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<p>1 Monday, 10 December 2018 2 (10.02 am) 3 MR BOULDING: Good morning, sir. Good morning, Professor 4 The MTR's next witness is Mr Michael Fu, who's 5 sitting in the witness box. 6 Good morning, Mr Fu. 7 WITNESS: Good morning, Mr Boulding. 8 MR FU YIN CHIT, MICHAEL (affirmed in Puntì) 9 Examination-in-chief by MR BOULDING 10 MR BOULDING: It's correct that your name is Michael Fu Yin 11 Chit; correct? 12 A. Correct. 13 Q. You have produced one statement for the Commission's 14 assistance in this matter, and I hope we find the first 15 page at B13679. Is that the first page of your 16 statement, Mr Fu? 17 A. Correct, Mr Boulding. 18 Q. If we look at page B13686, do we see your signature 19 below the date of 12 October? 20 A. Correct, Mr Boulding. 21 Q. And if we go to B13686.1, do we see certain corrections 22 and supplemental evidence that you'd like to put before 23 the Commission there, Mr Fu? 24 A. Yes. 25 Q. Matters have moved on slightly from your statement, so</p>	<p>1 area) is likely to be completed around late 2 October 2018 ..." 3 Now, were those investigations in fact completed 4 around late October 2018, Mr Fu? 5 A. The investigation is still ongoing and the latest update 6 is the investigation will be complete in approximately 7 January 2019. 8 Q. You also refer there to "the investigation of 9 back-of-house areas is likely to be completed around 10 late November 2018". We are now halfway through 11 December. What's the state of play there, Mr Fu? 12 A. It's still ongoing. 13 Q. Do you know when that's likely to be completed? 14 A. It will be approximately similar timing. 15 Q. Right. If it be the case that any further areas of poor 16 quality concrete are found, do you know if any 17 consideration will be given to issuing an NCR? 18 A. If we observe any defects, an NCR will be issued. 19 Q. I see. Then finally, paragraph 25, please. 20 CHAIRMAN: Sorry, can I ask, have any NCRs been issued for 21 poor concrete so far? 22 A. So far, we have issued four numbers of NCR. 23 CHAIRMAN: Since you began the inspection process? 24 A. Correct. 25 CHAIRMAN: Sorry, Mr Boulding.</p>
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<p>1 with the Commissioners' leave I'm going to ask you 2 a couple of questions in-chief, if I may. 3 Could you go to paragraph 11 of your statement, 4 which I think ought to be at B13681. You say there: 5 "As explained in paragraphs 22 to 23 of the second 6 witness statement of Mr Kobe Wong, remedial works were 7 carried out to rectify the honeycomb concrete identified 8 by MTR's IoWs, and the close-out of this snag list item 9 was recorded in a request for inspection/survey check 10 form [and then you give the number] in June 2017. The 11 snagging process at the EWL and NSL track levels is 12 still ongoing as at the date of this witness statement." 13 Can you tell the Commissioners what the current 14 position is so far as that snagging process is 15 concerned, please, Mr Fu? 16 A. The snagging process at the EWL and NSL slab are still 17 ongoing at the moment. 18 Q. Then if you could be taken down to paragraph 23, please. 19 Here, in this paragraph, you deal with the circumstances 20 in which "MTR and Leighton's frontline staff are 21 instructed to carry out joint investigations across the 22 EWL track slab soffit, in order to verify whether there 23 are any issues of poor concrete quality at other 24 locations. It is estimated that the investigation of 25 the front-of-house areas (ie above the NSL platform</p>	<p>1 MR BOULDING: No, that's very helpful. Thank you very much 2 indeed, sir. Please feel free to ask questions at any 3 time. 4 Paragraph 25. Here, you say: 5 "On 29 August 2018, MTR provided the three NCRs on 6 poor concrete quality to the RDO, and on 30 August 2018, 7 Leighton's remedial proposal was submitted to the BD/RDO 8 for comment and approval -- this was notified to 9 Leighton by the engineer's response dated 4 September 10 2018. As at the signing of this witness statement, MTR 11 is still awaiting BD/RDO's response." 12 Do I understand that BD has now in fact provided 13 comments on the remedial proposal for concrete defect? 14 A. Yes, it's correct. 15 Q. I wonder if you can just look at a letter with me. 16 Could we go to H20_97/H40451. 17 CHAIRMAN: Again, before we get there, just to assist me -- 18 thank you -- things like honeycombing and stuff, as 19 I understand it, they are not uncommon. I'm not saying 20 that they happen all the time but they are not uncommon; 21 is that right? 22 A. Correct, Mr Chairman. 23 CHAIRMAN: All right. Is there any particular reason why 24 you have to go to the Buildings Department on something 25 like this? As a layperson, I would imagine that you</p>

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<p>1 examine the work when it's finished, if you find 2 honeycombing you then deal with it, or if you find a bit 3 of cracking or whatever else, flaking, you deal with it. 4 I'm just interested why the Buildings Department come in 5 at that stage. Is that always the case? 6 A. Well, basically, for the construction method, the method 7 statement, the contractor will need to submit to the 8 engineer for comment or approval. 9 For the material to be used, for the remedial work, 10 the Buildings Department has concern whether the 11 material has been approved in the list in the Buildings 12 Department. 13 In such case, we prepare -- we forward the 14 contractor's method statement, together with the 15 material that they propose to use to the Buildings 16 Department for their comment. 17 CHAIRMAN: Thank you very much. I appreciate that now. 18 Thank you. 19 MR BOULDING: Thank you, sir. 20 If we could go to a document, H20_97/H40451. Are 21 these the comments from the Building Authority that you 22 referred to a moment or so ago, Mr Fu? 23 A. That's correct, Mr Boulding. 24 Q. Do I understand that MTR has in turn provided a response 25 to those Building Authority comments?</p>	<p>1 Q. But just to bring it right up to date or almost up to 2 date, could we go forward, please, to B598. Here we've 3 moved on, I think, a couple of years, and we can see you 4 right up at the top again, can we, Mr Fu? 5 A. Correct, Mr Boulding. 6 Q. What's going to happen now, Mr Fu, is that you'll be 7 asked a few questions, I anticipate, by Mr Ian Pennicott 8 for the Commission, then there are various lawyers in 9 the room who might take the opportunity to question you. 10 The Chairman and the professor can ask you any question 11 they want at any time, and then depending upon what you 12 say and how matters develop, I might ask you a few 13 questions at the end. 14 A. I understand. 15 MR BOULDING: I just have one further thing to say, sir, 16 which I think I can say from the bench table, and that 17 is you will know or certainly the Commission's 18 solicitors will know that Mayer Brown have been 19 responding to requests for further information on 20 further developments, some of which are referred to in 21 Mr Fu's statement. For the reference, the bundle 22 reference is B20/26063 to 26065. That's a long, long 23 list of letters, and I certainly don't intend to take 24 you there today, but just for the reference. 25 CHAIRMAN: Thank you very much.</p>
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<p>1 A. Yes. 2 Q. I wonder if you could just confirm that by reference to 3 a letter. Could we go to H20_108/H40467. It's a long, 4 long document, but just for the record, do we there see 5 MTR's response to the BD comments, in a letter dated 6 12 November 2018? 7 A. Yes, this is the response that we respond to the 8 Buildings Department. 9 Q. And, as at this moment in time, have you had a response 10 to that letter? 11 A. We have not received any further feedback from Buildings 12 Department yet. 13 Q. So, subject to those clarifications and that amount of 14 supplemental evidence, are the contents of your witness 15 statement true to the best of your knowledge and belief? 16 A. That's correct. 17 Q. In accordance with convention, if I can just ask you to 18 point out where you are in the overall MTR structure. 19 I'd like to start, please, at B577. 20 Do we see you there, Mr Fu, right at the top of the 21 tree? 22 A. Yes. 23 Q. That's the state of play, is it not, in terms of the MTR 24 organisation, as at 30 May 2016? 25 A. That's correct.</p>	<p>1 COMMISSIONER HANSFORD: Thank you. Before Mr Pennicott 2 starts, I do have one question relating to these 3 organisation charts. 4 Mr Fu, to whom do you report? 5 A. I report to Mr Rooney. 6 COMMISSIONER HANSFORD: Mr Rooney? 7 A. Yes. 8 COMMISSIONER HANSFORD: Well, you did report to Mr Rooney 9 until Mr Rooney left the project. Who do you now report 10 to? 11 A. I report to another project manager, whose name is 12 Nelson Yeung, at the moment. 13 COMMISSIONER HANSFORD: Right. Has that reporting line 14 taken effect since Mr Rooney left the project? 15 A. That's correct. 16 COMMISSIONER HANSFORD: Okay. Thank you. 17 Examination by MR PENNICOTT 18 MR PENNICOTT: Sir, good morning. 19 Good morning, Mr Fu. 20 A. Good morning. 21 MR PENNICOTT: Sir, I was able to speak to Mr Boulding last 22 night and that's why he decided, helpfully, to deal with 23 a few matters with Mr Fu in-chief, to save me having to 24 deal with them, and I'm grateful for that. 25 CHAIRMAN: Yes.</p>

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<p>1 MR PENNICOTT: Mr Fu, thank you very much for coming to give 2 evidence to the Commission this morning. 3 A. Okay. 4 Q. As I say, Mr Boulding has covered quite a lot of what 5 I was going to deal with anyway, but just to clarify one 6 point, or a couple of points, in fact. 7 If one goes to paragraph 22 of your witness 8 statement, you refer to three NCRs in relation to the 9 rectification of poor quality concrete; do you see that? 10 A. Yes, I can see that. 11 Q. You mentioned, in your answer just a moment ago to the 12 Chairman, that there were in fact four NCRs. I think 13 the other one is NCR264, which we will find at file B20, 14 page 26052. If I can just get you to confirm that, 15 please. Is that right, Mr Fu? 16 A. That's correct. 17 Q. Thank you very much. And the method statement that you 18 mentioned to the Chairman again just a moment ago that's 19 been put forward, is it to deal with all four of those 20 NCRs? 21 A. The method statement is a generic method statement, to 22 tackle different defects, different kinds of defects. 23 Q. But it will address the defects in the four NCRs that 24 we've identified? 25 A. That's correct.</p>	<p>1 Mr Fu? 2 A. Yes. 3 Q. And indeed Mr Boulding has taken you to two of them, 4 which is your submission to the Buildings Department -- 5 A. That's right. 6 Q. -- and then your response to the Buildings Department? 7 A. That's right. 8 Q. Okay. So that's the position on that. 9 Could I then just ask you some questions about 10 a couple of topics that you don't touch on in your 11 witness statement, and that's not a criticism. Could 12 I ask you, first of all, to be shown some paragraphs in 13 Mr Rooney's statement. That's B1/204. 14 Mr Fu, I should have said this right at the outset. 15 As Mr Boulding showed us on the organisation chart, you 16 first became involved with contract 1112 in May 2016? 17 A. Correct. 18 Q. So you've got no knowledge about matters -- 19 A. No. 20 Q. -- about this contract prior to that date? 21 A. No. 22 Q. If one goes to paragraph 70 of Mr Rooney's witness 23 statement, what Mr Rooney says is: 24 "I did not hear of the alleged defective steel works 25 until I received an email from my construction manager</p>
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<p>1 Q. Thank you very much. 2 Secondly -- hopefully for the Commission's 3 assistance, taking up Mr Boulding's last point -- if we 4 could just be shown, please, B26062, probably in B20. 5 Mr Fu, this is a very recent email, asking for an update 6 in relation to various paragraphs in your witness 7 statement which Mr Boulding has taken you to just 8 a moment ago. 9 A. Yes. 10 Q. My understanding is you were involved in addressing and 11 answering this email? 12 A. Yes. 13 Q. Because if we then see the Mayer Brown response at 14 26063, the next page, they write to the Commission 15 saying, second paragraph: 16 "We are informed by Mr Michael Fu that the 17 information on the progress and further developments on 18 the subject since the filing of his ... witness 19 statement [on] 12 October ... is set out in various 20 documents contained in the COI bundles. A list of 21 documents is attached." 22 Then if you go over the page to 26064, and then the 23 following page, 26065, if we wish to trace what has 24 happened since your witness statement, we need to go 25 through these various documents, as I understand it,</p>	<p>1 at the time, Mr Michael Fu, on 6 January 2017 ... 2 forwarding an email chain ..." 3 With which we are very familiar, from Mr Zervaas, 4 and also another email from Mr Poon. 5 As I understand it, Mr Fu, your role effectively was 6 simply to pass this email on to Mr Rooney? 7 A. Correct. 8 Q. If we then go to -- and then Mr Rooney, as I understand 9 it, directed you -- see paragraph 72 of his witness 10 statement -- "to work with Leighton to understand the 11 background of the allegations and to instruct Leighton 12 to investigate and provide a formal report of the 13 findings of its investigations." 14 Did you in fact contact Leighton as instructed or 15 directed by Mr Rooney? 16 A. Yes. I contacted Anthony Zervaas immediately, and 17 I requested Leighton to carry out an investigation and 18 report what the matter is about. 19 Q. Yes. So it was Mr Zervaas with whom you dealt directly? 20 A. Yes. 21 Q. Did you seek in any way to limit or circumscribe the 22 nature and extent of the investigation report that you, 23 the MTR, wished to have? 24 A. Excuse me, can you repeat the question again? 25 Q. Yes. When you spoke to Mr Zervaas about preparing</p>

Page 13	1 an investigation report, did you seek to limit the 2 extent, the nature and extent, of that report? 3 A. No. 4 Q. And so you left it up to Leighton as to how they should 5 go about preparing that report? 6 A. That's correct. 7 COMMISSIONER HANSFORD: Sorry, can I just add, what about 8 the time scale for that report? Did you dictate the 9 time scale for the report? 10 A. No, I didn't dictate any time scale or I didn't request 11 the report should be produced within whatever number of 12 days or number of weeks. I simply requested Mr Anthony 13 Zervaas to produce the report as soon as possible, so 14 that we can understand what's happening. 15 COMMISSIONER HANSFORD: Thank you. 16 CHAIRMAN: Could I also ask -- did you specify the nature of 17 the report, in the sense that it was to be purely 18 an internal document, by which I mean a document that 19 investigated only Leighton employees? 20 A. No, I didn't specify anything to Leighton. 21 CHAIRMAN: All right. Because the evidence is that Leighton 22 appears not to have spoken to anybody outside of 23 Leighton. They didn't speak to, for example -- well, 24 outside of Leighton or the MTRCL. I'm not sure about 25 the second. They didn't speak to Mr Poon, for example.	Page 15	1 difficulties with what he is seeking, maybe payment 2 which he considers has been unjustly withheld, and you 3 consider to be quite properly withheld. But he's made 4 a complaint and he's submitted a photograph. Why 5 wouldn't you speak to him? 6 A. Well, at that time, the construction work by Mr Jason 7 Poon basically is substantially completed, and when we 8 received this information, this email from Anthony 9 Zervaas, and then I talked to my team members as well, 10 and I understand there's an NCR related to this 11 incident, and I understand details from my team members 12 which include Mr James Ho, and I understand basically 13 this is the incident that Mr Jason Poon was referring 14 to, and at that time I understand the NCR has been 15 properly followed up and closed out, and there's been 16 checking -- rebars and couplers has been rectified. 17 So, in such a case, I did not assume that there's 18 some other issues that I need to follow up. 19 CHAIRMAN: But his complaint was quite long, wasn't it? His 20 complaint didn't talk about just one incident. One 21 incident we can understand. 22 A. Mr Chairman, I didn't have any more knowledge at that 23 moment. 24 CHAIRMAN: I'm not suggesting this is wrong in any way -- 25 please don't get me wrong -- I am enquiring, which is my
Page 14	1 They don't seem to have spoken to a number of people who 2 were inspectors on site, and we've now discovered had 3 actually discovered this. So that was nothing to do 4 with you? 5 A. No, and I also find this out afterwards. 6 CHAIRMAN: All right. Can I ask this. Even though you 7 don't say anything, sometimes, in particular 8 professions, when you ask for a report, it will be 9 assumed it will take on a particular quality. Is that 10 the case in engineering? Did you assume it would be 11 purely an internal report, with nobody spoken to other 12 than perhaps some of the senior personnel within 13 Leighton? 14 A. Yes, that's my understanding. 15 CHAIRMAN: So you thought it would be a purely internal 16 report? 17 A. Yes. 18 CHAIRMAN: Okay. So you didn't specify it but you just 19 assumed that's what would happen? 20 A. Yes. 21 CHAIRMAN: You've been in the engineering business a long 22 time, highly qualified. Why would that be the case? 23 I mean, if somebody makes a complaint, like Mr Jason 24 Poon -- I mean, okay, you may have difficulties with him 25 as to his personality, perhaps, or you may have	Page 16	1 mandate. I just find it odd that you have senior 2 officers in the companies being alarmed -- and I use the 3 word "alarmed" advisedly, because I think that's what 4 Mr Anthony Zervaas said, it was an alarming report made 5 to him -- other people are alarmed by it at high levels, 6 and yet, on what you are telling me, the assumption is 7 the report is going to be a very limited report, just to 8 a few officers, just to double-check the oversight 9 conducted, without speaking to the complainant, 10 seemingly without paying any attention to the 11 complainant's photograph, which you didn't even have to 12 speak to him about, and without making any sort genuine 13 attempt to look at the history and to see if perhaps 14 other discoveries had been made. You had the NCR, and 15 it hasn't taken, with respect, Sherlock Holmes sitting 16 here to find out the other ones. All we had to do was 17 call in the inspectors and say to them, "By the way, 18 have you ever found any cut rebars yourself?" That's 19 all we had to do. 20 And then perhaps the possible extent of any 21 malpractice might have been better discovered. 22 Meanwhile, we have a report which could have done that 23 and which appears really to have been what I might call 24 a bottom-drawer report, in other words very nice, the 25 paper has been filled in, put it in a bottom drawer and

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<p>1 forget it.</p> <p>2 A. I totally agree with you, Mr Chairman. I think if we</p> <p>3 handle this similar complaint again, we need to carry</p> <p>4 out a more comprehensive investigation.</p> <p>5 CHAIRMAN: Yes. The only reason I say that is because the</p> <p>6 fact that you are in a commercial dispute with</p> <p>7 a particular sub-contractor obviously is a factor you</p> <p>8 are going to take into account, obviously, and you are</p> <p>9 going to look to the genuineness of that person's</p> <p>10 complaint: is this just a scheme to get the money? And</p> <p>11 that was actually worded. But if the complaint is</p> <p>12 an alarming one, and goes perhaps to the integrity of</p> <p>13 construction, it seems to me you're really obliged,</p> <p>14 aren't you, to sort of look a bit further, and as you</p> <p>15 yourself have said, looking back on it now, if something</p> <p>16 similar arose, you would be a bit more thorough?</p> <p>17 A. Yes.</p> <p>18 CHAIRMAN: Or you would request that the report be a bit</p> <p>19 more thorough?</p> <p>20 A. I agree.</p> <p>21 CHAIRMAN: Thank you.</p> <p>22 MR PENNICOTT: There's no doubt, Mr Fu, is there, that at</p> <p>23 the time, in 2017, when you were given the emails, you</p> <p>24 did take a fairly narrow view of the complaint that was</p> <p>25 being made, and you did appear to equate it, the</p>	<p>1 "... and assured me that the issue mentioned in</p> <p>2 Jason Poon's email had already been dealt with in 2015</p> <p>3 during the construction period."</p> <p>4 I, as I say, infer from that that you at least at</p> <p>5 that time were taking this view that the complaint</p> <p>6 somehow related to NCR157, and didn't really look, as</p> <p>7 the Chairman has just suggested to you, outside that</p> <p>8 particular box. I think that would be fair, wouldn't</p> <p>9 it, Mr Fu?</p> <p>10 A. Correct.</p> <p>11 CHAIRMAN: Could I ask one other question, and before I do</p> <p>12 that, I do want to emphasise that because I'm asking</p> <p>13 questions about this matter, it's because clearly this</p> <p>14 report is a material issue when looking at the processes</p> <p>15 that went on. Do you see the point?</p> <p>16 A. Yes.</p> <p>17 CHAIRMAN: It's not to say that any finding has been made as</p> <p>18 to whether the allegations made were correct or</p> <p>19 incorrect, but we are looking at process and oversight.</p> <p>20 The fact that Jason Poon was a sub-contractor, would</p> <p>21 that have been influential at all? In other words, "We</p> <p>22 are the contractor" -- you are the MTRCL, and Leightons</p> <p>23 are the contractors, these are sub-contractors, and you</p> <p>24 don't deal with them on this sort of basis; you have</p> <p>25 a form of hierarchy?</p>
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<p>1 complaint, with NCR, the incident of NCR157, and you</p> <p>2 took that narrow view -- it's right, isn't it?</p> <p>3 A. Yes.</p> <p>4 Q. Because if you look at a paragraph in the witness</p> <p>5 statement of Mr TM Lee, who we're going to be hearing</p> <p>6 from later this week, essentially he makes that point.</p> <p>7 If you could be shown B161, paragraph 22 at the</p> <p>8 bottom of the page, please. This is Mr TM Lee's</p> <p>9 statement, Mr Fu --</p> <p>10 A. Yes.</p> <p>11 Q. -- just so you are aware. He says:</p> <p>12 "I recall that around that time [that's in January</p> <p>13 2017] (though I cannot recall the exact date and time),</p> <p>14 Michael Fu came to brief me and explain to me Jason</p> <p>15 Poon's allegations in (as well as the photos attached</p> <p>16 to) Jason Poon's email. Michael Fu showed me an email</p> <p>17 between Mr Kobe Wong of MTR and Leighton dated</p> <p>18 15 December 2015 ..."</p> <p>19 Now, we know that that's the email that's got four</p> <p>20 photographs attached --</p> <p>21 A. That's right.</p> <p>22 Q. -- which then precipitated the issue by Leighton of</p> <p>23 NCR157?</p> <p>24 A. That's right.</p> <p>25 Q. Mr Lee goes on:</p>	<p>1 A. I would say yes.</p> <p>2 CHAIRMAN: Yes?</p> <p>3 A. Yes.</p> <p>4 CHAIRMAN: Good. Thank you very much.</p> <p>5 MR PENNICOTT: Then, Mr Fu, on a separate topic, could I ask</p> <p>6 you, please, to be shown the transcript for Day 27 at</p> <p>7 page 72, where Mr Derek Ma was giving evidence and</p> <p>8 answering some questions put by me. This is to do with</p> <p>9 the retrospective records, Mr Fu.</p> <p>10 A. Yes.</p> <p>11 Q. If we look at page 72, we pick it up at line 5. The</p> <p>12 question was:</p> <p>13 "Now, with regard to the retrospective records that</p> <p>14 I mentioned a short while ago, can I just ask you this</p> <p>15 question. We've seen and we've heard from Mr Ho about</p> <p>16 a discussion that took place that not only should the</p> <p>17 retrospective records be prepared but they should be</p> <p>18 backdated to 10 February 2017. What do you recall about</p> <p>19 the discussion that took place to implement that</p> <p>20 backdating?"</p> <p>21 And Mr Ma said:</p> <p>22 "There was a meeting of my team where Michael Fu,</p> <p>23 Kobe [Wong] and Louis [Kwan], we sat down and we took</p> <p>24 out some materials for the company, and for this</p> <p>25 checklist we had a discussion.</p>

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1 You asked about the backdating. I was told that in
 2 January or February 2017 there was an internal audit on
 3 coupler installation. I was instructed -- I received
 4 instructions that we agreed that the documents were
 5 retrospective nature.
 6 As for the date, the information I received back
 7 then was that it should be sometime after the internal
 8 records were prepared."
 9 So, Mr Fu, as I understand it, you were involved in
 10 the discussion and then the ultimate decision to
 11 backdate Kobe Wong's signed records to 10 February 2017;
 12 is that right?
 13 A. If you allow me to explain further.
 14 Q. Of course.
 15 A. Actually, I did not involve in making decision which
 16 date we need to backdate in the inspection record. At
 17 that time, I understand that the record, the checklist
 18 record is produced and retrospectively to date not at
 19 that time when Mr Kobe Wong was preparing, and I gave my
 20 view that if any date retrospectively recorded in any
 21 checklist, it's better to qualify and mention in the
 22 checklist. The date which is on February 2017 did not
 23 mean anything to me. I did not involve in selecting
 24 whatever date required to be mentioned in the checklist.
 25 CHAIRMAN: But did you go along with the fact that there

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1 should be any backdating of the date?
 2 A. No.
 3 CHAIRMAN: Okay.
 4 MR PENNICOTT: Okay. Because, as I understand it, Mr Fu,
 5 you were responsible for recommending that the words
 6 "retrospective record of coupler installation" should be
 7 inserted on the sheets; is that correct?
 8 A. I recommended a remark should be mentioned if the
 9 checklist is a retrospective checklist, backdating to
 10 a date before the checklist was producing.
 11 Q. Yes, because if we go to page 75 of this transcript, at
 12 line 16 -- again, this is in Mr Ma's examination -- it
 13 says:
 14 "From paragraph 34 of your witness statement,
 15 I understand that it was Mr Fu that recommended that the
 16 MTR checklists should be annotated with the words
 17 'retrospective record of coupler installation?'"
 18 Then the answer came:
 19 "This cannot be found in the Leighton soft copy.
 20 I did the review and in the team meeting I talked to
 21 Mr Michael Fu and told him that this form was not what
 22 Kobe saw at that time.
 23 So it would certainly not be signed on that date.
 24 So you can see this reference, this sentence, it was put
 25 in on the instruction of Michael."

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1 That's you. So your evidence is that, yes, you
 2 recommended that the "retrospective record" sentence
 3 should be put on the sheets?
 4 A. Correct.
 5 Q. But you were not involved in the decision to backdate
 6 those sheets?
 7 A. Correct, I did not involve.
 8 Q. Okay. So, if that's right, Mr Fu, who in your --
 9 I mean, have you made any enquiries to find out who was
 10 responsible for putting the date of 10 February 2017 on
 11 those sheets?
 12 A. I don't know who's the one making the decision, but
 13 I understand, at that time, Kobe, Mr Kobe Wong, has been
 14 transferred to the other department already, and he was
 15 requested to come back to ascertain the construction
 16 records so that we can prepare the record to Mr Rooney
 17 and to the executive for the construction details.
 18 At that time, Mr Kobe Wong, he was preparing
 19 a checklist, and it may be Mr Kobe Wong that he finds
 20 difficulty in putting the date that he was preparing
 21 that document, because he was not working in the
 22 construction team at that particular moment, so he did
 23 not have identity in the 1112 construction team.
 24 CHAIRMAN: But that's an assumption on your part, or is
 25 it --

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1 A. That's my assumption.
 2 CHAIRMAN: Okay. You haven't spoken to him about it?
 3 A. No.
 4 CHAIRMAN: Isn't it a bit of an odd assumption? You've
 5 called him back to check the records. That's not
 6 hidden. Everybody knows that.
 7 A. Yes.
 8 CHAIRMAN: So he checks the records. Why doesn't he simply
 9 just put the date when he puts his signature? Then you
 10 don't have any form of misunderstanding.
 11 A. I fully agree. He can put on that date at the time when
 12 he prepared the record. I fully agree.
 13 CHAIRMAN: I mean, there's no magic science here.
 14 A. No.
 15 CHAIRMAN: It doesn't matter whether you're a lawyer or
 16 a doctor. You know, you don't have a doctor saying,
 17 "I saw you this afternoon but I'll backdate it three
 18 months." In other words, "I made a diagnosis three
 19 months before you came in and saw me." Obviously not.
 20 A. It's not necessary.
 21 CHAIRMAN: No, it's not necessary. It's quite open; it's
 22 management, isn't it?
 23 A. Correct.
 24 CHAIRMAN: And the essentials of management are the same --
 25 A. I fully agree.

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<p>1 CHAIRMAN: -- whether you are running an ice cream factory 2 or building a tunnel. 3 A. I fully agree. 4 CHAIRMAN: It's just very puzzling that you should go back 5 over a year and date it. You know, to somebody viewing 6 it, with the greatest of respect, without spending a lot 7 of time on it and going into it in detail and asking 8 a lot of questions, it can, I would suggest, give the 9 wrong impression; would you agree? 10 A. I agree. I fully agree. 11 CHAIRMAN: Yes. 12 MR PENNICOTT: Thank you very much, Mr Fu. 13 I have no further questions, sir. 14 MR CHANG: No questions from Leighton. 15 MR TO: No questions from China Technology. 16 CHAIRMAN: Thank you. 17 MR CONNOR: No questions from Atkins, sir. 18 CHAIRMAN: Thank you. 19 MS PANG: Mr Chairman, there are some questions from the 20 government. 21 CHAIRMAN: Yes. 22 Cross-examination by MS PANG 23 MS PANG: Good morning, Mr Fu. 24 A. Good morning. 25 Q. I represent the government and there are several topics</p>	<p>1 test is to ensure it would be safe to install this 2 ceiling system? 3 A. Correct. 4 Q. So, a natural deduction would be the primary purpose of 5 this pull-out test was not to detect honeycombing; would 6 you agree with that? 7 A. Agree. 8 Q. Would you also agree with me that since the purpose of 9 the test was only to ensure that the ceiling system 10 would be safely installed, you would only conduct this 11 pull-out test on places where the ceiling system would 12 be installed? 13 A. Correct. 14 Q. Right. Thank you very much. 15 COMMISSIONER HANSFORD: Sorry, just so that I can understand 16 that, though -- Mr Fu, is the ceiling system -- we're 17 talking about a suspended ceiling, are we? 18 A. Correct. 19 COMMISSIONER HANSFORD: Is the ceiling system over the whole 20 area of the slab? 21 A. The ceiling system mainly is in the front-of-house area, 22 which is a public area. 23 COMMISSIONER HANSFORD: Right. 24 A. And in the back-of-house area, we don't have this 25 suspended ceiling.</p>
Page 26	Page 28
<p>1 I would like to explore with you. I think it's probably 2 easiest if we start with the topic you have dealt with 3 in your statement, so that would be the honeycomb. 4 Can I take you to page 13862. I think that's in 5 bundle B16. This is your witness statement, and we see 6 that you've described two different types of tests on 7 this particular page. The first one is the pull-out 8 test and the second is the concrete coring and 9 compressive test; is that correct? 10 A. Correct. 11 Q. I'd like to ask you some questions about these two 12 tests. 13 If we may first start with paragraph 12. I think 14 I only need to read out the last sentence to you. That 15 is: 16 "The satisfactory completion of these tests [that 17 refers to the pull-out tests] was a prerequisite for the 18 installation of the front-of-house metal ceiling system 19 and ceiling-mounted signage." 20 I'm not entirely sure what the last part of the 21 system means, but am I correct to understand that this 22 system that you are talking about here is a system that 23 would be installed on the ceiling of the EWL slab? 24 A. Correct. 25 Q. Am I correct to say that the purpose of the pull-out</p>	<p>1 COMMISSIONER HANSFORD: Right. So the answer is, right, the 2 tests were only done in areas where you had the 3 suspended ceiling, which was in the front-of-house 4 areas? 5 A. Correct. 6 COMMISSIONER HANSFORD: Thank you. 7 A. Actually, for the signage installation, we need to carry 8 out the similar pull-out test as well. 9 COMMISSIONER HANSFORD: Yes, I understand. These again are 10 suspended signs? 11 A. Correct. 12 COMMISSIONER HANSFORD: I understand. Okay. Thank you. 13 MS PANG: Thank you. We then move on to the concrete coring 14 and compressive test. It's probably easier if we refer 15 to paragraph 16, where you explain how and where the 16 test is carried out. There you say: 17 "As explained in paragraphs 14 to 17 of the second 18 witness statement of Mr Louis Kwan (ConE II) ... three 19 random concrete core samples were taken from the top of 20 the EWL track slab in October 2017 ..." 21 Pausing there, is it correct to say that for this 22 concrete coring test, you would only take samples from 23 the top of the EWL slab? 24 A. Yes. 25 Q. Am I correct to understand that normally honeycombing</p>

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1 would occur at the bottom of the slab rather than the
2 top?
3 A. There's no fixed rule. Honeycombing can be anywhere, if
4 it exists.
5 Q. Then perhaps I would ask you this. Do you usually see
6 or is it more often than not that honeycombing would
7 occur at the bottom rather than the top, just as
8 a matter of probabilities?
9 A. Well, as I mentioned, the honeycombing can exist
10 anywhere. There's no statistics. Possible, but
11 probability is.
12 Q. Right. So can I -- I understand that you are saying
13 that honeycombing can occur anywhere, but for this
14 particular coring test MTRC would only take samples from
15 the top; is that right?
16 A. Correct.
17 Q. So it must be the case that this particular test was not
18 intended to or designed to detect honeycombing; do you
19 agree with that?
20 A. It's not designed to check any honeycombing.
21 Q. Right. So, for these two tests that you describe in
22 your witness statement, according to the evidence that
23 you've given just now, none of these two tests were
24 actually designed for detecting honeycombing; is that
25 right?

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1 A. For all the core samples taken out from the EWL slabs,
2 we need to pass on to the laboratory. The laboratory
3 will check the integrity of the cores themselves. If
4 the core has any defect, including honeycombing, then
5 the laboratory will mention it in the report and assess
6 whether the core sample is suitable for carry out
7 further tests.
8 Q. I understand that what you are saying just now is from
9 that coring test, it might be possible that we would
10 detect honeycombing issue, but my question was actually
11 this. Do you agree that the pull-out test and the
12 coring test were not specifically designed for detecting
13 honeycombing?
14 A. Correct. It's not designed for detecting honeycombing.
15 Q. Right. And for the test that might possibly enable MTRC
16 to detect honeycombing, only three samples were taken on
17 the EWL slab; am I understanding it correctly?
18 A. Can you repeat again?
19 Q. For the coring test, only three samples were taken on
20 the entire EWL slab; is that right?
21 A. Can we look at this paragraph 16?
22 Q. Yes.
23 A. There's a further sentence in paragraph 16.
24 Q. Right. Perhaps if I may finish reading the sentence:
25 "... and another three core samples were taken from

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1 the top of the NSL track slabs ..."
2 So the other samples relate to the NSL track slab,
3 if I understand correctly, that's why --
4 A. Correct.
5 Q. Just to confirm, it's correct that only three samples
6 were taken on the EWL slab?
7 A. Correct.
8 Q. I understand that, apart from these two tests, you also
9 mentioned in your witness statement that visual
10 inspection would be conducted after the concreting, and
11 that's what you describe as the snagging process; is
12 that right?
13 A. Correct.
14 Q. For that inspection, am I right to say that it would be
15 conducted after China Tech has removed the formwork
16 after concreting?
17 A. Correct.
18 Q. So if there are any problems with the quality of the
19 concrete, you would expect that to be discovered during
20 this visual inspection; is that right?
21 A. Correct.
22 Q. Can I now take you to paragraph 20 --
23 CHAIRMAN: Sorry, just one other thing there.
24 A. Yes.
25 CHAIRMAN: When we were looking at the tunnel, we were told

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1 that sometimes you'd tap on what can look to be flat and
2 then you can get an idea of whether there's honeycombing
3 underneath.
4 A. Yes.
5 CHAIRMAN: If that's the case, you can flake it away and you
6 can often find it?
7 A. Yes.
8 CHAIRMAN: So it would be visual, along with, where
9 necessary, this form of --
10 A. Tapping.
11 CHAIRMAN: -- tapping, yes.
12 A. Yes.
13 CHAIRMAN: Thank you.
14 COMMISSIONER HANSFORD: Just to take the Chairman's question
15 a little bit further -- was the tapping only done when
16 there was suspicions of problems, or was the tapping
17 done for the whole soffit?
18 A. Well, I would say the tapping is not a standard
19 requirement. Tapping will require the erection of
20 a scaffold. If the excavation reached further downwards
21 to the NSL level, then, in order to gain access to
22 inspect the soffit of the EWL slab, the contractor has
23 to erect a scaffold in order to carry out tapping if
24 required.
25 COMMISSIONER HANSFORD: I understand that you do need

Page 33	1 scaffolding in order to carry out the tapping test, but 2 my question really is -- let me put it slightly 3 differently -- when would you choose to carry out the 4 tapping? What's the criteria for choosing? 5 A. If we suspect, from the appearance of the soffit, the 6 concrete surface -- if we suspect there may be defects, 7 then we need to further verify. Tapping is one of the 8 methods. 9 COMMISSIONER HANSFORD: Okay. So that goes back to what 10 I asked you before -- 11 A. Yes. 12 COMMISSIONER HANSFORD: -- would you only do it where you 13 had a suspicion that there was a problem? 14 A. Correct. 15 COMMISSIONER HANSFORD: Thank you. 16 MS PANG: If we may now turn to paragraphs 20 and 21 of your 17 witness statement. Perhaps you may want to have a look. 18 I don't intend to read out the two paragraphs, but 19 essentially what it's saying here was that honeycombing 20 was discovered during preparation for the load test. Do 21 you agree with this summary? 22 A. Correct. 23 Q. Presumably that was discovered because to prepare for 24 the load test you have to perhaps take out whatever 25 system is installed on the ceiling to enable load test	Page 35	1 MS PANG: I understand that what you are saying is that the 2 snagging process was ongoing, but for this particular 3 honeycomb that you describe in paragraphs 20 and 21 of 4 your witness statement, we understand that that was 5 discovered after the ceiling system was removed; is that 6 correct -- that was the previous answer? 7 A. Yes. 8 Q. So it must have meant that whatever inspection was 9 required had already been completed to MTRC's 10 satisfaction before you installed the ceiling system; is 11 that correct? 12 A. We carried out inspection -- I mean before this 13 preparation of the load test. At that time we didn't 14 observe any abnormality. Only at the time when we took 15 down the surfaces, preparing for the load test, we 16 observed suspected concrete defects, and then we carried 17 out further investigation. 18 Q. Perhaps I haven't made myself clear. My question was 19 actually this. In order for the ceiling system to be 20 installed, am I correct to understand that the snagging 21 process would have been completed to MTRC's satisfaction 22 in that particular location? 23 A. No, I would not agree that. The snagging process 24 continues all the time. 25 Q. Mr Fu, just now, you told us that it was discovered
Page 34	1 to be conducted; is my understanding correct? 2 A. Correct. 3 Q. So, after taking off all those stuff installed onto the 4 ceiling, you're able to see the bottom of the EWL slab 5 and that's how the honeycomb came to be discovered? 6 A. Correct. 7 Q. Can I ask you this: if inspection had been conducted in 8 2016 and 2017, why was the problem not discovered 9 earlier? Are you in a position to answer that? 10 A. I think I can answer that. The snagging or the 11 inspection is carried on during the construction works, 12 and I recall that Mr Kobe Wong, in his checklist, the 13 snag list, also identified honeycombing and also 14 requested the sub-contractor to rectify the 15 honeycombing, the concrete defects, and eventually the 16 contractor has rectified it and through the submission 17 of a RISC form requested Mr Kobe Wong and his team to 18 carry out inspection, and the honeycombing was rectified 19 to our satisfaction, and the defects has been closed. 20 COMMISSIONER HANSFORD: Sorry, so you're saying there was 21 previously honeycombing detected but that was all 22 corrected or repaired, and this is just further 23 honeycombing that's been detected at a later stage? 24 A. Correct. 25 COMMISSIONER HANSFORD: Okay. Thank you.	Page 36	1 after you took down the ceiling system, for the purpose 2 of the load test, so am I correct to say that, but for 3 the load test, the honeycombing issue would never have 4 been discovered? 5 A. I cannot confirm this one. As I mentioned, the snagging 6 process continues. We may still have a chance to carry 7 out further inspection. We may have a chance to 8 identify these kind of concrete defects, including 9 honeycombing. 10 Q. So is it the practice of MTRC to carry out inspection 11 and snagging process at places where the ceiling system 12 has already been installed? You would still check that? 13 A. Maybe I explain a little bit further on this one. Our 14 inspector, our inspection team, carry out regular 15 checking, and at the time when we prepared to hand over 16 to operations, which is the end user, we also need to 17 arrange a joint inspection with the end user, which is 18 our operations colleagues, to identify whether there's 19 any kind of defects, whatever it is -- concrete defects 20 or the EWL fitting-out defects. 21 So only when we finish all this inspection, I would 22 say the snagging process would be completed. 23 Q. Then for the EWL slab you haven't reached that stage yet 24 so that is still ongoing? 25 A. We haven't carried out defects inspection with

Page 37	1 operations yet. 2 Q. I see. In that case, I think we can move on to -- 3 COMMISSIONER HANSFORD: Perhaps before we do move on, 4 because I don't fully understand this yet -- but if the 5 ceiling is already installed, how would you be able to 6 inspect the soffit behind the ceiling? 7 A. Correct, Professor. The inspection with operations may 8 be by random to certain areas. It may not be full 9 detail to the whole EWL slab. 10 COMMISSIONER HANSFORD: But why would you, when you're 11 inspecting with operations, remove ceiling panels? 12 A. No, we don't need to remove ceiling panels. There are 13 access panels that we can open up and carry out 14 inspection. 15 COMMISSIONER HANSFORD: Right. 16 A. But this inspection, well, I would say may not 17 necessarily require a tapping process. It may be some 18 sort of visual inspection. 19 COMMISSIONER HANSFORD: Right. Okay. 20 MS PANG: If I may just follow up on this, just to clarify. 21 You mentioned a final inspection just now, the joint 22 inspection, before you deliver to the end users. I just 23 want to know, for this final inspection, would the 24 inspectors go above the false ceiling to conduct the 25 inspection? Would that happen?	Page 39	1 RDO, and also the M&E consultant officers on 6 June. So 2 here Mr Ma said: 3 "Mr Wong therefore prepared an Excel summary table 4 (with reference to relevant site photos on MTRCL's 5 project server taken during the IoWs' daily site 6 surveillance), and on 6 June 2018, Mr Kine Tong ..." 7 Pausing there, I understand that Mr Kine Tong 8 actually reports to you; right? 9 A. Correct. 10 Q. "... and I presented" -- 11 A. Sorry, I need to explain a little bit on this one. 12 Q. Sure. 13 A. Mr Kine Tong, he was one of my team members, under 14 contract 1111, and after that he transferred to the 15 other team, which is contract 1123, Cross Harbour in 16 Wan Chai. So Mr Kine Tong, he was requested to come 17 back to help handle this information and present to BD 18 officers during the audit. So he acts as a facilitator 19 only at that moment. 20 Q. Right. So: 21 "... Mr Kine Tong and I presented this to the 22 BD/RDO/Pypun representatives to explain that MTR had 23 checked the requisite percentage of coupler splicing 24 assemblies out of a total of 32 bays ... However, the 25 BD/RDO/Pypun representatives requested more detailed
Page 38	1 A. You mean above the false ceiling? 2 Q. Right. 3 A. We haven't started this inspection yet. So in what way 4 we will carry out the inspection I can't answer at this 5 moment. 6 As I explained to the professor, normally we have 7 access panels that we can remove and carry out 8 inspection. 9 Q. I understand that the final inspection has not yet been 10 done yet for EWL slab, but what would be the usual 11 practice for final inspection? Would you normally go 12 behind the -- go above the false ceiling? Is that the 13 usual practice? 14 A. Yes. We need to carry out inspection to all 15 construction -- to all structural works. 16 Q. I now turn to the second topic that I would like to 17 explore with you and that is the retrospective records. 18 I understand you haven't addressed that in your 19 witness statement and that's not a criticism, but we 20 know that your colleague, Derek Ma, has addressed this 21 in his witness statement, so perhaps I could ask you to 22 take a look at Mr Derek Ma's witness statement, at 23 paragraph 32. The page reference is B365. 24 If we can take a look at paragraph 32. The 25 background of this is the inspection carried out by BD,	Page 40	1 records demonstrating the nature and extent of the 2 supervision and inspection carried out by MTRCL, as the 3 format of the summary table did not correspond to the 4 format in appendix B of the QSP." 5 Then in the next paragraph Mr Derek Ma said that he 6 "reported back to Mr Ho and [you] and, shortly 7 thereafter, Mr Ho instructed me to prepare a set of 8 coupler checklists ..." 9 And we know these coupler checklists were the 10 retrospective checklists that were later on created. 11 So what Mr Ma is saying here is that after the 12 government representatives requested more detailed 13 information, he went back to you and Mr Ho, and I assume 14 there was some sort of discussion between you, Mr Ho and 15 Mr Derek Ma; is that correct? 16 A. Basically, Mr Derek Ma approached Mr Ho and seek Mr Ho's 17 advice that this checklist needs to be produced in 18 a manner, in a format satisfying BD's comment. 19 Q. And you were involved in that discussion, were you not? 20 A. I cannot recall that. 21 Q. So are you saying you cannot confirm whether what Mr Ma 22 said in paragraph 33 is correct? 23 A. Correct. 24 Q. Can you recall any discussion between yourself, Mr Ma 25 and Mr Ho at all on the preparation of the checklists?

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<p>1 A. No, I cannot remember. I cannot recall.</p> <p>2 Q. I would just like to confirm what's your evidence,</p> <p>3 Mr Fu. Here Mr Ma said there was a discussion between</p> <p>4 you, Mr Ho and himself, so are you saying that you were</p> <p>5 not involved in the discussion and the effect of that</p> <p>6 would be what Mr Ma said here was incorrect?</p> <p>7 A. I would say I cannot recall.</p> <p>8 Q. Can I also ask you to take a look at Mr James Ho's</p> <p>9 witness statement. The reference is B336, at</p> <p>10 paragraph 53, please. This is the witness statement of</p> <p>11 Mr James Ho and he said that after discussion with you,</p> <p>12 Mr Derek Ma and Mr Kobe Wong, the checklists were dated</p> <p>13 10 February 2017. So are you saying that what Mr Ho is</p> <p>14 saying here is also incorrect?</p> <p>15 A. No, I'm not saying that. I'm not saying that.</p> <p>16 Q. You are saying you could not recall being involved in</p> <p>17 that conversation?</p> <p>18 A. I cannot recall what Mr Derek Ma mentioned in his</p> <p>19 statement, and this is Mr James Ho's statement, talking</p> <p>20 about the checklists were dated 10 February 2017. As</p> <p>21 I mentioned earlier, I cannot recall this one because,</p> <p>22 to me, this 10 February 2017 is meaningless to me,</p> <p>23 because I did not need to give any direction which</p> <p>24 particular date needs to be highlighted in the</p> <p>25 checklists.</p>	<p>1 help to refresh your memory. The page reference is</p> <p>2 page B366. That's Mr Derek Ma's witness statement.</p> <p>3 Sorry for jumping back and forth.</p> <p>4 On the fifth line, here Mr Derek Ma said that he</p> <p>5 specifically asked you "how the records should be</p> <p>6 presented to the BD/RDO/Pypun representatives, having</p> <p>7 regard to the need to be open and transparent."</p> <p>8 So now Mr Derek Ma is talking about a rather</p> <p>9 specific conversation between himself and you. Do you</p> <p>10 have any recollection of that?</p> <p>11 A. I cannot recall that.</p> <p>12 Q. So now, on your evidence, all that you could remember</p> <p>13 was that a set of retrospective records were being</p> <p>14 created and you didn't know for what purpose they were</p> <p>15 created?</p> <p>16 A. I know those are checklists required to be produced,</p> <p>17 because it's also, at that particular moment, we also</p> <p>18 need to satisfy ourselves that we have all sorts of</p> <p>19 construction records ourselves.</p> <p>20 Q. And you were concerned that the checklists would send</p> <p>21 out the incorrect message that they were being prepared</p> <p>22 contemporaneously, were you, and that's why you've</p> <p>23 suggested adding a note "retrospective"?</p> <p>24 A. Yes.</p> <p>25 Q. Mr Fu, wouldn't it be easier if you simply ask your</p>
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<p>1 Q. Mr Fu, you were being asked about this topic by my</p> <p>2 learned friend Mr Pennicott, and, as I recall -- I might</p> <p>3 be wrong -- the answer that was given by you during your</p> <p>4 exchange with Mr Pennicott was that you did not know who</p> <p>5 made the decision, and what you are saying now is</p> <p>6 somewhat different. You are saying you do not recall</p> <p>7 being in any of this discussion at all.</p> <p>8 So I just want to clarify, what exactly is your</p> <p>9 evidence right now?</p> <p>10 A. You are talking about discussion, I cannot recall.</p> <p>11 Q. Right. Can you recall any involvement in the</p> <p>12 preparation of the retrospective checklists?</p> <p>13 A. As I mentioned earlier, the involvement basically is</p> <p>14 a reminder or advice I gave to my team members that if</p> <p>15 any checklist retrospectively produced, those checklists</p> <p>16 must be qualified with a remark saying the checklist was</p> <p>17 produced retrospectively.</p> <p>18 Q. So you were aware that retrospective checklists were</p> <p>19 being prepared; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. At that time, were you aware that these checklists were</p> <p>22 to be shown to the government officers?</p> <p>23 A. I don't know. I have no idea.</p> <p>24 Q. In that case, I would like to take you to paragraph 34</p> <p>25 of Mr Derek Ma's witness statement and see if that could</p>	<p>1 colleagues to date the retrospective record on the date</p> <p>2 when it's actually created, ie June 2018, rather than</p> <p>3 adding in that note?</p> <p>4 A. Well, as I mentioned, I did not involve in giving</p> <p>5 direction what sort of date this checklist is to be put</p> <p>6 onto the checklist. I aware that this checklist was</p> <p>7 dated back to a date in 2017, and then, when I realised</p> <p>8 that, I gave the advice to my team members that the</p> <p>9 checklist has to be qualified with a remark.</p> <p>10 Q. You were actually aware that the checklists were dated</p> <p>11 in February 2017?</p> <p>12 A. I realised that the checklists were dated back, dated</p> <p>13 back to a date.</p> <p>14 Q. When did you realise that?</p> <p>15 A. Well, at that time, Mr Kobe Wong was preparing this</p> <p>16 checklist.</p> <p>17 Q. So were you shown a copy of the checklist prepared and</p> <p>18 that's how you came to realise?</p> <p>19 A. No.</p> <p>20 Q. Can I ask you how did you become aware that the</p> <p>21 checklists would be backdated to February 2017 then?</p> <p>22 A. We're working on the same floor. Mr Kobe Wong, he's</p> <p>23 sitting outside to my area, and every time when I walk</p> <p>24 past the area, I notice there's some sort of discussion</p> <p>25 between the team members in preparing this checklist,</p>

Page 45	1 and I recall that when they prepared this checklist, 2 they talked about the date that they put onto the 3 checklist. 4 Q. Mr Fu, you said that they discussed backdating the 5 checklists. Who were the "they" you refer to? 6 A. I cannot remember. I cannot recall. 7 Q. At the very least, Mr Kobe Wong would have -- you would 8 have expected Mr Kobe Wong to be involved in that 9 conversation. Can you recall whether he was one of the 10 persons being referred to in the conversation? 11 A. Yes. 12 Q. So we now have Mr Kobe Wong. Can you recall if 13 Mr Derek Ma was involved in the conversation? 14 A. Yes. 15 Q. Right. Mr James Ho? 16 A. No. 17 Q. So, from your evidence, it must be one of 18 Mr Derek Ma/Mr Kobe Wong who made the decision to 19 backdate the retrospective checklist; is that correct? 20 A. No. I'm not sure. 21 Q. Let's get the chronology correct. So at some point 22 during the preparation of the checklists, you became 23 aware that they were backdated, and then you gave the 24 advice of including that note about retrospective 25 records; that's right?
Page 46	1 A. Correct. 2 Q. Now, since you have bothered to take the initiative to 3 reach out to say, "Please include this footnote", can 4 I take it that you must have been concerned that the 5 government officers were not misled as to the date of 6 preparation of these retrospective records? 7 A. I disagree, because at that moment of time I did not 8 know who will look at those checklists. 9 Q. Can I put the question this way: you must have at least 10 been concerned that anyone looking at the checklists 11 would not be misled as to when they were being prepared; 12 would you have agree with this? 13 A. Correct. 14 Q. Would you agree that looking at a date of February 2017, 15 any reader looking at that would not be able to realise 16 that the checklists were actually prepared in June 2018? 17 A. I cannot speculate that. 18 Q. Did it ever occur to you that you should ask your 19 colleagues who were involved in the preparation of these 20 checklists to make it clear that they were actually 21 created in June 2018 rather than February 2017? 22 A. I have not thought of this one. 23 CHAIRMAN: I think that comes back to the question I put to 24 you earlier. 25 A. Yes.
Page 47	1 CHAIRMAN: Which puzzles me. Why not just put the date? 2 "It's today's date, we sign it and put today's date." 3 A. I fully agree, Mr Chairman. If the team members did not 4 discuss or did not work out putting a date which was 5 February, I did not need to give me advice asking them 6 to qualify the checklists. 7 CHAIRMAN: But you heard them discussing, you knew they were 8 going to backdate it to 2017. You were the senior 9 management person there. Wouldn't it have been very 10 easy to say, "Just put today's date on it and make sure 11 that there's a statement at the top of the form saying 12 'retrospective records'", and then whoever you discuss 13 matters with thereafter, yes, you may have to apologise 14 for the fact records were not prepared 15 contemporaneously, but they were not prepared 16 contemporaneously in any event; right? 17 A. Right, correct. 18 CHAIRMAN: And we don't have this hoopla that now have, of 19 going around and around in ever-decreasing circles. 20 A. I fully agree. I fully agree. 21 CHAIRMAN: You agree? 22 A. I agree. 23 MS PANG: Can I ask a last question on this topic: 24 am I right that you are the most senior officer among 25 yourself, Kobe Wong, Derek Ma and James Ho?
Page 48	1 A. Yes. Excuse me, you are talking about most senior? 2 Q. In terms of hierarchy, the most high-rank officer. 3 A. Well, I have a senior above me as well. So -- 4 Mr Rooney, he also worked for 1112. 5 Q. Right. Thank you for that. 6 A. So I would say I'm the senior of Mr James Ho, 7 Mr Derek Ma and Mr Kobe Wong, but not the most senior 8 person. 9 CHAIRMAN: I think they were talking about the most senior 10 person on the spot at the time. 11 A. On the spot, on the spot, I would agree. 12 MS PANG: Mr Fu, do you recall that during your exchange 13 with my learned friend Mr Pennicott, and also 14 Mr Chairman, about an internal review conducted by 15 Leighton -- I'd like to ask you some questions about 16 that. 17 I recall that your evidence given at that time was 18 that you were happy with the interview to be a purely 19 internal review; is that correct? 20 CHAIRMAN: I don't think he said that. He said I think -- 21 I put the question on the basis of a sort of assumption, 22 unspoken, and I think he agreed -- 23 A. Yes. 24 CHAIRMAN: -- that he wouldn't have been surprised or he may 25 have expected it to be so, but there was no discussion.

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<p>1 MS PANG: Thank you, Mr Chairman. In that case, I have no 2 further questions. 3 CHAIRMAN: Thank you. While I'm just on that, just 4 briefly -- were you aware that Mr Jason Poon was never 5 informed at any stage that an inspection had been -- 6 that a report had been prepared, or an investigation 7 carried out? 8 A. Sorry, Mr Chairman, can you repeat the question again? 9 CHAIRMAN: Yes. The evidence of Mr Jason Poon, which 10 doesn't appear to be contradicted, is that this 11 investigation that resulted in the report, while it was 12 obviously circulated in the MTRC -- 13 A. Yes. 14 CHAIRMAN: -- Mr Jason Poon himself was never advised of it. 15 He never got a letter saying, "Dear Mr Poon, thank you 16 for bringing these matters to our attention. We have 17 investigated and we are satisfied that the issues which 18 you have raised, while they are of importance, there has 19 been no concern about structural integrity", or 20 something like that? 21 A. I don't know whether Leighton has informed Mr Jason Poon 22 on this aspect or not. From MTR, we have not notified 23 Mr Jason Poon that we have carried out an investigation 24 and the findings. 25 CHAIRMAN: But it seems nobody did.</p>	<p>1 report, and Lumb's report also mentioned the checking 2 system, the inspection/checking system, and we found 3 Lumb's report has mentioned these items and the system 4 is in place. 5 CHAIRMAN: All right. Thank you very much. 6 COMMISSIONER HANSFORD: Well, actually, just one further 7 question on that. 8 A. Yes. 9 COMMISSIONER HANSFORD: Did you regard Mr Lumb's report as 10 being thorough? 11 A. At that moment, yes. At this point, when we think that 12 Mr Lumb -- whether he should have carried out further 13 investigation by interviewing the persons involved, this 14 is one area I think need to improve if there's a similar 15 incident arise. 16 COMMISSIONER HANSFORD: Okay. 17 MR BOULDING: Thank you, sir. I have no further questions 18 for this particular witness, so perhaps he might be 19 released. 20 CHAIRMAN: Yes, certainly. 21 Thank you very much indeed, Mr Fu. Thank you. 22 WITNESS: Thank you, Mr Chairman. Thank you, Professor. 23 MR BOULDING: Sir, my next witness is Mr Carl Wu. I don't 24 know whether you want to take the coffee break now. 25 CHAIRMAN: I think so. 25 past 11, it sounds good.</p>
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<p>1 A. Yes. 2 CHAIRMAN: And, again, if I revert to my ordinary management 3 issues -- you know, whether you are running an ice cream 4 factory, as I said before, or building a tunnel -- 5 A. Yes. 6 CHAIRMAN: -- somebody makes a complaint which is reasonably 7 alarming, wouldn't you agree that it's not -- well, it 8 may be common courtesy, but more important it's 9 effective management, especially if that person is known 10 to be discontented or concerned, to actually say, "Look, 11 we've carried out a report, thank you very much, and 12 we've come to a conclusion as follows"? 13 A. I agree. I agree. 14 CHAIRMAN: Did you follow it up in any way at all, the issue 15 of the report? 16 A. You mean Leighton's report? 17 CHAIRMAN: Yes. 18 A. Lumb's report? 19 CHAIRMAN: Yes. 20 A. Yes, I look at the report and understand that Leighton 21 has concluded that they have checked the QA/QC system, 22 and also they have identified there's an incident 23 related to this bar cutting and an NCR has been issued, 24 and has been followed up and also has been closed out. 25 So those information have been included in Lumb's</p>	<p>1 15 minutes. 2 MR BOULDING: Thank you. 3 (11.26 am) 4 (A short adjournment) 5 (11.46 am) 6 MR BOULDING: Thank you, sir. Thank you, Professor. 7 As I said just before the coffee break, my next 8 witness is Mr Carl Wu, who is already in the witness 9 box. 10 MS WU KA WAH, CARL (affirmed) 11 Examination-in-chief by MR BOULDING 12 Q. Thank you, Mr Wu. You have given the Commissioners your 13 full name. I'd like to go to your witness statement. 14 There's only one to go to. Perhaps we can look at 15 page B470, and there do we see the first page of your 16 witness statement, Mr Wu? 17 A. I do. 18 Q. Splendid. Then if you would be kind enough to be taken 19 on to page B483. Is that your signature under the date 20 of 13 September 2018? 21 A. Yes, it is. 22 Q. Are the contents of that witness statement true to the 23 best of your knowledge and belief? 24 A. Yes. 25 Q. Now, Mr Wu, I just want to see where you are in the MTR</p>

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<p>1 organisation. For that purpose, if we could go to B727. 2 There, do we see you on the left-hand side as 3 coordination manager? 4 A. Yes, correct. 5 Q. That shows your position effective as at August 2016, 6 does it not? Just see the bottom left-hand corner. 7 A. Yes. 8 Q. My understanding is that you are still the coordination 9 manager, albeit that you are now working part-time; is 10 that correct? 11 A. Correct. 12 MR BOULDING: Thank you very much indeed. Now, the 13 procedure is that Mr Pennicott will probably ask you 14 some questions first, he's counsel for the Commission. 15 Then various lawyers in the room might take the 16 opportunity to ask you questions. The Chairman and the 17 professor can ask you questions at any time they like to 18 do so, and then I might ask you some further questions 19 at the end. So please stay there. 20 WITNESS: Thank you. 21 COMMISSIONER HANSFORD: Perhaps I can ask one straightaway, 22 Mr Wu -- this organisation chart we see on the screen at 23 the moment, am I right that's not part of contract 1112; 24 that's outside the contract, is that correct? 25 A. It appears to be outside the contract.</p>	<p>1 years ago -- you've been involved in the development and 2 the implementation of the PIMS documentation? 3 A. Correct. 4 Q. And your specific involvement in this contract, that is 5 the 1112 contract, as I understand it, was in 6 January/February 2017, when you were asked to carry out 7 a review and investigation into alleged bar 8 cutting/rebar cutting incidents? 9 A. I would say that was a review and not an investigation. 10 Q. Okay. How do you distinguish between a review on the 11 one hand and an investigation on the other? 12 A. The review was a management system audit, the scope of 13 which was stated in my review report. The investigation 14 in relation to this bar cutting incident was to find out 15 who did what, when, how, where and why, which was not my 16 mandate. 17 Q. All right. Was your mandate, your review, more -- we'll 18 look at your report in a moment, but was it more 19 directed at documentation and records rather than 20 actually looking at the incidents themselves? 21 A. As mentioned in the scope of my review report, we were 22 looking at construction records. 23 Q. Right. Could you go, please, to paragraph 41 of your 24 witness statement. Sorry, if we just look at the 25 previous page, I'm sorry, 479, just at the bottom there</p>
Page 54	Page 56
<p>1 COMMISSIONER HANSFORD: Well, is your role within the 2 contract or outside the contract? 3 A. My role is outside the contract. 4 COMMISSIONER HANSFORD: Okay. Now I understand. Thank you 5 Examination by MR PENNICOTT 6 MR PENNICOTT: Mr Wu, good morning. 7 A. Good morning. 8 Q. My name is Ian Pennicott, I'm one of the counsel for the 9 Commission, and thank you very much for coming to give 10 evidence to the Commission this morning. 11 Just on that last point, Mr Wu, my understanding is 12 you're coordination manager for the project, the SCL 13 project, and that is not contract-specific, but it is 14 for this project, the SCL project; is that right? 15 A. This is correct. 16 Q. Right. And you've been in that role -- we've seen the 17 organisation chart dated August 2016, but I understand 18 you've been in that role since May 2016? 19 A. Yes. 20 Q. So you had no direct involvement with the project, 21 because you were working on other MTRC projects prior to 22 that date of May 2016? 23 A. Correct. 24 Q. Historically, as I understand it -- Mr Wu, that's going 25 back to when you first joined the MTR organisation some</p>	<p>1 you will see the heading, "February 2017 review", so 2 just to orient ourselves. 3 Then if we could go to paragraph 41, please. You 4 say: 5 "At around the end of 2016 or at the beginning of 6 2017, Mr TM Lee (general manager-SCL and head of E&M 7 construction) and subsequently, Mr Rooney ... contacted 8 me in respect of carrying out a review of the inspection 9 records for the coupler installation in contract 1112." 10 And, although this was not related to your normal 11 duties as coordination manager, you agreed to assist 12 because you were familiar with how audits are conducted, 13 and Mr Peter Fung of the QA team was assigned to assist 14 you. 15 Were you informed, Mr Wu, as to what prompted Mr Lee 16 and Mr Rooney to carry out that review? 17 A. I was informed by Mr TM Lee, and subsequently Mr Aidan 18 Rooney, that there were allegations that the 19 reinforcement and the coupler installation of the EWL 20 slab had not been carried out properly. 21 Q. And so you weren't specifically told that there were 22 allegations of threaded rebar having been cut? 23 A. No. 24 Q. Just that there were general allegations of the 25 reinforcement and coupler installation not being carried</p>

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1 out properly, as you've just put it?

2 A. Yes.

3 Q. Were you given any written instructions or brief as to

4 the review you were to carry out?

5 A. No.

6 Q. Were you supplied with any specific documentation for

7 the purposes of your review, or were you simply given

8 access to the documentation that was available on the

9 contract 1112 document system?

10 A. Prior to commencing the review, I wasn't given any

11 documentation, but as the review commenced we were given

12 access to documents related to 1112 and documents

13 related to coupler installation and construction

14 records.

15 Q. Right. Were those documents provided because you

16 requested them or that you, as it were, searched through

17 the documents that were on the contract 1112 document

18 system?

19 A. We were provided with the documents.

20 Q. At your request?

21 A. After confirming the scope of the review, we were

22 provided with the documents as requested by us.

23 Q. Right, and those documents are identified and listed in

24 your report?

25 A. Yes.

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1 Q. Were you aware, at the time that you were doing your

2 review, that Leighton, through Mr Lumb, were carrying

3 out a similar exercise?

4 A. We were not aware.

5 Q. Right. Your report is dated 8 February 2017.

6 A. That's correct.

7 Q. The first version of the Leighton report is dated around

8 about 17 January 2017. You weren't given a copy of that

9 first version of the Leighton report for the purposes of

10 your review?

11 A. No, we were not.

12 Q. The final version of the Leighton report is dated

13 10 February 2017, so two days after your report is

14 dated. Did you at any time after the production of your

15 report see the final version of the Leighton report?

16 A. We, or I must say I, first saw the final version of the

17 report in around June 2018, at the time when I helped

18 prepare the MTR report of 15 June 2018.

19 Q. Right. So you were unaware of that report until earlier

20 this year?

21 A. Correct.

22 Q. Now, if we could go to your report, please, at B7/4516.

23 The scope of the review, paragraph 1, is stated to be

24 this:

25 "The review is to examine the construction records

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1 to confirm that the steel reinforcement and coupler for

2 the EWL track slab of contract 1112 ... have been

3 installed in accordance with the requirements of the

4 relevant QA and QC regimes."

5 Then you explain, in broad terms, what you did in

6 terms of putting the report together; yes?

7 A. Correct.

8 Q. Then you say that the two people that you interviewed

9 were James Ho and Kobe Wong.

10 A. Correct.

11 Q. Why did you choose Mr Ho and Mr Wong to be your only

12 interviewees?

13 A. Mr James Ho and Mr Kobe Wong were nominated by

14 Michael Fu, the construction manager, to take part in

15 this review.

16 Q. Okay. Did you take the view that since they had been

17 nominated by Mr Fu, that they would necessarily be the

18 only people to be interviewed, or did you see your

19 review as, potentially at least, going wider than that

20 in terms of people to interview?

21 A. Mr James Ho was the senior construction engineer, and

22 Mr Kobe Wong was the senior inspector of works. They

23 are a good representation of the construction management

24 team, in terms of construction. We consider that

25 sufficient. And during the course of the review, even

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1 though I was not the person doing the fieldwork,

2 I believed some other construction management team might

3 have provided information or documents. So these two

4 persons were representative of the construction team,

5 and I considered that appropriate.

6 Q. Okay. Was it then Mr Ho and Mr Wong from whom you

7 requested documentation?

8 A. I was not the person carrying out the field audit work,

9 and I believe the auditor, Mr Peter Fung, requested

10 documents through Mr James Ho and Kobe Wong primarily.

11 Q. All right. Now, could you, in the light of that answer,

12 because you've mentioned that twice now, just explain

13 briefly your role in the production of this review

14 report and Mr Peter Fung's role?

15 A. It is a standard set-up of a management system audit.

16 I was responsible for the review and Mr Fung was

17 responsible for carrying out the fieldwork, ie the

18 review of the documents, interviewing of the people. So

19 we jointly prepared this report.

20 Q. Right. Presumably, Mr Fung having done his fieldwork

21 and gathered the documentation, you also saw the

22 documentation that he had managed to obtain?

23 A. I did not see the documents that he had reviewed or

24 obtained. Mr Fung, during the course of the review,

25 reported to me regularly, and I would provide him with

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<p>1 assistance or guidance if so required.</p> <p>2 Q. So you didn't actually look and review the documentation</p> <p>3 yourself; is that the position?</p> <p>4 A. Correct.</p> <p>5 Q. Now, I referred you to paragraph 41 of your witness</p> <p>6 statement a short while ago, and it's a little bit</p> <p>7 unclear as to precisely when this review kicked off, but</p> <p>8 we know it ended on 8 February. So this took, what,</p> <p>9 five or six weeks to prepare? Is that the sort of</p> <p>10 period we're looking at, Mr Wu?</p> <p>11 A. I am not certain of the exact date when the review</p> <p>12 commenced, but the review took, to the best of my</p> <p>13 recollection, two to three days to complete. And we</p> <p>14 issued a draft report prior to the Chinese New Year at</p> <p>15 the time, I recall that was in January, and after the</p> <p>16 Chinese New Year Mr Peter Fung and I signed off the</p> <p>17 final report and issued it on 8 February.</p> <p>18 Q. Right.</p> <p>19 A. So the actual review, the fieldwork, took perhaps two to</p> <p>20 three days, and it took another two to three days to</p> <p>21 prepare the draft report, and then it would be after the</p> <p>22 Chinese New Year that we issued the formal report.</p> <p>23 Q. Okay. To whom did you give the draft report?</p> <p>24 A. I first sent it to Mr Michael Fu. He did not have any</p> <p>25 comment. Then I passed the draft report to Mr TM Lee</p>	<p>1 A. Correct.</p> <p>2 Q. Then you set out the key requirements of the QSP, and in</p> <p>3 particular you make reference to Leighton's obligation</p> <p>4 to provide full-time supervision of the mechanical</p> <p>5 coupler works by a T3, and the MTR to provide</p> <p>6 20 per cent supervision of the splicing assemblies by</p> <p>7 a T3.</p> <p>8 A. Yes.</p> <p>9 Q. I'm not too concerned about the others.</p> <p>10 However, over the page, at 4519, continuing the</p> <p>11 bullet points, you make reference to, the second bullet</p> <p>12 point down there:</p> <p>13 "Leighton's quality control supervisors to carry out</p> <p>14 full-time supervision of splicing assemblies on site and</p> <p>15 maintain inspection records ..."</p> <p>16 Then you cross-refer to appendix C to the QSP. And</p> <p>17 likewise, in the next bullet point, a similar reference</p> <p>18 in relation to MTR's obligations; do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Then you have a series of recommended follow-up actions,</p> <p>21 again, and the second bullet point, you say:</p> <p>22 "Confirm the frequency of Leighton and MTRC</p> <p>23 supervision were in compliance with the requirement of</p> <p>24 the QSP, and were recorded on the record sheet ..."</p> <p>25 So the position is, Mr Wu, at the time you wrote</p>
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<p>1 and Mr Aidan Rooney, who were the persons asking for the</p> <p>2 review. Mr TM Lee did not have any comment. Mr Rooney</p> <p>3 had just one very minor, as I recall, comment on the</p> <p>4 choice of a word. Then I turned the draft report into</p> <p>5 a formal report, sent it off to Mr Peter Fung to sign</p> <p>6 off, then I signed off, and I passed the signed copy to</p> <p>7 Mr TM Lee and to Mr Aidan Rooney.</p> <p>8 Q. Right. Can I ask you, please, to look at paragraph 4.3</p> <p>9 of the report, on page 4518, where you list a number of</p> <p>10 follow-up -- recommended follow-up actions; do you see</p> <p>11 that, Mr Wu?</p> <p>12 A. Yes.</p> <p>13 Q. And you say:</p> <p>14 "Obtain from Leighton the latest 'for construction'</p> <p>15 version of the inspection and test plan as described in</p> <p>16 the ... method statement, and confirm that the</p> <p>17 construction records were consistent with the</p> <p>18 requirements of the prescribed inspection and test</p> <p>19 regime."</p> <p>20 Then there are a couple of other recommended</p> <p>21 follow-up actions.</p> <p>22 You then turn, at paragraph 5, to the quality</p> <p>23 assurance scheme of the couplers. You refer to a QSP</p> <p>24 and you refer to the notice of commencement issued by</p> <p>25 the Buildings Department in relation to areas C1 and C2.</p>	<p>1 this report, there were no record sheets in the form of</p> <p>2 appendix C to the QSP; is that correct?</p> <p>3 A. May I seek clarification? When you said "there were</p> <p>4 no", are you referring to complete absence of?</p> <p>5 Q. I am, in the form of the record sheet appendix C, that</p> <p>6 we know should be appendix B, of the QSP.</p> <p>7 A. During the review, I was not informed by my auditor,</p> <p>8 Mr Peter Fung, that there was complete absence of any</p> <p>9 one of the records. I was informed that these</p> <p>10 recommended follow-up actions are related to records</p> <p>11 which require better collation; they were incomplete.</p> <p>12 Q. And you wouldn't know whether that was right or not</p> <p>13 because you didn't look at the documents?</p> <p>14 A. Can you repeat that question again, please?</p> <p>15 Q. You would not know whether that assumption that you made</p> <p>16 was correct, because you told us a moment ago that you</p> <p>17 didn't actually look at the documents that Mr Fung had</p> <p>18 collated?</p> <p>19 A. That was not an assumption. That was what was reported</p> <p>20 to me.</p> <p>21 Q. Right. That was not a report that you checked by</p> <p>22 looking at the documents and asking what was missing?</p> <p>23 A. These five bullet points here, under 5.1, were records</p> <p>24 that were incomplete.</p> <p>25 Q. All right. The next bullet point:</p>

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1 "Obtain confirmation from Leighton that their TCP
 2 records could demonstrate full-time T3 supervision of
 3 the mechanical coupler works per the BD requirement ..."
 4 Again, is your evidence the same, that your
 5 understanding was there were some records, but some
 6 records were missing, or there was a total lack of
 7 documentation from Leighton? What was your
 8 understanding?
 9 A. I was not reported that any records amongst these five
 10 bullet points were of a complete absent state. They
 11 were incomplete.
 12 CHAIRMAN: But if they were -- if there just had not been
 13 any preparation of the QSP records, would you expect to
 14 get a report saying, "Look, we've checked the QSP
 15 provision, it requires a particular form of record, and
 16 we can't find any"?
 17 A. That was not reported to me.
 18 CHAIRMAN: Would you expect it, if in fact that was the
 19 case?
 20 A. If in fact any of these records were of complete absent
 21 state, I would have expected Mr Fung to report to me in
 22 that manner, yes. Have I responded to your question,
 23 sir?
 24 CHAIRMAN: Yes.
 25 MR PENNICOTT: Mr Wu, in more recent times, have you

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1 revisited this report, to establish what the position
 2 was in February 2017 with regard to the records that
 3 were available in relation to the supervision of the
 4 coupler works under the QSP?
 5 A. I did ask Peter Fung, the auditor who did the fieldwork,
 6 of these recommended follow-up actions. Again, he said
 7 that these records were incomplete.
 8 Q. But have you, as I say, in more recent times, this year,
 9 2018, revisited this report and asked yourself the
 10 question "Well, what records were actually available in
 11 February 2017 and in what respects were they
 12 incomplete?" Have you asked yourself that question?
 13 A. I have asked Mr Fung, the person who did the fieldwork,
 14 the same question that you just put forth to me, and the
 15 answer that I got was that they were incomplete.
 16 Q. You didn't follow that up by enquiring, for example, as
 17 to what extent they were incomplete, what types of
 18 document were incomplete?
 19 A. I did not follow up.
 20 CHAIRMAN: "Incomplete" is such a broad, catholic term. It
 21 can mean one or two are missing, or they are all missing
 22 except for one or two.
 23 A. I agree with you, sir. It is a generic word.
 24 CHAIRMAN: And you didn't think to say, "What do you mean by
 25 incomplete? Is nearly everything missing or are there

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1 just one or two omissions?"
 2 A. I did not ask.
 3 CHAIRMAN: And recently, when you asked again -- but by then
 4 presumably you asked because there was a reason to ask,
 5 namely the current problems had arisen.
 6 A. Because of the current problem, I asked Peter Fung, who
 7 did the fieldwork, to what extent these records were
 8 incomplete, and the answer I received was that they were
 9 incomplete, and without any further description, because
 10 it was some time ago, he cannot remember.
 11 MR PENNICOTT: You see, but even if, going back to 2017,
 12 Mr Wu, the records were incomplete, how were you able to
 13 form any conclusion as to whether or not, first of all,
 14 Leighton had provided full-time supervision by a T3?
 15 How could you possibly have concluded that if you knew
 16 the records were incomplete?
 17 A. That is the reason why I asked the construction team to
 18 seek confirmation from Leighton to collect documents
 19 from Leighton, as follow-up actions.
 20 Q. And likewise, so far as the MTRC is concerned, if the
 21 records were incomplete, how could you have concluded
 22 that they had complied with their no less than
 23 20 per cent supervision obligation?
 24 A. By way of the RISC form, the RISC inspection carried out
 25 throughout the construction of the EWL slab, it's

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1 objective evidence that our construction team had
 2 carried out their duties on a continuing basis, full
 3 surveillance and inspections, according to the
 4 inspection and test plan. So that's 100 per cent.
 5 Q. Which particular -- you mentioned the RISC form. We
 6 know that in the context of the fixing of the rebar
 7 there are essentially two types of RISC form. The one
 8 that requires the inspection of the rebar fixing itself,
 9 the other RISC form is what's known as the pre-concrete
 10 pour RISC form, which has on it, or incorporates with
 11 it, the cast in situ concrete list of items. You're
 12 familiar with those, I think, Mr Wu.
 13 A. Yes.
 14 Q. Which RISC form are you placing reliance on?
 15 A. Both.
 16 Q. All right. Did you at the time, back in
 17 January/February 2017, make any assumptions about who at
 18 MTR had inspected the connections between the rebar and
 19 the couplers?
 20 A. I did not assume, sir. I saw it on the RISC form, the
 21 standard RISC form, requiring the sign-off. And when
 22 the RISC forms are signed off, it means the relevant
 23 works have been inspected.
 24 Q. What steps did you take to find out whether a T3
 25 competent person, on the competent persons stream, had

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1 inspected and signed off on those connections?
 2 A. I have not checked, sir.
 3 Q. Because you will know, Mr Wu, that there's a site
 4 supervision plan which lists the competent person -- so
 5 far as MTR is concerned -- the T5s, the T3s, and you
 6 will probably know that the quality supervision plan
 7 requires the same people to be responsible under the
 8 quality supervision plan.
 9 So what steps, if any, did you take to check that
 10 the site supervision plan and the quality supervision
 11 plan had been complied with, insofar as the T3 person
 12 was concerned?
 13 A. I understood from my auditor, Mr Peter Fung, who did the
 14 fieldwork, that the technical competent person was
 15 nominated and approved. So these persons are within our
 16 construction management team.
 17 Q. Right. Mr Wu, could we just look at, lastly on this
 18 topic, the conclusion that you reached in this review.
 19 It says there:
 20 "It is concluded that, based on the above review of
 21 the construction records, the steel reinforcement and
 22 coupler for the EWL track slab of contract 1112 had been
 23 installed in accordance with the requirements of
 24 relevant quality assurance and quality control regimes.
 25 Follow-up actions were recommended to enhance the robust

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1 demonstration of the due compliance with the QA/QC
 2 regime."
 3 Mr Wu, what I struggle with is this. Given the
 4 various recommended follow-up actions that we've looked
 5 at in paragraph 4.3 and more particularly in
 6 paragraph 5.1, I don't see how you could possibly reach
 7 that conclusion. The conclusion, I would suggest to
 8 you, doesn't follow from the report itself, because
 9 there were simply, on your own evidence, incomplete
 10 records.
 11 A. Can I rephrase your question? You want to understand
 12 how I came to this conclusion --
 13 Q. Yes.
 14 A. -- while the records listed under ten bullet points of
 15 my recommendation indicated that the records were
 16 incomplete?
 17 Q. I'm happy for you to answer it on that basis, yes.
 18 A. May I articulate on this?
 19 Q. Yes.
 20 A. It might take a few minutes.
 21 Q. That's fine. We're here to listen.
 22 A. The primary objective of this review, by way of
 23 a management system audit, is to confirm, through review
 24 of the records, that the management system -- that
 25 a management system is in place to establish confidence

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1 that the EWL slab is constructed as planned. That's the
 2 primary objective.
 3 When I say "management system", I'm referring to the
 4 organisation and the arrangements MTRC has put in place.
 5 The organisation is the construction management team,
 6 and the review confirmed that we have a construction
 7 team made up of professional engineers and inspectors,
 8 and they have carried out their job diligently by way of
 9 the RISC forms.
 10 When I say "arrangements", I'm referring to the
 11 specification, material and workmanship specification,
 12 construction drawings, method statements, inspection and
 13 test plans, PIMS procedures and practice notes, QSP,
 14 et cetera. And through the interview of the
 15 construction management team, ie Mr James Ho and Mr Kobe
 16 Wong, they were fully conversant with the requirements
 17 of the arrangements.
 18 If I may, this organisation and arrangement were
 19 like, if I can use an example, a stack of Swiss cheese
 20 slices, each with little holes in it. They were
 21 incomplete. But they were stacked against one another
 22 and one after another, like gates, so as to prevent
 23 undesirable events from happening.
 24 Of importance is the RISC form that represents
 25 continuous inspection by the MTR construction management

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1 team, and that we were satisfied that the works are
 2 constructed according to the arrangements.
 3 There might be incomplete records, as I mentioned in
 4 the ten bullet points, but that doesn't mean a system
 5 breakdown of any kind, and from a management system
 6 audit point of view we can conclude in a positive manner
 7 that the system is working. In particular, NCR was
 8 detected, reported and closed out, and that's a good
 9 sign that the system is working.
 10 There are some pieces of Swiss cheese slices that
 11 might be incomplete, but there was no system breakdown,
 12 and hence our conclusion.
 13 Q. There were no records, were there -- and there still are
 14 no records, on one view -- of the dates upon which
 15 inspection, for example, of the bottom mat of rebar
 16 having taken place?
 17 A. Can you rephrase that again?
 18 Q. Yes. Take any area of the site. We know, certainly in
 19 areas B and C in particular, where we're focusing -- and
 20 we're focusing on the EWL slab -- we know there was
 21 a top mat of rebar and a bottom mat of rebar. You can't
 22 go to any record and find out when that bottom mat of
 23 rebar was inspected?
 24 A. I can take note of that. I cannot recall these vast
 25 amounts of records that you were referring to.

<p style="text-align: right;">Page 73</p> <p>1 Q. Yes. There might be a photograph that might give us 2 some indication of when it took place, but there's no 3 piece of paper which indicates when those inspections 4 took place, the date upon which they took place. 5 A. I cannot respond to your statement, sir. 6 Q. Whilst the top mat of rebar, it may be easier to make 7 inferences from the RISC form as to when those 8 inspections take place, again one cannot be certain from 9 those records about the precise date of when the 10 inspections took place. I mean, did you look at the 11 RISC forms with those sorts of thoughts in mind? 12 A. The design of the RISC process, including the RISC form, 13 has been in place since mid-1990s and has been used 14 again and again in many other railway projects that the 15 MTRC has delivered, and it's been working well. 16 Q. But sometimes, Mr Wu, something like the RISC form 17 procedure, one has to stand back and say, "Actually, 18 does it work for this specific project?" Does the RISC 19 form procedure really work where you've got an EWL slab 20 with a top layer of rebar and a bottom layer of rebar? 21 Should there have been a RISC form for each of them, 22 rather than just one inherent RISC form that covered 23 both of them? 24 A. I mentioned in my review report that we only use one 25 RISC form, and I specifically pointed out that in my</p>	<p style="text-align: right;">Page 75</p> <p>1 MR CHANG: No questions from Leighton. 2 MR SO: No questions from China Tech. 3 CHAIRMAN: Thank you. 4 MR CONNOR: No questions from Atkins. 5 CHAIRMAN: Thank you. 6 MR CHOW: Mr Chairman, I have some questions from the 7 government. 8 CHAIRMAN: Yes. 9 Cross-examination by MR CHOW 10 MR CHOW: Good afternoon, Mr Wu. My name is Anthony Chow 11 and I represent the government. The government has 12 a few questions for you. 13 The only area that I intend to explore with you is, 14 like Mr Pennicott, on the exercise that your team has 15 carried out in around the end of 2016 and early 2017, as 16 regards the internal review. 17 Mr Wu, just to get a few facts confirmed, am I right 18 to understand that, based on what you said earlier, in 19 preparing your internal review report, you have not 20 looked at any of the documentation that your assistant 21 Mr Peter Fung has inspected on the field; is that right? 22 A. Correct. I have not looked at any documents. 23 Q. I see. So am I right in thinking that you have not 24 looked at the QSP or the RISC form themselves; right? 25 A. I looked at the QSP itself prepared by BOSA, but not the</p>
<p style="text-align: right;">Page 74</p> <p>1 report. Even though it has been used since early or 2 mid-1990s, now in hindsight we wish we had perfect 3 wisdom, then certainly we could do better, especially 4 for structure which is as thick as 3 metres deep and as 5 complex as the EWL slab. We can certainly improve in 6 the future. 7 Q. Because the reality of the situation is, on the RISC 8 forms, that you just have one RISC form, or two RISC 9 forms, for each area, somebody ticking a box, somebody 10 signing, and for the most part not dating, the form, and 11 that's all we have. 12 A. Yes, I take note of that. 13 Q. So one needs to think, I would have thought, on 14 a project-by-project basis, perhaps on 15 a contract-by-contract basis, that sometimes one has to 16 modify the procedures, make them bespoke, so they 17 actually work in the particular circumstances of the 18 contract. Would you agree with that? 19 A. I fully agree with that. In moving forward, we should 20 pay particular attention to structure of this nature so 21 that representative records and information or better 22 information should be provided. 23 MR PENNICOTT: Sir, I'm finished. No more questions. 24 Thanks very much. 25 CHAIRMAN: Thank you.</p>	<p style="text-align: right;">Page 76</p> <p>1 outcome of the implementation of the QSP as such. 2 Q. I see. So am I right in thinking that the various facts 3 that you set out in your interim report were the 4 information given to you by Mr Peter Fung, upon his 5 review of the documentation on site? 6 A. Can you rephrase that, please? 7 Q. In what way you want me to rephrase my question? Or do 8 you want me to repeat? 9 A. Yes, repeat the question, if you please. 10 Q. As you have not looked at any documentation on site 11 other than the QSP that you mentioned earlier, 12 am I right to assume that the matters that you set out 13 in your internal review report were actually based on 14 what you told by Mr Peter Fung? 15 A. Yes, correct. 16 Q. Thank you. So am I right to say that you have no idea 17 as to what you have put down in the internal report was 18 correct? 19 A. I do not agree, for the reason that Mr Peter Fung is 20 a professional auditor of quality management system, or 21 management system audit, so I have trust in him that he 22 has done whatever his training, qualification and 23 experience has told him to. 24 Q. All right. Now, you just mentioned that you have looked 25 at the QSP; right?</p>

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1 A. The submission, yes. The documents submitted through
 2 a contractor submission form, the QSP itself, yes.
 3 Q. The document, QSP, that you have looked at, was it
 4 provided by Mr Peter Fung to you?
 5 A. Yes.
 6 Q. And it's the one you mentioned in page 3 of your report,
 7 under paragraph 5; is that correct?
 8 A. Yes, that is the one.
 9 Q. So, on the face of the document, the one that you have
 10 looked at does not apply to the slab; did you notice
 11 that?
 12 A. Yes. It says it's for diaphragm wall and barrettes.
 13 Q. So you find nothing wrong with that? Because, as
 14 Mr Pennicott has taken you to, from the very beginning,
 15 the purpose of this review is to "review and examine the
 16 construction records and confirm that the steel
 17 reinforcement and coupler for the East West Line track
 18 slab of contract 1112 for the SCL project". So it has
 19 not occurred to you that perhaps the essential documents
 20 that you have been provided with was not the appropriate
 21 document?
 22 A. The heading was not but the content was, ductility type.
 23 Q. Then have you ever asked whether there is an appropriate
 24 document that you should look at, the one which
 25 expressly stated that that applies to the slab?

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1 A. The T3 involvement, 100 per cent by Leighton,
 2 20 per cent or more by MTRC, appendix B, appendix C,
 3 they were all applicable, so we used that as the basis
 4 of the internal review.
 5 Q. But, Mr Wu, without looking at the appropriate QSP which
 6 applies to the slab, how did you know that the one
 7 applicable to the slab was exactly the same as the one
 8 that you looked at?
 9 A. The construction team agreed that this would be the
 10 basis for the internal review.
 11 Q. So you never questioned that perhaps the one that you
 12 were given was not the appropriate one? Have you ever
 13 questioned that?
 14 A. The templates for keeping the records were to be used
 15 for the slab. That was the arrangement that we agreed
 16 with the construction team when we did the internal
 17 review.
 18 Q. All right. I will move on.
 19 Now can I refer you to paragraph 43 of your
 20 statement, where you say:
 21 "While the review report recommended that the
 22 systematic maintenance of specific records could enhance
 23 the robust demonstration of the compliance with relevant
 24 QA/QC regimes, it was concluded that the steel
 25 reinforcement and couplers for the track slab had been

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1 installed in accordance with QA/QC regimes as stipulated
 2 under the PIMS and Leighton Contractors (Asia) Ltd's
 3 construction method statement, namely, the QSP (which is
 4 the quality assurance scheme required by Buildings
 5 Department)."
 6 Now, here, when you refer to the QSP in this
 7 paragraph, are you referring to the one that you looked
 8 at at the time which applies to barrettes and diaphragm
 9 wall, or are you referring to the ones that here
 10 everybody knows is the one that applies to the slab?
 11 Which QSP are you referring to in paragraph 43?
 12 A. I was referring to the QSP as stated in my review
 13 report.
 14 Q. I see. Am I right in thinking that even up to now, you
 15 have never compared the two versions of QSP? Have you
 16 had a chance to compare the two versions, the one that
 17 you have looked at and the one that applies to the slab?
 18 A. Personally, no, I have not compared.
 19 Q. I see. Can I ask this: is this the first time that you
 20 learn that there exists another version, or there exists
 21 a QSP that applies to the slab?
 22 A. It came to my attention throughout -- during this COI,
 23 that there was another version.
 24 Q. I see. And even then, before today, you were not
 25 interested to find out whether there was any difference

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1 between the two versions; is that right?
 2 A. But, correct me if I am wrong, throughout this COI
 3 process, it was found that the two QSPs were broadly
 4 identical, were they not?
 5 Q. Mr Wu, I would like to go back to the time when you were
 6 requested by Mr Rooney and Mr Lee to carry out the
 7 internal review.
 8 Now, you mentioned to us earlier that you were not
 9 told -- or perhaps you said you were only told that
 10 there were allegation for improperly installed couplers;
 11 do you recall that?
 12 A. Yes.
 13 Q. Were you told about a complaint raised by Mr Jason Poon
 14 or China Technology?
 15 A. No.
 16 Q. Were you aware there was an email from China Technology
 17 dated 6 January 2017?
 18 A. At the time when Mr TM Lee and Mr Aidan Rooney
 19 commissioned me to carry out this review, I was not
 20 aware.
 21 Q. I see. How about at any time after you have commenced
 22 the review, did Mr Rooney mention to you about the
 23 complaint from Mr Jason Poon?
 24 A. During the course of the review and up until the time
 25 when I issued the final report of the review on

<p style="text-align: right;">Page 81</p> <p>1 8 February, I was not informed. 2 Q. I see. Now can I ask you to look at part of Mr Rooney's 3 evidence, at Day 28, page 136, please, starting from 4 line 13, when Mr Rooney was asked: 5 "Would you agree with me, if we look at the two 6 reports, the report from Leighton and also MTR's own 7 report, none of these reports have addressed the 8 following questions: for example, where and when did the 9 alleged bar cutting incident occur as shown in the 10 photographs attached to Mr Jason Poon's email, who were 11 the workers involved, what were the actual causes for 12 such incident, they were never addressed in the contents 13 of any of these reports; would you agree?" 14 Mr Rooney's answer was: 15 "That's correct. 16 Question: If that is the case -- 17 Answer: Sorry, can I just add to that? 18 Question: Of course. 19 Answer: Even though they weren't addressed in the 20 report, we did discuss the issues with Carl and with 21 Michael, and we came to, let's say, our own conclusions 22 related to those three points that you raised. But they 23 weren't included in the report." 24 Now, the "Carl" mentioned by Mr Rooney I believe is 25 Mr Wu, yourself?</p>	<p style="text-align: right;">Page 83</p> <p>1 documents? 2 A. In addition, interviewed the people. 3 Q. Right. Now, Mr Wu, can I ask, other than the QSP that 4 you have looked at, have you ever asked for a copy of 5 the acceptance letter from the Buildings Department, to 6 satisfy yourself that all the requirements from the 7 Building Authority have been properly and fully taken 8 into account in the drafting of the QSP? 9 A. I cannot answer that question. I personally have not 10 asked, and I cannot speak on behalf of Mr Peter Fung, 11 who did the fieldwork, whether he has asked or not. 12 Q. Okay. Now, earlier you mentioned to us the fact that 13 your assistant, Mr Fung, only interviewed Mr Kobe Wong 14 and Mr James Ho is because they were nominated by 15 Mr Michael Fu; do you remember that? 16 A. I said Mr Michael Fu nominated Kobe Wong and James Ho to 17 be the persons representing 1112 in the interview. 18 Mr Peter Fung might have talked to other members of 19 staff. I cannot speak on his behalf. But Mr James Ho 20 and Mr Kobe Wong were the two primary staff that we have 21 included in the interview. 22 Q. Right. Now, Mr Pennicott just now has pointed out that 23 in relation to the record sheets required under the QSP, 24 they did not exist; do you recall that? 25 A. Yes, that's what I was told.</p>
<p style="text-align: right;">Page 82</p> <p>1 A. Yes. 2 Q. So apparently what Mr Rooney informed the Commission is 3 that in relation to the specific complaint raised by 4 Mr Jason Poon, he had a discussion with you? 5 A. The discussion I had with Mr Rooney was that the 6 allegation was about couplers not being installed 7 properly. 8 Q. I see. So you were never told about cutting of threaded 9 ends of the rebar; right? 10 A. I was not told of the cutting of the rebar before we 11 started the internal review, but during the internal 12 review we were given the understanding that there was 13 NCR157, and that 157 was related to cutting of the 14 rebar. 15 Q. Okay. So you learned about that before you published 16 the final version of your internal review report; is 17 that right? 18 A. By way of NCR157, yes. 19 Q. Now, earlier, in your long speech as to what you were 20 supposed to do, my understanding of the points that you 21 tried to make earlier is that all you were required to 22 do is to ensure that the project management system 23 worked, in the circumstances; is that right? 24 A. Yes. 25 Q. And that's why you only carried out a review of the</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Is it fair to say that if your assistant, Mr Peter Fung, 2 were told by Mr Kobe Wong that the record sheet actually 3 did not exist, he would have told you? 4 A. If -- I trust that he would. 5 Q. So is it fair to deduce, from the fact that Mr Peter 6 Fung did not mention this very fact to you, Mr Kobe Wong 7 actually did not tell your assistant, Mr Fung, that the 8 record sheet did not exist? 9 A. I would not do that deduction myself. 10 Q. But do you agree with me that would be a logical 11 deduction? 12 A. I cannot agree with you, sir. 13 Q. So in what way was it illogical? 14 A. I was told that the records were incomplete, and 15 I cannot assume what other people have said or have not 16 said. 17 Q. Now, we have also heard evidence from other inspectors 18 on site, in particular Mr Andy Wong who told the 19 Commission that there was at least one occasion where 20 improperly connected couplers were not rectified before 21 concreting. Were you aware of this fact? 22 A. I was not aware of this at the time of the internal 23 review. 24 Q. So, when you put down in your report, saying that "[the] 25 construction management team confirmed that Leighton had</p>

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1 rectified the substandard works, which were subsequently
 2 inspected and passed before placing concrete", again,
 3 when you put this down, you were not certain that what
 4 you said is correct?
 5 A. At the time when we wrote this, we received confirmation
 6 from the construction management team that all defects
 7 had been rectified before concreting.
 8 Q. If I may go back to your report, page 4519, please,
 9 where you have put down "Leighton's quality control
 10 supervisor to carry out full-time supervision of
 11 splicing assembly and maintain inspection records,
 12 (record sheet of appendix C of QSP)", presumably you
 13 have not checked if there was such records; is that
 14 right? Well, you have just told us that. So,
 15 basically, when you put this down, again, you rely on
 16 what Mr Peter Fung told you?
 17 A. Yes, he was the one who did the fieldwork.
 18 Q. I see.
 19 You also mention about a record sheet about more
 20 than 20 per cent, showing that it has been complied
 21 with, that "more than 20 per cent supervision of
 22 splicing assemblies on site and maintain records". So
 23 can I take it that again you have not checked and you
 24 relied on what Mr Peter Fung told you? So that's the
 25 position, that's the same; right?

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1 A. The position is all the recommendations, including the
 2 recommendations made under 5.1 here, looking at the
 3 screen, I was told that these records were incomplete
 4 and hence the recommendations.
 5 Q. Okay. So, if that was your understanding at the time,
 6 when you put down "Confirm the frequency of Leighton and
 7 MTRC supervision were in compliance with the requirement
 8 of the QSP, and were recorded on the record sheet", do
 9 you expect MTRC then went away and then produced further
 10 record sheets to cover the missing part?
 11 A. The record should have been prepared -- originated from
 12 Leighton.
 13 Q. Right.
 14 A. They signed off 100 per cent, and MTRC signed off
 15 20 per cent. So I asked the team, when the records were
 16 incomplete, to go get them from Leighton, and keep them
 17 at our office.
 18 Q. Oh, I see. So you still expect that a complete set
 19 would have been existing but kept by Leighton. So what
 20 you are trying to ask MTRC or MTRC's staff to follow up
 21 on is to go and get a set, get a full set; is that what
 22 you are telling us now?
 23 A. If we read the recommendation collected from this,
 24 "Confirm the frequency of Leighton", "Obtain
 25 confirmation from Leighton" -- of the ten bullet points

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1 in my recommendation, eight were related to collation of
 2 records originated from Leighton, prepared by Leighton
 3 and signed off 100 per cent by them and 20 per cent by
 4 MTRC, or up to 50 per cent where the slab acts as
 5 a transfer plate. So these might have been incomplete
 6 at the time of our review.
 7 Q. Right.
 8 A. But they should be available at Leighton, which have not
 9 been passed to us, that is one possibility.
 10 Q. In that case, before you published your final report,
 11 did you ask Mr Peter Fung to contact Leighton and gather
 12 the missing bits of the record?
 13 A. No, it's not up to the auditor to approach Leighton. We
 14 are auditing our own project management team.
 15 Q. Then would it not appear to you strange that your Peter
 16 Fung did not ask Kobe Wong, for example, or Michael Fu,
 17 for example, that, "I can't find a complete set of
 18 document and I can't finish this report and review; why
 19 don't you go and check with Leighton?"
 20 A. That's what you said in the report.
 21 Q. Were you in a hurry to produce a final report?
 22 A. No.
 23 Q. So why not? Why not go and check? Instead of having
 24 a recommendation, would it not be a lot easier for your
 25 assistant to go and check with Leighton and satisfy

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1 himself of what actually happened, before finalising the
 2 report?
 3 A. The report confirmed that these records were incomplete,
 4 and it is up to the construction management team to
 5 follow through the recommendations.
 6 Q. I see. Before you published this report, has your
 7 assistant, Mr Peter Fung, had any opportunity to look at
 8 your draft before it was signed off by you and sent off?
 9 A. He signed off that report finally, so of course Mr Peter
 10 Fung had. He co-signed.
 11 Q. Sorry. Right. So, going back to paragraph 43 of your
 12 statement, do you agree that you have no basis to
 13 conclude that the reinforcement and couplers for track
 14 slab has been installed in accordance with the quality
 15 supervision plan? Do you agree that?
 16 A. I do not agree. I have explained the positive
 17 conclusion of the review report to Mr Pennicott.
 18 Q. Oh, but at that stage you haven't checked with Leighton
 19 as to whether actually a complete set were in existence.
 20 Then how can you conclude that?
 21 A. I conclude that because, as I described, the QSP is one
 22 of the many, many Swiss cheese slices that is put there
 23 to achieve the intended outcome that the EWL slab is
 24 constructed as planned, and where some of this man-made
 25 system were incomplete, it doesn't constitute a system

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<p>1 breakdown, and hence the positive conclusion.</p> <p>2 Q. My last question is -- you told us earlier that you were</p> <p>3 asked to carry out this review to address the allegation</p> <p>4 of improperly installed couplers. I have difficulty in</p> <p>5 seeing how a paper review of the documents could</p> <p>6 possibly address such allegation. Can you explain?</p> <p>7 A. The objective of the review, the scope of the review, is</p> <p>8 clearly stated in my report. Through the evaluation of</p> <p>9 the records, we want to establish, irrespective of any</p> <p>10 allegation, that MTRC has done what we are supposed to</p> <p>11 do. And, as I explained to you and to Mr Pennicott</p> <p>12 a bit earlier, we looked at the different cheese slices,</p> <p>13 the organisation and arrangement, the man-made system,</p> <p>14 and see if there was a system breakdown, and we were</p> <p>15 satisfied that the system was intact, there was no</p> <p>16 breakdown of the system, and hence the positive</p> <p>17 conclusion.</p> <p>18 Q. So what you are telling us -- well, the way I understand</p> <p>19 your evidence -- is so long as there are RISC forms that</p> <p>20 cover all the bays or the whole area of the slab, then</p> <p>21 you would be satisfied that the allegation of improperly</p> <p>22 installed couplers was baseless?</p> <p>23 A. I am not associating with whether the allegation is</p> <p>24 baseless or not. I am mandated to carry out the review</p> <p>25 of the records to confirm that there are organisations</p>	<p>1 Q. Do you remember being asked about the QSP and in</p> <p>2 particular the version of the QSP that you had looked at</p> <p>3 by my learned friend Mr Anthony Chow for the government?</p> <p>4 A. Can you repeat that question?</p> <p>5 Q. Yes. Do you remember being asked about the QSP by</p> <p>6 Mr Chow who represents the government?</p> <p>7 A. Yes, I remember.</p> <p>8 Q. Thank you. In particular, you were asked about whether</p> <p>9 or not you had looked at the correct version; do you</p> <p>10 remember him suggesting that to you?</p> <p>11 A. I remember.</p> <p>12 Q. The transcript -- and I'm looking at [draft] page 81</p> <p>13 today -- records that the following exchange took place:</p> <p>14 "Can I ask this: is this the first time that you</p> <p>15 learn that there exists another version, or there exists</p> <p>16 a QSP that applies to the slab?</p> <p>17 Answer: It came to my attention throughout --</p> <p>18 during this COI, that there was another version.</p> <p>19 Question: I see. And even then, before today, you</p> <p>20 were not interested to find out whether there was any</p> <p>21 difference between the two versions; is that right?</p> <p>22 Answer: But, correct me if I am wrong, throughout</p> <p>23 this COI process, it was found that the two QSPs were</p> <p>24 broadly identical, were they not?"</p> <p>25 Do you remember that exchange with Mr Chow?</p>
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<p>1 and arrangement in place for managing the construction</p> <p>2 of the EWL slab, and that the system is effective and no</p> <p>3 system breakdown.</p> <p>4 MR CHOW: Thank you, Mr Wu. I have no more questions for</p> <p>5 you.</p> <p>6 Thank you, sir.</p> <p>7 MR BOULDING: Sir, I might have a couple of questions that</p> <p>8 will require me to turn up documentation. I see it's</p> <p>9 gone 1.00. I wonder whether we might break here and</p> <p>10 come back at 2.15.</p> <p>11 CHAIRMAN: Yes, certainly. That's a good idea. Thank you.</p> <p>12 2.15.</p> <p>13 MR BOULDING: Thank you very much.</p> <p>14 (1.05 pm)</p> <p>15 (The luncheon adjournment)</p> <p>16 (2.18 pm)</p> <p>17 Re-examination by MR BOULDING</p> <p>18 MR BOULDING: Good afternoon, Chairman. Good afternoon,</p> <p>19 Professor.</p> <p>20 Good afternoon, Mr Wu. I would just like to ask you</p> <p>21 about one matter, if I may.</p> <p>22 A. Yes.</p> <p>23 Q. And that's the matter of the quality supervision plan or</p> <p>24 the QSP.</p> <p>25 A. Yes.</p>	<p>1 A. Yes.</p> <p>2 Q. I wonder if we can look at a document together, and</p> <p>3 that's B2659. There, do you see a document from</p> <p>4 Leighton's Mr Malcolm Plummer to the construction</p> <p>5 manager of MTR, enclosing a document titled, "Quality</p> <p>6 supervision plan for the installation of couplers for</p> <p>7 diaphragm wall and barrettes by BOSA -- second</p> <p>8 submission"; do you see that?</p> <p>9 A. I can see that.</p> <p>10 Q. Do I understand this to be the version of the QSP that</p> <p>11 you looked at for the purpose of preparing your review</p> <p>12 report?</p> <p>13 A. Yes.</p> <p>14 Q. Just to get the title, perhaps we could go to 2660, and</p> <p>15 there do we see the first page of the QSP that you</p> <p>16 looked at?</p> <p>17 A. Yes.</p> <p>18 Q. Then moving on, if we may, to page 2664, am I right in</p> <p>19 thinking that this is the part of the QSP which deals</p> <p>20 with supervision on quality assurance of the site works,</p> <p>21 including the couplers?</p> <p>22 A. Yes.</p> <p>23 Q. And that's the part of the document, as I understand it,</p> <p>24 that you in -- in particular, you took into account; is</p> <p>25 that correct?</p>

Page 93	1 A. Yes. 2 Q. Now if the person who's operating the monitor perhaps 3 can keep that document, because I'm going to ask for two 4 to be put on at the same time. Could we go to B2640. 5 Do you see a letter there, 12 August 2013, from the MTR 6 to the BD? 7 A. I can see this. 8 Q. Can you see that it's entitled, "Quality supervision 9 plan submission of the proposed ductility coupler for 10 diaphragm wall reinforcement cage and slab construction 11 at Hung Hom Station"? 12 A. I can see, yes. 13 Q. Am I right in thinking that this document, as entitled 14 there, was not the document you looked at for the 15 purpose of preparing your review report? 16 A. It was not. 17 Q. Thank you. If we can go in the document on the 18 left-hand side of the monitor to the next page, B2643, 19 and do you there see the title of the document itself? 20 A. Yes, I can see. 21 Q. Then if you would be kind enough to go on to B2647, and 22 on the left-hand side of the document, if that can be 23 reduced slightly so we can see the headings -- thank 24 you -- do we see there that the headings are identical? 25 A. Yes, I can see.	Page 95	1 questions. 2 Questioning by THE COMMISSIONERS 3 COMMISSIONER HANSFORD: I have a couple of questions. 4 Mr Wu, in the last part of your witness statement, which 5 relates to item no. 20 in the letter that you received 6 from Lo & Lo, you set out "suitable measures which could 7 be taken in the future". 8 A. Yes. 9 COMMISSIONER HANSFORD: I have two questions relating to 10 that. 11 A. Yes. 12 COMMISSIONER HANSFORD: One is, in your witness statement 13 paragraph 49, you say: 14 "There is also an initiative to put in place some 15 structure for using smartphone applications to capture 16 and report quality issues." 17 A. Yes. 18 COMMISSIONER HANSFORD: Can you tell us a little bit more 19 about that initiative? 20 A. This is one of the recommendations came out from our 21 Capital Works Committee internal review, sometime 22 I think in July; I don't quite exactly -- 23 COMMISSIONER HANSFORD: This year? 24 A. Yes. It's to use the prior technology to capture 25 supervision and inspection information, including
Page 94	1 Q. You told the learned Commissioner and the professor that 2 the two QSPs were broadly identical, were they not? 3 I don't want you to carry out a line-by-line comparison, 4 but perhaps you could scan both of them and confirm 5 whether or not you stand by that answer that you gave 6 Mr Chow. 7 A. From what I read from the screen, they are identical. 8 Q. Make sure you see them all. Go up to the end of the 9 page. 10 I don't think they're quite identical, Mr Wu, 11 because if you look under, for example, "Supervision on 12 site works", the one on the left says, "Beside the site 13 supervision system as stipulated in the Code of Practice 14 for Site Supervision, the following additional 15 inspection will be carried out", whereas the one you 16 looked at says, "As a supplement to the site supervision 17 system as stipulated in the Code of Practice for Site 18 Supervision, the following additional inspections will 19 be carried out", so not identical, I suggest. 20 A. Broadly. 21 Q. Broadly identical? 22 A. Yes. 23 MR BOULDING: Okay. Thank you very much. We can read those 24 for ourselves. Thank you, Mr Wu. 25 I don't know whether, sir, Professor, you have any	Page 96	1 inspection records, contemporaneously, if you may. 2 COMMISSIONER HANSFORD: Right. 3 A. So as to avoid heavy paperwork that needs to be 4 completed over a period of time, from the time that the 5 document, the paperwork, was used to be prepared until 6 they are completely signed off by many parties. And 7 hence we started exploring a smartphone application that 8 could be suitable for this purpose. This smartphone 9 application has been tested on a number of our civil 10 contracts and proved to be reasonably useful, so we 11 continue to run tests on it and expand this application 12 to cover all the inspection activities and site 13 activities. 14 COMMISSIONER HANSFORD: Thank you. Is that a result of the 15 Turner & Townsend work? 16 A. That came before Turner & Townsend -- 17 COMMISSIONER HANSFORD: This comes before that? 18 A. -- released its interim report in October. 19 COMMISSIONER HANSFORD: Thank you. 20 And the second question. In paragraph 50, so that's 21 the next paragraph, you say: 22 "A project division quality working group has also 23 been set up ..." 24 When was that set up? 25 A. That was set up again as part of the recommendations by

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<p>1 the Capital Works Committee, that we need to provide 2 more training and improve the quality culture amongst 3 our construction management team members, and that's the 4 time when this divisional quality working group was set 5 up. That was, I believe, around August/September this 6 year. 7 COMMISSIONER HANSFORD: So very recent? 8 A. Very recent. 9 COMMISSIONER HANSFORD: Thank you. That's helpful. Thank 10 you very much. 11 MR BOULDING: Thank you very much, Mr Wu. 12 If he could be released, sir. 13 CHAIRMAN: Yes, certainly. Thank you very much indeed. 14 Your evidence is now completed. 15 WITNESS: Thank you. 16 CHAIRMAN: Thank you for your assistance. 17 WITNESS: Thank you. 18 (The witness was released) 19 MR BOULDING: Sir, my next witness is Mr Yeung, and 20 I understand he's giving evidence in Cantonese so we'll 21 need our headsets. 22 Good afternoon, Mr Yeung. 23 WITNESS: (Via interpreter) Good afternoon. 24 MR BOULDING: Can you hear me now? 25 WITNESS: Yes, I can.</p>	<p>1 going to happen now is that you'll be asked some 2 questions, probably by Mr Pennicott, who's the lawyer 3 assisting the Commissioners. Then some of the lawyers 4 in the room might ask you some questions. The 5 Commissioners can ask you questions at any time they 6 like, and depending upon how it goes I might ask you one 7 or two questions at the end; do you understand? 8 A. (Via interpreter) I understand. 9 MR BOULDING: Thank you very much. 10 Examination by MR PENNICOTT 11 MR PENNICOTT: Mr Yeung, good afternoon. As Mr Boulding has 12 indicated, my name is Ian Pennicott, I'm one of the 13 lawyers for the Commission, and I'm going to ask you 14 some questions first. 15 Sir and professor, the topic we're on with Mr Yeung 16 is essentially audits. That's what we're here to hear 17 about, so far as Mr Yeung is concerned. 18 Mr Yeung, as Mr Boulding has indicated, you were or 19 are senior quality assurance engineer since about 20 January 2011, as far as I can work out; is that right? 21 A. (Via interpreter) Correct. 22 Q. Since the beginning of 2017, you've been the MTRC's 23 project quality manager? 24 A. (Via interpreter) No. 25 Q. All right. Don't worry about that then. Senior quality</p>
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<p>1 MR YEUNG CHI KIN (affirmed in Punti) 2 (Simultaneous interpretation used only where specified) 3 Examination-in-chief by MR BOULDING 4 MR BOULDING: I understand that your full name is Yeung 5 Chi Kin? 6 A. (Via interpreter) Correct. 7 Q. Thank you. You've produced just one statement for the 8 assistance of the learned Commissioners in this matter. 9 I hope we find the first page at page B484. 10 There do we see the first page of your witness 11 statement, Mr Yeung? 12 A. (Via interpreter) Yes, I can see that. 13 Q. Then if we could go on a page, please, to page B492. Is 14 that your signature under the date of 13 September 2018? 15 A. (Via interpreter) Correct. 16 Q. Are the contents of that statement true to the best of 17 your knowledge and belief? 18 A. (Via interpreter) Yes, they are true. 19 Q. Unfortunately, Mr Yeung, we do not have 20 an organisational chart showing where you are in the 21 MTR, but I understand that you were, at all material 22 times, a senior quality assurance engineer; is that 23 correct? 24 A. (Via interpreter) Correct. 25 Q. All right. Mr Yeung, against that background, what's</p>	<p>1 assurance engineer it is. 2 A. That's correct. 3 Q. And your role, as far as I can work out, is essentially 4 a dual role. You're involved in the development, the 5 continuing development and implementation of PIMS; is 6 that right? 7 A. (Via interpreter) Correct. 8 Q. And you're also involved in the quality audits of 9 records, both in relation to the MTRC and also the 10 contractors that the MTRC engages from time to time? 11 A. (Via interpreter) Correct. 12 Q. And your role is not project-specific but ranges over 13 all the various projects that the MTR has going at any 14 given time? 15 A. (Via interpreter) Yes, correct. Not just SCL but also 16 other projects. 17 Q. Indeed. Right. So far as your auditing role is 18 concerned, is there a part of the PIMS documentation 19 which identifies the areas under any particular contract 20 which should be audited? 21 A. (Via interpreter) With regard to practice note 013 of 22 PIMS, the auditing process, it talks about preparing 23 an audit programme by us. We'll follow that audit 24 programme to conduct quality audit. The question is 25 whether PIMS talks about certain contracts and what</p>

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1 audit should be done. Well, first of all, we have to
 2 look at the contract requirements. Secondly, we have to
 3 see whether senior management requires specific audit.
 4 Thirdly, since we implement ISO 9001 quality audit
 5 system, we follow that standard.
 6 Q. I understand, Mr Yeung, that the practice note you refer
 7 to, I think in paragraph 11 of your witness statement,
 8 sets out the process and the procedures that are to be
 9 followed. I was really trying to drive at the actual
 10 subject matter, and I think, is this right, that you say
 11 that's really driven by the particular contract terms
 12 that the MTR may enter into and then will also be driven
 13 by any requests that are made by the management of those
 14 particular contracts?
 15 A. (Via interpreter) That's correct.
 16 Q. Is this the case: do you yourself, as the senior quality
 17 assurance engineer, take the initiative at any
 18 particular point in time to say, "Well, we're going to
 19 audit this" or "We're going to audit that", or is it
 20 very much reactive to the requests of the senior project
 21 management on any particular contract?
 22 A. (Via interpreter) First, all audits will be planned in
 23 advance. It is not that now we want to do some audit
 24 and then we decide. Actually, we have an annual audit
 25 programme, one year in advance, and we'll follow that to

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1 conduct audits. During the year, there may be special
 2 requests, as I mentioned, maybe from senior management.
 3 Then we will do that as well. But as to whether
 4 suddenly we would do certain audits, that is not our
 5 practice. We will not do things that way.
 6 Q. Understood. So, if one looks at paragraph 15 of your
 7 witness statement, please, at page 486 -- you're dealing
 8 there with internal quality audits, and by the word
 9 "internal" I understand you to mean MTRC; is that right?
 10 A. (Via interpreter) That's correct.
 11 Q. So you say:
 12 "The QA team conducts internal quality audits which
 13 audit the project division's implementation of the PIMS,
 14 covering special areas such as interface management,
 15 drawings management, risk management, stakeholder
 16 engagement, the inspection and testing process, the
 17 control of defects and non-conformance works."
 18 Then you refer again to the practice note.
 19 So far as defects and non-conformance works are
 20 concerned, do you treat those as two separate topics or
 21 are they one and the same?
 22 A. (Via interpreter) When we do quality audits, we identify
 23 quality non-conformance. Here, item 15, I talk about
 24 control of defects and non-conformance works. I am only
 25 talking about doing internal quality audits, we will

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1 look at the processes of such.
 2 Q. Right. But are they two separate things, defects on the
 3 one hand --
 4 A. (Via interpreter) Okay, defects and non-conformance
 5 works are two different things.
 6 Q. Okay. Let's suppose you were carrying out an audit on
 7 non-conformance works, as opposed to defects,
 8 non-conformance works. What sort of documents, what
 9 sort of records, would you be looking for in your audit
 10 on that particular topic?
 11 A. (Via interpreter) Well, here we are talking about
 12 internal quality audits, and when we look at
 13 non-conformance works, I would go to the CM team to
 14 first look at the non-conformance register. Then I will
 15 look at the follow-up for non-conformance works, whether
 16 they have been closed out and whether they have
 17 maintained the documents and records.
 18 Q. Right. You've answered my next question: the MTR keeps
 19 a register of non-conformances?
 20 A. (Via interpreter) Correct. Yes.
 21 Q. I think Mr Rooney told us that there were two registers
 22 of non-conformances, one for MTRC-issued non-conformance
 23 reports and one for the contractor's-issued
 24 non-conformance reports; is that right?
 25 A. Correct.

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1 Q. And as I think you have indicated and as Mr Rooney told
 2 us, you, as a quality assurance engineer, would have
 3 access to those registers?
 4 A. (Via interpreter) That's correct.
 5 Q. Is there a -- to your way of thinking, is there
 6 a procedural document within PIMS or elsewhere which
 7 specifies which non-conformances should be reported and
 8 records should be kept?
 9 A. (Via interpreter) There is one practice note, 11-4,
 10 "Monitoring of site works". That practice note talks
 11 about NCR for significant works. If they have been
 12 identified by the CM team, they have to raise them and
 13 they have to be closed out.
 14 Q. Yes. Could we have a look at B3/1615, please.
 15 I think, Mr Yeung, correct me if I am wrong, this is
 16 the document you have just referred to?
 17 A. (Via interpreter) Correct.
 18 Q. As you rightly say, in the third sentence under the
 19 definition, it says:
 20 "A works NCR is raised where the non-conforming
 21 product is significant and that corrective and
 22 preventive actions are required to prevent recurrence of
 23 similar nature."
 24 And I think, as we've mentioned to at least one
 25 other witness, Mr Rooney I think, that's very much

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<p>1 a subjective requirement?</p> <p>2 A. (Via interpreter) On the face of it, it looks like it is</p> <p>3 subjective, but when it comes to construction practice,</p> <p>4 the construction team understands what is significant.</p> <p>5 If you look at all NCRs raised by MTR, they did not</p> <p>6 relate to minor defects. Significant works NCR requires</p> <p>7 root cause analyses in order to understand the root</p> <p>8 cause of the NCR, and then you have to take corrective</p> <p>9 action, meaning you have to correct the process, and</p> <p>10 then you have to take preventive actions to prevent</p> <p>11 recurrence, and this is for significant works NCR.</p> <p>12 As for minor defects, maybe within half a day or</p> <p>13 with making very little effort, you will be able to mend</p> <p>14 it, but minor defects are many and they will not attract</p> <p>15 NCRs. Usually, minor defects are dealt with by RISC</p> <p>16 forms. The inspectors will see the defects on site and</p> <p>17 if they feel that they are minor defects, then they will</p> <p>18 immediately tell the contractor about it and then they</p> <p>19 will record it. Then, if it has been corrected, then in</p> <p>20 the same RISC form he will write "Rectified", and so it</p> <p>21 is closed out.</p> <p>22 COMMISSIONER HANSFORD: Mr Yeung, I was struggling with the</p> <p>23 difference between a defect and a non-conformance works,</p> <p>24 but perhaps you just answered that. Are you saying</p> <p>25 something minor is called a defect, and something</p>	<p>1 non-conformance; is that correct?</p> <p>2 A. (Via interpreter) Correct.</p> <p>3 (In English) That's correct.</p> <p>4 COMMISSIONER HANSFORD: That is correct?</p> <p>5 A. Yes.</p> <p>6 MR PENNICOTT: And the question -- if that's right, and</p> <p>7 let's assume it is; I'm sure it is, Mr Yeung -- how then</p> <p>8 do you go about auditing that sort of problem, the minor</p> <p>9 non-conformance?</p> <p>10 A. Minor defects.</p> <p>11 Q. How do you go about auditing that?</p> <p>12 A. You wouldn't audit minor defects.</p> <p>13 Q. Right.</p> <p>14 A. But if you look at the RISC forms from the inspectors,</p> <p>15 you will find that they would record the defects, the</p> <p>16 type of defects, and then you will see they close out</p> <p>17 from the RISC form. That's the way we do it.</p> <p>18 Q. Thank you for that, Mr Yeung.</p> <p>19 Can I just ask you a couple of questions about the</p> <p>20 Code of Practice, just to get your views about a couple</p> <p>21 of paragraphs in there and how it interrelates with the</p> <p>22 recording of non-conformances. Could you please be</p> <p>23 shown the Code of Practice, B5/2697. If you look at</p> <p>24 paragraph 5.4 -- sorry, Mr Yeung, I'm assuming that the</p> <p>25 Code of Practice is something you are familiar with?</p>
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<p>1 significant is called a non-conformance; is that right?</p> <p>2 A. (Via interpreter) By definition, non-conformance means</p> <p>3 it does not comply with certain requirements, so it is</p> <p>4 non-compliance or non-conformance, and we are talking</p> <p>5 about works non-compliance, meaning that they do not</p> <p>6 follow specifications.</p> <p>7 When we raise works NCR, they have to be significant</p> <p>8 works NCR. But if it is not significant, well, even if</p> <p>9 it is an NCR, then they are called defects, and we will</p> <p>10 not raise works NCR.</p> <p>11 COMMISSIONER HANSFORD: So what else is a defect, other than</p> <p>12 a minor non-conformance?</p> <p>13 A. (Via interpreter) Defects are about poor workmanship,</p> <p>14 perhaps, and something wrong, but it will not require</p> <p>15 substantial effort or time to rectify. All works NCRs</p> <p>16 that you are talking about are major issues, not</p> <p>17 something that you can deal with within one or two days.</p> <p>18 (In English) For the works NCR, usually it's major</p> <p>19 type, which takes a longer time and you need to</p> <p>20 investigate the root cause, carry out corrective and</p> <p>21 preventive actions.</p> <p>22 COMMISSIONER HANSFORD: I understand your answer regarding</p> <p>23 what an NCR is and what a non-conformance is, but I'm</p> <p>24 still struggling a little bit. I think I understand</p> <p>25 from what you said that a defect is a minor</p>	<p>1 A. I might say I am aware of this Code of Practice, but</p> <p>2 I think our engineering team would be more familiar.</p> <p>3 Q. All right. Let me just -- I won't press you too much on</p> <p>4 this then. If you look at paragraph 5.4 in the Code of</p> <p>5 Practice, it says this:</p> <p>6 "All non-conformities detected during the checking</p> <p>7 of typical items for specific tasks by the TCPs must be</p> <p>8 properly recorded in the non-conformity and</p> <p>9 rectification reports, form B at appendix III to this</p> <p>10 code. Detailed procedures for dealing with</p> <p>11 non-conformities are specified in paragraph 10.3 of this</p> <p>12 code."</p> <p>13 So that's 5.4, "All be in conformities detected ...</p> <p>14 must be properly recorded".</p> <p>15 I won't ask you the question just yet. Let's look</p> <p>16 at one more paragraph, if we could. 10.3 at 2739.</p> <p>17 Again, "Non-conformity and rectification reports" is the</p> <p>18 heading. It says:</p> <p>19 "If a non-conformity arises and comes to the</p> <p>20 attention of a TCP, the following procedures should be</p> <p>21 initiated:</p> <p>22 (i) The TCP informs the representative of his own</p> <p>23 functional stream ... completes part 1 of form B".</p> <p>24 Let's just pause there because then it gets on to</p> <p>25 questions of posing imminent danger which I'm not</p>

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1 terribly interested in at the moment.
 2 So this is a reference to, as we saw in
 3 paragraph 5.4, "All non-conformities", and here we've
 4 got no limitation, "If a non-conformity arises", and so
 5 forth.
 6 How does that reconcile, in your mind, Mr Yeung, if
 7 it does at all, with the "significant" requirement that
 8 we've seen in the guidelines at appendix 11-4?
 9 A. I think -- I would say the non-conformance mentioned in
 10 this CoP -- I'm not in a position to comment on this,
 11 because I think the definition is different. The works
 12 non-conformance, yes, that's within our PIMS, the
 13 process to manage -- to report the PIMS and close out
 14 the works NCR, that is our system.
 15 But the process for the non-conformance report,
 16 within this CoP, that's different. That's a process
 17 that I must say I'm not familiar with.
 18 Q. Okay.
 19 A. Because I'm not a TCP.
 20 Q. I understand, yes.
 21 So you wouldn't be able to express a view how one
 22 might go about auditing compliance with the two
 23 provisions that I've just shown you in the Code of
 24 Practice?
 25 A. No.

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1 Q. All right. Now, am I right in thinking, Mr Yeung, that
 2 there was only one internal quality audit carried out in
 3 respect of contract 1112?
 4 A. In the internal quality audits, there are two types. In
 5 2014, the internal quality audit was carried out. There
 6 are two types. One is the internal quality audit
 7 carried out by the QA team, that's my team.
 8 Q. Yes.
 9 A. The other type of internal quality audit is carried out
 10 by the project team. We call it the self-quality audit.
 11 So regarding contract 1112, we have conducted two
 12 internal -- my team conducted two internal quality
 13 audits, one in 2014 and the other one is just this year,
 14 a few months ago. There are two self-quality audits,
 15 they were conducted by the CM team, cross team, there
 16 were two, I think one in 2016, the other one is 2017.
 17 Q. Yes. Can we just look at the one that you did in 2014.
 18 A. Yes.
 19 Q. That's the one you mention in your witness statement.
 20 B9/6579.
 21 Have you got that up on the screen?
 22 A. Yes.
 23 Q. Thank you very much. This is a memo from the acting
 24 project quality manager, enclosing internal quality
 25 audit report. The distribution list is enormous, over

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1 the page at 6580.
 2 If we go to 6582, we see the internal quality audit
 3 report, and then the next page, 6583, we see who it's
 4 prepared by, and there's a familiar name in the second
 5 line, Peter Fung, and it was reviewed by you, Mr Yeung?
 6 A. That's correct, yes.
 7 Q. This report, as I understand it, focused on -- I'm
 8 trying to summarise it for you; it might be easier to
 9 ask you. First of all, this risk report -- sorry, the
 10 internal quality audit report -- would have been
 11 requested by the construction management team?
 12 A. No. This is the annual planned quality audit.
 13 Q. Right. How long do these -- how long did this sort of
 14 report take to put together?
 15 A. For the on-site audit, usually it would take about two
 16 to three weeks, on site work, two to three weeks. Then
 17 another couple of weeks for drafting the audit findings,
 18 and then we have to confirm with the CM team, the
 19 auditees, on the audit findings, and then after that we
 20 will send out the draft audit report to all the auditees
 21 for their comments, and after that then we will issue
 22 the report to all senior management.
 23 Q. In paragraph 20 -- let's look at it in paragraph 20 of
 24 your report, the way you describe this -- you say:
 25 "The scope of the audit ... was the implementation

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1 status of project risk management, which is the
 2 procedure adopted to identify and mitigate project
 3 risks."
 4 So you were looking at the general topic of risk
 5 management; is that right, Mr Yeung?
 6 A. Within our PIMS, we have a process called project risk
 7 management, so I'm auditing that particular process.
 8 Q. Right. And, as you have said just now, as part of the
 9 annual process --
 10 A. Annual process, yes.
 11 Q. -- as opposed to any specific --
 12 A. That's correct.
 13 Q. You say:
 14 "The result of the audit was that the project risk
 15 registers were maintained up to date", and so forth?
 16 A. That's correct.
 17 Q. Would this type of audit, project risk management,
 18 project risk registers, would that have included the
 19 risk that particular site records were being maintained
 20 or not maintained?
 21 A. No. You wouldn't expect this sort of record-keeping in
 22 the risk register.
 23 Q. And so you wouldn't have, as it were, looked behind the
 24 registers to see whether site records were being
 25 maintained?

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<p>1 A. As part of the process, when you audit the risk 2 management process, yes, there would be records that we 3 need to check, to confirm a particular risk has been 4 mitigated and the records have been maintained. 5 Q. Yes. But this is not an audit which would have involved 6 looking at the non-conformance registers? 7 A. No. 8 Q. This was very much risk management -- 9 A. Risk management. 10 Q. -- focused? 11 A. Yes. 12 Q. In paragraph 20 of your witness statement, the last 13 sentence, you say: 14 "The QA team did not have any recommendations for 15 the construction management team of contract 1112 in 16 this audit." 17 So does one conclude from that that the risk 18 management system that you were auditing was considered 19 to be working perfectly well? 20 A. At that time, yes, I think. 21 Q. Was it unusual for you not to have any comments at the 22 conclusion of an audit? 23 A. No, not unusual. 24 Q. Okay. 25 Can we then turn to contractor quality audits. Can</p>	<p>1 construction stage, we would carry out at least two 2 quality audits. 3 Q. Right. So this being an example of a contract where 4 there was nothing specified in the contract as to when 5 the audits were carried out, my question was is it 6 typical that the first audit is not carried out until 7 three years into the contract, or is that usual? 8 A. Well, I would say the first quality audit usually will 9 not be carried out in the first year or so, because you 10 would not expect any major activities during, you know, 11 the early stage. But maybe during the second or third 12 year, yes. 13 Q. Okay, because -- sorry, sir. 14 COMMISSIONER HANSFORD: No, I'm just reflecting the previous 15 answer you gave. What is the logic for a target cost 16 contract not having milestone date audits? Why is that 17 the case? 18 MR PENNICOTT: I suspect Mr Yeung will know the answer to 19 that. 20 A. If it's contracts with milestone dates, then we have to 21 do it. We have to comply with the requirements, so we 22 have to plan the audit for those contracts with 23 milestone dates. 24 COMMISSIONER HANSFORD: I understand that. And those with 25 target costs?</p>
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<p>1 we look at paragraph 23, please, of your witness 2 statement, where you say that two contractor quality 3 audits of contract 1112 were carried out by the QA team 4 on Leighton. 5 A. Yes. 6 Q. The first one was on 14 November 2016, and the second 7 one on 18 December 2017 respectively. 8 A. Yes. 9 Q. Now, the first question is this. Mr Yeung, we know that 10 contract 1112 commenced in around about March/April 11 2013. Is it typical that the first audit, contractor's 12 audit, as happened on this contract, was not carried out 13 until three years into the contract? Is that normal? 14 A. There are two types of contract, or at least two types 15 of audit. There are two types of contract that I know 16 for SCL. One is contracts with milestone audits. The 17 other one is without. Those with milestone audits, the 18 requirement for quality audits are stated in the 19 contract, ie you have to carry out audit on such and 20 such date. The other type is the -- I think 21 contract 1112 is a target cost contract. There's no 22 requirement on us as to when we have to carry out 23 quality audits. 24 Q. Right. 25 A. But from our experience, normally, during the</p>	<p>1 A. Target costs, there's no requirement -- well, within our 2 PIMS, there's no requirement that we need to conduct 3 audit, say, every year. 4 COMMISSIONER HANSFORD: I still don't quite understand the 5 logic. Why would a target cost contract require 6 a lesser frequency, perhaps, of audits? In your 7 experience as an experienced quality auditor, why would 8 that be the case? 9 A. I think, from memory, this contract, 1112, we did not 10 plan any audit for 2014 or 2015. 11 COMMISSIONER HANSFORD: But you don't know why? 12 A. I don't know. Perhaps with the resources issue, at that 13 time when we had four or five projects running; I don't 14 know. 15 COMMISSIONER HANSFORD: All right. Thank you. 16 MR PENNICOTT: I suppose the general question really -- 17 I hear what you say, Mr Yeung, about not necessarily 18 doing audits in the first year, and perhaps leaving it 19 a little bit longer, but as a matter of principle, would 20 it not be better to get an early indication of how well 21 the procedures and plans were working on a particular 22 contract? 23 A. Yes, I would agree with you. 24 Q. Okay. And in relation to this particular audit, which 25 you deal with in paragraph 24 of your witness statement,</p>

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1 again you were the reviewer, I think, of that --

2 A. Yes.

3 Q. -- audit, and we don't need to go to it, but for the

4 transcript it's at B9/6565 -- you say in paragraph 24:

5 "The scope of this audit was Leighton's commitments

6 made in the quality plan for the construction of the new

7 stabling sidings at the former Hung Hom freight yard and

8 the installation of acoustic panels and modification

9 works in the existing HUH Station. The scope of the

10 audit was determined by the QA team, who randomly

11 selected a few of the contract 1112 work processes that

12 were active at the time."

13 And so that was a simply random selection, was it,

14 that you ended up looking at the installation of

15 acoustic panels at the freight yard?

16 A. Yes.

17 Q. Okay. Was there no -- I appreciate you say it was

18 random, but was there any thought given to high-risk

19 areas that might exist in terms of the construction

20 processes that were taking place at the time?

21 A. Well, I wasn't the auditor for this audit, but as

22 a practice, when we work out the audit scope, we would

23 review the contractor's -- let's say the monthly

24 progress reports and also MTR's monthly progress

25 reports. We also look at the contractor's quality audit

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1 plan, and also sometimes, if necessary, we will discuss

2 with the site team and get some feedback from them, so

3 that we can prepare the audit scope, the audit topics.

4 But regarding the -- yes, that's the way we plan the

5 audit.

6 Q. Just to put the question in the context of this Inquiry,

7 Mr Yeung -- as you know, one of the matters we're

8 debating is the proper installation of rebar into --

9 threaded rebar into couplers, and this was recognised in

10 the contract between the MTR and Leighton as

11 a potentially risk area, potential risk area, and

12 a quality supervision plan was introduced to enhance the

13 supervision requirements.

14 So no thought -- when a risk area is identified like

15 that, perhaps, in a contract, the audit team doesn't

16 give consideration as to whether that would be

17 an appropriate topic for audit, that is the installation

18 of threaded rebar into couplers?

19 A. At that time, that part of the work was completed,

20 I think.

21 Q. Yes, certainly it was in 2016, more or less.

22 A. 2016, that's right, yes.

23 Q. But had you given it any thought back in 2015? Might

24 things have been different?

25 A. Possibly, yes, I don't know. But there was no audit

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1 conducted in 2015.

2 Q. No. All right. The subject matter of the second

3 contract quality audit you deal with in paragraph 25 of

4 your witness statement, and you say that the topic of

5 the second audit was, in summary, the completion of

6 architectural finishes and the preparation of associated

7 as-built drawings.

8 A. Yes.

9 Q. Again, presumably this was not some form of risk or

10 high-risk subject matter at the time. Again, was this

11 just random selection?

12 A. I think that was when they were preparing the as-built

13 records for the FSD inspection.

14 Q. Right. But was it specific to architectural finishes?

15 It says "completion of the architectural builders' works

16 and finishes"; do you see that? So not the structural

17 engineering drawings or anything like that. They were

18 a specific area of drawings.

19 A. Not structure, not structural, no.

20 Q. Okay.

21 Can I just ask you, please, to go back to

22 paragraph 8 of your witness statement and pick up

23 a point which I think you mentioned earlier, in

24 an answer to Prof Hansford. You say there:

25 "The QA team consists of five engineers", and you

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1 list them out, "and two administrative assistants."

2 You refer to a sub-team stationed in Shenzhen.

3 A. Yes.

4 Q. Do you regard that level of resource, Mr Yeung, as

5 adequate for the type of audits and the number of audits

6 that you have to carry out?

7 A. The set-up of the QA team, the size of the QA team, and

8 also the roles and responsibility of this team, is very

9 similar to the other projects that we have completed in

10 the past and they have been quite successful. So

11 I think that is possibly the reason why, for the SCL,

12 this set-up, you know this small QA team. Currently

13 it's five engineers and two AAs, but during the peak,

14 a few years ago, there were more people, more QA

15 engineers than five, you know --

16 Q. Because on the project --

17 A. -- it's very small.

18 Q. I'm sorry. On the project as a whole, there are a very

19 significant number of civil contracts and E&M contracts

20 and other contracts.

21 A. Mmm.

22 Q. And I assume you are involved or potentially involved in

23 the audits -- carrying out audits in relation to all of

24 those contracts?

25 A. That's correct.

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1 Q. But you take the view that it's a sufficient level of
 2 resource that you have, for the tasks that you have to
 3 carry out?
 4 A. Yes.
 5 Q. All right.
 6 Sorry, sir.
 7 COMMISSIONER HANSFORD: Just on that, I don't know if you
 8 were listening outside the room, Mr Yeung, but we
 9 previously had Mr Wu giving evidence, and he told us
 10 that a project division quality working group has just
 11 been set up.
 12 A. Yes.
 13 COMMISSIONER HANSFORD: Does the scope of that group also
 14 include looking at the adequacy and frequency of quality
 15 audits, do you know?
 16 A. No.
 17 COMMISSIONER HANSFORD: It doesn't?
 18 A. It doesn't.
 19 COMMISSIONER HANSFORD: Okay. Thank you.
 20 MR PENNICOTT: Sir, thank you very much. I have no further
 21 questions.
 22 MR CHANG: No questions from Leighton.
 23 MR SO: No questions from China Tech.
 24 MR CONNOR: None from Atkins.
 25 MR CHOW: Chairman, I have a few questions.

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1 CHAIRMAN: Yes.
 2 Cross-examination by MR CHOW
 3 MR CHOW: Good afternoon, Mr Yeung. I only have a few
 4 questions, on one specific area, which is the
 5 self-quality audits --
 6 A. Yes.
 7 Q. -- that have been carried out on contract 1112, which
 8 you refer to in paragraphs 26 to 30 of your statement.
 9 In paragraph 29 of your statement, you say:
 10 "In the 2016 audit, contract 1112 was found to be
 11 compliant with ... PIMS requirements, including ... the
 12 processes adopted in relation to RISC forms and NCRs."
 13 Now, when I first read it, the part which is
 14 eye-catching is your confirmation as to the compliance
 15 with PIMS requirements, which at the beginning seems to
 16 suggest that there is a compliance in relation to all
 17 aspects of the requirement of PIMS.
 18 But when I look at the details of your report, for
 19 example -- the report can be found in bundle B9, you set
 20 out the details, the specific areas that have been
 21 looked at for that self-quality audit, and the area is
 22 quite confined, actually, and only looks at certain
 23 specific areas.
 24 Of relevance is items 14 and 15. Can we go to have
 25 a look at page 6711 of that report. Item 14 is the item

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1 that deals with the RISC form, and the specific question
 2 posed is:
 3 "Was request for inspection, testing or survey check
 4 of site works made by means of a standard RISC/RIT
 5 form?"
 6 The result of the audit is that, in relation to this
 7 specific question, it is found to be satisfactory; is
 8 that right?
 9 A. Yes, correct.
 10 Q. Am I right in thinking that in conducting this sort of
 11 self-audit, it does not involve interviewing the maker
 12 of the documents?
 13 A. I'm sorry, what do you mean by --
 14 Q. For example, if you are looking at the RISC form, you
 15 would not interview the signatory of the RISC form;
 16 right? So you just look at what appears on the face of
 17 the document; is that right?
 18 A. The self-quality audits are conducted by the site team.
 19 Q. Yes.
 20 A. The cross team. For example, this contract 1112, the
 21 auditor would be from another contract, also from the CM
 22 team. So, when they audited contract 1112, they would
 23 ask for -- they would ask that question, item 14: was
 24 the RISC form -- you know, "works made by means of
 25 a standard RISC" -- so they asked for evidence. So the

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1 contract 1112 CM team would have shown the RISC form to
 2 the auditor. So, in this case, they have shown this
 3 1112 survey record 6795, "Check kicker formwork".
 4 Q. For example, we know that one of the engineers, Mr Louis
 5 Kwan, has also signed a number of RISC forms in relation
 6 to his inspection of the steel fixing work --
 7 A. Yes.
 8 Q. -- of the slab. My question, actually, for example, in
 9 his case, would he be interviewed by the audit team from
 10 the other project, when the audit team looked at the
 11 RISC form?
 12 A. No. Normally, no.
 13 Q. Okay.
 14 A. That would be just a record checking.
 15 Q. I see. So, according to Mr Kwan, when he signed on the
 16 RISC form, actually he did not look at a certain part of
 17 the reinforcement fixing work, and in this particular
 18 case it's the coupler installation. So that sort of
 19 problem would not be picked up by the self-quality audit
 20 process; right? Because you don't need to talk to
 21 Mr Louis Kwan at all in carrying out the audit.
 22 A. For the quality audits, the normal practice is you ask
 23 the auditee for certain things. The auditee has to
 24 demonstrate compliance with the requirement. In this
 25 case, the question was asking whether the CM team was

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1 using a standard RISC form. So the auditee might have
 2 shown some typical RISC forms to the auditor, and the
 3 auditor was satisfied with that.
 4 Q. I see. Using this as an example, Mr Louis Kwan told us
 5 that actually there were two separate inspections to
 6 carry out, one the hold point inspection -- no, one
 7 inspection was done when the bottom mat of the slab was
 8 completed, and you would have to come back for another
 9 day when the top mat was completed.
 10 The two inspections apparently were only covered by
 11 one RISC form, so when your auditor is carrying out
 12 a self-audit, if one has to answer the specific question
 13 posed in the form, like the one we see at item 14, the
 14 request for inspection of the bottom mat would not have
 15 been covered by RISC form, and that would not be picked
 16 up in a self-quality audit; am I right?
 17 A. Unless the auditor knew about this requirement, ie one
 18 RISC form for the bottom layer, one RISC form for the
 19 top layer, then he would have asked, "Show me the two
 20 forms." Otherwise, he wouldn't know.
 21 The purpose of the self-quality audit is to instil,
 22 if you like, the ownership, so rather than the QA team
 23 conducts quality audit, we want the site team, the PM,
 24 project management team, also conducts their own quality
 25 audit. That's why we have this self-quality audit

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1 process.
 2 MR CHOW: Thank you, Mr Yeung. I have no more questions for
 3 you.
 4 WITNESS: Thank you.
 5 MR CHOW: Thank you, Chairman.
 6 MR BOULDING: Sir, no re-examination from me, so it may well
 7 be that, unless you've got any further questions, we can
 8 release this witness.
 9 CHAIRMAN: No. Thank you very much.
 10 MR BOULDING: Thank you, Mr Yeung.
 11 CHAIRMAN: Thank you very much for your attendance this
 12 afternoon.
 13 (The witness was released)
 14 MR BOULDING: Sir, my next witness is Mr Jason Wong. I see
 15 that it's almost 25 past, I think. Would you like me to
 16 call him now or shall we have our break?
 17 CHAIRMAN: I think we'll have the break now.
 18 (3.24 pm)
 19 (A short adjournment)
 20 (3.44 pm)
 21 MR BOULDING: Good afternoon, sir. Good afternoon,
 22 Professor. As I said, my next witness is Mr Jason Wong
 23 and he's sitting in the witness box there.
 24
 25

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1 MR WONG CHI CHUNG, JASON (affirmed)
 2 Examination-in-chief by MR BOULDING
 3 Q. As you've said, your full name is Jason Wong Chi Chung?
 4 A. Yes.
 5 Q. You have prepared, have you not, just one witness
 6 statement for the assistance of the Commissioners in
 7 this Inquiry?
 8 A. That's correct.
 9 Q. I wonder if we can have a look at the first page. It's
 10 page B167. There do we see your first page of a witness
 11 statement?
 12 A. Yes.
 13 Q. Then if we could go on, please, to B180, I hope we will
 14 find your signature -- yes, we do.
 15 A. That's correct.
 16 Q. Is that your signature under the date of 13 September?
 17 A. Yes, that's correct.
 18 Q. Are the contents of that statement true to the best of
 19 your knowledge and belief?
 20 A. That's correct.
 21 Q. I wonder if we can just look to see where you were in
 22 the organisation, starting in July 2015. For that
 23 purpose, perhaps I could have document B693 on the
 24 screen. Splendid.
 25 If you look at the bottom left-hand corner, do you

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1 see the date, "Effective July 2015" there, Mr Wong?
 2 A. Yes.
 3 Q. We can see you in the middle there, can we not,
 4 immediately below the general manager, Mr TM Lee?
 5 A. That's correct.
 6 Q. Does that reflect the reporting, the line of reporting,
 7 at that time?
 8 A. That's correct.
 9 Q. Then, just to see how matters progressed, if at all,
 10 perhaps we can go to B708. We've moved on, I think, two
 11 or three -- well, a year or so -- we've got on to
 12 February 2016 -- do we see that there?
 13 A. Yes.
 14 Q. We again see your name, do we not, general manager?
 15 A. That's correct.
 16 Q. Again, you are still reporting to Mr Lee?
 17 A. That's correct.
 18 Q. Thank you very much. What's going to happen now is that
 19 you'll be asked a few questions, I suspect, by
 20 Mr Pennicott, who's the counsel for the Commission.
 21 Then one or two lawyers around the room might ask you
 22 questions. The Chairman and the professor can ask you
 23 questions at any time they like.
 24 A. Sure.
 25 Q. Depending upon what happens, I might ask you a few

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<p>1 questions at the end. 2 A. That's fine. 3 Q. So please be ready. 4 A. Thank you. 5 Examination by MR PENNICOTT 6 MR PENNICOTT: Mr Wong, good afternoon. 7 A. Good afternoon. 8 Q. As Mr Boulding has just said, my name is Ian Pennicott 9 and I'm one of the counsel for the Commission, I've got 10 a few questions for you, but not that many, I don't 11 think. Thank you very much for coming along to give 12 evidence to the Commission this afternoon. 13 We've looked at the organisation charts already, 14 Mr Wong, but just to get you to confirm the position -- 15 back in November 2014, my understanding is that you were 16 the project manager for the SCL civil-EWL? 17 A. That's correct. 18 Q. But although at that time you were, as it were, 19 reporting to Mr Rooney, you weren't involved in the 20 Hung Hom Station -- 21 A. No. 22 Q. -- at that point? 23 A. No, I wasn't. 24 Q. Then, as we've just seen with Mr Boulding, come July 25 2015, you were the acting general manager-SCL civil for</p>	<p>1 A. That's correct. 2 Q. That you were, despite your lack of responsibility as 3 general manager for contract 1112, the competent person 4 for that contract, amongst other contracts? 5 A. Yes. 6 Q. And you were the competent person from February 2015 to 7 August of this year? 8 A. That's correct. 9 Q. Back in February 2015 you took over as competent person 10 from Mr Rooney? 11 A. That's correct. 12 Q. As we've seen from the organisation charts, you answer 13 to or did answer to Mr TM Lee? 14 A. Mr TM Lee, yes. 15 Q. Okay. Now, Mr Wong, back in 2015, a series of site 16 supervision plans -- 17 A. Mm-hmm. 18 Q. -- were submitted by MTR to the Buildings Department -- 19 A. Yes. 20 Q. -- as part of the process of commencing works in 21 different areas? 22 A. Yes, that's correct. 23 Q. And as part of the site supervision plans, individuals 24 such as yourself -- 25 A. Yes.</p>
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<p>1 EWL? 2 A. Yes, that's correct. 3 Q. Then, as we've seen again, I think by the end of 2015 4 and certainly by February 2016 you were the general 5 manager -- 6 A. Yes. 7 Q. -- of the SCL EWL. And I think you also tell us that 8 back in August 2015, you also became the project 9 management officer? 10 A. The general manager of the project management office, 11 that's correct. 12 Q. As I understand, for the reasons that you explain in 13 paragraphs 10 and 11 of your witness statement, although 14 you were the general manager-SCL civil-EWL, you were not 15 responsible specifically for contract 1112? 16 A. That's correct. My responsibility between myself and 17 Aidan split geographically at the north of Hung Hom 18 Station, so anything to the north of Hung Hom is myself, 19 and then anything south of this tunnel towards Hung Hom, 20 including contract 1111 and 1112, is under Mr Aidan 21 Rooney, as the day-to-day project manager. 22 Q. Yes. 23 A. My responsibility, under those two contracts, only as 24 the competent person. 25 Q. That is the twist and why you're here.</p>	<p>1 Q. -- were identified as the competent person, T5, T3, and 2 so forth? 3 A. Yes. 4 Q. Are you familiar with the contents of those site 5 supervision plans? 6 A. Yes, I do. Yes, I do. 7 Q. We can look at -- let's just look at one, just by way of 8 example. If we could be shown, please, H10/4539. That 9 should be a letter of 3 August, Mr Wong. 10 A. Yes. 11 Q. It's the notice of commencement in relation to -- dated 12 3 August 2015? 13 A. Correct. 14 Q. And it's in relation to area C? 15 A. Yes. 16 Q. We can see the gridlines, and then it says "Area C3" in 17 the box? 18 A. Yes. 19 Q. And then "Area C3" underneath? 20 A. Yes. 21 Q. At the bottom of the page, in the box, the documents 22 that are being submitted, the first one is the duly 23 completed and signed supervision plan? 24 A. Yes. 25 Q. That letter, over the page, at 4540, was signed by</p>

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<p>1 Mr Leung, Andy Leung? 2 A. Yes. 3 Q. And you, at 4541, as the competent person, signed the 4 notice of commencement of works and undertaking, as we 5 can see there? 6 A. Yes, that's correct. 7 Q. Then, at 4543, we see the front sheet of the site 8 supervision plan? 9 A. Yes. 10 Q. Then, over the page, two pages, 4545, we see the 11 technically competent persons set out in the table at 12 the top of the page? 13 A. Yes. 14 Q. So we see yourself as the competent person, Kit Chan as 15 your representative. 16 A. Yes. 17 Q. And then Kit Chan also as the T5 and T4 alternative? 18 A. Yes. 19 Q. And James Ho as the T5 and T4? 20 A. Yes. 21 Q. Then we see Derek Ma as the T3? 22 A. Yes. 23 Q. And Louis Kwan as the T3 alternative? 24 A. Yes. 25 Q. I think, we don't need to go to them, but in relation to</p>	<p>1 checklist signed by the registered sub-contractor and 2 also my quality control supervisors. That's why I sort 3 of go back to look at what is said in the buildings 4 acceptance condition and also the QSP themselves. So 5 that was the time I looked at those documents. 6 Q. Yes. I understand that, because what happened 7 chronologically was that Mr Rooney signed the first -- 8 A. Batches 1 and 2, yes. 9 Q. -- batches -- 10 A. Yes. 11 Q. -- and then you signed the subsequent ones because 12 you'd -- 13 A. Yes, starting from batch 3 I signed them. The first 14 time I signed them, so that's why I've got to look at 15 what was in the acceptance condition, what was submitted 16 to the Buildings Department, et cetera, so that's why 17 I looked at the QSP at that time. 18 Q. Understood. And the third batch that you signed would 19 have been at a time when the EWL slab works had not 20 quite started but were soon about to start? 21 A. Yes, that's the transition period between the diaphragm 22 wall completing and the start of the EWL slab at that 23 time. 24 Q. So you would have been aware of it -- 25 A. Yes.</p>
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<p>1 area B I think it's virtually the same? 2 A. Virtually the same, yes. 3 Q. And for A, apart from the fact Mr Derek Ma doesn't 4 appear on area A, it's just Mr Louis Kwan -- 5 A. Okay. 6 Q. -- again, pretty similar? 7 A. Yes. 8 Q. There's also a document that I expect you've heard of, 9 Mr Wong, called the QSP, the quality supervision plan? 10 A. Yes. 11 Q. Is that a document that you were familiar with back in 12 2015? 13 A. Let me explain. Yes. I think this document was 14 submitted to the Buildings Department back in 2013 -- 15 Q. Yes. 16 A. -- by the then competent person, Julian Saunders. I get 17 to familiarise with that document when I signed the BA14 18 submission, the certificate of completion submission for 19 the diaphragm wall, because there are piles of 20 submissions relating to couplers, and also there is 21 a particular report called the quality supervision 22 report which I have to personally sign. 23 Q. Yes. 24 A. And that, because I need to refer back to the QSP as to 25 what it said, and also I looked at the logbook, the</p>	<p>1 Q. -- more or less at the -- certainly by the commencement 2 of the EWL slab? 3 A. Exactly, yes. 4 Q. So you would also have been aware that the quality 5 supervision plan requires the same technically competent 6 person as listed in the site supervision plan to give 7 the enhanced supervision in the quality supervision 8 plan? 9 A. Let me perhaps clarify that, because the quality control 10 supervisor came from the Buildings Department's 11 acceptance condition. 12 Q. Yes. 13 A. So that doesn't need to tie with the SSP TCPs. Although 14 there's a requirement for this quality control 15 supervisor to have the qualification the same as the 16 TCP-T3 in the Code of Practice, but they could be 17 different person, they could be the same person. So not 18 necessarily have to be the same person. 19 Q. Can we look at H9, just in case I've got this wrong, 20 which is quite possible. 21 If we go to H9/4265, that's the front sheet of the 22 QSP, Mr Wong. 23 A. Yes. 24 Q. Then if you would be good enough, please, to be taken to 25 4268.</p>

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1 A. Yes.
 2 Q. At the top there's a heading, "Assignment of quality
 3 control supervisors personnel (from MTR/[and the
 4 registered contractor])".
 5 A. Yes.
 6 Q. And it says:
 7 "The same technically competent persons (TCPs)
 8 proposed in the site supervision plan of the works, that
 9 submitted to the Buildings Department as stipulated in
 10 the Code of Practice ... will be responsible for the
 11 quality control of the work."
 12 Do you see that?
 13 A. Yes, practically I think that's the intention as well,
 14 because we have the TCPs anyway, for the SSP, so we
 15 might of course make use of them to supervise also the
 16 couplers. So they not necessarily have to be the same
 17 person. That's what I'm trying to explain.
 18 Q. Do you accept -- obviously we've seen what's in the site
 19 supervision plan and the names that appear there --
 20 A. Yes.
 21 Q. -- so it was really for you, as the competent person, to
 22 nominate the people, and we've seen who are listed in
 23 the site supervision plan?
 24 A. Yes.
 25 Q. Do you accept that it was your responsibility as the

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1 competent person to ensure, for example, that the T3
 2 gentlemen, Louis Kwan and Derek Ma that we've seen, were
 3 aware of their responsibilities?
 4 A. Now, at the time when I signed off the BA14 for the
 5 diaphragm wall, as I just mentioned there was a quality
 6 supervision report there, and when I signed off the
 7 report, the report appointed actually Kobe Wong as the
 8 quality control supervisor, for the diaphragm wall at
 9 least.
 10 So at the time when I checked those checklists,
 11 which is also countersigned by Kobe, I remember I asked
 12 the question to -- I cannot remember whether it's
 13 Kit Chan or James Ho, because they are the ones showing
 14 me those logbooks, and I was asking whether Kobe will
 15 still be the same quality control supervisor for the
 16 slab. I was given a "yes" answer. So that's why my
 17 understanding, although Kobe is the T3 under the
 18 registered geotechnical engineer stream, but he would
 19 still be the one responsible for the quality control
 20 supervisor for the slab work.
 21 Q. I sort of follow that, Mr Wong, but if that is the case,
 22 why didn't you put Mr Kobe Wong in the table that we saw
 23 in the site supervision plan? Wouldn't that have been
 24 easier?
 25 A. This paragraph doesn't say whether this technically

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1 competent person needs to be the same stream as the
 2 competent person.
 3 Q. Okay.
 4 A. So it could be the competent person stream or the RGE
 5 stream. So as I mentioned, there are two different
 6 roles. It happens to be the same person, but they not
 7 necessarily have to be the same person under the CP
 8 stream. That's what I'm saying.
 9 Q. Yes.
 10 A. That's why when I asked the question, I was given the
 11 answer that Kobe will continue his role to be the
 12 quality control supervisor, I kind of accepted it,
 13 because he's also the RGE stream TCP.
 14 Q. Mr Wong, I'm not sure you are 100 per cent right about
 15 that. Can I ask you, please, to go to the appendix to
 16 the government -- one of the government's acceptance
 17 letters.
 18 A. Mm-hmm.
 19 Q. If we start at 3873. This is one of the early
 20 acceptance letters back in February 2013, Mr Wong.
 21 A. Yes.
 22 Q. We know it comes with a lot of appendices and a lot of
 23 conditions.
 24 A. Yes.
 25 Q. If you go, please, to page 3928, we should have there

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1 appendix VIII right at the top -- thank you very much --
 2 and it's, as we can see, "mechanical couplers for steel
 3 reinforcing bars for ductility requirement"; do you see
 4 that?
 5 A. Yes.
 6 Q. Then if we go to paragraph 3 at 3930 -- this is
 7 a passage that we've looked at a few times -- it says:
 8 "A quality supervision plan of the competent person
 9 and the RGBC/RSC is required to be submitted to this
 10 department prior to the commencement of the mechanical
 11 coupler works."
 12 Then it says at (a):
 13 "Assignments of quality control supervisor of the
 14 competent person and quality control coordinator ... to
 15 supervise the manufacturing process ..."
 16 Let's not worry about that, and then (b) is more
 17 important:
 18 "Frequency of quality supervision, which should be
 19 at least 20 per cent of the splicing assemblies by the
 20 quality control supervisor of the competent person ..."
 21 Do you see that?
 22 A. Yes.
 23 Q. The 20 per cent is obviously referable to MTR?
 24 A. Yes.
 25 Q. So this seems to be suggesting, on one view, that that

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1 supervision should be under the competent person's
2 stream and not under the RGBC or RSC; do you see?
3 A. Yes, I hear what you say, but my interpretation of this
4 requirement of the quality control supervisor is that he
5 is a separate person from the SSP TCPs. He only needs
6 to have a qualification equivalent or the same as the
7 TCP-T3, as defined in the Code of Practice.
8 Q. Okay.
9 A. And whether he is the same person under the SSP TCP, he
10 can or cannot -- he may or may not be the same person.
11 Q. Right. So your position is that provided he's
12 a qualified T3 --
13 A. Yes, that's what I'm saying.
14 Q. -- that meets the requirements of the QSP?
15 A. Correct.
16 Q. Even though he's not specifically referred to on the
17 SSP?
18 A. Correct. That's my interpretation, yes.
19 Q. But on the other hand, possibly it could be the same
20 person?
21 A. Yes, could be the same person or could be a different
22 person.
23 Q. I understand. Thank you very much.
24 A. That's why when I asked the question whether Kobe will
25 continue to be the quality control supervisor, I was

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1 given a "yes" answer, and I was satisfied, because based
2 on my understanding, that could not be the sort of same
3 person that is named under the competent person stream
4 TCPs.
5 Q. All right. Could I ask you, please, to look at
6 paragraph 25 of your witness statement.
7 A. Yes.
8 Q. You say:
9 "In respect of contract 1112, I would conduct
10 monthly site walks to supervise the works, in the
11 company of Mr James Ho ... for EWL slab construction
12 during the majority of my tenure as competent
13 person ..."
14 A. Mm-hmm.
15 Q. Then at paragraph 26 you say:
16 "During the monthly site walks, the respective
17 senior con engineer would explain to me the status and
18 issues of the various works. If there was any
19 non-conformance, rectification would be carried out
20 immediately in my presence, if possible. If immediate
21 rectification was not possible, the respective SConE
22 would send photos via WhatsApp directly to me ... after
23 the rectification had been carried out. I would mark an
24 'S' (satisfactory) on the record of specific tasks
25 performed by TCP under CP stream as required under the

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1 Code of Practice after such rectification had been
2 confirmed. I would not look at the works in minute
3 detail, but would rely on the site inspections ..."
4 I understand that you kept a record of your monthly
5 site visits?
6 A. Yes.
7 Q. Just flipping back to paragraph 23 of your witness
8 statement, you say:
9 "I have also devised checklists for the TCPs in
10 accordance with the requirements of the CoP."
11 First of all, can you tell me what checklists you're
12 referring to in that sentence?
13 A. There's a checklist where myself and also the TCP need
14 to sign when they conduct the site visits. That's the
15 format in the Code of Practice, actually. It typically
16 lists down the items that myself and my TCP should look
17 at, again based on the items in the Code of Practice,
18 and then there is a "satisfactory/non-satisfactory" area
19 to circle and then sign.
20 Q. Okay. Then could I ask you, please, to go to
21 B5/TS2/40451.
22 A. Yes, that's the form.
23 Q. This is the form --
24 A. That's the form.
25 Q. -- the checklist that you're talking about?

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1 A. Yes. That's correct.
2 Q. Then if I could take you, please, to page 40799, I think
3 it is -- this doesn't look like a right reference at
4 all -- yes, 40799.
5 Mr Wong, trying to be as serious as I can about
6 this, here comes the afternoon entertainment. Do you
7 see, at 40799, that you have made your monthly visit in
8 September 2015 on 22 September?
9 A. Yes.
10 Q. I'm tempted to ask you whether you were there at about
11 6:18/6:19 in the afternoon.
12 MR BOULDING: With a camera.
13 MR PENNICOTT: With or without a camera.
14 A. No, not at that time. Typically, I do it after lunch.
15 I know what you're trying to ask.
16 Q. It caused me some amusement when I spotted it, Mr Wong,
17 I must say.
18 Anyway, your visits would be when; in the morning,
19 the afternoon?
20 A. Typically in the afternoon, after lunch.
21 Q. And they would last for I think you say three hours or
22 so?
23 A. Two to three hours. It depends on how much I need to
24 look at.
25 Q. What happened? If you look at the next page, perhaps

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1 a more serious question, Mr Wong, is this. The
2 frequency -- if you look at 40800 -- we've got that up
3 on the screen -- the frequency of inspection for you,
4 the competent person, appears to have increased from
5 a monthly visit to a fortnightly visit --
6 A. Yes, from --
7 Q. -- around November 2015. Was there any particular
8 reason for that?
9 A. Well, in the site supervision plan, in the technical
10 memorandum I understand there is a calculation as to the
11 volume of the work, the complication of the work, and
12 then we will determine each category of TCP, the
13 frequency of their visits.
14 So most of the time, for the CP, it should be
15 monthly, but for some of the big volume of work,
16 complicated work, it could be fortnightly.
17 Q. Right.
18 A. So -- but, yes, limited time.
19 Q. So you can't recall anything that might have happened in
20 about October/November 2015 to increase your frequency
21 of visits?
22 A. That's based on the SSP. If the SSP for that piece of
23 work says fortnightly, then I go fortnightly.
24 Q. So one would need to trace it back into the SSP to try
25 to work it out?

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1 A. Yes, exactly, yes.
2 Q. Understood.
3 A. But most of the time I do monthly site visits. That's
4 my recollection.
5 MR PENNICOTT: Okay.
6 Can I just check a transcript reference, I'm sorry.
7 Thank you very much, Mr Wong. I have nothing else
8 for you. Thanks very much.
9 MR CHANG: No questions from Leighton.
10 MR SO: No questions from China Tech.
11 MR CHOW: Chairman, I have a few questions.
12 CHAIRMAN: Yes, please.
13 Cross-examination by MR CHOW
14 MR CHOW: Good afternoon, Mr Wong.
15 A. Good afternoon.
16 Q. My name is Anthony Chow and I represent the government.
17 We have a few questions for you.
18 A. Yes.
19 Q. Mr Wong, just to follow up on Mr Pennicott's question --
20 Mr Pennicott took you to a few site inspection forms A
21 that we've just looked at.
22 A. Yes.
23 Q. We see that, and also we understand your evidence is
24 that you did carry out site visits either monthly or
25 fortnightly --

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1 A. Yes.
2 Q. -- to fulfil your requirement under the SSP?
3 A. Yes.
4 Q. Can you explain why, at the same time you said you did
5 not have direct involvement in contract 1112?
6 A. Well, as I mentioned in this witness statement, my
7 responsibility is just the competent person under the
8 IoE/IoC for contract 1112, and the day-to-day contract
9 management falls under Mr Aidan Rooney. So the
10 management of the contractor, the financial side of it,
11 the main technical side and quality side of it is under
12 Mr Aidan Rooney, so I don't get involved in the
13 day-to-day management of that particular contract,
14 except the CP responsibilities under the IoE/IoC.
15 Q. So in terms of supervision or ensuring supervision or
16 compliance with the requirements of the contract, that
17 will be all under Mr Rooney?
18 A. That's correct. That's correct.
19 Q. If I may refer you to paragraph 23 of your witness
20 statement at page 172, please.
21 A. Yes.
22 Q. In paragraph 23 you say:
23 "The TCPs were appointed to carry out their
24 respective roles and duties as prescribed in the Code of
25 Practice. All the TCPs, including those under the CP

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1 stream, were appointed on the recommendation of
2 Mr Rooney as they are also the site personnel
3 responsible to Mr Rooney for the day-to-day management
4 of [the contract], although I reviewed the relevant CVs
5 of the TCPs to ensure they are fit for their
6 appointment. I have also devised checklists for the
7 TCPs in accordance with the requirements of the CoP."
8 Regarding devising checklists, are you familiar with
9 the requirement under the Code of Practice, in
10 particular table 5.1, as to the items that you have to
11 include in the checklist?
12 A. Yes.
13 Q. Do I need to take you to that table?
14 A. I think I'm reasonably familiar with that.
15 Q. Good. Thank you.
16 The last item under the AP stream requires the
17 checklist to take into consideration the specific
18 requirements set out by the Building Authority under the
19 approval letters --
20 A. Yes.
21 Q. -- and in this particular case it means the acceptance
22 letters?
23 A. Well, I would disagree, because that says, in the Code
24 of Practice, "approval of plans" which is exempted under
25 the Buildings Ordinance, under the IoE/IoC. So those

<p style="text-align: right;">Page 149</p> <p>1 are relating to approval or plans and consent 2 requirement, which is exempted. So that's why I would 3 not include those acceptance conditions which is under 4 the consultation submission submit under the IoE into 5 the checklist. Different things. 6 Q. I see, because -- 7 A. Sorry, I don't want to confuse my people of their 8 statutory and non-statutory responsibilities, put it 9 this way. 10 Q. So your understanding at that time is, notwithstanding 11 the requirement under table 5.1 of the Code of Practice, 12 you consider that because we have a different procedure 13 under the IoE, there was no approval letter -- 14 A. That's correct. 15 Q. -- so although a condition or specific requirement was 16 set out in the acceptance letter, you don't need to take 17 those into consideration in devising the checklist? 18 A. That's my understanding, because the SSP forms are 19 statutory. The acceptance condition under the IoE 20 consultation submission are non-statutory. So that's 21 why I don't want to mix them up. 22 Q. I see. 23 A. I don't want to confuse my people as to statutory 24 responsibility and non-statutory responsibilities. So 25 that was my interpretation, if you like.</p>	<p style="text-align: right;">Page 151</p> <p>1 Q. -- to that extent you don't think that you need to 2 comply with those requirements? 3 A. No. As I tried to explain, I was trying to distinguish 4 the statutory and non-statutory responsibilities of my 5 TCPs, so that's why I didn't include them. That was the 6 reason. 7 Q. Am I right in thinking that because of your 8 understanding at the time, you have not devised any 9 checklist to record the contemporaneous inspection 10 carried out by your quality control supervisor in 11 relation to either 20 per cent or 50 per cent of the 12 splicing assembly work, because you didn't see the 13 necessity of doing so; right? 14 A. No. If I want to put it this way -- because, as I tried 15 to explain before, when I signed off the BA14 submission 16 for the diaphragm wall, I saw that my TCP or my people 17 have prepared quite a comprehensive set of records, 18 including the coupler testing, the coupler inspection 19 checklist, and also the quality supervision report. So 20 I had the impression that they would carry on doing this 21 for the slab. That's why I have no reason to sort of 22 expect they would have a different approach. 23 Q. I see. 24 A. -- for the diaphragm wall and for the slab. 25 Q. I see.</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. I see. So, in that case, why -- as far as I understand, 2 there is no requirement for a competent person under the 3 Code of Practice? 4 A. Yes, that's correct. 5 Q. So, in that case, why would you need to prepare SSP? 6 A. Well, the IoE and also the project management plan, if 7 I remember correctly, also says the competent person is 8 required to supervise the works in accordance with the 9 site supervision plan. So that's why I have to sort of 10 fulfil that particular requirement, although it is -- 11 yes. 12 Q. I'm sure you are pretty familiar with the requirement of 13 the IoE. Do you agree with me that in the IoE it is 14 specifically set out that the competent person is to 15 take up the role of an AP and RSE? 16 A. With respect to the work -- 17 Q. Yes, yes. 18 A. With respect to the exempted clauses that are under the 19 IoE/IoC, yes. 20 Q. So you were aware of that at the time? 21 A. Yes, yes. 22 Q. So, if the Code of Practice requires certain things, 23 like the checklist that I mentioned earlier, for AP and 24 RSE -- 25 A. Mm-hmm.</p>	<p style="text-align: right;">Page 152</p> <p>1 A. Because I also asked the question as to whether Kobe 2 Wong would continue to be the quality control 3 supervisor, and I was given a "yes" answer. 4 So that's why my sort of thinking at that time was 5 that that would follow through. 6 Q. I see. So you believe that your site team will continue 7 with similar practice for the slab? 8 A. Yes, that was my belief at that time. 9 Q. And during the time of the execution of the slab, it 10 didn't occur to you that you need to, for example, 11 follow up on that to make sure that this would happen as 12 you expected? 13 A. As I explained, I have seen a very comprehensive set of 14 record for the diaphragm wall, and I believed he would 15 do the same for the slab. 16 Q. I see. 17 A. And typically this sort of report and compiling this 18 sort of record are typically done towards the end of the 19 job, when the BA14 sort of submissions are being 20 compiled. So I didn't sort of ask them in the course of 21 the works. 22 Q. But your understanding is that the record sheets that 23 have been prepared for the diaphragm wall were prepared 24 contemporaneously, not at the time of the submission of 25 the BA14; that you were aware, right?</p>

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<p>1 A. I know. I know. 2 Q. So you would expect that if the same practice had been 3 adopted, there would have been record sheets -- 4 A. Yes. 5 Q. -- for the coupling works in the slab? 6 A. Yes. That was my expectation. 7 Q. That's actually what my earlier question is about -- 8 A. I know, I -- 9 Q. -- it didn't occur to you that you need to follow up or 10 need to make sure that a similar practice was actually 11 adopted for the slab? So your answer was -- 12 A. Put it this way, I didn't check, so that's the answer. 13 I didn't check, but I would expect that would have been 14 done similar to the diaphragm wall. 15 Q. I see. 16 If I may then refer you to paragraph 53 of your 17 statement, at page 179. Here, at the end of the 18 paragraph -- no, at the beginning of the paragraph, you 19 talk about that during your visit, back in 2015 and 20 2016, actually you observed that the east diaphragm wall 21 was being trimmed down. 22 A. Yes. 23 Q. Then you asked a question and then you were told that 24 that somehow relates to rectification of a defect -- 25 A. That's correct.</p>	<p>1 Q. I believe it was on 29 July 2015. 2 A. Yes. 3 Q. Before the incident report was submitted to the BD, have 4 you had a chance to look at the content of the report? 5 A. Yes, of course. 6 Q. So you basically agree with the contents of the report? 7 A. Yes. It was a concerted effort between the design team, 8 the construction team, and I also gave some comment on 9 the report itself before it gets out. 10 Q. Very well. On the face of the report, actually you were 11 concerned because it mentioned something that you have 12 done or you were expected to do; right? 13 A. Yes. 14 Q. If you don't mind, I would like to refer you to the 15 report, at bundle H11, starting from page 5540, please. 16 From the report, we understand that the purpose of 17 the report is to give an account to the Building 18 Authority as to what happened and why the problem 19 arose -- 20 A. Yes. 21 Q. -- and the measures to be taken to avoid similar problem 22 from occurring in future; right? 23 A. Yes. 24 Q. Paragraph 3.3.1 at page 5544 -- here the report says: 25 "This non-conformity was largely as a result of</p>
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<p>1 Q. -- in the diaphragm wall. Can you recall whether -- who 2 actually told you this? It's your construction -- 3 A. I cannot recall because -- 4 Q. -- management team member or -- 5 A. Typically, as I said in the witness statement, I was 6 typically accompanied by my T5, which is typically 7 James Ho and Joe Tsang, but when I get to a particular 8 spot on the site, typically there were other people 9 there. It could be the inspectors of works who are 10 there all the time, and also sometimes the contractor's 11 site foremen. 12 So I cannot remember actually, when I asked the 13 question, who from that team of people responded to me 14 that it's to do with rectification of tremie concrete 15 defects. 16 Q. I see. So it would have been either a member of your 17 construction management team or someone from Leighton? 18 A. Yes, that's correct. 19 Q. Right. I would like to move on to another area. You 20 recall that there was an issue regarding the missing 21 U-bar -- 22 A. Yes. 23 Q. -- at the top of the diaphragm wall, and because of that 24 an incident report was submitted to the BD? 25 A. Yes.</p>	<p>1 communicating and formalising the changes made by the 2 contractor. In this connection, CP [that is you 3 yourself] has instructed his TCPs and the construction 4 manager to strictly follow the working drawings which 5 are prepared in accordance with plans accepted by the 6 authority such as BD/GEO ... in the execution of the 7 works. TCPs should bring CP's attention to any 8 deviations in a timely manner." 9 Then, on the following paragraph, it says: 10 "The amended connection design had substantially 11 changed the original design intent of the reinforcement 12 lap and anchorage at the connection but the change was 13 allowed to progress in the shop drawing preparation 14 process. CP has instructed his TCPs not to deal with 15 future design changes to the permanent works proposed by 16 the contractor in the shop drawings process which could 17 not guarantee a thorough review by all concerned 18 parties." 19 Do you see that? 20 A. Yes. 21 Q. If we can then go to section 4 at page 5545. Under 22 paragraph 4.3: 23 "In order to mitigate the impacts to the permanent 24 works and prevent the recurrence of non-conformity of 25 this nature, CP has instructed the following actions to</p>

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1 be taken by his TCPs and the contractor".

2 Then, in paragraph 4.4:

3 "In addition to the procedures ... stipulated for

4 reviewing contractor's submissions in MTRCL's project

5 integrated management system (PIMS) which is included in

6 the PMP of SCL, TCPs shall not allow changes to be made

7 to the permanent works in contractor's shop drawing

8 submissions. TCPs in the CP stream shall supervise the

9 works to ensure they are executed in accordance with the

10 working drawings/accepted plans. They should bring CP's

11 attention to any deviations in a timely manner".

12 So, in the paragraphs that I have taken you to, it

13 indicates that you have given some sort of instruction

14 to ensure that similar problem would not happen again.

15 A. Yes.

16 Q. May I ask, at the time, who in particular that you have

17 given such instruction?

18 A. That was discussed with Mr Kit Chan, because Kit is my

19 representative, and also this report didn't go out

20 without Kit's agreement to it, because it said a lot of

21 things that Kit and his team needs to do. That's why,

22 when Andy Leung prepared this report, it went to Kit

23 with his agreement and I also remember talking to Kit

24 about all this before the report got out to the

25 Buildings Department.

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1 Q. Right, and the instruction was given orally or in

2 writing?

3 A. Orally.

4 Q. I see.

5 A. But also they were given a copy of this report, so they

6 should have at least seen the report themselves.

7 Q. Quite right.

8 Now we all know that in relation to one of the

9 matters that this Commission has to deal with, that

10 relates to the changes made at the connection between

11 the east diaphragm wall and the EWL slab and the OTE

12 slab --

13 A. Yes.

14 Q. -- and the problem that we are facing is that at the

15 time there were changes made and it was allowed to

16 proceed without any updated working drawings.

17 A. Yes.

18 Q. And worse still is after so many months, we have no

19 as-built records, and we have been having problems over

20 the past few months that different versions of detail

21 have been put forward by MTRC over the past few months,

22 and that caused so much confusion.

23 A. Yes.

24 Q. So that's the problem that we are facing. So obviously

25 the instruction that you have given to Mr Kit Chan at

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1 the time has not been followed, has not been followed

2 through by Mr Kit Chan; right? Apparently you must

3 agree with me?

4 A. Yes, but I think he got some explanation as to why,

5 because he thought it's a minor detail change, so he

6 didn't go through the communication with the design

7 management team, et cetera, et cetera. I thought Kit

8 already explained here.

9 Q. Yes, he did.

10 A. Whether we accept it or not is a different story.

11 Q. Yes, he did. So notwithstanding what is the commitment

12 given to the Building Authority at the time set out this

13 table, in fact when you say the TCP would not allow

14 works to proceed without -- well, effectively without

15 updated drawings, you didn't even mean that? If it only

16 involves minor changes, then it can still proceed

17 without an updated working drawings? Is that what you

18 are saying that?

19 A. No, I didn't mean that. What I'm saying is that Kit has

20 his own sort of explanation as to why he thought the

21 second change could be implemented.

22 Q. Then do you --

23 A. Whether I accept it or not is a different story.

24 Q. Yes, sure, sure. But do you agree -- then do you find

25 what Mr Kit Chan did was proper, in the circumstances?

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1 A. Well, I'm not going to go into the argument about

2 whether it's a major or a minor change, but I would at

3 least think an updated drawing needs to be produced,

4 because if there's no updated drawing it would be very

5 difficult for the site team to follow the works on site.

6 Q. Right.

7 A. So I think, at the very least, there must be a working

8 drawing update --

9 Q. I see.

10 A. -- for the so-called second change.

11 Q. So you would not support what he did at that time;

12 right?

13 A. I would not.

14 Q. Thank you.

15 Just now, you have clarified to us what you mean by

16 not having directly involved in the works of

17 contract 1112.

18 A. Yes.

19 Q. If I may then now refer you to a specific part of the

20 IoE, at bundle H7, page 2404, please.

21 Subparagraph (b) --

22 A. Yes.

23 Q. -- provides that to "appoint a competent person, who

24 shall take up the responsibilities and duties of

25 authorised person/registered structural engineer, to

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1 coordinate and supervise each area of the works in
 2 accordance with the agreed proposals, to certify the
 3 preparation of plans or documents ..."
 4 Now, what was required under the IoE is that the
 5 competent person has to coordinate and supervise each
 6 area of the works, and that is precisely something that
 7 you have not done; is that correct?
 8 A. Sorry, can you repeat the question? What I have not
 9 done?
 10 Q. What is required under the IoE from the competent person
 11 is that he has to coordinate and supervise each area of
 12 the works. Now, this is something that you have not
 13 done; is that correct?
 14 A. Well, my interpretation is this "supervise" is in
 15 accordance with the Code of Practice -- for Site
 16 Supervision 2009, to be more precise.
 17 Q. I see. So you interpret that this requirement relates
 18 to the Code of Practice?
 19 A. That's my interpretation.
 20 Q. I see. Okay.
 21 A. And when Buildings Department accepted my appointment as
 22 competent person, I think they know that I'm not
 23 daily -- I'm not responsible on a daily execution of the
 24 contract under 1112.
 25 Q. On what basis -- what gave you that understanding?

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1 A. Because the area of responsibility has been made known
 2 to the RDO and Buildings Department for some time, when
 3 I was -- when Aidan and myself were appointed as general
 4 managers respectively for different areas of the works.
 5 So I think the Buildings Department and RDO know full
 6 well which contract that I am responsible for managing
 7 on a daily basis. So if they accepted my appointment as
 8 competent person but they know I'm not responsible for
 9 the day-to-day execution of the works, I think they
 10 should have understand that sort of different
 11 responsibility under myself. That's my interpretation,
 12 again.
 13 Q. I see. Can I then look at what is set out in the
 14 project management plan. The same bundle, page 2382,
 15 please. Clause 5.2.3 defines the duties and
 16 responsibilities of a competent person under MTRC's own
 17 PMP:
 18 "The competent persons are responsible for
 19 coordinating and supervising the works to ensure that
 20 the project is executed to the quality, safety, and
 21 environmental standards required by MTR Corporation as
 22 well as to fulfil the requirements under the
 23 consultation process."
 24 You can foresee my question: again, this is
 25 something that you have not done; correct?

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1 A. Well, you may say that, because it specifically goes to
 2 the PIMS requirement.
 3 Q. So you agree?
 4 A. Yes.
 5 Q. Can I then go to the notice of appointment, same bundle,
 6 page 2443. This is a notice of appointment issued to
 7 the Building Authority. The lower part of it -- yes,
 8 the bottom part; can we scroll further down --
 9 "Confirmation of appointment". Can you confirm that the
 10 signature shown at the bottom of the page is your
 11 signature?
 12 A. Yes, that's my signature.
 13 Q. Here, you confirm that you have been appointed as
 14 "competent person to coordinate, supervise and certify
 15 the completion of the above works." Now, here you have
 16 not mentioned about "supervise for the purpose of SSP".
 17 So do you agree with me, when you provide this
 18 confirmation to the BD, you gave a commitment to the
 19 Building Authority that you would coordinate and
 20 supervise the works; do you agree or not?
 21 A. Well, my understanding, as I said again, is that is
 22 limited to the Code of Practice. That was me
 23 understanding.
 24 Q. Limited to the Code of Practice? I see. Okay.
 25 A. Well, let me try to explain, because the PIMS also

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1 requires -- well, the PMP also requires the general
 2 manager to carry out similar duties. So there's no
 3 loophole from our point of view, because there is
 4 a general manager there to supervise the works in
 5 accordance with the PIMS requirement. So that's Aidan
 6 Rooney in this case. And myself, in addition to his
 7 duties, would perform the duties required to me under
 8 the IoE. So that's my understanding of how it works.
 9 I don't see any loopholes there.
 10 Q. Sorry, I don't understand your last sentence. You don't
 11 see any loopholes; what are you trying to say?
 12 A. I'm not sure whether you are trying to say I didn't do
 13 something, something that were not inspected or
 14 supervised by MTR. What I'm saying is the MTR PIMS
 15 system gives the responsibility to the general manager,
 16 who is Aidan Rooney in this case, to supervise and
 17 coordinate the works under the PIMS system. So Aidan is
 18 there to do this PIMS supervision, if you like.
 19 So the CP, if I understand it correctly, is to do
 20 the additional supervision as required under the
 21 IoE/IoC, as stipulated in the Code of Practice. So
 22 there are people doing different work under the PMP. So
 23 there is no area where it's not covered either by Aidan
 24 or myself. That's my interpretation again.
 25 Q. Okay. Thank you, Mr Wong. I have no more questions for

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<p>1 you.</p> <p>2 A. Thank you.</p> <p>3 MR CONNOR: No questions from Atkins, sir. Thank you.</p> <p>4 Re-examination by MR BOULDING</p> <p>5 MR BOULDING: Hello, Mr Wong.</p> <p>6 A. Hello, Mr Boulding.</p> <p>7 Q. I just have one matter I would like to ask</p> <p>8 a clarification on.</p> <p>9 A. Sure.</p> <p>10 Q. Do you remember being asked by Mr Chow why you have not</p> <p>11 devised a checklist to record the contemporaneous</p> <p>12 inspection by the quality control supervisor of either</p> <p>13 20 per cent or 50 per cent of the splicing assembly work</p> <p>14 for the slab?</p> <p>15 A. Yes.</p> <p>16 Q. The transcript, at [draft] page 155, records you as</p> <p>17 saying -- you said you saw your TCP had prepared</p> <p>18 a comprehensive set of records, including coupler</p> <p>19 inspection checklists for the D-wall, so you thought</p> <p>20 they would continue to do it for the slab; do you</p> <p>21 remember giving that answer?</p> <p>22 A. Yes, that's right.</p> <p>23 Q. Then Mr Chow, my learned friend, asked you why you</p> <p>24 hadn't checked whether there were in fact coupler</p> <p>25 inspection records for the slab; do you remember that?</p>	<p>1 COMMISSIONER HANSFORD: I have a couple.</p> <p>2 Mr Wong, I'm very interested in this sort of split</p> <p>3 accountability between the competent person, which is</p> <p>4 yourself, and the general manager under PIMS, which is</p> <p>5 Mr Rooney.</p> <p>6 A. Yes.</p> <p>7 COMMISSIONER HANSFORD: There are a couple of points arising</p> <p>8 from that. One is certain members of staff, for example</p> <p>9 Kit Chan and James Ho, also have dual reporting lines</p> <p>10 there; is that correct?</p> <p>11 A. That's correct.</p> <p>12 COMMISSIONER HANSFORD: Did that ever cause any problems?</p> <p>13 A. Well, I would say there are pros and cons of this</p> <p>14 arrangement. The pros, if you like, me as the competent</p> <p>15 person, rather independent from the team, I don't need</p> <p>16 to consider progress and financial side of the job, so I</p> <p>17 can just focus on the compliance of the Buildings</p> <p>18 Ordinance or the IoE requirement, put it this way. So</p> <p>19 I have a sort of check and balance role. That's the</p> <p>20 pros.</p> <p>21 The cons of course is typically they will go through</p> <p>22 their normal line of reporting, which is to Mr Aidan</p> <p>23 Rooney, and that's why somehow I do not get all the</p> <p>24 necessary reporting to me on the day-to-day running of</p> <p>25 the job. So unless they have something they want to</p>
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<p>1 A. Yes.</p> <p>2 Q. And you said no, and you gave this answer, typically</p> <p>3 records prepared are prepared towards the end of the</p> <p>4 job, "when the BA14 submissions are being compiled."</p> <p>5 Do you remember that?</p> <p>6 A. I think I said records are compiled.</p> <p>7 Q. Are compiled?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me why records of this nature are typically</p> <p>10 prepared towards the end of a job, in your experience?</p> <p>11 A. Well, the contemporaneous records should be prepared at</p> <p>12 the time, but at the end of the job, if you look at the</p> <p>13 Buildings Department's acceptance conditions, they</p> <p>14 require also what they call the quality supervision</p> <p>15 report, and that includes a summary of the inspection,</p> <p>16 whether they are satisfactory, which is a summary of the</p> <p>17 checklist.</p> <p>18 Q. I see.</p> <p>19 A. So that's why I'm saying that typically were compiled at</p> <p>20 the BA14 stage.</p> <p>21 MR BOULDING: I follow. Thank you very much for clarifying</p> <p>22 that.</p> <p>23 Sir, Professor, I have no further questions.</p> <p>24 I wonder whether you have.</p> <p>25 Questioning by THE COMMISSIONERS</p>	<p>1 tell the Buildings Department, otherwise they will</p> <p>2 typically go through Aidan Rooney's tree, if you like,</p> <p>3 rather than go through myself. So that's the con, sir.</p> <p>4 COMMISSIONER HANSFORD: So there is a con?</p> <p>5 A. Yes.</p> <p>6 COMMISSIONER HANSFORD: There's a pro. And did they fully</p> <p>7 understand, in your view, their dual reporting?</p> <p>8 A. I think they do, in particular Kit and James, because in</p> <p>9 occasion they would also tell me there are things that</p> <p>10 we probably need to -- that I need to be aware because</p> <p>11 this could probably be asked by the Buildings</p> <p>12 Department, et cetera.</p> <p>13 COMMISSIONER HANSFORD: Okay.</p> <p>14 The second question, related to it, really -- in</p> <p>15 your site walks, which you did monthly or so, you did</p> <p>16 them with James Ho and Joe Tsang?</p> <p>17 A. Yes.</p> <p>18 COMMISSIONER HANSFORD: Did you ever involve Aidan Rooney in</p> <p>19 those site walks?</p> <p>20 A. No, because, as I said, these site walks are sort of</p> <p>21 required under the Code of Practice, so I should only</p> <p>22 invite the TCPs to go with me. Typically they are James</p> <p>23 and Joe, which are the respective T5s for the station</p> <p>24 and the stabling sidings --</p> <p>25 COMMISSIONER HANSFORD: Aren't site walks, as I understand</p>

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<p>1 them, also an opportunity to see first-hand what's 2 happening on the site? 3 A. Yes and no. There are, if you like, different focus, 4 because Aidan's site walk typically will put a lot more 5 effort on site safety and resources level, that sort of 6 discussion, because when he sees that things are not 7 progressing satisfactorily, they will probably ask the 8 sub-contractor boss to come in and explain why you don't 9 put in sufficient people, that sort of discussion, which 10 may not necessarily be the focus of the sort of site 11 walks that I had. That's why I tend to have different 12 site walks, rather than joining Aidan's site walks. 13 COMMISSIONER HANSFORD: So you never had joint site walks 14 with Aidan? 15 A. I don't recall I did. 16 COMMISSIONER HANSFORD: Thank you. 17 MR BOULDING: Thank you very much indeed, Mr Wong. 18 CHAIRMAN: Good. Thank you. 19 (The witness was released) 20 MR BOULDING: Chairman, we've picked up speed, and we are 21 going faster, perhaps, then the proverbial MTR train, 22 but nevertheless I have a witness standing by and I'm 23 quite prepared to call him. We have about ten minutes 24 to go. 25 CHAIRMAN: Yes, I make it quarter to. Shall we start?</p>	<p>1 There do we see the first page of your witness 2 statement, Mr Lee? 3 A. Yes. 4 Q. If we could be taken on to B166, please, do we there see 5 your signature under the date of 14 September 2018? 6 A. Yes. 7 Q. But I know there are one or two corrections that you'd 8 like to make, so if we can go to B166.1. Do we there 9 see a correction that you'd like to make to your witness 10 statement? 11 A. Yes. 12 Q. But subject to that correction, are the contents of the 13 statement true to the best of your knowledge and belief? 14 A. Yes. 15 Q. Thank you. It's conventional, Mr Lee, to try to work 16 out where you are in the MTR management organisation. 17 With that point in mind, perhaps we can go to B676. 18 Can we there see you, Mr Lee, the general manager, 19 immediately below Mr Philco Wong? 20 A. Yes. 21 Q. Was that the situation as at January 2015? That's the 22 bottom left-hand corner. 23 A. Yes. 24 Q. If we then look at another organisation chart, a little 25 bit later, B693, again do we see a very similar</p>
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<p>1 MR PENNICOTT: It's entirely up to Mr Boulding. It's 2 Mr TM Lee. I don't know how everybody is fixed and how 3 long we are going to be with him. I won't be very long, 4 I accept, but I doubt we'll finish him tonight. 5 CHAIRMAN: Yes. No, I doubt that, but we might as well get 6 started. If we have five minutes left, that would be 7 a different story, but we have quarter of an hour. 8 MR PENNICOTT: Sure. 9 CHAIRMAN: Thank you. 10 MR BOULDING: We are now finding him. 11 Good afternoon, Mr Lee. 12 WITNESS: Good afternoon. 13 MR BOULDING: Are you going to give evidence in English or 14 Cantonese? 15 WITNESS: English, please. 16 MR BOULDING: Splendid. 17 WITNESS: It will save a lot of time. 18 MR LEE TZE MAN (affirmed) 19 Examination-in-chief by MR BOULDING 20 MR BOULDING: I know you are always referred to as TM Lee 21 but can you please give your full name? 22 A. My full name is Lee Tze Man. 23 Q. I understand you have prepared one witness statement for 24 the assistance of the Commissioners in this matter. If 25 we can look at the first page together. It's B154.</p>	<p>1 organisational chart, with you again immediately below 2 Mr Philco Wong and above Jason Wong? 3 A. Yes. 4 COMMISSIONER HANSFORD: Isn't that the same chart? 5 A. No, I don't think it's the same chart. 6 COMMISSIONER HANSFORD: Sorry. 7 A. I was promoted from acting to general manager. 8 MR BOULDING: Yes. 9 COMMISSIONER HANSFORD: Forgive me. 10 MR BOULDING: Sorry, Professor. I ought to have made that 11 clear. 12 This was the position as at July 2015, was it not, 13 after you had been promoted? 14 A. Yes. 15 Q. Thank you, Mr Lee. What's going to happen now is that 16 Mr Pennicott will ask you some questions first. We 17 might then well run out of time, but tomorrow morning or 18 late tonight you'll be asked questions by my fellow 19 lawyers in the room. The Chairman and the professor can 20 ask questions at any time they like, and I may well have 21 some questions for you at the end of the process. Do 22 you understand that? 23 A. I understand. 24 MR BOULDING: Please sit there. 25 Examination by MR PENNICOTT</p>

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1 MR PENNICOTT: Mr Lee, good afternoon.
2 A. Good afternoon.
3 Q. As Mr Boulding has indicated, my name is Ian Pennicott
4 and I'm one of the counsel to the Commission. I'm going
5 to ask you a few questions before we adjourn for the
6 evening. Thank you very much for coming to give
7 evidence to the Commission this afternoon.
8 A. Okay. Thank you.
9 Q. Mr Lee, as I understand it, you regard yourself very
10 much as the E&M specialist --
11 A. Yes.
12 Q. -- rather than civil or structural; you're an electrical
13 and mechanical chap?
14 A. Yes.
15 Q. Indeed, from what you tell us, I think before you joined
16 the MTRC in 1995, 23 years ago, you were about 12 years
17 in essentially private practice at various E&M --
18 a couple of E&M companies.
19 A. Yes.
20 Q. So far as the SCL project is concerned, from 2010 to the
21 end of 2012, you were the project manager-E&M.
22 A. Yes.
23 Q. Then from the beginning of 2013 towards the end of 2014,
24 you were the general manager-SCL-E&M?
25 A. Yes.

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1 Q. Then, as we've just seen, in November 2014 through to
2 April 2015, acting general manager-SCL. Then, finally,
3 April 2015 to August of this year, you were the general
4 manager for the SCL.
5 A. (Nodded head).
6 Q. For the period of time that we're primarily interested
7 in, Mr Lee, in the Commission, the two people that
8 really reported to you on a regular basis were Mr Rooney
9 and Mr Jason Wong?
10 A. Yes.
11 Q. Could we please go straight to paragraph 18 of your
12 witness statement, and you can either have it on the
13 screen or in hard copy or both.
14 A. On the screen, please.
15 Q. Mr Lee, we see there that you make reference, in
16 paragraph 18, to the fact that you had not heard of the
17 alleged defective steel works until January 2017, when
18 Mr Rooney notified you that he'd received an email
19 earlier that day from Michael Fu, forwarding an email
20 chain containing an email from Mr Poon of China
21 Technology to Mr Zervaas of Leighton.
22 A. Yes.
23 Q. As I understand it from the succeeding paragraphs in
24 your witness statement -- that's in particular 21, 22
25 and 23 -- you had received Michael Fu's assurances that

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1 matters arising from Mr Poon's email have been dealt
2 with?
3 A. Yes.
4 Q. Leightons had have been requested to carry out
5 an investigation and review and submit it to MTR?
6 A. Yes.
7 Q. But, nonetheless, you asked Mr Carl Wu to carry out
8 a review of the MTR procedures?
9 A. Correct.
10 Q. Knowing that Leighton were carrying out this
11 investigation, what was sort of underlying the request
12 to Mr Wu to carry out a review?
13 A. Okay. First, this coupler malpractice was new to me;
14 I never heard of it before. As soon as I received the
15 email from Michael, I thought I need to look --
16 understand it a bit more, look into it; okay? So
17 I forwarded the email -- from my recent recollection --
18 to Philco Wong, although I didn't put it down here
19 because I didn't have a computer when I prepared this
20 witness statement.
21 At the same time, I also forwarded the email to
22 Clement Ngai, asking him to talk to Andy to look into
23 it, et cetera.
24 I remember I called Andy and asked him whether he
25 knows anything about this, and Andy said to me he has

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1 never heard of it on site and it's not a design-related
2 issue.
3 Then subsequently I talked to Michael, because he
4 was the construction manager, he has done some
5 investigation on retrieving the records, et cetera, so
6 he came to my office and then showed me Kobe's email,
7 which you are familiar with, the NCR157.
8 Q. Yes.
9 A. He talked to me: these issues have been rectified
10 on site in 2015, inspector spotted this, identified this
11 malpractice and then they rectified it. So it's
12 an isolated case.
13 I remember I was quite pleased that my inspectors
14 were actually doing what they were supposed to do, so
15 that gave me some sense of relief. That was the
16 feeling.
17 At the same time, I thought my inspector team was
18 doing what they were required to do in an isolated case
19 in that area, but I also wanted to take the opportunity
20 to look at the whole thing, in bigger scale. That's
21 where I come from. That was my thinking.
22 So I talked to Carl Wu, he's a very experienced
23 quality assurance manager, he knows all our PIMS, our
24 hold point check, RISC form, et cetera. So I talked to
25 Carl, I said, "I want to see how our inspector,

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1 frontline inspector, working on site for the whole
2 slab". That's why he organised a quality assurance
3 department, get a quality engineer on site, to review
4 the records, et cetera, et cetera, whether PIMS are --
5 the PIMS system were well followed at that time.
6 Q. That's what I was going to ask you about.
7 A. That is the intention. I want to see a bigger scale of
8 the situation.
9 Q. I see, Mr Lee, but if one looks at paragraph 23 of your
10 witness statement --
11 A. Yes.
12 Q. -- picking it up about four lines down, you say:
13 "Carl Wu suggested performing an internal
14 review ..."
15 A. Yes.
16 Q. No problem with that.
17 "... independent of the MTRCL construction team ..."
18 No problem with that.
19 "... to examine the construction records to confirm
20 that the steel reinforcement and couplers for the EWL
21 track slab ... had been installed in accordance with the
22 requirements of the relevant quality assurance
23 [documents] ..."
24 A. Yes.
25 Q. So it was very much -- and we've obviously heard from

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1 Mr Carl Wu earlier today -- it was very much
2 a records-focused exercise?
3 A. Yes.
4 Q. Is that really what you wanted or did it go wide enough
5 for your bigger picture exercise?
6 A. No, I -- actually, I just want to understand, let him
7 conduct a review, whether our frontline inspectors and
8 engineers follow the system, the PIMS system, of
9 inspecting all the steel bars before concreting.
10 Q. Okay.
11 A. At that time, the slab was already cast, fully cast, in
12 2017.
13 Q. Yes, of course.
14 A. So they have to look at all the records that were
15 compiled during that time.
16 Q. Right. And we heard from Mr Wu that he, and we can see
17 on the face of the report -- that he interviewed just
18 Mr James Ho and Mr Kobe Wong. From your perspective --
19 I know that you invited Michael Fu to really coordinate
20 the report or the production of the report -- you
21 personally didn't seek to limit the people he talked to
22 or the records he got access to or anything like that,
23 but you just left it to him?
24 A. Okay. When I asked them to do the report, there's one
25 word in my mind that I keep very clear, it's

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1 "independence". The audit team is independent from the
2 civil construction team, and they are very qualified
3 audit people. I leave it entirely to them. I want the
4 comfort that the whole thing, whole slab, that was
5 constructed was in -- follows the due requirements of
6 our PIMS system.
7 Q. Okay.
8 A. That's why I didn't give them any guideline or didn't
9 give them any methodology. They are the quality
10 assurance people. They have been doing this for many
11 years, and they have done this report for my contract
12 over the 23 years I was with MTR.
13 Q. Right. So you did see this as, essentially,
14 a specialist audit-type exercise?
15 A. Yes.
16 Q. All right. Obviously you received the report --
17 A. Yes.
18 Q. -- once it had been prepared, and you considered it.
19 A. Yes.
20 Q. You say that you talked to Mr Rooney about it.
21 A. Yes.
22 Q. And the upshot is that both you and Mr Rooney were
23 satisfied; is that right?
24 A. Yes.
25 Q. We don't need to look at it. We've looked at it once or

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1 twice today already and I suspect perhaps you can
2 remember it. The report sets out a number of follow-up
3 actions, Mr Lee.
4 A. Yes.
5 Q. After the report, at any particular point in time, did
6 you speak to Carl Wu or anybody else to see whether
7 those follow-up actions had been indeed followed up?
8 A. Once I received the report from Carl Wu, he briefed me
9 the process of the auditing. He briefed me that some
10 improvement or recommended action that the site team
11 need to follow up, and he said to me: Carl, our
12 construction manager, is aware of these improvement
13 action and he has already tasked or requested them to
14 follow up.
15 And I look at this record issue, it's purely for the
16 construction manager and his team to follow through.
17 I was the construction manager 15 years ago. This would
18 be exactly what I would do. So I delegate that to the
19 construction manager to close them all out.
20 Q. Okay. At or about the time that Mr Wu and Mr Fung were
21 preparing the MTRC report, Leighton, through Mr Lumb and
22 his team, were preparing or doing a similar
23 investigation and review, as we've heard.
24 Did you get to see Mr Lumb's report at the time,
25 Mr Lee?

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1 A. I didn't. I knew from Aidan that Leighton is doing
 2 their in-house internal report, but as I explained
 3 earlier, the thinking was the report I want to do is --
 4 I want to see whether my frontline staff follow the PIMS
 5 system. I trust MTR's PIMS system a lot, because we've
 6 been building railway using exactly this robust system.
 7 Q. But just so I've got that clear, you were aware that
 8 Leightons were carrying out some review and had been
 9 requested to produce a report --
 10 A. Yes.
 11 Q. -- back in 2015, but you didn't enquire about that
 12 report and ask to see a copy of it?
 13 A. I talked to Aidan many times, our offices are actually
 14 next to each other, and he said Leighton is doing the
 15 report and then the result come out, there's no problem,
 16 they've been rectified, they align with what the
 17 inspectors have identified, et cetera.
 18 Q. All right. So although you didn't see the report,
 19 Mr Rooney had indicated to you, having himself seen the
 20 report, that there was consistency?
 21 A. Yes.
 22 Q. All right.
 23 CHAIRMAN: So both reports -- I know you didn't see the one,
 24 but both reports appear to be purely internal and
 25 looking to records?

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1 A. Yes. For me, as the general manager, I need the comfort
 2 that our team is following our PIMS system when they
 3 implement the work on site. That's something I need to
 4 get.
 5 CHAIRMAN: One of the things that's arisen during the
 6 hearing is the fact that nobody actually sought to speak
 7 to Jason Poon and get him to explain what he says he
 8 saw, and perhaps to give consideration to his photograph
 9 or photographs.
 10 A. Yes.
 11 CHAIRMAN: Nor indeed did anybody, at the end of it all,
 12 write to him or phone him to say there had even been
 13 an investigation.
 14 Do you think that your purely internal report, based
 15 on records, might have been expanded to perhaps involve
 16 some form of interview with him?
 17 A. Well, as I said, when I commissioned to do this report,
 18 I wanted it to be independent. I wanted the auditor to
 19 make up their mind what they need to -- who they need to
 20 interview and how much records they want to see. The
 21 focus is I want to make sure the work done in accordance
 22 with PIMS, not because of somebody making some
 23 allegation.
 24 CHAIRMAN: All right.
 25 A. At that time, that was the focus in my mind.

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1 CHAIRMAN: All right. And of course you wouldn't have been
 2 able to dictate to Leightons how they did their report,
 3 presumably?
 4 A. I try not to.
 5 MR PENNICOTT: Sir, unless there's anything I might think of
 6 overnight, I have no further questions for Mr Lee, so
 7 perhaps that might be an appropriate moment.
 8 CHAIRMAN: Thank you. Yes.
 9 Mr Lee, we're sorry but we're going to have to ask
 10 you to come back tomorrow. We hope that we won't keep
 11 you too long.
 12 WITNESS: Okay.
 13 CHAIRMAN: We'll start again tomorrow at 10 am.
 14 WITNESS: 10 am.
 15 CHAIRMAN: Because you are in the middle of giving your
 16 evidence, you are not entitled to discuss your evidence
 17 with anybody overnight or until it is completed.
 18 WITNESS: Understand.
 19 CHAIRMAN: Good. Thank you very much indeed.
 20 (5.08 pm)
 21 (The hearing adjourned until 10.00 am the following day)
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