

1 Tuesday, 4 December 2018

2 (10.01 am)

3 MR HO HO PONG, JAMES (on former affirmation in Punti)

4 Examination by MR PENNICOTT (continued)

5 CHAIRMAN: Yes.

6 MR PENNICOTT: Good morning, sir and professor.

7 Good morning, Mr Ho. When we finished yesterday
8 afternoon, we were looking at paragraph 50 of your
9 witness statement. If you could go back to that,
10 please.

11 We had discussed the first sentence of that
12 paragraph last night, and I asked you about the lack of
13 records under the QSP. Do you remember that?

14 A. Yes.

15 Q. Okay. Let's move on from there.

16 You then go on in your witness statement to describe
17 the background to and the manner in which various
18 retrospective records for coupler installation were
19 prepared by yourself and others in your team.

20 A. Correct.

21 Q. The people involved were Michael Fu, Derek Ma, Kobe Wong
22 and yourself, as I understand it, following certain
23 instructions that you had received from Mr Rooney?

24 A. Correct.

25 Q. The upshot of the exercise we can see I think at
26 B7/4537, where first of all we see a summary sheet,

1 a checklist; yes?

2 A. Yes.

3 Q. Then, over the page, we see the start of a collection of
4 similar documents relating to each area, or each bay in
5 each area?

6 A. Yes.

7 Q. We know that ultimately they bore the signature of
8 Mr Kobe Wong?

9 A. Yes.

10 Q. They were prepared this year, we know, in or about June
11 2018?

12 A. Yes.

13 Q. But you say, despite that, a date was put on the
14 documents of 10 February 2017, so retrospective and
15 backdated?

16 A. Correct.

17 Q. The justification for the backdating to 10 February was
18 that you wanted to tie these checklists in to the
19 document we looked at yesterday afternoon, that is the
20 report prepared by Carl Wu?

21 A. Yes.

22 Q. Okay. You seek to emphasise that these checklists were
23 not intended to form part of any submission to the BD or
24 the RDO?

25 A. Correct.

26 Q. And they were for internal purposes only?

1 A. Yes.

2 Q. You explain to us that the records, the retrospective
3 records that we see here, were prepared by reference to
4 the BA14 as-built drawings for the diaphragm wall?

5 A. Correct.

6 Q. The problem with that, as was subsequently discovered,
7 was that the second change to the top, that is the
8 change to the top of the east diaphragm wall, was
9 overlooked when the checklists were prepared?

10 A. Correct.

11 Q. And that was a point that was only picked up
12 subsequently?

13 A. Correct.

14 Q. The importance of that point is that the number of
15 couplers was calculated by reference to these
16 checklists, and because you had used the diaphragm wall
17 as-built drawings that number, the calculation, turned
18 out to be incorrect?

19 A. Yes.

20 Q. All right. Now, you say that that oversight was due to
21 the time pressure that you were under, and also, you
22 say -- I'm looking at paragraph 56 of your statement,
23 penultimate sentence:

24 "This was because back in 2015, we did not consider
25 this to be a major issue, and there were numerous more
26 pressing matters which I had to deal with on

1 a day-to-day basis."

2 A. Yes.

3 Q. Of course, one reason, perhaps, Mr Ho, that all this was
4 overlooked was that the appropriate records for the
5 rebar inspection were not in place and, had they been,
6 this error may not have happened; do you agree with
7 that?

8 A. I agree, but may I supplement a little bit?

9 Q. Of course.

10 A. At that time when we prepare the checklist or count the
11 numbers, actually we also make reference to Leighton's
12 provided numbers as well. So, in other words, apart
13 from base on the diaphragm wall as-built drawings, we
14 also base on -- make reference to Leighton's provision
15 of their numbers as well.

16 Q. Okay. So you, as it were -- there was a cross-check
17 with Leighton's material and they had come up with the
18 same number?

19 A. Yes.

20 Q. Probably because they were looking at the same material?

21 A. Exactly.

22 CHAIRMAN: Sorry, on that basis, when you say cross-check
23 with their numbers, do you know the source of their
24 numbers?

25 A. I'm not sure but I think they were also based on the
26 diaphragm wall as-built drawings.

1 CHAIRMAN: So you cross-checked with Leighton, whose
2 information, as far as you could tell, was sourced from
3 the same source as your information?

4 A. Correct.

5 MR PENNICOTT: Sir, thank you.

6 Mr Ho, are you going to continue to give your
7 evidence in English, in which case I'll take my
8 headphones off, as indeed I see the Chairman and the
9 professor have? It's up to you, Mr Ho.

10 A. I'll try to do it in English.

11 Q. You don't have to. It's a matter entirely for you. But
12 at the moment I'll take the headphones off. Thanks very
13 much.

14 Back to your witness statement, to a different
15 topic. You then go on to deal, in your witness
16 statement, with the change in the construction detail
17 from the couplers to the through-bars.

18 A. Yes.

19 Q. I'm going to try to go over this reasonably quickly but
20 unfortunately I'm going to have to put some of the
21 material that Mr Cheuk put last week, I think it was
22 last week, to Mr Buckland, but we'll see how we go.

23 Just to pick up a point at paragraph 60 of your
24 witness statement -- it's a point that is really just
25 a matter of history and chronology which we perhaps
26 haven't looked at before -- where you make reference to

1 TQ12 and TQ13, by which problems had been picked up in
2 the context of a clash, as you say, with the rows of
3 couplers and the spacing at the top layers of the rebar
4 in the slab, the EWL slab.

5 A. Yes.

6 Q. And Atkins' original response to those TQs was what
7 might be broadly described as a drill-in dowel bar
8 solution; yes?

9 A. Yes.

10 Q. You've got a diagram at the top of page 339 which
11 describes or illustrates, rather, that point, and you
12 say that, at that time, you considered this solution was
13 not at all ideal; it would have involved the drilling of
14 a very large number of holes across the diaphragm walls,
15 and also Leighton had expressed or queried whether there
16 were any other options.

17 As I understand it, to be clear, Mr Ho, this type of
18 solution was not pursued; is that correct?

19 A. What do you mean by "not pursued"?

20 Q. It was not followed through generally, and different
21 solutions were adopted, ie the through-bars.

22 A. Actually, we adopt this solution for most of the areas,
23 apart from the hacked-off area, but where we have the
24 tremie pipe at the bottom and also the west side wall
25 and NSL as well, we have to do the drill-in bar at the
26 tremie pipe location.

1 Q. All right. Let me just -- I probably didn't quite
2 understand that. Let me just see if I can follow it.

3 So, in the hacked-off areas, this solution was not
4 adopted?

5 A. Correct.

6 Q. But where you have -- but it was adopted in the NSL?

7 A. NSL, plus also the EWL but the bottom layer as well.

8 Q. Sorry --

9 A. Because the tremie pipe is all the way down to the NSL.

10 Q. So, so far as the EWL is concerned, in the bottom mat of
11 rebars --

12 A. Correct.

13 Q. -- it was also adopted; right?

14 A. Yes.

15 Q. And that would have been throughout?

16 A. Yes.

17 Q. Understood. Got it.

18 Then you go on to deal with, in your witness
19 statement, TQ33.

20 A. Yes.

21 Q. Again, that arose because of another problem that was
22 encountered in a particular area, and this is where we
23 start to get into the problem or the issue, the
24 discussion, of what is meant by "monolithic" and
25 "monolithic construction".

26 What you say, in paragraph 61 of your witness

1 statement, last sentence, is:

2 "The entire construction management team ..."

3 By that you mean the MTRC construction management
4 team?

5 A. Yes, MTR.

6 Q. "... understood (from an engineering perspective) that
7 the word 'monolithic' meant that the two structures must
8 be cast together as one whole slab rather than as two
9 separate components."

10 Now, what do you mean, first of all, by the words
11 "the two structures"? What two structures are you
12 referring to?

13 A. Sorry, I may not be very clear here, but what I meant
14 was the monolithic applies to the EWL slab, the top of
15 the diaphragm wall, plus the OTE.

16 Q. Right. That's what I thought you meant. That is, on
17 one view, three structures.

18 A. Yes.

19 Q. And, indeed, for purposes of illustration in a moment,
20 can we call the EWL slab number one; the diaphragm wall
21 in the middle number two; and the OTE wall on the other
22 side number three?

23 A. Okay.

24 Q. My understanding of your position is that your
25 interpretation of "monolithic" would involve the
26 construction of one, two and three together?

1 A. Yes.

2 Q. All at one time.

3 Now, you're aware, presumably, that other people did
4 not necessarily take that view; yes?

5 A. Yes.

6 Q. And another alternative view that was taken was that
7 numbers one and three would be cast together, at the
8 same time -- at the same time, concurrently -- and that
9 was the sense in which "monolithic" was used by other
10 people. Do you understand that?

11 A. Yes, but because they use the word "monolithic", which
12 applies -- the whole thing has to be cast in one
13 element, in one go.

14 Q. Yes, but my understanding of why they say that is that
15 of course you're assuming that all the rebar is
16 connected up. You've got the rebar coming in from the
17 EWL slab, connected to the rebar going through the
18 diaphragm wall, you've got the rebar on the OTE wall.
19 So you've got a full length, full stretch, of rebar
20 going right the way through. And what they're saying is
21 provided you concrete one and three at the same time,
22 before you put any further load on the top, that's what
23 they meant by "monolithic".

24 A. Right.

25 Q. Rather different to you.

26 A. Sorry, but our understanding at that time was different.

1 Q. Was different.

2 A. Yes.

3 Q. I'm putting that to you because, as it happens,
4 yesterday, indeed last night as far as I was concerned,
5 we received some witness statements from Atkins, some
6 further witness statements from Atkins, and this is one
7 of the points that is made by Mr WC Lee, who we'll be
8 coming to in a moment.

9 So can we go back to your witness statement, because
10 it is Mr WC Lee who deals with TQ33, as indeed you
11 relate in your witness statement, so a very timely
12 arrival of that witness statement last night, if I may
13 say so.

14 Anyway, at paragraph 62 of your witness statement,
15 you say:

16 "By the time of TQ33 and Atkins B's response,
17 however, the east diaphragm wall between the OTE
18 structure and the EWL slab had already been completed.
19 As a matter of common sense from an engineering
20 perspective, the requirement to cast the OTE and EWL
21 slabs monolithically meant that Leighton would have to
22 trim down the top of the diaphragm wall (along with the
23 cast-in couplers therein), and this was implemented
24 accordingly on site."

25 Then you set out Mr WC Lee's response to TQ33. You
26 rightly point out that the date is wrong; I think it's

1 29 July --

2 A. Yes.

3 Q. -- or a date shortly thereafter. And you see Its quite
4 small type, but we might be able to blow it up on the
5 screen, which we have. The last two lines of Mr Lee's
6 response says this:

7 "Please be reminded that in order to comply with the
8 design assumption, the OTE "wall" -- so that's number
9 three -- "the OTE wall must be concrete/pour together at
10 the same time (monolithically), with the 3 metre EWL
11 slab ..."

12 Do you see that?

13 A. Yes.

14 Q. Ie number one.

15 "... and the wall to extend to 300mm above the
16 chamfer section of the wall to provide the kicker for
17 the OTE wall above."

18 Which we don't need to worry about.

19 So there we see no reference by Mr Lee to any
20 trimming down of the diaphragm wall; do you agree?

21 A. Yes.

22 Q. And indeed the image 3, as you've called it, the extract
23 from the response also included a diagram, as
24 I understand it, and you've set that diagram out in your
25 witness statement. We can see from that diagram that
26 the solution still assumes, from this diagram, that the

1 couplers are going to be used; there's no through-bar
2 shown on this diagram, do you see?

3 A. Yes.

4 Q. Just to -- you won't have seen this, because we only got
5 it last night, but just to show you Mr Lee's statement.
6 It's at J6/4526.

7 CHAIRMAN: Sorry --

8 MR PENNICOTT: Not at all.

9 CHAIRMAN: -- so Mr Lee of Atkins is working on the basis
10 that the couplers are going to stay?

11 MR PENNICOTT: In response to TQ33, sir, yes. And indeed in
12 his witness statement, which we've now got, he says he
13 was not aware of any trimming down of the D-wall.

14 CHAIRMAN: Okay. So the trimming down of the D-wall, just
15 so I can get this, appears to have been as a result of
16 an understanding of a slightly ambiguous, with the
17 benefit of hindsight, email, talking about "monolithic".
18 To me, "monolithic" means monolithic. It doesn't mean
19 concurrent or current.

20 MR PENNICOTT: No.

21 CHAIRMAN: So that was read as being, if we're going to do
22 it monolithically, we've got to trim down, get rid of
23 the couplers, and we put through-bars in, which makes
24 sense anyway because you're getting as strong, if not
25 stronger, a reinforcing.

26 MR PENNICOTT: Correct.

1 CHAIRMAN: But Mr Lee was still working on the basis of
2 couplers, and he saw his -- the way he saw it was
3 pouring concurrently on the OTE and --

4 MR PENNICOTT: The EWL slab.

5 CHAIRMAN: -- the EWL slab.

6 MR PENNICOTT: Without touching the diaphragm wall.

7 CHAIRMAN: But not doing anything to the diaphragm wall,
8 which was a permanent work.

9 MR PENNICOTT: Correct.

10 CHAIRMAN: Thank you. I just wanted to understand.

11 MR PENNICOTT: That's entirely right, sir. You have
12 understood it correctly. I think I've now got it as
13 well, because I've been a bit behind myself on all of
14 this. It perhaps goes some way to explain the
15 difficulties we had when we were discussing this matter
16 with Mr Andy Leung on Friday, as you will recall I ran
17 into some difficulty.

18 CHAIRMAN: Yes.

19 MR PENNICOTT: But it may be that reflecting on all this
20 again and looking back at Mr Leung's email, we might be
21 able to make more sense of what he was saying.

22 CHAIRMAN: Then to put it into greater context, broadening
23 that, this was in fact carried out where it was not
24 necessary to underpin, because where there was
25 underpinning then you couldn't do this, you couldn't
26 trim and remove the couplers. Good.

1 MR PENNICOTT: Yes, that's it, sir.

2 COMMISSIONER HANSFORD: Although where there was

3 underpinning you could pour concurrently?

4 MR PENNICOTT: I imagine you could, but perhaps the witness
5 could answer that rather than me.

6 A. We could but you couldn't achieve the monolithic
7 requirement.

8 COMMISSIONER HANSFORD: You couldn't achieve monolithic, as
9 you understood monolithic, but you could have done it
10 concurrently?

11 A. Yes.

12 CHAIRMAN: But in any event, it was the view of certain
13 people, especially those in the trenches, literally,
14 that this was a minor change, in any event, because it
15 wasn't a design change as such.

16 MR PENNICOTT: Well, that was the view of a number of
17 people.

18 CHAIRMAN: Yes, so that's why they were able to push ahead
19 without a sort of formal start line, if I can put it
20 that way.

21 MR PENNICOTT: And without producing any further working
22 drawings and so forth at that stage, that's right.

23 CHAIRMAN: Thank you.

24 MR PENNICOTT: Just to finish off this point, having
25 introduced Mr Lee into the story, if you go to J6/4526,
26 paragraph 22 -- I'm not going to read all this out -- he

1 refers to a technical query at paragraph 22, he sets out
2 a long section from an email that he sent prior to the
3 formal issue of TQ33, because he says that this all
4 subsequently became TQ33.

5 Then, if you look at paragraph 23, Mr Ho and sir, he
6 says:

7 "By monolithically, I meant the OTE wall and the EWL
8 slab on each side of the D-wall cast at the same time to
9 ensure the full tension anchorage for the 3m EWL slab."

10 And that's where we get Mr Lee's interpretation of
11 what he meant by "monolithic". And further down the
12 page, he then specifically deals with the response to
13 TQ33. At paragraph 26 he says:

14 "On or around 29 July 2015, I responded to TQ33
15 again in view of the urgency, clarifying how to
16 calculate the length of the L-shaped tension
17 anchorage ... I also stated that the OTE slab/wall must
18 be poured together with the EWL slab."

19 And that's what we've just looked at in Mr Ho's
20 witness statement.

21 "This was very similar to the comments in my email
22 on 24 July ..."

23 CHAIRMAN: Right. Could I ask this -- at the moment, we're
24 talking about two different processes. One, if I can
25 put it this way, that Atkins are suggesting, which
26 doesn't involve removal of a coupler and doesn't require

1 what I understand as being monolithic pour.

2 MR PENNICOTT: Yes.

3 CHAIRMAN: The other one is the one that appears to have
4 been done.

5 The home point, however, the arrival point, is it in
6 everybody's view the same, namely that what in fact has
7 happened has not diminished the structural integrity but
8 may indeed have strengthened it?

9 MR PENNICOTT: That is my understanding of -- subject to any
10 views government may have, or government's experts --
11 but my understanding of the current position is that all
12 of the structural engineering experts or structural
13 engineering witnesses, or indeed any other engineering
14 witnesses, all take the view that this is probably, at
15 the end of the day, a better and stronger design than
16 was originally conceived.

17 CHAIRMAN: All right. So what we're looking at is, very
18 largely, we're looking at management issues, oversight
19 issues and the like, as opposed to actual structural
20 integrity issues, in the final analysis?

21 MR PENNICOTT: That's my understanding, sir, subject to one
22 caveat, and I mentioned the government, because there
23 appears to be a suggestion in certain of the government
24 witness statements that in demolishing that top
25 half-metre of the diaphragm wall, whilst one certainly
26 has ended up, as a consequence of that "monolithic"

1 instruction, there is a caveat as to what that
2 demolition has actually done to the diaphragm wall
3 itself. That's a slightly different point.

4 CHAIRMAN: Yes. Thank you for reminding me of that. I'm
5 aware of that.

6 MR PENNICOTT: That's my understanding of a point that may
7 or may not be taken by the government and its witnesses
8 and/or expert.

9 CHAIRMAN: Yes. I have taken both points, number one that
10 the diaphragm wall were now permanent works and number
11 two that it's not a question of simply looking at the
12 fact that the through-bars have perhaps greater
13 integrity or strength, but also you have to look further
14 at the entire structure of the diaphragm wall.

15 MR PENNICOTT: Indeed, sir.

16 CHAIRMAN: Thank you.

17 MR PENNICOTT: And my understanding, just to finish this
18 point, Mr Ho, is that when you say that you're going to
19 trim down the top of the diaphragm wall along with the
20 cast-in couplers, essentially what you're saying is
21 this, as I understand it -- correct me if I am wrong --
22 that if you're trimming down with essentially a breaker,
23 machine, as I understand it, a hand-held breaker
24 machine --

25 A. Hand-held breaker.

26 Q. -- it is inevitable, as a consequence of that process,

1 that you are going to compromise and damage the couplers
2 in that process.

3 A. Sure.

4 Q. You simply can't save them, and having done that the
5 obvious, common-sense solution is to use the
6 through-bars?

7 A. Correct.

8 MR BOULDING: Sir, I hesitate to intervene, but I wonder if
9 I can just make an observation.

10 As my learned friend Mr Pennicott said, this
11 statement came in late last night. Indeed, whilst I've
12 managed to read it on my computer, I've still not been
13 provided with a hard copy, and it looks as though you've
14 not been provided with one either.

15 CHAIRMAN: Well, I haven't seen it at all. We're not aware
16 of it at all.

17 COMMISSIONER HANSFORD: I was aware that it had arrived but
18 I've not seen it.

19 MR BOULDING: Right. Obviously the witness is not aware of
20 this statement, and in ordinary circumstances will have
21 been entitled to read it, and indeed adopting the
22 procedure that you've laid down even reply to it, if he
23 considered that to be appropriate.

24 I wonder if my learned friend is going to persist
25 with this line of cross-examination, and whether it
26 would only be fair to at least allow the witness to read

1 the bit of the statement which he's referring to now.

2 It may well be that you'd like to read it as well.

3 CHAIRMAN: Yes. Thank you very much.

4 MR PENNICOTT: Sir, that's entirely appropriate, and

5 I apologise. I only saw this witness statement this

6 morning and realised, when I was reviewing my

7 cross-examination of Mr Ho, that the evidence of Mr Lee

8 seemed to be directly tied into the questions I was

9 about to ask him.

10 I wasn't proposing to look at anything else in these

11 three statements that we received last night, other than

12 what I've already taken the witness to, but certainly if

13 he wishes to look at that section -- it's only seven or

14 eight paragraphs -- certainly of course he can.

15 CHAIRMAN: I think I'd like him to. I think that the

16 witness is entitled to be able to read that. As

17 a professional, he'll understand the overall impact of

18 it, and then he can comment perhaps a little more

19 strongly and with more confidence, and in addition to

20 which I think fairness requires it. It's not an inquiry

21 by ambush, if I can put it that way.

22 MR PENNICOTT: No, and I wasn't indeed seeking to ambush.

23 CHAIRMAN: Not at all.

24 MR PENNICOTT: I was just trying to draw the distinction

25 between what Mr Ho's understanding of "monolithic" was

26 and apparently what Mr Lee's understanding was, and

1 I could have done that by reference to the TQ itself.

2 It just so happened that not only have we now got the TQ
3 and the wording that Mr Lee uses in his response to the
4 TQ, but we've also got his witness statement, which
5 seeks to explain it.

6 CHAIRMAN: Absolutely. Thank you.

7 Perhaps if we -- I think it's right, Mr Ho, that you
8 should look at this.

9 WITNESS: Sure.

10 CHAIRMAN: We'll just adjourn for five or six minutes,

11 I don't think it will take longer that, to read it and
12 absorb it. Would that be satisfactory for you?

13 WITNESS: Yes, okay.

14 MR PENNICOTT: We will supply Mr Ho with a hard copy. It's
15 a very short statement. He can read it all, if he
16 wishes to.

17 CHAIRMAN: Mr Ho, read it and then tell Mr Pennicott when
18 you are ready and then Mr Pennicott will bring us back
19 in.

20 WITNESS: Okay.

21 CHAIRMAN: Thank you very much.

22 (10.33 am)

23 (A short adjournment)

24 (10.41 am)

25 CHAIRMAN: Mr Ho, you've read that?

26 A. Yes. So, after I read especially paragraph 23, I don't

1 agree with what Mr Lee mentioned here at all, because
2 otherwise why put the word "monolithic" here? It just
3 doesn't make sense.

4 CHAIRMAN: Could I raise this issue, just briefly, and it's
5 one actually that Prof Hansford has raised in the course
6 of considering matters, which we are obviously entitled
7 to do as it goes on, provided we don't reach any final
8 conclusions until everything is before us, but he has
9 raised the very simple question that it's surprising
10 that, in a big and difficult piece of engineering like
11 this, that there should be misunderstandings as to basic
12 terms. I simply raise that.

13 Mr Ho, as a practising engineer, would you agree?

14 A. Totally agree. Totally agree. I mean, apart from this
15 monolithic requirement, and also on 24 July Andy Leung's
16 statement also mentioned a portion of the diaphragm wall
17 has to be cast together with the EWL slab and the OTE as
18 well. So, at that time, we all thought that everybody
19 is on the same page.

20 CHAIRMAN: Yes.

21 MR PENNICOTT: Thank you. I'm not going to take it any
22 further.

23 CHAIRMAN: It's another small point. I'm sure it happens in
24 every profession. But, you know, again, it's simple,
25 clear language, simple, clear instructions, and if there
26 is any ambiguity or concern on the part of the person

1 receiving the instructions, the courage to actually ask
2 a simple question such as, "What exactly do you mean by
3 that?"

4 MR PENNICOTT: Yes.

5 CHAIRMAN: Even though they are working in a professional
6 context, it shows you that, at the end of the day,
7 communication skills reign supreme, I think, in every
8 endeavour.

9 MR PENNICOTT: Yes.

10 COMMISSIONER HANSFORD: Of course you would only seek
11 clarification if it really wasn't clear to you, and if
12 a word is very clear to you, why would you seek
13 clarification?

14 MR PENNICOTT: Yes.

15 CHAIRMAN: Yes, that's true. And if "monolithic" is clear
16 to you, yes, which it should be.

17 MR PENNICOTT: Indeed. It might be thought also the sort of
18 flip side of the point is that nowhere, in absolute
19 clear and unequivocal terms, does one find a sketch,
20 a drawing or anything of that nature, which actually
21 spells out in clear terms what was to be done, but there
22 we are.

23 That's also right, isn't it, Mr Ho?

24 A. I agree.

25 CHAIRMAN: Yes.

26 MR PENNICOTT: But there we are.

1 Sir, could I just mention at this stage, before
2 I lose the point: with regard to those three statements
3 that came in last evening, can I make it absolutely
4 clear to everybody they're not in any sense late. They
5 are not late-provided statements. They are statements
6 that, having received a couple of statements from, as we
7 have seen previously, Mr Blackwood and Mr McCrae from
8 Atkins, the legal team for the Commission took the view
9 that it might be helpful to have statements from
10 Mr Chan, Mr Lee and one other. We asked for those
11 statements. We asked for them to be provided by
12 yesterday, and that request was complied with. So
13 they're not in any sense late in that sense. I just
14 wanted to make sure everybody was aware of that, should
15 there be any attempt to criticise Atkins for late
16 provision of statements. That is not the case.

17 MR CONNOR: That's appreciated, Mr Pennicott.

18 MR PENNICOTT: So, Mr Ho, back to your witness statement.

19 After dealing with TQ33, you go on to deal with TQ34,
20 which we know is specifically in relation to panel EH74.

21 A. Correct.

22 Q. And the solution that was adopted there was a part
23 through-bar and part coupler solution?

24 A. Yes, correct.

25 Q. That is the top layer was through-bar but layers 3
26 and 5, that is the next two layers down, couplers were

1 retained?

2 A. Correct.

3 COMMISSIONER HANSFORD: Sorry, could we have the witness
4 statement back on the screen?

5 MR PENNICOTT: Sorry, sir. B1/340, paragraph 63.

6 COMMISSIONER HANSFORD: Yes. Thank you.

7 MR PENNICOTT: There's an image at the top of page 341 which
8 purports to explain that particular point.

9 As I understand it, Mr Ho -- perhaps you could
10 confirm this or not -- there are a number of areas or
11 parts of areas that adopt the TQ34 solution?

12 A. Yes, apart from EH74; we also use this same detail apply
13 to C1-2.

14 Q. C1-2, yes, right.

15 So the picture that's building up -- and obviously
16 we can look at the joint statement -- but you've got
17 areas where the coupler solution or design was retained
18 completely, and we've discussed that; you've got areas
19 where there were just one layer of through-bar, and
20 couplers retained; and then you've got other areas where
21 completely through-bars?

22 A. Yes.

23 Q. Those are the basic options?

24 A. Yes. Basically, after C1-2, we adopt the through-bar
25 principle for every single bay as possible, apart from
26 those with the underpinning post, and also the EH740,

1 where we have the capping beam that we cannot demolish.

2 Q. Yes, that's the capping beam.

3 A. Yes.

4 Q. All right.

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 --

9 A. Mr Leung.

10 Q. It was Mr Leung, that's right, Mr Andy Leung I showed,

11 quite right.

12 So your point there is: look at that weekly report,

13 this was all being discussed at the time?

14 A. Exactly.

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.

18 A. Yes.

19 MR PENNICOTT: Thank you very much, Mr Ho. I have nothing

20 further for you.

21 CHAIRMAN: Thank you.

22 MR CHANG: No questions from Leighton.

23 MR SO: No questions from China Technology.

24 MR CONNOR: No questions on behalf of Atkins. Thank you.

25 CHAIRMAN: Thank you.

26 Cross-examination by MR KHAW

1 MR KHAW: Mr Ho, I appear for the government and there are
2 a few questions for you.

3 You told us yesterday, in fact, before February
4 2017, ie before MTR conducted the internal review, you
5 did not realise that there were no record sheets for
6 inspection or supervision in relation to platform slabs;
7 you remember that?

8 A. Yes.

9 Q. I would just like to understand from you -- before that
10 time, ie before February 2017, were you aware of the
11 requirements, the record-keeping requirements, under the
12 QSP?

13 A. Yes.

14 Q. If I can just take you to have a look at paragraph 45 of
15 your first witness statement. Perhaps we can start from
16 44. Do you remember you talk about the 20 per cent and
17 50 per cent supervision in relation to splicing
18 assemblies; right?

19 A. (Nodded head).

20 Q. So I take it that you are aware that such supervision
21 requirements apply equally to coupling works in relation
22 to both diaphragm walls and platform slabs; do you
23 agree?

24 A. Yes, that's my understanding.

25 Q. Thank you. You are also aware of the supervision
26 requirement; under the QSP you have read about full-time

1 continuous supervision by the RC and also 20 or
2 50 per cent by MTR.

3 Now, when we are talking about level of
4 supervision -- let's talk about MTR for the time
5 being -- when supervision is referred to under the QSP,
6 do you take it that the supervision actually refers to
7 supervision at the time when the actual execution work
8 for the splicing assemblies was being carried out; is
9 that right?

10 A. Actually, my take was -- it's that when we do our
11 20 per cent or 50 per cent inspection, that means we
12 don't have to stand there full-time, you know, looking
13 at the rebar fixers screwing in that rebar into the
14 couplers.

15 Q. Right.

16 A. But what we have to do is to check afterwards, after
17 they complete the installation work, the remaining
18 pitch, 1 to 1.5 pitch, remaining, that's there, that's
19 equivalent to, you know, the rebar is actually screwed
20 in, in the couplers.

21 Q. If I can just briefly take you to have a look at the
22 QSP, H9, first of all 4265.

23 The relevant provision appears at 4269. Under
24 paragraph (5), the heading "Supervision on site works",
25 you can see paragraph 1, "Supervision and inspection by
26 RC", which we understand to be Leighton here, and then

1 2, "Supervision and inspection by MTRC on site --
2 installation works", and then, "Frequency of quality
3 supervision should be not less than 20 per cent of the
4 splicing assemblies by MTRC T3"; do you see that?

5 A. Yes.

6 Q. If we can just go and look at a bit more details here.
7 4276. I don't intend to read it out, but if you can
8 just take a look at those paragraphs on the top, under
9 the sentence "Quality control supervisors will fully
10 supervise the installation on site as followings". Then
11 perhaps we can take a look at 1 to 5.

12 A. Okay.

13 Q. Would you agree that these processes could only be
14 checked at the time when the work was being carried out?

15 A. Yes, but that applies to the RC.

16 Q. Yes. Then the sentence after 5:

17 "The above-mentioned inspection check would be
18 100 per cent carried out on site by quality control
19 supervisors. Quality control supervisors (MTR) will
20 carry out random sampling check by at least 50 per cent
21 on the verticality."

22 Do you see that?

23 A. Yes.

24 Q. So do you still take it that the sampling check by MTR
25 could only be done or was actually done after the
26 splicing assemblies had been carried out?

1 A. Yes, because after installation you still can check the
2 verticality of the couplers. You still can see it.

3 Q. Right. So, according to your understanding, were MTR
4 staff actually present at the time when the splicing
5 assemblies were carried out?

6 A. Yes, we have inspectors there.

7 Q. Thank you.

8 Now, if we can then have a look --

9 CHAIRMAN: Sorry, could you help me here. That paragraph
10 which is two-thirds of the way down on the screen, "will
11 carry out random sampling check by at least 50 per cent
12 on the verticality", what does "on the verticality"
13 mean?

14 A. I think what it means is the couplers' surface is not
15 tilted, so that it's in line with the rebar of the slab
16 or the rebar connecting to the couplers.

17 COMMISSIONER HANSFORD: Sorry, did you say that the coupler
18 surface is not "skewed"?

19 A. Yes.

20 COMMISSIONER HANSFORD: Would you like to explain it again?

21 A. It's not tilted.

22 COMMISSIONER HANSFORD: "Not tilted"?

23 A. Yes.

24 COMMISSIONER HANSFORD: Thank you. So, in other words, you
25 are checking that it's vertical?

26 A. Yes, correct. I think that's what we mean, because

1 I wasn't there when they did the training to our
2 inspectors.

3 COMMISSIONER HANSFORD: In fact, many of the couplers are
4 not vertical, they're horizontal?

5 A. Yes. So I think majority of this is applied for the
6 D-wall, for the diaphragm wall.

7 COMMISSIONER HANSFORD: So that verticality is a reference
8 to the diaphragm wall?

9 A. Yes.

10 COMMISSIONER HANSFORD: Thank you.

11 CHAIRMAN: But again, as a non-professional, I'm reading
12 those three lines. They are not easy to understand.

13 You say:

14 "The above-mentioned inspection check", that I get,
15 "would be 100 per cent carried out on site ..."

16 Now, that I think I understand, which means you will
17 carry it out on site. I'm not quite sure how you carry
18 it out anywhere else, but you will carry it out on site.

19 "... by quality control supervisors. Quality
20 control supervisors [in this case the MTR] will carry
21 out random sampling check by at least 50 per cent on the
22 verticality."

23 Wow, that's difficult English, unless you're
24 an engineer, presumably.

25 COMMISSIONER HANSFORD: I think it's quite difficult for
26 an engineer.

1 CHAIRMAN: "By at least 50 per cent on the verticality".

2 What you're saying -- you understand that to mean that
3 you will check on site by way of a sample 50 per cent of
4 the connected couplers to make sure that they are
5 vertical and not at a tilt?

6 A. Angle.

7 CHAIRMAN: Or angle?

8 A. Yes, I think that's what it meant. Like I said, because
9 I wasn't there when they prepared this BOSA training
10 thing and I wasn't there -- I wasn't conduct with the
11 training, so it's to better to check the inspectors
12 because they were there at the time, when BOSA conducted
13 the training.

14 CHAIRMAN: All right. Thank you.

15 MR KHAW: If I can bring you back to the topic regarding the
16 retrospective records that Mr Pennicott discussed with
17 you.

18 I understand what you say about compiling those
19 records for internal use, et cetera, et cetera. But if
20 we can take a look at just one example, say B7/4538.
21 See if you agree with me on this.

22 Presumably, I take it that when MTR found it
23 necessary to compile such records of inspection or
24 supervision, such records were intended to show the
25 level of inspection or supervision as conducted by MTR;
26 would you agree?

1 A. Sorry, can you repeat that again?

2 Q. Yes. When MTR found it necessary to compile such
3 retrospective records of inspection or supervision,
4 I take it that such records were intended to show the
5 level of inspection or supervision as done by MTR; would
6 you agree?

7 A. Shown to who?

8 Q. Well, you have told us in your witness statement that
9 these records were made for internal purposes.

10 A. Exactly, yes.

11 Q. But eventually, of course, certain records were attached
12 to the 15 June MTR report. Let's set that aside for the
13 time being.

14 A. Right.

15 Q. All I wanted to know was that when MTR decided to
16 compile such retrospective records, MTR intended to have
17 these records as records showing the level of inspection
18 or supervision as done by MTR and not anyone else; is
19 that correct?

20 A. At that time, our intention to prepare this checklist
21 was to show it to our CP.

22 Q. Yes. Now, my question was, the level of inspection as
23 shown in these checklists, they actually intended to
24 show the level of inspection as carried out by MTR;
25 would you agree?

26 A. Yes, correct.

1 Q. In that case, if you look at the items here, "Couplers
2 fully screwed and fitted", "Has coupler been cleared of
3 foreign materials", "Has thread been cleared of foreign
4 materials", "Complete splice between coupler/rebar" --
5 am I right in saying that all these items could only be
6 checked at the time or before the actual coupling
7 installation works were done?

8 A. They could be checked before and after.

9 Q. Sorry, how would you be able to check whether coupler
10 had been cleared of foreign materials after the
11 installation work had been carried out?

12 A. I think for item 2, they can only be checked before the
13 installation.

14 Q. Yes.

15 A. And also the same applies to item 3. But items 1 and 4,
16 they can be checked after the installation, but they
17 don't have to be checked during the whole process of the
18 installation. That's what I'm trying to say.

19 Q. Thank you.

20 In relation to the internal review that you mention
21 in your witness statement, can I just clarify this with
22 you. You told us that it's Mr Carl Wu who actually
23 prepared the report; right?

24 A. Correct.

25 Q. Did you actually give any input to the contents of this
26 report?

1 A. No.

2 Q. If we can just go and have a look at the contents of
3 this report, B7. If we can go to the follow-up actions
4 at page 4519, under 5.1, bullet point number 2:

5 "Confirm the frequency of Leighton and MTR
6 supervision were in compliance with the requirement of
7 the QSP, and were recorded on the record sheet ..."

8 Am I right in saying that this was considered one of
9 the sort of remedial actions in response to the lack of
10 inspection sheets in relation to the platform slabs; do
11 you agree?

12 A. Yes, follow-up actions.

13 Q. Yes. But between the date of this report, ie 8 February
14 2017, and June 2018, ie after we saw the media reports
15 regarding the alleged bar cutting incident, et cetera,
16 did MTR actually follow up on this recommendation to
17 compile records in relation to supervision?

18 A. Yes, we did. We have been chasing the contractor, but
19 what they told us was there's none exists, the logbooks
20 or the checklists, there's none exists. So we keep
21 chasing them, and in fact we did raise this to the
22 senior management of Leighton and we also include it in
23 one of the agenda items on the Thursday morning
24 discussion meeting.

25 Q. Now, during the internal review, did anyone or did you
26 make any enquiry as to why this issue regarding a lack

1 of inspection sheets was not picked up earlier?

2 A. You mean before the internal review?

3 Q. At the time of the internal review, did anyone -- you or
4 anyone in MTR -- actually make any enquiry as to why
5 this lack of inspection sheets, this problem, was not
6 picked up earlier?

7 A. I can only answer for myself, that I did, and I was told
8 that because the diaphragm wall team from Leighton is
9 different to the EWL slab construction team, so they are
10 different team members so they probably didn't aware of
11 this requirement.

12 Q. But you would consider the lack of inspection sheets
13 a non-compliance under the QSP, given the record-keeping
14 requirement which has been set out in the QSP; would you
15 agree?

16 A. Not necessarily, because it didn't say the time frame
17 that you have to submit the QSP, I mean the checklists.

18 Q. But the fact that in fact no such records were ever kept
19 for platform slabs, would you agree that it actually
20 fell short of the requirement under the QSP?

21 A. True.

22 Q. Finally, regarding the records, the inspection records
23 MTR compiled after June this year -- you told us about
24 the purpose of compiling these records, ie for internal
25 use, et cetera. At the time when MTR decided to compile
26 such retrospective records, MTR had already received the

1 records retrospectively prepared by Leighton; is that
2 right?

3 A. We have one formal and one informal. The informal,
4 which is the 32 boxes Leighton prepare, and those
5 documents include the checklists as well, and the formal
6 one they submitted around -- I think it was 13 June.

7 Q. Right. If I can just take you to have a look at one
8 paragraph of Kobe Wong's first witness statement:

9 B1/433, paragraph 52. Kobe Wong said:

10 "Afterwards, Mr ..."

11 Here we're talking about a time frame in June 2018.

12 "[Thereafter], Mr James Ho told me that Leighton had
13 by then retrospectively prepared a set of record sheets
14 for the EWL slab, although I had not actually seen
15 a physical copy at the time. He asked me whether I was
16 willing to countersign those record sheets ..."

17 Then Mr Kobe Wong said he was not willing to do so
18 when Leighton had failed to keep any contemporaneous
19 records as required by the QSP.

20 Now, first of all, do you agree what was said by
21 Kobe Wong here?

22 A. Yes. We did have such discussion at that time.

23 Q. Yes. May I know why you found it necessary to ask Kobe
24 Wong to countersign those records?

25 A. Because, at that time, I treated those submitted record
26 sheets as just like the logbook, which is the same

1 requirement that, according to the logbook, MTR is
2 supposed to countersign on it.

3 Q. Right. If we can then go on to have a look at another
4 paragraph of Kobe Wong's witness statement,
5 paragraph 59. He said:

6 "Based on my memory of my site surveillance
7 activities ... and having previously reviewed the site
8 photographs ... I was satisfied that we did carry out
9 more than enough site surveillance covering the coupler
10 installation works, and I proceeded to fill in those
11 checklists. I did not check the numbers or drawings
12 referred to in the checklists in detail, as Mr Derek Ma
13 prepared the checklists and I relied on the information
14 he had incorporated therein. Moreover, I was under the
15 impression from Mr James Ho that he urgently required
16 those checklists."

17 Now, in relation to the last sentence of this
18 paragraph, regarding the urgency of having those
19 records, do you agree with Mr Kobe Wong that you needed
20 to have those records urgently at that time?

21 A. Yes.

22 Q. Can you tell us why?

23 A. Because we need to finish off the 15 June report.

24 Q. Yes, and you obviously wanted to make sure that the
25 records would be accurate; do you agree?

26 A. Yes.

1 Q. So how did you at that time ensure that those records
2 prepared by MTR would be accurate?

3 A. Well, like I said, those records were prepared based on
4 the assumption that the D-wall as-built drawings at the
5 time. So that's something what we built; okay? And we
6 didn't have much time to think about everything because
7 it was so rushed and we have to prepare so many things
8 for the report, within that two weeks.

9 Q. So on what basis, then, were those records prepared?

10 A. Actually, I assigned Mr Derek Ma to help me to prepare
11 those checklists. I think he made use of the template
12 prepared by Leighton, and also he made reference to the
13 diaphragm wall as-built drawings.

14 Q. Right. So am I correct in saying that according to your
15 understanding, the MTR's records were largely based on
16 the records prepared by Leighton?

17 A. And also the as-built drawings.

18 Q. And also the as-built drawings?

19 A. Yes.

20 Q. If I may just follow up on the backdating issue, because
21 I don't quite understand why the backdating was
22 necessary.

23 Now, you told us that the backdating was necessary
24 because you wanted to correlate everything with the
25 review done in February 2017; is that correct?

26 A. Yes.

1 Q. But, at the same time, you realised that there were
2 media reports in late May 2018, and obviously, as
3 a result of the media reports, MTR conducted a review
4 regarding their records and found it necessary to
5 compile further records; is that right?

6 A. Yes.

7 Q. So I just don't understand why, at that time, you would
8 still find it necessary to relate back to the internal
9 review done in 2017.

10 A. Just to close out the follow-up actions.

11 Q. Sorry?

12 A. Just to close out the follow-up actions.

13 Q. But, in fact, from day one, after the follow-up action
14 was actually recommended, nothing actually happened.
15 You were not given any records by Leighton, and MTR also
16 did not find it necessary to prepare any retrospective
17 records, after the internal review.

18 A. Well, because we can't stop there, right, because
19 Leighton could not provide the checklist or logbook for
20 us to countersign, so we have to find another way to
21 make sure we actually -- well, we did conduct
22 an inspection on site, and we have to produce the
23 records. That's our intention, main intention.

24 CHAIRMAN: But you can still produce a record which looks to
25 matters retrospectively but bears a date which records
26 when your studies and your research was completed.

1 A. I totally agree, and I can't remember how we, you know,
2 come up with the idea of putting down that retrospective
3 date. To be honest, it was done within a very rushed --
4 you know, probably within a minute.

5 CHAIRMAN: But there are other instances that have come up
6 before the Commission of people backdating. You know,
7 for example, an inspection would be done and the papers
8 weren't there, so they would go to the office and they
9 would fill them in a few days later but backdate them.

10 To your knowledge, was that quite a common practice?

11 A. Not at all. Well, that's why we put down retrospective,
12 to make sure it was done later on.

13 CHAIRMAN: Yes. I'm just moving on slightly to day-to-day
14 workings on site. As I say, there's been certainly one,
15 maybe more, instances where people have said, "Ah, well,
16 it was just convenient to backdate." You would be
17 surprised if that was the case; is that your evidence?

18 A. Yes, I'm not aware of any other documents were
19 backdated.

20 CHAIRMAN: So this wasn't part and parcel of some prevailing
21 practice, your backdating?

22 A. Yes.

23 CHAIRMAN: It was not?

24 A. It was not.

25 CHAIRMAN: Okay.

26 MR KHAW: Mr Ho, if I can just take you to have a look at

1 the MTR's 15 June report. I understand that you
2 prepared the draft of this report; right?

3 A. Yes.

4 Q. If we can go to B1, page 29, probably the second-last
5 paragraph under the bullet point, "Supervision and
6 inspection by MTRCL on site -- installation works".

7 Then:

8 "Frequency of quality supervision by the MTRC TCP-T3
9 should be at least 20 per cent of the splicing
10 assemblies for the slab in general, and to be increased
11 to at least 50 per cent where the structure acts as
12 a transfer plate. These inspection frequencies are
13 commonly applicable to using splicing assemblies in
14 reinforced concrete construction in Hong Kong. Full
15 records are in place. All inspection records indicated
16 that the works were acceptable, with no anomaly."

17 Do you see that?

18 A. Yes.

19 Q. Now, given the fact that you realise that there were no
20 contemporaneous records of inspection or supervision, as
21 required under the QSP, would you agree that this
22 sentence perhaps is not entirely correct?

23 A. If we look back from now, of course we know that it's
24 not entirely correct, because we did the checklist based
25 on the assumption there were top couplers there.

26 Q. Yes, but at the time when you prepared the draft report

1 here, you already realised that there were no
2 contemporaneous records in relation to the inspection
3 and supervision of the coupling works for the platform
4 slabs; do you agree?

5 A. To be very honest with you, when I prepared the first
6 draft, I didn't prepare this statement, so ...

7 Q. Ah. So you mean this particular statement was prepared
8 by someone else?

9 A. Yes, probably.

10 Q. So who actually prepared this statement, do you know?

11 A. I have no idea. The very first draft I prepared is very
12 significantly changed.

13 Q. I see. So, anyway, you disown this statement?

14 A. (Nodded head).

15 Q. Did you have a chance to look at this statement or this
16 report before it was released?

17 A. Yes. Oh, sorry, before it was released?

18 Q. Yes.

19 A. No, I didn't. I didn't have the chance at all to look
20 at the finalised version before it was released.

21 Q. Okay. So, looking back now, you agree that this may not
22 be a full description or complete or full or accurate
23 description of the status of the records; would you
24 agree?

25 A. Well, actually, at that time, when we prepared the
26 report, we assume -- you know, we had the checklist

1 prepared by MTR, plus we have also received the
2 documents from Leighton. So, at that time, when we
3 produced the report, those statements, you know,
4 actually are correct at that time.

5 Q. Thank you.

6 CHAIRMAN: Sorry, you have to help me here. Again, I'm
7 falling behind. Please accept my apologies. But my
8 understanding is that, at the time, you had essentially
9 two records. One was the RISC and the other one was
10 I think called pre-concrete pour; right?

11 A. Yes.

12 CHAIRMAN: Now, you had those records and Leighton had those
13 records?

14 A. Yes.

15 CHAIRMAN: Leighton didn't have any extra records, to your
16 knowledge?

17 A. Well, they had before we issued this report.

18 CHAIRMAN: Sorry?

19 A. They did submit all those QSP checklists and also the
20 pre-pour checklists, everything, at the time, before we
21 issued the report.

22 CHAIRMAN: No, no, but at the time when the actual work was
23 being done, back in 2015 and stuff?

24 A. No, at that time, they didn't.

25 CHAIRMAN: Okay. Again, you have to bear with me, because,
26 as I say, I'm probably falling behind on this, but if

1 that's the case, why not simply, in June, say, "At the
2 time we had RISC records and at the time we had
3 pre-concrete pour records. We didn't have any other
4 records, but these two records were able to show, in
5 a general sense, that there had been a proper check"?
6 Because that in fact, am I right, is what you're saying?

7 A. Yes, but like I said, because I didn't finalise --

8 CHAIRMAN: No, no, I appreciate that, this is not blaming
9 you, but that in fact is what you are saying, isn't it?

10 A. Yes.

11 CHAIRMAN: Again, you have to help me because I'm falling
12 behind on this -- why dress it all up by saying things
13 like, "Was there dirt in the coupler?" You can't say
14 that after two years. What you can say is, "These were
15 the records we kept at the time. The records that we
16 kept at the time showed A, B and C, and no more and no
17 less'; right?

18 A. Yes.

19 CHAIRMAN: So you have to help me here, because I'm the
20 layperson. What have I got wrong in that assessment?

21 A. Sorry, I can't quite get your question.

22 CHAIRMAN: What I'm saying is, as a layperson, I would say,
23 "Right, I've got to have the records. What records did
24 we have at the time? We had these two records; okay?
25 Anything else? No." Therefore, good, bad or
26 indifferent, this is a report going to the public, we

1 need to say, "These are what we had at the time; these
2 are what they showed. Even though they may have been
3 general in nature, we can draw from them that there was
4 in fact a proper inspection." Do you see what I mean?

5 A. Yes.

6 CHAIRMAN: But in fact what comes out is a very, very
7 detailed set of "Satisfactory", "Yes", "No", and all the
8 rest of it. But doesn't that give a wrong impression?
9 Doesn't that give an impression that really doesn't fit
10 in? It looks like you're dressing it up; would you
11 agree?

12 A. Well, I think they wrote this based on -- at the time we
13 did have such records produced by Leighton, although it
14 wasn't at the material time but it was 2018, June. So
15 maybe they base on assumption that at that time we had
16 all the records by Leighton and also by MTR.

17 CHAIRMAN: But what records did you have? Did your RISC
18 records say all that stuff about, "We've checked this
19 and we've done that", or did your pre-concrete records
20 say that?

21 A. We had the RISC records.

22 CHAIRMAN: Did they say that?

23 A. Say the 20 per cent or 50 per cent inspection?

24 CHAIRMAN: No, no. Let's go to that one where I've got all
25 the little bits at the bottom saying "Is there dirt, is
26 it this, is it that?"

1 A. No, the RISC form doesn't say that.

2 CHAIRMAN: No. What I'm saying is, but suddenly these
3 records much later are much more detailed; would you
4 agree?

5 A. I agree, but I think they were prepared based on the
6 assumption they want to use the template that they use
7 for diaphragm wall.

8 CHAIRMAN: All right. Thank you very much.

9 MR KHAW: Finally, I would like to take you to another two
10 paragraphs of Kobe Wong's witness statement, first
11 witness statement: 435, paragraph 61. This is Kobe
12 Wong's evidence:

13 "In the light of the above, I proceeded to sign the
14 checklists on the basis that it would be
15 a 'retrospective record of coupler installation' as
16 stated expressly on the face of the checklists, purely
17 as an internal record. I cannot stress enough that
18 I had no intention or awareness whatsoever that the
19 checklists would ever be used or relied on by anyone
20 other than myself, James Ho, Derek Ma, Louis Kwan or
21 Arthur Wang, let alone that the checklists would be
22 appended to the MTRCL report ... and publicised. As
23 mentioned above, other than collating and providing some
24 relevant site photos, I had no involvement in the
25 preparation and drafting of the MTRCL report.

26 Later on, Mr Derek Ma informed me of the specific

1 requirement to inspect at least 50 per cent of the
2 couplers where the structure acts as a transfer plate.
3 Mr Ma therefore produced a further set of checklists in
4 hard copy and handed them to me. As before, I filled in
5 and signed those checklists on the basis that the
6 checklists would be an internal record for the use of
7 myself, James Ho ... and without any intention that they
8 would be used to satisfy the QSP or as an attachment to
9 the MTRCL report dated 15 June ..."

10 Do you see that?

11 A. Yes.

12 Q. We understand you were actually the person who provided
13 Kobe Wong's signed checklist to Mr Aidan Rooney; is that
14 correct?

15 A. Correct, yes.

16 Q. You told us you were not involved in the determination
17 as to which information or attachment would be appended
18 to the 15 June report of MTRCL; right?

19 A. Correct.

20 Q. But, at the time when you gave Mr Rooney those signed
21 checklists, did you ask Mr Rooney what use those
22 checklists would be put to?

23 A. I can't remember.

24 Q. Any discussion as to, "Hey, this whole pile of
25 checklists, how are you going to use it?"

26 A. No, because there's so many things to prepare at that

1 time. Didn't have time or chance to ask questions, to
2 be honest.

3 Q. Did you take any steps to remind Mr Rooney that the
4 checklists were only supposed to be used as internal
5 records?

6 A. Yes, we did discuss that.

7 Q. So you reminded him --

8 A. Yes.

9 Q. -- not to publicise such records?

10 A. Yes.

11 Q. And you have no idea as to why eventually such
12 records --

13 A. I have no idea.

14 Q. -- were attached to the MTRCL report?

15 A. I have no idea.

16 MR KHAW: No further questions.

17 Re-examination by MR BOULDING

18 MR BOULDING: Good morning, Mr Ho.

19 A. Good morning.

20 Q. I have just one or two matters I'd like your further
21 assistance on, please.

22 Do you remember being asked by Mr Khaw about coupler
23 inspections?

24 A. Yes.

25 Q. You were taken to a document -- I think it's B7/4538,
26 and if that could be blown up a little bit there; thank

1 you -- do you remember being asked about items I think
2 1, 2 and 4?

3 A. Yes.

4 Q. You can see that the first item is, "Couplers fully
5 screwed and fitted"?

6 A. Yes.

7 Q. Am I right in thinking that you can only check that when
8 the rebar has been properly screwed into the coupler?

9 A. Yes, correct.

10 Q. And if we were to look at 4, "Complete splice between
11 coupler/rebar", again would I be right in thinking that
12 you can only check that that's been done properly after
13 the rebar has been properly screwed into the coupler?

14 A. Yes.

15 Q. Now, let's have a look at 3, together, for example, "Has
16 thread been cleared of foreign materials (eg concrete
17 gels)"; do you see that?

18 A. Yes.

19 Q. Now, just assume, will you, that the thread had foreign
20 materials on it, for example concrete gels. Do you have
21 a view as to whether or not that rebar could have been
22 properly screwed into the coupler?

23 A. It cannot.

24 Q. Similarly, looking at 2, "Has coupler been cleared of
25 foreign materials (eg concrete gels)", if it had not
26 been cleared of those materials, do you have a view as

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."

26 A. Yes.

1 Q. Do you remember telling Mr Pennicott that that meant, so
2 far as you were concerned, that one, two and three all
3 had to be cast at the same time?

4 A. Yes.

5 Q. You've now had an opportunity, have you not, to see what
6 Atkins' Mr WC Lee says what he intended TQ33 to mean?

7 A. Yes.

8 Q. Do you agree with his interpretation of TQ33?

9 A. Again, I don't agree.

10 Q. As a result of that misinterpretation, alleged
11 misinterpretation, as I understand it, something like
12 32 bays had the concrete level reduced by something like
13 400 to 450 millimetres; correct?

14 A. You mean the diaphragm wall?

15 Q. Yes.

16 A. Yes.

17 Q. Can you tell me how long that process took,
18 approximately?

19 A. You mean trimming down one panel?

20 Q. No, the whole lot, approximately.

21 A. A couple of months.

22 Q. Tell me this. Did anyone, whilst that work was going
23 on, ever say to you, "Mr Ho, whatever's happening here?
24 This shouldn't be going on"? Did anyone ever say that
25 to you?

26 A. Not at all.

1 Q. Let me ask you this. If it had been thought that you
2 had misinterpreted that TQ33, do you think that someone
3 would have told you that what you were doing was wrong?

4 A. I would think so.

5 MR BOULDING: Thank you very much.

6 Sir, I don't know whether you've got any further
7 questions. If not, perhaps we can release Mr Ho.

8 CHAIRMAN: Yes, thank you very much. That helps us. Thank
9 you.

10 Thank you very much indeed, Mr Ho. Your evidence is
11 completed. You can go now. Thank you for your
12 assistance.

13 WITNESS: Okay. Thank you.

14 (The witness was released)

15 MR PENNICOTT: A good time for a break?

16 MR BOULDING: Yes.

17 CHAIRMAN: Certainly. Yes. 15 minutes. Thank you.

18 (11.38 am)

19 (A short adjournment)

20 (11.59 am)

21 MR BOULDING: May it please you, sir, Professor, can I just
22 mention a slight problem before I call Derek Ma.

23 In the batting order, after Derek Ma, you will have
24 seen that a Mr Louis Kwan is due to come to give
25 evidence. He in fact is here but is no longer in the
26 employ of MTR -- he works for the Airport Authority --

1 and I've just been told that he has a meeting this
2 afternoon which he simply cannot miss.

3 Unfortunately, or fortunately, the witnesses are
4 going through quicker than perhaps was anticipated, no
5 doubt because they're such upstanding, credible
6 individuals, but the reality is that I've got Derek Ma
7 and then I've got Mr Kobe Wong, so there's no need to
8 lose any time, but I just thought I'd explain that to
9 the tribunal.

10 CHAIRMAN: All right. How would you wish to play it?

11 MR BOULDING: I'd like to call Derek Ma now, and then
12 subject to any objections from my learned friends,
13 I would then be proposing to call Kobe Wong, so he's
14 gone one up the batting order.

15 MR PENNICOTT: There's no problem so far as the Commission
16 is concerned.

17 CHAIRMAN: No, no problem from our position.

18 MR BOULDING: Thank you very much for your understanding.
19 Mr Ma, good afternoon.

20 WITNESS: Good afternoon.

21 MR MA MING CHING, DEREK (affirmed in Punti)

22 Examination-in-chief by MR BOULDING

23 MR BOULDING: If you're going to give your evidence in
24 Cantonese, I think you'll need the headphones.

25 A. Yes.

26 Q. Mr Ma, please can you give your full name to the

1 Commissioners?

2 A. 我全名係馬明呈，英文Ma Ming Ching Derek。

3 Q. Thank you, Mr Ma. It's right, is it not, that you
4 produced two witness statements for the Commission's
5 assistance in this matter?

6 A. Yes.

7 Q. If we look at B355, I hope we'll see the first page of
8 your first witness statement. Indeed we do. That's
9 correct, is it not, first page of your first witness
10 statement?

11 A. Yes.

12 Q. Then if we could go on to B372, I hope we'll see your
13 signature; yes? Is that your signature under the date
14 of 13 September 2018?

15 A. 冇錯，呢個係我嘅簽名嚟。

16 Q. Are the contents of this witness statement true to the
17 best of your knowledge and belief?

18 A. 係，冇錯。

19 Q. Then if we could look at your second witness statement,
20 please. I hope we find the first page at B25734.

21 Again, is that the first page of your second witness
22 statement, Mr Ma?

23 A. That's right, yes.

24 Q. Then let's go on, if we may, to 25741 -- ahead of me,
25 again -- your signature below the date of 27 November
26 2018?

1 A. Correct.

2 Q. Again, are the contents of that statement true to the
3 best of your knowledge and belief?

4 A. Correct.

5 Q. I'd just like to fix your position in the MTR hierarchy,
6 and for that purpose please can we go to B566.

7 Do you see yourself there? If you look at the
8 little hand, is that a picture of you, Mr Ma?

9 A. 冇錯，嗰個係我嚟嘅。

10 Q. That is the project management organisation chart as of
11 15 January 2015, correct; see the top left-hand corner?

12 A. Correct.

13 MR BOULDING: Thank you very much, Mr Ma. Just to explain
14 what's going to happen. Counsel for the Inquiry will
15 question you first, and then it may be the case that
16 various other lawyers in the room will ask you
17 questions, the Chairman and Professor can ask you
18 questions at any time, and then it might be the case
19 that I will ask you some further questions at the end.
20 Please stay there for the time being.

21 A. Thank you, 明白。

22 COMMISSIONER HANSFORD: Mr Boulding, you've shown us
23 an organisation chart at January 2015. I think there's
24 a subsequent one that shows Mr Ma moving to a different
25 position; is that correct?

26 MR BOULDING: I have not had that drawn to my attention, if

1 indeed that is correct, sir.

2 COMMISSIONER HANSFORD: I may be wrong.

3 MR BOULDING: Let me ask Mr Ma.

4 Mr Ma, you've heard the professor's question. Does
5 this chart, as at 15 January, accurately represent where
6 you were in the MTR hierarchy as at that date and
7 remained in the MTR hierarchy after that date?

8 A. 你可唔可以show番畀我睇頭先2015年--呢個。喺當時2015年嘅1月15號，個
9 hierarchy嗰個O chart，我係擺咗喺嗰個位置嘅，但係之後我哋...

10 Q. Right.

11 A. 係，但係之後我哋喺隨著時間嘅改變同埋我哋有啲人手嘅加入，我哋就轉咗
12 嗰個負責嗰個位置嘅。即係你見到，譬如你say，去到2015年嘅，而家呢個
13 係2月6號，right？我哋見到嗰個擺位我係under James Ho，下低我有三
14 個，我哋所謂ConE1，就分別係Nick、Derek同埋Terence，嗰陣時我哋就
15 擺咗喺呢一個position或者係所謂我哋by area咁分開咗。

16 Q. I see. And did you remain in that position for the rest
17 of your time on site?

18 A. For ConE1，係，冇錯，construction engineering 1，yes，係。

19 MR BOULDING: Thank you very much.

20 Examination by MR PENNICOTT

21 MR PENNICOTT: Mr Ma, good afternoon, probably it is.

22 A. Good afternoon, Mr Pennicott.

23 Good afternoon, Mr Chairman and Professor.

24 Q. As you've probably gathered, I'm going to ask you some
25 questions first. Thank you very much for coming to give

1 evidence to the Commission today.

2 As we've seen and as I understand the position,
3 Mr Ma, you joined this project as a construction
4 engineer no. 1 in January 2015?

5 A. 加入呢一個project 1112, yes。

6 Q. Yes, in January 2015?

7 A. 如果我有記錯嘅, 係, 因為嗰個日子我要睇番係咪15號--exactly 15號,
8 因為我哋做嗰個internal transfer, 個日子可能之前係已經擺咗喺個
9 O chart度, 但係我真正過嚟on duty, 喺呢個contract 1112, 我要
10 double check番啲日子。Before that, 我喺另外一個contract, 都
11 係喺MTR嘅, 可能喺日子上面可能有一、兩日或者兩、三日嘅改變, 即係個
12 accurate嘅分別嘅。

13 Q. Okay. But we know that by February 2015, this
14 organisation chart, the second one we've looked at, you
15 were essentially reporting to James Ho?

16 A. Correct.

17 Q. And are you still working for the MTRC?

18 A. That's right, yes.

19 Q. And are you still working on this project?

20 A. No.

21 Q. Which project are you working on now?

22 A. 我就transfer咗過去我哋MTR嗰個另外一個division, 係property
23 division。

24 Q. You describe yourself as the technical manager in MTRC's
25 property division, and you've been in that role since

1 July 2018, so that's a role that, as it were, goes
2 beyond this project; it's much wider duties and
3 responsibilities?

4 A. 你可以講係另外一個job nature, 或者係type of個work scope, 就
5 同而家所謂個contract 1112係完全兩件分別嘅唔同事情嚟嘅。

6 Q. Right, an entirely new venture for you?

7 A. Yes, you can say so.

8 Q. Good. We've established you were reporting to James Ho.
9 Were you working alongside Louis Kwan?

10 A. Yes.

11 Q. Okay. Could I ask you, please, to, in that connection,
12 go to paragraph 10 of your witness statement. You
13 explain that a Mr Kwan were T3 TCP alternatives for the
14 EWL slab in areas B and C, and you say:

15 "... Mr Kwan and I were required to supervise the
16 safety of the works and carry out site surveillance
17 activities at least four days per week [for] the two of
18 us. This meant that one of us had to go on site and
19 look at whether the works were carried out in accordance
20 with the method statement for area B and C1 of the EWL
21 slab."

22 Just pausing there, in practical terms, Mr Ma, what
23 does that mean? How many hours per day were you and/or
24 Mr Kwan spending on the site?

25 A. 根據我哋入咗畀BD嗰個SSP, 喺裏面, 我哋T3嗰個TCP係我哋MTR呢個CD

1 stream, 就有一個T3要achieve四日, 就一個禮拜裏面有四日要喺呢個地
2 盤裏面就做一啲相關嘅要求嘅inspection又好, 或者係supervision又好,
3 所以喺呢一個裏面, 我同Louis, 都assign咗喺for呢個T3嗰個位置裏面嘅。
4 而喺嗰個文件上面, Louis Kwan就bracket咗係一個alternative嚟嘅,
5 即係話如果我唔得閒或者我off咗, 佢會take up我suppose嗰一日喺呢個地
6 盤for SSP嗰個duty嘅。

7 至於頭先你問第二個問題, 點解為之係四日係一個禮拜裏面四日呢? 如
8 果四日係計幾多個鐘頭呢? 我哋一路, from我個previous experience,
9 喺香港嘅projects, 所謂「每一日」, 即係as long as我哋喺嗰一日, 有
10 一日, 嗰一日喺嗰個項目或者喺嗰個地盤裏面而做過一啲相關嘅巡查, 我就自
11 己認為, 就fulfil咗該日喺SSP嗰個要求嘅。

12 所以即係話如果我喺SSP而家個statement度講, 四日per week嘅意思
13 即係話我喺一個禮拜裏面, 頭先講嗰個所謂嘅巡查, 如果我喺四日裏面, 呢一
14 個禮拜任何四日裏面, 我都做咗一啲相關嘅巡查, 做咗四次嘅話, 係分開唔同
15 每一日嘅話, 我自己認為我係已經fulfil咗SSP嗰個requirement嘅。

16 Q. Let's just try to elucidate that a little bit further,
17 Mr Ma. Let's take -- it's day one, it's Monday -- you
18 have turned up, it's day one, it's Monday; how many
19 hours would you spend on site?

20 A. Okay, 如果for day one我喺site, 可能係講緊一、兩個鐘頭。

21 Q. All right. It's day two, Tuesday; the same?

22 A. Maybe the same, yes.

23 Q. And days three and four, the same?

24 A. Days three and four, maybe the same.

1 Q. Then day five is a Friday --

2 A. It's Friday so maybe I --

3 Q. So you don't go, or Mr Kwan doesn't go.

4 A. 我有咁嘅選擇，可以落去或者唔落去，如果base on SSP嗰個requirement，
5 base on SSP嘅requirement，我要澄清，因為我哋落地盤唔落地盤，除
6 咗要係去fulfil SSP嗰個requirement之外，可能我哋實際真係有啲需要
7 要落地盤度做嘅，同時間可以fulfil埋嗰個SSP裏面我哋做嗰個surveillance
8 inspection又好，或者係對safety嘅monitoring都好。

9 Q. Does it come to this then, Mr Ma, that between you and
10 Mr Kwan, it would be up to approximately two hours per
11 day, four days a week on site?

12 A. 頭先嗰個係我啫，至於Louis佢嘅時間，就佢有特別匯報--係每一日匯報畀
13 我聽佢究竟擺咗喺地盤係每日係用咗幾多小時去做一啲咁嘅inspection嘅，
14 但係我相信佢嗰個時間會比我多。

15 Q. Okay. We can ask him --

16 A. Thank you.

17 Q. -- when he gets here. Anyway, we've got your timings;
18 that's fine.

19 Could I then ask you, please, to go to paragraph 20
20 of your witness statement, page B1/362, where you
21 refer -- you have a heading, "Coupler checklists", and
22 you refer to the quality supervision plan.

23 A. Yes.

24 Q. When you joined the MTR on this project, in or around
25 January 2015, were you made aware of the QSP?

1 A. 我有嘅。

2 Q. When was the first time you came to hear of it?

3 A. 特別如果係for嗰個QSP，我喺今年嘅5月尾或者6月頭嗰陣時喇。

4 Q. Right. And so, throughout your whole time on this
5 project, from January 2015 onwards, and the supervisory
6 functions that you had, supervisory responsibilities
7 that you had, you were not aware of the QSP?

8 A. That's right.

9 INTERPRETER: Sorry, I didn't hear the answer.

10 MR PENNICOTT: I think the answer was, "That's right".

11 A. Yes, correct.

12 Q. I infer that you say that -- and we're looking at
13 paragraph 21 of your statement -- that this was because,
14 you say, there is no special induction or meeting
15 discussing the QSP requirements after you joined the
16 contract, and that you had had no previous experience in
17 the supervision of coupler splicing assemblies.

18 A. 正確。

19 Q. In the witness statement of Mr Ho, from whom we have
20 recently heard, at paragraph 18 -- I wonder if you could
21 look at that very quickly, please; B1/326 -- he says
22 this --

23 "I am confident that members of my ConE team to be
24 familiar with the relevant practice and key standards
25 embodied in the PIMS, especially since they are all
26 qualified engineers and members of relevant professional

1 bodies. This is because an induction session is given
2 to every staff member (ie including the ConEs) when
3 he/she joins MTR, and that induction covers (amongst
4 other things) the nature and requirements of the PIMS."

5 Now, I appreciate that Mr Ho is talking about PIMS
6 here. First of all, do you recall attending
7 an induction session covering PIMS?

8 A. 喺我入職嘅時間，即係join個MTR嗰陣時，我哋係有個induction training
9 或者係induction course，佢喺裏面係曾經提及過PIMS呢個咁嘅文件嘅。

10 Q. Right. But, so far as you can recollect, that induction
11 course simply didn't include, in relation to this
12 project, anything to do with the quality supervision
13 plan?

14 A. 冇，喺我induction course裏面冇嘅，因為我join個induction
15 course嗰陣時，SCL1112個contract都未commence嘅。

16 COMMISSIONER HANSFORD: So, to understand that, Mr Ma -- the
17 induction was not project-specific? The induction
18 wasn't related to this particular project?

19 A. Not related to the project.

20 COMMISSIONER HANSFORD: Thank you.

21 MR PENNICOTT: All right. So that induction course that you
22 are talking about, that you attended, happened some
23 years previously; is that right?

24 A. It's about -- somewhere around 2013年6月，當我啱啱係一個
25 newcomer for MTR嗰陣時。

1 Q. Okay. And as the professor has clarified with you, that
2 induction was not project-specific?

3 A. Not project-specific.

4 Q. Understood. That makes more sense. Thank you.

5 You say in paragraph 22 of your statement --

6 I imagine you say this after having considered the QSP
7 more recently, Mr Ma --

8 A. Mm-hmm.

9 Q. -- "With the benefit of hindsight, I believe that this
10 is an area for improvement in future projects involving
11 coupler splicing assemblies, and the ConE team and
12 I would have to pay extra attention to monitoring
13 compliance with any enhanced supervision requirements in
14 respect of such splicing assemblies."

15 Do I understand you to say that, Mr Ma, in the
16 specific context of record-keeping of the coupler
17 splicing assemblies?

18 A. 並唔係嘅，我呢度唔係特別係講嗰個所謂嘅record-keeping嘅，呢度係我
19 就回顧番喺當年我make呢個statement嗰陣時，因為我個--頭先都提過，喺
20 2015年我join呢個project嗰陣時，我哋ConE team，即係construction
21 engineering team，冇被委任或者係曾經提及過我哋要對嗰個coupler嗰
22 個inspection係進行呢個所謂嘅inspection嘅。所以我就經過呢一個咁嘅
23 incident之後，我覺得可以有一個improvement喺以後個project嘅話，
24 會唔會我哋ConE team都會喺呢方面有一啲involvement可以幫手做嘅。

25 Q. Right. I ask you the question, Mr Ma, because if you

1 look back at paragraph 21 of your witness statement --
2 if we can get 21 and 22 together up on the screen,
3 please -- you say, end of the second line:

4 "... I was not aware of the requirements under the
5 QSP in respect of record-keeping."

6 Do you see that?

7 A. 冇錯，我見到。

8 Q. So what is your current understanding about
9 record-keeping under the QSP, Mr Ma?

10 A. Can you repeat your question?

11 Q. Yes. You've now, as I understand it, had an opportunity
12 of looking at and considering the QSP?

13 A. Mmm.

14 Q. And you say you were not aware, at the time, of the
15 requirements under the QSP in respect of record-keeping?

16 A. 係，冇錯。

17 Q. I was just enquiring as to what your understanding now
18 is regarding record-keeping under the QSP.

19 A. 如果而家我嘅對QSP嗰個record-keeping嗰個明白嘅，即係個理解底
20 下，我知道有啲相關對嗰個coupler個installation，無論係喺--佢喺
21 fabrication嗰度有個要求，喺installation都有個要求，對嗰個RC，
22 所謂嗰個registered contractor有要求，同埋特別喺QSP裏面都有講到
23 對MTR都係有一啲inspection嘅要求同埋有一啲record-keeping嘅要求
24 嘅，呢個我都有明白嘅而家。

25 Q. You seem, in paragraph 22, Mr Ma, to make a helpful

1 observation that you believe there's an area -- this is
2 an area for improvement in the future for projects
3 involving coupler splicing assemblies. And reading
4 paragraphs 21 and 22 together, I thought what you were
5 driving at was that there ought to be proper detailed
6 record-keeping of the supervision and inspection of the
7 coupler splicing assemblies. But perhaps I've
8 misunderstood your position.

9 A. 冇錯，我item 21淨係特別有講過呢個in respect for 呢個record-
10 keeping，但係我22，我係一個hindsight，就講成個coupler
11 installation嗰個inspection procedure同埋中間嗰個所謂
12 record-keeping可唔可以有一啲improvement嘅可以做到嘅。

13 Q. How would you improve it?

14 A. 我諗如果可以畀我哋再有review嘅時候嘅話，我哋會同嗰個training，
15 我哋咁睇，就係BOSA畀我哋個training就唔係咁regularly有一個咁
16 嘅training個舉行，舉行嗰個training，所以我哋好多時喺好早期嗰
17 啲咁嘅人員或者係嗰啲咁嘅員工，我哋somehow知道究竟嗰個coupler
18 嘅installation係要點做，而我哋中間或者後期入嚟嗰啲咁嘅我哋嘅
19 staff都唔太清楚其實我哋每一個人就應該fulfil番一啲乜嘢嘅責任喺度。

20 Q. All right. And what about record-keeping; have you got
21 any observations to make about the improvement of
22 record-keeping?

23 A. 如果record-keeping嚟講，我覺得而家所謂我哋MTR係countersign番佢
24 哋嗰個inspection record，我覺得係可以--即係行之有效嘅。

1 Q. Yes, but the question is: countersigning precisely what,
2 Mr Ma?

3 A. Countersign番RC嗰啲咁嘅inspection record, 即係好似我哋喺
4 D-wall做緊嗰啲咁嘅record-keeping咁樣。

5 Q. Right. Now, we know -- we are getting there -- that you
6 were involved, Mr Ma, this year, in the preparation of
7 some retrospective records ultimately signed by Mr Kobe
8 Wong and specifically referenced as retrospective, and
9 you were involved in the production of those documents,
10 as I understand it?

11 A. 係, 喺我哋個team嚟講, 我係其中一個team member。

12 Q. Yes. As I understand it -- well, let me put this to
13 you: is it your view that that type of record that was
14 created this year ought to have been kept and put in
15 place in 2015, as the EWL slab rebar fixing was taking
16 place?

17 A. 呢個唔係我個view嚟嘅。

18 INTERPRETER: Sorry, I didn't catch the answer.

19 MR PENNICOTT: Could you repeat your answer?

20 A. 呢個唔係我個view嚟嘅。

21 Q. What is your view as to what -- we know -- we've been
22 through this with a number of witnesses -- that we have
23 the RISC form, pursuant to which the rebar top mat and
24 bottom mat get inspected. Then we have the pre-pour
25 concrete inspection, before the concrete is allowed to

1 be poured, and we've got those records; they all seem to
2 be in reasonable order.

3 Do you think anything else should have been prepared
4 by way of record-keeping back in 2015 when the rebar
5 fixing was taking place?

6 A. 如果根據BOSA個QSP，我哋應該有一個checklist，係base on個QSP個個
7 recommendation。

8 Q. Right. And that checklist should have been prepared
9 back in 2015; is that right?

10 A. 如果我睇番啲文件嘅話，我覺得再加埋我refer番D-wall個個procedure，
11 應該係。

12 Q. Right. You personally weren't involved in the D-wall?

13 A. No.

14 Q. I thought that was the case. All right.

15 Then just following that up, if you go to
16 paragraph 24 of your witness statement -- you say:

17 "As at the end of May 2018, I had not seen any
18 quality control supervisor record sheets or inspection
19 logbook for the EWL slab from Leighton purporting to
20 comply with the requirements of the QSP as referred to
21 above, or in fact, any record sheets or logbooks
22 generally relating to the coupler splicing assemblies in
23 the EWL slab."

24 So, as I understand it, Mr Ma, your position is that
25 there ought to have been in place these record sheets

1 and these inspection logbooks or an inspection logbook
2 in relation to the rebar fixing?

3 A. 係我當時我知道咗個QSP有一個咁嘅要求嘅話，我睇番喺我哋手頭上嗰啲文
4 件，係冇呢啲咁嘅紀錄嘅。

5 Q. But, having reviewed the QSP, and having concluded that
6 there were no such records, as I understand it your view
7 is there ought to have been such records?

8 A. 我又冇一個自己一個view就話一定要係要呢個咁嘅record嘅，因為我嗰陣時
9 當時我係唔知道究竟個QSP裏面呢一個所謂需要嗰啲咁樣record-keeping
10 係有幾咁重要同埋有幾咁係一定係一個要求係for以後whatever係報完工又
11 好，係點樣嘅用途嘅。

12 Q. Right. But it seems from your evidence, Mr Ma, if you
13 may say so -- you seem to be quite surprised that there
14 are no such records, given the terms of the QSP.

15 A. 我當時老實講，我有surprise，因為喺嗰陣時我before嗰一刻鐘我係唔知
16 道需要冇呢啲咁嘅record嘅，once我review咗個QSP，知道有相關嘅要求
17 嘅話，我至去發覺係有嘅話，我嗰陣時個反應唔可以講得上係surprise嘅。

18 Q. All right.

19 A. 係因為我可能--即係我唔清楚，可能我啲同事或者係禮頓喺其他形式裏面做
20 咗一啲類似相關嘅紀錄，我自己唔知道。

21 Q. All right. I understand.

22 Now, with regard to the retrospective records that
23 I mentioned a short while ago, can I just ask you this
24 question. We've seen and we've heard from Mr Ho about

1 a discussion that took place that not only should the
2 retrospective records be prepared but they should be
3 backdated to 10 February 2017. What do you recall about
4 the discussion that took place to implement that
5 backdating?

6 A. 當時我哋有--我哋個team有meeting, 就有Michael Fu、James Ho、
7 Kobe、我同埋Louis, 大家坐低, 就喺度擺番一啲資料出嚟, 就提供番畀公
8 司嘅, 其中有呢一個QSP checklist, 我哋喺開會嗰陣時傾過嘅。

9 去到頭先你嗰個問題就係話我哋嗰個日子就係--當時我收到訊息, 就
10 係曾經喺2017年1月、2月嗰陣時我哋有一個internal audit, 係關於
11 呢個coupler嘅installation嘅, 所以我收到嘅指示係嗰個所謂
12 retrospective, 大家都agree咗嗰個文件係retrospect嘅。

13 就至於個日子個date of嗰個signage, 嗰個日子, 我收到個訊息就係
14 應該係喺嗰個internal record之後嘅時間嚟嘅。

15 Q. All right. You deal with this point in paragraph 38 of
16 your witness statement. If I've understood it, you
17 weren't -- were you aware or not aware of the internal
18 report back in February 2017?

19 A. Not aware.

20 Q. Okay. So, during the course of your discussions with
21 Mr Ho and Mr Wong, you were informed of that internal
22 report at that date, and somehow it was decided that you
23 would relate these checklists back to that date?

24 A. That's right, yes.

25 Q. Because, as you explain or express it, it somehow

1 responded to the recommendations in that report?

2 A. 當時我收到嘅指示係咁。

3 Q. Okay. So that's an instruction you received?

4 A. That's right.

5 Q. I understand. Okay.

6 Now, the checklists that Mr Kobe Wong ultimately
7 signed, as I understand it from paragraph 34 of your
8 witness statement you compiled the first draft of those
9 documents; is that right?

10 A. 冇錯嘅，我所講嗰個first draft，就係因為我當時我都有呢一啲所謂
11 coupler checklist嘅資料嘅，包括係佢個format、template同埋
12 裏面嘅內容嘅，因為我有involve嗰D-wall，所以我就係嗰當時我就亦
13 都consult禮頓佢哋有冇一啲相關一啲咁嘅資料嘅，所以就禮頓就提供咗
14 所謂呢個first draft呢個checklist就連埋template、content同
15 埋一啲相關嘅資料係提供咗畀我嘅。

16 Q. Right. Yes, okay. You've anticipated a couple of
17 questions I had.

18 First of all, your checklist and Leighton's
19 checklist are very similar.

20 A. Yes.

21 Q. Did they supply you with, as it were, a blank template
22 for you to work on?

23 A. No. 佢哋係連埋裏面嗰啲相關嘅coupler數量同埋嗰啲圖紙秣巴、sketch
24 都有埋呢一度嘅。

25 Q. Are you saying they supplied you with their checklists

1 that we've seen with the manuscript circles on, and so
2 forth?

3 A. No manual -- not all are manuscript。只係有一個喺Excel裏面
4 電腦打咗落去 嗰啲字嘅啫，冇簽名，冇圈到啲S或者MS。

5 Q. I see. Did it have the drawing numbers on?

6 A. Yes.

7 Q. And the diagrams taken from the drawings?

8 A. That's right, yes, and the number of
9 couplers too.

10 Q. And the number of couplers?

11 A. That's right.

12 Q. Okay. But no manuscript at all?

13 A. No manuscript.

14 Q. Right. Were you responsible then for modifying and
15 introducing the differences that we've seen between your
16 checklist, the MTR checklist, and the Leighton
17 checklist?

18 A. 係，冇錯。因為禮頓嗰個checklist，我見到佢哋係喺下低就100%啲
19 coupler係做咗inspection嘅，但係我收到嘅指示就係我哋唔需要係
20 100%做嗰個inspection嘅，所以我就同Kobe傾咗，夾咗之後，就下低
21 畀番一個相關需要嘅數量擺咗落去嘅。

22 Q. All right. So did Leighton supply you with that
23 template that we discussed in soft copy so that you were
24 able to --

25 A. Soft copy, yes.

1 Q. I see. All right. From paragraph 34 of your witness
2 statement, I understand that it was Mr Fu that
3 recommended that the MTR checklists should be annotated
4 with the words "retrospective record of coupler
5 installation"?

6 A. 冇錯，係喇，而呢一句都係喺禮頓畀我個soft copy係冇嘅，佢畀咗之後，
7 我review咗，就同--喺個team meeting裏面，Michael Fu，Mr Fu，
8 我亦都同佢講咗，因為呢張form唔係Kobe喺現場睇到嘅情況嚟嘅，所以個
9 日子係whatsoever，都唔可以會係喺嗰一日簽嘅，我同Michael傾完，
10 Michael就話如果係咁，就擺多句就即係喺我個--即係大家見到嗰句，嗰
11 句嘢基本上係Michael叫我寫落去嘅。

12 Q. Yes, I see. Then you, having done your draft, handed it
13 to Mr Kobe Wong, as I understand it, and perhaps to
14 others, and they presumably reviewed it?

15 A. 我做完個review之後，我有畀James睇過嘅，我就話畀佢聽「而家我係base
16 on禮頓嗰啲資料，我做咗呢張咁嘅form，我做咗一啲咁嘅」--即係譬如下低
17 我加咗一啲嘢，即係有啲改動我做咗，畀佢睇咗先嘅。

18 Q. All right. Can we then look at B7/4538, please.

19 This just happens to be the first one in the bundle
20 that we got, Mr Ma.

21 A. Mm-hmm.

22 Q. So when you, as it were, handed the draft over to
23 Mr Wong, it would have included everything apart from
24 the manuscript; is that right?

25 A. 正確。

1 Q. But you did insert the words, for example, "Checked
2 by:", and then put in Kobe Wong's name and position; is
3 that right, you put in that?

4 A. Yes, 冇錯, 我寫嘅。

5 Q. Right. And obviously, as you've explained, after your
6 discussion with Mr Fu, you put in the "Remark" at the
7 bottom?

8 A. That's right, yes.

9 Q. Having passed that to Mr Wong, were you then asked to do
10 any further work in relation to these records, or was
11 that the end of your responsibilities?

12 A. 我就當我--如果你話further, 就係當Kobe簽咗之後, 我就將呢份嘢就畀番
13 James。

14 Q. After Kobe signed it?

15 A. After Kobe signed.

16 Q. So he handed it back to you and then you gave it to
17 Mr Ho?

18 A. 係。

19 Q. I see. Who then probably gave it to Mr Rooney but you
20 don't need to worry about that. All right.

21 Now, in early June of this year, Mr Ma, various
22 representatives from the Buildings Department, the
23 Railway Development Office and Pypun made a visit to the
24 MTRC site office. You deal with this in paragraph 40 of
25 your witness statement.

1 You indicate that in fact the visit took place --
2 the visit you're talking about took place on 7 and
3 8 June; do you see that?

4 A. 見到。

5 Q. When they turned up at the site office -- because I'm
6 not quite sure I've entirely followed all of this --
7 were you present? Did you greet them, did you meet
8 them, on this occasion?

9 A. 係，我曾經有落過去。

10 Q. On 7 June?

11 A. 我--應該係，你--即係因為佢喺--我記得佢哋嚟咗應該大概係一個禮拜嘅，
12 on--即係from Monday to Friday，中間我落過去可能係兩至三次，究
13 竟係咪exactly係7號同埋8號，我未必記得咁清楚，有機會。

14 Q. Okay. The picture I've got is that they went into
15 a room, there were lots of boxes of papers that were
16 provided to them, and they were invited to inspect and
17 look through the documentation; is that right?

18 A. 正確嚟講，應該佢本來就入咗一間房，嗰間房係咩嘢都有嘅，跟住佢哋就開
19 始要求一啲相關嘅資料，嗰陣時我哋個manager Michael Fu assign咗
20 我哋有一個同事就特別係同佢哋做個coordination嘅，嗰個同事應該姓唐
21 嘅，Mr Tong，佢就開始就feed，即係佢哋BD又好，RDO，有啲咩嘢相關
22 嘅資料，我記得嗰陣時好似要啲RISC form，有啲咩嘢inspection
23 record，開始我哋就擺畀佢哋嘅。

24 Q. I see. Were they on their own when they were inspecting

1 these documents? I mean, there was no MTR member of
2 staff constantly present while they were looking at
3 these documents?

4 A. 我哋只係當我哋提供咗佢有需要睇嘅文件之後，我哋就擺低咗喺佢度，等佢
5 哋做review，我哋有特別喺隔離，呢個係我嘅認知，因為準確地，應該要
6 問番Mr Tong，因為佢就特別係個coordinator嚟嘅。

7 Q. That may not be necessary, especially as he's not one of
8 the witnesses currently.

9 Now, to your recollection, Mr Ma, were any
10 representatives of Leighton in attendance at this time,
11 at the time of this visit?

12 A. 以我記得，就係當我哋present佢哋嗰啲box裏面有一啲RISC form，我記
13 得禮頓係有人係somehow落去同BD做個解釋嘅。

14 Q. Right. Because, as I understand it, Leighton had
15 provided MTR with a number of boxes of documentation,
16 and that material ended up, as I understand it, being
17 handed to the representatives of BD, and so forth. Is
18 that your understanding?

19 A. Yes, my understanding.

20 Q. And that was done, essentially, what, with Leighton's
21 permission or their agreement because they were there?

22 A. 當然喇，因為我哋係同禮頓話喺當時BD或者RDO有咁嘅要求，叫佢哋提供番
23 相關嘅RISC form又好或者一啲所謂嘅inspection record，佢哋就知道
24 呢啲purpose係畀下低RDO或者BD睇嘅，佢哋知。

25 Q. All right. Now, back to paragraph 40 of your witness

1 statement, you say in the second sentence:

2 "It was emphasised to the BD/RDO/Pypun
3 representatives that those checklists were retrospective
4 records prepared internally by MTR ..."

5 So, clearly, you're talking about the MTR records,
6 not the Leighton records?

7 A. 正確。

8 Q. Now, who emphasised that to the BD/RDO/Pypun
9 representatives? Who spoke to them? Did you tell them
10 that or did somebody else tell them that?

11 A. 我相信我係其中一個。

12 Q. You believe you were one of them? Okay.

13 A. 唔好意思，你講緊就係話畀佢聽我哋MTR嗰個record係retrospective
14 record, is that right?

15 Q. Well, let me just read on, perhaps the whole sentence
16 will make more sense:

17 "... those checklists were retrospective records
18 prepared internally by MTR to confirm that the
19 inspectorate staff had provided the requisite
20 supervision under the QSP, and the BD/RDO
21 representatives were not permitted to take any of those
22 internal records away or to take any copies thereof."

23 Now, who told them they couldn't take any records
24 away or take any copies?

25 A. Mr Tong.

1 Q. Right. And in terms of emphasising to them that they
2 were retrospective records, they would have known that
3 anyway by reading them, would they not --

4 A. 其實...

5 Q. -- because it had "retrospective records" on the face of
6 them?

7 A. 冇錯，我expect佢睇見我哋嗰份文件已經係意會到呢個係一個
8 retrospective嘅record，呢份，如果我咁講，都係。

9 Q. Yes. However, what they wouldn't have appreciated,
10 perhaps, is the date of 10 February 2017; is that right?

11 A. Can you repeat your question again?

12 Q. Yes. You've told them they are retrospective, but just
13 looking at any of these documents on their face, you
14 would have thought they were retrospective prepared on
15 10 February 2017?

16 A. 當時我又冇呢個咁嘅intention嘅，因為我哋去寫嗰個日子2017年2月10
17 號，其實就base on因為我哋喺嗰個team discussion嗰陣時出嚟嗰個
18 discussion同埋嗰個結果嘅，我哋就喺我哋嗰個discussion裏面就唔係
19 特別係因為BD需要呢一份文件我哋而做嘅，係因為我哋喺嗰個過程裏面，我
20 哋要提供番呢啲紀錄，而嗰個紀錄係我哋開完會之後，我係被通知係需要做
21 番呢個文件出嚟咁樣嘅。

22 Q. Yes. Can we just put bundle B7, page 4538, back on the
23 screen again. Thank you very much.

24 The point I'm making, Mr Ma -- I expect you
25 understand -- is that if you come to this document

1 without any prior knowledge or explanation or
2 understanding of it, you can see it's a retrospective
3 record, if you read the "Remark" at the bottom --

4 A. Mmm.

5 Q. -- but the only date that it bears is 10 February 2017.
6 I mean, there's no other date anywhere else that I've
7 missed, I think. So, yes, you would have concluded,
8 perhaps, if you had been careful to read it, that it was
9 a retrospective record, but on any reasonable
10 interpretation you would have thought it was prepared
11 retrospectively but on 10 February 2017. Is that fair?

12 A. It's fair, yes。但係我想重申嘅，就係話我哋個intention就並
13 唔係咁樣做嘅。

14 Q. I understand that, Mr Ma. I understand what your
15 intention was. It's just a question of what was in the
16 minds of the government officials when they turned up
17 and saw these documents, and no doubt perhaps you might
18 get some more questions from those behind me on that
19 particular issue a little later.

20 Sir, Mr Ma has a number of paragraphs in his witness
21 statement dealing with the change in construction detail
22 from couplers to through-bars. I'm afraid I'm not going
23 to go through all of that again with Mr Ma. We've
24 covered it with a couple of witnesses already. That is
25 obviously not to in any way constrain or preclude
26 anybody else asking Mr Ma some questions about that

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: 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

26 MR KHAW: Mr Ma, I represent the government.

1 If I can just take you to paragraph 33 of your first
2 witness statement, at B1/365, I believe from
3 paragraphs 32 and 33 onwards you talked about the
4 circumstances in which MTR started to prepare for the
5 coupler checklists; right?

6 Now, when you were first asked to prepare for the
7 coupler checklists, I take it that you knew very well
8 that Leighton had failed to provide the necessary
9 checking records as required; is that right?

10 A. 如果根據我嘅理解，喺QSP裏面，佢要求嗰個QSP checklist，冇錯，我喺--
11 嗰陣時禮頓係冇畀到我呢個文件嘅。

12 Q. At that time, did you know that it was a requirement
13 which would need to be met under the QSP?

14 A. 喺嗰陣時，我落到去，當BD需要我攞出呢一個文件嗰陣時，我喺BD或者RDO，
15 我唔記得咗邊個嘅口中，佢需要呢份文件，所以我就話番畀我上司聽BD或者
16 RDO佢個representative喺on site，就需要呢啲咁嘅文件嘅。

17 Q. I see. So did you at that time know that it was
18 a record-keeping requirement as required under the QSP?

19 A. 當時我聽到BD或者RDO嗰個代表有咁嘅要求嗰陣時，我就想去同番我哋個
20 team、我哋嘅senior喺嗰個開會嘅談話內容裏面，我就得知呢個係其中一
21 個紀錄嘅要求嚟嘅。

22 Q. If we can take a look at your paragraph 34, you talk
23 about the time after you prepared the first draft of the
24 coupler checklists. Then, about five or six lines down,
25 you say:

1 "My concern at the time was that the coupler
2 checklists had not been contemporaneously prepared or
3 maintained by MTRCL."

4 Do you see that?

5 A. 睇到。

6 Q. Is it fair to say that at that time, while you were
7 preparing for the draft coupler checklists, you were not
8 100 per cent comfortable in making such retrospective
9 records, because they were not contemporaneously
10 prepared?

11 A. 我當時亦都係做呢個checklist嗰陣時，我係收到指令，頭先我都提過，裏
12 面嘅資料個內容同埋嗰個format都係禮頓提供嘅，有咗呢啲咁嘅資料之後，
13 我亦都畀我嘅上司去睇咗係咪相關一啲類似呢啲咁嘅文件係需要嘅，之後我就
14 將呢個文件同埋裏面嘅內容我就畀咗我哋個inspector再睇過嘅，所以中間
15 我其實就有knowledge喺佢嗰個內容或者係咪當時個幫辦係咪真係睇到呢啲
16 咁嘅資料嘅。

17 Q. Let's try to take things step by step. In paragraph 34,
18 where you said, after you prepared the first draft, you
19 said you had a concern, and your concern was that the
20 coupler checklists had not been contemporaneously
21 prepared or maintained. So you had that concern.

22 My last question was, at that time, did you feel
23 somewhat uncomfortable in making such retrospective
24 records because they were not contemporaneously done?

25 A. 我有將呢一個即係所謂我嘅擔心或者我嘅concern係喺--我同我個senior反

1 映咗嘅，就但係因為我唔清楚佢裏面究竟邊個carry out咗嗰個inspection
2 或者中間嗰個過程，所以我就喺呢一個--喺嗰個時候，我係--冇錯，我係有
3 呢啲咁嘅擔心嘅。

4 Q. But you had to follow instructions as to what would need
5 to be done; right?

6 A. 係，我就同James傾完之後，James話我哋inspector有做過呢個
7 inspection嘅，而我哋inspector係會願意去簽呢份咁嘅文件嘅，所以
8 我就係under佢個instruction，我就去準備一啲料係去做呢個checklists
9 嘅。

10 Q. Am I right in pointing out that in fact, at that time,
11 when you were preparing for the first draft coupler
12 checklists, MTR had already obtained similar checklists,
13 ie retrospective checklists, prepared by Leighton?

14 A. 我記得當時我做嗰陣時，我哋好似冇一啲physical或者hard copy就禮頓
15 formally或者我所知就係formal或者informal就畀咗我哋嘅，所以我就
16 都係經過佢哋禮頓一啲人員將頭先我講呢個大家講緊呢份checklist嘅soft
17 copy就畀咗我先嘅。

18 Q. All right. The soft copy obviously provided you with
19 a template as to how the checklist could be done?

20 A. 基本上唔係話可以點樣做，直情係佢裏面有晒所有嘅內容、sketch、
21 section同埋個coupler嘅數量。

22 Q. Now, you keep saying in your witness statement that the
23 coupler checklists were for internal record. Do you
24 remember that?

1 A. 記得，冇錯。

2 Q. Was there any discussion as to what particular purpose
3 or purposes would these so-called internal records
4 serve?

5 A. 以我哋嘅開會裏面嘅談話過程裏面，我所知道其實呢個所謂嘅內部紀錄，原
6 因就係因為我哋當時係--首先我哋攞唔到禮頓嘅當時提供到一啲類似呢啲嘅
7 checklist，係for coupler checklist，而我哋就唔可以somehow好
8 似D-wall嗰個procedure咁樣喺上面countersign到，話到畀人哋聽我哋
9 MTR本身嘅文件上面係做咗一啲咁嘅inspection嘅，但係事實上喺我哋個談
10 話--個討論過裏面確實係有幫辦係好明確咁話畀我哋聽喺當時做coupler個
11 installation嗰陣時，我哋係有睇到--即係有carry out呢啲咁嘅
12 inspection嘅。

13 所以再加埋喺2017年嘅1、2月嗰陣時我哋做咗一個internal audit，
14 所以呢份文件其實就係想去回應番我哋當時嗰個internal audit，我哋
15 somehow應該有一啲咁嘅文件可以話到畀我哋自己聽at least我哋係有呢
16 啲咁嘅carry out咗呢啲咁嘅inspection嘅。

17 CHAIRMAN: Sorry I'm interrupting. I have difficulty with
18 this. If this was for purely internal purposes, that
19 is, for the internal records of the MTR, why did you
20 need to make up templates? You already had the
21 pre-concrete pour forms. You already had the RISC
22 forms. Those were the total number of forms you had.
23 Why did you then have to go and extract a lot of extra
24 detail and enunciate that detail in forms, if they were

1 entirely for your own internal use? It doesn't make any
2 sense to me.

3 A. 係，喺我哋個team個meeting裏面，我就收到指示，就係話呢個somehow呢
4 一個咁所謂嘅format係BOSA QSP裏面其中一個可以接受做個presentation
5 for嗰個inspection個record嘅，所以我就收到指示就係base on呢一個
6 咁嘅format，就做番一個我哋一個所謂嗰啲inspection record咁樣嘅。

7 CHAIRMAN: An inspection record, though, for whom?

8 A. 如果喺當時，我哋嘅談話就係最主要就係回應番喺2017年個1、2月嗰陣時嗰
9 個internal record，同埋係畀番我哋幫辦，因為當時我哋同Kobe亦都傾
10 過，Kobe Wong，Mr Wong都話如果呢個係一個internal record for佢
11 自己一啲record-keeping嘅情況底下，佢係冇問題，係可以sign off嘅。

12 CHAIRMAN: How long did it take you to get this record
13 together, for purely internal purposes?

14 A. 因為成個template、format、內容同埋coupler嘅數量都係came from
15 禮頓嘅，其實我係用咗唔夠兩日嘅情況底下，我已經係可以有呢份咁嘅文件
16 㗎喇。

17 CHAIRMAN: And you didn't think that the way in which it had
18 been prepared and presented may indicate an intention to
19 use it by presenting it to other parties, third parties?

20 A. 喺嗰陣時，我個senior叫我做呢份嘢嗰陣時，佢冇特別提及過呢份嘢係將會
21 係作為一啲報告嘅appendix又或者係想話畀人哋聽我哋自己本身個record
22 嘅，所以喺嗰陣時我有收到指示話呢樣嘢係會去disclose出去嘅。

23 CHAIRMAN: All right.

24 MR KHAW: One perhaps relatively minor matter that I don't

1 quite follow -- it's what you have stated in your
2 paragraph 35. You said in line 2:

3 "I remember discussing the draft checklists with
4 Mr Ho and Mr Wong, and the consensus from that
5 discussion was that the coupler checklists were intended
6 as internal records which would not form part of any
7 formal submission to the BD or formal inspection logbook
8 under the QSP -- importantly, that was why we
9 deliberately did not include MTRCL's logo on any of the
10 checklists."

11 I don't quite understand the logic here. Even
12 assuming for a moment that these were intended to be
13 internal records -- well, there's nothing wrong to put
14 MTR's logo on it; right?

15 A. 可以咁講。

16 Q. If we can move back to paragraph 34 -- sorry, to follow
17 up on your last answer: in that case, why did you
18 deliberately make a decision not to include MTR's logo
19 on such checklist that you prepared?

20 A. 第一，呢個唔係我蓄意去delete咗MTR，因為本身嗰個template都有公
21 司logo嘅，第一；所以就喺我做--擺到呢啲資料返去嗰陣時，其中我有
22 考慮究竟我哋需唔需要擺番我哋公司個logo落去嘅，最後喺我哋嗰個team
23 discussion裏面都係決定係唔需要擺我哋公司嘅logo落去。所以我有特
24 別蓄意係去delete咗我哋MTR個logo？

25 Q. So you mean it was a conscious decision, as a result of

1 a discussion, that MTR's logo would not be put on the
2 checklist; is that right?

3 A. 我記得呢個係我哋個討論裏面其中一個環節。

4 Q. But can you tell us now what was the exact reason for
5 that decision?

6 A. 個原因就係我記得嘅話，當然就係因為我哋都將會係base on好似D-wall
7 個procedure，當禮頓提交咗佢哋本身簽咗名嘅checklist嗰陣時，我哋
8 suppose應該就countersign番佢哋個checklist，嚟到當係一啲
9 inspection logbook或者係一啲record-keeping咁樣嘅。所以以我
10 記得同埋當時傾過嘅話，純粹呢一個時候，我哋呢一個所謂record嘅話，
11 係畀我哋內部咁運用嘅啫。

12 Q. Right. If I can move back to the last three lines of
13 your paragraph 34. Perhaps the fifth-last line,
14 starting from:

15 "Mr Fu therefore recommended the addition of
16 an express remark in the draft coupler checklists to
17 make it clear that the checklists were a 'retrospective
18 record of coupler installation' based on Mr Wong's
19 recollection of the areas/bays he had in fact covered
20 and the relevant site photos which confirmed his
21 recollection, and I did so accordingly."

22 Do you see that?

23 A. 睇到。

24 Q. My question is: if the checklists were based on the site
25 photos and Mr Wong's recollection, you would agree with

1 me, would you not, that there was no way for MTR to
2 check or verify if Mr Wong's recollection was
3 100 per cent correct or not? Would you agree?

4 A. 如果我base on你頭先咁講，就唔同意嘅，原因就係可能Mr Wong除咗佢
5 自己嘅記憶之外，可能佢真係有好豐富嘅相片嘅存檔或者係佢喺其他佢啲
6 同事或者其他佢啲咁嘅幫辦係喺當時提供到好多足夠嘅資料或者係一啲
7 inspection嘅record畀到佢，令到佢好有信心係簽呢個名落去嘅，呢個
8 我唔清楚嘅，所以我就咁睇嘅話，我唔同意你頭先咁講，就係話我哋MTR係
9 有信心係carry out咗呢一個咁嘅significant嘅inspection。

10 CHAIRMAN: Sorry, again I'm interrupting. The checklists
11 were a retrospective record of coupler installation;
12 fine. And that record, according to you, is based on
13 two things: first of all, Mr Wong's recollection, that
14 is his memory; right?

15 A. 係，佢嘅記憶就base on佢有--手頭上有...

16 CHAIRMAN: And secondly some photographs; right? But you
17 don't mention that anywhere, do you? You don't say on
18 the form, "This is a retrospective record based on the
19 RISC documents, the pre-concrete pour documents,
20 recollection of the following inspectors, and a series
21 of photographs or anything like that, do you?

22 A. 冇錯，喺我呢個checklist，我有被要求或者係被指示要再特別加一啲呢
23 啲咁嘅相關remark落去嘅。

24 CHAIRMAN: You see, can I be frank with you: an ordinary
25 end-of the year catch-up, "Look, chaps, we seem to have

1 fallen behind on some of our record-keeping, let's get
2 up to date", that I can understand entirely. But my
3 understanding is that by the time you made these up, you
4 knew full well that there was a bit of a scandal
5 brewing, didn't you, in the outside world, about this
6 very subject?

7 A. 呢個「課題」係?

8 CHAIRMAN: The whole question of checking the couplers.

9 A. 如果你咁樣問我，我亦都好坦白咁講，就係其實當時喺呢一個過程，我真係
10 唔係咁清楚究竟中間喺嗰個coupler inspection裏面，我哋嗰個幫辦究
11 竟係有幾認真或者幾咁清楚去做嗰個inspection嘅，所以我中間亦都係--
12 即係好似喺中間頭先我咁講，喺要做呢啲咁嘅紀錄出嚟，我就被指示係
13 somehow做一個咁嘅checklist出嚟嘅，所以裏面一啲特別嘅意思或者會
14 有一啲咩嘢consequences，其實我當時就有特別去諗到嘅。

15 MR KHAW: Mr Ma, you just told us that Mr Wong might have
16 a big photo bank which might be able to show level of
17 inspection, et cetera, et cetera.

18 Now, let me take you to have a look at this, the
19 checklist that you prepared: B7 --

20 CHAIRMAN: Sorry, I'm interrupting again. You said you were
21 just told to do these, and at the time you were not
22 clear whether the inspectors had been serious in doing
23 their job at the time or not serious. What that tends
24 to suggest is you had no idea whether they had been
25 shirking their duties or fulfilling them properly. You

1 were simply asked to fill out some detailed forms, which
2 apparently were for internal use only, even though there
3 was a scandal brewing about those very issues, and you
4 went ahead and did it. That would sum it up, wouldn't
5 it?

6 A. 我想澄清，就係其實中間我哋我哋嘅討論過程裏面，我都見到我哋個幫辦
7 Kobe Wong都好有信心話到畀我哋聽當時佢哋真係做到一啲咁嘅相關嘅檢
8 查嘅，就所以我都係做呢份表嗰陣時，我都有話唔係--冇話特別係話好似
9 係做一份有問題嘅文件出嚟咁樣嘅。

10 MR KHAW: Right. If we can take a look at B7/4538. Now, we
11 will see from the box with the four items -- I'm sure
12 you're familiar with this document -- there's
13 a description regarding row T1, T2, B1, B2, et cetera,
14 and then bar 1 to 116; do you see that?

15 A. 睇到。

16 Q. So I take it that at the time when you prepared these
17 checklists, you did not have a set of photographs which
18 would be able to show you the status of the coupler
19 installation in relation to each bar in respect of each
20 row; would you agree?

21 A. 係，對我嚟講，係嘅，我同意。

22 Q. If we can take a look at 4555. There are two additional
23 items: "Additional drill-in bars drilled to correct
24 depth"; "Additional drill-in bars fixed with Hilti
25 RE500".

1 I take it that there were no photo records in
2 relation to these items; am I right?

3 A. 呢個item第5同第6項，suppose應該係delete咗佢嘅，可能我喺做呢個
4 copy呢個checklist from禮頓嗰陣時，我就唔記得咗delete咗呢兩個
5 item。

6 Q. Sorry, Mr Ma, you said your original intention was to
7 delete these two items from the checklist; right?

8 A. 係，冇錯。

9 Q. Why was it necessary for you to consider deleting these
10 two items?

11 A. 因為我喺黃先生個談話內容裏面，佢冇話畀我聽佢有睇呢個drill-in bar
12 嗰個drilling同埋嗰個fixing。

13 Q. So you knew full well at the time when you were
14 preparing for the coupler checklists that there were
15 items set out in the checklist which were not inspected,
16 according to Mr Wong; you knew about that?

17 A. 我之後，我睇番之後，我發覺我嗰陣時係冇delete，所以我之後先至發覺
18 嘅咋。

19 Q. No, no, no, Mr Ma. Back to my question. At the time
20 when you were preparing for these coupler checklists,
21 you knew full well that there were certain items which
22 were not inspected, according to Mr Wong. You knew
23 about that; is that right?

24 A. 你所謂冇檢查嘅項目係咪就係特別指item 5同item 6嗰兩個？

25 Q. We were talking about 5 and 6 just now.

1 A. 係，冇錯。所以第5同第6項其實就唔應該喺呢個checklist裏面出現嘅。

2 CHAIRMAN: Hang on a second. If you look at those documents
3 they've got "Satisfactory" written there --

4 MR KHAW: Yes.

5 CHAIRMAN: -- haven't they?

6 A. 係，所以喺當...

7 CHAIRMAN: So this is something that is not meant to be
8 there but has nevertheless been found to be
9 satisfactory. On what basis was it found to be
10 satisfactory?

11 A. 所以我做呢個checklist嗰陣時，呢兩個項目係唔應該喺度嘅，當時可能
12 黃生簽嗰陣時佢都overlook咗有呢兩個item喺度嘅啫。

13 CHAIRMAN: He didn't overlook it because somebody has
14 written "Satisfactory", by putting a line down "Not
15 satisfactory".

16 A. 係，我明白嘅，我相信喇吓，我相信，因為我有--喺當時，我都有realise
17 到我喺呢一份嘢裏面有第5同第6點擺咗落去嘅，係到事後之後，當我有時間
18 再check番我哋呢份record嗰陣時，係發覺第5同第6點我就冇喺當時就
19 delete出嚟嘅啫。

20 CHAIRMAN: So this was just an error on your part?

21 A. 呢個係我--係error嚟嘅，冇錯，係我應該delete咗佢嘅，第5同第6。因為
22 呢個第5同第6個item喺禮頓提供嗰個template嗰度係有嘅。

23 CHAIRMAN: Sorry, just so I understand items 5 and 6, now
24 somebody has filled out the form saying those had been
25 dealt with satisfactorily; right?

1 A. 係。

2 CHAIRMAN: Now, where would the information have come from
3 that they had been dealt with satisfactorily? From
4 Leighton; is that what you're saying?

5 A. 唔係，禮頓提供呢一個checklist嗰個template同埋裏面嘅內容，本身係
6 有呢六個item嘅，包括咗第5同第6項嘅，但係喺我同Kobe嗰個談話內容個
7 過程裏面，Kobe就係話1到4佢係有睇同埋喺record度佢show到有問題嘅，
8 但係5同6佢有特別係for呢啲drill-in bar去carry out個inspection
9 嘅，所以喺其他頭先睇area A又好，其他啲checklist，全部本身禮頓
10 畀我嗰陣時個template都係有1到6個item嘅，就係--中間可能我delete
11 嗰陣時或者有啲新加入去嗰個呢啲咁嘅checklist嗰陣時，我喺開頭就有
12 delete到第5、第6，到Kobe喺度簽嗰陣時，可能佢自己overlook咗有第
13 5、第6個item寫咗落去嘅啫。

14 MR KHAW: Just to explore a bit further -- I'm afraid I have
15 to -- regarding your mindset at that time.

16 You told us that you originally intended to delete
17 items 5 and 6, because Kobe Wong told you that he did
18 not check items 5 and 6; is that right?

19 A. 係，冇錯。

20 Q. Now, following this mindset, then when you're preparing
21 for these coupler checklists, whether they were used for
22 internal purposes or otherwise, you were at liberty to
23 remove certain items which would need to be checked, if
24 you realised that there was no evidence that they had

1 been checked by Kobe Wong; is that right?

2 A. 我唔會隨意刪除，我會睇下黃智超先生係咪有佢嘅信心係簽落去，我先至會
3 base on佢嘅意願去做一個刪除。

4 Q. Once items 5 and 6 were deleted, this could never be
5 a complete inspection record, would you agree,
6 regardless of whether it was done retrospectively or
7 not?

8 A. 我唔同意。

9 Q. Very well. Let's move on. In your witness statements,
10 you have repeatedly told us that the coupler checklists
11 were for internal record and they were not intended to
12 be publicised or to be shown to the Buildings Department
13 or the Authority. That's what you said; right?

14 A. 係。

15 Q. So obviously there was no intention to give anybody any
16 impression that the records were not done
17 retrospectively; is that right?

18 A. 唔好意思，可唔可以再重複問題？

19 Q. There was no intention to give anybody any wrong
20 impression or misapprehension that such records were not
21 done retrospectively?

22 A. 你意思即係話我係冇intention去話畀人聽呢啲係retrospect ...

23 Q. Sorry, my fault. Too many negatives, probably. Sorry.

24 You wanted to give people the impression that the
25 records were actually done retrospectively, not earlier.

1 That's what you wanted to tell people who had a chance
2 to read this document; right?

3 A. 首先呢個唔係我自己本身個決定嚟嘅，呢個係我哋個team最後出嚟個決定嚟
4 嘅，而我認知，就係當時我記得就係我哋個team都係想如果呢份紀錄都係話
5 畀人聽係retrospect嘅。

6 Q. It was obviously your team's decision not to mislead
7 people by showing these records to them; right?

8 A. 唔想誤導佢哋係即係當時做嘅，係。

9 Q. In that case, did you realise that it was also important
10 to date such records properly, if you did not want to
11 mislead people; would you agree?

12 A. 我同意，所以我就喺當黃生簽落去佢要寫個日子嗰陣時，我就係特別係
13 consult咗我嘅senior，所以佢喺嗰陣時就除咗recommend咗我哋要特別
14 address係一個retrospective嘅文件之外，就嗰個日子亦都係佢提供畀
15 我哋，就話應該係當係respond當年2017年嗰個internal audit嘅。

16 Q. Now, with this intention not to mislead people clearly
17 in your mind, when you were given the instruction that
18 these records should not be dated June 2018, they should
19 be dated 10 February 2017, did you consider it
20 inappropriate to do so because it was wrong, it was
21 simply wrong?

22 A. 喺當時，因為嗰個record-keeping嗰個同埋嗰個inspection我都有
23 involve嘅，所以當我嘅senior有個咁嘅決定嗰陣時，我唔知佢有幾多嘢
24 可以支持佢做到呢個咁嘅決定嘅，所以我有特別去question佢呢樣嘢，我

1 就只係純粹收咗佢個指令係咁樣做嘅，咁所--冇錯。

2 Q. Can you tell us who was your senior who made that
3 decision?

4 A. 當時我哋喺會裏面係James Ho同埋Michael Fu都喺度嘅，究竟邊一個
5 exactly講，我就唔太清楚，唔太記得咗。

6 Q. In your paragraph 38, you told us that there was
7 a consensus from the discussions you had with Mr Ho and
8 Mr Wong that the coupler checklists were dated
9 10 February 2017, because, according to what you say,
10 the checklist should respond to a recommendation made in
11 MTR's internal review which was made in February 2017.
12 Do you remember that?

13 A. 係，記得。

14 Q. So, at that time, were you given the details of such
15 review? Did you know anything about that?

16 A. 你講緊係喺2018年6月嗰陣時？

17 Q. Yes. In June 2018, when you came to this consensus with
18 Mr Ho and Mr Wong regarding the backdating to
19 10 February 2017, and you told us that it was because of
20 the internal review conducted in February 2017, my
21 question was: were you given any information regarding
22 that particular internal review at that time, ie in June
23 2018?

24 A. 我成個full report，我就冇得到，冇睇過嘅，都係James Ho係敘述番
25 當時佢有啲bullet point就話番畀我哋聽佢有啲咩finding嘅，喺嗰

1 個review裏面。

2 Q. Yes. Did you have a chance to look at those bullet
3 points at that time?

4 A. 我記得我有睇過嘅。

5 Q. Let's just have a quick look at those points. B7/4516.

6 If you can take a look at 4519, under 5.1, bullet
7 point 2, I quote:

8 "Confirm the frequency of Leighton and MTR
9 supervision were in compliance with the requirement of
10 the QSP, and were recorded on the record sheet
11 (appendix C of QSP)".

12 So can you confirm that this is the bullet point
13 that you read at that time?

14 A. 如果有記錯，係差唔多，係呢啲咁嘅嘢。

15 Q. Now, I take it that, clearly, what recorded on record
16 sheet appendix C of QSP means -- must be contemporaneous
17 records, not retrospective records; would you agree?

18 A. 呢個我畀唔到意見，因為當時我有involve嗰個internal audit，我唔知
19 佢base on啲咩嘢basis去做呢個recommendation，同埋我唔知佢中間有
20 啲咩嘢談話令到佢係做呢個recommendation嘅。

21 Q. But when you were given the instruction that the coupler
22 checklists should be backdated to 10 February 2017, did
23 you feel surprised?

24 A. 我哋喺一個team meeting裏面有一個咁嘅決定出嚟，我咁--最主要就係
25 Kobe簽名嗰陣時佢寫呢個日子落去，我睇唔到Kobe都有驚訝，所以我又冇

1 特別有一個好強烈嘅反應。

2 Q. At your first witness statement, paragraph 40, you
3 talked about the occasions where representatives from
4 BD, RDO and Pypun came to visit the site office, on
5 7 and 8 June 2018. Mr Pennicott has also asked you
6 questions on this. Do you remember that?

7 A. 記得。

8 Q. What I don't quite understand is that you've kept saying
9 that MTR's retrospective coupler checklists were
10 intended to be used only internally. Why did you decide
11 or why did MTR's representatives decide to show them to
12 the representatives of the BD during the visits?

13 A. 當佢哋嚟到地盤辦事處，即係BD、RDO、Pypun嚟到辦事處嗰陣時，佢哋都有
14 問及我哋港鐵有冇類似呢啲咁嘅record嘅，我記得當時我問Kobe嗰陣時，佢
15 提供咗一張紙，嗰張紙係一個table嚟嘅，而嗰個table就summarise咗佢
16 喺EWL嘅slab嘅construction嗰陣時，特別喺嗰個coupler個inspection
17 嗰度，佢outline咗一啲日子同埋一啲area出嚟，係當係做咗一個所謂嘅
18 summary，係想話畀BD聽我哋係提供咗呢個咁嘅inspection嘅，而嗰個就
19 係我哋想話畀BD聽嘅。

20 但係我最記得就係落去之後，當BD spend咗一、兩日睇完呢一個
21 summary之後，BD唔接受，佢唔接受我哋用一個咁嘅形式去話畀番BD聽呢個
22 就係可以係我哋港鐵嘅record嚟嘅，所以佢叫我--唔記得係--anyway，總
23 之叫我哋就返去咗一啲紀錄「睇下你哋係咪有呢份嘢嘅。」咁樣，所以我喺當
24 時我present Kobe嗰個summary table嗰陣時，我其實我記得我明確同BD

1 講咗我哋當時只係有呢份咁嘅紀錄係有關嗰個coupler嗰個inspection嘅。

2 CHAIRMAN: Sorry, just so I understand -- so you knew you
3 were compiling these templated documents entirely for
4 internal use, and yet an occasion was reached when you
5 decided that you would show them to third parties?

6 A. 唔係，我頭先--你講緊啲--我所講嗰個summary table係另外一樣嘢嚟嘅。

7 MR KHAW: Let me try to understand you a bit more on this.

8 If we can take a look at B7/4537, is it the summary
9 table that you just referred us to?

10 A. 唔係。

11 Q. If we can take a look at H14/35070. Is it the summary
12 that you referred us to?

13 A. 正確。

14 Q. So what you just told us -- I just try to understand
15 your answer correctly -- was that you first provided
16 this summary to the BD representative, is that right,
17 during the visit?

18 A. 呢個係當屋宇署嚟到地盤嗰陣時候，我就話畀我嘅senior聽，當時Kobe就
19 畀咗呢份嘢畀我嘅，呢份嘢係究竟幾時做、點樣做，呢個我係唔清楚嘅。

20 Q. So Kobe Wong gave you this summary. Did he actually ask
21 you to provide this to BD's representative?

22 A. 呢個佢知道嘅。

23 Q. Then you also told us that BD was not satisfied with
24 this summary, and MTR was asked to provide further
25 records; is that what you are trying to tell us?

1 A. 係，冇錯，佢仲係特別指明咗係要類似QSP裏面appendix嗰個咁嘅
2 checklist嗰個format。

3 Q. During those visits, did anyone from MTR -- either you
4 or any of your colleagues -- just frankly tell the BD
5 representatives, "We do not have contemporaneous records
6 regarding inspection or supervision"? Did anyone say
7 anything to that effect?

8 A. 我唔知道其他同事有冇，但係當我present呢一個summary畀屋宇署嗰啲
9 同事嘅時候，我係話咁畀佢聽呢個係當時MTR我哋係僅有嘅inspection
10 checklist嚟嘅。

11 CHAIRMAN: Did you tell them, "This is a document which has
12 been prepared in the last few days"?

13 A. 呢個我就當時唔知道嘅，因為我唔知道呢份嘢係幾時做，同埋係點樣做出嚟
14 嘅，呢份我唔知嘅。

15 MR KHAW: So do you mean that you subsequently provided BD's
16 representatives with further records, ie the
17 retrospective coupler checklists, during the visits?

18 A. 你講緊頭先嗰份？即係我...

19 Q. Let's try to take it step by step. During the visits,
20 you first showed BD representatives this summary; right?

21 A. 冇錯。

22 Q. And you told them that this was, according to your own
23 words, the only inspection checklist that MTR had at
24 that time; right? That's what you just told us?

25 A. For coupler checklist, yes.

1 CHAIRMAN: And you were pointing to this document, the one
2 we now look at on our screen?

3 A. 係。

4 CHAIRMAN: All right.

5 MR KHAW: So, at that time, you made no reference to the
6 coupler checklists that you prepared; right? So those
7 with the four items or six items that we have seen. You
8 did not tell them?

9 A. 冇嘅，冇嘅。

10 Q. And you just told us that at the time when this summary
11 sheet, ie the one on the screen, was provided to the BD
12 representatives, there was no mention as to whether any
13 document was recently prepared; is that right?

14 A. 即係你講緊嗰個「任何文件」係呢一份嘢，定係其他嘅文件？

15 Q. As I said, I was referring to this one on the screen.

16 A. Mmm.

17 Q. When you gave them this document, you did not mention
18 that documents were prepared by MTR recently. You did
19 not mention that; right?

20 A. 喺我印象中，係，因為我自己都唔知。

21 Q. I'm sorry, you said "because I did not know about it
22 myself either", but surely at that time you had started
23 preparing for the coupler checklists already. How come
24 you told us that you did not know either?

25 A. 喺我present呢一個table畀BD嗰陣時，我未開始做嘅。

1 Q. I see. So you told us that BD then, obviously not
2 satisfied with this summary sheet, kept asking for
3 further records; right?

4 A. 係，冇錯。

5 Q. Then you showed them the coupler checklists that you
6 prepared; is that right? And Kobe Wong signed; is that
7 right?

8 A. 跟住之後我就將BD嗰個要求，我就同我嘅senior匯報咗，就所以之後就展開
9 咗我哋嗰個discussion，個meeting嘅discussion，跟住喺嗰陣時我
10 開始去問禮頓擺一啲咁嘅相關資料去畀番老細睇，畀番我哋嘅senior睇，然
11 之後畀Kobe簽，跟住之後就做咗一份咁嘅嘢出嚟，而當時我嘅senior，就話
12 可以將呢份嘢係咪可以畀BD就話畀佢聽呢個係我哋嘅so-called internal
13 record咁樣。

14 CHAIRMAN: So do I understand this correctly -- apologies if
15 it's a bit like drawing teeth -- but you showed the
16 Buildings Department initially the document which is on
17 the screen at the moment, signed by Kobe Wong, entitled
18 "1112 coupler installation checklist"; correct?

19 A. Correct.

20 CHAIRMAN: The Buildings Department was unhappy with that
21 document; correct?

22 A. 啱。

23 CHAIRMAN: At that time, apart from that document, all you
24 would have had that were true contemporaneous documents
25 would have been the RISC forms and the pre-concrete pour

1 forms; is that right?

2 A. 嗰啲表格係禮頓提供畀佢哋嘅。

3 CHAIRMAN: All right. But you would have had them; yes?

4 A. (Nodded head).

5 CHAIRMAN: So you go back to your superiors and you say,

6 "The Buildings Department is unhappy with what I've

7 shown them"; correct?

8 A. 喎，特別係for呢個coupler checklist，喎。

9 CHAIRMAN: And they then say, "Okay, let's go ahead and we

10 will now draw up a series of template documents, in

11 detail, which we will say to the Buildings Department

12 are purely our own internal records but they can have

13 a look at them"?

14 A. Er ...

15 CHAIRMAN: Well, that's what you said.

16 A. 係，可以，可以。

17 MR KHAW: That's perhaps not what Kobe Wong says. If we can

18 look at Kobe Wong's witness statement, B1/434,

19 paragraph 55, he said:

20 "Having reviewed those site photos ..., I then

21 compiled an Excel spreadsheet ... A hard copy of that

22 spreadsheet was provided to Mr James Ho for

23 consideration, but he considered that the summary was

24 not sufficiently detailed, and he asked if I was willing

25 to prepare and sign a more detailed set of records. At

26 that point, I was assured by Mr Ho that the proposed set

1 of records would only act as an internal record.

2 I understood this to mean that it was only for the use
3 of myself, Mr Ho, Mr Derek Ma, Mr Louis Kwan and
4 Mr Arthur Wang, and would not be circulated to any other
5 parties."

6 A. 你個問題係？

7 Q. So how come it was subsequently agreed that the coupler
8 checklists that you prepared would be sent or should be
9 sent to the BD?

10 A. 首先，佢而家講緊呢一份就係頭先我哋喺螢光幕見到嗰份，係咪？啱啱...

11 Q. Yes.

12 A. Okay，所以呢一份喺佢同Mr Ho嘅談話裏面，佢最後嗰句都講咗，喺我呢，
13 我係Derek Ma，係唔喺佢個circulation裏面嘅，即係話佢同Mr Ho個談
14 話內容，話呢份嘢係佢自己嘅internal record，so far，我唔知嘅。所
15 以到最後我唔記得咗係何生定係佢最後係提供呢一份spreadsheet畀我落去
16 present畀BD，我唔記得咗，但係我記得我係擺咗落去嘅，而我--如果--
17 我有印象或者我有記錯嘅話，我記得Kobe都好似同我一齊落去嘅。

18 Q. I hope I'm not trying to complicate things, but can you
19 tell us who made the decision that the checklist that
20 you prepared should be sent to the BD?

21 A. Okay，你而家所講嘅係我有份做嗰份checklist，即係好大沓嗰份，唔係
22 一--唔...

23 Q. The checklists with items 1, 2, 3, 4, items 1, 2, 3, 4,
24 5, 6, those checklists. Who made the decision that
25 those checklists should be sent to the BD?

1 A. 係我嘅senior，我唔記得咗係James Ho定係Michael Fu。

2 Q. At the time when the checklists -- with 1, 2, 3, 4; 1,
3 2, 3, 4, 5, 6, to avoid any misunderstanding -- at the
4 time when those checklists were sent to the BD, did
5 anybody, you or anyone from the MTR, tell the BD's
6 representatives that these were in fact made recently?

7 A. 首先我就唔係特別話用“sent”呢個字，我哋係純粹係show畀BD睇我哋自
8 己內部有一啲咁嘅紀錄嘅，至於我就唔太記得當時我有冇emphasize呢一個
9 文件係我哋當時至做嘅，但係我就記得我有話畀BD聽呢份嘢唔係喺當時15年
10 嗰陣時候係做嘅。

11 CHAIRMAN: Well, no, they wouldn't have been, because
12 they've got "2017" on them; yes?

13 A. 係，冇錯。

14 MR KHAW: Did you tell them that they were not in fact done
15 in 2017 either?

16 A. 我唔記得咗，但係我記得我係冇被指示或者係被instruct係講呢啲嘢嘅，
17 我記得係。

18 Q. Mr Wong, I have to put it to you that at the time --

19 CHAIRMAN: Sorry. You were not instructed to say to the
20 Buildings Department that these were recent documents?

21 A. 喺我哋嗰個開會嘅discussion裏面冇特別講過呢樣嘢。

22 CHAIRMAN: No. So, if I understand this correctly, the
23 Buildings Department had seen your summary sheet; they
24 were unhappy with that. You then went back and reported
25 the unhappiness of the Buildings Department to your

1 superiors, and they suggested that the template forms
2 should be prepared; correct?

3 A. 可以咁講。

4 CHAIRMAN: 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 A. 係，我有講過。

10 CHAIRMAN: So you just handed them the forms that bore the
11 date early 2017?

12 A. 係。

13 CHAIRMAN: And you let them make of those forms what they
14 would? In other words, it was up to them what they made
15 of those forms?

16 A. 係喇，我有講過一啲特別嘢。

17 CHAIRMAN: Thank you.

18 MR KHAW: Mr Ma, I have to put it to you that at the time
19 when the BD representatives or the RDO representatives
20 visited the site office of MTR to inspect the
21 checklists, the coupler checklists -- with 1, 2, 3, 4;
22 items 1, 2, 3, 4, 5, 6 -- it was in fact not emphasised
23 that they were retrospective records; would you agree?

24 A. 我有強調佢係事後做嘅，即係我第一日我已經show嗰個spreadsheet嗰陣
25 時，我係話畀佢聽我哋係有嗰個咁嘅紀錄嘅。

1 Q. Now, your witness statement, your first witness
2 statement, paragraphs 42 and 43, you talked about the
3 discrepancies between the number of couplers as recorded
4 in the MTR 15 June report and also the actual number of
5 couplers used. Do you remember that?

6 A. 係，記得。

7 Q. Now, we've got James Ho's evidence. He says that such
8 a discrepancy was probably due to the lack of as-built
9 drawings for the EWL slab as at the time when the
10 15 June report was prepared. Do you agree with him?

11 A. 係，嗰陣時係根據嗰個D-wall嗰個as-built drawing嘅資料。

12 Q. Yes. Now, at this juncture, if I can take you to have
13 a look at the document, ie the PIMS: B6/3665. Yes.
14 This is the PIMS of MTR. If you can go to the section
15 at the lower part on this page, you see the emboldened
16 heading, "Supervision (general)". That's on the
17 top-left corner, "Supervision (general)"; do you see
18 that?

19 A. 係，睇到，睇到。

20 Q. You see the item regarding "As-built records"?

21 A. 係。

22 Q. There's a note here saying:

23 "ConE [construction engineer] and SIOW [senior
24 inspector of works] shall ensure that these records are
25 prepared as a continuous operation as construction

1 proceeds, and that the brand names of actual materials
2 used, instructed and proposed changes, actual details of
3 works determined on site are recorded."

4 Do you see that?

5 A. 見到。

6 Q. Would you consider that the lack of as-built records as
7 at the time when MTR prepared the 15 June report
8 indicates a failure to comply with the requirements set
9 out under the PIMS?

10 A. 你講緊所謂呢個竣工嘅圖係for EWL slab嘅?

11 Q. As-built records. As-built records.

12 A. As-built records for --

13 Q. It could include drawings. It could include other
14 records.

15 A. 係，喺我哋嗰個EWL slab嗰個construction裏面，頭先講嗰啲，即係中
16 間提過可能有啲material或者係其他一啲咁嘅record form，我哋一路都
17 有嘅，至於中間啲as-built drawing咁盛，係嗰陣時候可能喺度個製作過
18 程緊，所以我唔同意係話喺嗰個時--因為我哋喺2018年嘅6、7月我哋都仲未
19 正式開始啟動，以我所記得，就係啟動做嗰個EWL嗰個as-built record
20 或者係個drawing嘅。

21 Q. Right. Finally, if I can take you to your witness
22 statement, paragraph 15.2.3, page 360 -- there you are
23 talking about your involvement in reports/meetings as
24 and when required by senior construction engineer. Then
25 you say, at 15.2.3:

1 "Weekly DM/CM coordination meetings, which were
2 chaired by the MTR's construction manager and attended
3 by our construction engineer team ... Mr Andy Leung, the
4 design manager ... also attended some of these meetings.
5 These meetings discussed RFIs, submissions, and the
6 progress of the works on site generally."

7 The question that I have is, regarding the need to
8 trim off the top of the diaphragm wall, did it occur to
9 your mind that such need was triggered by the
10 assumption, the design assumption, that the EWL slab and
11 the OTE slab would need to be cast monolithically? Do
12 you know about that?

13 A. 係，我有被通知過係有個咁嘅設計要求嘅。

14 Q. Was this ever raised in any of the meetings that you
15 referred us to in paragraph 15.2.3?

16 A. 喺我印象中，呢兩個會都好似冇提及過嘅。

17 MR KHAW: Right. I have no further questions.

18 CHAIRMAN: Thank you.

19 MR CONNOR: Sir, I do have some questions, if I may, but it
20 will be about 15 or 20 minutes long. Subject to your
21 thoughts, this might be an appropriate time to break.

22 CHAIRMAN: Yes, certainly.

23 (3.36 pm)

24 (A short adjournment)

25 (3.57 pm)

26 CHAIRMAN: Yes.

1 Cross-examination by MR CONNOR

2 MR CONNOR: Thank you, sir.

3 Good afternoon, Mr Ma. I'm Vincent Connor,
4 I represent Atkins China Ltd, and I'd like to ask you
5 some questions.

6 A. Okay.

7 Q. Thank you.

8 Shortly before the break, you will remember that
9 Mr Khaw was asking you about the concept of monolithic
10 casting of the slab. Do you recall that?

11 A. 記得。

12 Q. Thank you. If you have before you, please, your witness
13 statement, which is B1/21, that's your first witness
14 statement. Firstly, at paragraph 43. Can I take you
15 from paragraphs 43 to 45 as follows. You say in
16 paragraph 43:

17 "It was only when the construction management team
18 started preparing the as-built submissions for the EWL
19 slab in July 2018 that the construction management team
20 recalled the minor modifications made to the connection
21 details at the top of the diaphragm wall, which were not
22 reflected in the BA14 submissions."

23 Do you recall that evidence that you gave?

24 A. 記得。

25 Q. Thank you. Then you go on in paragraph 44, in the first
26 four lines or so, four to five lines or so, to describe

1 the change from the use of couplers to through-bars, and
2 the change being implemented in the east diaphragm wall.
3 You say at the end of that paragraph:

4 "I can confirm that I was aware of the change at the
5 time, as was the rest of the [construction management]
6 team."

7 Is that correct?

8 A. 係。

9 Q. Then in paragraph 45 you go on to deal with the question
10 of monolithic casting.

11 You refer firstly to TQ33, and you explain that that
12 has refreshed your memory, having looked at it, and you
13 go on to say:

14 "... the need to trim off the top of the diaphragm
15 wall in areas B and C was triggered by the 'design
16 assumption' of monolithically casting the EWL and over
17 track exhaust slabs, which was raised by Atkins team B
18 in its response to TQ33."

19 I just pause there. Does that still represent your
20 evidence?

21 A. 係，當時我make呢個statement嗰陣時，我印象裏面，個TQ33，我睇番個
22 TQ33，嗰陣時係我嗰個印象係咁樣嘅。

23 Q. Thank you. You go on -- and I'll have a look at TQ33 in
24 just a moment -- but you go on to say:

25 "This was because the monolithic casting of the EWL
26 and OTE slabs would not be possible with the separation

1 by the diaphragm wall in between -- the lowering of the
2 diaphragm wall was necessary in order to allow such
3 monolithic casting."

4 That is your further explanation of why monolithic
5 casting, in your evidence, was required; is that right?

6 A. 喺我證供裏面係想解釋當我見到“monolithic”呢個字嘅時候，我回想番當
7 年我，冇錯，我嗰個D-wall如果唔要削低，就唔可以將個EWL OTE slab同
8 埋個D-wall就cast monolithically嘅。

9 Q. Thank you. Now, do you recall any other expressions
10 being used in relation to the treatment that was to be
11 applied to the EWL and OTE slabs, other than monolithic
12 casting?

13 A. 當我哋喺今年，dig out番呢啲咁嘅TQ嗰陣時，大家再搵出嚟嗰陣時，我哋
14 DM team嗰度係聽到另外一個講法嘅。

15 Q. Can you help the Commission with what that other way of
16 saying this was?

17 A. 如果我有意會錯，另外一個講法就係冇knock down到D-wall嗰個高度，而
18 同時間EWL同埋OTE個slab都係所謂同時間，cast at the same time，
19 所以佢哋所謂演繹嗰個cast monolithically係咁嘅演繹嘅。

20 Q. Thank you. That's very helpful. Just to help you
21 a little further on that, could you look at TQ33, which
22 is B5/2986.

23 Thank you very much. There are several pages to
24 this. That is the first page, where you will see that
25 that's headed technical query no. 0033, and the first

1 page identifies the query that is being asked.

2 If you turn on, please, to the following pages, you
3 then see a drawing. If you can move on to the next
4 page, please, 2988, and turn over, please, 2989, and
5 over, please, 2990, and keep going, please, and you will
6 see there, at 2991, there is a further question.

7 Now, at this point, we see an explanation of what is
8 being asked, really, in TQ33. Is that right, Mr Ma, the
9 three points which are noted on this drawing?

10 A. 係，冇錯，呢三點都係禮頓當時raise up嗰個問題。

11 Q. We see the questions are about the fitting of an L-shape
12 bar with the couplers, and the rebar could not fix as
13 shown in the drawing, and there was not sufficient
14 anchorage provided in relation to some panels, and
15 an example is given; do you see that?

16 A. 你所謂畀咗個例子係？

17 Q. EH103.

18 A. Okay, 係。

19 Q. Thank you.

20 If you move on to the next page, please, a further
21 drawing, and over to the next page, please, further
22 sections; the next page, please; and follow on to 2995,
23 please; and 2996, 2997.

24 Then, at this point, we see the response. If you
25 look at the "Response" section itself, Mr Ma, you will
26 see there the following:

1 "The maximum number of layer of rebar in the top
2 section of 3 metre slab is 3, so adding the bending
3 radius ..."

4 Just skipping over that detail, there is a comment
5 there in the final subparagraph that says as follows:

6 "Please be reminded that in order to comply with the
7 design assumption, the OTE wall must be concrete/pour
8 together at the same time (monolithically) with the
9 3 metre EWL slab and the wall to extend to
10 300 millimetres above the chamfer section of the wall to
11 provide the kicker for the OTE wall above."

12 Do you see that?

13 A. Yes.

14 Q. So when you told the Commission earlier that you had
15 heard a reference to another way of putting the manner
16 in which the slab was to be treated, namely there was to
17 be concreting at OTE wall, et cetera, at the same time,
18 is this similar to what you had heard?

19 A. 我聽到，佢就有特別refer呢一句statement嘅，就你話係咪類似呢？我如
20 果佢呢度bracket咗“monolithically”，而我就咁睇，我都仍然會係覺
21 得係應該係三個elements同時間落嘅，如果咁睇就。不過我如果喺--係喇，
22 冇錯。

23 Q. And, in addition, Mr Ma, the concept of concreting and
24 pouring together of the OTE wall with the EWL slab at
25 the same time is noted in express terms?

1 A. 冇錯，呢兩個EWL slab同埋嗰個OTE嗰個wall係要同時間一齊落，呢個好
2 明顯寫咗出嚟，冇錯。

3 Q. Thank you.

4 Now, just coming away from this document for
5 a moment, and if you could have before you, please, the
6 statement of Mr WC Lee, which is J6/4526.

7 Pause at this point, Mr Ma. In fairness to you, you
8 may not have seen this statement before?

9 A. 我今朝有機會都--不過好快咁望過。

10 Q. That's helpful. Thank you.

11 If you would turn, please, or be helped to turn to
12 paragraph 22, you will see reference there by Mr Lee to
13 a response that he made to a technical query from
14 Mr Johnson Luk on 24 July 2015, and I think as we will
15 see in a moment, this is an email that you refer to
16 yourself in your own statement. He goes on to describe
17 the nature of his response, which he then quotes from in
18 the following paragraphs.

19 If you could be helped in turning the page to the
20 end of that quote, that is again where we see the same
21 reference to, as you will see at the top of that page:

22 "... the OTE wall must be concrete/pour together at
23 the same time (monolithically) ..."

24 Do you see that?

25 A. Yes, 見到。

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, 我見到。

7 Q. And do you agree with his interpretation of the
8 expression "monolithically"?

9 A. 以我嘅解說, monolithically 佢呢個咁嘅解說, 我第一次見嘅啫。至於我
10 係唔係同意佢呢個咁嘅講法呢? 我喺現階段, 我有佢所謂嘅係咪因為咁樣,
11 先至可以提供到嗰個 full tension anchorage, 或者係 fulfil 到佢一
12 啲 design intent, 我同意唔到嘅, 喺度。

13 但係我可以話畀你聽, 我去對 monolithically 嗰個解說就並唔係佢呢
14 個咁嘅 statement 裏面講嗰樣嘢, 當然佢係 designer 或者係佢自己喺裏面
15 後面有一啲 design intent, 但係我唔可以單憑佢講呢兩句我可以認同到佢
16 嘅睇法。

17 Q. Thank you. Just to summarise, if I may, to make sure
18 I understand your evidence for the purposes of the
19 Commission, you note what Mr Lee says, but you're not in
20 a position to either agree with him -- because you do
21 not -- but equally you are not in a position to quarrel
22 with the view that he expresses as a designer?

23 A. 係, 如果我而家見到呢個 statement, 我當然會係, 冇錯。

24 Q. Thank you.

25 Now, if you might close over Mr Lee's statement and

1 return, please, to Mr Ma's own statement, at B1/21, at
2 paragraph 45.1.

3 You will see this part of your statement continues
4 from the part we just looked at a moment or two ago,
5 Mr Ma, and it's here that you introduce, helpfully,
6 three lines of communication that were shared with you
7 by your colleague Mr Ho; do you see that?

8 A. Yes, 見到。

9 Q. Now, the first of these is an email dated 8 July 2015
10 from Mr Luk of Leighton to MTR's Mr Tan, and it attached
11 the design report for the HUH Station, in other words
12 deliverable no. TWD-004B3; do you see that?

13 A. 見到。

14 Q. If we might have it on the screen, just so we know what
15 it is you are referring to here. That is B10/7262.

16 I think, as you go on to explain, the relevant part
17 for your purposes is section 6.2. If you turn then to
18 page B10/7312, and I think we find here, under the
19 heading of "Construction sequence", obviously a long
20 description of certain technical matters, but in
21 particular, helpfully highlighted, the same three
22 paragraphs as you had quoted in your statement; is that
23 right?

24 A. Yes.

25 Q. There are three parts to this:

26 "The top of the diaphragm wall panel will be trimmed

1 [down] to the lowest level of top rebar ..."

2 Then secondly:

3 "The top rebar of EWL slab at the D-wall panel will
4 then fix to the top rebar of OTE slab ..."

5 Then finally:

6 "The EWL slab and OTE slab will be casted
7 concurrently with temporary openings around the existing
8 columns and pile caps."

9 Do you see that?

10 A. Yes.

11 Q. Thank you very much. Just pausing at that point, you
12 will agree with me there's no mention of the word
13 "monolithically" in this description?

14 A. 呢三句冇，係。

15 Q. No. Thank you. Indeed, and just for the sake of speed,
16 are you able to help us with the earlier version of
17 TWD-004B3, namely 4B2? Do you recall that there was
18 an earlier version of this, that it had gone through
19 various iterations?

20 A. 我唔係好清楚咁記得，可能係睇過，但係--即係你要問我，我要睇番先得。

21 Q. That's absolutely fine, Mr Ma. So the document that you
22 need to have in front of you, please, is I think J2_8.8.
23 Yes, thank you very much.

24 Again, if we might scroll through that to
25 paragraph 6.2. I'm grateful to my friend. That's
26 J1/92. J1, page 92, please. Thank you, Mr Cheuk. If

1 you would be good enough to scroll through this, please,
2 to find 6.2, please.

3 MR CHEUK: 142.

4 MR CONNOR: Thank you, page 142. I'm grateful to Mr Cheuk.
5 Thank you.

6 This is an earlier version of the document 4B3 that
7 we looked at a moment ago, and again I think you will
8 see this document, from several months earlier, again in
9 paragraph 6.2 the expression that we have just looked at
10 in the later version, that is, as you will see, the
11 third highlighted paragraph in 6.2:

12 "The EWL slab and OTE slab will be casted
13 concurrently with temporary openings around the existing
14 columns and pile caps."

15 Do you see that?

16 A. Yes.

17 Q. So it would seem that as far as the purposes of this
18 temporary works design amendment are concerned, in its
19 earlier iteration and in the 4B3 version, Mr Ma, which
20 was then submitted on to MTR, there is no mention of
21 monolithic casting at all, but rather the expression is
22 "concurrent"; do you see that?

23 A. 睇到。

24 Q. And that, from the extract that I shared with you from
25 Mr Lee's statement, is again consistent with his view of
26 the approach to be taken to the slab in terms of its

1 formation; is that correct?

2 A. 你講緊exactly嘅wording係compare with Mr Lee?我唔係好明,你
3 想做個comparison係做咩嘢comparison?

4 Q. Thank you. He speaks of the work being done at the same
5 time and poured at the same time, here we see the
6 expression "concurrently", and here we do not see the
7 word "monolithically". So all I wish to understand from
8 you, Mr Ma, is that you have been very clear with us
9 that you have understood that monolithic is the manner
10 by which you expect this work to be done, that that is
11 the design intent, and yet it would appear that in other
12 documents, to which you were party, other expressions
13 were used.

14 A. 我明白你嘅問題,我個答案就係話我哋唔會就咁單憑呢一個咁厚嘅文件
15 裏面嘅得呢三句說話嚟到決定我哋會係點樣做或者係點樣去fulfil嗰個
16 so-called monolithically嘅,我相信嗰陣時個設計團隊同埋我哋
17 有關嗰啲人員一定係有一個詳細嘅discussion on呢樣嘢嘅,所以我唔
18 可以就咁講呢三句嘢就可以--即係單憑睇呢句嘢,我就可以決定到當時
19 我哋係咪就係淨係睇咗呢三句就決定咗所謂個monolithically嗰個做
20 法,譬如dictate咗我哋嗰陣時嘅做法,即係我相信嗰陣時係有一啲再
21 深入啲嘅discussion嘅,不過嗰啲咁嘅深入嘅discussion我有
22 involve,所以我就唔太清楚嘅啫。

23 Q. That's very helpful. Thank you very much, Mr Ma.

24 Returning then to your statement, at B1_21,

1 paragraph 45.1 -- I think what you've told us is there
2 must be other material that helps one settle down the
3 view that monolithic casting is what is in mind. But it
4 is only these three sentences that you choose to quote
5 in 45.1 of your statement; is that right?

6 A. 冇錯，我簡單地，我係引述咗，base on James嗰個email，forward畀
7 我個email，冇錯。

8 Q. Thank you.

9 Then in paragraph 45.2, you quote from an email of
10 24 July from Mr WC Lee of Atkins, who then goes on to
11 remind "that in order to comply with the design
12 assumption, the OTE wall must be concrete/pour together
13 at the same time (monolithically) with the 3 metre EWL
14 slab".

15 So again we see the concept of concreting and
16 pouring together at the same time, in other words
17 concurrently, Mr Ma; do you see that?

18 A. 係，冇錯。

19 Q. So, just pausing at that point, Mr Ma, you have
20 explained very fairly to the Commission what your view
21 is of monolithic formation, and you distinguish that
22 from concurrent pouring or pouring at the same time.
23 But is there not, in the face of this, to your eye,
24 something uncertain, something that might have caused
25 a query to be raised?

1 A. 你講緊嘅「查詢」嘅意思即係查詢WC Lee所謂嘅“monolithically”嗰
2 個字嘅解說㗎，定係查詢一啲咩嘢呢？

3 Q. I think, according to you, there is something different
4 to be taken from the use of the word "monolithically" as
5 opposed to the expression of concreting or pouring "at
6 the same time" or "concurrently". Is that the case?

7 A. 你意思「我唔同意」即係講緊喺45.2，喺呢個statement裏面，係咪？

8 Q. That's part of what I'm referring to, Mr Ma. But what
9 I just want to ascertain from you is when you read those
10 words, you simply read "concreting and pouring together
11 at the same time" as meaning the same as "monolithic",
12 do you?

13 A. 如果你話“monolithically”同埋「同一幅，同一時間」當然唔同喇，
14 你可以同一時間係可以喺area A、area B、area C，同時間落緊
15 concreting都可以，嗰個同一時間，係咪？但係呢個唔係等於係
16 “monolithically”㗎嘛。

17 Q. Thank you. I think I have your answer to that which no
18 doubt can be considered in due course.

19 Then finally on this page, at paragraph 45.3, you
20 conclude they're referring to an email of 25 July from
21 Mr McCrae of Atkins to MTR:

22 "... which stated that the OTE slab could only be
23 cast after the EWL slab if that was done before future
24 activities would further load the structure."

25 Do you see that?

1 A. 呢個係佢嘅電郵裏面寫嘅，冇錯。

2 Q. Just so we understand, in terms of your reading and
3 understanding at the time, and indeed now, of that
4 email, do you regard that as a position of Mr McCrae
5 consistent with your reading of the approach to the slab
6 as being monolithic?

7 A. Rob McCrae 喺呢度，我就睇唔到佢有特別address 咗或者係有個所謂
8 “monolithically” 嘅要求。

9 Q. No, he does not, you are quite correct, at least not in
10 the quote we're looking at, but this is one of three
11 email chains that you have included here that support
12 your previous paragraph in relation to the monolithic
13 casting of the EWL and OTE slabs. So I'm just wishing
14 to understand whether you take the view that what
15 Mr McCrae was saying at that time was consistent with
16 your view that monolithic casting, as you define it, was
17 the approach to be taken.

18 A. 你可唔可以show 畀我睇下佢嗰個電郵，exactly 嗰個係...

19 Q. Yes, of course.

20 A. 唔該。

21 Q. The email is at B10/7254. It appears to be a short
22 chain of emails.

23 MR CHEUK: The next page.

24 MR CONNOR: Yes, thank you. In fact the relevant one is on
25 7255, as part of this chain. Thank you, Mr Cheuk.

1 You will see it is an email to Mr Reilly at MTR:

2 "Following your discussion with CK Chan on whether
3 it is necessary to cast the EWL slab and OTE
4 monolithically I confirm his conversation.

5 That is in the BD letter of 4/12/14 they stated in
6 comment A3 that construction joint should be cast in
7 accordance with PNAP APP-68. Within this document
8 clause 2(a) does state that the structure should be cast
9 monolithically unless unavoidable; in which case
10 an alternative construction detail must be submitted
11 prior to approval. The concern in the PNAP is about
12 water ingress at the joint. Therefore a detail showing
13 the waterproofing has been submitted and discussed with
14 BD showing waterproofing including provision of
15 a hydrophilic strip. This detail is understood to be
16 accepted by BD.

17 Therefore the RSE view is that it is acceptable to
18 cast the OTE slab after the EWL slab providing it is
19 cast before future activities which would further load
20 the structure, in particular dewatering or excavation
21 below the EWL slab."

22 Then it goes on to refer to various checking, and
23 finally, for completeness:

24 "On the basis that the CP does agree we confirm that
25 the EWL slab (between panels EM72 and EH74) can be cast
26 in advance of the OTE under the clear understanding that

1 the OTE will be cast before additional loading due to
2 dewatering or excavation beneath the EWL takes place."

3 You see all of that?

4 A. Yes.

5 Q. Thank you, Mr Ma. I think probably the fairest thing is
6 to ask you to tell the Commission what it is that you
7 took from this email at the time and what you tell the
8 Commission today that that conveys to you in relation to
9 whether or not casting at the same time or close to the
10 same time or monolithically was the message that was
11 conveyed at this time.

12 A. 如果我就咁單憑呢個email，我就會睇好清楚Rob就話，第一句佢好清楚
13 講明嗰個EWL個slab同埋OTE一定要cast monolithically，就但係
14 佢喺下低略略就做咗一啲exemption嘅，就話喺--即係我嘅解說，就喺
15 呢個EM72到EH74，因為某啲原因，我哋可能喺現場就做唔到嗰個cast
16 monolithically嗰個要求，所以佢喺呢啲情況底下review咗一啲
17 waterproofing嘅detail或者相關一啲用hydrophilic strip呢啲
18 情況底下，佢覺得可以畀BD accept到嘅，所以喺呢啲情況之下，佢哋
19 就畀咗個exemption當時嘅CM team喺一啲佢mention嘅呢啲咁嘅位置
20 可以就in advance，cast in advance嗰個OTE under嗰個clear
21 understanding of嗰個OTE，即係唔係--即係冇--fulfil唔到所謂
22 嗰個cast monolithically嗰樣嘢，呢個就係我睇呢個電郵我自己個
23 understanding嘅。

24 Q. Thank you very much.

1 A. Sorry, 再加埋佢特別講過嗰個PNAP APP-68, 其實呢個PNAP APP-68好
2 清楚講到所謂嗰個“monolithically” 佢嗰個definition嘅, 所以我再
3 cross-reference埋個APP-68, 咁好清楚就喺當時, 甚至而家都好, 界定
4 到所謂cast monolithically就係講緊in one go, 中間係冇所謂嘅
5 construction joint。

6 Q. No doubt more evidence will be put before the Commission
7 in this regard in due course, Mr Ma, but if I just pause
8 at this point to summarise what we have here. In the
9 various communications that you have looked at so far,
10 we've seen some reference to monolithic pouring, some
11 references to concurrent pouring, some references to
12 pouring at the same time, and we have what has just been
13 described in that email of 25 July. But despite that
14 variety of different expressions what you derive from
15 all of that is nonetheless that monolithic formation is
16 the design intent and therefore must be followed?

17 A. 係咪個設計原意呢? 我唔知, 但係base on佢呢啲咁嘅字眼同埋當時嗰個
18 discussion出嚟, 係我哋要跟隨嘅。

19 Q. Thank you. Now, could you have before you, please,
20 PWD-059, and that's at B7324. Thank you very much.

21 This is a permanent works design submission, and
22 therefore different and self-evidently for different
23 purposes from those other TWD submissions we have looked
24 at, and indeed different from the technical query that
25 we've already looked at. Is that right, Mr Ma?

1 A. 詳細我唔可以答你嘅，因為通常呢啲咁嘅，特別係呢個PWD，即係for
2 permanent structure，係我哋design management team review嘅。

3 Q. Thank you. Would you turn to page 7334, please. What
4 we have here is a set of conclusions. Now, just pausing
5 at this point to help the Commission, have you seen this
6 permanent works submission before, Mr Ma?

7 A. 我當時應該係睇過，但係我唔記得㗎。

8 Q. Thank you very much. That's very fair.

9 Just for the sake of completeness again, in terms of
10 references, you will see in the penultimate paragraph on
11 that page a paragraph beginning:

12 "To comply with the full tension anchorage lap
13 length from the slab rebar principle, the OTE wall must
14 be concrete[ed] monolithically (ie at the same time)
15 with the EWL (3 metre) slab and the wall rebar to extend
16 with full lap length (FLL) provision from the OTE wall
17 construction joint (CJ) for future wall rebar
18 connection."

19 Do you see that?

20 A. 睇到。

21 Q. Do you recall seeing that at the time of its issue in
22 the summertime of 2015?

23 A. 我唔記得㗎喇。

24 Q. Thank you.

25 Just come away from that document and I'd like to

1 ask you this final question, I think, and that is -- we
2 began this course of questions this afternoon looking at
3 your witness statement and your reference to the
4 monolithic casting of the EWL and OTE slabs. At that
5 point, and in your evidence, you use only one
6 expression, and that is "monolithic". But do you now
7 accept that what appears to have been the case, in
8 a variety of submissions, in a variety of
9 communications, in the summer of 2015, the use of
10 different expressions and not simply that in relation to
11 monolithic casting but that in relation to concurrent
12 and pouring at the same time?

13 A. 如果我而家諗番當時2015年嗰陣時，畀我印象最深刻嘅都係“monolithically”
14 呢個字，至於頭先你講另外“cast at the same time”或者“concurrent”
15 呢啲，畀我嚟講，而家我印象唔深嘅，喺嗰陣時。

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?

19 A. 如果喺我哋香港project我自己嘅經驗嘅話，通常如果要cast所謂at the
20 same time又好，因為佢係cantilever又好，或者因為其他咩嘢原因好，
21 通常都係會用“monolithically”，“cast monolithically”呢個
22 字嘅，至於用到其他喺我哋圖紙裏面嘅general notes又好，或者其他特
23 別remark話要特別呢個structure要cast at the same time或者係
24 concurrent，呢兩個terms，我好少好少見，呢個係我都喺香港做
25 project都有一段時間，喺我自己嚟講，就呢兩個字就比較少見啲。

1 Q. Thank you, Mr Ma, and yet we have seen them, at least
2 this afternoon.

3 So, against that background, Mr Ma, we have looked
4 at different language, we have looked at different types
5 of submission for different purposes; yes? And yet it
6 is the case that all of those expressions that we've
7 looked at have been in the context of permanent works
8 design changes, have been in the context of temporary
9 works design changes, have been in the context of
10 technical queries, and yet none of them appears to refer
11 expressly to the demolition of a D-wall or the use of
12 through-bars consistent throughout the D-wall in its
13 re-formed shape.

14 Is that correct?

15 A. 我諗如果你要睇到咁detail, 佢本身Atkins個team B同本身禮頓嗰陣時中
16 間, 我諗唔會咁簡單就係一啲TQ嘅black and white, 就咁寫完之後, 就大
17 家somehow已經意會到係點樣做嘅。所以我覺得除咗喺文件上black and
18 white嘅response之外, 我諗佢哋自己本身一定會有一啲比較detail嘅
19 discussion嘅。

20 除咗佢哋之外, Atkins個team B喺做呢個response之前, 我自己個
21 gut feeling就係--因為嗰陣時老實講, 你問我, team A同team B我都唔
22 係太分得開嘅, 嗰個Atkins嘅team A同team B, 所以我嗰陣--如果而家問
23 我當時, 我有理由相信好多時佢哋team A同team B可能已經本身有一啲共識
24 㗎喇, 所以頭先你講如果去到咁咬文嚼字, 即係去睇啲wording咁點樣做法,

1 我諗一定唔會係佢用一句或者一個paragraph去解釋完之後，然之後就後面有
2 一啲咁大規模嘅要做嘅嘢，要做出嚟嘅。

3 所以我相信當時除咗係喺呢啲文字上面有呢啲咁嘅敘述之外，somehow
4 一定有一啲相關嘅detail discussion係carry out過嘅。

5 Q. Thank you for that, Mr Ma, but if I can take you back to
6 the question, which was really this, that we have seen
7 different language in all the submissions that we've
8 looked at in the last few minutes. We have seen
9 certainly submissions used for different purposes. But
10 what we don't see is any express reference in any of
11 those documents to the casting monolithically or
12 otherwise the slab in the context of breaking down the
13 D-wall.

14 What I asked you was: do you agree with that? If
15 you can't help us with it, please just say.

16 A. 即係你問我係咪同意或者唔同意，頭先我哋睇咁多嘅文件裏面都有提及過要
17 trim down嗰個連續牆而去achieve嗰個cast monolithically，呢個
18 係咪你嘅問題？

19 Q. Yes, it is.

20 A. 但係頭先我哋好似見到有一個--我唔記得咗，頭先其中有一個report係講
21 我哋要trim down 430mm嘅，嗰個唔係已經somehow提過要trim down喇
22 咩？所以如果你問我嘅話，就頭先我見到啲文件，就並唔係全部都有提及過
23 呢樣嘢。

24 Q. Thank you. I think that's one of the technical queries;

1 is that right, Mr Ma?

2 A. 我記得好似係喺你show畀我其中一個，有個report好似係。

3 Q. So it is that particular document, which I believe is
4 a TWD report, which is the one that you would say is
5 specific and refers to the breaking down of the D-wall?

6 COMMISSIONER HANSFORD: Sorry, Mr Connor, can we be shown
7 that document again?

8 MR CONNOR: Yes, of course.

9 MR BOULDING: Try B9034.

10 MR CONNOR: Thank you. Could you have in front of you
11 B9034, please.

12 A. 係喇，冇錯，呢份佢曾經提及過，就係話要trim嗰個level去到minimum
13 最少要420mm。

14 Q. Can you help the Commission with what specifically that
15 refers to and which parts of the slab are affected by
16 that?

17 A. 你講緊係highlight咗呢三句，係咪？

18 Q. Yes.

19 A. Okay，因為如果你要我講成個，可能要再畀多啲時間我睇。如果淨係講呢
20 三句，第一句就話係個top of個D-wall，我哋叫diaphragm wall，個
21 panel係需要trim down，lower過--即係最低嗰個top slab，top
22 rebar for EWL slab，即係佢建議大概最少要有420mm below個top
23 level of個EWL slab，即係個EWL slab嗰個structural level，撇
24 落去最少420。呢個係答唔答到你個問題？

25 Q. Yes, of course you may.

1 Sorry, I think that might have been your answer.

2 Thank you.

3 Just so we understand the purpose of this
4 submission, the document that you brought us to is the
5 document which is TWD-4B3, and it is the version of
6 a temporary works submission which, as you have rightly
7 said, includes that trimming down reference.

8 Can you help the Commission with what the purpose of
9 this submission was, and if I may put to you that the
10 submission, in this case, was to deal with a couple of
11 primary problems. It was to address the lack of U-bar
12 continuity in the D-wall, and it also, because there
13 were some as-built reinforcement differences, and as
14 a result this particular document was produced which
15 included some secondary measures for the provision of
16 rebar due to missing U-bars in the D-wall, and it also
17 referred to the trimming down of the D-wall, as you
18 rightly say, but that that was to accommodate the fixing
19 of the top rebar to the OTE slab to achieve full
20 tension.

21 So the purpose of this submission, as I understand
22 it, Mr Ma, was not for, shall I say, broad-scale
23 trimming down of D-wall, but was for the limited
24 purposes of dealing with a temporary works submission in
25 the context of addressing some problems with U-bars and
26 as-built reinforcement, and the addressing of

1 insufficient anchorage to the slab.

2 Does that meet with your recollection?

3 A. 多謝你嘅提點，因為呢一個係最主要就係for--頭先你講，全部都係基本上都
4 係D-wall一啲問題嘅，而當時我有involve D-wall嗰個construction，
5 甚至係個as-built嘅，所以頭先你講一啲我略略有印象，係略略知道D-wall
6 係同個as-built有一啲問題，而令到要入一啲咁嘅report嘅。所以但係佢本
7 身呢個人個report最終嘅目的或者佢想achieve一啲咩嘢，其實我唔太大清楚
8 嘅，咁樣。

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

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

20 A. 係，冇錯，係，即係佢有啲唔同嘅language根本就。

21 Q. And do you agree with the whole of my proposition, that
22 notwithstanding that different language, that you retain
23 your view of the monolithic casting that you have shared
24 with the Commission this afternoon?

25 A. 係，冇錯。我仍然維持我對cast monolithically嗰個睇法係咁樣嘅，

1 縱使裏面係有唔同嘅language，可能佢唔同嘅language有其他唔同嘅
2 意思，但係我暫時喺呢度，我睇唔到其他嗰啲意思會因為咁樣影響咗我對
3 個definition of monolithically嗰個改變嘅，因為我仍然stick
4 on我頭先講嘅，APP-68嗰度亦都好清楚話到畀我哋聽所謂咩嘢叫做
5 “cast monolithically”。

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

9 Re-examination by MR BOULDING

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

12 Do you remember being asked many, many questions
13 about retrospective records?

14 A. Yes.

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

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

19 A. Yes, I remember.

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

22 A. That's right.

23 Q. Do you recall it being suggested to you that this was
24 misleading because it suggested that this record was
25 prepared contemporaneously with the execution of the

1 coupler works?

2 A. Excuse me, can you repeat once again?

3 Q. Yes. Do you remember it being suggested to you that
4 this document, and in particular the date of 10 February
5 2017, could be thought to be misleading, as it suggested
6 that the document had been prepared on that date,
7 10 February 2017?

8 A. 冇人咁同我講過。

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

11 A. 係, 冇, 冇錯, 冇人咁問我。

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

14 I don't know whether you've seen this document
15 before, Mr Ma, but it's a document produced by MTR, and
16 it's a track slab construction pour summary. Have you
17 seen this before?

18 A. Yes, 我見過。

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

21 A. 係, 冇錯。

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

24 A. 係。

25 Q. Secondly, "Completion of blinding"?

1 A. 冇錯。

2 Q. And then "Commencement of rebar"?

3 A. 係。

4 Q. "Completion of rebar"?

5 A. 喺。

6 Q. And then the "Concrete pour date"?

7 A. 係，正確。

8 Q. I think that will suffice for my purpose, but if we look
9 at the completion of rebar dates -- and perhaps it's
10 easier to work up from the bottom -- do we see that all
11 of areas C1, C2 and C3, the rebar was all completed in
12 2015?

13 A. 冇錯，即係除非去到area B有一、兩個bay係去到2016年頭，類似啲啲，
14 基本上係。

15 Q. You're ahead of me there because I was going to take you
16 up to area B.

17 But then if we go above that to area HKC, we can
18 see, can we not, that the last rebar was put in on
19 11 August 2016; do you see that?

20 A. Yes，我見到。

21 Q. And indeed that was also the date of concrete pour?

22 A. 係，冇錯。

23 Q. Then, to complete this, if we just look at area A, we
24 can see, can we not, that all of the rebar was completed
25 in 2015?

1 A. For area A, yes, 冇錯。

2 Q. Going back to the document we were looking at, please,
3 which is B4555, and if we go back down, please, to
4 Mr Wong's signature and the date of 10 February 2017, we
5 can see, can we not, that that date is, what, some six
6 months after the last rebar was fixed; is that correct?

7 A. Correct.

8 Q. So would it follow from that that anyone looking at this
9 document would realise that it could not have been
10 prepared contemporaneously with the carrying out of the
11 coupler works?

12 A. Correct.

13 Q. Thank you.

14 Now, I'd like to stay with the retrospective
15 records, and I wonder if you can be kind enough to go to
16 B7/4546, so we're probably pretty close. 4546.

17 Do you see that there are six items there?

18 A. 見到。

19 Q. Do you see that items 5 and 6 relate to "Additional
20 drill-in bars drilled to correct depth" and "Additional
21 drill-in bars fixed with Hilti RE500"?

22 A. 見到。

23 Q. Do you remember it being suggested to you by the learned
24 Chairman that those two items should not have been on
25 this form at all? Do you remember that being suggested
26 to you?

1 A. I remember.

2 CHAIRMAN: Sorry, if I did -- I have no idea whether it
3 should have been on the form or not.

4 MR PENNICOTT: I think it was Mr Khaw who might have said
5 it.

6 MR BOULDING: Sorry, sir, Mr Khaw.

7 You will see that they have been crossed out. Do
8 you know who crossed those out?

9 A. 如果有記錯，係我cross out嘅。

10 Q. And can you just tell us why you crossed them out?

11 A. 因為我發覺我忘記咗喺第5同第6個item係唔需要或者係我哋冇睇到呢兩個
12 item嘅，所以我就cross out咗。

13 Q. Okay. Then if we could complete this part of our
14 discussions, could you go to B7/4538.

15 This time, we've got items 1 to 4 shown, have we
16 not?

17 A. 冇錯。

18 Q. But it's clear, is it not, that there are no items 5 to
19 6 on this particular document?

20 A. 係，冇錯，因為我喺嗰個soft copy嗰陣時我已經delete咗。

21 Q. And again, I think I know your answer, why did you
22 delete those two items?

23 A. 哦，係，冇錯，因為係唔需要我哋係對嗰兩個item有做inspection嘅。

24 Q. And insofar as items 5 and 6 were shown on these
25 checklists, do I understand that that was a mistake on

1 your part?

2 A. 係一個mistake嚟嘅，冇錯。

3 Q. There is just one further matter I would like to ask you
4 about. Do you remember being asked by -- again, I think
5 it was Mr Khaw -- you were asked about the checklist
6 shown to the BD and the RDO at the beginning of June,
7 I think it was?

8 A. Yes.

9 Q. I think it was suggested to you, Mr Ma, that you and
10 your supervisors had initiated the use of the template
11 from Leighton; do you remember that being suggested to
12 you?

13 A. 冇錯。

14 Q. I wonder if I can just read from the transcript.
15 I don't think we can get it up, but I'll read slowly.
16 This time the Chairman came in and said -- for the
17 record, this is [draft] page 114:

18 "So, if I understand this correctly, the Buildings
19 Department had seen your summary sheet; they were
20 unhappy with that. You then went back and reported the
21 unhappiness of the Buildings Department to your
22 superiors, and they suggested that the template forms
23 should be prepared; correct?"

24 Then you said:

25 "Yes, you could put it that way."

26 Then the Chairman pursues his line of questioning

1 and says:

2 "Then you went back to the Buildings Department,
3 with these template forms, you did not say to them or to
4 their representatives, 'We don't have any old forms but
5 we've managed to make up some records recently and will
6 these be sufficient?' You just gave them to them?

7 Answer: No, I did not say that."

8 Do you remember that exchange with the learned
9 Chairman?

10 A. Yes.

11 Q. I wonder whether you could be shown document H40112.
12 Splendid.

13 This is a witness statement of Wong Wing Wah, and
14 you will see from paragraph 1 that he's a structural
15 engineer in the Buildings Department, and that he was
16 seconded to the Railway Development Office of the
17 Highways Department since 8 August 2016.

18 Now, have you had an opportunity to read this
19 statement, Mr Ma?

20 A. 我略略有睇過。

21 Q. Well, I wonder whether you would be kind enough to
22 glance at it again, in particular paragraph 10 on
23 H40114.

24 Then if you could just take the opportunity to
25 familiarise yourself with that. You can see that he
26 says:

1 "In addition, upon reading the relevant documents,
2 I recall we requested MTR to provide the completed QSR
3 from the contractors as well as MTR. Ben Chan said that
4 the QSR from MTR was not available at that moment.
5 I asked whether the responsible quality control
6 supervisor could be invited to the site office.
7 Afterwards, Kobe Wong, the inspector of works of MTR who
8 claimed to be the quality control supervisor for coupler
9 works, came to the site office. He showed me a document
10 entitled '1112 coupler installation checklist', which
11 was a one-page summary setting out the date of
12 inspection, location and 'pass/fail'. He told me this
13 one-page summary was the coupler checklist of MTR as
14 required in the QSP. I told him that, under the QSP,
15 the MTR's coupler inspection records should be in the
16 same form as the sample checklist set out in the
17 appendix to the QSP (which was meant to be an on-site
18 checklist for coupler inspection). I also referred Kobe
19 Wong to Leighton's coupler inspection checklists and
20 told him that MTR checklists should be in the same form,
21 but the frequency of inspection referred to in the two
22 sets of checklists should be different."

23 Were you aware of this evidence from Mr Wong
24 Wing Wah, Mr Ma?

25 A. 我係aware曾經有人講過呢啲嘢，究竟係咪黃永華（譯音）呢？我就唔知，
26 因為嗰陣時我唔識佢嘅，但係有人同我講過呢啲咁嘅嘢。

1 Q. Anyway, we have now seen the source of the evidence,
2 have we not?

3 A. 啱。

4 MR BOULDING: Thank you very much, Mr Ma.

5 Sir, I don't know whether you have any questions.

6 CHAIRMAN: No. Thank you very much indeed.

7 MR BOULDING: Thank you, Mr Ma. I assume you can be
8 released.

9 WITNESS: Thank you very much.

10 (The witness was released)

11 MR PENNICOTT: Sir, that takes us neatly to 5 past 5.

12 CHAIRMAN: Yes.

13 MR PENNICOTT: Sir, I don't know whether I can just detain
14 us for a few minutes longer, just to raise one matter.

15 CHAIRMAN: Yes.

16 H O U S E K E E P I N G

17 MR PENNICOTT: It's this. You may recall that on

18 26 November, some days ago, a few days ago, we received
19 from the MTR -- sorry, it's bundle B19/25690; no need to
20 get it up -- a document called "MTRC's holistic proposal
21 for verification and assurance of as-constructed
22 conditions and workmanship quality at the Hung Hom
23 Station Extension", and it's a document listing
24 proposals which, amongst many other things, proposes
25 opening up of the slabs, and the EWL slab in particular.

26 At the same time as receiving that holistic

1 proposal, we were informed, the Commission was informed,
2 that the government had commented on the proposal, and
3 that the MTRC was considering those comments, with
4 a view to revising the proposal to incorporate the
5 government's comments. We were also, although this is
6 by the by, informed that a press conference might take
7 place in fact this week, which as far as I'm aware has
8 not yet taken place.

9 Sir, earlier today, those instructing me first of
10 all wrote to the MTRC, or those instructing Mr Boulding,
11 rather, that is Mayer Brown, asking them whether, on the
12 subject of the opening-up, they could provide us with
13 an update, because of course this is a matter which
14 directly affects the Commission and directly affects the
15 timetabling of the Commission's work as we move forward.

16 We asked for various information regarding potential
17 method statements and schedules of work, if that were
18 indeed going to take place.

19 We subsequently thought it appropriate to copy that
20 email requesting further information to the government,
21 asking them to comment as well. It is right that we
22 have asked for a formal response to our various queries
23 about what is happening about the opening-up by close of
24 business on Thursday this week. However, I stand up now
25 because it occurs to me that this is a matter of some
26 concern, certainly to me, and having had certain

1 communications with the Commission's expert, structural
2 engineering expert, of some concern to him as well.

3 It really would be of great assistance to the
4 Commission if both MTRC and the government could give us
5 an update as soon as possible as to what is happening
6 about the opening-up of the EWL slab, if that is what's
7 going to happen, because the sooner we know what is
8 going to happen, the sooner we are in a position to
9 constructively move forward particularly with the expert
10 evidence.

11 I appreciate, of course, that this is not
12 straightforward, but it has taken an awful lot of time
13 and I know there's been a lot of communication between
14 MTRC and the government, most of which appears to have
15 been disclosed to the Commission and which we've
16 considered from time to time. But there is no doubt
17 that every time the MTRC put forward a proposal, it gets
18 met with a huge number of queries from the government,
19 various government departments, and as we know also the
20 expert advisory team assisting the government.

21 However, it seems to us that this is really a matter
22 that's coming to a head, because either this is going to
23 take place or it's not, and the Commission really does
24 need to be put into the picture as to what is happening.

25 As I say, if either my learned friend Mr Boulding or
26 Mr Khaw is able to assist before the formal response on

1 Thursday, we would be immensely grateful for any
2 information that they are able to give us.

3 MR BOULDING: Sir, if I might just put on record that whilst
4 I have not yet seen the email that Mr Pennicott referred
5 to, he did have the courtesy to raise this matter with
6 me at lunchtime. MTR realise just how urgent this is,
7 but the reality of the situation is that the ball is
8 very firmly in government's court.

9 We anticipate that there may well be approval
10 tomorrow, and of course once there is approval we shall
11 notify you immediately, and we will of course respond to
12 the email that my learned friend has referred you to.

13 What I can say, though, is that we're up to 81
14 opening-up locations at the moment. So I think anything
15 further is best left to a written communication with my
16 learned friend's solicitors so that there can be no
17 misunderstanding of exactly where we are, where we want
18 to be, and how we are going to get there. But certainly
19 on our part we realise the need for considerable
20 expedition because of the importance it must have to you
21 and in particular writing your report.

22 CHAIRMAN: Yes. Thank you.

23 MR KHAW: Mr Chairman and Mr Commissioner, instead of saying
24 whether the ball is in our court or it's in MTR's court,
25 we can only say that we have given our comments, which
26 have been considered by MTR. I have not been given

1 a chance to have any documentation yet in relation to
2 an update from the last letter that we sent to MTR
3 setting out our comments, but I have been told that
4 something in writing will come out within the next
5 couple of days. So I presume that something will come
6 out on or before this Thursday. In fact, the legal team
7 is equally anxious, if not more, to know what is going
8 to happen in relation to the opening-up process.

9 CHAIRMAN: Thank you very much.

10 I will also mention, as far as developments are
11 concerned, that I penned a letter to the Chief
12 Executive-in-Council a while back, spelling out the fact
13 that due to a number of compelling factors, more
14 especially the inability to start this Commission of
15 Inquiry earlier, the volume of evidence that is having
16 to be considered and the complex issues that are
17 collateral, such as the possibility of opening-up, and
18 the fact that we would look to expert evidence which
19 perhaps would be timely in respect of those issues as
20 well, it's simply not been possible to meet the original
21 reporting date.

22 The Chief Executive-in-Council, as I understand it,
23 has been able, with the Executive Council, to consider
24 the matter today, and our request to extend the date for
25 the submission of the report to 26 February has been
26 agreed. So that sort of very rough way forward that

1 I gave you a few days ago, I think hoping to finish
2 factual evidence by the Christmas break, to come back on
3 the 9th, when we have the Commission seated again, and
4 to deal with the expert evidence as expeditiously as
5 possible, to give you time then to put in your final
6 submissions, and to give us, insofar as is possible, as
7 close to one month as we can to hand in the report on
8 the 26th. That, in broad terms, is the way forward now.
9 Good.

10 MR PENNICOTT: Sir, I was tipped off that at 4 o'clock this
11 afternoon the Chief Executive-in-Council indeed made
12 that order for the time to be extended until
13 26 February.

14 Sir, that just makes my observations regarding the
15 opening-up even more pertinent, it would seem to me;
16 that it is obvious that the sooner this gets underway
17 the better, and even if, as Mr Boulding has indicated,
18 it is contemplated something in the order of 81
19 opening-up locations might be the ultimate goal,
20 obviously that is going to take place, one would have
21 thought, in stages, and the sooner it starts the better,
22 and the sooner that the Commission's expert and no doubt
23 other experts are able to observe and look at and
24 consider and investigate what has been opened up, on
25 a stage-by-stage basis, the better.

26 It seems highly unlikely to me that we are going to

1 have the benefit of viewing all 81 openings-up before
2 you've got to report to the Chief Executive, but the
3 more we see, the more that can be taken into account,
4 surely that's got to be better for this Commission.

5 COMMISSIONER HANSFORD: Presumably, Mr Pennicott -- sorry to
6 interrupt --

7 MR PENNICOTT: Not at all, sir.

8 COMMISSIONER HANSFORD: -- there must be a degree of
9 prioritisation of these 81 locations?

10 MR PENNICOTT: Well, sir, indeed. Obviously I don't know --
11 I'm not privy to the detail, but that must be right.
12 Certainly looking at the holistic study that we were
13 given a few days ago, at the end of November, there
14 seems to be a prioritisation, maybe taking nine openings
15 and then expanding to 20-something-odd, and then moving
16 on in stages. Obviously we don't know what the revised
17 proposal now says in that regard, but one hopes that
18 there is indeed some sort of prioritisation taking
19 place, yes, sir.

20 COMMISSIONER HANSFORD: Thank you.

21 CHAIRMAN: Good. Thank you all very much indeed.

22 MR PENNICOTT: Sir, tomorrow morning we will, I'm afraid, be
23 going slightly out of order, as previously indicated, as
24 Mr Aidan Rooney will be the first witness in the
25 morning.

26 CHAIRMAN: Yes.

1 MR PENNICOTT: Then once Mr Rooney is finished, subject to
2 any observations Mr Boulding has, we can then get back
3 to the order we were going in, so it would then be
4 Mr Louis Kwan, then followed by Mr Kobe Wong -- if
5 Mr Kwan is available tomorrow.

6 MR BOULDING: That's absolutely correct, sir. Mr Rooney is
7 very grateful for the indulgence he is being given by
8 the Commission. He has to travel to Australia at the
9 end of the week and wanted to give evidence in person as
10 opposed to over a videolink, and in order to make sure
11 he is finished Mr Pennicott has been kind enough to say
12 he can be interposed tomorrow, then we are back to
13 Mr Kwan. Thank you.

14 CHAIRMAN: Yes, thank you very much.

15 I would, as an aside -- and I think I'm joined by
16 Prof Hansford in this -- say that obviously the
17 questions of technology always play a role, but
18 by and large, as a general overview, I think evidence
19 given in this courtroom, in this Commission room, is
20 preferable to evidence given by videolink, which (a)
21 often is difficult to actually hear what's being said
22 and (b) has a certain artificiality about it, no matter
23 what the conditions. So it's very much to the
24 Commission's advantage that we get to hear Mr Rooney in
25 person.

26 Thank you all very much.

1 (5.19 pm)

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

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