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<p>1 Wednesday, 5 December 2018 2 (10.03 am) 3 MR BOULDING: Good morning, Chairman. Good morning, 4 Professor. 5 As I foreshadowed yesterday, my next witness is 6 Mr Aidan Rooney and he's sitting in the witness box. 7 WITNESS: Good morning. 8 MR BOULDING: Good morning, Mr Rooney. 9 MR AIDAN GERALD ROONEY (sworn) 10 Examination-in-chief by MR BOULDING 11 MR BOULDING: Your full name, I understand, is Aidan Gerald 12 Rooney; correct? 13 A. That's correct. 14 Q. And it's right, is it not, that you have produced one 15 witness statement for the Commission of Inquiry's 16 assistance in this matter? 17 A. That's correct. 18 Q. I wonder whether we can have a look at that together. 19 If you could be shown on the monitor B181. 20 Do we there see, Mr Rooney, the first page of your 21 witness statement? 22 A. Correct. 23 Q. I wonder if we could go on to page B217. I'm right in 24 thinking, am I not, that it's your signature under the 25 date of 14 September 2018?</p>	<p>1 correct, top left-hand corner? 2 A. That's correct. 3 Q. There do we see your face and name at the very top of 4 the tree? 5 A. That's correct. 6 Q. What's going to happen now, Mr Rooney, is that you'll be 7 questioned, I anticipate, by Mr Pennicott for the 8 Commission of Inquiry. Then there are various lawyers 9 around the room who will be given the opportunity, if 10 they want, to ask you some questions. The Chairman and 11 the professor can ask questions at any time, and then 12 I might have some further questions for you at the end. 13 A. Understood and thank you. 14 MR BOULDING: There we go. 15 Examination by MR PENNICOTT 16 MR PENNICOTT: Good morning, Mr Rooney. 17 A. Good morning. 18 Q. As Mr Boulding has just indicated, my name is Pennicott 19 and I'm one of the counsel to the Commission. I have 20 some questions for you, which I don't think are going to 21 take too long -- 22 A. Thank you. 23 Q. -- certainly not for my part. Thank you very much for 24 coming along to give evidence to the Commission this 25 morning.</p>
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<p>1 A. That's correct. 2 Q. But there are one or two corrections, I think, to be 3 made, and we see them, do we not, at page B217.1? You'd 4 like to correct your witness statement as set out there, 5 would you not, Mr Rooney? 6 A. That's correct. 7 Q. Subject to that correction, are the contents of your 8 witness statement true to the best of your knowledge and 9 belief? 10 A. They are. 11 Q. Now, Mr Rooney, to assist the tribunal, it's become 12 conventional to see where you were in the MTR 13 organisation. I wonder if we can go first, please, to 14 page B676. 15 We can see, down in the bottom left-hand corner, 16 that this is an organisational chart effective from 17 January 2015, and we can see, can we not, Mr Rooney, 18 that you are there in the middle as the general manager? 19 A. That's correct. 20 Q. That shows the reporting sequence, does it not, at that 21 particular time, as far as you're concerned? 22 A. In January 2015, that's correct. 23 Q. Of course. But things didn't always stay like that, and 24 I wonder if we can go to another document, please, and 25 that's B576. This is effective as of 31 March 2016,</p>	<p>1 A. My pleasure. 2 Q. Mr Boulding helpfully has taken us to a couple of 3 organisation charts, but, in a sense, they don't tell 4 the full picture in terms of all the roles that you 5 played on this project. I appreciate, of course, that 6 in your witness statement you have helpfully set out the 7 various roles that you played and various duties and 8 responsibilities you had throughout your involvement 9 with the SCL project. 10 A. That's correct. 11 Q. However, whilst most people in this room may have had 12 the benefit of reading this witness statement, perhaps 13 there are others outside who haven't, so I'm just going 14 to very, very briefly try to summarise what I understand 15 the position to be, and you can tell me if I've got it 16 right or not. 17 A. No problem. Thank you. 18 Q. We start off, I think, in May 2013 through to December 19 2013, where I think you were the project manager for the 20 SCL Hong Kong Island section? 21 A. That's correct. 22 Q. Then, from January 2014 to September 2014, you were the 23 project manager for the SCL civil-NSL, that's the North 24 South Line? 25 A. That's correct.</p>

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<p>1 Q. Then, in October 2014, you became the acting general 2 manager-SCL civil-EWL and NSL? 3 A. That's also correct. 4 Q. Then in April 2015, you became the general manager-SCL 5 civil-EWL? 6 A. Correct. 7 Q. Then, a short period for that particular role, in July 8 2015, as I understand, right up until August this year, 9 you were the general manager-SCL civil-NSL? 10 A. Correct. 11 Q. During that period, that is July 2015 to August 2018, in 12 January 2016, I understand you became the project 13 manager of contract 1112, that we are concerned with? 14 A. That's correct. 15 Q. This probably isn't so relevant -- I think lastly you 16 tell us that in July 2017 through to August 2018 you 17 were also the head of project safety? 18 A. That's also correct. 19 Q. In relation to the period that perhaps we're most 20 concerned with, which is the period from about mid-2015 21 to the end of 2015, going into 2016, you were then the 22 general manager of the SCL civil-NSL? 23 A. Correct. 24 Q. And the general manager for the SCL during that period 25 was Mr TM Lee?</p>	<p>1 Q. As I understand it, you were the competent person for 2 contract 1112 between the period September 2013 and 3 February 2015? 4 A. That's correct. 5 Q. Then, as I understand it, Mr Jason Wong took over your 6 role as competent person for this project -- sorry, for 7 this contract -- and he remained in that position as the 8 competent person until August of this year? 9 A. That's also correct. 10 Q. My understanding is, under the regime under which this 11 project was operating, the competent person is 12 essentially equivalent to an authorised person or a RSE 13 operating under perhaps the more usual regime? 14 A. That's correct. 15 Q. So, therefore, for the responsibilities of the competent 16 person, one has to go off and look at the Code of 17 Practice for Site Supervision, and perhaps other 18 documents as well but primarily that document? 19 A. That's correct. 20 Q. In addition to your various roles and in addition to 21 being the competent person, my understanding also is you 22 were the engineer's delegate under the 1112 contract 23 between the MTRC and Leighton? 24 A. That's correct. 25 Q. My understanding is that, leaving aside a short period</p>
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<p>1 A. Sorry, could you repeat the dates, just for -- my 2 apologies. 3 Q. Yes. In the latter half of 2015, the general manager 4 for the SCL -- you were the general manager-SCL civil? 5 A. That's correct, yes, and Mr TM Lee was the overall 6 general manager. 7 Q. That's right. 8 A. Correct. Sorry. 9 Q. Not at all. It's a lot to remember, and I apologise for 10 making it a bit of a memory test. 11 During that period, again, while you were the 12 general manager-SCL civil-NSL, your counterpart for the 13 EWL was Jason Wong? 14 A. I can't remember, forgive me, when Jason Wong was 15 appointed as general manager for EWL, in terms of the 16 date. 17 Q. He tells us it was July 2015. 18 A. Thank you. 19 Q. Then that would be right, if that date is correct? 20 A. If that date is correct. Sorry, I can't recall. 21 Q. That's fine. 22 Now, in addition to those various roles, you were 23 also, for a period of time, the competent person for 24 contract 1112? 25 A. That's correct.</p>	<p>1 back in 2013 which seems to be only a few weeks, but we 2 don't need to worry about that, you were the engineer's 3 delegate for contract 1112 from February 2015 onwards? 4 A. Until -- 5 Q. Until August this year. 6 A. Correct. 7 Q. So, if we take a couple of snapshots in time, in, for 8 example, January 2015, which is the first organisation 9 chart Mr Boulding took you to earlier -- 10 A. Yes. 11 Q. -- at that point in time, you would have been the acting 12 general manager-SCL civil EWL and NSL, in January 2015? 13 A. That's correct. 14 Q. And also you would have still been the competent person 15 for contract 1112, just about? 16 A. Briefly, yes, that's correct. 17 Q. With one month to go? 18 A. That's correct. 19 Q. Then another snapshot in time, although -- I guess 20 that's right. Another snapshot in time: in September 21 2015, a month that for various reasons this Inquiry is 22 quite interested in because a lot of things seem to have 23 happened in September 2015, you were then the general 24 manager-SCL civil-NSL? 25 A. That's correct, yes.</p>

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<p>1 Q. And by that time you would have also been the engineer's 2 delegate under contract 1112? 3 A. That's correct. 4 Q. A last snapshot: January 2016 -- so we have moved on 5 a few months -- you would have still been the general 6 manager-SCL-NSL, still the engineer's delegate, but also 7 you would have now become the contract manager of 8 contract 1112? 9 A. That's correct. Can I just clarify there -- I obviously 10 had, if you like, a dual role as GM and PM for 1112. 11 Q. Yes, indeed. Understood. So, when you were -- let's 12 take September 2015. When you were doing your site 13 walks, as I understand took place approximately on 14 a weekly basis -- 15 A. Correct. 16 Q. Normally on a Monday morning; is that right? 17 A. At that particular time, sir, it was actually on 18 a Monday afternoon. 19 Q. Okay. 20 A. Not in a morning. 21 Q. Okay. 22 A. They changed to Monday mornings after Chinese New Year 23 2016. 24 Q. Okay. 25 A. So in 2015 they were always in the afternoon.</p>	<p>1 team, and definitely representatives from the Leighton 2 senior construction management team, including the 3 project director and possibly the area manager. 4 Sub-contractors were not specifically invited to 5 those site walks. 6 Q. Would they sometimes nonetheless attend those site 7 walks? 8 A. They would, if you like, attend by invitation, normally 9 on the day, and they would be invited to meet at 10 a particular location on the site relevant to whatever 11 particular issue was felt necessary to discuss with 12 them. 13 Q. Yes, I see. And that invitation, presumably, what, 14 would be made by Leighton to the sub-contractors? 15 A. That would be always made by Leighton directly to the 16 sub-contractors. 17 Q. Right. I think, as you just indicated, it would 18 normally happen if there was a particular issue or 19 a particular problem that needed to be discussed? 20 A. That's correct. And what used to generally happen -- at 21 the start of our site walk, we would meet outside the 22 site office, and we would, as a team -- I would take the 23 lead in suggesting where we should concentrate the walk, 24 and particular areas where I wanted to confirm that my 25 understanding was correct in terms of -- whether it be</p>
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<p>1 Q. Okay. And, when you were doing those site walks, 2 presumably you weren't thinking about which particular 3 role you were playing, which particular hat you were 4 wearing; you were there just to obvious what was going 5 on, look at matters such as safety and progress and 6 activity? Is that right? 7 A. I think I was mindful of the fact that I was the general 8 manager and I was undertaking my weekly site walk for 9 1112 on the basis of the general manager. But you are 10 correct that I would be -- the purpose of the site walk 11 was to look at safety and to look at progress and 12 quality, and the overall condition of the site and what 13 was happening. 14 Q. Okay. And those site walks would involve not just the 15 NSL but the EWL as well? 16 A. They would -- time permitting, they would ideally cover 17 the whole site, from the South Approach Tunnel to the 18 North Approach Tunnel. So that's the full extent of the 19 contract works. And occasionally we would go to the 20 Hung Hom concourse area as well. 21 Q. All right. You would be joined, as I understand it, on 22 those site walks, by senior personnel from the MTRC, 23 from Leightons also, and occasionally perhaps by 24 representative sub-contractors? 25 A. Definitely the senior representatives from my MTR site</p>	<p>1 safety or whether it be engineering. 2 But then I would invite the Leighton project 3 director and the team to also contribute in terms of 4 areas that they wanted the team to have a look at. So 5 it was encompassing both parties' views at that time. 6 Q. Right. So it was a process which encouraged open 7 discussion, if there were matters to be raised and 8 discussed? 9 A. Most definitely. 10 Q. All right. 11 In paragraphs 40 to 44 of your witness statement -- 12 and, Mr Rooney, you've got the choice. You can look at 13 it on the screen or we can give you a hard copy, or you 14 can have both. It's a matter for you how you prefer to 15 deal with it. 16 A. I think probably the screen is more convenient. 17 Q. That's fine. 18 In paragraphs 40 to 44 of your witness statement, 19 you deal with the site supervision plan? 20 A. Correct. 21 Q. I'm not going to go through all of that. 22 Then, moving on, in paragraphs 45 to 47 of your 23 witness statement, you deal with the BD's coupler 24 requirements. 25 A. That's correct.</p>

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<p>1 Q. Mr Rooney, would it be fair to say that from the outset 2 of your involvement with the project, you were aware 3 that the couplers had been identified as a particular 4 potential problematic area? 5 A. It was -- I agree, and as a construction professional in 6 Hong Kong it's not the first time that the couplers had 7 been an area of focus, let's put it that way. 8 Q. Right. I say that because when the acceptance letter 9 came in from the Buildings Department, they specifically 10 required -- and we will look at this in a moment -- 11 a quality supervision plan in relation to coupler 12 installation. 13 A. Not just the quality supervision plan but within the BD 14 acceptance letter there is a lot of detail, particularly 15 in respect to couplers. 16 Q. Couplers, yes, and in relation to testing of 17 materials -- 18 A. Yes. 19 Q. -- and other things like that. Understood. All right. 20 Then, in paragraphs 48 to 52, you deal with the 21 quality supervision plan? 22 A. That's correct. 23 Q. You mention the quality supervision reports that you 24 prepared, or rather certainly signed -- 25 A. Signed.</p>	<p>1 current purposes. We know that there is what we've 2 tried to describe as a bottom mat of reinforcement -- 3 A. That's correct. 4 Q. -- and a top mat of reinforcement? 5 A. And those mats are made up of various layers, yes. 6 Q. And those mats are made up of various layers, going -- 7 A. Horizontally and longitudinally. 8 Q. -- horizontally and going longitudinally, exactly right. 9 A. Or transversely, transversely and longitudinally. 10 Q. Or east to west or north to south -- 11 A. Correct. 12 Q. -- however you want to put it. 13 A. Correct. 14 Q. Right. Odd numbers and even numbers, another way of 15 looking at it. 16 A. Correct. 17 Q. And the evidence that we've had in the Inquiry to 18 date -- of course there is perhaps more to come later 19 today and this week from some of the MTR witnesses -- is 20 that, broadly speaking, inspections would take place on 21 a layer-by-layer basis, not on a mat-by-mat basis but a 22 layer-by-layer basis. Was that your understanding of 23 what was happening? 24 A. That was my understanding, and that's also what 25 I occasionally witnessed on site during my site walks.</p>
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<p>1 Q. -- wearing your hat as competent person -- 2 A. That's correct. 3 Q. -- in relation to the first and second batches of, as we 4 call them -- in respect of the D-walls, the diaphragm 5 walls? 6 A. That's correct. 7 Q. We'll perhaps look at one of those shortly. 8 A. No problem. 9 Q. Mr Rooney, is it correct that, to your understanding, 10 the quality supervision plan applied, so far as 11 reinforcement is concerned, to the diaphragm wall cages 12 and also the installation of the steel reinforcing bars 13 into the couplers for the purposes of forming the 14 reinforcement to the EWL and NSL slabs? 15 A. That's correct. 16 Q. So the question that arises, perhaps, is what quality 17 supervision records -- or one of the questions that 18 arises is what quality supervision records should be in 19 place in respect of that installation work -- 20 A. Understood. 21 Q. -- in order to enable you or your successor to sign off 22 a quality supervision report when you are applying or 23 putting in the BA14 submission? 24 A. That's correct. 25 Q. As far as -- let's just focus on the EWL slab for</p>	<p>1 Q. Okay. That would be done by MTRC inspectors of works 2 and Leighton's engineers? 3 A. And MTR engineers as well. 4 Q. Ultimately MTR's engineers, when it came to doing the 5 final sign-off, I think? 6 A. Correct, but also, when they would visit the site, 7 irrespective of their final sign-off, they would also 8 inspect. 9 Q. Right. 10 A. On a routine basis, sorry. 11 Q. However, the position in terms of documentation/records 12 that we have is that there is no record as such as of 13 the layer-by-layer inspections. We don't have -- 14 A. That's correct, no. No, we don't. 15 Q. We don't have a piece of paper that says, "Bottom layer, 16 we checked each connection around the perimeter"; we 17 just don't have that sort of document? 18 A. No. The inspection test plan and RISC form system 19 relied upon -- even though it was two mats, it was one 20 RISC form that covered the whole of the reinforcement 21 cage. 22 Q. Yes. So what we have ended up with, so as we understand 23 it, so far as the EWL slab is concerned, and I think 24 probably the NSL is the same, is, as you say, RISC 25 forms?</p>

Page 17	1 A. Yes. 2 Q. One of which is a hold point -- in fact they're both 3 hold points -- but the first one is a hold point at the 4 rebar inspection stage? 5 A. Correct. 6 Q. And that requires the bottom mat to be inspected and the 7 top mat to be inspected? 8 A. That's correct. 9 Q. Before we can go to the pre-pour? 10 A. Pre-concrete, yes. 11 Q. Again, in relation to the inspection at the RISC form 12 stage, the evidence appears to be that the bottom mat 13 would be inspected first, necessarily? 14 A. That's correct. 15 Q. And I think the thrust of the factual witness evidence 16 is that it was impractical to inspect the bottom mat 17 once the top mat was in place. So, for practical, 18 sensible reasons -- 19 A. I would agree with that, yes. 20 Q. -- the bottom mat would be inspected first? 21 A. Correct. 22 Q. But what we don't have is any record of precisely when 23 that bottom mat was inspected? 24 A. That's correct. 25 Q. Then of course we have the RISC form, and then we know	Page 19
Page 18	1 the top mat was inspected as well? 2 A. That's correct. 3 Q. And, if all was well, that would be signed off by 4 Leighton, by MTR, and Leighton were then allowed, as it 5 were, to move to the next stage? 6 A. That's correct. 7 Q. That, as you say, would be the pre-pour -- pre-concrete 8 pour record -- 9 A. Inspections, yes. 10 Q. -- where a final, as it were, sweep-up would take place, 11 in order to ensure that the area was in a fit state to 12 receive the concrete? 13 A. Traditionally, it's a bit more than just a sweep-up, if 14 you don't mind me saying. 15 Q. No. Please tell us what's involved. 16 A. There is quite a lot of work involved in -- apart from 17 completing all the reinforcement, making sure that all 18 the formwork is correct, all the -- particularly the 19 nature of that type of work, there's invariably lots of 20 cast-in items, and that could be fixtures, it could be 21 pipes, it could be conduits, it could be -- and they all 22 need to be thoroughly checked to make sure they are in 23 the correct location. 24 So, if you don't mind -- 25 Q. No, no.	Page 20

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<p>1 page 13272.</p> <p>2 Mr Rooney, this is what we know is a summary sheet</p> <p>3 prepared by Intrafor, and in this instance signed off by</p> <p>4 Intrafor and Leighton but not MTR, but don't worry about</p> <p>5 that. We know that some of these records are signed by</p> <p>6 all three parties, some by two and some by one. But</p> <p>7 don't worry about that. That's a point of detail.</p> <p>8 What Intrafor do here, on this summary sheet, is</p> <p>9 collect together information which can be gathered from</p> <p>10 a whole series of documents that are attached to this</p> <p>11 summary sheet. I don't know whether this is something</p> <p>12 you've seen before, but --</p> <p>13 A. To be honest, I haven't seen this particular format, but</p> <p>14 I've seen similar formats before for diaphragm wall,</p> <p>15 yes.</p> <p>16 Q. All right. If we go to page 13279 -- we can probably</p> <p>17 blow up a part of that for you -- what it is, Mr Rooney,</p> <p>18 just to tell you what it is, is --</p> <p>19 A. It looks a very good record.</p> <p>20 Q. -- rebar by rebar -- sorry, cage-by-cage signing-off</p> <p>21 sheet, effectively.</p> <p>22 A. I understand. It looks very good.</p> <p>23 Q. So MTR/Leighton/Intrafor are inspecting the connections</p> <p>24 between, to start with, cages 7 and 6 --</p> <p>25 A. 7 and 6.</p>	<p>1 A. Does this cover all the cages?</p> <p>2 Q. In this particular --</p> <p>3 A. Because there's a lot of --</p> <p>4 Q. Yes, in particular -- this particular one, I think it</p> <p>5 does. I think there were just seven cages. The clue,</p> <p>6 often, is to go to the summary sheet and see how deep</p> <p>7 the founding level is --</p> <p>8 A. Okay, no, I was just curious.</p> <p>9 Q. And if the founding level on this one is actually about</p> <p>10 minus 22, which equates normally to about six or seven</p> <p>11 cages, obviously, where you have a founding level of</p> <p>12 minus 50mPD, you are going to 15, 16 or 17 cages.</p> <p>13 A. Yes.</p> <p>14 Q. So it varies from diaphragm wall -- panel to panel.</p> <p>15 A. Thank you.</p> <p>16 Q. The next document I'd like to go to is G17,</p> <p>17 page 12661.250. If we could blow this up, please. In</p> <p>18 the top left-hand corner, Mr Rooney, again you will see</p> <p>19 this relates to EM76?</p> <p>20 A. Yes.</p> <p>21 Q. And you can see it specifically relates to cage 2 to 1,</p> <p>22 and you will see the 17:00 --</p> <p>23 A. Yes.</p> <p>24 Q. -- and 16 November 2013, which is why I asked for</p> <p>25 everybody just to note that; do you see that?</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. -- and working their way up, as it were, and then we see</p> <p>2 three signatures at each connection; do you see?</p> <p>3 A. I see.</p> <p>4 Q. So that's a source document which, prepared</p> <p>5 contemporaneously, as we understand it, signed by the</p> <p>6 parties, a record of the inspections that have been</p> <p>7 carried out?</p> <p>8 A. Like I said, it looks very thorough.</p> <p>9 Q. For purposes we'll come to in a moment, can I just ask</p> <p>10 you -- if we could blow up the top part of that</p> <p>11 document, please. You will see at the top, in</p> <p>12 manuscript, a date of 16 November 2013; do you see that?</p> <p>13 A. I can.</p> <p>14 Q. And the time is 17:00 or 17:10; do you see that?</p> <p>15 A. Sorry, no.</p> <p>16 Q. Just underneath the date, I think it says "17:10", where</p> <p>17 the hand is now usefully being put.</p> <p>18 A. I thought that was -- ah, sorry, yes, I see that now.</p> <p>19 Q. The signatures are a bit lower down.</p> <p>20 A. Yes, yes.</p> <p>21 Q. So that is the starting point, as it were, for the</p> <p>22 records, in terms of inspection of the rebar cages.</p> <p>23 Then could I ask you --</p> <p>24 A. Sorry, sir, can I --</p> <p>25 Q. Yes, sure.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I do.</p> <p>2 Q. This is a sheet, as we understand it, of a checklist</p> <p>3 which indicates, on, if you like, a coupler-by-coupler</p> <p>4 connection basis -- do you see the rebar references down</p> <p>5 the left-hand side, that all of these have been</p> <p>6 satisfactorily observed, inspected and signed off; do</p> <p>7 you see that? And if we go to the bottom --</p> <p>8 A. Is there a signature?</p> <p>9 Q. Yes. If we go to the bottom of the page, we will see</p> <p>10 a series of signatures. We understand those to be</p> <p>11 Intrafor's, across the bottom of the page.</p> <p>12 A. Okay.</p> <p>13 Q. I don't know if there's anything further to the right.</p> <p>14 Can we go to the right, please. And also signed off by</p> <p>15 MTR and Leighton; do you see that?</p> <p>16 A. I see. Very good.</p> <p>17 Q. You get a sheet -- so in addition to the cage-by-cage</p> <p>18 document that we looked at just a moment ago, you then</p> <p>19 get this sheet which, as it were, relates into what's</p> <p>20 been done on the cage-by-cage analysis?</p> <p>21 A. Understood, yes.</p> <p>22 Q. Then finally on this, could I ask you to look at</p> <p>23 H10/4840. That should be a letter, I hope, of</p> <p>24 27 January 2015.</p> <p>25 A. That's correct.</p>

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<p>1 Q. This is --</p> <p>2 A. Batch 1.</p> <p>3 Q. -- batch 1, and obviously signed by Andy Leung, sent to</p> <p>4 the Buildings Department, and the item I'm interested in</p> <p>5 is item 14 on page 4841, which is "One copy of quality</p> <p>6 supervision report of coupler for diaphragm wall[s]"; do</p> <p>7 you see that?</p> <p>8 A. I do. Thank you.</p> <p>9 Q. If we go over the page to page 4843, just to pick up</p> <p>10 a separate point.</p> <p>11 If we just see the whole of that page to start with,</p> <p>12 this is the document you signed, Mr Rooney, in your</p> <p>13 capacity as the competent person?</p> <p>14 A. That's correct.</p> <p>15 Q. In fact, this relates, as I understand it, to certifying</p> <p>16 that various materials, essentially, had been tested and</p> <p>17 found to be satisfactory?</p> <p>18 A. That's correct.</p> <p>19 Q. Then if we go, please, to page 4845, we will see the</p> <p>20 front sheet of the "Quality supervision report of</p> <p>21 coupler for diaphragm wall/barrettes"; do you see that?</p> <p>22 A. That's correct.</p> <p>23 Q. Then if we go, please, to page 4861, we can pick up the</p> <p>24 reference halfway down this page, approximately, to</p> <p>25 EM76?</p>	<p>1 submission, how would you go about it?</p> <p>2 A. I would put together all the records that were</p> <p>3 available, to confirm that the works were inspected and</p> <p>4 approved.</p> <p>5 Q. And all you've got is the RISC form, in relation to the</p> <p>6 rebar, and the pre-concrete pour?</p> <p>7 A. From an MTR perspective, that's correct.</p> <p>8 Q. And you would not be able, would I be right, to be able</p> <p>9 to do an exercise, as we have seen in relation to the</p> <p>10 diaphragm walls, on a connection-by-connection basis?</p> <p>11 A. That's correct.</p> <p>12 Q. If that were the case, do you think that would satisfy</p> <p>13 the Buildings Department?</p> <p>14 A. I believe the Buildings Department could still be</p> <p>15 satisfied, yes.</p> <p>16 Q. Okay.</p> <p>17 A. Obviously the more information you have, the better.</p> <p>18 Q. Mr Rooney, I think you're well aware that earlier this</p> <p>19 year both the MTRC and Leighton prepared some</p> <p>20 retrospective records in relation to the EWL slab</p> <p>21 itself?</p> <p>22 A. I'm aware that the MTR team prepared some retrospective</p> <p>23 coupler records for the EWL slab, yes.</p> <p>24 Q. Could we please go to those. They are at B7/4538.</p> <p>25 Mr Rooney, I imagine you have seen these documents</p>
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<p>1 A. That's correct.</p> <p>2 Q. We can see the reference to the seven cages in relation</p> <p>3 to that panel?</p> <p>4 A. Correct.</p> <p>5 Q. And the date of certainly cage 1 and cage 2 of</p> <p>6 16 November, which we saw on the two previous records?</p> <p>7 A. The final cages, yes, that's correct.</p> <p>8 Q. So, in summary, Mr Rooney, is this right, that the</p> <p>9 information that we have looked at on the cage-by-cage</p> <p>10 record and then the A3 -- it is A3, I can assure you, if</p> <p>11 you get it in hard copy sheet, on the other record that</p> <p>12 we looked at -- enabled you or somebody to prepare on</p> <p>13 your behalf this quality supervision report, and you</p> <p>14 were able therefore to have extreme confidence that what</p> <p>15 you were saying in the quality supervision report was</p> <p>16 accurate and that all this had been properly supervised</p> <p>17 and inspected?</p> <p>18 A. Correct.</p> <p>19 Q. The question that, therefore, arises is if you put</p> <p>20 yourself in the position of having to do a quality</p> <p>21 supervision report to BD in relation to the EWL slab,</p> <p>22 how would you go about it?</p> <p>23 I know you've not -- you're probably thankful you</p> <p>24 haven't got to -- but if you had to do a quality</p> <p>25 supervision report to BD, for the purposes of the BA14</p>	<p>1 before?</p> <p>2 A. I did see a copy in or around mid-June of this year,</p> <p>3 that's correct.</p> <p>4 Q. Right. This is, as you can see from the bottom of the</p> <p>5 page -- it says:</p> <p>6 "This form serves a retrospective record of coupler</p> <p>7 installation."</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. It's signed by Mr Kobe Wong, who we're going to be</p> <p>11 hearing from later day, or perhaps tomorrow, and he's</p> <p>12 put a date there of 10 February 2017. And there are</p> <p>13 various manuscript annotations or deletions and lines</p> <p>14 you can see on the page.</p> <p>15 A. That's correct.</p> <p>16 Q. As we understand it, one of the purposes for which this</p> <p>17 was prepared was because it was important, apparently,</p> <p>18 to calculate the number of couplers that had been used</p> <p>19 or incorporated into the EWL slab?</p> <p>20 A. That's not correct.</p> <p>21 Q. Right. Do you know what the purpose was of producing</p> <p>22 these documents?</p> <p>23 A. The purpose of producing these documents was for the MTR</p> <p>24 team to be able to substantiate that they had complied</p> <p>25 with the 20 per cent and 50 per cent coupler assembly</p>

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<p>1 checking requirement laid down by BD. 2 Q. I see. 3 A. Can I maybe elaborate a little bit, if you don't mind? 4 Q. Please do. Of course. 5 A. Before these sheets were retrospectively prepared, the 6 MTR team -- sorry, I can't give you a date, but let's 7 say in early June 2018 -- did a takeoff of the quantity 8 of couplers for the whole of the EWL slab, both 9 longitudinal and transverse. 10 Q. Yes. 11 A. That exercise was complete and that was based upon the 12 as-built D-wall drawings that were available. 13 Q. Yes, I mean for two of the sides, as it were, not the 14 construction joint sides but the diaphragm wall sides? 15 A. The diaphragm wall sides. 16 Q. Yes. 17 A. But also, my understanding is that we knew where -- or 18 MTR and Leighton were aware of where the construction 19 joints were. 20 Q. Okay. 21 A. And that they could do a reasonable takeoff of the 22 number of couplers that were in each of those 23 construction joints, the 31 construction joints -- 24 Q. Yes. 25 A. -- that make up the total EWL slab.</p>	<p>1 A. And our interpretation of the BD requirements was that 2 MTR was specifically required. From a BD acceptance 3 point of view, the MTR team were not required to 4 necessarily check 100 per cent of those, but they were 5 required to check a total of 20 per cent of all the 6 couplers that were in the EWL slab. 7 Q. Yes. 8 A. Plus an additional 30 per cent, to make you up to 9 a minimum of 50 per cent for the transverse slab 10 component of the EWL slab. 11 Q. Right. 12 A. Have I explained that -- 13 Q. I think so. My puzzlement, Mr Rooney, is this. We know 14 that the MTR inspected, necessarily inspected, 15 100 per cent of the D-wall connections with the rebar, 16 because they had to do so in order to sign off the RISC 17 form. 18 A. For the EWL slab? 19 Q. For the EWL slab, yes. 20 A. That is 100 per cent correct, that 100 per cent, or 21 let's say 99.9 per cent, of the couplers were checked. 22 But in terms of -- 23 Q. Sorry, I say that because we know that there is a sheet 24 here -- this is just the first one, obviously, in 25 area A, but we've got a whole group of sheets here which</p>
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<p>1 So, on the basis of, let's say, the available 2 information at that particular point in time, a total 3 number of couplers for the EWL slab was established. 4 Q. Yes. 5 A. Following on from that, there was a requirement for us 6 to be able to substantiate the requirement in the BD 7 letter of acceptance in regards to the 20 per cent and 8 50 per cent, and these sheets were retrospectively 9 produced to substantiate the 20 per cent and 50 per cent 10 of the overall, total number of couplers. I can't 11 remember the exact total number. Maybe you can help me 12 now. 26,500? 13 Q. Well, so far as the diaphragm walls were concerned, both 14 east and west, the total number of couplers derived from 15 whatever exercise was carried out -- 16 A. Correct. 17 Q. -- was 23,500. 18 A. Thank you. Then there was an additional number for the 19 construction joints. 20 Q. Which was 19,000-something -- 21 A. Thank you. 22 Q. I can't remember precisely either, but it's 23 19,000-something. 24 A. And that made up a total number. 25 Q. Yes.</p>	<p>1 cover every single bay that was concreted, and I suspect 2 that these records could only have been prepared by 3 reference to those RISC forms, so they don't actually 4 tell you anything more than what's on the RISC forms. 5 A. I can't confirm that. My apologies. 6 In terms of the numbers, in the top right-hand 7 corner, there seems to be reference to T1 and T2 and B1 8 and B2. 9 Q. Yes. 10 A. I don't know if that is 100 per cent of the couplers in 11 that bay no. 1. 12 Q. If we look at another example, it may help. If we go to 13 page 4555, one that we've looked at previously, albeit 14 it is a west as opposed to an east panel -- you will see 15 that in the top right-hand corner, but for the purposes 16 of illustration it doesn't matter. 17 A. Yes. 18 Q. What has happened is that somebody, on this one, unlike 19 the previous one, has actually taken some of the 20 sections from the drawing and put it onto this sheet; do 21 you see that? 22 A. I see that, yes. 23 Q. As I understand it, by reference to, if you like, the 24 black dots, a calculation has been done to calculate the 25 number of couplers in this particular area, in relation</p>



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<p>1 to those four panels?</p> <p>2 A. I can see the numbers, but again I'm not -- to be honest</p> <p>3 with you, I'm not sure if that's 100 per cent of the</p> <p>4 couplers --</p> <p>5 Q. All right.</p> <p>6 A. -- or whether it's the percentage that's required to</p> <p>7 satisfy the 20 per cent and the 50 per cent, because my</p> <p>8 understanding is that these sheets were retrospectively</p> <p>9 prepared purely to address the fact, in addition to the</p> <p>10 RISC forms -- and I 100 per cent agree with you that the</p> <p>11 RISC forms confirm that all the couplers were checked.</p> <p>12 The situation that we had running up to 15 June this</p> <p>13 year was that we, within MTR, did not have -- call it</p> <p>14 checklists for the BD requirement of 20 and 50 per cent.</p> <p>15 Q. Okay. But let's assume that's right. So you didn't</p> <p>16 have any records for 20 and 50 per cent.</p> <p>17 A. Not specifically, even though we had the RISC forms</p> <p>18 which, as you quite rightly say, gave us assurance that</p> <p>19 100 per cent of the couplers had been checked.</p> <p>20 Q. If you had the comfort that the RISC forms showed you</p> <p>21 that 100 per cent of the couplers had been checked, what</p> <p>22 was the purpose of preparing these documents?</p> <p>23 A. The purpose of preparing the documents was to be able to</p> <p>24 show internally within MTR, including our CEO, that</p> <p>25 there was a record that the BD 20 plus 50 had been</p>	<p>1 let's say each of those dots, Mr Chairman, represents</p> <p>2 a coupler.</p> <p>3 CHAIRMAN: Yes.</p> <p>4 A. To go to that level of detail, it's extremely admirable,</p> <p>5 and in respect to the D-wall records, they are</p> <p>6 an extremely comprehensive set of records, probably some</p> <p>7 of the best, to be honest, that I've seen.</p> <p>8 MR PENNICOTT: Yes. I don't think, and if I may say so,</p> <p>9 Mr Rooney, I don't think there's anything between us on</p> <p>10 that. Certainly from my perspective, I agree with you</p> <p>11 about the D-wall records, and that's why I've taken you</p> <p>12 to them --</p> <p>13 A. I understand.</p> <p>14 Q. -- simply for the purpose, as I indicated right at the</p> <p>15 outset, of contrasting those documents with what we've</p> <p>16 got in relation to the D-wall, which is only the RISC</p> <p>17 forms, and we don't have the connection-by-connection</p> <p>18 records.</p> <p>19 So I've reached the point where I'm suggesting to</p> <p>20 you that this type of form, or something like it --</p> <p>21 because you know the QSP has got an appendix B and C --</p> <p>22 A. It's got an example, yes.</p> <p>23 Q. An example?</p> <p>24 A. Yes.</p> <p>25 Q. Which the diaphragm wall records very closely follows.</p>
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<p>1 satisfied, in addition to the RISC forms.</p> <p>2 Q. That suggests to me, Mr Rooney, that you accept that the</p> <p>3 BD would not have accepted simply the RISC forms as</p> <p>4 evidence of the 20 per cent and 50 per cent inspection</p> <p>5 record.</p> <p>6 A. They may have done. They may have done. Because, under</p> <p>7 the BD requirements, the BD letter, there's no</p> <p>8 particular detail in terms of what format the checks on</p> <p>9 the couplers need to be presented.</p> <p>10 Q. Yes.</p> <p>11 A. So I can't say that BD would not accept the RISC forms</p> <p>12 alone.</p> <p>13 Q. Right. Would you accept this proposition, that</p> <p>14 documents in similar format to the one we are looking at</p> <p>15 on the screen here ought to have been prepared</p> <p>16 contemporaneously with this work being carried out in</p> <p>17 2015 and 2016?</p> <p>18 A. Again, the more detail you have in terms of checks,</p> <p>19 obviously it is preferred, but the level of detail</p> <p>20 that's produced in these checklists is probably more</p> <p>21 than I've ever witnessed or experienced before on</p> <p>22 previous contracts. They're extremely good records, let</p> <p>23 me --</p> <p>24 CHAIRMAN: Sorry, we are talking about this?</p> <p>25 A. That format, Chairman, the fact that you go into --</p>	<p>1 A. I agree.</p> <p>2 Q. But we don't have anything similar in relation to the</p> <p>3 EWL or the NSL slab?</p> <p>4 A. Not contemporaneously.</p> <p>5 Q. No.</p> <p>6 A. Just the retrospective records that MTR's construction</p> <p>7 team put together in 2015.</p> <p>8 Q. Yes, and the point which was --</p> <p>9 A. Sorry, 2018.</p> <p>10 Q. And the point that was put to some of the Leighton</p> <p>11 witnesses -- because Leightons prepared virtually the</p> <p>12 same type of record that we're seeing here on the screen</p> <p>13 prepared by MTR, virtually the same -- I don't know</p> <p>14 whether you've seen them -- the template was exactly the</p> <p>15 same.</p> <p>16 A. At the time I did not.</p> <p>17 Q. Right.</p> <p>18 A. Subsequently, I was shown examples, but the forms were</p> <p>19 different.</p> <p>20 Q. There are slight differences, but --</p> <p>21 A. I think the format was very, very similar.</p> <p>22 Q. Yes.</p> <p>23 A. But the actual numbers were different and I was only</p> <p>24 given a snapshot and I couldn't really understand why</p> <p>25 the numbers were different.</p>

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<p>1 Q. All right. But we do know that at the end of the day, 2 certainly at the point in time that the MTR 15 June 3 report was prepared -- but the number that MTRC had come 4 up was very similar, if not identical, to the number 5 that Leighton had come up with? 6 A. When we are talking about numbers, can we just clarify 7 that the overall number of couplers in the EWL slab, and 8 you are correct, was calculated by MTR and separately 9 calculated by Leighton, and there was a reconciliation, 10 and they arrived at -- the two teams reconciled and 11 arrived at a number that was very close to the MTR 12 number. 13 Q. Yes. 14 A. But that's the total number of couplers. 15 Q. Right. 16 A. Now, in relation to Leighton's requirement under the BD 17 stream and the BD requirement, they essentially have to 18 check 100 per cent, and I'm interpreting the words in 19 the BD letter. 20 Q. Yes, of course. 21 A. But from an MTR perspective, the requirement was the 22 minimum 20 per cent and 50 per cent. And so, if you 23 like, the number from a BD checking point of view, 24 putting the RISC forms to one side, there was 25 a difference in the requirements.</p>	<p>1 Q. Right. We've still got some more witnesses coming. We 2 can explore that a bit more if we need to. I think one 3 or two might have gone already, but we've still got the 4 signatory of this particular document so he may be able 5 to shine some light on that particular topic. 6 A. Okay. 7 Q. Could I switch to -- we're going to come back to the 8 June report in a moment. 9 A. No problem. 10 Q. But we'll deal with something else first. Could I ask 11 you, please, to look at paragraphs 63 to 66 of your 12 witness statement, where you deal with non-conformance 13 reports, Mr Rooney. 14 A. Yes. 15 Q. This is obviously a process that you're very familiar 16 with? 17 A. Yes, indeed. 18 Q. And you make reference to PIMS, and in particular you 19 make reference to exhibit 7.9, that's in paragraph 66, 20 of the PIMS document, which sets out the criteria 21 against which it needs to be -- 22 A. That's correct. 23 Q. -- judged whether NCR would be issued or not. 24 A. That's correct. 25 Q. One of the criteria, in fact the key criteria, is that</p>
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<p>1 Q. Okay. But when we spoke to the Leighton witnesses about 2 this, they had a similar form in the sense that -- I'm 3 just looking at the items, 1, 2, 3, 4, 5, 6 at the 4 bottom, and focusing on 1, 2, 3 and 4 in particular -- 5 A. Yes. 6 Q. -- we see the manuscript line that's put through the 7 "Not satisfactory" column; do you see that? 8 A. I do. 9 Q. And the evidence appeared to be, from the Leighton 10 witnesses, that provided there was a RISC form in 11 relation to this particular area, the line would just be 12 put through the "NS" column. Therefore, a point that 13 the Chairman put to one of the Leighton witnesses, was 14 this document is not actually telling you anything you 15 don't already know from the RISC form, if that's the 16 basis upon which it's been prepared. 17 A. I understand what you're saying but I can't -- 18 Q. You can't comment? 19 A. I can't comment, sorry. 20 Q. Okay. All right. 21 A. Can I just say that I am very sure that this document, 22 these checklists, were produced to substantiate the 20 23 and the 50. 24 Q. Okay. 25 A. And for no other reason.</p>	<p>1 an NCR should be issued if a matter is "significant"? 2 A. That's correct. 3 Q. And obviously that's a pretty subjective test; would you 4 agree? 5 A. I would agree, yes. 6 Q. And generally left to the construction management team? 7 A. Definitely in accordance with the PIMS. 8 Q. Yes. 9 A. But can I also say that significance is one criteria but 10 from memory there are other criteria as well. 11 Q. Yes, there are. 12 A. It's not just significance. 13 Q. There's more to it than that. 14 A. Thank you. 15 Q. Okay. And we know that one of the non-conformance 16 reports that we've been poring over from time to time in 17 this Inquiry is a document called NCR157, which wasn't 18 issued by the MTR but issued by Leighton -- 19 A. That's correct. 20 Q. -- to its sub-contractor, Fang Sheung, in relation to 21 cut rebar, threaded rebar -- 22 A. Correct. 23 Q. -- and in relation to rebar that was not screwed in 24 properly. 25 A. Correct.</p>

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<p>1 Q. And that's an NCR that you presumably weren't aware of 2 at the time but you have subsequently considered; is 3 that right? 4 A. I definitely wasn't aware when it was raised in December 5 2015, but I became aware of it in January/February 2017. 6 Q. Yes, which we are coming to in a moment. 7 I will just ask the general question before we get 8 to January 2017 and Mr Poon's email, and so forth: when 9 you looked at that Leighton NCR -- 10 A. Yes. 11 Q. -- in early 2017, presumably you looked at the 12 photographs that were attached to it? 13 A. I did. 14 Q. And you saw the description in the NCR? 15 A. Yes. 16 Q. Did you yourself form -- and perhaps I will ask you now: 17 do you think that that was a significant enough matter 18 for MTR to have issued an NCR to Leighton? 19 A. I would have said, based upon the normal procedures, the 20 MTR procedures, and the PIMS document, the monitoring of 21 site works, the preference would have been to get 22 Leighton to raise the NCR. There had been, if you like, 23 a push to try to get main contractors to be more 24 proactive in terms of managing their quality management 25 system over the years, even before I joined MTR, and</p>	<p>1 Q. Do you see that? 2 A. Correct. 3 Q. Who was responsible within MTR of maintaining oversight? 4 A. Ultimately, the construction manager. 5 Q. Right. And that oversight would involve, what, ensuring 6 that the NCR was closed out and dealt with 7 satisfactorily? 8 A. Whatever action was required and it was closed out and 9 the documentation was put in place to record that, yes. 10 Q. Okay. 11 A. But the CM would obviously have assistance from his 12 engineering and inspection team to follow up on that. 13 Q. Right. So does MTR keep a register or log of 14 contractors' NCRs as they are received and copied to 15 MTR? 16 A. Yes. They keep two logs. They keep a log of, if you 17 like, the MTR NCRs, and they keep -- there's a log of, 18 let's say, the main contractor's NCRs as well. 19 Q. All right. 20 A. And they are I think -- I'm not sure if they are on the 21 same database, but they are regularly reviewed. 22 Q. Right. And do the quality assurance personnel at MTR 23 have access to those registers? 24 A. Yes, they do. 25 Q. So, as I understand it, we're hearing from one witness</p>
<p>Page 42</p> <p>1 I can appreciate that approach; okay? 2 So I can see the rationale behind trying to get 3 Leighton to raise the NCR. 4 Q. Right. There was no instruction, I don't think, or 5 order -- direction to Leighton to do that, but they did 6 in fact do that? 7 A. I think -- I recollect that I think it was Kobe issued 8 an email, and I think the tone -- even though he didn't 9 say in his email, "Please raise an NCR", I think the 10 tone of Kobe's words in the email were sort of directing 11 Leighton to raise an NCR. 12 Q. Okay. 13 A. And I suspect that there was probably some conversations 14 held around the time, and Leighton did the right thing, 15 in my opinion, and immediately raised their NCR. 16 Q. Right. In your paragraph 66, to which I made reference 17 just a moment ago -- 18 A. Yes. 19 Q. -- you say in the last sentence -- and obviously this 20 applied to NCR157: 21 "MTRC shall obtain a copy of Leighton's NCR ..." 22 Which it did in this particular instance. 23 A. Correct. 24 Q. "... to its sub-contractor to maintain oversight ..." 25 A. Correct.</p>	<p>Page 44</p> <p>1 probably later this week or early next week who is one 2 of the senior quality assurance personnel at MTR who 3 carries out audits from time to time, internal audits -- 4 A. Correct. 5 Q. -- for MTR. 6 A. Correct. 7 Q. So he and his team would have access to those NCR 8 registers? 9 A. Correct. 10 Q. Okay. I'll follow that up with him as to whether he 11 actually looked at them. 12 A. Understood. 13 Q. Now, let's move on to Mr Poon's email of 6 January 2017. 14 Could we go, please, to B10/7528. 15 A. Correct. 16 Q. What had happened, Mr Rooney, as I understand it -- and 17 you describe in paragraph 70 and following in your 18 statement -- is that Mr Michael Fu had forwarded 19 an email to you that he had received from Mr Zervaas? 20 A. That's correct, yes. 21 Q. You say that you've read that email exchange -- and 22 there it is in front of you again, if you need to look 23 at it -- and you say, this is paragraph 72 of your 24 witness statement, if we can get that up, please -- you 25 say that you "directed Mr Fu to work with Leighton to</p>

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<p>1 understand the background of the allegations and to 2 instruct Leighton to investigate and provide a formal 3 report of the findings of its investigations." 4 In fact, if one looks at the email -- I'm sorry for 5 jumping around here -- 6 A. It's okay. I remember the email. 7 Q. -- Mr Zervaas in fact informed Mr Fu that he already 8 requested Mr Lumb to start investigating? 9 A. That's correct. 10 Q. So that was just you emphasising, presumably, that you 11 wanted that investigation to be done? 12 A. And to work with Leighton, yes. 13 Q. Would this be right: there was no attempt to put any 14 restraints or constraints -- 15 A. Definitely not. 16 Q. -- on Leighton's investigation? 17 A. Nobody. 18 Q. You didn't tell them to do an internal investigation; 19 you just wanted them to do an investigation? 20 A. That's 100 per cent correct. And apart from obviously 21 the email, I spoke with Anthony. From memory, I spoke 22 to him that night or the following morning, and we 23 agreed that it needed to be investigated in depth and to 24 understand what China Technology were saying. 25 COMMISSIONER HANSFORD: Can I ask, Mr Rooney: did you</p>	<p>1 A. I did. 2 Q. Were you satisfied that they dealt with the issue 3 properly, thoroughly, and in a manner that satisfied 4 you? 5 A. I was. 6 Q. Could I then -- 7 CHAIRMAN: Sorry, if I could just ask here a couple of 8 questions. We have looked at the report prepared by 9 Leighton, and I only wish to talk briefly about that. 10 What puzzled us, me in particular perhaps -- I don't 11 wish to necessarily pull Prof Hansford into this -- he 12 has his own views on these things, although often 13 hopefully we have them together -- but, firstly, there 14 was the issue of if this was by that stage purely 15 historical, a week should have been imposed as a time 16 limit. Secondly, it was seemingly a purely internal 17 investigation, which was taken as meaning effectively 18 and practically that there would be no interviewing of 19 or discussions with people outside of presumably 20 Leighton or MTR. So Jason Poon himself was not 21 interviewed, even though he was the one who had laid the 22 complaint. 23 His photographs, which on study by this Commission 24 appear to show, and I stress "appear", a worker cutting 25 the threads off a reinforcing bar quite openly, and then</p>
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<p>1 require that the investigation was done within 2 a particular time scale? 3 A. I think we agreed, myself and Anthony agreed, that we 4 wanted to do it as quickly as was reasonably possibly, 5 but at the time I don't recall that I put -- I didn't 6 say, "It needs to be done in the next week or so", 7 I don't think that was the case, although I subsequently 8 read that Stephen Lumb was asked to have his report 9 within a week, I think. 10 COMMISSIONER HANSFORD: Right. 11 A. But that time line did not come from MTR. 12 COMMISSIONER HANSFORD: Thank you. 13 MR PENNICOTT: The upshot of all this, Mr Rooney, is that 14 you in fact received two reports: one, the Leighton 15 report prepared by Mr Lumb and his colleagues, and also 16 your own internal report prepared by Mr Carl Wu? 17 A. Carl Wu, that's correct. In parallel with Leighton 18 undertaking their report or their investigation and 19 preparation of the report, in my discussions with 20 Mr TM Lee at the time, we mutually agreed that we needed 21 to carry out an independent investigation, and it was 22 agreed that Mr Carl Wu was probably best placed to 23 undertake that on behalf of MTR. 24 Q. Okay. You presumably received and considered both of 25 those reports?</p>	<p>1 joining, perhaps, other workers to put that bar into 2 a diaphragm wall. No mention is made in the report of 3 that at all, even though that was the dynamite, if I can 4 call it that, that came with the allegation, in other 5 words something to back up the allegation. 6 It seems that nobody spoke either to anybody among 7 the sub-contractors, especially the bar fixers, as to 8 what had happened, and it wasn't known, for example, in 9 that report, that apart from the NCR which was 10 identified, there had been two earlier instances of 11 rebar cutting which the people who prepared this report 12 didn't get to, because they didn't interview the people. 13 That puzzles us. Those number of items puzzle us, 14 and I wonder if you have any comment on that. 15 I appreciate that you didn't put the report together and 16 it was put together by another organisation. 17 A. In terms of people to be interviewed, I can appreciate 18 from Leighton's perspective at least, if you like, from 19 a first report point of view that they did not want to 20 speak to Mr Jason Poon or interview Mr Jason Poon 21 directly. 22 In terms of whether they should or could have 23 interviewed, let's say, Fang Sheung or Fang Sheung's 24 workers -- they could have done. I'm not sure that they 25 would have got, from my experience, very much feedback</p>

<p style="text-align: right;">Page 49</p> <p>1 from Fang Sheung, apart from possibly not accepting that 2 their workers were ever involved in any trimming or 3 cutting of bars. 4 CHAIRMAN: Although when we looked to Fang Sheung, we 5 discovered that there had been two earlier cuttings of 6 rebars, and those had been dealt with and warnings had 7 been given to the staff and all that sort of stuff. 8 A. Correct. But with due respect to the Commission, that 9 has been established over quite a lot of hard work by 10 people involved, and testimonies and the like. 11 CHAIRMAN: I accept that, yes. 12 A. I think it's good that we now know that Fang Sheung's 13 workers were involved in trimming those bars, but for 14 Leighton to be able to establish or to get Fang Sheung 15 to accept that at that particular point of time, I think 16 that would have been unlikely, from my experience, to be 17 honest. 18 But I accept that, yes, a more in-depth 19 investigation could have been carried out, and I think 20 definitely from an MTR perspective, if let's say the 21 first investigations had identified something more 22 substantial than those investigations did reveal, then 23 I think the investigation would have had to have gone to 24 another level. 25 CHAIRMAN: Yes.</p>	<p style="text-align: right;">Page 51</p> <p>1 CHAIRMAN: Yes. 2 A. But unfortunately we didn't at that time. 3 CHAIRMAN: Of course that was an exercise of discretion at 4 the time, and I suppose, whenever you look back on 5 a road that leads to a scandal -- I use the term 6 advisedly -- there are often, if you follow the path 7 backwards, little stopovers, if I can put it that way, 8 which if dealt with differently might have a different 9 result. I appreciate that. 10 A. I totally agree. Also, apart from at the site level MTR 11 were aware at a senior project level and MTR were aware 12 from a PR perspective of the allegations. At no time 13 was it felt that having read the reports from both 14 Leighton and the internal MTR report that we should 15 broaden out the subject, either by going back to 16 Mr Jason Poon or going anywhere else with the 17 allegation, because, as I said, there did not seem to be 18 any significant validity in it, apart from the fact that 19 both Leighton and MTR identify the NCR as a record of at 20 least one incident, and the MTR report also acknowledged 21 that there had been a couple of other incidences of -- 22 from memory, I think they used the words -- "workmanship 23 issues". 24 CHAIRMAN: Yes. Thank you very much. 25 MR PENNICOTT: The other thing both of those reports refer</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Okay? 2 CHAIRMAN: And could I ask also -- it appears, and I stress 3 that word, it "appears", that Mr Jason Poon was never 4 informed of what the report had concluded. He was never 5 given any feedback. 6 Now, I appreciate that maybe contractors don't need 7 to be liaising/discussing with sub-contractors, but this 8 was a fairly dramatic set of allegations. 9 A. I agree. 10 CHAIRMAN: And clearly, from looking at the emails, they 11 stirred up a concern, quite understandably and quite 12 properly, and you had a gentleman of fairly robust 13 nature, it would appear, who is making certain demands, 14 and I just wonder if, in all the circumstances, at least 15 going back to him and saying, "Look, we've investigated 16 this, it has been properly investigated; we don't find 17 any substance in any of this", or is that just something 18 that's not done in the industry? 19 A. I don't think, generally speaking, it's done in the 20 industry -- and, Mr Chairman, I've considered this 21 amongst a few other points since 7 August, and in 22 retrospect I think it would have been better if we, MTR, 23 and Leighton, had gone back and to China Technology, at 24 the time, and said, "We've investigated and we found no 25 substance to your allegations."</p>	<p style="text-align: right;">Page 52</p> <p>1 to and record, that is the Leighton report and the 2 internal MTRC report by Mr Wu, is the lack of records. 3 A. In terms of cutting bars or ...? 4 Q. In terms of inspection and supervision of bars, they 5 both say there are no records, other than the RISC 6 forms. 7 A. I can specifically remember that within the MTR report, 8 Mr Carl Wu highlighted the fact that there was there 9 were some records that needed to be completed. To be 10 honest, I can't remember personally from the Leighton 11 report whether they talked about missing records, but 12 you are probably correct, but I can't remember. 13 COMMISSIONER HANSFORD: They -- 14 CHAIRMAN: It is stated clearly, "There are no records", 15 which didn't seem to disturb anybody. 16 A. Sorry, I missed that fact. 17 MR PENNICOTT: I wonder whether this might be a point, 18 Mr Rooney, that there was a lack of confidence in 19 Leighton and MTR to go back to Mr Poon and anybody else 20 who was interested because of the lack of records? 21 A. That was never my contemplation at the time, no, and 22 I've got clear recollection that that was never 23 mentioned to me as a reason why we should not go back to 24 Jason Poon or to expand the investigation any further. 25 No, I --</p>

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<p>1 Q. Because it -- sorry.</p> <p>2 A. I can understand how somebody could make that link, but</p> <p>3 that was definitely not my understanding at the time.</p> <p>4 Q. It just strikes me as a possibility, Mr Rooney, that if</p> <p>5 you had connection-by-connection records, similar to the</p> <p>6 ones in relation to the diaphragm walls, one could have</p> <p>7 said to Mr Poon, or anybody else who was interested,</p> <p>8 "Well, look, you might have seen somebody cutting these</p> <p>9 bars, there might have been this NCR, but here we are,</p> <p>10 we've got a connection-by-connection inspection record</p> <p>11 which shows every single connection was inspected and</p> <p>12 signed off by MTR and Leighton. So whatever you might</p> <p>13 have seen, we've got these records which demonstrate</p> <p>14 there's absolutely nothing wrong with the workmanship in</p> <p>15 relation to these connections."</p> <p>16 A. Again, I don't believe that was ever a contemplation,</p> <p>17 because we had -- and it was confirmed at least in the</p> <p>18 MTR investigation report -- all the RISC forms,</p> <p>19 particularly for the reinforcement, that confirmed that</p> <p>20 the reinforcement was in accordance with the design and</p> <p>21 the specification. So just the RISC forms alone were</p> <p>22 more than enough evidence that the rebar and the</p> <p>23 couplers were completed and carried out in accordance</p> <p>24 with the requirements.</p> <p>25 However, Mr Carl Wu's report did highlight that</p>	<p>1 China Technology and Jason Poon, ref below email from</p> <p>2 Jason."</p> <p>3 And that was his email of 6 January.</p> <p>4 A. Yes.</p> <p>5 Q. You say this:</p> <p>6 "This is part of Jason's strategy to put pressure on</p> <p>7 Leighton to pay him the extra \$3 million this week.</p> <p>8 As Michael advises we are checking our records to</p> <p>9 ascertain whether there is any validity in Jason's</p> <p>10 claim.</p> <p>11 Jason may leak such claims to the media, we are</p> <p>12 preparing the line to take."</p> <p>13 A. That's correct.</p> <p>14 Q. In the paragraph just above where you set out that</p> <p>15 email, you say this, Mr Rooney:</p> <p>16 "The reason why I informed Philco Wong and TM Lee</p> <p>17 was that it was an alleged incident notified by</p> <p>18 a sub-contractor who I believed was having commercial</p> <p>19 issues with the main contractor and had threatened to</p> <p>20 make a public release of the information that he had."</p> <p>21 Now, first of all, on what basis did you believe</p> <p>22 that there was a commercial issue between Leighton and</p> <p>23 China Technology?</p> <p>24 A. From discussions I've had with Anthony Zervaas,</p> <p>25 Leighton's project director at the time.</p>
Page 54	Page 56
<p>1 there was an absence of the QSP records, that's correct.</p> <p>2 Q. Yes. Mr Rooney, it was through the production of the</p> <p>3 two reports, the Leighton report and your internal</p> <p>4 report by Mr Wu, that I think you then came to know</p> <p>5 about NCR157 and that's how your knowledge was gained?</p> <p>6 A. That's correct.</p> <p>7 Q. As I think you say in paragraph 75 of your witness</p> <p>8 statement, you and your team, those you discussed it</p> <p>9 with, Mr Philco Wong and Mr Lee, were satisfied that</p> <p>10 this was just a one-off incident, an isolated issue, you</p> <p>11 say, and therefore you were prepared not to take it any</p> <p>12 further?</p> <p>13 A. Yes, based upon the investigations, there was no</p> <p>14 evidence that there was anything more than a limited</p> <p>15 number of occasions.</p> <p>16 Q. Right.</p> <p>17 Returning briefly to Mr Poon's email of 6 January,</p> <p>18 having had it forwarded to you by Mr Fu, Michael Fu,</p> <p>19 you, as you say in paragraph 73 of your witness</p> <p>20 statement, sent an email to Mr TM Lee?</p> <p>21 A. That's correct, yes.</p> <p>22 Q. You've actually set it out in your witness statement.</p> <p>23 The file reference is B10/7523, but we can read it from</p> <p>24 your witness statement. You say:</p> <p>25 "Following our discussion at lunchtime regarding</p>	<p>1 Q. Right.</p> <p>2 A. He -- along with all the Leighton staff, I got on quite</p> <p>3 well with Anthony and we shared information, and he had</p> <p>4 told me that at some point in December, and I can't</p> <p>5 remember exactly when, but he told me, when we met face</p> <p>6 to face, and it could have been after one of our site</p> <p>7 walks, that China Technology was raising some issues,</p> <p>8 commercial issues, which -- and again, to be honest, was</p> <p>9 not unsurprising at that particular time, because we</p> <p>10 were -- and I had raised at one of our Thursday morning</p> <p>11 meetings with Leighton that we were running up to</p> <p>12 Chinese New Year, and at that particular time of year it</p> <p>13 was not unusual for some of our sub-contractors, or the</p> <p>14 main contractor/sub-contractors, to be under some</p> <p>15 pressure commercially to settle end-of-year bills and</p> <p>16 the like.</p> <p>17 So we always anticipated, not just on 1112 but on</p> <p>18 every job, that that was, let's say, a sensitive time of</p> <p>19 the year commercially for particularly our</p> <p>20 sub-contractors, and suppliers as well.</p> <p>21 Q. Okay.</p> <p>22 A. So Anthony kept me informed, and it wasn't just China</p> <p>23 Technology that was at the time seeking some assistance.</p> <p>24 There were one or two other sub-contractors. But like</p> <p>25 I say, to be honest, that's not unusual at that time of</p>

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<p>1 the year.</p> <p>2 MR PENNICOTT: Sir, I'm about to go on to the 15 September</p> <p>3 situation, so perhaps that would be a convenient moment.</p> <p>4 CHAIRMAN: Yes, certainly. 15 minutes.</p> <p>5 Sorry, just one matter --</p> <p>6 WITNESS: No problem.</p> <p>7 CHAIRMAN: -- if I could mention it. While you are giving</p> <p>8 your evidence, you are not permitted to discuss your</p> <p>9 evidence with anybody else at all; okay?</p> <p>10 WITNESS: Understood.</p> <p>11 CHAIRMAN: When you finish your evidence, then of course you</p> <p>12 can do so.</p> <p>13 WITNESS: Yes.</p> <p>14 CHAIRMAN: Thank you.</p> <p>15 (11.39 am)</p> <p>16 (A short adjournment)</p> <p>17 (12.00 pm)</p> <p>18 MR PENNICOTT: Sir, Professor, Mr Rooney, I'm going to move</p> <p>19 on to some events in September 2017 --</p> <p>20 A. Understood.</p> <p>21 Q. -- that appear in your witness statement.</p> <p>22 Can we please start by looking at B10/7494. At the</p> <p>23 bottom half of that page, Mr Rooney, you will see</p> <p>24 an email of 15 September from Mr Jason Poon to Mr Frank</p> <p>25 Chan, the Secretary for Transport and Housing; do you</p>	<p>1 "The meeting between Karl Speed/Anthony Zervaas and</p> <p>2 Mr Poon has just been completed.</p> <p>3 Mr Poon is seeking a payment of alleged \$3 million,</p> <p>4 for completed works.</p> <p>5 The agreement is for their respective QS to meet</p> <p>6 tomorrow to agree this figure.</p> <p>7 Speed and Anthony will meet with Jason Poon again on</p> <p>8 Monday ..."</p> <p>9 Then you say this, Mr Rooney, which I'm interested</p> <p>10 in:</p> <p>11 "I have told Anthony [that's Zervaas] that Leighton</p> <p>12 must finalise and close their 1112 sub-contract account</p> <p>13 with China Technology next week, once and for all, the</p> <p>14 legal terms of which to cover all related aspects will</p> <p>15 need to be agreed."</p> <p>16 Why did you put it in those terms to Mr Zervaas of</p> <p>17 Leighton, that he ought to finalise and close the</p> <p>18 account with China Technology once and for all?</p> <p>19 A. Again, that was in relation to a number of discussions</p> <p>20 that I had with Anthony about the fact that China</p> <p>21 Technology seemed to be repeatedly coming back to</p> <p>22 Leighton seeking additional moneys, and using the</p> <p>23 pretext of their allegations going back to 6 January.</p> <p>24 Q. Right.</p> <p>25 A. And Anthony agreed with me that they needed to finalise</p>
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<p>1 see that?</p> <p>2 A. That's correct, yes.</p> <p>3 Q. That, I understand, was forwarded to you, see the top</p> <p>4 half of the page --</p> <p>5 A. That's correct.</p> <p>6 Q. -- by Mr Zervaas, and he tells us that they're trying to</p> <p>7 get in contact with Mr Poon --</p> <p>8 A. Yes.</p> <p>9 Q. -- and to have a meeting?</p> <p>10 A. Yes.</p> <p>11 Q. Then back a page, 7493, you write to and forward,</p> <p>12 I think, the two previous emails to Mr TM Lee?</p> <p>13 A. That's correct, yes.</p> <p>14 Q. And you just inform him about what's going on as between</p> <p>15 Mr Poon and Mr Zervaas?</p> <p>16 A. Yes. I actually spoke to Anthony that day as well, once</p> <p>17 I received the email from him. He was in Macau at the</p> <p>18 time but I managed to get in contact with him.</p> <p>19 Q. I think you told us he was in Macau at the time and he</p> <p>20 came back for the meeting later on in the afternoon.</p> <p>21 A. Yes. And I requested that he try and do that.</p> <p>22 Q. Then at the top of page 7493 is another email from</p> <p>23 yourself to Mr Lee and others, including Philco Wong and</p> <p>24 Carl Wu and Raymond Au, and you say this, Mr Rooney.</p> <p>25 You refer to:</p>	<p>1 the account with them.</p> <p>2 Q. Okay. Is it really in order for somebody in your</p> <p>3 position at the MTR to tell Leightons, essentially</p> <p>4 instruct Leightons, that they should close out this</p> <p>5 sub-contract with China Technology? Is that a usual</p> <p>6 sort of procedure?</p> <p>7 A. Again, we work quite closely with our main contractors</p> <p>8 and share our views openly in terms of issues, and I had</p> <p>9 discussed it with Anthony. My view was that Leighton</p> <p>10 should finalise their account with China Technology, and</p> <p>11 I was basically saying that to him. Ultimately, it's</p> <p>12 really the main contractor's decision. That was my</p> <p>13 advice. Like I say, I think Anthony agreed with me, but</p> <p>14 they don't necessarily need to follow that. With</p> <p>15 respect, it's not an instruction under the contract</p> <p>16 or ...</p> <p>17 Q. It was fairly firmly worded, Mr Rooney, was it not?</p> <p>18 A. Look, again, I think myself and Anthony had a good</p> <p>19 working relationship. We talked plainly, we talked</p> <p>20 plainly, between ourselves.</p> <p>21 Q. Anyway, you had clearly formed the view that you'd had</p> <p>22 enough of China Technology and this sub-contract should</p> <p>23 be closed out?</p> <p>24 A. I felt that China Technology were not -- and it was not</p> <p>25 just in relation to the commercial situation, but</p>

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<p>1 I didn't feel that China Technology were adding any 2 value commercially, but there were also lots of other 3 background issues related to China Technology's 4 performance at that time, both in terms of safety, in 5 terms of quality and undertaking remedial works, and 6 also resources. 7 So, with respect, yes, we're talking about here -- 8 the subject here appears to be commercial, but there was 9 a much bigger picture there at the time, in terms of the 10 overall performance of China Technology. They weren't, 11 in my opinion, and in the opinion of the MTR team -- and 12 I think it was also supported by quite a number of 13 members of the Leighton team -- China Technology were 14 not adding any value to the contract anymore. 15 Q. Okay. Were you aware at the time that Leighton also had 16 another project with China Technology, although they 17 were in a joint venture with another company, on another 18 project? 19 A. I was, Anthony did tell me, let's say, that was one of 20 the issues. 21 Q. All right. So that was brought up in your discussion 22 with Mr Zervaas? 23 A. Yes, again Anthony was very open. It wasn't just simply 24 an 1112 contract issue. There were complications 25 because of this other contract.</p>	<p>1 shortly, and they had sorted it out? 2 A. It would appear so, yes, at that time. 3 Q. That was your interpretation of this email? 4 A. At that point in time, yes. 5 Q. You then say at 83 that you had a discussion with Philco 6 Wong and Mr Lee, and you concluded that no further 7 action was required for MTR? 8 A. That's what we all concluded, yes. 9 Q. So, as far as you were aware, at that stage, had 10 Leightons effectively done what you suggested or advised 11 they might do, that is to close out the sub-contract 12 with China Technology? 13 A. That was my understanding from what Anthony wrote in his 14 email, and what I discussed with him over the phone as 15 well, after he issued the email. 16 Q. Right. Was there ever any discussion between you and 17 Mr Zervaas, or you -- sorry, let me just ask you this: 18 did you have any conversations with Mr Karl Speed or was 19 it just with Mr Zervaas? 20 A. I'm almost 100 per cent certain it was only with 21 Anthony. 22 Q. Okay. And during the course of those conversations with 23 Mr Zervaas, did you have any discussion about 24 a confidentiality agreement? 25 A. That was part of the discussion, yes.</p>
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<p>1 Q. All right. 2 A. But, to be honest, I didn't interrogate Anthony in terms 3 of the details of the other contract, because it 4 really -- 5 Q. All right. That wasn't something that was at the 6 forefront of your mind; it was really focused on 1112? 7 A. Exactly. It was another project and I didn't really 8 have anything to do with that, so ... 9 Q. Okay. 10 A. I appreciated that Anthony informed me again that it 11 wasn't straightforward. 12 Q. Okay. Now, going to your witness statement -- I don't 13 think we need to look at the various emails that you 14 refer to -- but going to -- paragraph 78 sets out the 15 email that we've just looked at. 16 A. Yes. 17 Q. Then, at paragraphs 79, 80 and 81 and 82, you refer to 18 a succession of further emails -- 19 A. Correct. 20 Q. -- that were sent on the 15th -- sorry, 18 September? 21 A. That's correct. 22 Q. The upshot is the email that you refer to at 23 paragraph 82. It's the email that we've looked at many 24 times, where Mr Poon says, "During these few days we are 25 working tight and hard on sorting things out", to put it</p>	<p>1 Q. Can you explain to us how that came into the discussion? 2 A. Only that that was one of the documents that Leighton 3 were considering, but in our discussions, between myself 4 and Anthony, we weren't really sure what the ultimate 5 value of that document could be or would be, and we 6 agreed to leave it to his legal department to decide 7 whether there was any value in it. 8 Q. Right. Were you ever shown, back in September 2017, 9 a draft confidentiality agreement? 10 A. No. I didn't see any of the documents associated with 11 closing out to the account, and the discussion on the 12 confidentiality agreement was fairly brief. 13 Q. Right. So how did it arise? Did Mr Zervaas just say to 14 you, "Actually, Aidan, we're thinking about entering 15 into this confidentiality agreement; any views?" Or how 16 did it arise? 17 A. I think it was words to that effect, that -- yes, it 18 just came up in the discussion as to whether there'd be 19 any value in it. 20 Q. All right. I guess if you hadn't seen the terms you 21 wouldn't have been able to form a view about that 22 anyway? 23 A. I think we were -- it wasn't so much the terms, but what 24 value a confidentiality agreement would ultimately have, 25 you know, whether it would protect Leighton or whether</p>



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<p>1 there was any value in it, really.</p> <p>2 Q. Right.</p> <p>3 A. And neither myself nor Anthony at the time could come to</p> <p>4 a conclusion of whether there was value one way or</p> <p>5 another, either contractually or commercially.</p> <p>6 Q. All right. Did Mr Zervaas tell you subsequently that</p> <p>7 a confidentiality agreement had been entered into, even</p> <p>8 though you didn't see a copy of it?</p> <p>9 A. He didn't tell me verbally, but I think he said so in</p> <p>10 his email.</p> <p>11 Q. All right.</p> <p>12 A. I think if we go back to --</p> <p>13 Q. Yes, you're quite right. In the email of 6.28, at</p> <p>14 paragraph 80, you're quite right.</p> <p>15 CHAIRMAN: It's highlighted with the dots at the top of the</p> <p>16 page 28 of your --</p> <p>17 MR PENNICOTT: You're quite right, Mr Rooney. That's right.</p> <p>18 Okay. Good.</p> <p>19 Now, the last topic from me, Mr Rooney: the MTRC</p> <p>20 report, 15 June this year.</p> <p>21 A. Yes.</p> <p>22 Q. Harking back to some discussion we had earlier, were you</p> <p>23 actually told, at the time that you saw a copy, first</p> <p>24 saw a copy, of I imagine a draft report before it was</p> <p>25 finalised --</p>	<p>1 Q. Well, you say that, Mr Rooney. Could we go, please, to</p> <p>2 paragraph 94 of your witness statement, at B211, where</p> <p>3 you say, the second sentence:</p> <p>4 "After several rounds of comments on the</p> <p>5 calculations of the total quantity of couplers required</p> <p>6 to comply with the BD requirements of minimum</p> <p>7 20 per cent and 50 per cent of the total quantity</p> <p>8 referred to in paragraph 92 above, I received the</p> <p>9 finalised version of Kobe Wong's signed record</p> <p>10 sheets ..."</p> <p>11 Now, first of all, can you confirm that those are</p> <p>12 the ones that we were looking at this morning?</p> <p>13 A. They are.</p> <p>14 Q. You received them on 15 June from James Ho, which is</p> <p>15 what he says --</p> <p>16 A. That's correct.</p> <p>17 Q. And you agree. Then you say this:</p> <p>18 "I was instructed to attach them to the MTR report</p> <p>19 on the same day."</p> <p>20 I suspect you can anticipate the question that's</p> <p>21 coming: by whom were you instructed, Mr Rooney?</p> <p>22 A. I was initially instructed or advised by the executive</p> <p>23 team that were putting the report together that they</p> <p>24 wanted those records to be attached. There was</p> <p>25 a subsequent discussion, later on in the afternoon of</p>
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<p>1 A. Yes.</p> <p>2 Q. -- how the total number of couplers had been calculated?</p> <p>3 A. I recall, from advice from my team, that MTR had</p> <p>4 calculated it on the basis of the as-built D-wall record</p> <p>5 drawings. They'd actually gone to those drawings and</p> <p>6 done what we call a takeoff of the couplers from those</p> <p>7 drawings.</p> <p>8 Q. All right. We looked at a couple of examples earlier</p> <p>9 this morning of the retrospective records that had been</p> <p>10 prepared.</p> <p>11 A. Correct.</p> <p>12 Q. I think you may have described them this morning, and</p> <p>13 certainly Mr James Ho described them when we heard from</p> <p>14 him recently, as internal records; is that right?</p> <p>15 A. That's correct.</p> <p>16 Q. Is it right that when Mr James Ho passed those records</p> <p>17 to you just before the report was disseminated --</p> <p>18 A. Yes.</p> <p>19 Q. -- that he told you or reminded you that they were</p> <p>20 internal records and should not be publicised?</p> <p>21 A. That's correct.</p> <p>22 Q. However, we know that in fact those records were</p> <p>23 appended to the June report; that's correct, isn't it?</p> <p>24 A. I understand that that's correct, yes. That was</p> <p>25 an administration error, I believe.</p>	<p>1 the 15th, where it was decided that those records would</p> <p>2 not be attached.</p> <p>3 Q. Then what happened?</p> <p>4 A. Apparently they were attached.</p> <p>5 Q. All right.</p> <p>6 A. But I believe that that was, as I said,</p> <p>7 an administration error. I was initially told that they</p> <p>8 would be attached, then there was a subsequent</p> <p>9 discussion that they didn't add any value and that there</p> <p>10 was no necessity to attach them.</p> <p>11 Q. Can you please tell me who the members of the executive</p> <p>12 team preparing this report were?</p> <p>13 A. It was a combination of Lincoln, Philco and the senior</p> <p>14 legal team.</p> <p>15 Q. Right. When you received the original instruction to</p> <p>16 attach then the records to the report, so you would have</p> <p>17 been told by either Philco Wong, is that right, or</p> <p>18 Lincoln Leong, or somebody else?</p> <p>19 A. I believe it was Lincoln.</p> <p>20 Q. Okay.</p> <p>21 A. The discussion was primarily with Lincoln, but Philco</p> <p>22 was there.</p> <p>23 Q. Right.</p> <p>24 A. Because Lincoln and Philco wanted to actually see the</p> <p>25 records.</p>

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<p>1 Q. Did you show them -- did they see the records? 2 A. Yes. 3 Q. So you had a discussion. They were very keen that the 4 records should be attached -- initially? 5 A. I think Lincoln was of the view to attach them. 6 Q. Right. Did you explain to him that they were internal 7 records and that they had been -- presumably, if he read 8 them, he could see they had been retrospectively 9 prepared? 10 A. We didn't -- I do not recall that we discussed the 11 retrospective nature of those records. 12 Q. Right. 13 A. Okay? But we did discuss whether they should -- or 14 whether there was any absolutely in including them in 15 the report. My view was that there wasn't. Lincoln 16 thought that there was, and so he initially said, 17 "Include them." So they were one of the set of initial 18 attachments to go to government. But then in the 19 afternoon, late in the afternoon, I was asked to go 20 through the attachments, and I raised the issue again of 21 not including, not only that, but some other 22 attachments, and they were one of the ones that it was 23 agreed was not necessary to include with the report. 24 Q. And that was a discussion again, what, between you, 25 Dr Wong and Lincoln Leong?</p>	<p>1 the main two reasons why I felt that there was no value 2 in adding them to the report as attachments. 3 Q. Right. So, in a sense, you and Mr Ho, James Ho, were 4 sort of aligned in the sense that they were internal 5 records, they really shouldn't be publicised and they 6 should have been retained as internal records? 7 A. As I think I said this morning, the main reason why 8 those records were produced was to give Lincoln a set of 9 documents which confirmed the BD requirements for the 10 20 per cent and 50 per cent in terms of actual numbers. 11 Q. And it's that point where I'm having a little bit of 12 difficulty, Mr Rooney, because on the one hand Mr Ho and 13 yourself have described these as internal records, but 14 on the other they appear to be records that are being 15 lined up to be sent to the BD with the BA14 application, 16 and there seems to be a bit of an inconsistency there, 17 unless I have misunderstood the position. 18 A. With respect, I think if we go back to the D-wall BA14, 19 call it the checklist document which is in a similar 20 format, that was never provided to BD and there's no 21 requirement to provide that to BD. 22 So, from a submission document point of view, 23 whether it be for the D-wall or for the slabs, those 24 documents would never have gone to BD. 25 Q. Yes, but the difference, with respect, Mr Rooney, is so</p>
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<p>1 A. No. At that time, there was a group of the legal team, 2 from MTR, and some external legal people helping the MTR 3 legal team, and they were helping to put the attachments 4 together, making sure that they were all in order. 5 Q. So, without going into any great deal about those latter 6 discussions, the afternoon discussions, if I can put it 7 that way -- 8 A. Yes. 9 Q. -- you left those discussions believing that the records 10 that we've seen would not be included? 11 A. Correct. 12 Q. And the upshot was -- the mystery is not yet solved -- 13 they were in fact included? 14 A. That is -- my understanding obviously later was that 15 they were included. 16 Q. Yes. 17 A. But I honestly believe that there was quite a lot 18 happening that afternoon, in terms of putting, not the 19 report together but more or less the attachments and 20 getting it ready to deliver to BD and to government, and 21 I think there was an honest mistake made there. 22 Q. Why were you of the view they shouldn't be included? 23 A. Firstly, I don't think that they added any value to the 24 report. They were an internal document that had been 25 prepared at fairly short notice, and I think they were</p>	<p>1 far as the diaphragm wall documents are concerned, if BD 2 had come back to you on, let's say, my example of EM76 3 this morning -- 4 A. Yes. 5 Q. -- and said to you, "Where do all these dates come 6 from?", you would have readily been able to say to them, 7 "Look, this document, this document, contemporaneous, 8 signed documents, there's the backup if you want to look 9 at it." So you'd have had 100 per cent confidence in 10 that situation? 11 A. Correct. 12 Q. But with the EWL slab, apart from the RISC forms, which 13 just gave you the general, "One tick, it's all been 14 done", you had nothing? 15 A. I wouldn't say that we didn't have nothing. We had 16 obviously the Leighton records, their QA/QC records 17 related to the slab construction work. I was also aware 18 at the time that we had a set of records that Kobe had 19 maintained himself with regards to what he had actually 20 checked, and he confirmed to both myself and Mr Ho that 21 he had checked over 50 per cent, okay, irrespective of 22 the fact that with the RISC forms we were effectively 23 confirming that MTR had checked 100 per cent, as we 24 discussed this morning. 25 CHAIRMAN: Sorry, just a second -- as far as Kobe Wong is</p>

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1 concerned, what records did he have?  
2 A. He had his own internal record. They weren't to the  
3 level of detail of the checklists, but he had maintained  
4 his own record of his T3 QSP checking of the couplers,  
5 irrespective of the RISC form checks.  
6 CHAIRMAN: The only reason I ask -- and we will obviously  
7 have to go to the horse's mouth, that is Mr Wong,  
8 himself in due course -- but another witness has said  
9 that a lot of this stuff that was compiled and was in  
10 error attached to the June report was based on the  
11 recollection of Mr Kobe Wong, accompanied by some  
12 photographs; no mention of any other form of written  
13 record. So it's simply him saying, "I remember doing  
14 this" and, "I remember doing that." Of course,  
15 Mr Wong -- we'll have to go to him.  
16 A. Yes, Chairman, and I saw a high-level record that Kobe  
17 had put together which, if you like, puts a summary of  
18 which bays and which couplers he had checked, and he  
19 said, although I didn't actually look at the  
20 photographs, but he said at the time that he had  
21 photographs to support that.  
22 But the problem with those records, again, in  
23 relation to the BD requirement of 20 per cent and  
24 50 per cent was that they didn't numerate the check in  
25 terms of how many individual couplers, whether it was --

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1 whether his record amounted to, let's say, 10 per cent  
2 or 80 per cent.  
3 So it was felt at the time, to satisfy ultimately  
4 what the CEO required, which was a document which  
5 supported the minimum 20 per cent and 50 per cent, that  
6 additional retrospective records had to be produced.  
7 CHAIRMAN: Yes. You mention your concern at these records  
8 being attached, and you were of the view that as  
9 internal records compiled at short notice, it would be  
10 better if they were not attached. One of the witnesses  
11 earlier has spoken of two of the categories of  
12 description of what was done shouldn't even have been in  
13 those forms.  
14 A. Okay. I'm sure that's correct, but I'm not sure which  
15 categories.  
16 CHAIRMAN: Perhaps we might just go to one of them.  
17 MR PENNICOTT: Yes, of course, sir. If we go to B7/4539.  
18 This is as good an example as any.  
19 CHAIRMAN: If we look at the descriptions, you will see that  
20 in fact, here, "Additional drill-in bars" and  
21 "Additional" -- items 5 and 6 have in fact been deleted.  
22 MR PENNICOTT: Yes. Sir, they are examples -- the one we  
23 went to with Mr Khaw yesterday I think was at 4555 where  
24 they are not deleted. Sometimes they're deleted,  
25 sometimes they're not deleted.

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1 CHAIRMAN: That's right, some are deleted and a lot aren't  
2 deleted.  
3 A. Sorry, Chairman, I can't --  
4 CHAIRMAN: I think the point I am trying to make is you had  
5 said they had been put together at short notice --  
6 A. Which is correct.  
7 CHAIRMAN: -- and this would appear to be evidence of that  
8 fact and the dangers of doing so.  
9 A. I believe you're correct, sir.  
10 MR PENNICOTT: Just to pick up one point, Mr Rooney -- if we  
11 go to B7/4537, you refer to another checklist that  
12 Mr Kobe Wong had prepared. Is this the document you had  
13 in mind?  
14 A. No.  
15 Q. It's not?  
16 A. This, I believe, is the overall summary which goes on  
17 the front of the retrospective checklist.  
18 Q. Okay. I did wonder about that but I couldn't work  
19 out -- the way the bundles are prepared, it's not always  
20 clear -- so you think this goes on the front sheet?  
21 A. No, that is the front sheet to --  
22 Q. I see.  
23 A. That's what I received from James, along with the  
24 checklists behind it.  
25 Q. Right.

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1 A. But a few days or a week before these documents were  
2 retrospectively created, Kobe had his own internal,  
3 which was not dissimilar, but it didn't have as much  
4 detail in terms of areas and bay numbers. It had dates  
5 and "Satisfactory". But without having the numbers  
6 behind, to be able to substantiate the 20 and the 50, it  
7 was felt that the Kobe record was insufficient.  
8 Q. Again, this sheet covers not just 20 and 50 per cent;  
9 this is, as I understand it, the whole shooting match --  
10 A. Yes.  
11 Q. -- so far as the EWL slab is concerned?  
12 A. That's not my understanding. This was produced as  
13 a summary to substantiate the BD 20 and 50 per cent  
14 requirement.  
15 Q. Can we put that document on one side of the screen,  
16 please, and look at H14/35070.  
17 Do you see this document now, Mr Rooney? This again  
18 looks as though it's something that certainly might have  
19 been checked by Mr Kobe Wong. Whether it was prepared  
20 by him, we don't yet know. But this says:  
21 "More than 60 per cent of the installed couplers  
22 were inspected in the mentioned areas."  
23 I just wonder whether this is the document that you  
24 had in mind?  
25 A. The document that I had in mind was similar, but I don't

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<p>1 think I ever saw the reference to 60 per cent. 2 Q. Right. 3 A. And the document that I saw didn't have Kobe's signature 4 on it, but it could have been the top half of that 5 document. 6 Q. Right. 7 A. But, again, even though, if we take that document, "more 8 than 60 per cent", there is nothing to explain where 9 that 60 per cent comes from in terms of individual 10 couplers in individual bays, particularly in relation to 11 the 20 per cent and the 50 per cent. 12 Q. No. You're absolutely right, and obviously we can ask 13 Mr Wong about it. In rather simplistic terms, because 14 I'm only a lawyer, I counted the number of items there 15 on that page. It's 20. 16 A. 20 bays, is it? 17 Q. Yes, it's 20 bays. 18 A. All right. 20 out of 32. 19 Q. 20 out of 32, I thought that's just over 60 per cent, 20 but I don't think -- 21 A. Unfortunately, it's not as -- with respect, it's not as 22 simple as that. 23 Q. I suspect it's not quite as -- I very much doubt it's as 24 simple as that, but there's no other way of coming at 25 it.</p>	<p>1 slightly wrong, ask for remedial action, and then you've 2 got your record, as opposed to coming back, what appears 3 to be the case now, sort of two years later, to put 4 together checking specific percentages; do you see what 5 I mean? 6 A. Nearly 100 per cent correct, Mr Chairman. I totally 7 agree with you that that's ideally how it should have 8 been done. But, at the time, Kobe would have gone out 9 and made that record in some format or other. 10 CHAIRMAN: Yes. 11 A. However, based upon -- and forgive me, this is no 12 excuse, if you like, and I don't want to attach blame on 13 any party, whether it be MTR or Leighton -- but based 14 upon the process that was used for the D-wall, where 15 there was, if you like, a countersigning arrangement 16 which we saw this morning and I acknowledge was a very 17 good system, it would appear that that system, for 18 whatever reason, wasn't even applied in a more 19 simplistic way to the EWL slab construction. 20 Again, I'm not putting blame on anybody, but with 21 the benefit of hindsight, if Leighton had said at each 22 of the times of the RISC forms, "Right, this is 23 100 per cent", and there was a separate note on the RISC 24 form which said, for instance, MTR had checked either 25 100 per cent or a minimum of 50 per cent, then that</p>
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<p>1 A. True, but the actual calculation of the 20 per cent and 2 the additional 30 per cent to make up the 50 per cent 3 was not a straightforward calculation. 4 Q. No. 5 A. And I don't think I've seen it for a while but James and 6 myself had a few attempts at trying to get to the right 7 20 per cent/50 per cent number. 8 Q. Okay. 9 A. I think I referred to that in my witness statement. 10 Q. Yes. 11 A. And James actually produced an explanation and 12 a double-check on how we got to the final numbers that 13 represented the 20 and the 50 per cent of the overall 14 number. 15 Q. All right. 16 CHAIRMAN: Can I ask -- again, I have to come at it as 17 a layman too -- but if you've got an obligation, shall 18 we say, to look at 50 per cent or check 50 per cent in 19 particular areas, isn't it easier to say, when the 20 inspection time comes, "Right, I've got to do 21 50 per cent in this particular area", and to conduct 22 your inspection, and then immediately record, 23 "Transverse area A", or whatever the area is, 24 "15:00 hours, checked, rough estimate of couplers, X 25 thousand, checked, all okay", and perhaps one that's</p>	<p>1 would have been extremely beneficial. 2 CHAIRMAN: Yes. 3 A. But regretfully it wasn't done, and I think, rightfully 4 or wrongfully, MTR was waiting for Leighton to instigate 5 the countersigning process, and for whatever reason that 6 in this particular case didn't happen. 7 CHAIRMAN: One of the earlier witnesses, again an engineer 8 had said, to him, the countersigning system was a pretty 9 good system, but it doesn't appear to have been taken up 10 in this respect. 11 A. Not in -- well, there is a form of countersigning within 12 the RISC form, that both parties do sign it, which is 13 obviously good from an MTR specification stream of 14 checking. But without the acknowledgement, either 15 simple or, in the case of Intrafor double-checking, 16 a more elaborate scheme of recording the percentage, 17 whether it be 100 per cent or less than that, then there 18 is a gap. And the idea of the retrospective checklist 19 forms was trying to close that gap. 20 CHAIRMAN: While we're on that, I have highlighted 21 paragraph 95 of your affidavit, in which you say: 22 "At this juncture, I wish to point out that it is 23 acceptable to prepare retrospective records as long as 24 inspections had in fact been carried out at the time. 25 I don't in any way wish to challenge that. What is</p>

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<p>1 a concern, provisional perhaps, is that while, 2 obviously, you can take contemporaneous records and 3 break them down, in order to obtain from them their 4 individual merits and data, I'm a bit concerned at the 5 fact that you might take what amounts to a general 6 document and from that extract lots of particulars, and 7 as layperson I take, for example -- and I have mentioned 8 it in the past -- somebody says, "I'm a builder, I've 9 checked your house, everything is fine, tick", and then 10 you come along later and you fill in a form saying, 11 "Cupboard hinges? Yes. Door knobs? Yes." Do you see 12 what I mean? 13 A. I do. 14 CHAIRMAN: You can argue there, is it legitimate to have 15 a general, "I've been through your house, everything is 16 fine", and then from that bring up another set, saying 17 "I've checked every door knob and every hinge and every 18 door stopper in the house"? 19 A. I appreciate what you're saying, Chairman, but if you 20 look at it from the perspective of putting the Leighton 21 checks to one side, the MTR inspectors and engineers 22 have confirmed repeatedly that they basically checked 23 100 per cent of the couplers, and those guys are 24 professionals and they are experienced, and I personally 25 trust that what they are saying, they actually did.</p>	<p>1 Q. And, secondly, an analysis by a number of people of 2 photographs and comparing those photographs with the 3 then current working drawings? 4 A. That's also correct, but the two -- if you like, the two 5 examples that you've just quoted, they were correlated. 6 Q. Yes. 7 A. Because they're all part of starting the process of 8 preparing the final as-builts for the slabs. 9 Q. Yes. Essentially, what had happened, without being 10 overly critical of anybody in particular, either of MTRC 11 and Leighton, there was what might be described as 12 collective amnesia about the change to the top of the 13 east diaphragm wall, to the change in detail. It had 14 simply been overlooked. 15 A. I agree with you that it had been overlooked, in I think 16 everybody's -- I don't think it was amnesia, to be 17 honest. I think it was just -- when the report was 18 being prepared, the 15 June report, the biggest focus 19 was, from everybody's perspective, on trimmed bars and 20 the background to the trimmed bars and what records 21 there were related to the trimmed bars. And I agree 22 with you, Mr Pennicott, that I'm not attaching any blame 23 to any person, but the team was under -- particularly 24 MTR but also Leighton were trying to be as helpful as 25 they could at the time, and they were concentrating on</p>
<p>Page 82</p> <p>1 So my belief is that all the couplers were checked, 2 and maybe there is a small percentage that slipped 3 through the net, which can happen, but their intention 4 was -- and they actually went out on a day-to-day basis 5 during the construction and checked all the couplers. 6 So I've got no reason to doubt that. But I do 7 appreciate what you're saying, that if it had been 8 documented in more detail then obviously that would 9 provide greater assurance to all parties concerned. 10 CHAIRMAN: Yes. Thank you. 11 MR PENNICOTT: Mr Rooney, just to complete, as it were, the 12 picture -- what we all know happened was the 15 June 13 report was issued to government -- 14 A. Yes. 15 Q. -- and was not made generally public? 16 A. Yes. 17 Q. And then, unfortunately, it was subsequently discovered 18 that there were some errors in the report, and in 19 particular errors in relation to the number of couplers? 20 A. Correct. 21 Q. As I understand your evidence, the discovery was 22 a combination of essentially two lines of enquiry: first 23 of all, MTRC requesting Leighton to provide as-built 24 drawings? 25 A. Correct.</p>	<p>Page 84</p> <p>1 coming up with information particularly related to the 2 report and the primary issue of the trimming of the 3 bars, and I think it's that particular reason, coupled 4 with the fact that we probably didn't have enough of the 5 team that was originally involved in the construction 6 involved in that period from the end of May through to 7 the 15th, to be able to recall clearly and to point out 8 that this change in construction detail had occurred. 9 So I think there was a number of factors which led 10 to our error at that time, in not acknowledging that 11 change in detail, but again I think that was caused by 12 a number of factors, not simply amnesia on the detail. 13 Q. Yes. All right. And obviously I'm not going to go 14 through it with you, Mr Rooney, but we've heard quite 15 a lot of evidence about the way in which the 16 coordination should have worked between Leighton and MTR 17 on the one hand and the involvement of Atkins, and so 18 forth, the interaction between the MTR design team, on 19 the one hand, and the MTR construction management team 20 on the other, and there were, I accept, a lot of factors 21 involved in first of all the introduction of the change 22 of detail, and then a big question mark about who 23 actually knew about it. So, when it came to producing 24 the report in June, I can well understand your point 25 that it rather depended upon who was involved in the</p>

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<p>1 preparation of the report, because if you didn't have 2 the right people involved you weren't going to get the 3 right answer. 4 A. That's in part correct. I think we had some of the 5 right people involved, but with the benefit of hindsight 6 if we'd had a few more people, there would be still no 7 guarantee that somebody would say, "Hold on, guys, 8 remember there was this change in detail?", and then to 9 be able to go to whatever document and say, "Yes", and 10 again, within that two-week period, it just didn't 11 happen. 12 CHAIRMAN: Can I say what is of concern to me -- and I was 13 not intending to be facetious a few days ago but it came 14 out facetiously so I might as well repeat it -- but 15 I put to one of the witnesses who had prepared this, 16 that these records of the coupler installations all 17 being well done and properly done and inspected meant -- 18 and he admitted that this was the case -- that couplers 19 that didn't exist were nevertheless properly installed. 20 What that means, more fundamentally, perhaps, is it 21 takes away a certain sense of trust in the accuracy of 22 those retrospective records. 23 A. I understand what you're saying, Mr Chairman. 24 CHAIRMAN: That said, I appreciate this was done very much 25 as an exercise of immediacy, and there were a lot of</p>	<p>1 of expensive machinery. You've got people being paid by 2 the hour. And if you don't keep an up-to-date record of 3 what's happening, almost a minute-by-minute record, 4 dealing with that within a sensible parameter, 5 of course, it's all going to get lost and confused, if 6 only on the basis of who do you charge for doing what? 7 And coming back to stuff three weeks later and then 8 putting in retrospective records can, as a result, be 9 a little dangerous, if only because it risks inaccuracy. 10 A. Again, Mr Chairman, I agree, and clearly there is 11 evidence that there were retrospective records produced. 12 But the volume of records, whether it be related to, 13 as you say, people or plant or confirmation of the 14 quality of the work in terms of construction records, 15 the volume of records that we already keep on a project 16 like contract 1112 is huge, and keeping pace with all 17 those records, even with all the help of modern 18 technology that we have, I think is still a challenge 19 that we face every day on construction projects. It 20 doesn't matter whether it's 1112 or any other major 21 contract in Hong Kong -- 22 CHAIRMAN: I'm sure it is. It's a very real challenge, yes, 23 I accept that. 24 A. And I think there is likely, at least for the 25 foreseeable future, to always be a percentage of</p>
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<p>1 records you had to go through, I appreciate that. So 2 I'm not lacking any empathy as to how all this works. 3 A. Okay. If anybody involved at the time had raised their 4 hand and said, "There was a change in construction 5 detail", then I think that would have been taken on 6 board and the team would not have just used the D-wall 7 as-built drawings. They would have taken cognisance of 8 that and -- then -- we would have still, I think, 9 produced the checklists that we produced, but they would 10 have been more representative. 11 CHAIRMAN: There are two things that come from this, and 12 please forgive me, then I hope I'll shut up for a little 13 bit, but please forgive me. 14 A. No problem. 15 CHAIRMAN: On a number of occasions, witnesses here have 16 spoken about backdating things, and the impression, 17 perhaps wrong -- it's a matter for more deliberate 18 consideration -- has become one of almost common 19 occurrence. You do it now but you only actually record 20 it later, and then you put a date to when it was done, 21 and of course that can lead perhaps to mismemory or 22 anything like that. 23 It seems to me, on a large-scale building project, 24 and again I come at it as a layman, but you've got 25 an immense amount of things happening. You've got a lot</p>	<p>1 retrospective record-keeping, to various different 2 degrees, and I think the important factor is: are the 3 primary records reliable and can they be used to confirm 4 that the contract requirements were met? 5 In the case of 1112, thankfully, the RISC form 6 records -- I can't say they were 100 per cent, but they 7 are very, very comprehensive, and probably better than 8 some other similar contracts, let's put it that way, 9 whether it be MTR or otherwise, in terms of their 10 completeness. 11 And if it wasn't for the additional BD requirements, 12 if they were taken as a stand-alone set of contract 13 records, I think there wouldn't be any question 14 whatsoever; okay? We have this additional BD component, 15 and that BD component, in terms of checking the 16 couplers, is already, in my opinion, satisfied by the 17 RISC form records; okay? They already satisfy that. 18 But, from the QSP document that was produced by the 19 contractor, there was some additional checks that were 20 required to be put in place, and I think it's not 21 unreasonable, as was in the case of the D-wall, that 22 there was evidence that at least as far as could be 23 done, that that format, in terms of the record of the 24 information, was used. Okay? 25 CHAIRMAN: Yes.</p>

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<p>1 A. So, with respect, I think we're talking about formatting 2 of information to satisfy a document that was in place, 3 and the document that was in place I'm referring to is 4 the QSP, and there was a let's call it format there. 5 So it's taking recognition that the MTR engineers 6 and inspectors can confidently say the couplers were all 7 checked. I believe that the Leighton construction team, 8 via their quality management system records, are also 9 saying that all the couplers were checked, and using, if 10 you like, that level of check to put into a different 11 format, to basically say the same story. 12 CHAIRMAN: Good. Thank you very much. 13 MR PENNICOTT: Just one final point on that topic, 14 Mr Rooney. Could I ask you, please, to go back to 15 a document we looked at earlier this morning, that is 16 H10/4861. 17 A. This is the D-wall -- 18 Q. That's part of the -- 19 A. D-wall. 20 Q. That's part of the D-wall submission, your quality 21 supervision -- 22 A. Thank you. 23 Q. -- report that went with the letter of 27 January 2016. 24 A. That's the summary that went, yes, with -- 25 Q. Sorry, 2015, 27 January 2015.</p>	<p>1 specifically of what the logbook format should be or 2 style should be. The logbook is basically a record of 3 checks, that the works have been carried out and checked 4 and certified as being acceptable. 5 Q. All right. Then you are just back to the RISC forms. 6 A. You are, plus any other associated records, whether it 7 be ... 8 CHAIRMAN: Yes, thank you. 9 A. Like I say, it's the RISC forms, plus the Leighton 10 quality management documents. 11 MR PENNICOTT: Yes. 12 Lastly from me, Mr Rooney -- although I may ask for 13 indulgence to have a think about things over lunch. 14 CHAIRMAN: Yes, certainly. 15 MR PENNICOTT: If I could ask you to go, please, to 16 paragraphs 13 and 14 of your witness statement, that's 17 at B1/216 -- there you have a heading, "Item 13(a): 18 comment on Mr Poon's allegations"; do you see that? 19 A. Yes. 20 Q. And you say that you had no knowledge about the alleged 21 defective steel works until they were first reported by 22 Jason Poon to Leighton on 6 January 2017, and we've been 23 over that? 24 A. That's correct. 25 Q. "Prior to that, nobody raised any issues relating to the</p>
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<p>1 A. That's correct. 2 Q. -- with batch 1. We can go back to the letter but 3 that's where we came from. 4 A. Yes, I believe that that's the case, or one page from 5 that. 6 Q. Yes, and we looked at EM76 this morning. 7 A. Yes. 8 Q. What I wanted to ask you about this time was simply the 9 couple of lines at the bottom of the page, the note, 10 where it says: 11 "All logbook signed by quality ... supervisor (CP 12 stream) ..." 13 So that would be MTR? 14 A. Correct. 15 Q. "... and quality control coordinator" -- 16 A. Registered contractor. 17 Q. Leighton's stream, or "(RC stream) are kept on site for 18 necessary inspection." 19 It's also the case, is it not, Mr Rooney, that you 20 would not have been able to write that sentence on any 21 BA14 submission in relation to the EWL slab? That is 22 there was no logbook signed so far as the EWL slab is 23 concerned? 24 A. I think it really comes down to the definition of the 25 logbook, and the logbook -- there's no example</p>	<p>1 alleged defective steel works during the meetings or 2 site visits that I attended or on any other occasions." 3 A. That's correct. 4 Q. You say: 5 "I did occasionally run into Jason Poon on site. 6 During those occasions when we met, Jason Poon did not 7 mention any issues about the ... defective steel works. 8 On the few occasions that we talked, we discussed the 9 adequacy of the resources provided by China Technology 10 and performance issues in relation to the safety and 11 quality of China Technology's works." 12 A. That's correct. 13 Q. Do you stand by that evidence, Mr Rooney? 14 A. I do, 100 per cent. 15 MR PENNICOTT: Thank you very much. 16 Sir, subject to any thoughts I may have over 17 lunch -- 18 CHAIRMAN: Of course. 19 MR PENNICOTT: -- I think I've finished. Would that be 20 a convenient moment to stop? 21 CHAIRMAN: Yes. 2.15. 22 MR KHAW: Sorry, Mr Chairman, just a very brief update 23 following the discussion we had before we adjourned 24 yesterday regarding the opening-up process. 25 CHAIRMAN: Yes.</p>

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<p>1 MR KHAW: I am pleased to inform the Commission that the MTR 2 and the government have reached some significant 3 milestone in that regard and there will be an important 4 announcement this afternoon.</p> <p>5 We only wish to just say that all along the 6 government stance has been that MTR would devise 7 a holistic strategy in relation to the opening-up 8 process, and in fact we have received various drafts 9 from MTR in relation to that intended purpose. That is, 10 for the purpose of assessing the conditions and also the 11 acceptability of the built structures at Hung Hom 12 Station.</p> <p>13 The relevant government departments and also our 14 experts in fact have been tirelessly reviewing the 15 drafts provided by MTR and also we have given our 16 comments, not only from an engineering point of view, 17 but also from a statistical point of view, with a view 18 to achieving some meaningful results from the opening-up 19 process.</p> <p>20 I would also like to update the Commission that the 21 government has adopted an expedited process by vetting 22 the implementation details, in the hope that the 23 opening-up process could be implemented very soon.</p> <p>24 I believe that the details which will be announced this 25 afternoon will be useful to the Commission and also to</p>	<p>1 Q. And I think you said that it didn't need to be in any 2 particular form, but at least here we can see it's at 3 least a broad definition of what it should include?</p> <p>4 A. Thank you.</p> <p>5 Q. And includes "The site supervision plan" itself, this 6 proposal. So, so far, so good, and pretty easy. The 7 fourth bullet point, "BOSA's thread preparation check", 8 I imagine that's ready available as well?</p> <p>9 A. Yes, okay, yes.</p> <p>10 Q. But then it's the third bullet point, "Quality control 11 supervisors (MTRC) and quality control supervisors 12 (registered contractor) record sheet."</p> <p>13 A. Yes.</p> <p>14 Q. And really it's the record sheet that, on the face of 15 it, might be regarded as not available; do you agree?</p> <p>16 A. Again, I'm not sure what the definition of "the record 17 sheet" is, to be honest.</p> <p>18 Q. Well, is it not the sheet that is appendix B to the 19 quality supervision plan, that is the sheet that should 20 be filled in as we saw similarly with the diaphragm wall 21 this morning?</p> <p>22 And indeed I'm reminded, if we go back a page, to 23 4269 --</p> <p>24 A. Thank you.</p> <p>25 Q. -- and this is under the registered contractor's part of</p>
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<p>1 the Commission's expert in carrying out further work for 2 this Inquiry.</p> <p>3 CHAIRMAN: Good. Thank you very much. That's very welcome 4 news. Thank you.</p> <p>5 2.15. Thank you. 6 (1.03 pm) 7 (The luncheon adjournment) 8 (2.18 pm)</p> <p>9 MR PENNICOTT: Sir, good afternoon.</p> <p>10 Good afternoon, Mr Rooney. There is just one 11 follow-up question that I have --</p> <p>12 A. No problem.</p> <p>13 Q. -- from just before lunch. I wonder if you could be 14 shown, please, part of the QSP, which is in H9 -- it's 15 in a number of places, but H9, starting at 4265.</p> <p>16 If we could go, please, to page 4270. Mr Rooney, 17 just before lunch, we were talking about the logbook; do 18 you remember?</p> <p>19 A. I do. Thank you.</p> <p>20 Q. This is the portion of the QSP or the section of the QSP 21 that deals with the logbook; do you see that?</p> <p>22 A. I do. Thank you.</p> <p>23 Q. It gives, as it were, a description of what ought to be 24 essentially contained within the logbook?</p> <p>25 A. (Nodded head).</p>	<p>1 the quality supervision plan, at 1(ii) it says: 2 "Supervision and inspection will be recorded in the 3 record sheet (appendix C) ..." 4 Which we know is a typo for "B".</p> <p>5 A. Agreed.</p> <p>6 Q. So that is it. As I say, it's that appendix B.</p> <p>7 A. With respect, if we go to 2(ii), I don't think it says 8 "record sheet" there.</p> <p>9 Q. No. What, as I understand it, that is suggesting is the 10 inspection record sheet should be prepared by the 11 registered contractor, Leighton, and what MTRC is 12 required to do is to countersign it.</p> <p>13 A. Thank you. That seems very logical, yes.</p> <p>14 MR PENNICOTT: Okay. Thank you very much, Mr Rooney.</p> <p>15 I have no further questions, but there may be some 16 people behind me who do.</p> <p>17 WITNESS: Fully understood. Thank you.</p> <p>18 MR CHANG: No questions from Leighton.</p> <p>19 MR SO: Sir, there are some questions from China Technology.</p> <p>20 CHAIRMAN: Yes.</p> <p>21 MR SO: Sir, we adopt the cross-examination that my learned 22 friend Mr Pennicott made insofar as China Technology is 23 related, but we have some questions in addition to that.</p> <p>24 CHAIRMAN: Yes.</p> <p>25 Cross-examination by MR SO</p>



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<p>1 MR SO: Mr Rooney, I am Simon So. I represent China 2 Technology. 3 A. Good afternoon. 4 Q. I have some questions for you. 5 A. Thank you. 6 Q. Can we just turn to paragraph 75 of your witness 7 statement. That is on page B206. 8 That is the paragraph where you told us this morning 9 that after having received Mr Poon's email, you have 10 received two reports, one being Mr Stephen Lumb's report 11 from Leighton, and one being Mr Carl Wu's report from 12 MTRC; correct? 13 A. That's correct. 14 Q. After you had reviewed the two reports, you have come to 15 the conclusion that NCR157 was an isolated issue, in 16 your words; correct? 17 A. Correct. 18 Q. Can I just bring you to the Lumb report. I presume that 19 the report that you have received -- you have just 20 received one report from Mr Lumb; correct? 21 A. I believe there was two reports. There was -- I'll call 22 it a first report and then a revised report. 23 Q. Thank you very much. So you have read both of the 24 reports, both the draft report and the final report, or 25 you have just read the final report?</p>	<p>1 says: 2 "The investigation was carried out on site between 3 9-11 January" -- it should be 2013, I guess, there is 4 a typo there -- "and involved an inspection of available 5 site records, and interviews with key members of the 6 construction team." 7 Now, Mr Rooney, have you ascertained with Mr Lumb or 8 any persons in Leighton what members have been actually 9 interviewed on the construction team? 10 A. I did not, at the time of reading the report, no. 11 Q. And of course there is also no mention in the report by 12 Mr Lumb, in anywhere, that mentions what members have 13 actually been interviewed by the internal independent 14 investigation committee; correct? 15 A. I believe that's correct, yes. 16 Q. Do you know that actually none of the on site 17 superintendents of Leighton were actually interviewed 18 when preparing this report? 19 A. I cannot comment on that. I don't know who was 20 interviewed, sorry. 21 Q. Thank you. 22 Now, in paragraph 70, which I do not need to trouble 23 you to go to, of your witness statement, you told us 24 that the very first time you heard of allegations about 25 cutting of the threaded ends of the rebar was in</p>
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<p>1 A. I just read the final report. 2 Q. Thank you very much. Then perhaps I will take you to 3 the final report, which is at bundle C, page C20245. 4 MR PENNICOTT: C27. 5 MR SO: This is the second page of the final report by 6 Mr Stephen Lumb. You have, of course, read this final 7 report before you came to that conclusion in 8 paragraph 75; correct? 9 A. Correct. 10 Q. Can we just focus on section 1.2, which is the 11 "Background" section. The section reads: 12 "Further to allegations of possible malpractice in 13 the fixing of the reinforcement bar coupler connection 14 between the EWL slab and the adjacent supporting 15 diaphragm wall ... Leighton's in-house engineering and 16 design group have been asked by the project director to 17 carry out an independent investigation ..." 18 Now, insofar as you understand, this allegation is 19 the allegation made by Mr Poon in the email; correct? 20 A. I believe so, yes, correct. 21 Q. And it is only because Mr Poon's allegation that gives 22 rise to both this report and the MTR report made by 23 Mr Carl Wu? 24 A. That's correct. 25 Q. Now, can we look at the second paragraph in 1.2. That</p>	<p>1 January, where Mr Poon actually gave this email; 2 correct? 3 A. That's the 6 January email to Leighton? 4 Q. Right. Prior to that, you have not heard of and were 5 not aware of any cutting of the threaded ends of rebars? 6 A. That's correct. 7 Q. So of course the logical deduction would be, at that 8 time, when you received the email, you were also not 9 notified that there was an NCR about the cutting of the 10 threaded rebars; correct? 11 A. That's correct. 12 Q. So is it correct that when receiving the report from 13 Mr Lumb and receiving the report from Mr Wu, that's the 14 very, very first time that you actually know that there 15 was actually someone cutting the threaded ends of the 16 rebars on site? 17 A. That's correct. 18 Q. At that time, when reading the three reports, were you 19 not surprised that actually something Mr Poon was 20 raising as a complaint was exactly something that 21 happened on site? Did that not shock you? 22 A. I was surprised that there was evidence of cutting of 23 threaded rebar, yes, because that should not be 24 occurring. 25 Q. But didn't it shock you that Mr Poon, not knowing that</p>

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<p>1 there was such an NCR, so coincidentally raised 2 something exactly happened on site? 3 A. That didn't shock me or surprise me. What I think 4 surprised me was that Mr Poon was raising it in January 5 2017, in relation to an incident that occurred in 6 I think September 2015. That surprised me. 7 Q. But it didn't surprise you that the allegation or 8 complaint, however you want to name it, was exactly 9 something being documented by both your company and by 10 Leighton? Did it not shock you? 11 A. Can I repeat. It did not shock me in terms of Mr Poon 12 raising the allegation. It shocked me or surprised me 13 in terms of the timing. But obviously, within the site 14 construction team of both MTR and Leighton in December 15 2015, when the NCR in question was raised and closed 16 out, on the basis of the two reports, it was clear that 17 the site teams were aware of at least one incident based 18 upon those reports. 19 Q. Just so I can clarify your answer, is it your evidence 20 that you didn't find it surprising that there is such 21 a terrible coincidence between what Mr Poon said and 22 what was recorded on NCR157? Is that your evidence? 23 A. I'm not quite sure what the question is. Could you 24 repeat the question, please? 25 Q. Sure. Of course. Did it not come to your mind why is</p>	<p>1 Or you can take a look at the witness statement, 2 paragraph 71. There, you have also lifted out what was 3 being said in the email. 4 MR CHANG: There is a copy in bundle C12, page 7923. 5 A. Thank you. 6 MR SO: I'm most grateful to my learned friend Mr Chang. 7 A. Sorry, I just want to remind myself exactly what was in 8 the ... 9 Q. Of course. Mr Rooney, there is a copy being displayed 10 now in front of you. 11 A. Okay. It's actually not a short email. There is 12 a little bit of information there, I think. Can I just 13 take a few minutes to read it? 14 Q. Of course. Take your time. 15 A. Thank you. 16 In re-reading it, it reminded me that my 17 interpretation of what Mr Poon was saying to Leighton in 18 the email was that there was, let's say, a significant 19 malpractice related to either the trimming of threaded 20 bars or not connecting bars to couplers. 21 When the investigations by Leighton and MTR were 22 concluded, and their conclusion was, in the case of 23 Leighton, that they had identified from their records 24 one incident, which was the incident in December, and in 25 the MTR report it also refers to that incident, but it</p>
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<p>1 there such a coincidence that Mr Poon is saying 2 something exactly the same as recorded in NCR157? 3 A. No, it didn't. No. 4 Q. Thank you. 5 Now, when you were answering questions from 6 Mr Pennicott this morning, you told us that MTR 7 definitely wanted to know in depth what was happening 8 when Mr Poon sent you this email; correct? 9 A. That's correct. 10 Q. I would suggest to you that you won't disagree that 11 Mr Poon's email in January 2017 was a fairly short one; 12 correct? 13 A. Correct. 14 Q. So why didn't you or MTR or Leighton go and actually ask 15 Mr Poon, "Hey, come on, give us more particulars of what 16 you actually see or what you actually heard"? 17 MR BOULDING: I don't think he can answer for Leighton, sir. 18 He can answer for MTR but not Leighton. 19 MR SO: I will rephrase my question. 20 Why didn't it occur to you or MTR, "Shouldn't we go 21 and ask Mr Poon what's going on and get more details"? 22 A. Would it be possible to go back to Mr Poon's email, 23 please? Could we have a look at that again, please? 24 Q. Sure. Yes. Sorry, I don't have the reference in front 25 of me, but I think ...</p>	<p>1 also refers to a number of other issues of workmanship. 2 Myself and my MTR colleagues came to the conclusion 3 that, yes, there had been a number of incidents -- 4 exactly how many was a little bit uncertain, but not 5 many -- and from that assessment we believed that there 6 was no evidence that there was any issue of structural 7 safety to the slab, which I think Mr Poon was raising as 8 a concern. 9 Q. Let me try to approach this topic in another way. There 10 were some photographs being attached to the email; 11 correct? 12 A. I believe there were the two photographs referred to in 13 the email. 14 Q. Correct. Exactly. Mr Poon did not mention in the email 15 where these photographs were being taken; correct? 16 A. I believe that that's correct, yes. Yes. 17 Q. So why didn't you or any representatives from MTR try to 18 ascertain these with Mr Poon? 19 A. I believe that on the basis that Mr Poon was referring 20 to a particular date, 22 September 2015, that the 21 Leighton and MTR teams could assess where that 22 particular location was likely to be in terms of the EWL 23 steel fixing works to the slab at that particular point 24 in time. 25 Q. So has that been identified now?</p>

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<p>1 A. I believe it has been, but I can't recall the exact 2 location, sorry. 3 Q. In any event, it is a matter of fact and it is a matter 4 of reality that Mr Poon was never being contacted by MTR 5 for asking for further information; correct? 6 A. Definitely not by MTR, no, correct, at that time. 7 Q. Can you explain why Mr Poon being the instigator or 8 trouble-maker or the person actually raising the 9 complaint was actually not being asked to provide more 10 information? Why was that? 11 A. As I think I -- with respect, I think I just answered 12 that question, that at least in terms of MTR we came to 13 the conclusion that the implication of what Mr Poon said 14 in his email was not correct, based upon the MTR report 15 and substantiated also by the independent Leighton 16 report. 17 CHAIRMAN: Sorry, but that, with respect, might miss the 18 point a little. If one takes a rather stark example, if 19 you're asked to consider who was at fault in a motor 20 accident and draw a report up, and you do not interview 21 the one single eyewitness, it doesn't help to say, "We 22 didn't think it was necessary to interview the single 23 eyewitness because our report said nobody was to blame." 24 Do you see the point? You can't reach the second 25 conclusion until you have seen the eyewitness.</p>	<p>1 A. I believe, based upon the fact that MTR or the MTR 2 inspector team actually raised the issue to Leighton in 3 respect of the NCR that you're referring to, and the 4 fact that the MTR inspectors had actually identified, 5 let's say, the cutting of the threaded bars on 6 15 December and brought it to the attention of Leighton, 7 I believe that gave me assurance that the MTR inspection 8 teams were performing their duties. 9 Q. You are certainly familiar with the QSP; correct? 10 A. I believe I am, yes, correct. 11 Q. And, being the contractor, you understand that under the 12 QSP, Leighton is required to have continuous full-time 13 supervision on site; correct? 14 A. That's what's actually stated in -- or implied within 15 the BD letter and the QSP, correct. 16 Q. So did it not shock you that, albeit there was so-called 17 full-time continuous supervision, no one from Leighton 18 actually witnessed the cutting of the threaded rebars by 19 Fang Sheung workers? Did it not shock you? 20 A. It didn't shock me. When we say -- in the industry, 21 when we say full-time -- was it -- 22 Q. Full-time continuous. 23 A. -- full-time continuous supervision, the normal 24 interpretation of that type of terminology is that both 25 the contractor and MTR will have people full-time</p>
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<p>1 A. I can understand that view, Mr Chairman, yes, but as 2 I think I said this morning, I think if the MTR and 3 Leighton investigation had revealed that, let's say, 4 there was more than an isolated incident identified, 5 then I think the investigation would have been opened up 6 further, but based upon the investigations that were 7 carried out in January/February, I don't think anybody 8 in MTR or Leighton believed it was necessary to take it 9 any further. 10 MR SO: Thank you, Mr Chairman. 11 Mr Rooney, so let's focus on the NCR, the NCR157. 12 According to your understanding, after reading Mr Lumb's 13 report, is it fair to say that Leighton, in Mr Lumb's 14 report, cannot actually provide any personnel or name 15 anyone that actually witnessed the incident of cutting 16 of the rebars when NCR157 took place? 17 A. I believe you're correct. There's nothing in the 18 Leighton report to that effect. 19 Q. Now, in both the Leighton report and Mr Wu's report, 20 there was numerous emphasis as to the supervision plan 21 in place, both by Leighton and by MTR; right? 22 A. Definitely in the MTR report, yes. 23 Q. So did it not shock you or did it not come to you that 24 it was strange that no one in MTR actually knows what is 25 going on, when there was cutting of threaded rebar?</p>	<p>1 on site, but they wouldn't necessarily be full -- there 2 wouldn't necessarily be somebody full-time at every 3 location, throughout the whole working day. They would 4 move around the area. So there is still a possibility 5 that, for whatever reason, somebody could undertake some 6 form of malpractice, I believe. 7 Q. Let's see if you can agree with me. Is it fair for me 8 to say that the conclusion you have come to in 9 paragraph 75 of your witness statement -- that is, that 10 you are satisfied that NCR157 was an isolated issue -- 11 the only basis is that because there is a system, 12 therefore it is an isolated incident? Is that your 13 logic? 14 A. My logic was that 157 was definitely evidence that the 15 system was working, both in terms of identification of 16 the workmanship issue and the due processes and 17 procedures were followed to address that workmanship 18 issue and close it out. As I said earlier, there was 19 also a reference within the MTR report to the fact that 20 there were a number of other incidents of workmanship, 21 which again, even though they weren't recorded formally 22 in terms of non-conformances, but I believe that 23 information came from Kobe Wong, that there was a number 24 of other, let's say, workmanship issues identified. And 25 again they were duly actioned and rectified or closed</p>

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<p>1 out, in the process of carrying out the actual steel 2 fixing work and before any concrete was actually placed. 3 Q. Let us try not to dilute the issue. Let's put it 4 straight and put it directly. Would it be proper for me 5 to say cutting of the threadings of a rebar is not 6 merely a workmanship issue, it's an ethical issue of the 7 workers; would you accept that? 8 A. Can I speak personally, please? 9 Q. Sure. 10 A. I personally believe that cutting of threaded bars 11 should never occur; okay? From my experience, it's the 12 first time that I have heard of anybody undertaking that 13 type of practice. 14 However, I can appreciate, from a site inspector, 15 site supervisor, probably a young engineer's 16 perspective, that although they would regard it as 17 a serious matter, I believe that there could be a view 18 that it was something that although it shouldn't happen, 19 can actually occur on site, and my impression is that 20 they felt that they were identifying the issue and that 21 when it was identified, it was rectified fairly quickly, 22 if not within the same day. 23 So I think from their perspective -- and we need to 24 appreciate that quite a lot of our supervisors and 25 inspectors are experienced construction people.</p>	<p>1 need the reference. I'm not going to allow it to be put 2 without the reference. 3 MR SO: In that case, I'll withdraw this question. 4 You have read Mr Lumb's report, and Mr Lumb's report 5 spanned over 360 pages, in exact; correct? 6 A. Sorry, we're talking about -- 7 Q. Mr Lumb's report. 8 A. -- in January/February? 9 Q. Yes, exactly, Mr Rooney. 10 A. Yes, there are a lot of attachments, yes. 11 Q. Can I bring you to one of the pages, being page C20254. 12 There, we can see point 7 and point 8. 13 A. Yes. 14 Q. And that addresses the cutting of the threaded rebars 15 and the NCR? 16 A. 7 covers, I believe, the NCR, yes. 17 Q. And 8 covers the remedial measures that the cutting of 18 the threaded rebars would bring about? 19 A. No. 20 MR PENNICOTT: 8 has nothing to do with the cutting of the 21 rebar. 22 A. I think it -- I would have to re-read it in detail 23 again, forgive me -- 24 CHAIRMAN: Sorry to interrupt -- I do apologise. Number 8 25 is standard remedial measures, if for example a coupler</p>
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<p>1 I believe that having worked with many of them, they 2 have lots of years of experience and understanding, they 3 felt that they were in control of the situation and that 4 it was part of their responsibility to address what they 5 considered to be a workmanship issue and put it right in 6 the field, in accordance with their duties. 7 Q. Just let me summarise your answer. So, in short, you 8 have never heard of anyone cutting the threaded rebars 9 before? 10 A. Correct. 11 Q. And to you this is not acceptable? 12 A. Correct. 13 Q. Do you know a staff of MTRC called Kit Chan has come to 14 give evidence? 15 A. I believe Kit has, yes, given evidence, yes. 16 Q. According to Mr Chan's evidence, it was very common for 17 rebar fixers to cut the threaded ends of a rebar. Do 18 you have any comment on this observation? 19 A. With respect, I can't -- 20 CHAIRMAN: No, no, no, did he say that? 21 MR PENNICOTT: Why don't you give the reference to that? 22 MR SO: I will have to find that, but according to what 23 I have heard, Mr Chan's evidence was that it is 24 common -- 25 MR PENNICOTT: I'm sorry, before the question is put, we</p>	<p>1 is misaligned or something like that. 2 A. Thank you. 3 CHAIRMAN: So it's not an issue for your concern. 4 MR SO: Yes, thank you. 5 Mr Rooney, that page is the only page, spanning over 6 those 360 pages, addressing the issue of cutting of 7 threaded rebars; correct? 8 A. Forgive me -- 9 CHAIRMAN: It's a bit difficult for the witness to answer 10 that, because that would require a very recent and keen 11 memory of the contents of that report, which I doubt he 12 has. 13 A. I regret I don't know. I'd have to re-read the report 14 again. 15 MR SO: Never mind. I'll withdraw that question. I will 16 try another approach. 17 Can I bring you to Mr Carl Wu's report again. It is 18 a shorter report. It is at B4516. This is the report 19 that you received from Mr Wu -- 20 A. That's correct. 21 Q. -- when you directed him to do the investigation after 22 receiving Mr Poon's email about the allegations of 23 cutting of threaded rebars. 24 A. That's correct. 25 Q. In those five pages of report, there were no attachments</p>

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<p>1 of Mr Poon's photographs whatsoever there; correct? 2 A. That's correct. 3 Q. And this report certainly was never given to Mr Poon for 4 his reference? 5 A. Correct. MTR never gave the report to Mr Poon. 6 Q. And MTR actually did not report to Mr Poon or notify 7 Mr Poon that an investigation was taken within MTR? 8 A. I believe that's correct, yes. 9 Q. Can we just go to paragraph 76 of your witness 10 statement. That is the second time where Mr Poon again, 11 yet again, is sending an email, this time even to the 12 government, alleging there was malpractice on site, and 13 this has also come to your attention; correct? 14 A. That's correct. 15 Q. Can I say obviously Mr Poon was not satisfied with the 16 investigation or the result, after he made the complaint 17 in January 2017? 18 CHAIRMAN: Again, I'm sorry, I do apologise -- would it not 19 be more accurate to say that on the evidence, Mr Poon 20 had no knowledge that there had even been 21 an investigation, even though it was said that there 22 would be one? 23 A. MTR never informed Mr Poon that they had carried out 24 an investigation. I don't believe that Leighton did 25 either.</p>	<p>1 You can ask, "Did you consider other things", 2 a collateral "Were you aware of other issues", that sort 3 of -- 4 MR SO: I'll rephrase it, sir. 5 Did you ever think of giving the report to Mr Poon 6 or telling him at least that there was an investigation 7 being taken, to make him, for example, stop these 8 complaints? 9 A. At the time, MTR never considered that, no. 10 Q. Right. 11 A. I understand that Leighton actually told Mr Poon around 12 this time that an investigation had been carried out. 13 Q. Right. I want to turn to the MTRC report that you 14 submitted to the government earlier this year. Did it 15 come to your knowledge that there were a couple of MTRC 16 officers, a couple of Leighton officers, and certainly 17 Mr Poon was also invited to participate in 18 an investigation conference with MTR? 19 A. Can you be a little bit more specific, sorry? 20 A conference? 21 Q. There was an investigation meeting conducted in the 22 Hung Hom site office, where MTRC actually interviewed 23 Mr Poon. Did this come to your knowledge? 24 A. It did, yes, sorry. So we're talking about the 25 interview of Mr Poon by MTR?</p>
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<p>1 MR SO: Thank you very much, Chairman. 2 And in September, obviously Mr Poon still did not 3 have knowledge about this investigation; correct? 4 A. I believe that that's the case. I can't say 5 categorically but I believe that that's the case. 6 Sorry. 7 Q. Thank you. At this juncture, in 15 September 2017, did 8 it ever occur to you to show the report to Mr Poon and 9 tell him, "We have taken investigation, nothing has 10 turned up"? 11 A. No, it didn't occur to me to do that at that particular 12 time, no. 13 Q. Why? 14 A. Again, would it be possible, forgive me, to go to the 15 full email? I think this is just -- what's within 76 is 16 just a snapshot. Could I see -- 17 CHAIRMAN: Again, I really am sorry, I don't mean to cut 18 down on your questioning. I appreciate your entitlement 19 to represent Mr Poon. But when a person says "it didn't 20 occur to me" it's difficult to say "why didn't it". 21 Perhaps one can look at it from the point of view of 22 another collateral approach to the issue. 23 MR SO: Sure. 24 CHAIRMAN: Because I think something not occurring to you is 25 a definitive statement. It didn't occur, that's it.</p>	<p>1 Q. Yes. 2 CHAIRMAN: When was this? Sorry, I do apologise. 3 MR SO: In June 2018. 4 Mr Rooney, do you know that in the various 5 interviews that MTRC conducted with different personnel, 6 that interview was actually being audio recorded? Do 7 you know that? 8 A. I believe that I was advised at the time that that was 9 correct, that there was audio, yes, as well as obviously 10 written. 11 Q. Can I bring you to B3082. 12 Can it be blown up a bit. Thank you. 13 Mr Rooney, we can see that -- you are on the top of 14 the list -- you were actually one of the many members of 15 staff being interviewed in that interview process of 16 preparing for the report? 17 A. That's correct. 18 Q. And you were also aware that your interview was actually 19 being audio recorded; correct? 20 A. I believe so, yes, correct. 21 Q. Do you know actually whether other interviews were also 22 being audio recorded? You can tell us if you do not 23 know it. 24 A. I believe that -- I think they were all recorded, but 25 I stand to be corrected. I wasn't part of the team</p>

<p style="text-align: right;">Page 117</p> <p>1 involved in the interviews, but I recall that I think 2 they were all recorded, but I might be wrong. Sorry. 3 Q. I think you are correct, all were being recorded, save 4 and except Mr Poon's interview was not being audio 5 recorded; correct? 6 A. Sorry, I don't know. I wasn't aware that an exception 7 was made for Mr Poon. 8 Q. Before you came to give evidence before this Commission 9 of Inquiry, were you brought to the notice that all 10 other persons' audio recordings were being produced to 11 this Commission, save and except Mr Poon's audio 12 recordings? 13 A. No, sorry, I wasn't aware of that. Sorry. 14 Q. Thank you. 15 Can I bring you to paragraphs 72 and 73 of your 16 witness statement. These are the parts, this morning, 17 when you were answering to my learned friend 18 Mr Pennicott's questions about -- where you come to 19 acknowledge that there was a commercial dispute between 20 China Technology and Leighton, and you told Mr Pennicott 21 that you knew this from Mr Zervaas of Leighton; correct? 22 A. That's correct. 23 Q. Have you ever talked to Mr Jason Poon, being the 24 managing director of China Technology, whether 25 Mr Zervaas' allegations were true or false?</p>	<p style="text-align: right;">Page 119</p> <p>1 provided to me in December of 2015 -- sorry, 2016, I beg 2 your pardon -- I believe I came to my own conclusion 3 that it appeared to be, as I said there, a strategy of 4 applying some pressure to Leighton to pay some 5 additional moneys a little bit earlier than they had 6 originally planned to pay China Technology. 7 There was no question that once the related works 8 were completed, China Technology would be paid, but the 9 actual related works hadn't been completed and that was, 10 if you like, part of the commercial issue at that time. 11 Q. Mr Rooney, I have to suggest to you, with respect, 12 claiming that Mr Poon only made these allegations out of 13 commercial grudges is just wrong. Do you accept that? 14 A. I accept that there could well have been other issues, 15 but at the time and prior to the completion of the 16 investigations by MTR and Leighton, from my discussions 17 with Anthony, I came to the conclusion as stated in my 18 email. 19 Q. This morning, when you were answering Mr Pennicott's 20 question -- this was in page 61 of today's draft 21 transcript -- you told us that China Technology had some 22 safety issues that made MTR have concerns about the 23 performance of China Technology, and therefore MTR urged 24 Leighton to close out the relationship with China 25 Technology once and for all -- do you recall that?</p>
<p style="text-align: right;">Page 118</p> <p>1 A. No, I never spoke to Mr Poon. 2 Q. But, nevertheless, you chose to trust what Mr Zervaas 3 told you about the commercial disputes? 4 A. Correct. I did trust Anthony, yes, correct. 5 Q. Can I bring you to paragraph 73, where you have lifted 6 up an email. This email was written by you and it was 7 sent to TM Lee; correct? 8 A. That's correct. 9 Q. Can I bring you to the second paragraph. In the second 10 paragraph, you said: 11 "This is a part of Jason's strategy to put pressure 12 on Leighton to way him the extra 3 million this week." 13 A. That's correct. 14 Q. Where did you gather this information from? 15 A. Mr Anthony Zervaas advised me of that, in terms of -- 16 sorry, in terms of the actual \$3 million figure, that's 17 what Anthony advised me. 18 Q. But as to whether the complaint made by Mr Poon is one 19 of the "strategies" to be put pressure on Leighton, is 20 that something told by Mr Zervaas or is that something 21 that you guess or speculate? 22 A. The conversation that I had with Anthony went into more 23 detail than just the 3 million figure, and from the 24 information that Anthony provided to me on or around 25 6 January, and also the information that Anthony had</p>	<p style="text-align: right;">Page 120</p> <p>1 A. I believe you are referring to September -- 2 Q. Yes. 3 A. -- as opposed to January? 4 Q. Yes, I'm referring to the email in September, 5 15 September 2017. 6 A. Again, as I think I said this morning, there were 7 definitely issues related to quality, to resource levels 8 and some safety issues as well. 9 Q. I'm focusing on the safety issue part, Mr Rooney. So 10 you say that there were some safety issues regarding 11 China Technology? 12 A. With respect, yes, there were safety issues, but there 13 were other issues as well. It wasn't just -- although 14 safety is our priority at all times -- 15 Q. Insofar as safety issues -- 16 A. Can I finish? 17 Q. Sure, of course. 18 A. I'd like to reconfirm, safety is our first priority, and 19 I wouldn't ever put any other issue above safety, but 20 having the required resources and the quality of the 21 resources, and the quality of the work under 22 construction, are also key factors in project delivery. 23 Sorry. 24 Q. The safety issue that you mentioned today, that China 25 Technology had, was never mentioned anywhere, both in</p>

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<p>1 your witness statement and in your four police 2 statements; is that correct? 3 A. I'd have to go back and re-read to see if there is any 4 reference to safety. 5 Q. I think you can take that from me. I will being 6 corrected for sure if that is not the case. 7 A. Okay. Then -- 8 Q. That is not in your witness statement and definitely not 9 in the four police statements. 10 A. Thank you. I accept your ... 11 Q. Mr Rooney, I have to put it to you that there were never 12 any safety issues created by China Technology. Do you 13 accept that? 14 A. No, I will not accept that. I believe that there are, 15 within the records of contract 1112, various notices to 16 Leighton and from Leighton to China Technology in 17 connection with safety issues. 18 Q. Last point, Mr Rooney. You have received from 19 Mr Zervaas, on 18 September 2017 -- that is at page 27, 20 paragraph 80 of your witness statement -- about the 21 documents and instruments that Leighton entered with 22 China Technology, and it's just over the page at 23 page 28. 24 A. That's correct. 25 Q. There you mentioned a confidentiality agreement.</p>	<p>1 fairness, since we are the party responsible for this 2 part of the cross-examination, we should just refer the 3 Commission to the relevant bits. 4 It starts from 115, line 22, where Mr Chow -- 23, 5 yes: 6 "Mr Chan, from the evidence before this Commission, 7 what we see is the several incidents of bar cutting were 8 discovered by MTRC's inspector, not by Leighton's 9 supervisor or inspector. Is that your understanding? 10 Answer: I can't comment on that [point]. 11 Question: Okay. 12 Answer: Because I only aware there's only one 13 incident, in December. The other incident, I just read 14 from the report prepared by MTR, because I believe at 15 that time, when my inspector discovered the first and 16 second incidents, they think they are very minor 17 defects, that's why he made a judgment not to report to 18 his superior, because non-conforming couplers are quite 19 common in the industry; right? You don't expect all the 20 steel fixers will do their job 100 per cent correct. 21 Some steel fixers maybe do all kinds of things, you 22 never know. There's no point to find a reason. You 23 better spend more effort to stop that happen." 24 I believe that's the bit that Mr So was trying to 25 refer to, but probably he has given his own gloss on</p>
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<p>1 A. That's correct. 2 Q. I believe this is not the first contract that MTR had 3 with Leighton; correct? 4 A. That's correct. 5 Q. Were there any previous occasions when Leighton had to 6 enter confidentiality agreement with a sub-contractor, 7 a stand-alone confidentiality agreement? 8 A. Sorry, I've only been involved with one contract 9 involving Leighton as the main contractor. 10 Q. I see. 11 A. So although MTR have worked for a long time with 12 Leighton, I'm not aware of the situation on the other 13 contracts. Apologies. 14 MR SO: Fair enough, sir. 15 Mr Chairman, that's basically all that I have, but 16 regarding the point where Kit Chan has mentioned that, 17 I very much wish that I would have the opportunity to 18 cross-examine on that, just one to two questions. 19 MR KHAW: Mr Chairman, perhaps on this point -- Mr Chow 20 sitting next to me has just reminded me that it might 21 have arisen from his cross-examination with Kit Chan. 22 In fact, if I can just give the Commission the 23 reference. It's Day 26, page 116, even though the 24 answer given by Mr Kit Chan probably is not exactly what 25 Mr So has tried to quote, but I can just -- in all</p>	<p>1 what was said by Mr Chan. That's our understanding. 2 COMMISSIONER HANSFORD: Because what I read from that is 3 that Mr Kit Chan told us non-conforming couplers are 4 quite common. 5 MR KHAW: Yes, not bar cutting incidents. 6 COMMISSIONER HANSFORD: Thank you. 7 WITNESS: I would -- 8 MR SO: If I can just add, I am certainly grateful for 9 Mr Khaw's assistance on that matter. What I intended to 10 refer to, according to my notes, is a cross-examination 11 by Mr Pennicott and a dialogue between Mr Chairman and 12 Mr Kit Chan -- 13 MR PENNICOTT: Yes. 14 MR SO: -- where there was a daily wages discussion. 15 MR PENNICOTT: Yes. In that regard, we have tried to find 16 what we think might be the relevant part, and that is 17 again the same day, obviously Day 26, pages 69 to 70 of 18 the transcript. 19 MR BOULDING: We think that's the bit as well, sir. 20 MR KHAW: I'm sorry, everybody. 21 MR PENNICOTT: That's all right. Nothing like the 22 government wasting a bit of time. Sorry, I couldn't 23 resist that. 24 I don't know if Mr So wants to have a quick look at 25 pages 69 and 70 of the transcript, particularly the</p>

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<p>1 answer that runs from line 17 on page 69 through to 2 line 7 on page 70. 3 MR SO: I'm afraid -- I can just follow the monitor in front 4 of me. I don't have a hard copy with me. I do 5 apologise. (Handed). 6 Yes, indeed, I'm referring to that part, if I can 7 just pick it up. I'm grateful to my learned friend 8 Mr Pennicott. 9 CHAIRMAN: Sorry, without wishing to prolong the 10 interlude -- I didn't take that as saying that they were 11 busy cutting rebars. I took that to mean it's a sort 12 of -- they are daily paid, they are not the highest 13 skilled workers, their motivation and company loyalty 14 may occasionally be questioned, and therefore we've got 15 to keep a lookout for the fact that there will be minor 16 defects, sort of workmanship issues. I didn't read that 17 as saying that they would then necessarily take it upon 18 themselves to actually cut the rebars. 19 MR SO: In that case, I won't pursue that point, sir. 20 CHAIRMAN: Again, I don't want to cut you down, but I think 21 it would be putting into that response something which 22 is not justified by the content of the response. 23 MR SO: I'm grateful, sir. I will not pursue that point. 24 CHAIRMAN: Thank you. 25 MR SO: I'm sorry to bring all the trouble and be the</p>	<p>1 (i) The CP [ie MTR] should assign a quality control 2 supervisor to supervise the works, determine the 3 necessary frequency of inspection by the quality control 4 supervisor ..., and devise inspection checklists." 5 Then there's a reference to T3 "as stipulated in the 6 CoP". 7 Then if we can just go to subparagraph (c): 8 "Third, a quality supervision plan of the CP and the 9 RGBC/RSC is required to be submitted to BD ... The 10 quality supervision plan should include the following 11 details: 12 (i) Assignments of the quality control supervisor of 13 the CP and the quality control coordinator of the 14 RGBC/RSC to supervise the manufacturing process of the 15 connecting ends of the steel reinforcing bars, and the 16 installation of the steel reinforcing bars to the 17 couplers; 18 (ii) Frequency of quality supervision of the 19 mechanical couplers works, which should be at least 20 20 per cent of the splicing assemblies by the quality 21 control supervisor of the CP", and then this well-known 22 phrase, "and full-time continuous supervision by the 23 quality control coordinator of the RGBC/RSC". 24 Then you recall that there's also a provision as 25 stated in (iii) regarding the 50 per cent supervision,</p>
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<p>1 instigator. 2 Cross-examination by MR KHAW 3 MR KHAW: Yes, Mr Rooney, I represent the government. 4 A. Good afternoon. 5 Q. Good afternoon. Given the rather detailed discussion 6 that you had with Mr Pennicott, I only have a few 7 questions for you. 8 A. No problem. 9 Q. If I may first trouble you to have a look at your 10 witness statement, at paragraphs 46 and 47, where you 11 refer to the Buildings Department's acceptance letters, 12 and then you went on to talk about the coupler 13 requirements as set out in the QSP. 14 A. Correct. 15 Q. Do you see that? 16 A. Correct. 17 Q. If I can just take you to have a look at page 197, that 18 is your paragraph 47(a). Here, you have quoted from the 19 requirements: 20 "First, qualified site supervision of the mechanical 21 splice works by an experienced and competent person 22 shall be provided to ensure that the works were carried 23 out in accordance with the agreed proposal and that the 24 required quality standards were complied with. In 25 particular and among other requirements:</p>	<p>1 regarding the couplers used at the top of the pile cap 2 and transfer plate; do you see that? 3 A. Yes, that's correct. Thank you. 4 Q. Now, obviously we have all those requirements in 5 relation to the frequency of both supervision and 6 inspection, regarding coupling works. We can all see 7 those requirements. 8 Now, would you agree with me that those requirements 9 relate to how MTR and also other parties, including 10 Leighton, of course, should oversee the coupling 11 installations, both at the time when the coupling 12 installations were being carried out and also after the 13 coupling installations had been carried out; would you 14 agree? 15 A. Aren't they the same thing, sorry? You say the two -- 16 Q. Yes. The two things are this: first of all, the first 17 thing is the time when the coupling installations were 18 actually being carried out; second, when we are talking 19 about inspection, we are talking about inspection in 20 relation to the time after the coupling installations 21 had actually been done. 22 A. From my perspective, they're basically one and the same 23 thing, but you need to -- it's all part of the one 24 process and you have to inspect it all. I wouldn't -- 25 I think I understand what you're saying, but I don't</p>



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<p>1 think it's two separate items.</p> <p>2 Q. Right. Would you agree with me that since not only the</p> <p>3 word "inspection" is used in the requirements, the word</p> <p>4 "supervision" is also used in the requirement, would you</p> <p>5 agree that when we're talking about inspection and</p> <p>6 supervision, these two matters would include how MTR</p> <p>7 oversee the coupling works at the time when they were</p> <p>8 being carried out?</p> <p>9 A. I see what you're saying, but again, to be very honest</p> <p>10 with you, I hadn't read the supervision component of</p> <p>11 that to be an MTR responsibility. I can see now how you</p> <p>12 arrive at that. I had more interpreted that</p> <p>13 as supervision by the contractor, and the inspection</p> <p>14 component being by both the contractor and MTR.</p> <p>15 Q. But would you agree that after seeing these</p> <p>16 requirements, the MTR was also required to supervise, ie</p> <p>17 to carry out supervision work, in relation to coupling</p> <p>18 installations?</p> <p>19 A. Forgive me, I can recognise how you have interpreted</p> <p>20 that, but from an overall construction industry</p> <p>21 perspective, the normal situation is that the contractor</p> <p>22 will supervise, and the engineer or the engineer's</p> <p>23 representative and his team will inspect and check.</p> <p>24 Q. Right.</p> <p>25 A. My understanding is that these particular clauses within</p>	<p>1 Do you follow what I'm trying to say?</p> <p>2 Q. I heard what you said. Perhaps we can further comment</p> <p>3 on this point later.</p> <p>4 If we can take a look at your paragraph 52. There</p> <p>5 you said:</p> <p>6 "I ceased to be responsible for submitting further</p> <p>7 batches of the quality supervision reports to BD after</p> <p>8 Jason Wong replaced me as CP for contract 1112 in</p> <p>9 February 2015. Since MTR has still not reached the</p> <p>10 stage of certification of completion of the works at the</p> <p>11 EWL slab and the NSL slab, I believe that the quality</p> <p>12 supervision reports in respect of the EWL slab and the</p> <p>13 NSL slab had not been prepared as at 7 August 2018 when</p> <p>14 I left MTRCL."</p> <p>15 I believe you would agree with me on this, would you</p> <p>16 not, Mr Rooney, that according to your understanding</p> <p>17 Leighton ought to have provided such records to MTR, but</p> <p>18 they didn't?</p> <p>19 A. It would have been very useful if Leighton had provided</p> <p>20 all the records, but, as I state there, to my knowledge,</p> <p>21 up to the 7th, they hadn't been provided.</p> <p>22 Q. Now, we all know that MTR's internal review took place</p> <p>23 in around January and February 2017; do you remember</p> <p>24 that?</p> <p>25 A. This is as a result of --</p>
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<p>1 the BD approval letter, which have been included here,</p> <p>2 are relatively common across other BD projects.</p> <p>3 Q. Yes.</p> <p>4 A. So my view is that the supervision component --</p> <p>5 personally, my view is that that's the contractor, not</p> <p>6 MTR.</p> <p>7 Q. But what puzzles me a bit is that if you look at (ii),</p> <p>8 that we've just seen, it says, "Frequency of quality</p> <p>9 supervision" -- we have a clear word "supervision" --</p> <p>10 "of the mechanical couplers works, which should be at</p> <p>11 least 20 per cent of the splicing assemblies by the</p> <p>12 quality control supervisor of the CP", ie of the MTRC.</p> <p>13 So that actually has raised my query that I just try</p> <p>14 to explore with you, as to whether you agree with me</p> <p>15 that MTRC, at least according to these requirements,</p> <p>16 would have a role to play in relation to the supervision</p> <p>17 process, not just the inspection process.</p> <p>18 A. I think I -- again, sorry to repeat -- I understand your</p> <p>19 logic, but from an industry standard, it would be</p> <p>20 unusual and difficult for, let's say, the MTR inspectors</p> <p>21 to supervise individuals on site to carry out work,</p> <p>22 because there isn't -- the responsibility line is not</p> <p>23 there for an inspector to supervise a worker. Strictly</p> <p>24 speaking, they shouldn't be doing that, from a practical</p> <p>25 point of view.</p>	<p>1 Q. Jason Poon's email.</p> <p>2 A. 6 January email?</p> <p>3 Q. Yes.</p> <p>4 A. That's correct.</p> <p>5 Q. May I know whether you made the decision to carry out</p> <p>6 this internal review or it was somebody else's decision?</p> <p>7 A. I think both myself and Mr TM Lee considered that we</p> <p>8 would carry out our own investigation, an MTR</p> <p>9 investigation, and more or less in parallel Mr TM Lee --</p> <p>10 I can't remember exactly what happened, but we were both</p> <p>11 thinking along the same lines. I think TM approached</p> <p>12 Carl. I approached TM and said, "I think we needed to</p> <p>13 do this", and he said something to the effect that,</p> <p>14 "Yes, I agree, I've already spoken to Carl", and I said,</p> <p>15 "Perfect", something to that effect.</p> <p>16 Q. Thank you.</p> <p>17 A. I believe that that was what occurred. So we both</p> <p>18 considered that it would be prudent to do that.</p> <p>19 Q. Now, in relation to Mr Jason Poon's email -- we</p> <p>20 obviously know that it's a case where a particular</p> <p>21 sub-contractor made certain allegations, and the</p> <p>22 allegations were about what Mr Jason Poon described as</p> <p>23 malpractice --</p> <p>24 A. Yes.</p> <p>25 Q. -- on site.</p>

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1 What I'm interested to know is that, at that time,  
2 was there any system or mechanism in MTR which would be  
3 responsible for dealing with such an allegation?  
4 A. I don't think there would be -- I don't think there's  
5 a separate section or body within MTR that would address  
6 such an issue. I think, if it's an issue that's raised  
7 on a project, then my understanding is that the project  
8 division would address the issue.  
9 Q. Right.  
10 A. I don't think there's a process in place to, let's say,  
11 get another part of the organisation to carry out  
12 a further sort of separate, independent investigation,  
13 if that's the direction you're going in.  
14 Q. I was just interested to know whether there was any  
15 particular system in place at that time which would deal  
16 with such complaint or similar complaints which arose  
17 from what happened on site.  
18 A. I don't believe so, no.  
19 Q. Thank you.  
20 We have all seen Mr Jason Poon's email during the  
21 course of today's hearing --  
22 A. Yes.  
23 Q. -- on the screen. Did you at that time have a chance to  
24 actually look at the contents of this email and also the  
25 photographs attached?

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1 A. I did, yes.  
2 Q. Before MTR made a decision to conduct this internal  
3 review, did MTR already realise that Leighton failed to  
4 provide or maintain the inspection sheets in relation to  
5 the coupling works for the platform slabs, or it was  
6 simply discovered during the internal review?  
7 A. I personally was not aware until Carl Wu, in his report,  
8 highlighted the absence of some of the records.  
9 Q. I see. So the first time you realised this problem was  
10 the time when you actually had a chance to see Carl Wu's  
11 report?  
12 A. Personally, myself, correct.  
13 Q. So, after you realised this problem, did you consider it  
14 quite a serious issue, ie the lack of proper records  
15 regarding coupling works for a particular area or for  
16 certain particular areas on the site? Did you consider  
17 that quite a serious issue?  
18 A. Yes, I did. Yes.  
19 Q. Did you raise any enquiry as to why this issue was not  
20 picked up earlier? Because that was already 2017.  
21 A. Correct.  
22 Q. Was there any discussion with either Carl Wu or anyone  
23 else as to why this was not picked up earlier?  
24 A. There was the discussion with Carl, and he -- I believe  
25 Michael, Michael Fu, was also present during that

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1 briefing, when he briefed us on the report, and we  
2 discussed in very general terms the fact that these  
3 records didn't appear or hadn't been available, and it  
4 was agreed that the follow-up action would be for the CM  
5 team to establish whether the records were there or not,  
6 and if possible to produce those records, if they were  
7 available.  
8 Q. At that time, was there any discussion, apart from the  
9 recommended follow-up actions as stated in the report --  
10 practically, I was wondering how MTR decided to deal  
11 with this problem. For example, did anyone at that time  
12 ever consider how to produce contemporaneous inspection  
13 records if you were asked to do so, for example if the  
14 government asked for a check on those records, how would  
15 you do so?  
16 A. That wasn't discussed in any detail at that time.  
17 Q. But, at that time, did you form the view that there were  
18 sufficient records, even though Leighton failed to  
19 produce their records regarding the inspection sheets  
20 for platform slabs?  
21 A. My personal view was that we had all the RISC forms --  
22 Q. Yes.  
23 A. -- and the review by Mr Carl Wu had confirmed that we  
24 had substantial RISC records. I believe that they were  
25 adequate to confirm that the coupler works were carried

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1 out in accordance with the requirements, although it was  
2 regrettable that we didn't have the full QSP records.  
3 Q. And you were aware of the NCR157 before or after you had  
4 a chance to look at Carl Wu's report for the internal  
5 review?  
6 A. I believe that I was first aware of it when I saw the  
7 Leighton report. I think the timing was that the  
8 Leighton report was a little bit earlier than Mr Wu's  
9 report. So I think 157 either became apparent to me by  
10 the Leighton report, or possibly Michael had said to me  
11 that we had found an NCR -- I can't remember the timing,  
12 but I think it was before Mr Wu's report.  
13 Q. Would do you agree with me, if we look at the two  
14 reports, the report from Leighton and also MTR's own  
15 report, none of these reports have addressed the  
16 following questions: for example, where and when did the  
17 alleged bar cutting incident occur as shown in the  
18 photographs attached to Mr Jason Poon's email, who were  
19 the workers involved, what were the actual causes for  
20 such incident, they were never addressed in the contents  
21 of any of these reports; would you agree?  
22 A. That's correct.  
23 Q. If that is the case --  
24 A. Sorry, can I just add to that?  
25 Q. Of course.

<p style="text-align: right;">Page 137</p> <p>1 A. Even though they weren't addressed in the report, we did 2 discuss the issues with Carl and with Michael, and we 3 came to, let's say, our own conclusions related to those 4 three points that you raised. But they weren't included 5 in the report. 6 Q. But if we go to paragraph 75 of your witness statement, 7 the last sentence of this paragraph: 8 "On the basis of the independent review of MTR and 9 the investigation report of Leighton, we concluded there 10 was no need to carry out any further follow-up action." 11 A. That's correct. 12 Q. Looking back now, given the questions that I have just 13 discussed with you, ie where and when did the alleged 14 incident happen, the causes of the incident, who were 15 the workers involved, et cetera -- without knowing any 16 of these details, looking back, would you say that it 17 was a bit premature for you to come to that conclusion? 18 A. I didn't feel that at the time. In terms of the 19 location, we had approximately worked out where we 20 thought the two photographs that Mr Poon provided, dated 21 22 September -- we had, from our records, approximated 22 where that location was, so we had an idea about that. 23 We personally believed that it was Fang Sheung 24 workers that were involved in -- that were present in 25 the photograph, even though I think Mr Poon alludes to</p>	<p style="text-align: right;">Page 139</p> <p>1 longitudinally, so you had, like, a three-dimensional 2 cage that you had to form, and obviously, when you come 3 to that 90-degree corner, from my experience it can be 4 very challenging. 5 So I had worked out in my own mind that if there was 6 going to be somebody trying to take a short-cut, then 7 that could be one location. 8 Q. Right. 9 A. And I think, in the discussion, that was supported by 10 some of the other MTR staff that we discussed the issue 11 with at the time. 12 Q. And your belief that the workers involved probably 13 should be Fang Sheung workers -- 14 A. Yes, we believe so. 15 Q. -- is it fair to say that it was sort of an inference or 16 a deduction that you would be able to draw from looking 17 at the pictures, or from other materials? 18 A. Primarily from looking at the pictures, but also we 19 believe that it would be unusual, it would be strange to 20 have a non-steel fixer worker involved in installing 21 threaded bars into couplers, not impossible, but it 22 would be unusual. 23 Q. Right. If you don't mind, let's just take a look at the 24 two pictures attached to -- 25 A. Yes.</p>
<p style="text-align: right;">Page 138</p> <p>1 it being Leighton workers, but our view, from our 2 experience, was that it was Fang Sheung workers. 3 Sorry, the final point? You had three points. The 4 third point was -- 5 Q. When and where, cause of the incident, and also who were 6 the workers involved. 7 A. Sorry, yes. So the second one was "who", and like 8 I say, we believed it was Fang Sheung workers. 9 And the cause -- and again we discussed this, and my 10 personal view was that the cause of any potential 11 cutting of threaded rebar, as Mr Poon advised -- and 12 it's still not 100 per cent clear from those photographs 13 that there was -- particularly in the second photograph, 14 where you see -- I think it's two workers and they are 15 crouching down and they are doing some work -- my belief 16 was that if a bar had been cut, and those two workers 17 were actually involved in, let's say, taking that bar 18 and trying to install it -- I believe that that was 19 probably a problem related to that type of location, 20 where it was very, very clear that, in those corners 21 between the D-wall, the longitudinal D-wall and the 22 transverse construction joint, particularly down in 23 those bottom corners, that was a particularly difficult 24 area to get all the rebar in place, because all the 25 rebar was running vertically, transversely and</p>	<p style="text-align: right;">Page 140</p> <p>1 MR KHAW: Mr Pennicott has kindly reminded me of the time. 2 Would be it be a convenient moment? 3 CHAIRMAN: Yes, certainly. 15 minutes. Thank you. 4 (3.42 pm) 5 (A short adjournment) 6 (4.00 pm) 7 MR KHAW: Mr Rooney, if I can just take you to have a look 8 at the photographs attached to Mr Jason Poon's email. 9 A. Please. 10 Q. It is at B10/7526. If we can just very quickly look at 11 this picture and also the next page. Maybe we can stay 12 at this page first. 13 Merely from looking at this picture, are there any 14 features which can indicate whether these workers 15 actually work for Fang Sheung or other sub-contractor? 16 A. My impression, at the time when I first saw it, was that 17 they were Fang Sheung workers. That was just my 18 impression. They were handling the rebar quite well, 19 they had the right clothing that seemed to indicate they 20 were steel fixers. My view was steel fixers. 21 Q. Does it mean that you actually met Fang Sheung workers 22 before? 23 A. I would see, during my weekly site walks, walking along 24 during the construction of the EWL slabs and the NSL 25 slabs, I would see Fang Sheung workers.</p>

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<p>1 Q. Right.</p> <p>2 A. And so, to me, they look like Fang Sheung workers, steel</p> <p>3 fixers, yes.</p> <p>4 Q. But I take it that you would not be able to identify who</p> <p>5 they actually are?</p> <p>6 A. I wouldn't, no.</p> <p>7 Q. Thank you.</p> <p>8 A. I'm sorry, just staying on that photograph, I was saying</p> <p>9 before about potentially difficult locations for steel</p> <p>10 fixing.</p> <p>11 CHAIRMAN: Yes.</p> <p>12 A. From my experience, if there was going to be some</p> <p>13 particularly difficult locations, that would be one of</p> <p>14 them, you know, because you've got the longitudinal bars</p> <p>15 there, which they seem to be trying to thread into, and</p> <p>16 then you've got the transverse ones coming out from</p> <p>17 what's left of the D-wall at that location, and the</p> <p>18 vertical ones. That would be a difficult area.</p> <p>19 MR KHAW: While you were working on the site, did you hear</p> <p>20 from anybody regarding the difficulties encountered by</p> <p>21 bar fixing workers?</p> <p>22 A. Forgive me, I never actually worked on the site, as it</p> <p>23 were, but I did visit.</p> <p>24 Q. Yes.</p> <p>25 A. And, again, during the Monday site walks, there were</p>	<p>1 you remember that?</p> <p>2 A. Correct.</p> <p>3 Q. We heard your evidence, correct me if I am wrong, you</p> <p>4 told us that you checked with Kobe Wong, and Kobe Wong</p> <p>5 told you that he checked at least 50 per cent of the</p> <p>6 coupler installations.</p> <p>7 A. That's correct.</p> <p>8 Q. We also have seen one summary in which, at the bottom,</p> <p>9 it was put that 60 per cent was checked; do you remember</p> <p>10 that?</p> <p>11 A. That's this morning, yes.</p> <p>12 Q. Yes.</p> <p>13 A. As I said, I'm not sure that I had seen that before, to</p> <p>14 be honest.</p> <p>15 Q. Yes. Then you also told us this morning, on a few</p> <p>16 occasions, that the RISC form --</p> <p>17 A. That's right.</p> <p>18 Q. -- should be able to tell us that in fact 100 per cent</p> <p>19 were checked; do you remember that?</p> <p>20 A. Basically, yes.</p> <p>21 Q. Now, we have a lot of figures here. If MTR were asked,</p> <p>22 insofar as the level of inspection is concerned, what</p> <p>23 was the percentage that MTR has actually inspected?</p> <p>24 50 per cent, 60 per cent or 100 per cent?</p> <p>25 A. 100 per cent. 100 per cent.</p>
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<p>1 instances where, not from the sub-contractors but either</p> <p>2 from the Leighton people in the site walk or from the</p> <p>3 MTR people, where we did identify -- not just the EWL</p> <p>4 slab but other parts of the work where there was some</p> <p>5 complications with steel fixing. So, again, not</p> <p>6 uncommon, really.</p> <p>7 Q. Right. But those complications did not relate in</p> <p>8 particular to the need for any bar cutting, threaded bar</p> <p>9 cutting?</p> <p>10 A. Definitely not.</p> <p>11 Q. Thank you.</p> <p>12 A. But couplers in general are problematical, for all the</p> <p>13 reasons that I think everybody has heard over recent</p> <p>14 weeks.</p> <p>15 Q. Going back to the records that MTR prepared recently, ie</p> <p>16 in June this year -- the contents of those records</p> <p>17 I believe have been discussed between you and</p> <p>18 Mr Pennicott rather extensively. I do not wish to go</p> <p>19 into the details.</p> <p>20 Now, earlier on this morning, you told us the</p> <p>21 purpose of producing those documents, ie the</p> <p>22 retrospective records, was for, quoting from your words,</p> <p>23 "MTR ... to be able to substantiate that they had</p> <p>24 complied with the 20 per cent and 50 per cent coupler</p> <p>25 assembly checking requirement laid down by the BD." Do</p>	<p>1 Q. 100 per cent?</p> <p>2 A. I would say 100 per cent.</p> <p>3 Q. So your answer would be based on what you see from the</p> <p>4 RISC forms; is that correct?</p> <p>5 A. Plus the confirmation from our MTR engineers and</p> <p>6 inspectors who carried out the inspections.</p> <p>7 Q. But the problem is Kobe Wong only said more than</p> <p>8 50 per cent, or, according to that summary that we saw</p> <p>9 this morning, 60 per cent.</p> <p>10 A. Based upon that sheet today, yes.</p> <p>11 Q. So, based on what the engineers told you, that would be</p> <p>12 only around 50 or 60 per cent; is that correct?</p> <p>13 A. No. Our engineers and our inspectors checked</p> <p>14 100 per cent, and verified that through signing off of</p> <p>15 the RISC forms.</p> <p>16 Q. The RISC forms. Okay.</p> <p>17 A. What I believe Kobe was confirming to me in June of this</p> <p>18 year and on that summary sheet that was shown this</p> <p>19 morning was that from a BD T3 perspective, he personally</p> <p>20 could guarantee to sign off, whether it's 50 or</p> <p>21 60 per cent; okay? The reality -- that's him</p> <p>22 personally. The reality, I believe, is that the team as</p> <p>23 a whole, it's 100 per cent.</p> <p>24 Q. I see.</p> <p>25 A. But in terms of Kobe, he's confident, whether it's 50 or</p>

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<p>1 60 or whatever the percentage is.</p> <p>2 Q. And obviously you have to trust their memory as to what</p> <p>3 was done at the material time; is that correct?</p> <p>4 A. Well, you -- yes, there is trust involved, but there is</p> <p>5 also a record, in terms of the RISC forms, which people</p> <p>6 signed off, professional people signed off; experienced</p> <p>7 professional people.</p> <p>8 Q. Finally, I would like you to just look at the MTR's</p> <p>9 15 June report. Before this report was sent out, did</p> <p>10 you have a chance to look at the contents of that</p> <p>11 report?</p> <p>12 A. Yes.</p> <p>13 Q. Now, if we look at B1, page 29, under the part -- you</p> <p>14 will see probably in the middle of this page,</p> <p>15 "Supervision and inspection by MTRCL on site"; do you</p> <p>16 see that?</p> <p>17 A. Yes.</p> <p>18 Q. "Installation works", and then there's a bullet point:</p> <p>19 "Frequency of quality supervision by the MTRCL</p> <p>20 TCP-T3 should be at least 20 per cent of the splicing</p> <p>21 assemblies for the slab in general, and to be increased</p> <p>22 to at least 50 per cent where the structure acts as</p> <p>23 a transfer plate. These inspection frequencies are</p> <p>24 commonly applicable to using splicing assemblies in</p> <p>25 reinforced concrete construction in Hong Kong."</p>	<p>1 in a format which tied in with the particular QSP</p> <p>2 format. But in terms of whether the work was carried</p> <p>3 out in accordance with the requirements, we were</p> <p>4 100 per cent confident that we had the records.</p> <p>5 So, again, it's a format issue as opposed to being</p> <p>6 able to verify that the works were carried out in</p> <p>7 accordance with the requirements.</p> <p>8 Q. But, Mr Rooney, would you agree with me -- you will</p> <p>9 probably not but I'll still put it -- that this is in</p> <p>10 fact not just a format issue, because the</p> <p>11 contemporaneous records would be able to tell everybody</p> <p>12 which particular bar, in relation to which particular</p> <p>13 row, regarding which particular bay, has been checked.</p> <p>14 So it's a question of substance, not just formatting;</p> <p>15 would you agree?</p> <p>16 A. Forgive me, no. As you presumed, I would not agree with</p> <p>17 you. I believe, again, that the RISC forms confirm that</p> <p>18 100 per cent of the coupling assemblies were checked and</p> <p>19 verified to be compliant.</p> <p>20 Q. Thank you. Going back to the statement that we just</p> <p>21 saw, ie "Full records are in place", do you know who put</p> <p>22 down that conclusion in the report? Because we asked</p> <p>23 James Ho and he said it was not his responsibility. Do</p> <p>24 you know who actually put down this part of the report?</p> <p>25 A. The report went through quite a few drafts. I'm not</p>
<p>Page 146</p> <p>1 Now, there the report says:</p> <p>2 "Full records are in place. All inspection records</p> <p>3 indicated that the works were acceptable, with no</p> <p>4 anomaly."</p> <p>5 Do you see that?</p> <p>6 A. Correct.</p> <p>7 Q. Would you agree that given the lack of contemporaneous</p> <p>8 records prepared by Leighton, regarding the inspection</p> <p>9 sheets for the platform slabs -- would you agree that</p> <p>10 this statement, "[all] records are in place", perhaps</p> <p>11 does not give a complete and full picture regarding the</p> <p>12 records kept?</p> <p>13 A. In terms of the QSP records and the use of the</p> <p>14 attachment B or C checklist, I would agree, correct.</p> <p>15 Q. Thank you.</p> <p>16 At that time, ie at the time when this report was</p> <p>17 prepared, before it was sent out, did MTR ever consider</p> <p>18 it necessary to disclose the fact that there were in</p> <p>19 fact no contemporaneous records regarding coupling</p> <p>20 installations for the platform slabs?</p> <p>21 A. No, because, again, as I've said, based upon the RISC</p> <p>22 forms and the completion of the RISC forms, we are -- or</p> <p>23 MTR are -- confident that all the -- 100 per cent of the</p> <p>24 coupler assemblies were checked and verified. The</p> <p>25 problem that we had was we didn't have a record that was</p>	<p>Page 148</p> <p>1 sure where the final wording came from. But I was</p> <p>2 involved in the drafting.</p> <p>3 Q. Okay.</p> <p>4 A. And I read and had no problem with that statement.</p> <p>5 MR KHAW: I have no further questions.</p> <p>6 CHAIRMAN: Thank you.</p> <p>7 MR CONNOR: Thank you, sir. No questions from Atkins.</p> <p>8 Re-examination by MR BOULDING</p> <p>9 MR BOULDING: Good afternoon, Mr Rooney.</p> <p>10 A. Good afternoon.</p> <p>11 Q. I have just one matter I would like to ask a few</p> <p>12 questions about.</p> <p>13 Do you recall being asked by Mr So for China</p> <p>14 Technology about safety issues involving China</p> <p>15 Technology?</p> <p>16 A. In connection with this afternoon?</p> <p>17 Q. Yes.</p> <p>18 A. Yes, I do recall.</p> <p>19 Q. If I could remind you of what you said, as recorded in</p> <p>20 the transcript -- and I'm reading from [draft] page 121,</p> <p>21 currently line 19 -- Mr So says:</p> <p>22 "I'm focusing on the safety part, Mr Rooney. So you</p> <p>23 say there were some safety issues regarding China</p> <p>24 Technology?</p> <p>25 Answer: With respect, yes, there were safety</p>

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<p>1 issues, but there were other issues as well. It wasn't 2 just" -- and then you paused -- "although safety is our 3 priority at all times." 4 Then Mr So says: 5 "Insofar as safety issues -- 6 Answer: Can I finish? 7 Question: Sure, of course. 8 Answer: I'd like to reconfirm, safety is our first 9 priority, and I wouldn't ever put any other issue of 10 safety, but having the required resources and the 11 quality of the resources, and the quality of the work 12 under construction, are also key factors in project 13 delivery." 14 A. That's correct. 15 Q. Then the questioning continued from Mr So: 16 "The safety issue that you mentioned today, that 17 China Technology had, was never mentioned anywhere, both 18 in your witness statement in your four police 19 statements; is that correct? 20 Answer: I'd have to go back and re-read to see if 21 there's any reference to safety." 22 A. Correct. 23 Q. I wonder if we could have a look at your witness 24 statement. Could you be taken to B216. Do you see that 25 there's a heading there, "Item 13(a): Comment on</p>	<p>1 attention? 2 A. It would be primarily related to China Technology 3 workers working at height -- this is on safety? 4 Q. Yes, of course. 5 A. In terms of China Technology workers working at height, 6 particularly on scaffolding or inadequate scaffolding 7 that they had erected themselves, because one of their 8 responsibilities was to provide their own scaffolding, 9 and this was primarily in 2016, when the above-slab 10 walls and staircases and lift shafts were being 11 constructed above the EWL slabs and NSL slabs. 12 Q. I see. 13 A. And there were a number of occasions, again particularly 14 in the middle of 2016, where we would, in our site walk 15 on a Monday morning at that time, we would see workers 16 placing themselves at risk or other workers at risk, and 17 we would stop the works and Leighton would ask whether 18 Jason was on site, and if Jason was on site we would ask 19 him to come and discuss the issue, and he would normally 20 acknowledge that it was a safety issue and he'd promise 21 to try to do better. 22 MR BOULDING: Thank you very much, Mr Rooney. That's very 23 helpful. 24 Sir, Professor, I don't know whether you've got any 25 further questions.</p>
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<p>1 Mr Poon's allegations"? 2 A. I can. Thank you. 3 Q. Then 113 says, just to read in: 4 "As stated in paragraph 70 above, I had no knowledge 5 about the alleged defective steel works until they were 6 first reported by Jason Poon to Leighton on 6 January 7 2017. Prior to that, nobody raised any issues relating 8 to the alleged defective steel works during the meetings 9 or site visits that I attended or on any other 10 occasions." 11 Just before I read on, do you still stand by that 12 statement? 13 A. I do confirm. 14 Q. Then, coming on to the more relevant bit for present 15 purposes: 16 "I did occasionally run into Jason Poon on site. 17 During those occasions when we met, Jason Poon did not 18 mention any issues about the alleged defective steel 19 works. On the few occasions that we talked, we 20 discussed the adequacy of the resources provided by 21 China Technology and performance issues in relation to 22 the safety and quality of China Technology's works." 23 A. Correct. 24 Q. I know it's a long time ago but can you remember the 25 sort of issues that you would bring to Jason Poon's</p>	<p>1 COMMISSIONER HANSFORD: Just a small point, Mr Rooney. In 2 that very last point, in your reply to Mr Boulding, you 3 said, "If Jason was on site, he would be called". What 4 if he wasn't on site; how would that then be dealt with? 5 A. China Technology had three or four area supervisors, so 6 ideally we would like to speak to Jason, if he was 7 there. If he wasn't there, then we would go to the next 8 level down, which would be one of those supervisors. 9 But normally we would find somebody of a management 10 perspective in China Technology that would assist us. 11 COMMISSIONER HANSFORD: Okay. Thank you. 12 MR BOULDING: Thank you very much, Mr Rooney. 13 CHAIRMAN: Thank you very much. Your evidence is now 14 completed. 15 WITNESS: Thank you. 16 CHAIRMAN: I understand that you delayed a trip overseas so 17 that you could give evidence. Thank you very much. 18 That was considerate. 19 WITNESS: I wanted to give it in person. Thank you. 20 MR BOULDING: Yes, you can go. Get out quick! 21 (The witness was released) 22 MR BOULDING: Sir, Professor, my next witness is Mr Louis 23 Kwan. 24 Good afternoon, Mr Kwan. 25 WITNESS: (In English) Good afternoon.</p>

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<p>1 MR KWAN PAK HEI, LOUIS (sworn in Punti) 2 (Simultaneous interpretation used only where specified) 3 Examination-in-chief by MR BOULDING 4 MR BOULDING: Thank you. If you'd be kind enough to give 5 your full name to the Commissioners, please. 6 A. Good afternoon, Professor, good afternoon, Mr Chairman. 7 My name is Kwan Pak Hei, Louis. 8 Q. Thank you. It's correct, is it not, Mr Kwan, that you 9 prepared two witness statements for the assistance of 10 the Commissioners in this Inquiry? 11 A. That is correct. 12 Q. Please can we have a look at the first page of your 13 first statement, which should be B273. That's the first 14 page of your first statement, is it not, Mr Kwan -- 15 A. Yes. 16 Q. Then if you could be find enough to go on to B398. 17 There do we see your signature, under the date of 18 13 September 2018? 19 A. Correct. That is my signature. 20 Q. Splendid. I'm not going to ask you at the moment 21 whether that's all true, because you make one or two 22 minor corrections and clarifications in your second 23 statement, so if we could go on to the second statement, 24 please, which is B13622. There do we see the first page 25 of your second witness statement, Mr Kwan?</p>	<p>1 again if you go down, this time under the photograph of 2 Suzanne Mak who's almost at the top, do we see your 3 picture and name there, and title, Mr Kwan? 4 A. Yes, I see it. 5 Q. Does that show the reporting lines involving you in the 6 MTR organisation from that date? 7 A. Yes, I report to Terence Chan, who's my ConE-I at that 8 moment, yes. 9 Q. Thank you very much. What's going to happen now, 10 Mr Kwan, is that counsel for the Commission is going to 11 ask you some questions first. Then there may well be 12 questions from other lawyers in the room. Then I might 13 take the opportunity of asking you questions at the end. 14 But the Chairman and Professor can ask you questions 15 whenever it takes their fancy. 16 A. Fully understood, yes. 17 MR BOULDING: Thank you. 18 Examination by MR PENNICOTT 19 MR PENNICOTT: Mr Kwan, good afternoon. 20 A. Good afternoon, Mr Pennicott. 21 Q. I have been unreliably informed that you were going to 22 give evidence in Cantonese. 23 A. I prefer speaking in Cantonese because that is my mother 24 tongue so I speak more fluently in Cantonese. 25 Q. It's entirely up to you, Mr Kwan, whether you wish to</p>
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<p>1 A. Yes. 2 Q. If we were to scroll down to paragraphs 18 to 21, 3 I think that's -- splendid, and there you take the 4 opportunity, do you not, to set out certain 5 clarifications and minor amendments that you'd like to 6 make to your first statement; is that right -- 7 A. Correct. 8 Q. -- through to paragraph 21? Then if we could scroll 9 down to the end, if we could go, please, to B13627, do 10 we there see your signature under "8th October 2018"? 11 A. Yes, that is my signature. 12 Q. Taking account of those clarifications and amendments, 13 are the contents of both of those statements true to the 14 best of your knowledge and belief? 15 A. Correct. 16 Q. Just to see where you are in the organisation, Mr Kwan, 17 if you could go to B563 -- splendid -- and if you can 18 see Ms Chu at the top, and if we go down, do we see your 19 picture there, Mr Kwan? 20 A. I see it. 21 Q. And that, we can see, can we not, was effective from the 22 end of May 2014; correct? 23 A. Correct. 24 Q. But things changed slightly, if we go to B566, and here 25 we've got the chart effective from 15 January 2015, and</p>	<p>1 speak in English or in Cantonese, or a bit of both. 2 A. A bit of both, yes. 3 Q. It's up to you, but if it's going to be Cantonese, we 4 need to put these [headphones] on. 5 A. Yes. I prefer in Cantonese first. 6 Q. Let's put the headphones on then. 7 Mr Kwan, am I right in suggesting, from your witness 8 statement, that you've been involved in the project 9 since April 2014? 10 A. Yes. 11 Q. If we could just go to one more organisation chart, at 12 page 567, that's one on from where we were just a moment 13 ago with Mr Boulding, we can see this is now February 14 2015; do you see that, Mr Kwan? 15 A. (Via interpreter) Yes. 16 Q. And on the previous page, there's a blank. You can see, 17 if you go up from yourself through Terence Chan, and 18 then there's a blank, do you see, no photograph? 19 On the next page, please, we can see that James Ho 20 is now there? 21 A. Yes. 22 Q. So would it be right that from February 2015, the 23 person, as it were, immediately above you on the chart 24 is Derek Ma, who we've heard from, and then it's James 25 Ho, who ultimately you would report to?</p>

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<p>1 A. Yes.</p> <p>2 Q. As I understand it, you were a construction engineer 3 3 up to December 2014?</p> <p>4 A. (Via interpreter) Yes.</p> <p>5 Q. Then, when you became a chartered engineer in 6 December 2014, a construction engineer 2?</p> <p>7 A. Yes.</p> <p>8 Q. I also understand, Mr Kwan, that since the date of your 9 witness statement, your first witness statement at 10 least -- perhaps your second one, I don't know -- you're 11 no longer working for MTR but you're at the Airport 12 Authority; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. When did you move there?</p> <p>15 A. I resigned from MTR on 8 October, and I joined --</p> <p>16 Q. This year?</p> <p>17 A. This year, 2018, and I joined the Hong Kong Airport 18 Authority on 16 October.</p> <p>19 Q. Right.</p> <p>20 Sorry, I should have said earlier, because I say 21 this to all witnesses, thank you very much for coming to 22 give evidence to the Commission.</p> <p>23 A. My pleasure.</p> <p>24 Q. Even more so now you're not working for MTR. 25 In your witness statement, you tell us that you were</p>	<p>1 Q. Right. In paragraph 11 of your witness statement, 2 B1/375, you explain how you calculated the supervision 3 requirements, by reference, as I understand it, to the 4 Code of Practice for Site Supervision?</p> <p>5 A. (Via interpreter) Correct.</p> <p>6 Q. Then you refer in your witness statement to your 7 personal assignment, that's paragraph 12, as the TCP-T3 8 grade under the CP stream?</p> <p>9 A. (Chinese spoken).</p> <p>10 Q. I'm just waiting for a possible translation. 11 I think that was a "yes", was it?</p> <p>12 A. Yes, that is correct.</p> <p>13 Q. In my limited understanding of that. 14 You I think confirm in your witness statement -- 15 again, Mr Kwan, let's just get this point out of the 16 way -- two things. You were not informed, when you 17 joined the project in April 2014, of the quality 18 supervision plan, the QSP, in respect of the couplers?</p> <p>19 A. (Via interpreter) I was not notified.</p> <p>20 Q. Although the D-walls were still being constructed in 21 April 2014, when you joined, you had no involvement with 22 the diaphragm walls, as I understand it?</p> <p>23 A. (Via interpreter) That is correct, I had no involvement.</p> <p>24 Q. In paragraph 19 of your witness statement -- that's 25 B1/379 -- you explain and describe a typical splicing</p>
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<p>1 involved in the hold point inspections in areas B and C, 2 except for C3-2 and C3-3?</p> <p>3 A. Yes.</p> <p>4 Q. I think we can pick up from your statement that it was 5 Mr Jeff Cheung who was responsible for C3-2 and C3-3?</p> <p>6 A. Yes.</p> <p>7 Q. In paragraph 9 of your witness statement, you explain 8 your involvement in the preparation of the site 9 supervision plans?</p> <p>10 A. (Via interpreter) Correct.</p> <p>11 Q. You explain that the task of preparing those site 12 supervision plans was indeed delegated to you 13 personally; is that right?</p> <p>14 A. (Via interpreter) Correct.</p> <p>15 Q. We don't have to go into detail, so you would prepare 16 a draft and then submit it to somebody else was 17 approval -- was that how it worked?</p> <p>18 A. (Via interpreter) In my responsibilities, I was 19 responsible for drafting the TCP documents. I was the 20 engineer responsible for doing that. After I did my 21 job, I would hand it over to colleagues for signing off 22 and confirmation, and after the whole document is 23 completed I would hand it to the relevant colleagues for 24 issuing a letter under the MTR title, and it was it 25 would be submitted to BD for confirmation.</p>	<p>1 assembly; do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. You explain in paragraph 20 the various hold points as 4 set out in the inspection and test plan, which I presume 5 you were familiar with when you were doing your 6 inspections, Mr Kwan?</p> <p>7 A. (Via interpreter) Correct.</p> <p>8 Q. At 20.4 of your witness statement, you refer to one of 9 the hold points being the inspection of the rebar fixing 10 works, bottom and top layers?</p> <p>11 A. (Via interpreter) Correct.</p> <p>12 Q. As I understand it, you were involved in those hold 13 point inspections?</p> <p>14 A. (Via interpreter) Correct.</p> <p>15 Q. Can I ask you this, although I think -- as you explain 16 in paragraph 48 of your witness statement, let's jump 17 forward, so far as the inspection of the rebar in the 18 bottom mat and the top mat and the various layers within 19 those two mats, you say: 20 "... I should stress that the inspection of each bay 21 was not done on a single occasion -- as a matter of 22 common sense, if the top layers had already been 23 completed, it would be difficult to visually inspect the 24 bottom layers. Therefore, I typically inspected the 25 bottom layers of rebars once they had been completed</p>



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<p>1 (and prior to the commencement of the fixing of the top 2 layers of rebars), and then returned for a second 3 inspection once the fixing of the top layers of rebars 4 had also been completed." 5 Now, just pausing there for a moment, Mr Kwan -- we 6 know that Leighton issued to you, to the MTR, RISC 7 forms, in respect of the inspection of the bottom and 8 top rebar. 9 A. (Nodded head). 10 Q. Would they issue those RISC forms when the bottom layer 11 had been completed and ready for your inspection, or 12 when the top mat was ready for your inspection? How did 13 it work? How was the timing in relation to the issue of 14 the RISC forms? 15 A. (Via interpreter) Under typical circumstances, we would 16 require Leighton engineers, before the bay rebar fixing 17 works commence, they would have to submit the RISC form. 18 But certain circumstances were they would commence the 19 bottom mat rebar fixing and after that they would submit 20 the RISC form for me for inspection. And the timing 21 would be before the completion of the bottom mat rebar 22 fixing, the RISC forms would be sent to MTR by Leighton. 23 Q. So you're saying, as I understand it, that you would 24 receive the RISC form at the point in time that the 25 bottom mat had been completed, and was ready for</p>	<p>1 MR PENNICOTT: I'm afraid it's very indistinct, and 2 I apologise, although frankly it's not my fault. If you 3 look at H118, this is the RISC form in relation to C1-1. 4 I think we can just about make that out. 5 A. I can see that. 6 Q. It's actually better on the screen than it is in hard 7 copy. 8 We can see, on the right-hand side, that the date 9 upon which Leighton's assistant engineer, Sasa Leung, 10 was sending this to you was 23 July 2015; do you see 11 that? 12 A. I see that. 13 Q. And what was being requested was an inspection on 14 25 July 2015, two days later; do you see that? 15 A. That is the request, yes, I see that. 16 Q. And we can see, at the top, under "Part A", number (2), 17 that it relates to the top and bottom rebar; do you see 18 that? 19 A. I see that. 20 Q. As I understand it, tell me if I'm wrong, the inspection 21 was carried out by one of your colleagues, is that 22 right, on 27 July? 23 A. Which 27 July do you refer to? 24 Q. I'm just looking at "To be completed by MTR 25 Corporation" --</p>
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<p>1 inspection, on or before? 2 A. Before, on or before. 3 Q. On or before. Okay. And did that happen on every 4 single occasion, Mr Kwan? 5 A. (Via interpreter) I cannot be very certain what the 6 situation was for each occasion. That day, it was 7 before the completion of the bottom mat -- because we 8 are talking about incidents three years ago, I cannot 9 recall exactly, but there were circumstances, between 10 commencement and completion, they would submit the RISC 11 forms to MTR. 12 Q. Were you responsible for, if you can recall, C1-1, 13 area C1-1? 14 A. Yes, I try to. 15 Q. Can we just look at H1/118, please. 16 COMMISSIONER HANSFORD: Sorry, I don't understand that 17 answer. Were you answering whether you could recall for 18 Mr Pennicott C1-1, or were you answering were you 19 responsible for area C1-1? 20 MR PENNICOTT: It's probably my question. 21 A. I was responsible for C1-1, rebar fixing. 22 COMMISSIONER HANSFORD: Okay, thank you. 23 A. Sorry for the misunderstanding. 24 COMMISSIONER HANSFORD: No, no. I was just looking at the 25 transcript.</p>	<p>1 A. Because there are three "27 July" on the document, so 2 which one are you referring to. 3 Q. You tell me, Mr Kwan. 4 A. Right. 5 Q. What date do you think the inspection would have taken 6 place? 7 A. (Via interpreter) When I look at the RISC form, I see it 8 says, "To be completed by MTR Corporation", and next to 9 that there's a time, 8:30 on 27 July. If I understand 10 correctly, that would be the MTR team at the time they 11 received this RISC form. So I would conjecture that the 12 inspection time would be 27 July or sometime later. 13 Q. Right. You've signed this off? 14 A. Yes. 15 Q. So what is that indicating, that you are acknowledging 16 that one of your senior inspector of works had done the 17 inspection? 18 A. No, no, no, that is not the case. 19 Q. You did the inspection yourself? 20 A. Yes, I would say so. 21 Q. Would I be right in saying that you did that inspection 22 on 27 July at 15:00 hours -- sorry, 17:00 hours? 23 A. I cannot remember exactly the timing, when I went 24 on site and did the -- carried out the inspection. 25 Q. Right. We can see that on this one, there are the words</p>

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<p>1 "late submission" written under your name and under 2 item (6), "Notes"; do you see that? 3 A. I see that. 4 Q. Did you write that? Is that your writing? 5 A. Based on the writing shown on the form, I don't think 6 that is my handwriting. 7 Q. Right, okay. What I'm puzzling over, Mr Kwan -- and 8 this goes back to when you actually received these RISC 9 forms in relation to when the inspections were carried 10 out in the bottom mat and the top mat -- my 11 understanding is from the records that concrete was 12 actually poured on C1-1 on 27 July, and so I'm rather 13 puzzled by this form. Are you able to help? 14 A. I will try to help. 15 Q. There were times when you received late submissions of 16 RISC forms from Leighton; would that be right, for 17 a starting point? 18 A. Correct. 19 Q. And might inspections take place by you and your 20 colleagues, if necessary, without receipt of the RISC 21 form, on occasions? 22 A. (Via interpreter) There are such occasions. 23 (In English) There will be occasions that -- because 24 I did my surveillance, on-site inspection by myself. 25 Q. Yes.</p>	<p>1 I suggested to you that the concrete was poured on 2 27 July. It was 28 July, the following day. 3 So what one had was a situation where you were being 4 sent the RISC form on 23 July, you were being asked to 5 carry out the inspection on 25 July, for the rebar. It 6 appears that the inspection was done perhaps on 27 July, 7 the same day as the cast in situ concrete quality 8 control checklist is dated, as we have seen. And 9 there's simply no way of knowing when you inspected the 10 bottom mat of rebar and the top mat of rebar; would you 11 accept that, on looking at these documents? 12 A. (Via interpreter) I agree. On record, that is on this 13 RISC form, indeed it doesn't show clearly when the 14 inspection on the bottom mat was done. 15 Q. Do we know -- are we sure that the top mat was inspected 16 on 27 July? 17 A. (Via interpreter) As I said previously, it was three and 18 a half years ago. It's impossible for me to confirm 19 100 per cent whether I carried out the inspection on top 20 mat on 27 July. But according to the record, I believe 21 that is the case. 22 Q. Right. Going back to page 118 of H1, was it your 23 practice and habit to sign the RISC forms, as you have 24 done on this one, on the actual date of inspection, or 25 would it sometimes happen that you would do it later?</p>
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<p>1 A. And during that occasion, even without the RISC form, 2 I can still go on site to have the inspection for the 3 rebar. 4 Q. Yes. 5 A. But it's just informal inspection. 6 Q. Yes. What I'm driving at here is quite a lot of 7 reliance is being placed on these RISC forms and their 8 accuracy and their reliability, and I'm just trying to 9 understand precisely how this process worked in relation 10 to these RISC forms. This is just one. There are loads 11 of others. 12 Have we got any record at all of when you inspected 13 the bottom mat of rebar and when you inspected the top 14 mat of rebar? Do we know when you did that? 15 A. (Via interpreter) According to the record on the RISC 16 form, as far as my understanding is concerned, RISC form 17 for top and bottom rebar inspection is one only. So, on 18 the RISC form, we won't clearly record when we inspected 19 the bottom mat or the top mat. 20 Q. Yes. And this one is particularly complicated because, 21 as I say -- and we can look at page H124 -- the cast in 22 situ quality control checklist was also signed on 23 27 July 2015; do you see that? 24 A. I see that. 25 Q. I'll correct myself on one point, Mr Kwan. I think</p>	<p>1 A. (Via interpreter) I would, on the day after the 2 inspection, after the inspection, when I went back to 3 the office, make a record of the inspection and sign the 4 RISC form, correct. I would sign the RISC form on the 5 very day. 6 Q. All right. 7 Let's just look at one more RISC form. You were 8 responsible for C1-3. Let's check that. If we could go 9 to H1/142, please. This is in relation to, as I say, 10 EWL slab C1-3; do you see that, Mr Kwan? 11 A. I see that. 12 Q. An area of which you are responsible. We can see 13 further down your signature again. 14 This time, again, it refers to the inspection of the 15 rebar for the top and bottom layers? 16 A. Correct. 17 Q. And this time it's being sent by Leighton on 18 4 September, with an anticipated inspection date the 19 following day, 5 September; do you see that? 20 A. I see that. 21 Q. And again, it appears, so far as the dates are concerned 22 in the MTR "Part B" box, they all appear to be 23 7 September? 24 A. I see that. 25 Q. Again, we've got the words "late submission" appearing;</p>

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<p>1 do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. Again it looks as though perhaps an inspection has taken</p> <p>4 place by you at 14:45 hours on 7 September?</p> <p>5 A. I think 16:45.</p> <p>6 Q. Sorry, 16:45 on 7 September; is that what we are to</p> <p>7 conclude from this?</p> <p>8 A. From the record, I suppose yes.</p> <p>9 Q. How do we know from this document, Mr Kwan, that you</p> <p>10 inspected the bottom mat of rebar, and if so when?</p> <p>11 A. (Via interpreter) In our inspection practice, as I said</p> <p>12 previously, it was one RISC form covering top and bottom</p> <p>13 rebar inspections. In this particular case, I myself</p> <p>14 did not, in relation to the inspection time on the</p> <p>15 bottom mat, record clearly on the RISC form. But it's</p> <p>16 our usual practice that we would clearly know, at</p> <p>17 bay C1-3, when Fang Sheung or Leighton would start rebar</p> <p>18 fixing. It's easy for us to know because it was a large</p> <p>19 area with a lot of workload.</p> <p>20 It might not have been clearly reflected on this</p> <p>21 form, regarding the time of inspection, but I can tell</p> <p>22 you that I have personally gone to inspect the bottom</p> <p>23 mat myself.</p> <p>24 Q. Mr Kwan, I'm not going to challenge you on that, that</p> <p>25 you inspected the bottom mat of the rebar, but what</p>	<p>1 A. I see that.</p> <p>2 Q. You say:</p> <p>3 "In practice, Leighton's representative (Mr Mok and</p> <p>4 Man Sze Ho ...) usually contacted me when the fixing of</p> <p>5 the bottom layers of rebars had started in order to</p> <p>6 request an inspection of those bottom layers."</p> <p>7 And I thought, on the basis of when I read that,</p> <p>8 what you were going to tell us was the way it worked was</p> <p>9 that you would be informed by Mr Mok or Mr Man when the</p> <p>10 bottom rebars, the bottom mat was ready to be inspected,</p> <p>11 and you would go along and you would inspect, and in</p> <p>12 fact the RISC forms would be issued to trigger the</p> <p>13 inspection of the top mat. I thought that was what you</p> <p>14 were going to tell us. It does seem to me that</p> <p>15 certainly the two we've looked at, that's the more</p> <p>16 likely scenario than the RISC form triggering the</p> <p>17 inspection of the bottom rebar.</p> <p>18 Would you agree with that, on what we've looked at</p> <p>19 so far?</p> <p>20 A. (Via interpreter) Perhaps let me try to use a different</p> <p>21 way to explain to you. For C1-3, based on the</p> <p>22 description in paragraph 49 --</p> <p>23 (In English) Sorry, if you can spare me a couple of</p> <p>24 seconds, then I can go through --</p> <p>25 Q. Yes, of course. I apologise.</p>
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<p>1 I would suggest to you is that you couldn't have done</p> <p>2 that by reference to this RISC form, because there</p> <p>3 simply wasn't enough time.</p> <p>4 A. Mmm, understood.</p> <p>5 (Via interpreter) Let me try to explain about what</p> <p>6 happened. We would know Leighton would be working on</p> <p>7 rebar fixing at this area, C1-3, but when I carried the</p> <p>8 inspection, it wasn't the case that I have to wait until</p> <p>9 I receive the RISC form. I have already said that</p> <p>10 I would carry out four times surveillance and</p> <p>11 inspections. They might not be formal inspections or</p> <p>12 recorded in RISC form, but I myself did the inspections.</p> <p>13 In this particular case, the record may not have</p> <p>14 reflected the whole truth.</p> <p>15 Q. All right. But the reason I'm a little bit confused,</p> <p>16 Mr Kwan, is that you told us early -- at least I thought</p> <p>17 I had heard you tell us earlier --</p> <p>18 A. Yes.</p> <p>19 Q. -- that the inspection of the bottom rebar, and the top</p> <p>20 rebar but the bottom rebar I'm focusing on at the</p> <p>21 moment, would be triggered by the receipt of one of</p> <p>22 these RISC forms. I'm sure that's what you told me</p> <p>23 earlier, and I was a little surprised at that because if</p> <p>24 you look at paragraph 49 of your witness statement,</p> <p>25 page B1/389.</p>	<p>1 A. (Via interpreter) Let me repeat regarding the situation</p> <p>2 in C1-3. Even though they had sent in a form on</p> <p>3 4 September, the situation right now is -- I cannot</p> <p>4 recall 100 per cent correctly when the bottom mat had</p> <p>5 been completed, so in paragraph 49, it is correct, it is</p> <p>6 possible that at the bottom mat, when it was completed</p> <p>7 on 4 September in the area C1-3, my recollection is that</p> <p>8 I cannot recall whether -- how many days it took to</p> <p>9 complete the top mat in C1-3. I might have received it</p> <p>10 on 4 September and I had received the RISC form and</p> <p>11 I looked at the bottom mat, and then subsequently they</p> <p>12 worked on the top mat of C1-3.</p> <p>13 Q. The other reason I thought you were going to tell us</p> <p>14 that the RISC form really related to the top layer was</p> <p>15 what you say in paragraph 50 of your witness statement,</p> <p>16 because you refer to the fact that some of these RISC</p> <p>17 forms, as we have just seen, refer to late submission,</p> <p>18 and then you say, halfway down paragraph 50:</p> <p>19 "In practice, an arrangement was in place on site</p> <p>20 such that I was requested by Leighton to inspect the top</p> <p>21 and bottom layers of rebars in each bay on separate</p> <p>22 occasions."</p> <p>23 A. Correct.</p> <p>24 Q. So, again, I had inferred from that -- tell me if I'm</p> <p>25 wrong -- that you would get a request by Leighton to do</p>

<p style="text-align: right;">Page 173</p> <p>1 the bottom mat, bottom layers, unconnected with the RISC 2 form, but then the RISC form would be issued because the 3 top layer was now ready for inspection? 4 A. (Via interpreter) The situation was -- according to my 5 recollection, the majority of cases when Fang Sheung or 6 Leighton were working on the bottom mat, so towards the 7 end or near completion of the bottom mat, I would 8 receive a RISC form. 9 Q. All right. So perhaps the answer is this, is it, 10 Mr Kwan, that there was no consistency in what happened? 11 Sometimes you would, on the two we've looked at, receive 12 a late submission of the RISC form? 13 A. Sometimes on time. 14 Q. Sometimes you would get one when the bottom layer of 15 rebar was ready to be inspected, but that RISC form 16 would cover both the bottom and top layers? 17 A. I would say so, yes. 18 Q. And sometimes you would get a request to inspect the 19 bottom layer, and then the RISC form would be issued 20 subsequently in respect of the top layer? So a number 21 of permutations, potentially? 22 A. (Via interpreter) The most likely situation would be 23 when Leighton had completed the bottom -- towards the 24 end of the bottom mat, I would receive a RISC form. And 25 maybe one or two situations, for example C1-3, the</p>	<p style="text-align: right;">Page 175</p> <p>1 But the time from they informed me to the middle of 2 my inspection, I would still continue with my site 3 inspection. 4 COMMISSIONER HANSFORD: And was this communication email or 5 WhatsApp or oral? How did it work between you? 6 A. Mainly by telephone call. 7 COMMISSIONER HANSFORD: Telephone calls? 8 A. Yes, or WhatsApp, because basically we sit across their 9 office, so we can communicate quite easily. 10 COMMISSIONER HANSFORD: Okay. Thank you. 11 A. And there is no need to have the email to notify me, 12 "Let's go on site for inspection." That kind of wastes 13 time. 14 COMMISSIONER HANSFORD: Okay. I get it. Thank you. 15 MR PENNICOTT: And the general -- we'll come back to perhaps 16 some more examples tomorrow morning, perhaps not, who 17 knows. One problem I've got, Mr Kwan, is I have 18 a schedule in front of me, which has on it the dates 19 upon which the request for rebar checking was made; 20 okay? 21 A. (Nodded head). 22 Q. So two dates we've been looking at, the last one was 23 4 September for C1-3; do you remember? 24 A. Yes. 25 Q. And I have the concrete pour dates, and with one or two</p>
<p style="text-align: right;">Page 174</p> <p>1 timing would be the bottom mat would be completed, and 2 they would submit the RISC form towards completion of 3 the top mat and there might have been one or two 4 exceptional cases. 5 But as far as I remember, typically I would receive 6 the Leighton engineer's notification that the bottom 7 layer, the bottom mat in one area, in one bay, needs 8 inspection, and after a certain number of days it would 9 be done, so, "Louis, could you go over to the site and 10 conduct a formal inspection." So there was this type of 11 dialogue. 12 So the RISC form dates, that would lead me to that 13 interpretation. 14 Q. Yes. 15 COMMISSIONER HANSFORD: Can I ask, Mr Kwan, you talk about 16 there would be that sort of dialogue. What sort of 17 nature would the request to do informal inspections 18 take? 19 A. (Via interpreter) The Leighton engineers team, they 20 would inform me, they would tell me -- I'll give you 21 an example. In C1-3, the bottom mat of rebar fixing 22 started, then I would ask them when would they finish 23 the work and I could do a formal inspection, and they 24 might say four days or a week, so I would have a rough 25 estimate.</p>	<p style="text-align: right;">Page 176</p> <p>1 exceptions the dates are always very close, within two 2 or three days of each other, and that suggests to me -- 3 whether it was intended or not, I don't know -- but that 4 suggests to me that the RISC forms were triggering the 5 top bar inspections, and the bottom bar inspections were 6 done rather more informally by a telephone request or 7 some other means between yourself and the Leighton 8 engineers? 9 A. Mmm. 10 Q. Perhaps you could reflect on that overnight and we will 11 come back to it tomorrow morning. 12 A. (Nodded head). 13 MR PENNICOTT: Sir, would that be a convenient moment? 14 CHAIRMAN: Yes, certainly. 15 MR PENNICOTT: Sir, Mr Kwan needs the usual warning. 16 CHAIRMAN: Yes, of course. 17 Mr Kwan, you are still giving your evidence, and 18 it's a rule that applies to all witnesses, not just you, 19 that while you are in the process of giving your 20 evidence, you are not entitled to discuss it with 21 anybody else, friends, lawyers, anybody. 22 At the end of your evidence, when you're told that, 23 "That's it, you can now go", of course you can then do 24 as you wish, but not until then; okay? 25 WITNESS: Fully understood. Thank you, Mr Chairman. Thank</p>

1 you, Professor.  
2 CHAIRMAN: Tomorrow morning, 10 am.  
3 MR PENNICOTT: Thank you, sir.  
4 (5.09 pm)  
5 (The hearing adjourned until 10.00 am the following day)  
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