> <p>22 arrival of that witness statement last night, if I may</p> <p>23 say so.</p> <p>24 Anyway, at paragraph 62 of your witness statement,</p> <p>25 you say:</p>	<p>1 "... and the wall to extend to 300mm above the</p> <p>2 chamfer section of the wall to provide the kicker for</p> <p>3 the OTE wall above."</p> <p>4 Which we don't need to worry about.</p> <p>5 So there we see no reference by Mr Lee to any</p> <p>6 trimming down of the diaphragm wall; do you agree?</p> <p>7 A. Yes.</p> <p>8 Q. And indeed the image 3, as you've called it, the extract</p> <p>9 from the response also included a diagram, as</p> <p>10 I understand it, and you've set that diagram out in your</p> <p>11 witness statement. We can see from that diagram that</p> <p>12 the solution still assumes, from this diagram, that the</p> <p>13 couplers are going to be used; there's no through-bar</p> <p>14 shown on this diagram, do you see?</p> <p>15 A. Yes.</p> <p>16 Q. Just to -- you won't have seen this, because we only got</p> <p>17 it last night, but just to show you Mr Lee's statement.</p> <p>18 It's at J6/4526.</p> <p>19 CHAIRMAN: Sorry --</p> <p>20 MR PENNICOTT: Not at all.</p> <p>21 CHAIRMAN: -- so Mr Lee of Atkins is working on the basis</p> <p>22 that the couplers are going to stay?</p> <p>23 MR PENNICOTT: In response to TQ33, sir, yes. And indeed in</p> <p>24 his witness statement, which we've now got, he says he</p> <p>25 was not aware of any trimming down of the D-wall.</p>

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<p>1 CHAIRMAN: Okay. So the trimming down of the D-wall, just 2 so I can get this, appears to have been as a result of 3 an understanding of a slightly ambiguous, with the 4 benefit of hindsight, email, talking about "monolithic". 5 To me, "monolithic" means monolithic. It doesn't mean 6 concurrent or current. 7 MR PENNICOTT: No. 8 CHAIRMAN: So that was read as being, if we're going to do 9 it monolithically, we've got to trim down, get rid of 10 the couplers, and we put through-bars in, which makes 11 sense anyway because you're getting as strong, if not 12 stronger, a reinforcing. 13 MR PENNICOTT: Correct. 14 CHAIRMAN: But Mr Lee was still working on the basis of 15 couplers, and he saw his -- the way he saw it was 16 pouring concurrently on the OTE and -- 17 MR PENNICOTT: The EWL slab. 18 CHAIRMAN: -- the EWL slab. 19 MR PENNICOTT: Without touching the diaphragm wall. 20 CHAIRMAN: But not doing anything to the diaphragm wall, 21 which was a permanent work. 22 MR PENNICOTT: Correct. 23 CHAIRMAN: Thank you. I just wanted to understand. 24 MR PENNICOTT: That's entirely right, sir. You have 25 understood it correctly. I think I've now got it as</p>	<p>1 CHAIRMAN: But in any event, it was the view of certain 2 people, especially those in the trenches, literally, 3 that this was a minor change, in any event, because it 4 wasn't a design change as such. 5 MR PENNICOTT: Well, that was the view of a number of 6 people. 7 CHAIRMAN: Yes, so that's why they were able to push ahead 8 without a sort of formal start line, if I can put it 9 that way. 10 MR PENNICOTT: And without producing any further working 11 drawings and so forth at that stage, that's right. 12 CHAIRMAN: Thank you. 13 MR PENNICOTT: Just to finish off this point, having 14 introduced Mr Lee into the story, if you go to J6/4526, 15 paragraph 22 -- I'm not going to read all this out -- he 16 refers to a technical query at paragraph 22, he sets out 17 a long section from an email that he sent prior to the 18 formal issue of TQ33, because he says that this all 19 subsequently became TQ33. 20 Then, if you look at paragraph 23, Mr Ho and sir, he 21 says: 22 "By monolithically, I meant the OTE wall and the EWL 23 slab on each side of the D-wall cast at the same time to 24 ensure the full tension anchorage for the 3m EWL slab." 25 And that's where we get Mr Lee's interpretation of</p>
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<p>1 well, because I've been a bit behind myself on all of 2 this. It perhaps goes some way to explain the 3 difficulties we had when we were discussing this matter 4 with Mr Andy Leung on Friday, as you will recall I ran 5 into some difficulty. 6 CHAIRMAN: Yes. 7 MR PENNICOTT: But it may be that reflecting on all this 8 again and looking back at Mr Leung's email, we might be 9 able to make more sense of what he was saying. 10 CHAIRMAN: Then to put it into greater context, broadening 11 that, this was in fact carried out where it was not 12 necessary to underpin, because where there was 13 underpinning then you couldn't do this, you couldn't 14 trim and remove the couplers. Good. 15 MR PENNICOTT: Yes, that's it, sir. 16 COMMISSIONER HANSFORD: Although where there was 17 underpinning you could pour concurrently? 18 MR PENNICOTT: I imagine you could, but perhaps the witness 19 could answer that rather than me. 20 A. We could but you couldn't achieve the monolithic 21 requirement. 22 COMMISSIONER HANSFORD: You couldn't achieve monolithic, as 23 you understood monolithic, but you could have done it 24 concurrently? 25 A. Yes.</p>	<p>1 what he meant by "monolithic". And further down the 2 page, he then specifically deals with the response to 3 TQ33. At paragraph 26 he says: 4 "On or around 29 July 2015, I responded to TQ33 5 again in view of the urgency, clarifying how to 6 calculate the length of the L-shaped tension 7 anchorage ... I also stated that the OTE slab/wall must 8 be poured together with the EWL slab." 9 And that's what we've just looked at in Mr Ho's 10 witness statement. 11 "This was very similar to the comments in my email 12 on 24 July ..." 13 CHAIRMAN: Right. Could I ask this -- at the moment, we're 14 talking about two different processes. One, if I can 15 put it this way, that Atkins are suggesting, which 16 doesn't involve removal of a coupler and doesn't require 17 what I understand as being monolithic pour. 18 MR PENNICOTT: Yes. 19 CHAIRMAN: The other one is the one that appears to have 20 been done. 21 The home point, however, the arrival point, is it in 22 everybody's view the same, namely that what in fact has 23 happened has not diminished the structural integrity but 24 may indeed have strengthened it? 25 MR PENNICOTT: That is my understanding of -- subject to any</p>

Page 17	1 views government may have, or government's experts -- 2 but my understanding of the current position is that all 3 of the structural engineering experts or structural 4 engineering witnesses, or indeed any other engineering 5 witnesses, all take the view that this is probably, at 6 the end of the day, a better and stronger design than 7 was originally conceived. 8 CHAIRMAN: All right. So what we're looking at is, very 9 largely, we're looking at management issues, oversight 10 issues and the like, as opposed to actual structural 11 integrity issues, in the final analysis? 12 MR PENNICOTT: That's my understanding, sir, subject to one 13 caveat, and I mentioned the government, because there 14 appears to be a suggestion in certain of the government 15 witness statements that in demolishing that top 16 half-metre of the diaphragm wall, whilst one certainly 17 has ended up, as a consequence of that "monolithic" 18 instruction, there is a caveat as to what that 19 demolition has actually done to the diaphragm wall 20 itself. That's a slightly different point. 21 CHAIRMAN: Yes. Thank you for reminding me of that. I'm 22 aware of that. 23 MR PENNICOTT: That's my understanding of a point that may 24 or may not be taken by the government and its witnesses 25 and/or expert.	Page 19	1 MR BOULDING: Sir, I hesitate to intervene, but I wonder if 2 I can just make an observation. 3 As my learned friend Mr Pennicott said, this 4 statement came in late last night. Indeed, whilst I've 5 managed to read it on my computer, I've still not been 6 provided with a hard copy, and it looks as though you've 7 not been provided with one either. 8 CHAIRMAN: Well, I haven't seen it at all. We're not aware 9 of it at all. 10 COMMISSIONER HANSFORD: I was aware that it had arrived but 11 I've not seen it. 12 MR BOULDING: Right. Obviously the witness is not aware of 13 this statement, and in ordinary circumstances will have 14 been entitled to read it, and indeed adopting the 15 procedure that you've laid down even reply to it, if he 16 considered that to be appropriate. 17 I wonder if my learned friend is going to persist 18 with this line of cross-examination, and whether it 19 would only be fair to at least allow the witness to read 20 the bit of the statement which he's referring to now. 21 It may well be that you'd like to read it as well. 22 CHAIRMAN: Yes. Thank you very much. 23 MR PENNICOTT: Sir, that's entirely appropriate, and 24 I apologise. I only saw this witness statement this 25 morning and realised, when I was reviewing my
Page 18	1 CHAIRMAN: Yes. I have taken both points, number one that 2 the diaphragm wall were now permanent works and number 3 two that it's not a question of simply looking at the 4 fact that the through-bars have perhaps greater 5 integrity or strength, but also you have to look further 6 at the entire structure of the diaphragm wall. 7 MR PENNICOTT: Indeed, sir. 8 CHAIRMAN: Thank you. 9 MR PENNICOTT: And my understanding, just to finish this 10 point, Mr Ho, is that when you say that you're going to 11 trim down the top of the diaphragm wall along with the 12 cast-in couplers, essentially what you're saying is 13 this, as I understand it -- correct me if I am wrong -- 14 that if you're trimming down with essentially a breaker, 15 machine, as I understand it, a hand-held breaker 16 machine -- 17 A. Hand-held breaker. 18 Q. -- it is inevitable, as a consequence of that process, 19 that you are going to compromise and damage the couplers 20 in that process. 21 A. Sure. 22 Q. You simply can't save them, and having done that the 23 obvious, common-sense solution is to use the 24 through-bars? 25 A. Correct.	Page 20	1 cross-examination of Mr Ho, that the evidence of Mr Lee 2 seemed to be directly tied into the questions I was 3 about to ask him. 4 I wasn't proposing to look at anything else in these 5 three statements that we received last night, other than 6 what I've already taken the witness to, but certainly if 7 he wishes to look at that section -- it's only seven or 8 eight paragraphs -- certainly of course he can. 9 CHAIRMAN: I think I'd like him to. I think that the 10 witness is entitled to be able to read that. As 11 a professional, he'll understand the overall impact of 12 it, and then he can comment perhaps a little more 13 strongly and with more confidence, and in addition to 14 which I think fairness requires it. It's not an inquiry 15 by ambush, if I can put it that way. 16 MR PENNICOTT: No, and I wasn't indeed seeking to ambush. 17 CHAIRMAN: Not at all. 18 MR PENNICOTT: I was just trying to draw the distinction 19 between what Mr Ho's understanding of "monolithic" was 20 and apparently what Mr Lee's understanding was, and 21 I could have done that by reference to the TQ itself. 22 It just so happened that not only have we now got the TQ 23 and the wording that Mr Lee uses in his response to the 24 TQ, but we've also got his witness statement, which 25 seeks to explain it.

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<p>1 CHAIRMAN: Absolutely. Thank you. 2 Perhaps if we -- I think it's right, Mr Ho, that you 3 should look at this. 4 WITNESS: Sure. 5 CHAIRMAN: We'll just adjourn for five or six minutes, 6 I don't think it will take longer that, to read it and 7 absorb it. Would that be satisfactory for you? 8 WITNESS: Yes, okay. 9 MR PENNICOTT: We will supply Mr Ho with a hard copy. It's 10 a very short statement. He can read it all, if he 11 wishes to. 12 CHAIRMAN: Mr Ho, read it and then tell Mr Pennicott when 13 you are ready and then Mr Pennicott will bring us back 14 in. 15 WITNESS: Okay. 16 CHAIRMAN: Thank you very much. 17 (10.33 am) 18 (A short adjournment) 19 (10.41 am) 20 CHAIRMAN: Mr Ho, you've read that? 21 A. Yes. So, after I read especially paragraph 23, I don't 22 agree with what Mr Lee mentioned here at all, because 23 otherwise why put the word "monolithic" here? It just 24 doesn't make sense. 25 CHAIRMAN: Could I raise this issue, just briefly, and it's</p>	<p>1 MR PENNICOTT: Yes. 2 CHAIRMAN: Even though they are working in a professional 3 context, it shows you that, at the end of the day, 4 communication skills reign supreme, I think, in every 5 endeavour. 6 MR PENNICOTT: Yes. 7 COMMISSIONER HANSFORD: Of course you would only seek 8 clarification if it really wasn't clear to you, and if 9 a word is very clear to you, why would you seek 10 clarification? 11 MR PENNICOTT: Yes. 12 CHAIRMAN: Yes, that's true. And if "monolithic" is clear 13 to you, yes, which it should be. 14 MR PENNICOTT: Indeed. It might be thought also the sort of 15 flip side of the point is that nowhere, in absolute 16 clear and unequivocal terms, does one find a sketch, 17 a drawing or anything of that nature, which actually 18 spells out in clear terms what was to be done, but there 19 we are. 20 That's also right, isn't it, Mr Ho? 21 A. I agree. 22 CHAIRMAN: Yes. 23 MR PENNICOTT: But there we are. 24 Sir, could I just mention at this stage, before 25 I lose the point: with regard to those three statements</p>
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<p>1 one actually that Prof Hansford has raised in the course 2 of considering matters, which we are obviously entitled 3 to do as it goes on, provided we don't reach any final 4 conclusions until everything is before us, but he has 5 raised the very simple question that it's surprising 6 that, in a big and difficult piece of engineering like 7 this, that there should be misunderstandings as to basic 8 terms. I simply raise that. 9 Mr Ho, as a practising engineer, would you agree? 10 A. Totally agree. Totally agree. I mean, apart from this 11 monolithic requirement, and also on 24 July Andy Leung's 12 statement also mentioned a portion of the diaphragm wall 13 has to be cast together with the EWL slab and the OTE as 14 well. So, at that time, we all thought that everybody 15 is on the same page. 16 CHAIRMAN: Yes. 17 MR PENNICOTT: Thank you. I'm not going to take it any 18 further. 19 CHAIRMAN: It's another small point. I'm sure it happens in 20 every profession. But, you know, again, it's simple, 21 clear language, simple, clear instructions, and if there 22 is any ambiguity or concern on the part of the person 23 receiving the instructions, the courage to actually ask 24 a simple question such as, "What exactly do you mean by 25 that?"</p>	<p>1 that came in last evening, can I make it absolutely 2 clear to everybody they're not in any sense late. They 3 are not late-provided statements. They are statements 4 that, having received a couple of statements from, as we 5 have seen previously, Mr Blackwood and Mr McCrae from 6 Atkins, the legal team for the Commission took the view 7 that it might be helpful to have statements from 8 Mr Chan, Mr Lee and one other. We asked for those 9 statements. We asked for them to be provided by 10 yesterday, and that request was complied with. So 11 they're not in any sense late in that sense. I just 12 wanted to make sure everybody was aware of that, should 13 there be any attempt to criticise Atkins for late 14 provision of statements. That is not the case. 15 MR CONNOR: That's appreciated, Mr Pennicott. 16 MR PENNICOTT: So, Mr Ho, back to your witness statement. 17 After dealing with TQ33, you go on to deal with TQ34, 18 which we know is specifically in relation to panel EH74. 19 A. Correct. 20 Q. And the solution that was adopted there was a part 21 through-bar and part coupler solution? 22 A. Yes, correct. 23 Q. That is the top layer was through-bar but layers 3 24 and 5, that is the next two layers down, couplers were 25 retained?</p>

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<p>1 A. Correct.</p> <p>2 COMMISSIONER HANSFORD: Sorry, could we have the witness 3 statement back on the screen?</p> <p>4 MR PENNICOTT: Sorry, sir. B1/340, paragraph 63.</p> <p>5 COMMISSIONER HANSFORD: Yes. Thank you.</p> <p>6 MR PENNICOTT: There's an image at the top of page 341 which 7 purports to explain that particular point.</p> <p>8 As I understand it, Mr Ho -- perhaps you could 9 confirm this or not -- there are a number of areas or 10 parts of areas that adopt the TQ34 solution?</p> <p>11 A. Yes, apart from EH74; we also use this same detail apply 12 to C1-2.</p> <p>13 Q. C1-2, yes, right.</p> <p>14 So the picture that's building up -- and obviously 15 we can look at the joint statement -- but you've got 16 areas where the coupler solution or design was retained 17 completely, and we've discussed that; you've got areas 18 where there were just one layer of through-bar, and 19 couplers retained; and then you've got other areas where 20 completely through-bars?</p> <p>21 A. Yes.</p> <p>22 Q. Those are the basic options?</p> <p>23 A. Yes. Basically, after C1-2, we adopt the through-bar 24 principle for every single bay as possible, apart from 25 those with the underpinning post, and also the EH740,</p>	<p>1 Cross-examination by MR KHAW</p> <p>2 MR KHAW: Mr Ho, I appear for the government and there are 3 a few questions for you.</p> <p>4 You told us yesterday, in fact, before February 5 2017, ie before MTR conducted the internal review, you 6 did not realise that there were no record sheets for 7 inspection or supervision in relation to platform slabs; 8 you remember that?</p> <p>9 A. Yes.</p> <p>10 Q. I would just like to understand from you -- before that 11 time, ie before February 2017, were you aware of the 12 requirements, the record-keeping requirements, under the 13 QSP?</p> <p>14 A. Yes.</p> <p>15 Q. If I can just take you to have a look at paragraph 45 of 16 your first witness statement. Perhaps we can start from 17 44. Do you remember you talk about the 20 per cent and 18 50 per cent supervision in relation to splicing 19 assemblies; right?</p> <p>20 A. (Nodded head).</p> <p>21 Q. So I take it that you are aware that such supervision 22 requirements apply equally to coupling works in relation 23 to both diaphragm walls and platform slabs; do you 24 agree?</p> <p>25 A. Yes, that's my understanding.</p>
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<p>1 where we have the capping beam that we cannot demolish.</p> <p>2 Q. Yes, that's the capping beam.</p> <p>3 A. Yes.</p> <p>4 Q. All right.</p> <p>5 Then, having dealt with TQ34, at paragraph 65 -- 6 I don't think we need to go to this -- you make 7 reference to a weekly report for the week of 24 July to 8 30 July, which I showed somebody -- Mr Chan, I think --</p> <p>9 A. Mr Leung.</p> <p>10 Q. It was Mr Leung, that's right, Mr Andy Leung I showed, 11 quite right.</p> <p>12 So your point there is: look at that weekly report, 13 this was all being discussed at the time?</p> <p>14 A. Exactly.</p> <p>15 Q. Right. Then you refer to Mr Leung's email which we 16 don't need to look at again. You obviously interpret it 17 in a rather different way than he did.</p> <p>18 A. Yes.</p> <p>19 MR PENNICOTT: Thank you very much, Mr Ho. I have nothing 20 further for you.</p> <p>21 CHAIRMAN: Thank you.</p> <p>22 MR CHANG: No questions from Leighton.</p> <p>23 MR SO: No questions from China Technology.</p> <p>24 MR CONNOR: No questions on behalf of Atkins. Thank you.</p> <p>25 CHAIRMAN: Thank you.</p>	<p>1 Q. Thank you. You are also aware of the supervision 2 requirement; under the QSP you have read about full-time 3 continuous supervision by the RC and also 20 or 4 50 per cent by MTR.</p> <p>5 Now, when we are talking about level of 6 supervision -- let's talk about MTR for the time 7 being -- when supervision is referred to under the QSP, 8 do you take it that the supervision actually refers to 9 supervision at the time when the actual execution work 10 for the splicing assemblies was being carried out; is 11 that right?</p> <p>12 A. Actually, my take was -- it's that when we do our 13 20 per cent or 50 per cent inspection, that means we 14 don't have to stand there full-time, you know, looking 15 at the rebar fixers screwing in that rebar into the 16 couplers.</p> <p>17 Q. Right.</p> <p>18 A. But what we have to do is to check afterwards, after 19 they complete the installation work, the remaining 20 pitch, 1 to 1.5 pitch, remaining, that's there, that's 21 equivalent to, you know, the rebar is actually screwed 22 in, in the couplers.</p> <p>23 Q. If I can just briefly take you to have a look at the 24 QSP, H9, first of all 4265.</p> <p>25 The relevant provision appears at 4269. Under</p>

Page 29	1 paragraph (5), the heading "Supervision on site works", 2 you can see paragraph 1, "Supervision and inspection by 3 RC", which we understand to be Leighton here, and then 4 2, "Supervision and inspection by MTRC on site -- 5 installation works", and then, "Frequency of quality 6 supervision should be not less than 20 per cent of the 7 splicing assemblies by MTRC T3"; do you see that? 8 A. Yes. 9 Q. If we can just go and look at a bit more details here. 10 4276. I don't intend to read it out, but if you can 11 just take a look at those paragraphs on the top, under 12 the sentence "Quality control supervisors will fully 13 supervise the installation on site as followings". Then 14 perhaps we can take a look at 1 to 5. 15 A. Okay. 16 Q. Would you agree that these processes could only be 17 checked at the time when the work was being carried out? 18 A. Yes, but that applies to the RC. 19 Q. Yes. Then the sentence after 5: 20 "The above-mentioned inspection check would be 21 100 per cent carried out on site by quality control 22 supervisors. Quality control supervisors (MTR) will 23 carry out random sampling check by at least 50 per cent 24 on the verticality." 25 Do you see that?	Page 31	1 COMMISSIONER HANSFORD: "Not tilted"? 2 A. Yes. 3 COMMISSIONER HANSFORD: Thank you. So, in other words, you 4 are checking that it's vertical? 5 A. Yes, correct. I think that's what we mean, because 6 I wasn't there when they did the training to our 7 inspectors. 8 COMMISSIONER HANSFORD: In fact, many of the couplers are 9 not vertical, they're horizontal? 10 A. Yes. So I think majority of this is applied for the 11 D-wall, for the diaphragm wall. 12 COMMISSIONER HANSFORD: So that verticality is a reference 13 to the diaphragm wall? 14 A. Yes. 15 COMMISSIONER HANSFORD: Thank you. 16 CHAIRMAN: But again, as a non-professional, I'm reading 17 those three lines. They are not easy to understand. 18 You say: 19 "The above-mentioned inspection check", that I get, 20 "would be 100 per cent carried out on site ..." 21 Now, that I think I understand, which means you will 22 carry it out on site. I'm not quite sure how you carry 23 it out anywhere else, but you will carry it out on site. 24 "... by quality control supervisors. Quality 25 control supervisors [in this case the MTR] will carry
Page 30	1 A. Yes. 2 Q. So do you still take it that the sampling check by MTR 3 could only be done or was actually done after the 4 splicing assemblies had been carried out? 5 A. Yes, because after installation you still can check the 6 verticality of the couplers. You still can see it. 7 Q. Right. So, according to your understanding, were MTR 8 staff actually present at the time when the splicing 9 assemblies were carried out? 10 A. Yes, we have inspectors there. 11 Q. Thank you. 12 Now, if we can then have a look -- 13 CHAIRMAN: Sorry, could you help me here. That paragraph 14 which is two-thirds of the way down on the screen, "will 15 carry out random sampling check by at least 50 per cent 16 on the verticality", what does "on the verticality" 17 mean? 18 A. I think what it means is the couplers' surface is not 19 tilted, so that it's in line with the rebar of the slab 20 or the rebar connecting to the couplers. 21 COMMISSIONER HANSFORD: Sorry, did you say that the coupler 22 surface is not "skewed"? 23 A. Yes. 24 COMMISSIONER HANSFORD: Would you like to explain it again? 25 A. It's not tilted.	Page 32	1 out random sampling check by at least 50 per cent on the 2 verticality." 3 Wow, that's difficult English, unless you're 4 an engineer, presumably. 5 COMMISSIONER HANSFORD: I think it's quite difficult for 6 an engineer. 7 CHAIRMAN: "By at least 50 per cent on the verticality". 8 What you're saying -- you understand that to mean that 9 you will check on site by way of a sample 50 per cent of 10 the connected couplers to make sure that they are 11 vertical and not at a tilt? 12 A. Angle. 13 CHAIRMAN: Or angle? 14 A. Yes, I think that's what it meant. Like I said, because 15 I wasn't there when they prepared this BOSA training 16 thing and I wasn't there -- I wasn't conduct with the 17 training, so it's to better to check the inspectors 18 because they were there at the time, when BOSA conducted 19 the training. 20 CHAIRMAN: All right. Thank you. 21 MR KHAW: If I can bring you back to the topic regarding the 22 retrospective records that Mr Pennicott discussed with 23 you. 24 I understand what you say about compiling those 25 records for internal use, et cetera, et cetera. But if

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1 we can take a look at just one example, say B7/4538.  
2 See if you agree with me on this.  
3 Presumably, I take it that when MTR found it  
4 necessary to compile such records of inspection or  
5 supervision, such records were intended to show the  
6 level of inspection or supervision as conducted by MTR;  
7 would you agree?  
8 A. Sorry, can you repeat that again?  
9 Q. Yes. When MTR found it necessary to compile such  
10 retrospective records of inspection or supervision,  
11 I take it that such records were intended to show the  
12 level of inspection or supervision as done by MTR; would  
13 you agree?  
14 A. Shown to who?  
15 Q. Well, you have told us in your witness statement that  
16 these records were made for internal purposes.  
17 A. Exactly, yes.  
18 Q. But eventually, of course, certain records were attached  
19 to the 15 June MTR report. Let's set that aside for the  
20 time being.  
21 A. Right.  
22 Q. All I wanted to know was that when MTR decided to  
23 compile such retrospective records, MTR intended to have  
24 these records as records showing the level of inspection  
25 or supervision as done by MTR and not anyone else; is

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1 that correct?  
2 A. At that time, our intention to prepare this checklist  
3 was to show it to our CP.  
4 Q. Yes. Now, my question was, the level of inspection as  
5 shown in these checklists, they actually intended to  
6 show the level of inspection as carried out by MTR;  
7 would you agree?  
8 A. Yes, correct.  
9 Q. In that case, if you look at the items here, "Couplers  
10 fully screwed and fitted", "Has coupler been cleared of  
11 foreign materials", "Has thread been cleared of foreign  
12 materials", "Complete splice between coupler/rebar" --  
13 am I right in saying that all these items could only be  
14 checked at the time or before the actual coupling  
15 installation works were done?  
16 A. They could be checked before and after.  
17 Q. Sorry, how would you be able to check whether coupler  
18 had been cleared of foreign materials after the  
19 installation work had been carried out?  
20 A. I think for item 2, they can only be checked before the  
21 installation.  
22 Q. Yes.  
23 A. And also the same applies to item 3. But items 1 and 4,  
24 they can be checked after the installation, but they  
25 don't have to be checked during the whole process of the

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1 installation. That's what I'm trying to say.  
2 Q. Thank you.  
3 In relation to the internal review that you mention  
4 in your witness statement, can I just clarify this with  
5 you. You told us that it's Mr Carl Wu who actually  
6 prepared the report; right?  
7 A. Correct.  
8 Q. Did you actually give any input to the contents of this  
9 report?  
10 A. No.  
11 Q. If we can just go and have a look at the contents of  
12 this report, B7. If we can go to the follow-up actions  
13 at page 4519, under 5.1, bullet point number 2:  
14 "Confirm the frequency of Leighton and MTR  
15 supervision were in compliance with the requirement of  
16 the QSP, and were recorded on the record sheet ..."  
17 Am I right in saying that this was considered one of  
18 the sort of remedial actions in response to the lack of  
19 inspection sheets in relation to the platform slabs; do  
20 you agree?  
21 A. Yes, follow-up actions.  
22 Q. Yes. But between the date of this report, ie 8 February  
23 2017, and June 2018, ie after we saw the media reports  
24 regarding the alleged bar cutting incident, et cetera,  
25 did MTR actually follow up on this recommendation to

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1 compile records in relation to supervision?  
2 A. Yes, we did. We have been chasing the contractor, but  
3 what they told us was there's none exists, the logbooks  
4 or the checklists, there's none exists. So we keep  
5 chasing them, and in fact we did raise this to the  
6 senior management of Leighton and we also include it in  
7 one of the agenda items on the Thursday morning  
8 discussion meeting.  
9 Q. Now, during the internal review, did anyone or did you  
10 make any enquiry as to why this issue regarding a lack  
11 of inspection sheets was not picked up earlier?  
12 A. You mean before the internal review?  
13 Q. At the time of the internal review, did anyone -- you or  
14 anyone in MTR -- actually make any enquiry as to why  
15 this lack of inspection sheets, this problem, was not  
16 picked up earlier?  
17 A. I can only answer for myself, that I did, and I was told  
18 that because the diaphragm wall team from Leighton is  
19 different to the EWL slab construction team, so they are  
20 different team members so they probably didn't aware of  
21 this requirement.  
22 Q. But you would consider the lack of inspection sheets  
23 a non-compliance under the QSP, given the record-keeping  
24 requirement which has been set out in the QSP; would you  
25 agree?

<p style="text-align: right;">Page 37</p> <p>1 A. Not necessarily, because it didn't say the time frame 2 that you have to submit the QSP, I mean the checklists. 3 Q. But the fact that in fact no such records were ever kept 4 for platform slabs, would you agree that it actually 5 fell short of the requirement under the QSP? 6 A. True. 7 Q. Finally, regarding the records, the inspection records 8 MTR compiled after June this year -- you told us about 9 the purpose of compiling these records, ie for internal 10 use, et cetera. At the time when MTR decided to compile 11 such retrospective records, MTR had already received the 12 records retrospectively prepared by Leighton; is that 13 right? 14 A. We have one formal and one informal. The informal, 15 which is the 32 boxes Leighton prepare, and those 16 documents include the checklists as well, and the formal 17 one they submitted around -- I think it was 13 June. 18 Q. Right. If I can just take you to have a look at one 19 paragraph of Kobe Wong's first witness statement: 20 B1/433, paragraph 52. Kobe Wong said: 21 "Afterwards, Mr ..." 22 Here we're talking about a time frame in June 2018. 23 "[Thereafter], Mr James Ho told me that Leighton had 24 by then retrospectively prepared a set of record sheets 25 for the EWL slab, although I had not actually seen</p>	<p style="text-align: right;">Page 39</p> <p>1 he had incorporated therein. Moreover, I was under the 2 impression from Mr James Ho that he urgently required 3 those checklists." 4 Now, in relation to the last sentence of this 5 paragraph, regarding the urgency of having those 6 records, do you agree with Mr Kobe Wong that you needed 7 to have those records urgently at that time? 8 A. Yes. 9 Q. Can you tell us why? 10 A. Because we need to finish off the 15 June report. 11 Q. Yes, and you obviously wanted to make sure that the 12 records would be accurate; do you agree? 13 A. Yes. 14 Q. So how did you at that time ensure that those records 15 prepared by MTR would be accurate? 16 A. Well, like I said, those records were prepared based on 17 the assumption that the D-wall as-built drawings at the 18 time. So that's something what we built; okay? And we 19 didn't have much time to think about everything because 20 it was so rushed and we have to prepare so many things 21 for the report, within that two weeks. 22 Q. So on what basis, then, were those records prepared? 23 A. Actually, I assigned Mr Derek Ma to help me to prepare 24 those checklists. I think he made use of the template 25 prepared by Leighton, and also he made reference to the</p>
<p style="text-align: right;">Page 38</p> <p>1 a physical copy at the time. He asked me whether I was 2 willing to countersign those record sheets ..." 3 Then Mr Kobe Wong said he was not willing to do so 4 when Leighton had failed to keep any contemporaneous 5 records as required by the QSP. 6 Now, first of all, do you agree what was said by 7 Kobe Wong here? 8 A. Yes. We did have such discussion at that time. 9 Q. Yes. May I know why you found it necessary to ask Kobe 10 Wong to countersign those records? 11 A. Because, at that time, I treated those submitted record 12 sheets as just like the logbook, which is the same 13 requirement that, according to the logbook, MTR is 14 supposed to countersign on it. 15 Q. Right. If we can then go on to have a look at another 16 paragraph of Kobe Wong's witness statement, 17 paragraph 59. He said: 18 "Based on my memory of my site surveillance 19 activities ... and having previously reviewed the site 20 photographs ... I was satisfied that we did carry out 21 more than enough site surveillance covering the coupler 22 installation works, and I proceeded to fill in those 23 checklists. I did not check the numbers or drawings 24 referred to in the checklists in detail, as Mr Derek Ma 25 prepared the checklists and I relied on the information</p>	<p style="text-align: right;">Page 40</p> <p>1 diaphragm wall as-built drawings. 2 Q. Right. So am I correct in saying that according to your 3 understanding, the MTR's records were largely based on 4 the records prepared by Leighton? 5 A. And also the as-built drawings. 6 Q. And also the as-built drawings? 7 A. Yes. 8 Q. If I may just follow up on the backdating issue, because 9 I don't quite understand why the backdating was 10 necessary. 11 Now, you told us that the backdating was necessary 12 because you wanted to correlate everything with the 13 review done in February 2017; is that correct? 14 A. Yes. 15 Q. But, at the same time, you realised that there were 16 media reports in late May 2018, and obviously, as 17 a result of the media reports, MTR conducted a review 18 regarding their records and found it necessary to 19 compile further records; is that right? 20 A. Yes. 21 Q. So I just don't understand why, at that time, you would 22 still find it necessary to relate back to the internal 23 review done in 2017. 24 A. Just to close out the follow-up actions. 25 Q. Sorry?</p>

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<p>1 A. Just to close out the follow-up actions.</p> <p>2 Q. But, in fact, from day one, after the follow-up action</p> <p>3 was actually recommended, nothing actually happened.</p> <p>4 You were not given any records by Leighton, and MTR also</p> <p>5 did not find it necessary to prepare any retrospective</p> <p>6 records, after the internal review.</p> <p>7 A. Well, because we can't stop there, right, because</p> <p>8 Leighton could not provide the checklist or logbook for</p> <p>9 us to countersign, so we have to find another way to</p> <p>10 make sure we actually -- well, we did conduct</p> <p>11 an inspection on site, and we have to produce the</p> <p>12 records. That's our intention, main intention.</p> <p>13 CHAIRMAN: But you can still produce a record which looks to</p> <p>14 matters retrospectively but bears a date which records</p> <p>15 when your studies and your research was completed.</p> <p>16 A. I totally agree, and I can't remember how we, you know,</p> <p>17 come up with the idea of putting down that retrospective</p> <p>18 date. To be honest, it was done within a very rushed --</p> <p>19 you know, probably within a minute.</p> <p>20 CHAIRMAN: But there are other instances that have come up</p> <p>21 before the Commission of people backdating. You know,</p> <p>22 for example, an inspection would be done and the papers</p> <p>23 weren't there, so they would go to the office and they</p> <p>24 would fill them in a few days later but backdate them.</p> <p>25 To your knowledge, was that quite a common practice?</p>	<p>1 assemblies for the slab in general, and to be increased</p> <p>2 to at least 50 per cent where the structure acts as</p> <p>3 a transfer plate. These inspection frequencies are</p> <p>4 commonly applicable to using splicing assemblies in</p> <p>5 reinforced concrete construction in Hong Kong. Full</p> <p>6 records are in place. All inspection records indicated</p> <p>7 that the works were acceptable, with no anomaly."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Now, given the fact that you realise that there were no</p> <p>11 contemporaneous records of inspection or supervision, as</p> <p>12 required under the QSP, would you agree that this</p> <p>13 sentence perhaps is not entirely correct?</p> <p>14 A. If we look back from now, of course we know that it's</p> <p>15 not entirely correct, because we did the checklist based</p> <p>16 on the assumption there were top couplers there.</p> <p>17 Q. Yes, but at the time when you prepared the draft report</p> <p>18 here, you already realised that there were no</p> <p>19 contemporaneous records in relation to the inspection</p> <p>20 and supervision of the coupling works for the platform</p> <p>21 slabs; do you agree?</p> <p>22 A. To be very honest with you, when I prepared the first</p> <p>23 draft, I didn't prepare this statement, so ...</p> <p>24 Q. Ah. So you mean this particular statement was prepared</p> <p>25 by someone else?</p>
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<p>1 A. Not at all. Well, that's why we put down retrospective,</p> <p>2 to make sure it was done later on.</p> <p>3 CHAIRMAN: Yes. I'm just moving on slightly to day-to-day</p> <p>4 workings on site. As I say, there's been certainly one,</p> <p>5 maybe more, instances where people have said, "Ah, well,</p> <p>6 it was just convenient to backdate." You would be</p> <p>7 surprised if that was the case; is that your evidence?</p> <p>8 A. Yes, I'm not aware of any other documents were</p> <p>9 backdated.</p> <p>10 CHAIRMAN: So this wasn't part and parcel of some prevailing</p> <p>11 practice, your backdating?</p> <p>12 A. Yes.</p> <p>13 CHAIRMAN: It was not?</p> <p>14 A. It was not.</p> <p>15 CHAIRMAN: Okay.</p> <p>16 MR KHAW: Mr Ho, if I can just take you to have a look at</p> <p>17 the MTR's 15 June report. I understand that you</p> <p>18 prepared the draft of this report; right?</p> <p>19 A. Yes.</p> <p>20 Q. If we can go to B1, page 29, probably the second-last</p> <p>21 paragraph under the bullet point, "Supervision and</p> <p>22 inspection by MTRCL on site -- installation works".</p> <p>23 Then:</p> <p>24 "Frequency of quality supervision by the MTRC TCP-T3</p> <p>25 should be at least 20 per cent of the splicing</p>	<p>1 A. Yes, probably.</p> <p>2 Q. So who actually prepared this statement, do you know?</p> <p>3 A. I have no idea. The very first draft I prepared is very</p> <p>4 significantly changed.</p> <p>5 Q. I see. So, anyway, you disown this statement?</p> <p>6 A. (Nodded head).</p> <p>7 Q. Did you have a chance to look at this statement or this</p> <p>8 report before it was released?</p> <p>9 A. Yes. Oh, sorry, before it was released?</p> <p>10 Q. Yes.</p> <p>11 A. No, I didn't. I didn't have the chance at all to look</p> <p>12 at the finalised version before it was released.</p> <p>13 Q. Okay. So, looking back now, you agree that this may not</p> <p>14 be a full description or complete or full or accurate</p> <p>15 description of the status of the records; would you</p> <p>16 agree?</p> <p>17 A. Well, actually, at that time, when we prepared the</p> <p>18 report, we assume -- you know, we had the checklist</p> <p>19 prepared by MTR, plus we have also received the</p> <p>20 documents from Leighton. So, at that time, when we</p> <p>21 produced the report, those statements, you know,</p> <p>22 actually are correct at that time.</p> <p>23 Q. Thank you.</p> <p>24 CHAIRMAN: Sorry, you have to help me here. Again, I'm</p> <p>25 falling behind. Please accept my apologies. But my</p>

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<p>1 understanding is that, at the time, you had essentially 2 two records. One was the RISC and the other one was 3 I think called pre-concrete pour; right? 4 A. Yes. 5 CHAIRMAN: Now, you had those records and Leighton had those 6 records? 7 A. Yes. 8 CHAIRMAN: Leighton didn't have any extra records, to your 9 knowledge? 10 A. Well, they had before we issued this report. 11 CHAIRMAN: Sorry? 12 A. They did submit all those QSP checklists and also the 13 pre-pour checklists, everything, at the time, before we 14 issued the report. 15 CHAIRMAN: No, no, but at the time when the actual work was 16 being done, back in 2015 and stuff? 17 A. No, at that time, they didn't. 18 CHAIRMAN: Okay. Again, you have to bear with me, because, 19 as I say, I'm probably falling behind on this, but if 20 that's the case, why not simply, in June, say, "At the 21 time we had RISC records and at the time we had 22 pre-concrete pour records. We didn't have any other 23 records, but these two records were able to show, in 24 a general sense, that there had been a proper check"? 25 Because that in fact, am I right, is what you're saying?</p>	<p>1 CHAIRMAN: But in fact what comes out is a very, very 2 detailed set of "Satisfactory", "Yes", "No", and all the 3 rest of it. But doesn't that give a wrong impression? 4 Doesn't that give an impression that really doesn't fit 5 in? It looks like you're dressing it up; would you 6 agree? 7 A. Well, I think they wrote this based on -- at the time we 8 did have such records produced by Leighton, although it 9 wasn't at the material time but it was 2018, June. So 10 maybe they base on assumption that at that time we had 11 all the records by Leighton and also by MTR. 12 CHAIRMAN: But what records did you have? Did your RISC 13 records say all that stuff about, "We've checked this 14 and we've done that", or did your pre-concrete records 15 say that? 16 A. We had the RISC records. 17 CHAIRMAN: Did they say that? 18 A. Say the 20 per cent or 50 per cent inspection? 19 CHAIRMAN: No, no. Let's go to that one where I've got all 20 the little bits at the bottom saying "Is there dirt, is 21 it this, is it that?" 22 A. No, the RISC form doesn't say that. 23 CHAIRMAN: No. What I'm saying is, but suddenly these 24 records much later are much more detailed; would you 25 agree?</p>
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<p>1 A. Yes, but like I said, because I didn't finalise -- 2 CHAIRMAN: No, no, I appreciate that, this is not blaming 3 you, but that in fact is what you are saying, isn't it? 4 A. Yes. 5 CHAIRMAN: Again, you have to help me because I'm falling 6 behind on this -- why dress it all up by saying things 7 like, "Was there dirt in the coupler?" You can't say 8 that after two years. What you can say is, "These were 9 the records we kept at the time. The records that we 10 kept at the time showed A, B and C, and no more and no 11 less"; right? 12 A. Yes. 13 CHAIRMAN: So you have to help me here, because I'm the 14 layperson. What have I got wrong in that assessment? 15 A. Sorry, I can't quite get your question. 16 CHAIRMAN: What I'm saying is, as a layperson, I would say, 17 "Right, I've got to have the records. What records did 18 we have at the time? We had these two records; okay? 19 Anything else? No." Therefore, good, bad or 20 indifferent, this is a report going to the public, we 21 need to say, "These are what we had at the time; these 22 are what they showed. Even though they may have been 23 general in nature, we can draw from them that there was 24 in fact a proper inspection." Do you see what I mean? 25 A. Yes.</p>	<p>1 A. I agree, but I think they were prepared based on the 2 assumption they want to use the template that they use 3 for diaphragm wall. 4 CHAIRMAN: All right. Thank you very much. 5 MR KHAW: Finally, I would like to take you to another two 6 paragraphs of Kobe Wong's witness statement, first 7 witness statement: 435, paragraph 61. This is Kobe 8 Wong's evidence: 9 "In the light of the above, I proceeded to sign the 10 checklists on the basis that it would be 11 a 'retrospective record of coupler installation' as 12 stated expressly on the face of the checklists, purely 13 as an internal record. I cannot stress enough that 14 I had no intention or awareness whatsoever that the 15 checklists would ever be used or relied on by anyone 16 other than myself, James Ho, Derek Ma, Louis Kwan or 17 Arthur Wang, let alone that the checklists would be 18 appended to the MTRCL report ... and publicised. As 19 mentioned above, other than collating and providing some 20 relevant site photos, I had no involvement in the 21 preparation and drafting of the MTRCL report. 22 Later on, Mr Derek Ma informed me of the specific 23 requirement to inspect at least 50 per cent of the 24 couplers where the structure acts as a transfer plate. 25 Mr Ma therefore produced a further set of checklists in</p>

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<p>1 hard copy and handed them to me. As before, I filled in 2 and signed those checklists on the basis that the 3 checklists would be an internal record for the use of 4 myself, James Ho ... and without any intention that they 5 would be used to satisfy the QSP or as an attachment to 6 the MTRCL report dated 15 June ..." 7 Do you see that? 8 A. Yes. 9 Q. We understand you were actually the person who provided 10 Kobe Wong's signed checklist to Mr Aidan Rooney; is that 11 correct? 12 A. Correct, yes. 13 Q. You told us you were not involved in the determination 14 as to which information or attachment would be appended 15 to the 15 June report of MTRCL; right? 16 A. Correct. 17 Q. But, at the time when you gave Mr Rooney those signed 18 checklists, did you ask Mr Rooney what use those 19 checklists would be put to? 20 A. I can't remember. 21 Q. Any discussion as to, "Hey, this whole pile of 22 checklists, how are you going to use it?" 23 A. No, because there's so many things to prepare at that 24 time. Didn't have time or chance to ask questions, to 25 be honest.</p>	<p>1 1, 2 and 4? 2 A. Yes. 3 Q. You can see that the first item is, "Couplers fully 4 screwed and fitted"? 5 A. Yes. 6 Q. Am I right in thinking that you can only check that when 7 the rebar has been properly screwed into the coupler? 8 A. Yes, correct. 9 Q. And if we were to look at 4, "Complete splice between 10 coupler/rebar", again would I be right in thinking that 11 you can only check that that's been done properly after 12 the rebar has been properly screwed into the coupler? 13 A. Yes. 14 Q. Now, let's have a look at 3, together, for example, "Has 15 thread been cleared of foreign materials (eg concrete 16 gels)"; do you see that? 17 A. Yes. 18 Q. Now, just assume, will you, that the thread had foreign 19 materials on it, for example concrete gels. Do you have 20 a view as to whether or not that rebar could have been 21 properly screwed into the coupler? 22 A. It cannot. 23 Q. Similarly, looking at 2, "Has coupler been cleared of 24 foreign materials (eg concrete gels)", if it had not 25 been cleared of those materials, do you have a view as</p>
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<p>1 Q. Did you take any steps to remind Mr Rooney that the 2 checklists were only supposed to be used as internal 3 records? 4 A. Yes, we did discuss that. 5 Q. So you reminded him -- 6 A. Yes. 7 Q. -- not to publicise such records? 8 A. Yes. 9 Q. And you have no idea as to why eventually such 10 records -- 11 A. I have no idea. 12 Q. -- were attached to the MTRCL report? 13 A. I have no idea. 14 MR KHAW: No further questions. 15 Re-examination by MR BOULDING 16 MR BOULDING: Good morning, Mr Ho. 17 A. Good morning. 18 Q. I have just one or two matters I'd like your further 19 assistance on, please. 20 Do you remember being asked by Mr Khaw about coupler 21 inspections? 22 A. Yes. 23 Q. You were taken to a document -- I think it's B7/4538, 24 and if that could be blown up a little bit there; thank 25 you -- do you remember being asked about items I think</p>	<p>1 to whether or not the rebar could have been properly 2 screwed into the coupler? 3 A. Again, it cannot be properly screwed. 4 Q. Then do you remember -- I'm sure you do -- being asked 5 about TQ33? 6 A. Yes. 7 Q. If we could look at paragraph 61 of your witness 8 statement -- B339 -- and you say: 9 "Thereafter, in TQ33 dated 27 July 2015, it 10 transpired from Atkins B's response to the TQ that for 11 the east diaphragm wall, it was Atkins A's 'design 12 assumption' that the over track exhaust slab on the soil 13 side of the east diaphragm wall and the EWL slab 14 connected to the east diaphragm wall on the excavation 15 side must be cast concurrently and monolithically ..." 16 Then you refer to extracts from Atkins B's response. 17 "The entire [MTR, you corrected that] construction 18 management team understood (from an engineering 19 perspective) that the word 'monolithic' meant that the 20 two ..." 21 And do you remember correcting that to "three" when 22 you were cross-examined by Mr Pennicott? 23 A. Yes. 24 Q. "... structures must be cast together as one whole slab 25 rather than as two separate components."</p>

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<p>1 A. Yes.</p> <p>2 Q. Do you remember telling Mr Pennicott that that meant, so</p> <p>3 far as you were concerned, that one, two and three all</p> <p>4 had to be cast at the same time?</p> <p>5 A. Yes.</p> <p>6 Q. You've now had an opportunity, have you not, to see what</p> <p>7 Atkins' Mr WC Lee says what he intended TQ33 to mean?</p> <p>8 A. Yes.</p> <p>9 Q. Do you agree with his interpretation of TQ33?</p> <p>10 A. Again, I don't agree.</p> <p>11 Q. As a result of that misinterpretation, alleged</p> <p>12 misinterpretation, as I understand it, something like</p> <p>13 32 bays had the concrete level reduced by something like</p> <p>14 400 to 450 millimetres; correct?</p> <p>15 A. You mean the diaphragm wall?</p> <p>16 Q. Yes.</p> <p>17 A. Yes.</p> <p>18 Q. Can you tell me how long that process took,</p> <p>19 approximately?</p> <p>20 A. You mean trimming down one panel?</p> <p>21 Q. No, the whole lot, approximately.</p> <p>22 A. A couple of months.</p> <p>23 Q. Tell me this. Did anyone, whilst that work was going</p> <p>24 on, ever say to you, "Mr Ho, whatever's happening here?"</p> <p>25 This shouldn't be going on"? Did anyone ever say that</p>	<p>1 seen that a Mr Louis Kwan is due to come to give</p> <p>2 evidence. He in fact is here but is no longer in the</p> <p>3 employ of MTR -- he works for the Airport Authority --</p> <p>4 and I've just been told that he has a meeting this</p> <p>5 afternoon which he simply cannot miss.</p> <p>6 Unfortunately, or fortunately, the witnesses are</p> <p>7 going through quicker than perhaps was anticipated, no</p> <p>8 doubt because they're such upstanding, credible</p> <p>9 individuals, but the reality is that I've got Derek Ma</p> <p>10 and then I've got Mr Kobe Wong, so there's no need to</p> <p>11 lose any time, but I just thought I'd explain that to</p> <p>12 the tribunal.</p> <p>13 CHAIRMAN: All right. How would you wish to play it?</p> <p>14 MR BOULDING: I'd like to call Derek Ma now, and then</p> <p>15 subject to any objections from my learned friends,</p> <p>16 I would then be proposing to call Kobe Wong, so he's</p> <p>17 gone one up the batting order.</p> <p>18 MR PENNICOTT: There's no problem so far as the Commission</p> <p>19 is concerned.</p> <p>20 CHAIRMAN: No, no problem from our position.</p> <p>21 MR BOULDING: Thank you very much for your understanding</p> <p>22 Mr Ma, good afternoon.</p> <p>23 WITNESS: Good afternoon.</p> <p>24</p> <p>25</p>
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<p>1 to you?</p> <p>2 A. Not at all.</p> <p>3 Q. Let me ask you this. If it had been thought that you</p> <p>4 had misinterpreted that TQ33, do you think that someone</p> <p>5 would have told you that what you were doing was wrong?</p> <p>6 A. I would think so.</p> <p>7 MR BOULDING: Thank you very much.</p> <p>8 Sir, I don't know whether you've got any further</p> <p>9 questions. If not, perhaps we can release Mr Ho.</p> <p>10 CHAIRMAN: Yes, thank you very much. That helps us. Thank</p> <p>11 you.</p> <p>12 Thank you very much indeed, Mr Ho. Your evidence is</p> <p>13 completed. You can go now. Thank you for your</p> <p>14 assistance.</p> <p>15 WITNESS: Okay. Thank you.</p> <p>16 (The witness was released)</p> <p>17 MR PENNICOTT: A good time for a break?</p> <p>18 MR BOULDING: Yes.</p> <p>19 CHAIRMAN: Certainly. Yes. 15 minutes. Thank you.</p> <p>20 (11.38 am)</p> <p>21 (A short adjournment)</p> <p>22 (11.59 am)</p> <p>23 MR BOULDING: May it please you, sir, Professor, can I just</p> <p>24 mention a slight problem before I call Derek Ma.</p> <p>25 In the batting order, after Derek Ma, you will have</p>	<p>1 MR MA MING CHING, DEREK (affirmed in Puntì)</p> <p>2 (All answers given via simultaneous interpreter</p> <p>3 except where otherwise specified)</p> <p>4 Examination-in-chief by MR BOULDING</p> <p>5 MR BOULDING: If you're going to give your evidence in</p> <p>6 Cantonese, I think you'll need the headphones.</p> <p>7 A. (In English) Yes.</p> <p>8 Q. Mr Ma, please can you give your full name to the</p> <p>9 Commissioners?</p> <p>10 A. My full name is Ma Ming Ching, Derek.</p> <p>11 Q. Thank you, Mr Ma. It's right, is it not, that you</p> <p>12 produced two witness statements for the Commission's</p> <p>13 assistance in this matter?</p> <p>14 A. (In English) Yes.</p> <p>15 Q. If we look at B355, I hope we'll see the first page of</p> <p>16 your first witness statement. Indeed we do. That's</p> <p>17 correct, is it not, first page of your first witness</p> <p>18 statement?</p> <p>19 A. (In English) Yes.</p> <p>20 Q. Then if we could go on to B372, I hope we'll see your</p> <p>21 signature; yes? Is that your signature under the date</p> <p>22 of 13 September 2018?</p> <p>23 A. That's correct. That's my signature.</p> <p>24 Q. Are the contents of this witness statement true to the</p> <p>25 best of your knowledge and belief?</p>

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<p>1 A. Yes.</p> <p>2 Q. Then if we could look at your second witness statement,</p> <p>3 please. I hope we find the first page at B25734.</p> <p>4 Again, is that the first page of your second witness</p> <p>5 statement, Mr Ma?</p> <p>6 A. (In English) That's right, yes.</p> <p>7 Q. Then let's go on, if we may, to 25741 -- ahead of me,</p> <p>8 again -- your signature below the date of 27 November</p> <p>9 2018?</p> <p>10 A. (In English) Correct.</p> <p>11 Q. Again, are the contents of that statement true to the</p> <p>12 best of your knowledge and belief?</p> <p>13 A. (In English) Correct.</p> <p>14 Q. I'd just like to fix your position in the MTR hierarchy,</p> <p>15 and for that purpose please can we go to B566.</p> <p>16 Do you see yourself there? If you look at the</p> <p>17 little hand, is that a picture of you, Mr Ma?</p> <p>18 A. That's me.</p> <p>19 Q. That is the project management organisation chart as of</p> <p>20 15 January 2015, correct; see the top left-hand corner?</p> <p>21 A. (In English) Correct.</p> <p>22 MR BOULDING: Thank you very much, Mr Ma. Just to explain</p> <p>23 what's going to happen. Counsel for the Inquiry will</p> <p>24 question you first, and then it may be the case that</p> <p>25 various other lawyers in the room will ask you</p>	<p>1 under James Ho, and then there were three ConE1 -- Nick,</p> <p>2 Derek and Terence -- in their positions here. So it was</p> <p>3 in a different area.</p> <p>4 Q. I see. And did you remain in that position for the rest</p> <p>5 of your time on site?</p> <p>6 A. Yes, for ConE1, for construction engineering 1, yes.</p> <p>7 MR BOULDING: Thank you very much.</p> <p>8 Examination by MR PENNICOTT</p> <p>9 MR PENNICOTT: Mr Ma, good afternoon, probably it is.</p> <p>10 A. (In English) Good afternoon, Mr Pennicott.</p> <p>11 Good afternoon, Mr Chairman and Professor.</p> <p>12 Q. As you've probably gathered, I'm going to ask you some</p> <p>13 questions first. Thank you very much for coming to give</p> <p>14 evidence to the Commission today.</p> <p>15 As we've seen and as I understand the position,</p> <p>16 Mr Ma, you joined this project as a construction</p> <p>17 engineer no. 1 in January 2015?</p> <p>18 A. Yes, I joined this project as an engineer 1.</p> <p>19 Q. Yes, in January 2015?</p> <p>20 A. If I remember correctly, I have to check the date,</p> <p>21 whether it's exactly the 15th, because the internal</p> <p>22 transfer date would be such that it's put on the</p> <p>23 organisation chart, but I might have assumed duty on</p> <p>24 a different date. I worked for another MTR contract.</p> <p>25 So there may be some difference of two to three days.</p>
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<p>1 questions, the Chairman and Professor can ask you</p> <p>2 questions at any time, and then it might be the case</p> <p>3 that I will ask you some further questions at the end.</p> <p>4 Please stay there for the time being.</p> <p>5 A. Thank you. I understand.</p> <p>6 COMMISSIONER HANSFORD: Mr Boulding, you've shown us</p> <p>7 an organisation chart at January 2015. I think there's</p> <p>8 a subsequent one that shows Mr Ma moving to a different</p> <p>9 position; is that correct?</p> <p>10 MR BOULDING: I have not had that drawn to my attention, if</p> <p>11 indeed that is correct, sir.</p> <p>12 COMMISSIONER HANSFORD: I may be wrong.</p> <p>13 MR BOULDING: Let me ask Mr Ma.</p> <p>14 Mr Ma, you've heard the professor's question. Does</p> <p>15 this chart, as at 15 January, accurately represent where</p> <p>16 you were in the MTR hierarchy as at that date and</p> <p>17 remained in the MTR hierarchy after that date?</p> <p>18 A. Can I be shown the chart for 2015? At that time, in</p> <p>19 January or on 15 January 2015, I was here in the</p> <p>20 hierarchy.</p> <p>21 Q. Right.</p> <p>22 A. And then, afterwards, with the passage of time and</p> <p>23 a change of -- or the joining of some new people, I was</p> <p>24 responsible for another position. You may say -- you</p> <p>25 can see here, it is the one for 6 February 2015, I was</p>	<p>1 Q. Okay. But we know that by February 2015, this</p> <p>2 organisation chart, the second one we've looked at, you</p> <p>3 were essentially reporting to James Ho?</p> <p>4 A. (In English) Correct.</p> <p>5 Q. And are you still working for the MTRC?</p> <p>6 A. (In English) That's right, yes.</p> <p>7 Q. And are you still working on this project?</p> <p>8 A. (In English) No.</p> <p>9 Q. Which project are you working on now?</p> <p>10 A. I have been transferred to another MTR division,</p> <p>11 property division.</p> <p>12 Q. You describe yourself as the technical manager in MTRC's</p> <p>13 property division, and you've been in that role since</p> <p>14 July 2018, so that's a role that, as it were, goes</p> <p>15 beyond this project; it's much wider duties and</p> <p>16 responsibilities?</p> <p>17 A. You can say it's a different job nature, another scope</p> <p>18 of work, completely different from contract 1112.</p> <p>19 Q. Right, an entirely new venture for you?</p> <p>20 A. (In English) Yes, you can say so.</p> <p>21 Q. Good. We've established you were reporting to James Ho.</p> <p>22 Were you working alongside Louis Kwan?</p> <p>23 A. (In English) Yes.</p> <p>24 Q. Okay. Could I ask you, please, to, in that connection,</p> <p>25 go to paragraph 10 of your witness statement. You</p>

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<p>1 explain that a Mr Kwan were T3 TCP alternatives for the 2 EWL slab in areas B and C, and you say: 3 "... Mr Kwan and I were required to supervise the 4 safety of the works and carry out site surveillance 5 activities at least four days per week [for] the two of 6 us. This meant that one of us had to go on site and 7 look at whether the works were carried out in accordance 8 with the method statement for area B and C1 of the EWL 9 slab." 10 Just pausing there, in practical terms, Mr Ma, what 11 does that mean? How many hours per day were you and/or 12 Mr Kwan spending on the site? 13 A. According to the SSP submitted to the BD, for T3 TCP, 14 for every week, for four days a week, we had to carry 15 out inspection or other supervision work on the site. 16 So Louis and I were assigned for T3, and according to 17 the documents Mr Kwan was called an alternative, that is 18 to say if I'm not available or I was off he would take 19 over my duty as SSP on the site. 20 As for the second question, what meant by four days 21 in a week and how many hours -- for my previous 22 experience, for Hong Kong projects, as long as we were 23 there on one particular day for the project or on the 24 site to carry out some relevant inspection, I would 25 count that I have fulfilled the requirement that I would</p>	<p>1 requirements regarding safety or inspection. 2 Q. Does it come to this then, Mr Ma, that between you and 3 Mr Kwan, it would be up to approximately two hours per 4 day, four days a week on site? 5 A. I was only talking about me. As for Louis, he did not 6 report to me on a daily basis how much time or how many 7 hours he had spent on inspection on the site, but 8 I believe he would spend more time than me. 9 Q. Okay. We can ask him -- 10 A. (In English) Thank you. 11 Q. -- when he gets here. Anyway, we've got your timings; 12 that's fine. 13 Could I then ask you, please, to go to paragraph 20 14 of your witness statement, page B1/362, where you 15 refer -- you have a heading, "Coupler checklists", and 16 you refer to the quality supervision plan. 17 A. (In English) Yes. 18 Q. When you joined the MTR on this project, in or around 19 January 2015, were you made aware of the QSP? 20 A. No. 21 Q. When was the first time you came to hear of it? 22 A. In relation to QSP, it was at the end of May or early 23 June this year. 24 Q. Right. And so, throughout your whole time on this 25 project, from January 2015 onwards, and the supervisory</p>
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<p>1 need to do under the SSP. 2 In this SSP statement, it's four days per week. 3 That is to say that for inspections on four days -- any 4 four days in the week, if I have to carry out the four 5 inspections on different days, then I would say that 6 I have fulfilled SSP requirements. 7 Q. Let's just try to elucidate that a little bit further, 8 Mr Ma. Let's take -- it's day one, it's Monday -- you 9 have turned up, it's day one, it's Monday; how many 10 hours would you spend on site? 11 A. For day one I would be spending one or two hours on the 12 site. 13 Q. All right. It's day two, Tuesday; the same? 14 A. (In English) Maybe the same, yes. 15 Q. And days three and four, the same? 16 A. (In English) Days three and four, maybe the same. 17 Q. Then day five is a Friday -- 18 A. (In English) It's Friday so maybe I -- 19 Q. So you don't go, or Mr Kwan doesn't go. 20 A. Well, that's the choice open to me, whether I would go 21 or not. Based on SSP requirements, I had a choice 22 whether to go to the site or not, because apart from 23 fulfilling the SSP requirements we have other jobs, we 24 have other duties on the site. But at the same time we 25 must make sure that we would satisfy the SSP</p>	<p>1 functions that you had, supervisory responsibilities 2 that you had, you were not aware of the QSP? 3 A. (In English) That's right. 4 INTERPRETER: Sorry, I didn't hear the answer. 5 MR PENNICOTT: I think the answer was, "That's right". 6 A. (In English) Yes, correct. 7 Q. I infer that you say that -- and we're looking at 8 paragraph 21 of your statement -- that this was because, 9 you say, there is no special induction or meeting 10 discussing the QSP requirements after you joined the 11 contract, and that you had had no previous experience in 12 the supervision of coupler splicing assemblies. 13 A. That's right. 14 Q. In the witness statement of Mr Ho, from whom we have 15 recently heard, at paragraph 18 -- I wonder if you could 16 look at that very quickly, please; B1/326 -- he says 17 this -- 18 "I am confident that members of my ConE team to be 19 familiar with the relevant practice and key standards 20 embodied in the PIMS, especially since they are all 21 qualified engineers and members of relevant professional 22 bodies. This is because an induction session is given 23 to every staff member (ie including the ConEs) when 24 he/she joins MTR, and that induction covers (amongst 25 other things) the nature and requirements of the PIMS."</p>

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<p>1 Now, I appreciate that Mr Ho is talking about PIMS</p> <p>2 here. First of all, do you recall attending</p> <p>3 an induction session covering PIMS?</p> <p>4 A. When I joined the MTR, there was an induction training</p> <p>5 or induction course. It covered PIMS. PIMS was</p> <p>6 mentioned.</p> <p>7 Q. Right. But, so far as you can recollect, that induction</p> <p>8 course simply didn't include, in relation to this</p> <p>9 project, anything to do with the quality supervision</p> <p>10 plan?</p> <p>11 A. That is right. During the induction course, it wasn't</p> <p>12 mentioned, because at the time when I joined the</p> <p>13 induction course the SCL1112 contract did not commence</p> <p>14 yet.</p> <p>15 COMMISSIONER HANSFORD: So, to understand that, Mr Ma -- the</p> <p>16 induction was not project-specific? The induction</p> <p>17 wasn't related to this particular project?</p> <p>18 A. (In English) Not related to the project.</p> <p>19 COMMISSIONER HANSFORD: Thank you.</p> <p>20 MR PENNICOTT: All right. So that induction course that you</p> <p>21 are talking about, that you attended, happened some</p> <p>22 years previously; is that right?</p> <p>23 A. (In English) It's about -- somewhere around ...</p> <p>24 (Via interpreter) June 2013, when I was a newcomer</p> <p>25 that first joined the MTR.</p>	<p>1 could do something about the improvement.</p> <p>2 Q. Right. I ask you the question, Mr Ma, because if you</p> <p>3 look back at paragraph 21 of your witness statement --</p> <p>4 if we can get 21 and 22 together up on the screen,</p> <p>5 please -- you say, end of the second line:</p> <p>6 "... I was not aware of the requirements under the</p> <p>7 QSP in respect of record-keeping."</p> <p>8 Do you see that?</p> <p>9 A. That's right, I can see that.</p> <p>10 Q. So what is your current understanding about</p> <p>11 record-keeping under the QSP, Mr Ma?</p> <p>12 A. (In English) Can you repeat your question?</p> <p>13 Q. Yes. You've now, as I understand it, had an opportunity</p> <p>14 of looking at and considering the QSP?</p> <p>15 A. Mmm.</p> <p>16 Q. And you say you were not aware, at the time, of the</p> <p>17 requirements under the QSP in respect of record-keeping?</p> <p>18 A. That's right.</p> <p>19 Q. I was just enquiring as to what your understanding now</p> <p>20 is regarding record-keeping under the QSP.</p> <p>21 A. In relation to my current understanding of</p> <p>22 record-keeping requirements under the QSP, I gather that</p> <p>23 in relation to coupler installations -- well, there was</p> <p>24 a requirement for fabrication and one for installation,</p> <p>25 and in relation to the registered contractor there were</p>
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<p>1 Q. Okay. And as the professor has clarified with you, that</p> <p>2 induction was not project-specific?</p> <p>3 A. (In English) Not project-specific.</p> <p>4 Q. Understood. That makes more sense. Thank you.</p> <p>5 You say in paragraph 22 of your statement --</p> <p>6 I imagine you say this after having considered the QSP</p> <p>7 more recently, Mr Ma --</p> <p>8 A. Mm-hmm.</p> <p>9 Q. -- "With the benefit of hindsight, I believe that this</p> <p>10 is an area for improvement in future projects involving</p> <p>11 coupler splicing assemblies, and the ConE team and</p> <p>12 I would have to pay extra attention to monitoring</p> <p>13 compliance with any enhanced supervision requirements in</p> <p>14 respect of such splicing assemblies."</p> <p>15 Do I understand you to say that, Mr Ma, in the</p> <p>16 specific context of record-keeping of the coupler</p> <p>17 splicing assemblies?</p> <p>18 A. That's not right. I did not particularly talk about</p> <p>19 record-keeping. I look back, when I made this</p> <p>20 statement, as I have mentioned in 2015, when I joined</p> <p>21 the project, the construction engineering team was not</p> <p>22 being appointed or it wasn't mentioned to us that in</p> <p>23 relation to coupler inspection that we had to do them.</p> <p>24 After this incident, I thought that there could be</p> <p>25 an improvement for future projects, that the ConE team</p>	<p>1 some requirements and under the QSP there were also some</p> <p>2 requirements or inspection and record-keeping</p> <p>3 requirements vis-a-vis MTR.</p> <p>4 Q. You seem, in paragraph 22, Mr Ma, to make a helpful</p> <p>5 observation that you believe there's an area -- this is</p> <p>6 an area for improvement in the future for projects</p> <p>7 involving coupler splicing assemblies. And reading</p> <p>8 paragraphs 21 and 22 together, I thought what you were</p> <p>9 driving at was that there ought to be proper detailed</p> <p>10 record-keeping of the supervision and inspection of the</p> <p>11 coupler splicing assemblies. But perhaps I've</p> <p>12 misunderstood your position.</p> <p>13 A. Right. In item 21, I talked about record-keeping, and</p> <p>14 in paragraph 22, I said in hindsight, in relation to</p> <p>15 coupler installation, about the inspection procedure</p> <p>16 record-keeping there can be some improvements.</p> <p>17 Q. How would you improve it?</p> <p>18 A. Well, if there is a chance for another review, we</p> <p>19 would -- well, in relation to the training given to us</p> <p>20 by BOSA, it wasn't regular. Very often, at the</p> <p>21 beginning, the staff didn't really know about what to do</p> <p>22 with the couplers. For those who joined later, they did</p> <p>23 not know very well what their respective obligations</p> <p>24 were.</p> <p>25 Q. All right. And what about record-keeping; have you got</p>

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1 any observations to make about the improvement of  
 2 record-keeping?  
 3 A. In relation to record-keeping, there is this --  
 4 countersigning by MTR on inspection record is  
 5 a well-established and effective process.  
 6 Q. Yes, but the question is: countersigning precisely what,  
 7 Mr Ma?  
 8 A. Countersigning RC's inspection record, that is like  
 9 those on D-wall, the record-keeping.  
 10 Q. Right. Now, we know -- we are getting there -- that you  
 11 were involved, Mr Ma, this year, in the preparation of  
 12 some retrospective records ultimately signed by Mr Kobe  
 13 Wong and specifically referenced as retrospective, and  
 14 you were involved in the production of those documents,  
 15 as I understand it?  
 16 A. Right. Our team, I was one of the team members.  
 17 Q. Yes. As I understand it -- well, let me put this to  
 18 you: is it your view that that type of record that was  
 19 created this year ought to have been kept and put in  
 20 place in 2015, as the EWL slab rebar fixing was taking  
 21 place?  
 22 A. That wasn't my --  
 23 INTERPRETER: Sorry, I didn't catch the answer.  
 24 MR PENNICOTT: Could you repeat your answer?  
 25 A. That wasn't my view.

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1 Q. What is your view as to what -- we know -- we've been  
 2 through this with a number of witnesses -- that we have  
 3 the RISC form, pursuant to which the rebar top mat and  
 4 bottom mat get inspected. Then we have the pre-pour  
 5 concrete inspection, before the concrete is allowed to  
 6 be poured, and we've got those records; they all seem to  
 7 be in reasonable order.  
 8 Do you think anything else should have been prepared  
 9 by way of record-keeping back in 2015 when the rebar  
 10 fixing was taking place?  
 11 A. According to QSP of BOSA, there should be a checklist  
 12 based on recommendations under the QSP.  
 13 Q. Right. And that checklist should have been prepared  
 14 back in 2015; is that right?  
 15 A. From the records I have read, and I have also referred  
 16 to the D-wall procedure, that should be the case, yes.  
 17 Q. Right. You personally weren't involved in the D-wall?  
 18 A. (In English) No.  
 19 Q. I thought that was the case. All right.  
 20 Then just following that up, if you go to  
 21 paragraph 24 of your witness statement -- you say:  
 22 "As at the end of May 2018, I had not seen any  
 23 quality control supervisor record sheets or inspection  
 24 logbook for the EWL slab from Leighton purporting to  
 25 comply with the requirements of the QSP as referred to

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1 above, or in fact, any record sheets or logbooks  
 2 generally relating to the coupler splicing assemblies in  
 3 the EWL slab."  
 4 So, as I understand it, Mr Ma, your position is that  
 5 there ought to have been in place these record sheets  
 6 and these inspection logbooks or an inspection logbook  
 7 in relation to the rebar fixing?  
 8 A. When I knew about this requirement under the QSP,  
 9 I reviewed the documents we had, but there was no such  
 10 record.  
 11 Q. But, having reviewed the QSP, and having concluded that  
 12 there were no such records, as I understand it your view  
 13 is there ought to have been such records?  
 14 A. I don't have the view that such records had to be there,  
 15 because the record-keeping requirement under QSP is not  
 16 such that it's so important that you must have them.  
 17 Q. Right. But it seems from your evidence, Mr Ma, if you  
 18 may say so -- you seem to be quite surprised that there  
 19 are no such records, given the terms of the QSP.  
 20 A. I was not surprised. Before that moment, I didn't know  
 21 that such records would be required. Once I had  
 22 reviewed QSP and I knew about the requirement, I then  
 23 discovered that there was none. My response cannot be  
 24 termed as surprised.  
 25 Q. All right.

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1 A. I thought maybe my colleagues or Leighton might have  
 2 done something of similar nature with some similar  
 3 records, and I had no idea what they had done.  
 4 Q. All right. I understand.  
 5 Now, with regard to the retrospective records that  
 6 I mentioned a short while ago, can I just ask you this  
 7 question. We've seen and we've heard from Mr Ho about  
 8 a discussion that took place that not only should the  
 9 retrospective records be prepared but they should be  
 10 backdated to 10 February 2017. What do you recall about  
 11 the discussion that took place to implement that  
 12 backdating?  
 13 A. There was a meeting of my team where Michael Fu, Kobe  
 14 and Louis, we sat down and we took out some materials  
 15 for the company, and for this checklist we had  
 16 a discussion.  
 17 You asked about the backdating. I was told that in  
 18 January or February 2017 there was an internal audit on  
 19 coupler installation. I was instructed -- I received  
 20 instructions that we agreed that the documents were  
 21 retrospective nature.  
 22 As for the date, the information I received back  
 23 then was that it should be sometime after the internal  
 24 records were prepared.  
 25 Q. All right. You deal with this point in paragraph 38 of

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<p>1 your witness statement. If I've understood it, you 2 weren't -- were you aware or not aware of the internal 3 report back in February 2017? 4 A. (In English) Not aware. 5 Q. Okay. So, during the course of your discussions with 6 Mr Ho and Mr Wong, you were informed of that internal 7 report at that date, and somehow it was decided that you 8 would relate these checklists back to that date? 9 A. (In English) That's right, yes. 10 Q. Because, as you explain or express it, it somehow 11 responded to the recommendations in that report? 12 A. That's the instruction I received at that time. 13 Q. Okay. So that's an instruction you received? 14 A. (In English) That's right. 15 Q. I understand. Okay. 16 Now, the checklists that Mr Kobe Wong ultimately 17 signed, as I understand it from paragraph 34 of your 18 witness statement you compiled the first draft of those 19 documents; is that right? 20 A. That's correct. At that time, I didn't have any 21 information about the coupler checklists, I didn't know 22 about the format, the template or the content. I was 23 not involved in the D-wall project. I consulted 24 Leighton as regards whether they had similar 25 information. Leighton provided the first draft of the</p>	<p>1 Q. Okay. But no manuscript at all? 2 A. (In English) No manuscript. 3 Q. Right. Were you responsible then for modifying and 4 introducing the differences that we've seen between your 5 checklist, the MTR checklist, and the Leighton 6 checklist? 7 A. Yes. I saw that for Leighton checklist, they mentioned 8 100 per cent inspection of couplers, but my instruction 9 was that we didn't have to inspect 100 per cent of 10 couplers. So I checked this with Kobe and I gave the 11 relevant number there. 12 Q. All right. So did Leighton supply you with that 13 template that we discussed in soft copy so that you were 14 able to -- 15 A. (In English) Soft copy, yes. 16 Q. I see. All right. From paragraph 34 of your witness 17 statement, I understand that it was Mr Fu that 18 recommended that the MTR checklists should be annotated 19 with the words "retrospective record of coupler 20 installation"? 21 A. (Chinese spoken). This cannot be found in the Leighton 22 soft copy. I did the review and in the team meeting 23 I talked to Mr Michael Fu and told him that this form 24 was not what Kobe saw at that time. 25 So it would certainly not be signed on that date.</p>
<p>Page 74</p> <p>1 checklist which had the template and the contents. Such 2 information was provided to me at that time. 3 Q. Right. Yes, okay. You've anticipated a couple of 4 questions I had. 5 First of all, your checklist and Leighton's 6 checklist are very similar. 7 A. (In English) Yes. 8 Q. Did they supply you with, as it were, a blank template 9 for you to work on? 10 A. (In English) No. 11 (Via interpreter) They provided the data of 12 couplers, on coupler, and the sketch as well. 13 Q. Are you saying they supplied you with their checklists 14 that we've seen with the manuscript circles on, and so 15 forth? 16 A. (In English) No manual -- not all are manuscript. 17 (Via interpreter) It was with the words typed in 18 an Excel form. No signature, no manuscript. 19 Q. I see. Did it have the drawing numbers on? 20 A. (In English) Yes. 21 Q. And the diagrams taken from the drawings? 22 A. (In English) That's right, yes, and the number of 23 couplers too. 24 Q. And the number of couplers? 25 A. (In English) That's right.</p>	<p>Page 76</p> <p>1 So you can see this reference, this sentence, it was put 2 in on the instruction of Michael. 3 Q. Yes, I see. Then you, having done your draft, handed it 4 to Mr Kobe Wong, as I understand it, and perhaps to 5 others, and they presumably reviewed it? 6 A. After I had done that, I told James that I had done this 7 based on the form given to me by Leighton and I have to 8 make some changes. I gave him the chance to have sight 9 of this. 10 Q. All right. Can we then look at B7/4538, please. 11 This just happens to be the first one in the bundle 12 that we got, Mr Ma. 13 A. Mm-hmm. 14 Q. So when you, as it were, handed the draft over to 15 Mr Wong, it would have included everything apart from 16 the manuscript; is that right? 17 A. Correct. 18 Q. But you did insert the words, for example, "Checked 19 by:", and then put in Kobe Wong's name and position; is 20 that right, you put in that? 21 A. Yes, I did that. 22 Q. Right. And obviously, as you've explained, after your 23 discussion with Mr Fu, you put in the "Remark" at the 24 bottom? 25 A. (In English) That's right, yes.</p>

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<p>1 Q. Having passed that to Mr Wong, were you then asked to do 2 any further work in relation to these records, or was 3 that the end of your responsibilities? 4 A. After Kobe signed this, I gave the same to James. 5 Q. After Kobe signed it? 6 A. (In English) After Kobe signed. 7 Q. So he handed it back to you and then you gave it to 8 Mr Ho? 9 A. Yes. 10 Q. I see. Who then probably gave it to Mr Rooney but you 11 don't need to worry about that. All right. 12 Now, in early June of this year, Mr Ma, various 13 representatives from the Buildings Department, the 14 Railway Development Office and Pypun made a visit to the 15 MTRC site office. You deal with this in paragraph 40 of 16 your witness statement. 17 You indicate that in fact the visit took place -- 18 the visit you're talking about took place on 7 and 19 8 June; do you see that? 20 A. Yes. 21 Q. When they turned up at the site office -- because I'm 22 not quite sure I've entirely followed all of this -- 23 were you present? Did you greet them, did you meet 24 them, on this occasion? 25 A. Once, yes.</p>	<p>1 Q. That may not be necessary, especially as he's not one of 2 the witnesses currently. 3 Now, to your recollection, Mr Ma, were any 4 representatives of Leighton in attendance at this time, 5 at the time of this visit? 6 A. As far as I can recall, when we gave them the boxes, 7 there were some RISC forms there. I remember that 8 someone from Leighton went there to explain to them. 9 Q. Right. Because, as I understand it, Leighton had 10 provided MTR with a number of boxes of documentation, 11 and that material ended up, as I understand it, being 12 handed to the representatives of BD, and so forth. Is 13 that your understanding? 14 A. (In English) Yes, my understanding. 15 Q. And that was done, essentially, what, with Leighton's 16 permission or their agreement because they were there? 17 A. Of course, because we told Leighton that there were such 18 requests from RDO or BD, and we asked them for RISC form 19 and inspection records, so they were aware of the 20 purpose, that is, they were to be given to RDO or BD. 21 Q. All right. Now, back to paragraph 40 of your witness 22 statement, you say in the second sentence: 23 "It was emphasised to the BD/RDO/Pypun 24 representatives that those checklists were retrospective 25 records prepared internally by MTR ..."</p>
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<p>1 Q. On 7 June? 2 A. I think so, because as I recall they got there for about 3 a week, from Monday to Friday, and then I went there two 4 or three times. But whether it was exactly the 7th and 5 the 8th, I can't exactly recall, but there's a chance. 6 Q. Okay. The picture I've got is that they went into 7 a room, there were lots of boxes of papers that were 8 provided to them, and they were invited to inspect and 9 look through the documentation; is that right? 10 A. To put it correctly, they went to an empty room, and 11 then they started asking for relevant information. At 12 that time, our manager, Michael Fu, assigned a staff 13 member as a coordinator. I think it's Mr Tong. 14 He started feeding them relevant information, say 15 RISC form, inspection record, to BD. Yes, we started 16 giving them information. 17 Q. I see. Were they on their own when they were inspecting 18 these documents? I mean, there was no MTR member of 19 staff constantly present while they were looking at 20 these documents? 21 A. After we have supplied the documents they asked for, we 22 left them to them, to leave them to their work. We did 23 not stay with them. That was my understanding. Well, 24 if you want an exact picture, you have to ask Mr Tong, 25 who is the coordinator.</p>	<p>1 So, clearly, you're talking about the MTR records, 2 not the Leighton records? 3 A. That's right. 4 Q. Now, who emphasised that to the BD/RDO/Pypun 5 representatives? Who spoke to them? Did you tell them 6 that or did somebody else tell them that? 7 A. I believe I was one of them. 8 Q. You believe you were one of them? Okay. 9 A. Sorry, you were talking about to tell them that the MTR 10 records were retrospective; is that right? 11 Q. Well, let me just read on, perhaps the whole sentence 12 will make more sense: 13 "... those checklists were retrospective records 14 prepared internally by MTR to confirm that the 15 inspectorate staff had provided the requisite 16 supervision under the QSP, and the BD/RDO 17 representatives were not permitted to take any of those 18 internal records away or to take any copies thereof." 19 Now, who told them they couldn't take any records 20 away or take any copies? 21 A. (In English) Mr Tong. 22 Q. Right. And in terms of emphasising to them that they 23 were retrospective records, they would have known that 24 anyway by reading them, would they not -- 25 A. (Chinese spoken).</p>

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<p>1 Q. -- because it had "retrospective records" on the face of 2 them? 3 A. Well, I expect that when they read the document, they 4 would understand that it's a retrospective record 5 without my saying so. 6 Q. Yes. However, what they wouldn't have appreciated, 7 perhaps, is the date of 10 February 2017; is that right? 8 A. (In English) Can you repeat your question again? 9 Q. Yes. You've told them they are retrospective, but just 10 looking at any of these documents on their face, you 11 would have thought they were retrospective prepared on 12 10 February 2017? 13 A. It did not occur to me in this way at that time. When 14 we wrote the date 10 February 2017, it was based on our 15 team discussion and its outcome. In the discussion, it 16 wasn't specifically because of BD that we prepared the 17 document. It was because we had to supply the document. 18 After the meeting, I was informed that I had to prepare 19 the documents. 20 Q. Yes. Can we just put bundle B7, page 4538, back on the 21 screen again. Thank you very much. 22 The point I'm making, Mr Ma -- I expect you 23 understand -- is that if you come to this document 24 without any prior knowledge or explanation or 25 understanding of it, you can see it's a retrospective</p>	<p>1 particular topic if they think it appropriate, but I've 2 as it were, at this stage at least, done enough on that 3 particular topic and I don't want to repeat the same 4 questions to Mr Ma. 5 On that basis, sir, I have no further questions for 6 Mr Ma. 7 CHAIRMAN: Thank you. 8 MR CHANG: No questions from Leighton. 9 MR SO: No questions from China Technology. 10 MR KHAW: As always, there are some questions from the 11 government, but I note the time. Shall we start after 12 lunch? 13 CHAIRMAN: Yes, I think that's the easiest. Thank you. 14 Mr Ma, we're going to adjourn now for lunch. We 15 will return at 2.15. 16 You are in the middle of giving your evidence and 17 you are not entitled, until you have completed your 18 evidence, to discuss that evidence with anybody else. 19 Do you understand me? 20 WITNESS: (In English) I understand. 21 CHAIRMAN: Good. Thank you very much. 22 (12.56 pm) 23 (The luncheon adjournment) 24 (2.20 pm) 25 Cross-examination by MR KHAW</p>
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<p>1 record, if you read the "Remark" at the bottom -- 2 A. Mmm. 3 Q. -- but the only date that it bears is 10 February 2017. 4 I mean, there's no other date anywhere else that I've 5 missed, I think. So, yes, you would have concluded, 6 perhaps, if you had been careful to read it, that it was 7 a retrospective record, but on any reasonable 8 interpretation you would have thought it was prepared 9 retrospectively but on 10 February 2017. Is that fair? 10 A. (In English) It's fair, yes. 11 (Via interpreter) But I would like to reiterate that 12 our intention was not like this. 13 Q. I understand that, Mr Ma. I understand what your 14 intention was. It's just a question of what was in the 15 minds of the government officials when they turned up 16 and saw these documents, and no doubt perhaps you might 17 get some more questions from those behind me on that 18 particular issue a little later. 19 Sir, Mr Ma has a number of paragraphs in his witness 20 statement dealing with the change in construction detail 21 from couplers to through-bars. I'm afraid I'm not going 22 to go through all of that again with Mr Ma. We've 23 covered it with a couple of witnesses already. That is 24 obviously not to in any way constrain or preclude 25 anybody else asking Mr Ma some questions about that</p>	<p>1 MR KHAW: Mr Ma, I represent the government. 2 If I can just take you to paragraph 33 of your first 3 witness statement, at B1/365, I believe from 4 paragraphs 32 and 33 onwards you talked about the 5 circumstances in which MTR started to prepare for the 6 coupler checklists; right? 7 Now, when you were first asked to prepare for the 8 coupler checklists, I take it that you knew very well 9 that Leighton had failed to provide the necessary 10 checking records as required; is that right? 11 A. Based on my understanding of the QSP, the QSP checklist, 12 that's the one, yes. At the time, Leighton did not give 13 me that document. 14 Q. At that time, did you know that it was a requirement 15 which would need to be met under the QSP? 16 A. At the time, when I went there, BD asked me to produce 17 the document. Was it BD or RDO? I can't recall. 18 I learned from BD or RDO that they needed the document 19 so I told my superiors that BD or RDO representative 20 on site needed the documents. 21 Q. I see. So did you at that time know that it was 22 a record-keeping requirement as required under the QSP? 23 A. When I learned from the representative of BD/RDO of this 24 requirement, I then went to tell my senior of my team. 25 Then, in our meetings, in a conversation, I learned that</p>

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<p>1 this was a record-keeping requirement.</p> <p>2 Q. If we can take a look at your paragraph 34, you talk</p> <p>3 about the time after you prepared the first draft of the</p> <p>4 coupler checklists. Then, about five or six lines down,</p> <p>5 you say:</p> <p>6 "My concern at the time was that the coupler</p> <p>7 checklists had not been contemporaneously prepared or</p> <p>8 maintained by MTRCL."</p> <p>9 Do you see that?</p> <p>10 A. Yes, I see it.</p> <p>11 Q. Is it fair to say that at that time, while you were</p> <p>12 preparing for the draft coupler checklists, you were not</p> <p>13 100 per cent comfortable in making such retrospective</p> <p>14 records, because they were not contemporaneously</p> <p>15 prepared?</p> <p>16 A. At the time when I prepared the checklists, I was given</p> <p>17 instructions. I mentioned that earlier. For the</p> <p>18 information to be in the checklists, the content and the</p> <p>19 format, that was actually provided by Leighton, and</p> <p>20 after I've received the template I asked my seniors</p> <p>21 whether these were the documents required. Then, for</p> <p>22 the documents and the content, I passed them on to our</p> <p>23 inspectors for review again.</p> <p>24 So, in between the process, I had no knowledge about</p> <p>25 whether the inspector did actually see such cases as</p>	<p>1 did not have any physical or hard copies of the lists</p> <p>2 that Leighton formally or informally provided to us. So</p> <p>3 it was through their staff that the soft copy mentioned</p> <p>4 earlier was given to me.</p> <p>5 Q. All right. The soft copy obviously provided you with</p> <p>6 a template as to how the checklist could be done?</p> <p>7 A. Basically, it's not as to what could be done but rather</p> <p>8 the information, the sketch, the section, and the number</p> <p>9 of couplers were all there.</p> <p>10 Q. Now, you keep saying in your witness statement that the</p> <p>11 coupler checklists were for internal record. Do you</p> <p>12 remember that?</p> <p>13 A. Yes, correct.</p> <p>14 Q. Was there any discussion as to what particular purpose</p> <p>15 or purposes would these so-called internal records</p> <p>16 serve?</p> <p>17 A. In our conversation at meetings, I understand that for</p> <p>18 these internal records, at the time, first of all, we</p> <p>19 did not obtain any similar checklist from Leighton on</p> <p>20 couplers, so we could not follow the same procedure for</p> <p>21 D-wall, that is we could countersign on the checklist to</p> <p>22 tell people that in terms of documentation, MTRCL did</p> <p>23 conduct the inspections.</p> <p>24 In fact, in our discussions, the fact was there were</p> <p>25 inspectors who told us specifically that during the</p>
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<p>1 contained in the information.</p> <p>2 Q. Let's try to take things step by step. In paragraph 34,</p> <p>3 where you said, after you prepared the first draft, you</p> <p>4 said you had a concern, and your concern was that the</p> <p>5 coupler checklists had not been contemporaneously</p> <p>6 prepared or maintained. So you had that concern.</p> <p>7 My last question was, at that time, did you feel</p> <p>8 somewhat uncomfortable in making such retrospective</p> <p>9 records because they were not contemporaneously done?</p> <p>10 A. Now, my so-called concern or worry, I did reflect that</p> <p>11 to my senior. I was not sure at the time who conducted</p> <p>12 the inspection. I didn't know about the process. So</p> <p>13 that's why, at the time, true, I had such a worry.</p> <p>14 Q. But you had to follow instructions as to what would need</p> <p>15 to be done; right?</p> <p>16 A. Yes. I talked to James, and then James said our</p> <p>17 inspectors did carry out the inspection and our</p> <p>18 inspectors were prepared to sign the document. So,</p> <p>19 under his instructions, I prepared the information for</p> <p>20 inclusion in the checklists.</p> <p>21 Q. Am I right in pointing out that in fact, at that time,</p> <p>22 when you were preparing for the first draft coupler</p> <p>23 checklists, MTR had already obtained similar checklists,</p> <p>24 ie retrospective checklists, prepared by Leighton?</p> <p>25 A. I recall, at the time when I prepared the checklists, we</p>	<p>1 coupler installation, such inspections were carried out.</p> <p>2 Then, in January/February 2017, we conducted an internal</p> <p>3 audit. So, therefore, this document is in response to</p> <p>4 the internal audit. That is somehow we should have such</p> <p>5 documents to tell ourselves that at least we did carry</p> <p>6 out such inspections.</p> <p>7 CHAIRMAN: Sorry I'm interrupting. I have difficulty with</p> <p>8 this. If this was for purely internal purposes, that</p> <p>9 is, for the internal records of the MTR, why did you</p> <p>10 need to make up templates? You already had the</p> <p>11 pre-concrete pour forms. You already had the RISC</p> <p>12 forms. Those were the total number of forms you had.</p> <p>13 Why did you then have to go and extract a lot of extra</p> <p>14 detail and enunciate that detail in forms, if they were</p> <p>15 entirely for your own internal use? It doesn't make any</p> <p>16 sense to me.</p> <p>17 A. During our team meetings, I received instructions that</p> <p>18 somehow this format, BOSA QSP, is an acceptable way for</p> <p>19 presentation, and this is for the purpose of inspection</p> <p>20 record. So I received instructions that based on that</p> <p>21 format, I should do such an inspection record.</p> <p>22 CHAIRMAN: An inspection record, though, for whom?</p> <p>23 A. At that time, our discussion was such that we were</p> <p>24 trying to respond to the internal record of January</p> <p>25 2017, and it was for our inspection. At that time,</p>

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<p>1 I talked to Kobe. Mr Kobe Wong said that this was 2 an internal record for his own record-keeping, and he 3 would sign them off and there would be no problem for 4 him to do so. 5 CHAIRMAN: How long did it take you to get this record 6 together, for purely internal purposes? 7 A. The template, the format, the content, the number of 8 couplers, all of these came from Leighton. I spent less 9 than two days in order to come up with that document. 10 CHAIRMAN: And you didn't think that the way in which it had 11 been prepared and presented may indicate an intention to 12 use it by presenting it to other parties, third parties? 13 A. At that time, my senior asked me to do this and he did 14 not mention that the document would be used as 15 appendices to reports or was for the purpose of using it 16 as our own record. So I did not receive instructions at 17 that time that this would be disclosed. 18 CHAIRMAN: All right. 19 MR KHAW: One perhaps relatively minor matter that I don't 20 quite follow -- it's what you have stated in your 21 paragraph 35. You said in line 2: 22 "I remember discussing the draft checklists with 23 Mr Ho and Mr Wong, and the consensus from that 24 discussion was that the coupler checklists were intended 25 as internal records which would not form part of any</p>	<p>1 Q. But can you tell us now what was the exact reason for 2 that decision? 3 A. The reason was -- well, I recall that, at that time, we 4 would base on D-wall procedure. When Leighton submitted 5 their signed checklists, we were supposed to countersign 6 their checklists, so that would become inspection 7 logbook or for the purpose of record-keeping. 8 As far as I remember and at that time, the 9 discussion was that the record at that time was for 10 internal usage only. 11 Q. Right. If I can move back to the last three lines of 12 your paragraph 34. Perhaps the fifth-last line, 13 starting from: 14 "Mr Fu therefore recommended the addition of 15 an express remark in the draft coupler checklists to 16 make it clear that the checklists were a 'retrospective 17 record of coupler installation' based on Mr Wong's 18 recollection of the areas/bays he had in fact covered 19 and the relevant site photos which confirmed his 20 recollection, and I did so accordingly." 21 Do you see that? 22 A. Yes, I can see that. 23 Q. My question is: if the checklists were based on the site 24 photos and Mr Wong's recollection, you would agree with 25 me, would you not, that there was no way for MTR to</p>
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<p>1 formal submission to the BD or formal inspection logbook 2 under the QSP -- importantly, that was why we 3 deliberately did not include MTRCL's logo on any of the 4 checklists." 5 I don't quite understand the logic here. Even 6 assuming for a moment that these were intended to be 7 internal records -- well, there's nothing wrong to put 8 MTR's logo on it; right? 9 A. Well, you can say it that way. 10 Q. If we can move back to paragraph 34 -- sorry, to follow 11 up on your last answer: in that case, why did you 12 deliberately make a decision not to include MTR's logo 13 on such checklist that you prepared? 14 A. First, I did not deliberately delete the MTR logo, 15 because in the template there was no MTR logo. That's 16 the first point. 17 So I got the information, and then I considered 18 whether we should put the logo on the checklists. But 19 then, after our discussion within the team, we decided 20 that the logo would not be necessary. That is why I did 21 not deliberately delete the MTR logo. 22 Q. So you mean it was a conscious decision, as a result of 23 a discussion, that MTR's logo would not be put on the 24 checklist; is that right? 25 A. I recall that that was part of our discussion.</p>	<p>1 check or verify if Mr Wong's recollection was 2 100 per cent correct or not? Would you agree? 3 A. Based on what you said, I would disagree, because apart 4 from Mr Wong's own recollection, he might have a big 5 photo bank, or from his colleagues or inspectors, these 6 people might be able to provide a lot of information or 7 inspection records to Mr Wong. So he was confident to 8 sign. 9 I'm not sure, but looking at this, I would not agree 10 that the MTRCL was confident that we carried out this 11 significant inspection. 12 CHAIRMAN: Sorry, again I'm interrupting. The checklists 13 were a retrospective record of coupler installation; 14 fine. And that record, according to you, is based on 15 two things: first of all, Mr Wong's recollection, that 16 is his memory; right? 17 A. Yes, his recollection, based on -- 18 CHAIRMAN: And secondly some photographs; right? But you 19 don't mention that anywhere, do you? You don't say on 20 the form, "This is a retrospective record based on the 21 RISC documents, the pre-concrete pour documents, 22 recollection of the following inspectors, and a series 23 of photographs or anything like that, do you? 24 A. That's correct. In my checklist, I was not requested or 25 instructed to add such relative remarks.</p>

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<p>1 CHAIRMAN: You see, can I be frank with you: an ordinary 2 end-of the year catch-up, "Look, chaps, we seem to have 3 fallen behind on some of our record-keeping, let's get 4 up to date", that I can understand entirely. But my 5 understanding is that by the time you made these up, you 6 knew full well that there was a bit of a scandal 7 brewing, didn't you, in the outside world, about this 8 very subject? 9 A. "This subject", you mean ...? 10 CHAIRMAN: The whole question of checking the couplers. 11 A. Well, if you ask me this way, I would also be frank to 12 say that during the process, I was not very clear as to 13 the coupler inspection, whether our inspectors were very 14 serious in doing the job or doing the inspection 15 seriously. So, as I said, to do these records, I was 16 instructed to somehow make these checklists. So whether 17 there would be consequences, I at that time did not 18 think of those. 19 MR KHAW: Mr Ma, you just told us that Mr Wong might have 20 a big photo bank which might be able to show level of 21 inspection, et cetera, et cetera. 22 Now, let me take you to have a look at this, the 23 checklist that you prepared: B7 -- 24 CHAIRMAN: Sorry, I'm interrupting again. You said you were 25 just told to do these, and at the time you were not</p>	<p>1 row; would you agree? 2 A. Yes. To me, that's the case, yes. 3 Q. If we can take a look at 4555. There are two additional 4 items: "Additional drill-in bars drilled to correct 5 depth"; "Additional drill-in bars fixed with Hilti 6 RE500". 7 I take it that there were no photo records in 8 relation to these items; am I right? 9 A. For items 5 and 6, they should be deleted, they are 10 supposed to be deleted. Perhaps when I copied the 11 checklist from Leighton, I omitted to delete these two 12 items. 13 Q. Sorry, Mr Ma, you said your original intention was to 14 delete these two items from the checklist; right? 15 A. Yes, correct. 16 Q. Why was it necessary for you to consider deleting these 17 two items? 18 A. Because in my conversation with Mr Wong, they didn't 19 tell us that they looked at drill-in bars, in terms of 20 drilling and fixing. 21 Q. So you knew full well at the time when you were 22 preparing for the coupler checklists that there were 23 items set out in the checklist which were not inspected, 24 according to Mr Wong; you knew about that? 25 A. Afterwards, I found that I did not delete the items.</p>
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<p>1 clear whether the inspectors had been serious in doing 2 their job at the time or not serious. What that tends 3 to suggest is you had no idea whether they had been 4 shirking their duties or fulfilling them properly. You 5 were simply asked to fill out some detailed forms, which 6 apparently were for internal use only, even though there 7 was a scandal brewing about those very issues, and you 8 went ahead and did it. That would sum it up, wouldn't 9 it? 10 A. I would like to clarify. Actually, in the process, 11 during our discussion, I saw our inspector, Kobe Wong, 12 who was confident in telling us that they did such 13 checks. So, when I worked on the checklist, I did not 14 have the feeling that I was working on a problematic 15 document. 16 MR KHAW: Right. If we can take a look at B7/4538. Now, we 17 will see from the box with the four items -- I'm sure 18 you're familiar with this document -- there's 19 a description regarding row T1, T2, B1, B2, et cetera, 20 and then bar 1 to 116; do you see that? 21 A. I see it. 22 Q. So I take it that at the time when you prepared these 23 checklists, you did not have a set of photographs which 24 would be able to show you the status of the coupler 25 installation in relation to each bar in respect of each</p>	<p>1 Only then did I find out. 2 Q. No, no, no, Mr Ma. Back to my question. At the time 3 when you were preparing for these coupler checklists, 4 you knew full well that there were certain items which 5 were not inspected, according to Mr Wong. You knew 6 about that; is that right? 7 A. You mean not inspected -- the items not inspected, are 8 you referring to items 5 and 6 here specifically? 9 Q. We were talking about 5 and 6 just now. 10 A. Yes, correct. So that's why, for items 5 and 6, they 11 shouldn't appear in this checklist at all. 12 CHAIRMAN: Hang on a second. If you look at those documents 13 they've got "Satisfactory" written there -- 14 MR KHAW: Yes. 15 CHAIRMAN: -- haven't they? 16 A. Yes, that's right. 17 CHAIRMAN: So this is something that is not meant to be 18 there but has nevertheless been found to be 19 satisfactory. On what basis was it found to be 20 satisfactory? 21 A. Well, when I prepared the checklists, these two items 22 should not have been there. Then, when Mr Wong signed 23 the forms, probably he overlooked the existence of these 24 two items. 25 CHAIRMAN: He didn't overlook it because somebody has</p>

Page 97	1 written "Satisfactory", by putting a line down "Not 2 satisfactory". 3 A. Yes, I understand what you are saying, but I believe at 4 the time I did not realise that there were items 5 and 6 5 included there. But later on, when I had time to check 6 the records again, I found that items 5 and 6 were not 7 deleted at the time I prepared the checklists. 8 CHAIRMAN: So this was just an error on your part? 9 A. Yes, it was an error, true. I should have deleted the 10 items. Because for items 5 and 6, they were in the 11 template provided by Leighton. 12 CHAIRMAN: Sorry, just so I understand items 5 and 6, now 13 somebody has filled out the form saying those had been 14 dealt with satisfactorily; right? 15 A. Yes. 16 CHAIRMAN: Now, where would the information have come from 17 that they had been dealt with satisfactorily? From 18 Leighton; is that what you're saying? 19 A. No. Leighton provided the template of the checklist, 20 and also there's information in the checklist. 21 Originally these six items were there, so items 5 and 6 22 were included. But in my conversation with Kobe, Kobe 23 said that he inspected items 1 to 4, and in the records 24 it showed there was no problem. But then, for items 5 25 and 6, he did not carry out inspections on the drill-in	Page 99	1 a complete inspection record, would you agree, 2 regardless of whether it was done retrospectively or 3 not? 4 A. I don't agree. 5 Q. Very well. Let's move on. In your witness statements, 6 you have repeatedly told us that the coupler checklists 7 were for internal record and they were not intended to 8 be publicised or to be shown to the Buildings Department 9 or the Authority. That's what you said; right? 10 A. Yes. 11 Q. So obviously there was no intention to give anybody any 12 impression that the records were not done 13 retrospectively; is that right? 14 A. Sorry, can you repeat your question, please? 15 Q. There was no intention to give anybody any wrong 16 impression or misapprehension that such records were not 17 done retrospectively? 18 A. So you mean that I did not have the intention to tell 19 people that these were retrospective records? 20 Q. Sorry, my fault. Too many negatives, probably. Sorry. 21 You wanted to give people the impression that the 22 records were actually done retrospectively, not earlier. 23 That's what you wanted to tell people who had a chance 24 to read this document; right? 25 A. First of all, it's not my own decision. It's the
Page 98	1 bars. He did not specifically mention that. 2 So, for all the checklists, when Leighton provided 3 me with the templates, they all included items 1 to 6. 4 Perhaps, when I was doing the deletion, or when there 5 were new items added to the checklist, I did not delete 6 items 5 and 6 at the beginning, and so when Kobe signed 7 the forms he probably overlooked that there were items 5 8 and 6 there. 9 MR KHAW: Just to explore a bit further -- I'm afraid I have 10 to -- regarding your mindset at that time. 11 You told us that you originally intended to delete 12 items 5 and 6, because Kobe Wong told you that he did 13 not check items 5 and 6; is that right? 14 A. Yes, correct. 15 Q. Now, following this mindset, then when you're preparing 16 for these coupler checklists, whether they were used for 17 internal purposes or otherwise, you were at liberty to 18 remove certain items which would need to be checked, if 19 you realised that there was no evidence that they had 20 been checked by Kobe Wong; is that right? 21 A. I wouldn't just delete the items at will. I would check 22 with Mr Kobe Wong whether he would be confident to sign 23 the forms, and it would be based on his intention or 24 indication that I would delete the items. 25 Q. Once items 5 and 6 were deleted, this could never be	Page 100	1 decision of our team. And my understanding was, at the 2 time, that the team wanted these records to be 3 retrospective and to tell people so. 4 Q. It was obviously your team's decision not to mislead 5 people by showing these records to them; right? 6 A. Not to mislead them that these were contemporaneous 7 records? Yes, correct. 8 Q. In that case, did you realise that it was also important 9 to date such records properly, if you did not want to 10 mislead people; would you agree? 11 A. I agree. That's why, when Mr Wong signed on the form 12 and he had to put in a date, I specifically consulted my 13 senior. So, at the time, he recommended that we must 14 make sure it is shown as a retrospective document, and 15 also he provided the date to us, to say it should be in 16 response to the 2017 internal audit. 17 Q. Now, with this intention not to mislead people clearly 18 in your mind, when you were given the instruction that 19 these records should not be dated June 2018, they should 20 be dated 10 February 2017, did you consider it 21 inappropriate to do so because it was wrong, it was 22 simply wrong? 23 A. For the record-keeping and inspection, I was not 24 involved in it. So, when my senior made the decision, 25 I did not know how much information he had to support

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1 this decision. So, therefore, I did not question him on  
2 this. I just received an instruction and did  
3 accordingly.  
4 Q. Can you tell us who was your senior who made that  
5 decision?  
6 A. At that time, at the meeting, it was Michael Fu and  
7 James Ho; they were there. But as to who it was, I'm  
8 not very sure.  
9 Q. In your paragraph 38, you told us that there was  
10 a consensus from the discussions you had with Mr Ho and  
11 Mr Wong that the coupler checklists were dated  
12 10 February 2017, because, according to what you say,  
13 the checklist should respond to a recommendation made in  
14 MTR's internal review which was made in February 2017.  
15 Do you remember that?  
16 A. Yes, that's correct.  
17 Q. So, at that time, were you given the details of such  
18 review? Did you know anything about that?  
19 A. Are you talking about the time when it was June 2018?  
20 Q. Yes. In June 2018, when you came to this consensus with  
21 Mr Ho and Mr Wong regarding the backdating to  
22 10 February 2017, and you told us that it was because of  
23 the internal review conducted in February 2017, my  
24 question was: were you given any information regarding  
25 that particular internal review at that time, ie in June

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1 2018?  
2 A. I did not get the full report. I did not read it.  
3 James Ho related with some bullet points the findings of  
4 the review.  
5 Q. Yes. Did you have a chance to look at those bullet  
6 points at that time?  
7 A. I remember I had a chance to read them.  
8 Q. Let's just have a quick look at those points. B7/4516.  
9 If you can take a look at 4519, under 5.1, bullet  
10 point 2, I quote:  
11 "Confirm the frequency of Leighton and MTR  
12 supervision were in compliance with the requirement of  
13 the QSP, and were recorded on the record sheet  
14 (appendix C of QSP)".  
15 So can you confirm that this is the bullet point  
16 that you read at that time?  
17 A. If I remember correctly, I think this is more or less  
18 that point.  
19 Q. Now, I take it that, clearly, what recorded on record  
20 sheet appendix C of QSP means -- must be contemporaneous  
21 records, not retrospective records; would you agree?  
22 A. I can't comment on this, because I was not involved in  
23 the internal audit, I don't know what basis they had to  
24 make this recommendation, and I don't know what was  
25 discussed so that this recommendation was made.

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1 Q. But when you were given the instruction that the coupler  
2 checklists should be backdated to 10 February 2017, did  
3 you feel surprised?  
4 A. At the team meeting, that was a decision reached at the  
5 team meeting. What was important was that Mr Kobe Wong  
6 signed and he wrote down this date. I couldn't see Kobe  
7 was surprised, so I did not react strongly.  
8 Q. At your first witness statement, paragraph 40, you  
9 talked about the occasions where representatives from  
10 BD, RDO and Pypun came to visit the site office, on  
11 7 and 8 June 2018. Mr Pennicott has also asked you  
12 questions on this. Do you remember that?  
13 A. Yes, I do.  
14 Q. What I don't quite understand is that you've kept saying  
15 that MTR's retrospective coupler checklists were  
16 intended to be used only internally. Why did you decide  
17 or why did MTR's representatives decide to show them to  
18 the representatives of the BD during the visits?  
19 A. When they came to the site office, that is when  
20 BD/RDO/Pypun came, they asked whether the MTR had such  
21 records. I remember, at that time, I asked Kobe, and he  
22 supplied a sheet which is a table, and that table  
23 summarised at EWL slab construction -- actually in  
24 regard to coupler inspection he circled certain dates  
25 and locations, to do a summary, to tell BD that we

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1 provided that kind of inspection, and this is what we  
2 wanted to tell BD.  
3 What I remember, when BD spent a day or two to read  
4 the summary, BD did not accept it. BD did not accept  
5 that we presented to BD in such a format, that that was  
6 the MTR record. Anyway, we were told to go back and dig  
7 up our records, to see whether we had that document.  
8 Therefore, at the time, I presented Kobe's summary  
9 table, and in fact I remember I told BD that that was  
10 the only record that we had at that time with regard to  
11 coupler inspection.  
12 CHAIRMAN: Sorry, just so I understand -- so you knew you  
13 were compiling these templated documents entirely for  
14 internal use, and yet an occasion was reached when you  
15 decided that you would show them to third parties?  
16 A. No. I mentioned the summary table; it was something  
17 else.  
18 MR KHAW: Let me try to understand you a bit more on this.  
19 If we can take a look at B7/4537, is it the summary  
20 table that you just referred us to?  
21 A. No.  
22 Q. If we can take a look at H14/35070. Is it the summary  
23 that you referred us to?  
24 A. Correct.  
25 Q. So what you just told us -- I just try to understand

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<p>1 your answer correctly -- was that you first provided 2 this summary to the BD representative, is that right, 3 during the visit? 4 A. When BD came to the site office, I told my senior about 5 it. At that time, Kobe gave this to me. Now, when this 6 was done, how it was done, I don't know anything about 7 that. 8 Q. So Kobe Wong gave you this summary. Did he actually ask 9 you to provide this to BD's representative? 10 A. He knew about it. 11 Q. Then you also told us that BD was not satisfied with 12 this summary, and MTR was asked to provide further 13 records; is that what you are trying to tell us? 14 A. That's correct. And they particularly pointed out that 15 it should be a checklist in the format similar to the 16 appendix to the QSP. 17 Q. During those visits, did anyone from MTR -- either you 18 or any of your colleagues -- just frankly tell the BD 19 representatives, "We do not have contemporaneous records 20 regarding inspection or supervision"? Did anyone say 21 anything to that effect? 22 A. I don't know about other colleagues, but when 23 I presented this summary to the BD representatives, 24 I told them that this was the only inspection checklist 25 that MTR had at that time.</p>	<p>1 Q. And you just told us that at the time when this summary 2 sheet, ie the one on the screen, was provided to the BD 3 representatives, there was no mention as to whether any 4 document was recently prepared; is that right? 5 A. You mean -- "any document", you mean this document or 6 other documents? 7 Q. As I said, I was referring to this one on the screen. 8 A. Mmm. 9 Q. When you gave them this document, you did not mention 10 that documents were prepared by MTR recently. You did 11 not mention that; right? 12 A. In my recollection, no, I did not, because I didn't know 13 about it myself either. 14 Q. I'm sorry, you said "because I did not know about it 15 myself either", but surely at that time you had started 16 preparing for the coupler checklists already. How come 17 you told us that you did not know either? 18 A. When I presented this table to BD, I had not started 19 preparing the checklists. 20 Q. I see. So you told us that BD then, obviously not 21 satisfied with this summary sheet, kept asking for 22 further records; right? 23 A. Yes, correct. 24 Q. Then you showed them the coupler checklists that you 25 prepared; is that right? And Kobe Wong signed; is that</p>
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<p>1 CHAIRMAN: Did you tell them, "This is a document which has 2 been prepared in the last few days"? 3 A. I did not know about that at that time. I didn't know 4 when this was produced and how it was produced. I don't 5 know anything about this. 6 MR KHAW: So do you mean that you subsequently provided BD's 7 representatives with further records, ie the 8 retrospective coupler checklists, during the visits? 9 A. You are talking about the last document? 10 Q. Let's try to take it step by step. During the visits, 11 you first showed BD representatives this summary; right? 12 A. Correct. 13 Q. And you told them that this was, according to your own 14 words, the only inspection checklist that MTR had at 15 that time; right? That's what you just told us? 16 A. (In English) For coupler checklist, yes. 17 CHAIRMAN: And you were pointing to this document, the one 18 we now look at on our screen? 19 A. Yes. 20 CHAIRMAN: All right. 21 MR KHAW: So, at that time, you made no reference to the 22 coupler checklists that you prepared; right? So those 23 with the four items or six items that we have seen. You 24 did not tell them? 25 A. No, I did not tell them.</p>	<p>1 right? 2 A. And after that I related BD's request to my senior, and 3 then afterwards, therefore, we started our discussion at 4 the meeting, and then I started asking Leighton for 5 relevant information. I showed our senior the 6 information and then I asked Kobe to sign them, and then 7 we prepared this thing. 8 At the time, my senior said this could perhaps be 9 provided to BD and tell them that this was our so-called 10 internal records. 11 CHAIRMAN: So do I understand this correctly -- apologies if 12 it's a bit like drawing teeth -- but you showed the 13 Buildings Department initially the document which is on 14 the screen at the moment, signed by Kobe Wong, entitled 15 "1112 coupler installation checklist"; correct? 16 A. (In English) Yes. 17 CHAIRMAN: The Buildings Department was unhappy with that 18 document; correct? 19 A. Yes. 20 CHAIRMAN: At that time, apart from that document, all you 21 would have had that were true contemporaneous documents 22 would have been the RISC forms and the pre-concrete pour 23 forms; is that right? 24 A. For those forms, they were provided by Leighton. 25 CHAIRMAN: All right. But you would have had them; yes?</p>

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1 A. (Nodded head).  
2 CHAIRMAN: So you go back to your superiors and you say,  
3 "The Buildings Department is unhappy with what I've  
4 shown them"; correct?  
5 A. Yes. That's for the coupler checklist, yes.  
6 CHAIRMAN: And they then say, "Okay, let's go ahead and we  
7 will now draw up a series of template documents, in  
8 detail, which we will say to the Buildings Department  
9 are purely our own internal records but they can have  
10 a look at them"?  
11 A. Er ...  
12 CHAIRMAN: Well, that's what you said.  
13 A. Yes, yes, you could put it that way.  
14 MR KHAW: That's perhaps not what Kobe Wong says. If we can  
15 look at Kobe Wong's witness statement, B1/434,  
16 paragraph 55, he said:  
17 "Having reviewed those site photos ..., I then  
18 compiled an Excel spreadsheet ... A hard copy of that  
19 spreadsheet was provided to Mr James Ho for  
20 consideration, but he considered that the summary was  
21 not sufficiently detailed, and he asked if I was willing  
22 to prepare and sign a more detailed set of records. At  
23 that point, I was assured by Mr Ho that the proposed set  
24 of records would only act as an internal record.  
25 I understood this to mean that it was only for the use

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1 of myself, Mr Ho, Mr Derek Ma, Mr Louis Kwan and  
2 Mr Arthur Wang, and would not be circulated to any other  
3 parties."  
4 A. And your question is?  
5 Q. So how come it was subsequently agreed that the coupler  
6 checklists that you prepared would be sent or should be  
7 sent to the BD?  
8 A. First of all, this document he referred to was the one  
9 that we saw on the screen just now; right?  
10 Q. Yes.  
11 A. So that form -- as he said in his last sentence, in his  
12 conversation with James Ho, I, Derek Ma, was not in the  
13 circulation list. That means that what he talked to  
14 Mr Ho about, that this was his internal record -- well,  
15 I knew nothing about that so far.  
16 So, at the end, I couldn't recall whether it was  
17 Mr Ho or him who provided the spreadsheet to me for  
18 presentation to BD; I couldn't recall. But I recall  
19 that I did take the list down to the site, and  
20 I remember perhaps Kobe went with me too.  
21 Q. I hope I'm not trying to complicate things, but can you  
22 tell us who made the decision that the checklist that  
23 you prepared should be sent to the BD?  
24 A. So now you're referring to the checklists that I helped  
25 to prepare, right, the big pile of checklists?

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1 Q. The checklists with items 1, 2, 3, 4, items 1, 2, 3, 4,  
2 5, 6, those checklists. Who made the decision that  
3 those checklists should be sent to the BD?  
4 A. It was my senior. I couldn't recall whether it was  
5 James Ho or Michael Fu.  
6 Q. At the time when the checklists -- with 1, 2, 3, 4; 1,  
7 2, 3, 4, 5, 6, to avoid any misunderstanding -- at the  
8 time when those checklists were sent to the BD, did  
9 anybody, you or anyone from the MTR, tell the BD's  
10 representatives that these were in fact made recently?  
11 A. Now, first of all, I didn't use the term "sent". We  
12 just showed them to BD, that internally we had such  
13 records. I couldn't recall exactly whether at the time  
14 I emphasised that the documents were prepared only then.  
15 But I do recall telling BD that these documents were not  
16 prepared in 2015.  
17 CHAIRMAN: Well, no, they wouldn't have been, because  
18 they've got "2017" on them; yes?  
19 A. Yes, correct.  
20 MR KHAW: Did you tell them that they were not in fact done  
21 in 2017 either?  
22 A. I don't remember, but I remember that I was not  
23 instructed to say such things. That's what I recall.  
24 Q. Mr Wong, I have to put it to you that at the time --  
25 CHAIRMAN: Sorry. You were not instructed to say to the

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1 Buildings Department that these were recent documents?  
2 A. At our meeting, in a discussion, this was not mentioned  
3 specifically.  
4 CHAIRMAN: No. So, if I understand this correctly, the  
5 Buildings Department had seen your summary sheet; they  
6 were unhappy with that. You then went back and reported  
7 the unhappiness of the Buildings Department to your  
8 superiors, and they suggested that the template forms  
9 should be prepared; correct?  
10 A. Yes, you could put it that way.  
11 CHAIRMAN: Then you went back to the Buildings Department  
12 with these template forms, you did not say to them or to  
13 their representatives, "We don't have any old forms but  
14 we've managed to make up some records recently and will  
15 these be sufficient?" You just gave them to them?  
16 A. No, I did not say that.  
17 CHAIRMAN: So you just handed them the forms that bore the  
18 date early 2017?  
19 A. Yes.  
20 CHAIRMAN: And you let them make of those forms what they  
21 would? In other words, it was up to them what they made  
22 of those forms?  
23 A. True, I did not say anything specifically.  
24 CHAIRMAN: Thank you.  
25 MR KHAW: Mr Ma, I have to put it to you that at the time

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<p>1 when the BD representatives or the RDO representatives 2 visited the site office of MTR to inspect the 3 checklists, the coupler checklists -- with 1, 2, 3, 4; 4 items 1, 2, 3, 4, 5, 6 -- it was in fact not emphasised 5 that they were retrospective records; would you agree? 6 A. I did emphasise that the records were prepared 7 retrospectively. On day one, when I showed them the 8 spreadsheet, I told them that we did not have those 9 records at the time. 10 Q. Now, your witness statement, your first witness 11 statement, paragraphs 42 and 43, you talked about the 12 discrepancies between the number of couplers as recorded 13 in the MTR 15 June report and also the actual number of 14 couplers used. Do you remember that? 15 A. Yes, I remember that. 16 Q. Now, we've got James Ho's evidence. He says that such 17 a discrepancy was probably due to the lack of as-built 18 drawings for the EWL slab as at the time when the 19 15 June report was prepared. Do you agree with him? 20 A. Yes. It was based on the as-built drawings of the 21 D-wall at the time. 22 Q. Yes. Now, at this juncture, if I can take you to have 23 a look at the document, ie the PIMS: B6/3665. Yes. 24 This is the PIMS of MTR. If you can go to the section 25 at the lower part on this page, you see the emboldened</p>	<p>1 A. Yes. During the EWL slab construction, we mentioned 2 that in the process, certain materials or record forms 3 were there. As for as-built drawings, at that time we 4 might be preparing them. So I won't agree that it is 5 because, in June/July 2018, as far as I remember, we did 6 not get started to do the as-built records for EWL slab. 7 Q. Right. Finally, if I can take you to your witness 8 statement, paragraph 15.2.3, page 360 -- there you are 9 talking about your involvement in reports/meetings as 10 and when required by senior construction engineer. Then 11 you say, at 15.2.3: 12 "Weekly DM/CM coordination meetings, which were 13 chaired by the MTR's construction manager and attended 14 by our construction engineer team ... Mr Andy Leung, the 15 design manager ... also attended some of these meetings. 16 These meetings discussed RFIs, submissions, and the 17 progress of the works on site generally." 18 The question that I have is, regarding the need to 19 trim off the top of the diaphragm wall, did it occur to 20 your mind that such need was triggered by the 21 assumption, the design assumption, that the EWL slab and 22 the OTE slab would need to be cast monolithically? Do 23 you know about that? 24 A. Yes, I was told that there was this design requirement. 25 Q. Was this ever raised in any of the meetings that you</p>
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<p>1 heading, "Supervision (general)". That's on the 2 top-left corner, "Supervision (general)"; do you see 3 that? 4 A. Yes, I can see that. 5 Q. You see the item regarding "As-built records"? 6 A. Yes. 7 Q. There's a note here saying: 8 "ConE [construction engineer] and SIOW [senior 9 inspector of works] shall ensure that these records are 10 prepared as a continuous operation as construction 11 proceeds, and that the brand names of actual materials 12 used, instructed and proposed changes, actual details of 13 works determined on site are recorded." 14 Do you see that? 15 A. Yes, I see that. 16 Q. Would you consider that the lack of as-built records as 17 at the time when MTR prepared the 15 June report 18 indicates a failure to comply with the requirements set 19 out under the PIMS? 20 A. You are talking about the as-built records and you are 21 talking about the EWL slab? 22 Q. As-built records. As-built records. 23 A. (In English) As-built records for -- 24 Q. It could include drawings. It could include other 25 records.</p>	<p>1 referred us to in paragraph 15.2.3? 2 A. In my impression, this was not mentioned at these two 3 meetings. 4 MR KHAW: Right. I have no further questions. 5 CHAIRMAN: Thank you. 6 MR CONNOR: Sir, I do have some questions, if I may, but it 7 will be about 15 or 20 minutes long. Subject to your 8 thoughts, this might be an appropriate time to break. 9 CHAIRMAN: Yes, certainly. 10 (3.36 pm) 11 (A short adjournment) 12 (3.57 pm) 13 CHAIRMAN: Yes. 14 Cross-examination by MR CONNOR 15 MR CONNOR: Thank you, sir. 16 Good afternoon, Mr Ma. I'm Vincent Connor, 17 I represent Atkins China Ltd, and I'd like to ask you 18 some questions. 19 A. (In English) Okay. 20 Q. Thank you. 21 Shortly before the break, you will remember that 22 Mr Khaw was asking you about the concept of monolithic 23 casting of the slab. Do you recall that? 24 A. Yes, I recall that. 25 Q. Thank you. If you have before you, please, your witness</p>

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<p>1 statement, which is B1/21, that's your first witness 2 statement. Firstly, at paragraph 43. Can I take you 3 from paragraphs 43 to 45 as follows. You say in 4 paragraph 43: 5 "It was only when the construction management team 6 started preparing the as-built submissions for the EWL 7 slab in July 2018 that the construction management team 8 recalled the minor modifications made to the connection 9 details at the top of the diaphragm wall, which were not 10 reflected in the BA14 submissions." 11 Do you recall that evidence that you gave? 12 A. Yes, I recall that. 13 Q. Thank you. Then you go on in paragraph 44, in the first 14 four lines or so, four to five lines or so, to describe 15 the change from the use of couplers to through-bars, and 16 the change being implemented in the east diaphragm wall. 17 You say at the end of that paragraph: 18 "I can confirm that I was aware of the change at the 19 time, as was the rest of the [construction management] 20 team." 21 Is that correct? 22 A. Yes. 23 Q. Then in paragraph 45 you go on to deal with the question 24 of monolithic casting. 25 You refer firstly to TQ33, and you explain that that</p>	<p>1 monolithically. 2 Q. Thank you. Now, do you recall any other expressions 3 being used in relation to the treatment that was to be 4 applied to the EWL and OTE slabs, other than monolithic 5 casting? 6 A. This year, when we dug out the TQs, at the DM team, 7 I heard another way of saying this. 8 Q. Can you help the Commission with what that other way of 9 saying this was? 10 A. If I understood correctly, the other way of saying it 11 was that D-wall was not trimmed down. At the same time, 12 EWL and OTE slabs would be cast at the same time. 13 Therefore, that was what they said about cast 14 monolithically. 15 Q. Thank you. That's very helpful. Just to help you 16 a little further on that, could you look at TQ33, which 17 is B5/2986. 18 Thank you very much. There are several pages to 19 this. That is the first page, where you will see that 20 that's headed technical query no. 0033, and the first 21 page identifies the query that is being asked. 22 If you turn on, please, to the following pages, you 23 then see a drawing. If you can move on to the next 24 page, please, 2988, and turn over, please, 2989, and 25 over, please, 2990, and keep going, please, and you will</p>
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<p>1 has refreshed your memory, having looked at it, and you 2 go on to say: 3 "... the need to trim off the top of the diaphragm 4 wall in areas B and C was triggered by the 'design 5 assumption' of monolithically casting the EWL and over 6 track exhaust slabs, which was raised by Atkins team B 7 in its response to TQ33." 8 I just pause there. Does that still represent your 9 evidence? 10 A. Yes, when I made the statement, in my recollection, 11 TQ33, which I looked at again, that was my recollection 12 at the time. 13 Q. Thank you. You go on -- and I'll have a look at TQ33 in 14 just a moment -- but you go on to say: 15 "This was because the monolithic casting of the EWL 16 and OTE slabs would not be possible with the separation 17 by the diaphragm wall in between -- the lowering of the 18 diaphragm wall was necessary in order to allow such 19 monolithic casting." 20 That is your further explanation of why monolithic 21 casting, in your evidence, was required; is that right? 22 A. In my evidence, I would like to explain that when I saw 23 this word "monolithic", I can think back, it's correct 24 that I thought that without trimming down the D-wall, 25 the EWL slab and the diaphragm wall could not be cast</p>	<p>1 see there, at 2991, there is a further question. 2 Now, at this point, we see an explanation of what is 3 being asked, really, in TQ33. Is that right, Mr Ma, the 4 three points which are noted on this drawing? 5 A. Yes. These three points were raised by Leighton at the 6 time. 7 Q. We see the questions are about the fitting of an L-shape 8 bar with the couplers, and the rebar could not fix as 9 shown in the drawing, and there was not sufficient 10 anchorage provided in relation to some panels, and 11 an example is given; do you see that? 12 A. When you said an example was given, you mean ...? 13 Q. EH103. 14 A. Okay, yes. 15 Q. Thank you. 16 If you move on to the next page, please, a further 17 drawing, and over to the next page, please, further 18 sections; the next page, please; and follow on to 2995, 19 please; and 2996, 2997. 20 Then, at this point, we see the response. If you 21 look at the "Response" section itself, Mr Ma, you will 22 see there the following: 23 "The maximum number of layer of rebar in the top 24 section of 3 metre slab is 3, so adding the bending 25 radius ..."</p>

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<p>1 Just skipping over that detail, there is a comment 2 there in the final subparagraph that says as follows: 3 "Please be reminded that in order to comply with the 4 design assumption, the OTE wall must be concrete/pour 5 together at the same time (monolithically) with the 6 3 metre EWL slab and the wall to extend to 7 300 millimetres above the chamfer section of the wall to 8 provide the kicker for the OTE wall above." 9 Do you see that? 10 A. (In English) Yes. 11 Q. So when you told the Commission earlier that you had 12 heard a reference to another way of putting the manner 13 in which the slab was to be treated, namely there was to 14 be concreting at OTE wall, et cetera, at the same time, 15 is this similar to what you had heard? 16 A. Well, what I heard was that they did not specifically 17 refer to this statement. If you say it is similar -- 18 well, there is this word "monolithically" within the 19 bracket, and if I look at it now I would still think 20 that three elements should be taken together. Yes, 21 that's right. 22 Q. And, in addition, Mr Ma, the concept of concreting and 23 pouring together of the OTE wall with the EWL slab at 24 the same time is noted in express terms? 25 A. That's right. EWL slab and OTE wall should be poured</p>	<p>1 Q. In paragraph 23, you will then see he says as follows: 2 "By monolithically, I meant the OTE wall and the EWL 3 slab on each side of the D-wall cast at the same time to 4 ensure full tension anchorage for the 3 metre EWL slab." 5 Do you see that that is Mr Lee's evidence? 6 A. Yes, I see that. 7 Q. And do you agree with his interpretation of the 8 expression "monolithically"? 9 A. Well, in my view -- well, this is the first time I have 10 seen this interpretation. As to whether I agree with 11 this expression, at this stage, I don't know whether 12 this is really the only way to provide full tension 13 anchorage or to fulfil design intent. I have no way to 14 agree to it. 15 But I can say that with regard to the interpretation 16 of "monolithically", I don't think it should be what he 17 says in his statement, but of course he is a designer 18 and he may have design intent, but then I can't agree 19 with his view just by looking at this statement made by 20 him here. 21 Q. Thank you. Just to summarise, if I may, to make sure 22 I understand your evidence for the purposes of the 23 Commission, you note what Mr Lee says, but you're not in 24 a position to either agree with him -- because you do 25 not -- but equally you are not in a position to quarrel</p>
<p>Page 122</p> <p>1 together. Yes, that is expressly remarked. 2 Q. Thank you. 3 Now, just coming away from this document for 4 a moment, and if you could have before you, please, the 5 statement of Mr WC Lee, which is J6/4526. 6 Pause at this point, Mr Ma. In fairness to you, you 7 may not have seen this statement before? 8 A. This morning I had the chance to glance through it. 9 Q. That's helpful. Thank you. 10 If you would turn, please, or be helped to turn to 11 paragraph 22, you will see reference there by Mr Lee to 12 a response that he made to a technical query from 13 Mr Johnson Luk on 24 July 2015, and I think as we will 14 see in a moment, this is an email that you refer to 15 yourself in your own statement. He goes on to describe 16 the nature of his response, which he then quotes from in 17 the following paragraphs. 18 If you could be helped in turning the page to the 19 end of that quote, that is again where we see the same 20 reference to, as you will see at the top of that page: 21 "... the OTE wall must be concrete/pour together at 22 the same time (monolithically) ..." 23 Do you see that? 24 A. (In English) Yes. 25 (Via interpreter) Yes, I see that.</p>	<p>Page 124</p> <p>1 with the view that he expresses as a designer? 2 A. Yes. I see this statement and this is what I think. 3 Q. Thank you. 4 Now, if you might close over Mr Lee's statement and 5 return, please, to Mr Ma's own statement, at B1/21, at 6 paragraph 45.1. 7 You will see this part of your statement continues 8 from the part we just looked at a moment or two ago, 9 Mr Ma, and it's here that you introduce, helpfully, 10 three lines of communication that were shared with you 11 by your colleague Mr Ho; do you see that? 12 A. Yes, I see that. 13 Q. Now, the first of these is an email dated 8 July 2015 14 from Mr Luk of Leighton to MTR's Mr Tan, and it attached 15 the design report for the HUH Station, in other words 16 deliverable no. TWD-004B3; do you see that? 17 A. Yes. 18 Q. If we might have it on the screen, just so we know what 19 it is you are referring to here. That is B10/7262. 20 I think, as you go on to explain, the relevant part 21 for your purposes is section 6.2. If you turn then to 22 page B10/7312, and I think we find here, under the 23 heading of "Construction sequence", obviously a long 24 description of certain technical matters, but in 25 particular, helpfully highlighted, the same three</p>

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<p>1 paragraphs as you had quoted in your statement; is that 2 right? 3 A. (In English) Yes. 4 Q. There are three parts to this: 5 "The top of the diaphragm wall panel will be trimmed 6 [down] to the lowest level of top rebar ..." 7 Then secondly: 8 "The top rebar of EWL slab at the D-wall panel will 9 then fix to the top rebar of OTE slab ..." 10 Then finally: 11 "The EWL slab and OTE slab will be casted 12 concurrently with temporary openings around the existing 13 columns and pile caps." 14 Do you see that? 15 A. (In English) Yes. 16 Q. Thank you very much. Just pausing at that point, you 17 will agree with me there's no mention of the word 18 "monolithically" in this description? 19 A. The word is not here in these three sentences. 20 Q. No. Thank you. Indeed, and just for the sake of speed, 21 are you able to help us with the earlier version of 22 TWD-004B3, namely 4B2? Do you recall that there was 23 an earlier version of this, that it had gone through 24 various iterations? 25 A. I don't recall clearly. I might have read it, but if</p>	<p>1 earlier iteration and in the 4B3 version, Mr Ma, which 2 was then submitted on to MTR, there is no mention of 3 monolithic casting at all, but rather the expression is 4 "concurrent"; do you see that? 5 A. Yes, I see it. 6 Q. And that, from the extract that I shared with you from 7 Mr Lee's statement, is again consistent with his view of 8 the approach to be taken to the slab in terms of its 9 formation; is that correct? 10 A. You mean the exact wordings compared to what Mr Lee 11 said? Is that what you mean? I don't quite follow what 12 comparison you're trying to draw. 13 Q. Thank you. He speaks of the work being done at the same 14 time and poured at the same time, here we see the 15 expression "concurrently", and here we do not see the 16 word "monolithically". So all I wish to understand from 17 you, Mr Ma, is that you have been very clear with us 18 that you have understood that monolithic is the manner 19 by which you expect this work to be done, that that is 20 the design intent, and yet it would appear that in other 21 documents, to which you were party, other expressions 22 were used. 23 A. Now I get your question. So my answer is -- now, this 24 is a thick document, and there are just these three 25 sentences, and we wouldn't just base our decision on</p>
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<p>1 you ask me I might have to see it before I can remember. 2 Q. That's absolutely fine, Mr Ma. So the document that you 3 need to have in front of you, please, is I think J2_8.8. 4 Yes, thank you very much. 5 Again, if we might scroll through that to 6 paragraph 6.2. I'm grateful to my friend. That's 7 J1/92. J1, page 92, please. Thank you, Mr Cheuk. If 8 you would be good enough to scroll through this, please, 9 to find 6.2, please. 10 MR CHEUK: 142. 11 MR CONNOR: Thank you, page 142. I'm grateful to Mr Cheuk. 12 Thank you. 13 This is an earlier version of the document 4B3 that 14 we looked at a moment ago, and again I think you will 15 see this document, from several months earlier, again in 16 paragraph 6.2 the expression that we have just looked at 17 in the later version, that is, as you will see, the 18 third highlighted paragraph in 6.2: 19 "The EWL slab and OTE slab will be casted 20 concurrently with temporary openings around the existing 21 columns and pile caps." 22 Do you see that? 23 A. (In English) Yes. 24 Q. So it would seem that as far as the purposes of this 25 temporary works design amendment are concerned, in its</p>	<p>1 these three sentences to decide what we are going to do 2 to fulfil the monolithic requirement. I believe the 3 design team and the relevant personnel must have had 4 detailed discussions on the matter. So I cannot say 5 here that on the basis of these three sentences alone, 6 that's how we decided or that's what dictated what we 7 did with regard to monolithic. I'm sure there would 8 have been more in-depth discussion but I wasn't involved 9 in those discussions so I just don't know about them. 10 Q. That's very helpful. Thank you very much, Mr Ma. 11 Returning then to your statement, at B1_21, 12 paragraph 45.1 -- I think what you've told us is there 13 must be other material that helps one settle down the 14 view that monolithic casting is what is in mind. But it 15 is only these three sentences that you choose to quote 16 in 45.1 of your statement; is that right? 17 A. Yes. Put simply, I quoted these sentences based on the 18 email forwarded to me by James Ho. 19 Q. Thank you. 20 Then in paragraph 45.2, you quote from an email of 21 24 July from Mr WC Lee of Atkins, who then goes on to 22 remind "that in order to comply with the design 23 assumption, the OTE wall must be concrete/pour together 24 at the same time (monolithically) with the 3 metre EWL 25 slab".</p>

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<p>1 So again we see the concept of concreting and</p> <p>2 pouring together at the same time, in other words</p> <p>3 concurrently, Mr Ma; do you see that?</p> <p>4 A. Yes, correct.</p> <p>5 Q. So, just pausing at that point, Mr Ma, you have</p> <p>6 explained very fairly to the Commission what your view</p> <p>7 is of monolithic formation, and you distinguish that</p> <p>8 from concurrent pouring or pouring at the same time.</p> <p>9 But is there not, in the face of this, to your eye,</p> <p>10 something uncertain, something that might have caused</p> <p>11 a query to be raised?</p> <p>12 A. By "query", you mean a query on the interpretation of</p> <p>13 the term "monolithically" as used by WC Lee or what?</p> <p>14 Query of what?</p> <p>15 Q. I think, according to you, there is something different</p> <p>16 to be taken from the use of the word "monolithically" as</p> <p>17 opposed to the expression of concreting or pouring "at</p> <p>18 the same time" or "concurrently". Is that the case?</p> <p>19 A. You mean, "not the same", that means in paragraph 45.2,</p> <p>20 in this statement; is that what you are referring to?</p> <p>21 Q. That's part of what I'm referring to, Mr Ma. But what</p> <p>22 I just want to ascertain from you is when you read those</p> <p>23 words, you simply read "concreting and pouring together</p> <p>24 at the same time" as meaning the same as "monolithic",</p> <p>25 do you?</p>	<p>1 email chains that you have included here that support</p> <p>2 your previous paragraph in relation to the monolithic</p> <p>3 casting of the EWL and OTE slabs. So I'm just wishing</p> <p>4 to understand whether you take the view that what</p> <p>5 Mr McCrae was saying at that time was consistent with</p> <p>6 your view that monolithic casting, as you define it, was</p> <p>7 the approach to be taken.</p> <p>8 A. Can you just show me his email, please?</p> <p>9 Q. Yes, of course.</p> <p>10 A. Thank you.</p> <p>11 Q. The email is at B10/7254. It appears to be a short</p> <p>12 chain of emails.</p> <p>13 MR CHEUK: The next page.</p> <p>14 MR CONNOR: Yes, thank you. In fact the relevant one is on</p> <p>15 7255, as part of this chain. Thank you, Mr Cheuk.</p> <p>16 You will see it is an email to Mr Reilly at MTR:</p> <p>17 "Following your discussion with CK Chan on whether</p> <p>18 it is necessary to cast the EWL slab and OTE</p> <p>19 monolithically I confirm his conversation.</p> <p>20 That is in the BD letter of 4/12/14 they stated in</p> <p>21 comment A3 that construction joint should be cast in</p> <p>22 accordance with PNAP APP-68. Within this document</p> <p>23 clause 2(a) does state that the structure should be cast</p> <p>24 monolithically unless unavoidable; in which case</p> <p>25 an alternative construction detail must be submitted</p>
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<p>1 A. Now, "monolithically" and "at the same time" or</p> <p>2 "concurrently", of course they are different, because</p> <p>3 "at the same time" -- you could be working on area A,</p> <p>4 area B or area C, at the same time you could be pouring</p> <p>5 concrete at areas A, B and C, that's at the same time,</p> <p>6 but that doesn't mean it is monolithic.</p> <p>7 Q. Thank you. I think I have your answer to that which no</p> <p>8 doubt can be considered in due course.</p> <p>9 Then finally on this page, at paragraph 45.3, you</p> <p>10 conclude they're referring to an email of 25 July from</p> <p>11 Mr McCrae of Atkins to MTR:</p> <p>12 "... which stated that the OTE slab could only be</p> <p>13 cast after the EWL slab if that was done before future</p> <p>14 activities would further load the structure."</p> <p>15 Do you see that?</p> <p>16 A. Yes, that's what was said in the email.</p> <p>17 Q. Just so we understand, in terms of your reading and</p> <p>18 understanding at the time, and indeed now, of that</p> <p>19 email, do you regard that as a position of Mr McCrae</p> <p>20 consistent with your reading of the approach to the slab</p> <p>21 as being monolithic?</p> <p>22 A. Rob McCrae here, I don't see that he addressed or</p> <p>23 mentioned specifically the monolithic requirement.</p> <p>24 Q. No, he does not, you are quite correct, at least not in</p> <p>25 the quote we're looking at, but this is one of three</p>	<p>1 prior to approval. The concern in the PNAP is about</p> <p>2 water ingress at the joint. Therefore a detail showing</p> <p>3 the waterproofing has been submitted and discussed with</p> <p>4 BD showing waterproofing including provision of</p> <p>5 a hydrophilic strip. This detail is understood to be</p> <p>6 accepted by BD.</p> <p>7 Therefore the RSE view is that it is acceptable to</p> <p>8 cast the OTE slab after the EWL slab providing it is</p> <p>9 cast before future activities which would further load</p> <p>10 the structure, in particular dewatering or excavation</p> <p>11 below the EWL slab."</p> <p>12 Then it goes on to refer to various checking, and</p> <p>13 finally, for completeness:</p> <p>14 "On the basis that the CP does agree we confirm that</p> <p>15 the EWL slab (between panels EM72 and EH74) can be cast</p> <p>16 in advance of the OTE under the clear understanding that</p> <p>17 the OTE will be cast before additional loading due to</p> <p>18 dewatering or excavation beneath the EWL takes place."</p> <p>19 You see all of that?</p> <p>20 A. (In English) Yes.</p> <p>21 Q. Thank you, Mr Ma. I think probably the fairest thing is</p> <p>22 to ask you to tell the Commission what it is that you</p> <p>23 took from this email at the time and what you tell the</p> <p>24 Commission today that that conveys to you in relation to</p> <p>25 whether or not casting at the same time or close to the</p>

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<p>1 same time or monolithically was the message that was 2 conveyed at this time.</p> <p>3 A. Just from looking at this email, I could see clearly 4 that Rob was saying -- well, as you can see in the first 5 sentence, the EWL slab and OTE must be cast 6 monolithically. But underneath he put in some 7 exemption -- well, this is my interpretation -- that is, 8 from EM72 to EH74, because of certain reasons, maybe 9 on site this could not be done, that is, they would not 10 be able to comply with the requirement of cast 11 monolithically. That is why they reviewed waterproofing 12 details or related hydrophilic strips. He thought that 13 this could be accepted by BD. So, in the circumstance, 14 they gave exemption to the CM team at that time, that at 15 the points mentioned by him, there could be cast in 16 advance, and that is with a clear understanding of the 17 OTE, meaning that they would not be able to comply with 18 the requirement of monolithic casting.</p> <p>19 This is my understanding of the email.</p> <p>20 Q. Thank you very much.</p> <p>21 A. Sorry, plus he particularly said that the PNAP APP-68, 22 actually it clearly stated that there was a definition 23 for "monolithically". So, if I cross-reference PNAP 24 APP-68, it is clear that at that time and even now I can 25 say that "cast monolithically" means in one go, that</p>	<p>1 Q. Thank you. Would you turn to page 7334, please. What 2 we have here is a set of conclusions. Now, just pausing 3 at this point to help the Commission, have you seen this 4 permanent works submission before, Mr Ma?</p> <p>5 A. At that time, I should have read it, but I have 6 forgotten.</p> <p>7 Q. Thank you very much. That's very fair. 8 Just for the sake of completeness again, in terms of 9 references, you will see in the penultimate paragraph on 10 that page a paragraph beginning: 11 "To comply with the full tension anchorage lap 12 length from the slab rebar principle, the OTE wall must 13 be concrete[ed] monolithically (ie at the same time) 14 with the EWL (3 metre) slab and the wall rebar to extend 15 with full lap length (FLL) provision from the OTE wall 16 construction joint (CJ) for future wall rebar 17 connection." 18 Do you see that?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. Do you recall seeing that at the time of its issue in 21 the summertime of 2015?</p> <p>22 A. I can't recall.</p> <p>23 Q. Thank you. 24 Just come away from that document and I'd like to 25 ask you this final question, I think, and that is -- we</p>
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<p>1 there would be no construction joints in between.</p> <p>2 Q. No doubt more evidence will be put before the Commission 3 in this regard in due course, Mr Ma, but if I just pause 4 at this point to summarise what we have here. In the 5 various communications that you have looked at so far, 6 we've seen some reference to monolithic pouring, some 7 references to concurrent pouring, some references to 8 pouring at the same time, and we have what has just been 9 described in that email of 25 July. But despite that 10 variety of different expressions what you derive from 11 all of that is nonetheless that monolithic formation is 12 the design intent and therefore must be followed?</p> <p>13 A. Whether this is the design intent, I don't know, but 14 based on the wording and the discussion at that time, we 15 would have to follow it.</p> <p>16 Q. Thank you. Now, could you have before you, please, 17 PWD-059, and that's at B7324. Thank you very much. 18 This is a permanent works design submission, and 19 therefore different and self-evidently for different 20 purposes from those other TWD submissions we have looked 21 at, and indeed different from the technical query that 22 we've already looked at. Is that right, Mr Ma?</p> <p>23 A. I cannot answer about the details, because particularly 24 with regard to PWD, it is reviewed by our design 25 management team.</p>	<p>1 began this course of questions this afternoon looking at 2 your witness statement and your reference to the 3 monolithic casting of the EWL and OTE slabs. At that 4 point, and in your evidence, you use only one 5 expression, and that is "monolithic". But do you now 6 accept that what appears to have been the case, in 7 a variety of submissions, in a variety of 8 communications, in the summer of 2015, the use of 9 different expressions and not simply that in relation to 10 monolithic casting but that in relation to concurrent 11 and pouring at the same time?</p> <p>12 A. If I think back to 2015 now, I could recall that I would 13 remember the word "monolithic". You mention 14 "concurrent" and "at the same time" -- well, I can't 15 recollect them clearly.</p> <p>16 Q. But you will accept that from the documents we have 17 looked at, at least so far this afternoon, other 18 expressions are clearly used?</p> <p>19 A. With regard to my experience in projects in Hong Kong, 20 usually whether it is at the same time, whether it is 21 a cantilever or for other reasons, usually we would use 22 "cast monolithically". 23 As to the use of other terms in the notes in our 24 drawings or in other remarks, say a structure should be 25 cast at the same time or concurrent -- well, I seldom</p>

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1 see those two terms. I have been working on projects in  
2 Hong Kong for quite some time and to me I seldom see  
3 those two expressions.  
4 Q. Thank you, Mr Ma, and yet we have seen them, at least  
5 this afternoon.  
6 So, against that background, Mr Ma, we have looked  
7 at different language, we have looked at different types  
8 of submission for different purposes; yes? And yet it  
9 is the case that all of those expressions that we've  
10 looked at have been in the context of permanent works  
11 design changes, have been in the context of temporary  
12 works design changes, have been in the context of  
13 technical queries, and yet none of them appears to refer  
14 expressly to the demolition of a D-wall or the use of  
15 through-bars consistent throughout the D-wall in its  
16 re-formed shape.  
17 Is that correct?  
18 A. Well, if you want to look at such details, Atkins team B  
19 and Leighton -- well, between them, I don't think it  
20 would be as simple as writing in black and white in TQs  
21 and then they would somehow understand what to do.  
22 Therefore, I think, apart from documentary response in  
23 black and white, I'm sure between them they would have  
24 had more detailed discussion.  
25 Apart from that, Atkins team B, before making

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1 a response -- well, my gut feeling is, frankly, if you  
2 ask me at that time, I'm not really able to distinguish  
3 Atkins team A and team B, and if you ask me now, I would  
4 say that I would have reason to believe that team A and  
5 team B might have reached certain consensus.  
6 Therefore, if we want to pin down on the wording,  
7 I don't think there would be just explanation by one  
8 sentence or one paragraph, and then they would go on to  
9 do something so massive in scale.  
10 Therefore, I believe that at that time, apart from  
11 textual descriptions, somehow there would have been  
12 detailed discussion that had been carried out.  
13 Q. Thank you for that, Mr Ma, but if I can take you back to  
14 the question, which was really this, that we have seen  
15 different language in all the submissions that we've  
16 looked at in the last few minutes. We have seen  
17 certainly submissions used for different purposes. But  
18 what we don't see is any express reference in any of  
19 those documents to the casting monolithically or  
20 otherwise the slab in the context of breaking down the  
21 D-wall.  
22 What I asked you was: do you agree with that? If  
23 you can't help us with it, please just say.  
24 A. So you are asking me whether I agree or not agree with  
25 the fact that in the documents we mentioned, that there

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1 was no mention of trimming down the diaphragm wall in  
2 order to achieve casting monolithically; is that your  
3 question?  
4 Q. Yes, it is.  
5 A. However, I don't remember exactly, but I think we saw  
6 a report talking about trimming down 430mm. Isn't that  
7 a reference of trimming down the diaphragm wall?  
8 So I saw that document just now and that is why  
9 I don't think none of the documents mentioned it.  
10 Q. Thank you. I think that's one of the technical queries;  
11 is that right, Mr Ma?  
12 A. I remember it was one of the documents you showed me.  
13 Q. So it is that particular document, which I believe is  
14 a TWD report, which is the one that you would say is  
15 specific and refers to the breaking down of the D-wall?  
16 COMMISSIONER HANSFORD: Sorry, Mr Connor, can we be shown  
17 that document again?  
18 MR CONNOR: Yes, of course.  
19 MR BOULDING: Try B9034.  
20 MR CONNOR: Thank you. Could you have in front of you  
21 B9034, please.  
22 A. Right. This is the document where it was mentioned that  
23 the panel should be trimmed to the lowest level or  
24 minimum 420mm.  
25 Q. Can you help the Commission with what specifically that

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1 refers to and which parts of the slab are affected by  
2 that?  
3 A. You are talking about the highlighted sentences?  
4 Q. Yes.  
5 A. Well, because if you want me to tell you the entire  
6 story, you may have to give me more time.  
7 Just talking about this first highlighted sentence,  
8 it says the top of the D-wall panel has to be trimmed  
9 down to the lowest level of top rebar for the EWL slab,  
10 and it's proposed that there should be a minimum  
11 420 millimetres below the top level of the EWL slab,  
12 that is 420 below the structural level of the EWL slab.  
13 Can I answer your question?  
14 Q. Yes, of course you may.  
15 Sorry, I think that might have been your answer.  
16 Thank you.  
17 Just so we understand the purpose of this  
18 submission, the document that you brought us to is the  
19 document which is TWD-4B3, and it is the version of  
20 a temporary works submission which, as you have rightly  
21 said, includes that trimming down reference.  
22 Can you help the Commission with what the purpose of  
23 this submission was, and if I may put to you that the  
24 submission, in this case, was to deal with a couple of  
25 primary problems. It was to address the lack of U-bar

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1 continuity in the D-wall, and it also, because there  
2 were some as-built reinforcement differences, and as  
3 a result this particular document was produced which  
4 included some secondary measures for the provision of  
5 rebar due to missing U-bars in the D-wall, and it also  
6 referred to the trimming down of the D-wall, as you  
7 rightly say, but that that was to accommodate the fixing  
8 of the top rebar to the OTE slab to achieve full  
9 tension.

10 So the purpose of this submission, as I understand  
11 it, Mr Ma, was not for, shall I say, broad-scale  
12 trimming down of D-wall, but was for the limited  
13 purposes of dealing with a temporary works submission in  
14 the context of addressing some problems with U-bars and  
15 as-built reinforcement, and the addressing of  
16 insufficient anchorage to the slab.

17 Does that meet with your recollection?

18 A. Thank you for your reminder. Now, as you said, it's all  
19 to do with the D-wall. I was not involved in the  
20 construction of the D-wall, not even the as-built part.

21 So what you said, I have faint recollection,  
22 I faintly knew that it had to do with a problem with the  
23 D-wall, and that's why there was need to submit the  
24 report. But what was the ultimate purpose of submitting  
25 a report or what the report aimed to achieve, I could

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1 not be sure; I didn't know.

2 Q. That's very fair, Mr Ma, and no doubt best left to  
3 others. Thank you very much for that.

4 So really, just to close, Mr Ma, against the  
5 background of what you've helped the Commission with  
6 this afternoon, in this particular respect -- you  
7 nonetheless retain the interpretation you shared with  
8 the Commission as regards the monolithic casting point  
9 that we've discussed, despite the different language  
10 that has been used in the submissions we've looked at  
11 and the different purposes to which those submissions  
12 were directed; is that right?

13 A. Yes, correct. Yes, there was use of different language.

14 Q. And do you agree with the whole of my proposition, that  
15 notwithstanding that different language, that you retain  
16 your view of the monolithic casting that you have shared  
17 with the Commission this afternoon?

18 A. Yes, correct. I still maintain my views on monolithic  
19 casting. Although different languages were used, but  
20 perhaps for different languages they were for different  
21 purposes. But then, so far I cannot see that because  
22 there were different meanings, so that should change my  
23 definition of "monolithic casting". I still maintain  
24 what I said, because in APP-68 we were told specifically  
25 what is meant by monolithic casting.

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1 MR CONNOR: Thank you very much, Mr Ma. I have no further  
2 questions, but please remain there because Mr Boulding  
3 may have some. Thank you.

4 Re-examination by MR BOULDING

5 MR BOULDING: Yes. Good afternoon, Mr Ma. I have just one  
6 or two questions for you.

7 Do you remember being asked many, many questions  
8 about retrospective records?

9 A. (In English) Yes.

10 Q. I wonder if we could have put on the monitor one of the  
11 documents you were asked about. That's B7, page 4555.

12 You will remember, will you not, being asked several  
13 questions about this document, Mr Ma?

14 A. (In English) Yes, I remember.

15 Q. Do you see, down at the bottom left-hand corner, Kobe  
16 Wong's signature against the date of 10 February 2017?

17 A. (In English) That's right.

18 Q. Do you recall it being suggested to you that this was  
19 misleading because it suggested that this record was  
20 prepared contemporaneously with the execution of the  
21 coupler works?

22 A. (In English) Excuse me, can you repeat once again?

23 Q. Yes. Do you remember it being suggested to you that  
24 this document, and in particular the date of 10 February  
25 2017, could be thought to be misleading, as it suggested

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1 that the document had been prepared on that date,  
2 10 February 2017?

3 A. No one told me that.

4 Q. No, but it was suggested to you; do you recall that  
5 being suggested to you?

6 A. Yes, I remember. Yes, I was asked that.

7 Q. I wonder if we could look at another document together:  
8 B5/2902.

9 I don't know whether you've seen this document  
10 before, Mr Ma, but it's a document produced by MTR, and  
11 it's a track slab construction pour summary. Have you  
12 seen this before?

13 A. Yes, I've seen it before.

14 Q. We can see, can we not, that on the left we've got the  
15 various areas of the Hung Hom construction works?

16 A. Yes, correct.

17 Q. Going across the top, we've got columns, have we not,  
18 firstly for "Bay number"?

19 A. Yes.

20 Q. Secondly, "Completion of blinding"?

21 A. Correct.

22 Q. And then "Commencement of rebar"?

23 A. Yes.

24 Q. "Completion of rebar"?

25 A. Yes.

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<p>1 Q. And then the "Concrete pour date"?</p> <p>2 A. Yes, correct.</p> <p>3 Q. I think that will suffice for my purpose, but if we look</p> <p>4 at the completion of rebar dates -- and perhaps it's</p> <p>5 easier to work up from the bottom -- do we see that all</p> <p>6 of areas C1, C2 and C3, the rebar was all completed in</p> <p>7 2015?</p> <p>8 A. Yes, correct, except for area B, there were one or two</p> <p>9 bays where the completion was at the beginning of 2016,</p> <p>10 and so on.</p> <p>11 Q. You're ahead of me there because I was going to take you</p> <p>12 up to area B.</p> <p>13 But then if we go above that to area HKC, we can</p> <p>14 see, can we not, that the last rebar was put in on</p> <p>15 11 August 2016; do you see that?</p> <p>16 A. Yes, I see it.</p> <p>17 Q. And indeed that was also the date of concrete pour?</p> <p>18 A. Yes, correct.</p> <p>19 Q. Then, to complete this, if we just look at area A, we</p> <p>20 can see, can we not, that all of the rebar was completed</p> <p>21 in 2015?</p> <p>22 A. (In English) For area A, yes.</p> <p>23 (Via interpreter) Correct.</p> <p>24 Q. Going back to the document we were looking at, please,</p> <p>25 which is B4555, and if we go back down, please, to</p>	<p>1 should have been on the form or not.</p> <p>2 MR PENNICOTT: I think it was Mr Khaw who might have said</p> <p>3 it.</p> <p>4 MR BOULDING: Sorry, sir, Mr Khaw.</p> <p>5 You will see that they have been crossed out. Do</p> <p>6 you know who crossed those out?</p> <p>7 A. If I recall correctly, it was me who crossed them out.</p> <p>8 Q. And can you just tell us why you crossed them out?</p> <p>9 A. Because I found out that I omitted -- I forgot that</p> <p>10 these two items were not necessary, or rather we didn't</p> <p>11 see them, and so I crossed them out.</p> <p>12 Q. Okay. Then if we could complete this part of our</p> <p>13 discussions, could you go to B7/4538.</p> <p>14 This time, we've got items 1 to 4 shown, have we</p> <p>15 not?</p> <p>16 A. Yes, correct.</p> <p>17 Q. But it's clear, is it not, that there are no items 5 to</p> <p>18 6 on this particular document?</p> <p>19 A. Yes, correct, because in the soft copy I already deleted</p> <p>20 those two items.</p> <p>21 Q. And again, I think I know your answer, why did you</p> <p>22 delete those two items?</p> <p>23 A. Oh, yes, right, because these items were not necessary</p> <p>24 for us to do inspections, it was not necessary.</p> <p>25 Q. And insofar as items 5 and 6 were shown on these</p>
<p>Page 146</p> <p>1 Mr Wong's signature and the date of 10 February 2017, we</p> <p>2 can see, can we not, that that date is, what, some six</p> <p>3 months after the last rebar was fixed; is that correct?</p> <p>4 A. (In English) Correct.</p> <p>5 Q. So would it follow from that that anyone looking at this</p> <p>6 document would realise that it could not have been</p> <p>7 prepared contemporaneously with the carrying out of the</p> <p>8 coupler works?</p> <p>9 A. (In English) Correct.</p> <p>10 Q. Thank you.</p> <p>11 Now, I'd like to stay with the retrospective</p> <p>12 records, and I wonder if you can be kind enough to go to</p> <p>13 B7/4546, so we're probably pretty close. 4546.</p> <p>14 Do you see that there are six items there?</p> <p>15 A. Yes, I see it.</p> <p>16 Q. Do you see that items 5 and 6 relate to "Additional</p> <p>17 drill-in bars drilled to correct depth" and "Additional</p> <p>18 drill-in bars fixed with Hilti RE500"?</p> <p>19 A. Yes, I see it.</p> <p>20 Q. Do you remember it being suggested to you by the learned</p> <p>21 Chairman that those two items should not have been on</p> <p>22 this form at all? Do you remember that being suggested</p> <p>23 to you?</p> <p>24 A. (In English) I remember.</p> <p>25 CHAIRMAN: Sorry, if I did -- I have no idea whether it</p>	<p>Page 148</p> <p>1 checklists, do I understand that that was a mistake on</p> <p>2 your part?</p> <p>3 A. Yes, it was my mistake.</p> <p>4 Q. There is just one further matter I would like to ask you</p> <p>5 about. Do you remember being asked by -- again, I think</p> <p>6 it was Mr Khaw -- you were asked about the checklist</p> <p>7 shown to the BD and the RDO at the beginning of June,</p> <p>8 I think it was?</p> <p>9 A. (In English) Yes.</p> <p>10 Q. I think it was suggested to you, Mr Ma, that you and</p> <p>11 your supervisors had initiated the use of the template</p> <p>12 from Leighton; do you remember that being suggested to</p> <p>13 you?</p> <p>14 A. Yes, correct.</p> <p>15 Q. I wonder if I can just read from the transcript.</p> <p>16 I don't think we can get it up, but I'll read slowly.</p> <p>17 This time the Chairman came in and said -- for the</p> <p>18 record, this is [draft] page 114:</p> <p>19 "So, if I understand this correctly, the Buildings</p> <p>20 Department had seen your summary sheet; they were</p> <p>21 unhappy with that. You then went back and reported the</p> <p>22 unhappiness of the Buildings Department to your</p> <p>23 superiors, and they suggested that the template forms</p> <p>24 should be prepared; correct?"</p> <p>25 Then you said:</p>

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<p>1 "Yes, you could put it that way." 2 Then the Chairman pursues his line of questioning 3 and says: 4 "Then you went back to the Buildings Department, 5 with these template forms, you did not say to them or to 6 their representatives, 'We don't have any old forms but 7 we've managed to make up some records recently and will 8 these be sufficient?' You just gave them to them?" 9 Answer: No, I did not say that." 10 Do you remember that exchange with the learned 11 Chairman? 12 A. (In English) Yes. 13 Q. I wonder whether you could be shown document H40112. 14 Splendid. 15 This is a witness statement of Wong Wing Wah, and 16 you will see from paragraph 1 that he's a structural 17 engineer in the Buildings Department, and that he was 18 seconded to the Railway Development Office of the 19 Highways Department since 8 August 2016. 20 Now, have you had an opportunity to read this 21 statement, Mr Ma? 22 A. I glanced through it. 23 Q. Well, I wonder whether you would be kind enough to 24 glance at it again, in particular paragraph 10 on 25 H40114.</p>	<p>1 Were you aware of this evidence from Mr Wong 2 Wing Wah, Mr Ma? 3 A. I was aware that some how someone said this, but 4 I didn't know it was Wong Wing Wah because I didn't know 5 him, but someone told me about this. 6 Q. Anyway, we have now seen the source of the evidence, 7 have we not? 8 A. Yes. 9 MR BOULDING: Thank you very much, Mr Ma. 10 Sir, I don't know whether you have any questions. 11 CHAIRMAN: No. Thank you very much indeed. 12 MR BOULDING: Thank you, Mr Ma. I assume you can be 13 released. 14 WITNESS: (In English) Thank you very much. 15 (The witness was released) 16 MR PENNICOTT: Sir, that takes us neatly to 5 past 5. 17 CHAIRMAN: Yes. 18 MR PENNICOTT: Sir, I don't know whether I can just detain 19 us for a few minutes longer, just to raise one matter. 20 CHAIRMAN: Yes. 21 H O U S E K E E P I N G 22 MR PENNICOTT: It's this. You may recall that on 23 26 November, some days ago, a few days ago, we received 24 from the MTR -- sorry, it's bundle B19/25690; no need to 25 get it up -- a document called "MTRC's holistic proposal</p>
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<p>1 Then if you could just take the opportunity to 2 familiarise yourself with that. You can see that he 3 says: 4 "In addition, upon reading the relevant documents, 5 I recall we requested MTR to provide the completed QSR 6 from the contractors as well as MTR. Ben Chan said that 7 the QSR from MTR was not available at that moment. 8 I asked whether the responsible quality control 9 supervisor could be invited to the site office. 10 Afterwards, Kobe Wong, the inspector of works of MTR who 11 claimed to be the quality control supervisor for coupler 12 works, came to the site office. He showed me a document 13 entitled '1112 coupler installation checklist', which 14 was a one-page summary setting out the date of 15 inspection, location and 'pass/fail'. He told me this 16 one-page summary was the coupler checklist of MTR as 17 required in the QSP. I told him that, under the QSP, 18 the MTR's coupler inspection records should be in the 19 same form as the sample checklist set out in the 20 appendix to the QSP (which was meant to be an on-site 21 checklist for coupler inspection). I also referred Kobe 22 Wong to Leighton's coupler inspection checklists and 23 told him that MTR checklists should be in the same form, 24 but the frequency of inspection referred to in the two 25 sets of checklists should be different."</p>	<p>1 for verification and assurance of as-constructed 2 conditions and workmanship quality at the Hung Hom 3 Station Extension", and it's a document listing 4 proposals which, amongst many other things, proposes 5 opening up of the slabs, and the EWL slab in particular. 6 At the same time as receiving that holistic 7 proposal, we were informed, the Commission was informed, 8 that the government had commented on the proposal, and 9 that the MTRC was considering those comments, with 10 a view to revising the proposal to incorporate the 11 government's comments. We were also, although this is 12 by the by, informed that a press conference might take 13 place in fact this week, which as far as I'm aware has 14 not yet taken place. 15 Sir, earlier today, those instructing me first of 16 all wrote to the MTRC, or those instructing Mr Boulding, 17 rather, that is Mayer Brown, asking them whether, on the 18 subject of the opening-up, they could provide us with 19 an update, because of course this is a matter which 20 directly affects the Commission and directly affects the 21 timetabling of the Commission's work as we move forward. 22 We asked for various information regarding potential 23 method statements and schedules of work, if that were 24 indeed going to take place. 25 We subsequently thought it appropriate to copy that</p>

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<p>1 email requesting further information to the government, 2 asking them to comment as well. It is right that we 3 have asked for a formal response to our various queries 4 about what is happening about the opening-up by close of 5 business on Thursday this week. However, I stand up now 6 because it occurs to me that this is a matter of some 7 concern, certainly to me, and having had certain 8 communications with the Commission's expert, structural 9 engineering expert, of some concern to him as well.</p> <p>10 It really would be of great assistance to the 11 Commission if both MTRC and the government could give us 12 an update as soon as possible as to what is happening 13 about the opening-up of the EWL slab, if that is what's 14 going to happen, because the sooner we know what is 15 going to happen, the sooner we are in a position to 16 constructively move forward particularly with the expert 17 evidence.</p> <p>18 I appreciate, of course, that this is not 19 straightforward, but it has taken an awful lot of time 20 and I know there's been a lot of communication between 21 MTRC and the government, most of which appears to have 22 been disclosed to the Commission and which we've 23 considered from time to time. But there is no doubt 24 that every time the MTRC put forward a proposal, it gets 25 met with a huge number of queries from the government,</p>	<p>1 to be, and how we are going to get there. But certainly 2 on our part we realise the need for considerable 3 expedition because of the importance it must have to you 4 and in particular writing your report.</p> <p>5 CHAIRMAN: Yes. Thank you.</p> <p>6 MR KHAW: Mr Chairman and Mr Commissioner, instead of saying 7 whether the ball is in our court or it's in MTR's court, 8 we can only say that we have given our comments, which 9 have been considered by MTR. I have not been given 10 a chance to have any documentation yet in relation to 11 an update from the last letter that we sent to MTR 12 setting out our comments, but I have been told that 13 something in writing will come out within the next 14 couple of days. So I presume that something will come 15 out on or before this Thursday. In fact, the legal team 16 is equally anxious, if not more, to know what is going 17 to happen in relation to the opening-up process.</p> <p>18 CHAIRMAN: Thank you very much.</p> <p>19 I will also mention, as far as developments are 20 concerned, that I penned a letter to the Chief 21 Executive-in-Council a while back, spelling out the fact 22 that due to a number of compelling factors, more 23 especially the inability to start this Commission of 24 Inquiry earlier, the volume of evidence that is having 25 to be considered and the complex issues that are</p>
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<p>1 various government departments, and as we know also the 2 expert advisory team assisting the government.</p> <p>3 However, it seems to us that this is really a matter 4 that's coming to a head, because either this is going to 5 take place or it's not, and the Commission really does 6 need to be put into the picture as to what is happening.</p> <p>7 As I say, if either my learned friend Mr Boulding or 8 Mr Khaw is able to assist before the formal response on 9 Thursday, we would be immensely grateful for any 10 information that they are able to give us.</p> <p>11 MR BOULDING: Sir, if I might just put on record that whilst 12 I have not yet seen the email that Mr Pennicott referred 13 to, he did have the courtesy to raise this matter with 14 me at lunchtime. MTR realise just how urgent this is, 15 but the reality of the situation is that the ball is 16 very firmly in government's court.</p> <p>17 We anticipate that there may well be approval 18 tomorrow, and of course once there is approval we shall 19 notify you immediately, and we will of course respond to 20 the email that my learned friend has referred you to.</p> <p>21 What I can say, though, is that we're up to 81 22 opening-up locations at the moment. So I think anything 23 further is best left to a written communication with my 24 learned friend's solicitors so that there can be no 25 misunderstanding of exactly where we are, where we want</p>	<p>1 collateral, such as the possibility of opening-up, and 2 the fact that we would look to expert evidence which 3 perhaps would be timely in respect of those issues as 4 well, it's simply not been possible to meet the original 5 reporting date.</p> <p>6 The Chief Executive-in-Council, as I understand it, 7 has been able, with the Executive Council, to consider 8 the matter today, and our request to extend the date for 9 the submission of the report to 26 February has been 10 agreed. So that sort of very rough way forward that 11 I gave you a few days ago, I think hoping to finish 12 factual evidence by the Christmas break, to come back on 13 the 9th, when we have the Commission seated again, and 14 to deal with the expert evidence as expeditiously as 15 possible, to give you time then to put in your final 16 submissions, and to give us, insofar as is possible, as 17 close to one month as we can to hand in the report on 18 the 26th. That, in broad terms, is the way forward now.</p> <p>19 Good.</p> <p>20 MR PENNICOTT: Sir, I was tipped off that at 4 o'clock this 21 afternoon the Chief Executive-in-Council indeed made 22 that order for the time to be extended until 23 26 February.</p> <p>24 Sir, that just makes my observations regarding the 25 opening-up even more pertinent, it would seem to me;</p>

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1 that it is obvious that the sooner this gets underway  
 2 the better, and even if, as Mr Boulding has indicated,  
 3 it is contemplated something in the order of 81  
 4 opening-up locations might be the ultimate goal,  
 5 obviously that is going to take place, one would have  
 6 thought, in stages, and the sooner it starts the better,  
 7 and the sooner that the Commission's expert and no doubt  
 8 other experts are able to observe and look at and  
 9 consider and investigate what has been opened up, on  
 10 a stage-by-stage basis, the better.  
 11 It seems highly unlikely to me that we are going to  
 12 have the benefit of viewing all 81 openings-up before  
 13 you've got to report to the Chief Executive, but the  
 14 more we see, the more that can be taken into account,  
 15 surely that's got to be better for this Commission.  
 16 COMMISSIONER HANSFORD: Presumably, Mr Pennicott -- sorry to  
 17 interrupt --  
 18 MR PENNICOTT: Not at all, sir.  
 19 COMMISSIONER HANSFORD: -- there must be a degree of  
 20 prioritisation of these 81 locations?  
 21 MR PENNICOTT: Well, sir, indeed. Obviously I don't know --  
 22 I'm not privy to the detail, but that must be right.  
 23 Certainly looking at the holistic study that we were  
 24 given a few days ago, at the end of November, there  
 25 seems to be a prioritisation, maybe taking nine openings

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1 and then expanding to 20-something-odd, and then moving  
 2 on in stages. Obviously we don't know what the revised  
 3 proposal now says in that regard, but one hopes that  
 4 there is indeed some sort of prioritisation taking  
 5 place, yes, sir.  
 6 COMMISSIONER HANSFORD: Thank you.  
 7 CHAIRMAN: Good. Thank you all very much indeed.  
 8 MR PENNICOTT: Sir, tomorrow morning we will, I'm afraid, be  
 9 going slightly out of order, as previously indicated, as  
 10 Mr Aidan Rooney will be the first witness in the  
 11 morning.  
 12 CHAIRMAN: Yes.  
 13 MR PENNICOTT: Then once Mr Rooney is finished, subject to  
 14 any observations Mr Boulding has, we can then get back  
 15 to the order we were going in, so it would then be  
 16 Mr Louis Kwan, then followed by Mr Kobe Wong -- if  
 17 Mr Kwan is available tomorrow.  
 18 MR BOULDING: That's absolutely correct, sir. Mr Rooney is  
 19 very grateful for the indulgence he is being given by  
 20 the Commission. He has to travel to Australia at the  
 21 end of the week and wanted to give evidence in person as  
 22 opposed to over a videolink, and in order to make sure  
 23 he is finished Mr Pennicott has been kind enough to say  
 24 he can be interposed tomorrow, then we are back to  
 25 Mr Kwan. Thank you.

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1 CHAIRMAN: Yes, thank you very much.  
 2 I would, as an aside -- and I think I'm joined by  
 3 Prof Hansford in this -- say that obviously the  
 4 questions of technology always play a role, but  
 5 by and large, as a general overview, I think evidence  
 6 given in this courtroom, in this Commission room, is  
 7 preferable to evidence given by videolink, which (a)  
 8 often is difficult to actually hear what's being said  
 9 and (b) has a certain artificiality about it, no matter  
 10 what the conditions. So it's very much to the  
 11 Commission's advantage that we get to hear Mr Rooney in  
 12 person.  
 13 Thank you all very much.  
 14 (5.19 pm)  
 15 (The hearing adjourned until 10.00 am the following day)

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