

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
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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
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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.

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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

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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?

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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.

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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.

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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.

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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.

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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,

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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

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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
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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.

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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

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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
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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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1 forget it.

2 A. I totally agree with you, Mr Chairman. I think if we
3 handle this similar complaint again, we need to carry
4 out a more comprehensive investigation.

5 CHAIRMAN: Yes. The only reason I say that is because the
6 fact that you are in a commercial dispute with
7 a particular sub-contractor obviously is a factor you
8 are going to take into account, obviously, and you are
9 going to look to the genuineness of that person's
10 complaint: is this just a scheme to get the money? And
11 that was actually worded. But if the complaint is
12 an alarming one, and goes perhaps to the integrity of
13 construction, it seems to me you're really obliged,
14 aren't you, to sort of look a bit further, and as you
15 yourself have said, looking back on it now, if something
16 similar arose, you would be a bit more thorough?

17 A. Yes.

18 CHAIRMAN: Or you would request that the report be a bit
19 more thorough?

20 A. I agree.

21 CHAIRMAN: Thank you.

22 MR PENNICOTT: There's no doubt, Mr Fu, is there, that at
23 the time, in 2017, when you were given the emails, you
24 did take a fairly narrow view of the complaint that was
25 being made, and you did appear to equate it, the

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1 complaint, with NCR, the incident of NCR157, and you
2 took that narrow view -- it's right, isn't it?

3 A. Yes.

4 Q. Because if you look at a paragraph in the witness
5 statement of Mr TM Lee, who we're going to be hearing
6 from later this week, essentially he makes that point.

7 If you could be shown B161, paragraph 22 at the
8 bottom of the page, please. This is Mr TM Lee's
9 statement, Mr Fu --

10 A. Yes.

11 Q. -- just so you are aware. He says:

12 "I recall that around that time [that's in January
13 2017] (though I cannot recall the exact date and time),
14 Michael Fu came to brief me and explain to me Jason
15 Poon's allegations in (as well as the photos attached
16 to) Jason Poon's email. Michael Fu showed me an email
17 between Mr Kobe Wong of MTR and Leighton dated
18 15 December 2015 ..."

19 Now, we know that that's the email that's got four
20 photographs attached --

21 A. That's right.

22 Q. -- which then precipitated the issue by Leighton of
23 NCR157?

24 A. That's right.

25 Q. Mr Lee goes on:

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1 "... and assured me that the issue mentioned in
2 Jason Poon's email had already been dealt with in 2015
3 during the construction period."

4 I, as I say, infer from that that you at least at
5 that time were taking this view that the complaint
6 somehow related to NCR157, and didn't really look, as
7 the Chairman has just suggested to you, outside that
8 particular box. I think that would be fair, wouldn't
9 it, Mr Fu?

10 A. Correct.

11 CHAIRMAN: Could I ask one other question, and before I do
12 that, I do want to emphasise that because I'm asking
13 questions about this matter, it's because clearly this
14 report is a material issue when looking at the processes
15 that went on. Do you see the point?

16 A. Yes.

17 CHAIRMAN: It's not to say that any finding has been made as
18 to whether the allegations made were correct or
19 incorrect, but we are looking at process and oversight.

20 The fact that Jason Poon was a sub-contractor, would
21 that have been influential at all? In other words, "We
22 are the contractor" -- you are the MTRCL, and Leightons
23 are the contractors, these are sub-contractors, and you
24 don't deal with them on this sort of basis; you have
25 a form of hierarchy?

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1 A. I would say yes.

2 CHAIRMAN: Yes?

3 A. Yes.

4 CHAIRMAN: Good. Thank you very much.

5 MR PENNICOTT: Then, Mr Fu, on a separate topic, could I ask
6 you, please, to be shown the transcript for Day 27 at
7 page 72, where Mr Derek Ma was giving evidence and
8 answering some questions put by me. This is to do with
9 the retrospective records, Mr Fu.

10 A. Yes.

11 Q. If we look at page 72, we pick it up at line 5. The
12 question was:

13 "Now, with regard to the retrospective records that
14 I mentioned a short while ago, can I just ask you this
15 question. We've seen and we've heard from Mr Ho about
16 a discussion that took place that not only should the
17 retrospective records be prepared but they should be
18 backdated to 10 February 2017. What do you recall about
19 the discussion that took place to implement that
20 backdating?"

21 And Mr Ma said:

22 "There was a meeting of my team where Michael Fu,
23 Kobe [Wong] and Louis [Kwan], we sat down and we took
24 out some materials for the company, and for this
25 checklist we had a discussion.

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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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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
26

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
26

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.

26

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
26

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?

26

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
26

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

26

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
26

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
26

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.

26

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
26

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
26

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?

26

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,

26

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

26

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?

26

1 A. No, I cannot remember. I cannot recall.

2 Q. I would just like to confirm what's your evidence,
3 Mr Fu. Here Mr Ma said there was a discussion between
4 you, Mr Ho and himself, so are you saying that you were
5 not involved in the discussion and the effect of that
6 would be what Mr Ma said here was incorrect?

7 A. I would say I cannot recall.

8 Q. Can I also ask you to take a look at Mr James Ho's
9 witness statement. The reference is B336, at
10 paragraph 53, please. This is the witness statement of
11 Mr James Ho and he said that after discussion with you,
12 Mr Derek Ma and Mr Kobe Wong, the checklists were dated
13 10 February 2017. So are you saying that what Mr Ho is
14 saying here is also incorrect?

15 A. No, I'm not saying that. I'm not saying that.

16 Q. You are saying you could not recall being involved in
17 that conversation?

18 A. I cannot recall what Mr Derek Ma mentioned in his
19 statement, and this is Mr James Ho's statement, talking
20 about the checklists were dated 10 February 2017. As
21 I mentioned earlier, I cannot recall this one because,
22 to me, this 10 February 2017 is meaningless to me,
23 because I did not need to give any direction which
24 particular date needs to be highlighted in the
25 checklists.

26

1 Q. Mr Fu, you were being asked about this topic by my
2 learned friend Mr Pennicott, and, as I recall -- I might
3 be wrong -- the answer that was given by you during your
4 exchange with Mr Pennicott was that you did not know who
5 made the decision, and what you are saying now is
6 somewhat different. You are saying you do not recall
7 being in any of this discussion at all.

8 So I just want to clarify, what exactly is your
9 evidence right now?

10 A. You are talking about discussion, I cannot recall.

11 Q. Right. Can you recall any involvement in the
12 preparation of the retrospective checklists?

13 A. As I mentioned earlier, the involvement basically is
14 a reminder or advice I gave to my team members that if
15 any checklist retrospectively produced, those checklists
16 must be qualified with a remark saying the checklist was
17 produced retrospectively.

18 Q. So you were aware that retrospective checklists were
19 being prepared; is that correct?

20 A. Yes.

21 Q. At that time, were you aware that these checklists were
22 to be shown to the government officers?

23 A. I don't know. I have no idea.

24 Q. In that case, I would like to take you to paragraph 34
25 of Mr Derek Ma's witness statement and see if that could
26

1 help to refresh your memory. The page reference is
2 page B366. That's Mr Derek Ma's witness statement.
3 Sorry for jumping back and forth.

4 On the fifth line, here Mr Derek Ma said that he
5 specifically asked you "how the records should be
6 presented to the BD/RDO/Pypun representatives, having
7 regard to the need to be open and transparent."

8 So now Mr Derek Ma is talking about a rather
9 specific conversation between himself and you. Do you
10 have any recollection of that?

11 A. I cannot recall that.

12 Q. So now, on your evidence, all that you could remember
13 was that a set of retrospective records were being
14 created and you didn't know for what purpose they were
15 created?

16 A. I know those are checklists required to be produced,
17 because it's also, at that particular moment, we also
18 need to satisfy ourselves that we have all sorts of
19 construction records ourselves.

20 Q. And you were concerned that the checklists would send
21 out the incorrect message that they were being prepared
22 contemporaneously, were you, and that's why you've
23 suggested adding a note "retrospective"?

24 A. Yes.

25 Q. Mr Fu, wouldn't it be easier if you simply ask your
26

1 colleagues to date the retrospective record on the date
2 when it's actually created, ie June 2018, rather than
3 adding in that note?

4 A. Well, as I mentioned, I did not involve in giving
5 direction what sort of date this checklist is to be put
6 onto the checklist. I aware that this checklist was
7 dated back to a date in 2017, and then, when I realised
8 that, I gave the advice to my team members that the
9 checklist has to be qualified with a remark.

10 Q. You were actually aware that the checklists were dated
11 in February 2017?

12 A. I realised that the checklists were dated back, dated
13 back to a date.

14 Q. When did you realise that?

15 A. Well, at that time, Mr Kobe Wong was preparing this
16 checklist.

17 Q. So were you shown a copy of the checklist prepared and
18 that's how you came to realise?

19 A. No.

20 Q. Can I ask you how did you become aware that the
21 checklists would be backdated to February 2017 then?

22 A. We're working on the same floor. Mr Kobe Wong, he's
23 sitting outside to my area, and every time when I walk
24 past the area, I notice there's some sort of discussion
25 between the team members in preparing this checklist,

26

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?

26

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.

26

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?

26

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.

26

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.

26

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

26

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.

26

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
26

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.

26

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
26

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
26

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
26

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.

26

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
26

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
26

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
26

1 assistance or guidance if so required.

2 Q. So you didn't actually look and review the documentation
3 yourself; is that the position?

4 A. Correct.

5 Q. Now, I referred you to paragraph 41 of your witness
6 statement a short while ago, and it's a little bit
7 unclear as to precisely when this review kicked off, but
8 we know it ended on 8 February. So this took, what,
9 five or six weeks to prepare? Is that the sort of
10 period we're looking at, Mr Wu?

11 A. I am not certain of the exact date when the review
12 commenced, but the review took, to the best of my
13 recollection, two to three days to complete. And we
14 issued a draft report prior to the Chinese New Year at
15 the time, I recall that was in January, and after the
16 Chinese New Year Mr Peter Fung and I signed off the
17 final report and issued it on 8 February.

18 Q. Right.

19 A. So the actual review, the fieldwork, took perhaps two to
20 three days, and it took another two to three days to
21 prepare the draft report, and then it would be after the
22 Chinese New Year that we issued the formal report.

23 Q. Okay. To whom did you give the draft report?

24 A. I first sent it to Mr Michael Fu. He did not have any
25 comment. Then I passed the draft report to Mr TM Lee

26

1 and Mr Aidan Rooney, who were the persons asking for the
2 review. Mr TM Lee did not have any comment. Mr Rooney
3 had just one very minor, as I recall, comment on the
4 choice of a word. Then I turned the draft report into
5 a formal report, sent it off to Mr Peter Fung to sign
6 off, then I signed off, and I passed the signed copy to
7 Mr TM Lee and to Mr Aidan Rooney.

8 Q. Right. Can I ask you, please, to look at paragraph 4.3
9 of the report, on page 4518, where you list a number of
10 follow-up -- recommended follow-up actions; do you see
11 that, Mr Wu?

12 A. Yes.

13 Q. And you say:

14 "Obtain from Leighton the latest 'for construction'
15 version of the inspection and test plan as described in
16 the ... method statement, and confirm that the
17 construction records were consistent with the
18 requirements of the prescribed inspection and test
19 regime."

20 Then there are a couple of other recommended
21 follow-up actions.

22 You then turn, at paragraph 5, to the quality
23 assurance scheme of the couplers. You refer to a QSP
24 and you refer to the notice of commencement issued by
25 the Buildings Department in relation to areas C1 and C2.

26

1 A. Correct.

2 Q. Then you set out the key requirements of the QSP, and in
3 particular you make reference to Leighton's obligation
4 to provide full-time supervision of the mechanical
5 coupler works by a T3, and the MTR to provide
6 20 per cent supervision of the splicing assemblies by
7 a T3.

8 A. Yes.

9 Q. I'm not too concerned about the others.

10 However, over the page, at 4519, continuing the
11 bullet points, you make reference to, the second bullet
12 point down there:

13 "Leighton's quality control supervisors to carry out
14 full-time supervision of splicing assemblies on site and
15 maintain inspection records ..."

16 Then you cross-refer to appendix C to the QSP. And
17 likewise, in the next bullet point, a similar reference
18 in relation to MTR's obligations; do you see that?

19 A. Yes.

20 Q. Then you have a series of recommended follow-up actions,
21 again, and the second bullet point, you say:

22 "Confirm the frequency of Leighton and MTRC
23 supervision were in compliance with the requirement of
24 the QSP, and were recorded on the record sheet ..."

25 So the position is, Mr Wu, at the time you wrote
26

1 this report, there were no record sheets in the form of
2 appendix C to the QSP; is that correct?

3 A. May I seek clarification? When you said "there were
4 no", are you referring to complete absence of?

5 Q. I am, in the form of the record sheet appendix C, that
6 we know should be appendix B, of the QSP.

7 A. During the review, I was not informed by my auditor,
8 Mr Peter Fung, that there was complete absence of any
9 one of the records. I was informed that these
10 recommended follow-up actions are related to records
11 which require better collation; they were incomplete.

12 Q. And you wouldn't know whether that was right or not
13 because you didn't look at the documents?

14 A. Can you repeat that question again, please?

15 Q. You would not know whether that assumption that you made
16 was correct, because you told us a moment ago that you
17 didn't actually look at the documents that Mr Fung had
18 collated?

19 A. That was not an assumption. That was what was reported
20 to me.

21 Q. Right. That was not a report that you checked by
22 looking at the documents and asking what was missing?

23 A. These five bullet points here, under 5.1, were records
24 that were incomplete.

25 Q. All right. The next bullet point:

26

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
26

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
26

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

26

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

26

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
26

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

26

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
26

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.

26

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
26

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.

26

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
26

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?

26

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?

26

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
26

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
26

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
26

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?

26

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
26

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.

26

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
26

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?

26

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
26

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 MTR, 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
26

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

26

1 breakdown, and hence the positive conclusion.

2 Q. My last question is -- you told us earlier that you were
3 asked to carry out this review to address the allegation
4 of improperly installed couplers. I have difficulty in
5 seeing how a paper review of the documents could
6 possibly address such allegation. Can you explain?

7 A. The objective of the review, the scope of the review, is
8 clearly stated in my report. Through the evaluation of
9 the records, we want to establish, irrespective of any
10 allegation, that MTRC has done what we are supposed to
11 do. And, as I explained to you and to Mr Pennicott
12 a bit earlier, we looked at the different cheese slices,
13 the organisation and arrangement, the man-made system,
14 and see if there was a system breakdown, and we were
15 satisfied that the system was intact, there was no
16 breakdown of the system, and hence the positive
17 conclusion.

18 Q. So what you are telling us -- well, the way I understand
19 your evidence -- is so long as there are RISC forms that
20 cover all the bays or the whole area of the slab, then
21 you would be satisfied that the allegation of improperly
22 installed couplers was baseless?

23 A. I am not associating with whether the allegation is
24 baseless or not. I am mandated to carry out the review
25 of the records to confirm that there are organisations
26

1 and arrangement in place for managing the construction
2 of the EWL slab, and that the system is effective and no
3 system breakdown.

4 MR CHOW: Thank you, Mr Wu. I have no more questions for
5 you.

6 Thank you, sir.

7 MR BOULDING: Sir, I might have a couple of questions that
8 will require me to turn up documentation. I see it's
9 gone 1.00. I wonder whether we might break here and
10 come back at 2.15.

11 CHAIRMAN: Yes, certainly. That's a good idea. Thank you.
12 2.15.

13 MR BOULDING: Thank you very much.

14 (1.05 pm)

15 (The luncheon adjournment)

16 (2.18 pm)

17 Re-examination by MR BOULDING

18 MR BOULDING: Good afternoon, Chairman. Good afternoon,
19 Professor.

20 Good afternoon, Mr Wu. I would just like to ask you
21 about one matter, if I may.

22 A. Yes.

23 Q. And that's the matter of the quality supervision plan or
24 the QSP.

25 A. Yes.

26

1 Q. Do you remember being asked about the QSP and in
2 particular the version of the QSP that you had looked at
3 by my learned friend Mr Anthony Chow for the government?

4 A. Can you repeat that question?

5 Q. Yes. Do you remember being asked about the QSP by
6 Mr Chow who represents the government?

7 A. Yes, I remember.

8 Q. Thank you. In particular, you were asked about whether
9 or not you had looked at the correct version; do you
10 remember him suggesting that to you?

11 A. I remember.

12 Q. The transcript -- and I'm looking at [draft] page 81
13 today -- records that the following exchange took place:

14 "Can I ask this: is this the first time that you
15 learn that there exists another version, or there exists
16 a QSP that applies to the slab?

17 Answer: It came to my attention throughout --
18 during this COI, that there was another version.

19 Question: I see. And even then, before today, you
20 were not interested to find out whether there was any
21 difference between the two versions; is that right?

22 Answer: But, correct me if I am wrong, throughout
23 this COI process, it was found that the two QSPs were
24 broadly identical, were they not?"

25 Do you remember that exchange with Mr Chow?

26

1 A. Yes.

2 Q. I wonder if we can look at a document together, and
3 that's B2659. There, do you see a document from
4 Leighton's Mr Malcolm Plummer to the construction
5 manager of MTR, enclosing a document titled, "Quality
6 supervision plan for the installation of couplers for
7 diaphragm wall and barrettes by BOSA -- second
8 submission"; do you see that?

9 A. I can see that.

10 Q. Do I understand this to be the version of the QSP that
11 you looked at for the purpose of preparing your review
12 report?

13 A. Yes.

14 Q. Just to get the title, perhaps we could go to 2660, and
15 there do we see the first page of the QSP that you
16 looked at?

17 A. Yes.

18 Q. Then moving on, if we may, to page 2664, am I right in
19 thinking that this is the part of the QSP which deals
20 with supervision on quality assurance of the site works,
21 including the couplers?

22 A. Yes.

23 Q. And that's the part of the document, as I understand it,
24 that you in -- in particular, you took into account; is
25 that correct?

26

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.

26

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
26

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

26

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
26

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: 係，你好。

24 MR BOULDING: Can you hear me now?

25 WITNESS: Yes, I can. 係，聽到。

26

1 MR YEUNG CHI KIN (affirmed in Puntì)

2 Examination-in-chief by MR BOULDING

3 MR BOULDING: I understand that your full name is Yeung

4 Chi Kin?

5 A. 正確。

6 Q. Thank you. You've produced just one statement for the

7 assistance of the learned Commissioners in this matter.

8 I hope we find the first page at page B484.

9 There do we see the first page of your witness

10 statement, Mr Yeung?

11 A. 睇到。

12 Q. Then if we could go on a page, please, to page B492. Is

13 that your signature under the date of 13 September 2018?

14 A. 正確。

15 Q. Are the contents of that statement true to the best of

16 your knowledge and belief?

17 A. 真確。

18 Q. Unfortunately, Mr Yeung, we do not have

19 an organisational chart showing where you are in the

20 MTR, but I understand that you were, at all material

21 times, a senior quality assurance engineer; is that

22 correct?

23 A. 喺, 正確。

24 Q. All right. Mr Yeung, against that background, what's

25 going to happen now is that you'll be asked some

1 questions, probably by Mr Pennicott, who's the lawyer
2 assisting the Commissioners. Then some of the lawyers
3 in the room might ask you some questions. The
4 Commissioners can ask you questions at any time they
5 like, and depending upon how it goes I might ask you one
6 or two questions at the end; do you understand?

7 A. 明白。

8 MR BOULDING: Thank you very much.

9 Examination by MR PENNICOTT

10 MR PENNICOTT: Mr Yeung, good afternoon. As Mr Boulding has
11 indicated, my name is Ian Pennicott, I'm one of the
12 lawyers for the Commission, and I'm going to ask you
13 some questions first.

14 Sir and professor, the topic we're on with Mr Yeung
15 is essentially audits. That's what we're here to hear
16 about, so far as Mr Yeung is concerned.

17 Mr Yeung, as Mr Boulding has indicated, you were or
18 are senior quality assurance engineer since about
19 January 2011, as far as I can work out; is that right?

20 A. 喺。

21 Q. Since the beginning of 2017, you've been the MTRC's
22 project quality manager?

23 A. 唔係。

24 Q. All right. Don't worry about that then. Senior quality
25 assurance engineer it is.

1 A. Senior, 係。

2 Q. And your role, as far as I can work out, is essentially
3 a dual role. You're involved in the development, the
4 continuing development and implementation of PIMS; is
5 that right?

6 A. 正確。

7 Q. And you're also involved in the quality audits of
8 records, both in relation to the MTRC and also the
9 contractors that the MTRC engages from time to time?

10 A. 正確。

11 Q. And your role is not project-specific but ranges over
12 all the various projects that the MTR has going at any
13 given time?

14 A. 冇錯, 係唔只SCL嘅, 其他project都係。

15 Q. Indeed. Right. So far as your auditing role is
16 concerned, is there a part of the PIMS documentation
17 which identifies the areas under any particular contract
18 which should be audited?

19 A. 我哋PIMS嗰個practice note 013呢個auditing process裏面就係講
20 話我哋要prepare一個audit programme, 呢個audit programme我哋
21 就會跟住呢個audit programme就會去conduct一啲quality audit,
22 你嘅問題就話有冇啲PIMS係講係邊一啲contract係要audit, 其實係要睇
23 番第一, 就係嗰個合約嘅要求; 第二, 就係話會唔會有啲senior
24 management佢就會request有冇一啲特別嘅audit, 一啲ad hoc嘅audit;

1 第三，就係因為我哋係implement ISO 9001呢個quality management
2 system嘅，我哋都會係跟呢個標準。

3 Q. I understand, Mr Yeung, that the practice note you refer
4 to, I think in paragraph 11 of your witness statement,
5 sets out the process and the procedures that are to be
6 followed. I was really trying to drive at the actual
7 subject matter, and I think, is this right, that you say
8 that's really driven by the particular contract terms
9 that the MTR may enter into and then will also be driven
10 by any requests that are made by the management of those
11 particular contracts?

12 A. 正確。

13 Q. Is this the case: do you yourself, as the senior quality
14 assurance engineer, take the initiative at any
15 particular point in time to say, "Well, we're going to
16 audit this" or "We're going to audit that", or is it
17 very much reactive to the requests of the senior project
18 management on any particular contract?

19 A. 首先，就所有audit就係預早就係plan咗嘅，即係我哋唔係話而家去做audit
20 咁就再睇咁樣，我哋一年前就有一個yearly audit嘅programme，我哋一
21 定就會跟番呢一個audit programme就去conduct個audit。During喺
22 個年裏面，就會有一啲特別嘅request，好似頭先都提過，一啲request話
23 即係senior management我哋去睇，我哋就會去做。但係你話我哋會唔會
24 突然之間去做一啲audit呢，呢個就唔係我哋一貫practice嚟嘅，我哋唔
25 會係咁樣做。

1 Q. Understood. So, if one looks at paragraph 15 of your
2 witness statement, please, at page 486 -- you're dealing
3 there with internal quality audits, and by the word
4 "internal" I understand you to mean MTRC; is that right?

5 A. 係，冇錯。

6 Q. So you say:

7 "The QA team conducts internal quality audits which
8 audit the project division's implementation of the PIMS,
9 covering special areas such as interface management,
10 drawings management, risk management, stakeholder
11 engagement, the inspection and testing process, the
12 control of defects and non-conformance works."

13 Then you refer again to the practice note.

14 So far as defects and non-conformance works are
15 concerned, do you treat those as two separate topics or
16 are they one and the same?

17 A. 我哋做quality audit呢，我哋係identify一啲quality嘅
18 non-conformance，呢度講item 15講control of defects and
19 work and--sorry，control of defects and non-conformance
20 works，呢個只係講緊係喺internal quality audit嗰陣時，我哋會
21 睇呢一啲嘅processes。

22 Q. Right. But are they two separate things, defects on the
23 one hand --

24 A. 哦，defects，defects同埋non-conformance works係two
25 different things。

1 Q. Okay. Let's suppose you were carrying out an audit on
2 non-conformance works, as opposed to defects,
3 non-conformance works. What sort of documents, what
4 sort of records, would you be looking for in your audit
5 on that particular topic?

6 A. 呢度就係講緊internal quality audits嘅，如果internal quality
7 audits，我哋睇non-conformance works，我會去個CM team，第一，
8 我會睇一睇佢個non-conformance嘅register，我會睇番佢個
9 non-conformance works嗰啲個follow-up有冇close out同埋一啲
10 documents去maintain番啲record。

11 Q. Right. You've answered my next question: the MTR keeps
12 a register of non-conformances?

13 A. 正確，yes。

14 Q. I think Mr Rooney told us that there were two registers
15 of non-conformances, one for MTRC-issued non-conformance
16 reports and one for the contractor's-issued
17 non-conformance reports; is that right?

18 A. Correct.

19 Q. And as I think you have indicated and as Mr Rooney told
20 us, you, as a quality assurance engineer, would have
21 access to those registers?

22 A. 正確。

23 Q. Is there a -- to your way of thinking, is there
24 a procedural document within PIMS or elsewhere which
25 specifies which non-conformances should be reported and

1 records should be kept?

2 A. 有一份practice note 11-4 "Monitoring of site works" , 呢
3 一份practice note有講, 就係話一啲significant works嘅NCR就要
4 係--即係CM team如果identify咗, 係要raise, 就同埋close out。

5 Q. Yes. Could we have a look at B3/1615, please.

6 I think, Mr Yeung, correct me if I am wrong, this is
7 the document you have just referred to?

8 A. 正確。

9 Q. As you rightly say, in the third sentence under the
10 definition, it says:

11 "A works NCR is raised where the non-conforming
12 product is significant and that corrective and
13 preventive actions are required to prevent recurrence of
14 similar nature."

15 And I think, as we've mentioned to at least one
16 other witness, Mr Rooney I think, that's very much
17 a subjective requirement?

18 A. 表面就好似係subjective, 但係喺呢個construction practice, 就
19 Let's say, 呢個佢哋construction team係明白咩嘢為之significant,
20 如果你睇番我哋過往MTR raise嘅所有works NCR, 佢哋唔係一啲minor嘅
21 defects, significant works NCR就需要一啲root cause analyses,
22 step 1, 要明白佢呢個NCR嗰個root cause係乜嘢, 跟住你要有corrective
23 action, corrective action即係話搞--直情做番好, preventive
24 action就係話令到佢唔會再發生, 呢啲係deal with一啲significant

1 works NCR。

2 Whereas一啲minor嘅defects，你係可能within half a day or--
3 即係好少嘅effort就已經係修補番，呢類嘅minor defects係好多、好多，
4 就唔會係works NCR。呢啲minor嘅defects通常就係用個RISC form，
5 R-I-S-C，RISC form嗰度去deal with，RISC form裏面，我哋啲幫辦
6 佢喺site睇到一啲defects，佢覺得係一啲minor，佢會即時會講畀個
7 contractor，跟住佢會記錄番，跟住佢知道去做法--睇番個same RISC
8 form，就話rectified，呢個已經係close out咗。

9 COMMISSIONER HANSFORD: Mr Yeung, I was struggling with the
10 difference between a defect and a non-conformance works,
11 but perhaps you just answered that. Are you saying
12 something minor is called a defect, and something
13 significant is called a non-conformance; is that right?

14 A. By definition, non-conformance即係佢唔comply with一啲
15 requirement，就係non-compliance，我哋而家講緊係works
16 non-compliance，即係話佢喺works佢唔跟一啲specification，一
17 啲要求；而我哋去raise works NCR，就係一啲significant嘅works
18 NCR；一啲唔significant，但係都係一啲NCR，係一啲--即係變咗係一
19 啲defects嗰類，就唔會係raise as a works NCR。

20 COMMISSIONER HANSFORD: So what else is a defect, other than
21 a minor non-conformance?

22 A. Defects係喺routine一啲workmanship，可能做得唔好，可能係一啲--
23 即係做錯咗，但係唔需要好substantial effort或者time去rectify一
24 啲defect，所有works NCR，即係今次係你哋傾呢啲NCR係一啲major嘅，

1 即係唔會話一、兩日就做完咗嘅。

2 For the works NCR, usually it's major type, which
3 takes a longer time and you need to investigate the root
4 cause, carry out corrective and preventive actions.

5 COMMISSIONER HANSFORD: I understand your answer regarding
6 what an NCR is and what a non-conformance is, but I'm
7 still struggling a little bit. I think I understand
8 from what you said that a defect is a minor
9 non-conformance; is that correct?

10 A. Correct. That's correct.

11 COMMISSIONER HANSFORD: That is correct?

12 A. Yes.

13 MR PENNICOTT: And the question -- if that's right, and
14 let's assume it is; I'm sure it is, Mr Yeung -- how then
15 do you go about auditing that sort of problem, the minor
16 non-conformance?

17 A. Minor defects.

18 Q. How do you go about auditing that?

19 A. You wouldn't audit minor defects.

20 Q. Right.

21 A. But if you look at the RISC forms from the inspectors,
22 you will find that they would record the defects, the
23 type of defects, and then you will see they close out
24 from the RISC form. That's the way we do it.

25 Q. Thank you for that, Mr Yeung.

26 Can I just ask you a couple of questions about the

1 Code of Practice, just to get your views about a couple
2 of paragraphs in there and how it interrelates with the
3 recording of non-conformances. Could you please be
4 shown the Code of Practice, B5/2697. If you look at
5 paragraph 5.4 -- sorry, Mr Yeung, I'm assuming that the
6 Code of Practice is something you are familiar with?

7 A. I might say I am aware of this Code of Practice, but
8 I think our engineering team would be more familiar.

9 Q. All right. Let me just -- I won't press you too much on
10 this then. If you look at paragraph 5.4 in the Code of
11 Practice, it says this:

12 "All non-conformities detected during the checking
13 of typical items for specific tasks by the TCPs must be
14 properly recorded in the non-conformity and
15 rectification reports, form B at appendix III to this
16 code. Detailed procedures for dealing with
17 non-conformities are specified in paragraph 10.3 of this
18 code."

19 So that's 5.4, "All be in conformities detected ...
20 must be properly recorded".

21 I won't ask you the question just yet. Let's look
22 at one more paragraph, if we could. 10.3 at 2739.
23 Again, "Non-conformity and rectification reports" is the
24 heading. It says:

25 "If a non-conformity arises and comes to the
26 attention of a TCP, the following procedures should be

1 initiated:

2 (i) The TCP informs the representative of his own
3 functional stream ... completes part 1 of form B".

4 Let's just pause there because then it gets on to
5 questions of posing imminent danger which I'm not
6 terribly interested in at the moment.

7 So this is a reference to, as we saw in
8 paragraph 5.4, "All non-conformities", and here we've
9 got no limitation, "If a non-conformity arises", and so
10 forth.

11 How does that reconcile, in your mind, Mr Yeung, if
12 it does at all, with the "significant" requirement that
13 we've seen in the guidelines at appendix 11-4?

14 A. I think -- I would say the non-conformance mentioned in
15 this CoP -- I'm not in a position to comment on this,
16 because I think the definition is different. The works
17 non-conformance, yes, that's within our PIMS, the
18 process to manage -- to report the PIMS and close out
19 the works NCR, that is our system.

20 But the process for the non-conformance report,
21 within this CoP, that's different. That's a process
22 that I must say I'm not familiar with.

23 Q. Okay.

24 A. Because I'm not a TCP.

25 Q. I understand, yes.

26 So you wouldn't be able to express a view how one

1 might go about auditing compliance with the two
2 provisions that I've just shown you in the Code of
3 Practice?

4 A. No.

5 Q. All right. Now, am I right in thinking, Mr Yeung, that
6 there was only one internal quality audit carried out in
7 respect of contract 1112?

8 A. In the internal quality audits, there are two types. In
9 2014, the internal quality audit was carried out. There
10 are two types. One is the internal quality audit
11 carried out by the QA team, that's my team.

12 Q. Yes.

13 A. The other type of internal quality audit is carried out
14 by the project team. We call it the self-quality audit.

15 So regarding contract 1112, we have conducted two
16 internal -- my team conducted two internal quality
17 audits, one in 2014 and the other one is just this year,
18 a few months ago. There are two self-quality audits,
19 they were conducted by the CM team, cross team, there
20 were two, I think one in 2016, the other one is 2017.

21 Q. Yes. Can we just look at the one that you did in 2014.

22 A. Yes.

23 Q. That's the one you mention in your witness statement.
24 B9/6579.

25 Have you got that up on the screen?

26 A. Yes.

1 Q. Thank you very much. This is a memo from the acting
2 project quality manager, enclosing internal quality
3 audit report. The distribution list is enormous, over
4 the page at 6580.

5 If we go to 6582, we see the internal quality audit
6 report, and then the next page, 6583, we see who it's
7 prepared by, and there's a familiar name in the second
8 line, Peter Fung, and it was reviewed by you, Mr Yeung?

9 A. That's correct, yes.

10 Q. This report, as I understand it, focused on -- I'm
11 trying to summarise it for you; it might be easier to
12 ask you. First of all, this risk report -- sorry, the
13 internal quality audit report -- would have been
14 requested by the construction management team?

15 A. No. This is the annual planned quality audit.

16 Q. Right. How long do these -- how long did this sort of
17 report take to put together?

18 A. For the on-site audit, usually it would take about two
19 to three weeks, on site work, two to three weeks. Then
20 another couple of weeks for drafting the audit findings,
21 and then we have to confirm with the CM team, the
22 auditees, on the audit findings, and then after that we
23 will send out the draft audit report to all the auditees
24 for their comments, and after that then we will issue
25 the report to all senior management.

26 Q. In paragraph 20 -- let's look at it in paragraph 20 of

1 your report, the way you describe this -- you say:

2 "The scope of the audit ... was the implementation
3 status of project risk management, which is the
4 procedure adopted to identify and mitigate project
5 risks."

6 So you were looking at the general topic of risk
7 management; is that right, Mr Yeung?

8 A. Within our PIMS, we have a process called project risk
9 management, so I'm auditing that particular process.

10 Q. Right. And, as you have said just now, as part of the
11 annual process --

12 A. Annual process, yes.

13 Q. -- as opposed to any specific --

14 A. That's correct.

15 Q. You say:

16 "The result of the audit was that the project risk
17 registers were maintained up to date", and so forth?

18 A. That's correct.

19 Q. Would this type of audit, project risk management,
20 project risk registers, would that have included the
21 risk that particular site records were being maintained
22 or not maintained?

23 A. No. You wouldn't expect this sort of record-keeping in
24 the risk register.

25 Q. And so you wouldn't have, as it were, looked behind the
26 registers to see whether site records were being

1 maintained?

2 A. As part of the process, when you audit the risk
3 management process, yes, there would be records that we
4 need to check, to confirm a particular risk has been
5 mitigated and the records have been maintained.

6 Q. Yes. But this is not an audit which would have involved
7 looking at the non-conformance registers?

8 A. No.

9 Q. This was very much risk management --

10 A. Risk management.

11 Q. -- focused?

12 A. Yes.

13 Q. In paragraph 20 of your witness statement, the last
14 sentence, you say:

15 "The QA team did not have any recommendations for
16 the construction management team of contract 1112 in
17 this audit."

18 So does one conclude from that that the risk
19 management system that you were auditing was considered
20 to be working perfectly well?

21 A. At that time, yes, I think.

22 Q. Was it unusual for you not to have any comments at the
23 conclusion of an audit?

24 A. No, not unusual.

25 Q. Okay.

26 Can we then turn to contractor quality audits. Can

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
26 construction stage, we would carry out at least two

1 quality audits.

2 Q. Right. So this being an example of a contract where
3 there was nothing specified in the contract as to when
4 the audits were carried out, my question was is it
5 typical that the first audit is not carried out until
6 three years into the contract, or is that usual?

7 A. Well, I would say the first quality audit usually will
8 not be carried out in the first year or so, because you
9 would not expect any major activities during, you know,
10 the early stage. But maybe during the second or third
11 year, yes.

12 Q. Okay, because -- sorry, sir.

13 COMMISSIONER HANSFORD: No, I'm just reflecting the previous
14 answer you gave. What is the logic for a target cost
15 contract not having milestone date audits? Why is that
16 the case?

17 MR PENNICOTT: I suspect Mr Yeung will know the answer to
18 that.

19 A. If it's contracts with milestone dates, then we have to
20 do it. We have to comply with the requirements, so we
21 have to plan the audit for those contracts with
22 milestone dates.

23 COMMISSIONER HANSFORD: I understand that. And those with
24 target costs?

25 A. Target costs, there's no requirement -- well, within our
26 PIMS, there's no requirement that we need to conduct

1 audit, say, every year.

2 COMMISSIONER HANSFORD: I still don't quite understand the
3 logic. Why would a target cost contract require
4 a lesser frequency, perhaps, of audits? In your
5 experience as an experienced quality auditor, why would
6 that be the case?

7 A. I think, from memory, this contract, 1112, we did not
8 plan any audit for 2014 or 2015.

9 COMMISSIONER HANSFORD: But you don't know why?

10 A. I don't know. Perhaps with the resources issue, at that
11 time when we had four or five projects running; I don't
12 know.

13 COMMISSIONER HANSFORD: All right. Thank you.

14 MR PENNICOTT: I suppose the general question really --
15 I hear what you say, Mr Yeung, about not necessarily
16 doing audits in the first year, and perhaps leaving it
17 a little bit longer, but as a matter of principle, would
18 it not be better to get an early indication of how well
19 the procedures and plans were working on a particular
20 contract?

21 A. Yes, I would agree with you.

22 Q. Okay. And in relation to this particular audit, which
23 you deal with in paragraph 24 of your witness statement,
24 again you were the reviewer, I think, of that --

25 A. Yes.

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

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

2 "The scope of this audit was Leighton's commitments
3 made in the quality plan for the construction of the new
4 stabling sidings at the former Hung Hom freight yard and
5 the installation of acoustic panels and modification
6 works in the existing HUH Station. The scope of the
7 audit was determined by the QA team, who randomly
8 selected a few of the contract 1112 work processes that
9 were active at the time."

10 And so that was a simply random selection, was it,
11 that you ended up looking at the installation of
12 acoustic panels at the freight yard?

13 A. Yes.

14 Q. Okay. Was there no -- I appreciate you say it was
15 random, but was there any thought given to high-risk
16 areas that might exist in terms of the construction
17 processes that were taking place at the time?

18 A. Well, I wasn't the auditor for this audit, but as
19 a practice, when we work out the audit scope, we would
20 review the contractor's -- let's say the monthly
21 progress reports and also MTR's monthly progress
22 reports. We also look at the contractor's quality audit
23 plan, and also sometimes, if necessary, we will discuss
24 with the site team and get some feedback from them, so
25 that we can prepare the audit scope, the audit topics.

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

1 audit.

2 Q. Just to put the question in the context of this Inquiry,
3 Mr Yeung -- as you know, one of the matters we're
4 debating is the proper installation of rebar into --
5 threaded rebar into couplers, and this was recognised in
6 the contract between the MTR and Leighton as
7 a potentially risk area, potential risk area, and
8 a quality supervision plan was introduced to enhance the
9 supervision requirements.

10 So no thought -- when a risk area is identified like
11 that, perhaps, in a contract, the audit team doesn't
12 give consideration as to whether that would be
13 an appropriate topic for audit, that is the installation
14 of threaded rebar into couplers?

15 A. At that time, that part of the work was completed,
16 I think.

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

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

19 Q. But had you given it any thought back in 2015? Might
20 things have been different?

21 A. Possibly, yes, I don't know. But there was no audit
22 conducted in 2015.

23 Q. No. All right. The subject matter of the second
24 contract quality audit you deal with in paragraph 25 of
25 your witness statement, and you say that the topic of
26 the second audit was, in summary, the completion of

1 architectural finishes and the preparation of associated
2 as-built drawings.

3 A. Yes.

4 Q. Again, presumably this was not some form of risk or
5 high-risk subject matter at the time. Again, was this
6 just random selection?

7 A. I think that was when they were preparing the as-built
8 records for the FSD inspection.

9 Q. Right. But was it specific to architectural finishes?
10 It says "completion of the architectural builders' works
11 and finishes"; do you see that? So not the structural
12 engineering drawings or anything like that. They were
13 a specific area of drawings.

14 A. Not structure, not structural, no.

15 Q. Okay.

16 Can I just ask you, please, to go back to
17 paragraph 8 of your witness statement and pick up
18 a point which I think you mentioned earlier, in
19 an answer to Prof Hansford. You say there:

20 "The QA team consists of five engineers", and you
21 list them out, "and two administrative assistants."

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

23 A. Yes.

24 Q. Do you regard that level of resource, Mr Yeung, as
25 adequate for the type of audits and the number of audits
26 that you have to carry out?

1 A. The set-up of the QA team, the size of the QA team, and
2 also the roles and responsibility of this team, is very
3 similar to the other projects that we have completed in
4 the past and they have been quite successful. So
5 I think that is possibly the reason why, for the SCL,
6 this set-up, you know this small QA team. Currently
7 it's five engineers and two AAs, but during the peak,
8 a few years ago, there were more people, more QA
9 engineers than five, you know --

10 Q. Because on the project --

11 A. -- it's very small.

12 Q. I'm sorry. On the project as a whole, there are a very
13 significant number of civil contracts and E&M contracts
14 and other contracts.

15 A. Mmm.

16 Q. And I assume you are involved or potentially involved in
17 the audits -- carrying out audits in relation to all of
18 those contracts?

19 A. That's correct.

20 Q. But you take the view that it's a sufficient level of
21 resource that you have, for the tasks that you have to
22 carry out?

23 A. Yes.

24 Q. All right.

25 Sorry, sir.

26 COMMISSIONER HANSFORD: Just on that, I don't know if you

1 were listening outside the room, Mr Yeung, but we
2 previously had Mr Wu giving evidence, and he told us
3 that a project division quality working group has just
4 been set up.

5 A. Yes.

6 COMMISSIONER HANSFORD: Does the scope of that group also
7 include looking at the adequacy and frequency of quality
8 audits, do you know?

9 A. No.

10 COMMISSIONER HANSFORD: It doesn't?

11 A. It doesn't.

12 COMMISSIONER HANSFORD: Okay. Thank you.

13 MR PENNICOTT: Sir, thank you very much. I have no further
14 questions.

15 MR CHANG: No questions from Leighton.

16 MR SO: No questions from China Tech.

17 MR CONNOR: None from Atkins.

18 MR CHOW: Chairman, I have a few questions.

19 CHAIRMAN: Yes.

20 Cross-examination by MR CHOW

21 MR CHOW: Good afternoon, Mr Yeung. I only have a few
22 questions, on one specific area, which is the
23 self-quality audits --

24 A. Yes.

25 Q. -- that have been carried out on contract 1112, which
26 you refer to in paragraphs 26 to 30 of your statement.

1 In paragraph 29 of your statement, you say:

2 "In the 2016 audit, contract 1112 was found to be
3 compliant with ... PIMS requirements, including ... the
4 processes adopted in relation to RISC forms and NCRs."

5 Now, when I first read it, the part which is
6 eye-catching is your confirmation as to the compliance
7 with PIMS requirements, which at the beginning seems to
8 suggest that there is a compliance in relation to all
9 aspects of the requirement of PIMS.

10 But when I look at the details of your report, for
11 example -- the report can be found in bundle B9, you set
12 out the details, the specific areas that have been
13 looked at for that self-quality audit, and the area is
14 quite confined, actually, and only looks at certain
15 specific areas.

16 Of relevance is items 14 and 15. Can we go to have
17 a look at page 6711 of that report. Item 14 is the item
18 that deals with the RISC form, and the specific question
19 posed is:

20 "Was request for inspection, testing or survey check
21 of site works made by means of a standard RISC/RIT
22 form?"

23 The result of the audit is that, in relation to this
24 specific question, it is found to be satisfactory; is
25 that right?

26 A. Yes, correct.

1 Q. Am I right in thinking that in conducting this sort of
2 self-audit, it does not involve interviewing the maker
3 of the documents?

4 A. I'm sorry, what do you mean by --

5 Q. For example, if you are looking at the RISC form, you
6 would not interview the signatory of the RISC form;
7 right? So you just look at what appears on the face of
8 the document; is that right?

9 A. The self-quality audits are conducted by the site team.

10 Q. Yes.

11 A. The cross team. For example, this contract 1112, the
12 auditor would be from another contract, also from the CM
13 team. So, when they audited contract 1112, they would
14 ask for -- they would ask that question, item 14: was
15 the RISC form -- you know, "works made by means of
16 a standard RISC" -- so they asked for evidence. So the
17 contract 1112 CM team would have shown the RISC form to
18 the auditor. So, in this case, they have shown this
19 1112 survey record 6795, "Check kicker formwork".

20 Q. For example, we know that one of the engineers, Mr Louis
21 Kwan, has also signed a number of RISC forms in relation
22 to his inspection of the steel fixing work --

23 A. Yes.

24 Q. -- of the slab. My question, actually, for example, in
25 his case, would he be interviewed by the audit team from
26 the other project, when the audit team looked at the

1 RISC form?

2 A. No. Normally, no.

3 Q. Okay.

4 A. That would be just a record checking.

5 Q. I see. So, according to Mr Kwan, when he signed on the
6 RISC form, actually he did not look at a certain part of
7 the reinforcement fixing work, and in this particular
8 case it's the coupler installation. So that sort of
9 problem would not be picked up by the self-quality audit
10 process; right? Because you don't need to talk to
11 Mr Louis Kwan at all in carrying out the audit.

12 A. For the quality audits, the normal practice is you ask
13 the auditee for certain things. The auditee has to
14 demonstrate compliance with the requirement. In this
15 case, the question was asking whether the CM team was
16 using a standard RISC form. So the auditee might have
17 shown some typical RISC forms to the auditor, and the
18 auditor was satisfied with that.

19 Q. I see. Using this as an example, Mr Louis Kwan told us
20 that actually there were two separate inspections to
21 carry out, one the hold point inspection -- no, one
22 inspection was done when the bottom mat of the slab was
23 completed, and you would have to come back for another
24 day when the top mat was completed.

25 The two inspections apparently were only covered by
26 one RISC form, so when your auditor is carrying out

1 a self-audit, if one has to answer the specific question
2 posed in the form, like the one we see at item 14, the
3 request for inspection of the bottom mat would not have
4 been covered by RISC form, and that would not be picked
5 up in a self-quality audit; am I right?

6 A. Unless the auditor knew about this requirement, ie one
7 RISC form for the bottom layer, one RISC form for the
8 top layer, then he would have asked, "Show me the two
9 forms." Otherwise, he wouldn't know.

10 The purpose of the self-quality audit is to instil,
11 if you like, the ownership, so rather than the QA team
12 conducts quality audit, we want the site team, the PM,
13 project management team, also conducts their own quality
14 audit. That's why we have this self-quality audit
15 process.

16 MR CHOW: Thank you, Mr Yeung. I have no more questions for
17 you.

18 WITNESS: Thank you.

19 MR CHOW: Thank you, Chairman.

20 MR BOULDING: Sir, no re-examination from me, so it may well
21 be that, unless you've got any further questions, we can
22 release this witness.

23 CHAIRMAN: No. Thank you very much.

24 MR BOULDING: Thank you, Mr Yeung.

25 CHAIRMAN: Thank you very much for your attendance this
26 afternoon.

1 (The witness was released)

2 MR BOULDING: Sir, my next witness is Mr Jason Wong. I see
3 that it's almost 25 past, I think. Would you like me to
4 call him now or shall we have our break?

5 CHAIRMAN: I think we'll have the break now.

6 (3.24 pm)

7 (A short adjournment)

8 (3.44 pm)

9 MR BOULDING: Good afternoon, sir. Good afternoon,
10 Professor. As I said, my next witness is Mr Jason Wong
11 and he's sitting in the witness box there.

12 MR WONG CHI CHUNG, JASON (affirmed)

13 Examination-in-chief by MR BOULDING

14 Q. As you've said, your full name is Jason Wong Chi Chung?

15 A. Yes.

16 Q. You have prepared, have you not, just one witness
17 statement for the assistance of the Commissioners in
18 this Inquiry?

19 A. That's correct.

20 Q. I wonder if we can have a look at the first page. It's
21 page B167. There do we see your first page of a witness
22 statement?

23 A. Yes.

24 Q. Then if we could go on, please, to B180, I hope we will
25 find your signature -- yes, we do.

26 A. That's correct.

1 Q. Is that your signature under the date of 13 September?

2 A. Yes, that's correct.

3 Q. Are the contents of that statement true to the best of
4 your knowledge and belief?

5 A. That's correct.

6 Q. I wonder if we can just look to see where you were in
7 the organisation, starting in July 2015. For that
8 purpose, perhaps I could have document B693 on the
9 screen. Splendid.

10 If you look at the bottom left-hand corner, do you
11 see the date, "Effective July 2015" there, Mr Wong?

12 A. Yes.

13 Q. We can see you in the middle there, can we not,
14 immediately below the general manager, Mr TM Lee?

15 A. That's correct.

16 Q. Does that reflect the reporting, the line of reporting,
17 at that time?

18 A. That's correct.

19 Q. Then, just to see how matters progressed, if at all,
20 perhaps we can go to B708. We've moved on, I think, two
21 or three -- well, a year or so -- we've got on to
22 February 2016 -- do we see that there?

23 A. Yes.

24 Q. We again see your name, do we not, general manager?

25 A. That's correct.

26 Q. Again, you are still reporting to Mr Lee?

1 A. That's correct.

2 Q. Thank you very much. What's going to happen now is that
3 you'll be asked a few questions, I suspect, by
4 Mr Pennicott, who's the counsel for the Commission.
5 Then one or two lawyers around the room might ask you
6 questions. The Chairman and the professor can ask you
7 questions at any time they like.

8 A. Sure.

9 Q. Depending upon what happens, I might ask you a few
10 questions at the end.

11 A. That's fine.

12 Q. So please be ready.

13 A. Thank you.

14 Examination by MR PENNICOTT

15 MR PENNICOTT: Mr Wong, good afternoon.

16 A. Good afternoon.

17 Q. As Mr Boulding has just said, my name is Ian Pennicott
18 and I'm one of the counsel for the Commission, I've got
19 a few questions for you, but not that many, I don't
20 think. Thank you very much for coming along to give
21 evidence to the Commission this afternoon.

22 We've looked at the organisation charts already,
23 Mr Wong, but just to get you to confirm the position --
24 back in November 2014, my understanding is that you were
25 the project manager for the SCL civil-EWL?

26 A. That's correct.

1 Q. But although at that time you were, as it were,
2 reporting to Mr Rooney, you weren't involved in the
3 Hung Hom Station --

4 A. No.

5 Q. -- at that point?

6 A. No, I wasn't.

7 Q. Then, as we've just seen with Mr Boulding, come July
8 2015, you were the acting general manager-SCL civil for
9 EWL?

10 A. Yes, that's correct.

11 Q. Then, as we've seen again, I think by the end of 2015
12 and certainly by February 2016 you were the general
13 manager --

14 A. Yes.

15 Q. -- of the SCL EWL. And I think you also tell us that
16 back in August 2015, you also became the project
17 management officer?

18 A. The general manager of the project management office,
19 that's correct.

20 Q. As I understand, for the reasons that you explain in
21 paragraphs 10 and 11 of your witness statement, although
22 you were the general manager-SCL civil-EWL, you were not
23 responsible specifically for contract 1112?

24 A. That's correct. My responsibility between myself and
25 Aidan split geographically at the north of Hung Hom
26 Station, so anything to the north of Hung Hom is myself,

1 and then anything south of this tunnel towards Hung Hom,
2 including contract 1111 and 1112, is under Mr Aidan
3 Rooney, as the day-to-day project manager.

4 Q. Yes.

5 A. My responsibility, under those two contracts, only as
6 the competent person.

7 Q. That is the twist and why you're here.

8 A. That's correct.

9 Q. That you were, despite your lack of responsibility as
10 general manager for contract 1112, the competent person
11 for that contract, amongst other contracts?

12 A. Yes.

13 Q. And you were the competent person from February 2015 to
14 August of this year?

15 A. That's correct.

16 Q. Back in February 2015 you took over as competent person
17 from Mr Rooney?

18 A. That's correct.

19 Q. As we've seen from the organisation charts, you answer
20 to or did answer to Mr TM Lee?

21 A. Mr TM Lee, yes.

22 Q. Okay. Now, Mr Wong, back in 2015, a series of site
23 supervision plans --

24 A. Mm-hmm.

25 Q. -- were submitted by MTR to the Buildings Department --

26 A. Yes.

1 Q. -- as part of the process of commencing works in
2 different areas?

3 A. Yes, that's correct.

4 Q. And as part of the site supervision plans, individuals
5 such as yourself --

6 A. Yes.

7 Q. -- were identified as the competent person, T5, T3, and
8 so forth?

9 A. Yes.

10 Q. Are you familiar with the contents of those site
11 supervision plans?

12 A. Yes, I do. Yes, I do.

13 Q. We can look at -- let's just look at one, just by way of
14 example. If we could be shown, please, H10/4539. That
15 should be a letter of 3 August, Mr Wong.

16 A. Yes.

17 Q. It's the notice of commencement in relation to -- dated
18 3 August 2015?

19 A. Correct.

20 Q. And it's in relation to area C?

21 A. Yes.

22 Q. We can see the gridlines, and then it says "Area C3" in
23 the box?

24 A. Yes.

25 Q. And then "Area C3" underneath?

26 A. Yes.

1 Q. At the bottom of the page, in the box, the documents
2 that are being submitted, the first one is the duly
3 completed and signed supervision plan?

4 A. Yes.

5 Q. That letter, over the page, at 4540, was signed by
6 Mr Leung, Andy Leung?

7 A. Yes.

8 Q. And you, at 4541, as the competent person, signed the
9 notice of commencement of works and undertaking, as we
10 can see there?

11 A. Yes, that's correct.

12 Q. Then, at 4543, we see the front sheet of the site
13 supervision plan?

14 A. Yes.

15 Q. Then, over the page, two pages, 4545, we see the
16 technically competent persons set out in the table at
17 the top of the page?

18 A. Yes.

19 Q. So we see yourself as the competent person, Kit Chan as
20 your representative.

21 A. Yes.

22 Q. And then Kit Chan also as the T5 and T4 alternative?

23 A. Yes.

24 Q. And James Ho as the T5 and T4?

25 A. Yes.

26 Q. Then we see Derek Ma as the T3?

1 A. Yes.

2 Q. And Louis Kwan as the T3 alternative?

3 A. Yes.

4 Q. I think, we don't need to go to them, but in relation to
5 area B I think it's virtually the same?

6 A. Virtually the same, yes.

7 Q. And for A, apart from the fact Mr Derek Ma doesn't
8 appear on area A, it's just Mr Louis Kwan --

9 A. Okay.

10 Q. -- again, pretty similar?

11 A. Yes.

12 Q. There's also a document that I expect you've heard of,
13 Mr Wong, called the QSP, the quality supervision plan?

14 A. Yes.

15 Q. Is that a document that you were familiar with back in
16 2015?

17 A. Let me explain. Yes. I think this document was
18 submitted to the Buildings Department back in 2013 --

19 Q. Yes.

20 A. -- by the then competent person, Julian Saunders. I get
21 to familiarise with that document when I signed the BA14
22 submission, the certificate of completion submission for
23 the diaphragm wall, because there are piles of
24 submissions relating to couplers, and also there is
25 a particular report called the quality supervision
26 report which I have to personally sign.

1 Q. Yes.

2 A. And that, because I need to refer back to the QSP as to
3 what it said, and also I looked at the logbook, the
4 checklist signed by the registered sub-contractor and
5 also my quality control supervisors. That's why I sort
6 of go back to look at what is said in the buildings
7 acceptance condition and also the QSP themselves. So
8 that was the time I looked at those documents.

9 Q. Yes. I understand that, because what happened
10 chronologically was that Mr Rooney signed the first --

11 A. Batches 1 and 2, yes.

12 Q. -- batches --

13 A. Yes.

14 Q. -- and then you signed the subsequent ones because
15 you'd --

16 A. Yes, starting from batch 3 I signed them. The first
17 time I signed them, so that's why I've got to look at
18 what was in the acceptance condition, what was submitted
19 to the Buildings Department, et cetera, so that's why
20 I looked at the QSP at that time.

21 Q. Understood. And the third batch that you signed would
22 have been at a time when the EWL slab works had not
23 quite started but were soon about to start?

24 A. Yes, that's the transition period between the diaphragm
25 wall completing and the start of the EWL slab at that
26 time.

1 Q. So you would have been aware of it --

2 A. Yes.

3 Q. -- more or less at the -- certainly by the commencement
4 of the EWL slab?

5 A. Exactly, yes.

6 Q. So you would also have been aware that the quality
7 supervision plan requires the same technically competent
8 person as listed in the site supervision plan to give
9 the enhanced supervision in the quality supervision
10 plan?

11 A. Let me perhaps clarify that, because the quality control
12 supervisor came from the Buildings Department's
13 acceptance condition.

14 Q. Yes.

15 A. So that doesn't need to tie with the SSP TCPs. Although
16 there's a requirement for this quality control
17 supervisor to have the qualification the same as the
18 TCP-T3 in the Code of Practice, but they could be
19 different person, they could be the same person. So not
20 necessarily have to be the same person.

21 Q. Can we look at H9, just in case I've got this wrong,
22 which is quite possible.

23 If we go to H9/4265, that's the front sheet of the
24 QSP, Mr Wong.

25 A. Yes.

26 Q. Then if you would be good enough, please, to be taken to

1 4268.

2 A. Yes.

3 Q. At the top there's a heading, "Assignment of quality
4 control supervisors personnel (from MTR/[and the
5 registered contractor])".

6 A. Yes.

7 Q. And it says:

8 "The same technically competent persons (TCPs)
9 proposed in the site supervision plan of the works, that
10 submitted to the Buildings Department as stipulated in
11 the Code of Practice ... will be responsible for the
12 quality control of the work."

13 Do you see that?

14 A. Yes, practically I think that's the intention as well,
15 because we have the TCPs anyway, for the SSP, so we
16 might of course make use of them to supervise also the
17 couplers. So they not necessarily have to be the same
18 person. That's what I'm trying to explain.

19 Q. Do you accept -- obviously we've seen what's in the site
20 supervision plan and the names that appear there --

21 A. Yes.

22 Q. -- so it was really for you, as the competent person, to
23 nominate the people, and we've seen who are listed in
24 the site supervision plan?

25 A. Yes.

26 Q. Do you accept that it was your responsibility as the

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
26 competent person needs to be the same stream as the

1 competent person.

2 Q. Okay.

3 A. So it could be the competent person stream or the RGE
4 stream. So as I mentioned, there are two different
5 roles. It happens to be the same person, but they not
6 necessarily have to be the same person under the CP
7 stream. That's what I'm saying.

8 Q. Yes.

9 A. That's why when I asked the question, I was given the
10 answer that Kobe will continue his role to be the
11 quality control supervisor, I kind of accepted it,
12 because he's also the RGE stream TCP.

13 Q. Mr Wong, I'm not sure you are 100 per cent right about
14 that. Can I ask you, please, to go to the appendix to
15 the government -- one of the government's acceptance
16 letters.

17 A. Mm-hmm.

18 Q. If we start at 3873. This is one of the early
19 acceptance letters back in February 2013, Mr Wong.

20 A. Yes.

21 Q. We know it comes with a lot of appendices and a lot of
22 conditions.

23 A. Yes.

24 Q. If you go, please, to page 3928, we should have there
25 appendix VIII right at the top -- thank you very much --
26 and it's, as we can see, "mechanical couplers for steel

1 reinforcing bars for ductility requirement"; do you see
2 that?

3 A. Yes.

4 Q. Then if we go to paragraph 3 at 3930 -- this is
5 a passage that we've looked at a few times -- it says:

6 "A quality supervision plan of the competent person
7 and the RGBC/RSC is required to be submitted to this
8 department prior to the commencement of the mechanical
9 coupler works."

10 Then it says at (a):

11 "Assignments of quality control supervisor of the
12 competent person and quality control coordinator ... to
13 supervise the manufacturing process ..."

14 Let's not worry about that, and then (b) is more
15 important:

16 "Frequency of quality supervision, which should be
17 at least 20 per cent of the splicing assemblies by the
18 quality control supervisor of the competent person ..."

19 Do you see that?

20 A. Yes.

21 Q. The 20 per cent is obviously referable to MTR?

22 A. Yes.

23 Q. So this seems to be suggesting, on one view, that that
24 supervision should be under the competent person's
25 stream and not under the RGBC or RSC; do you see?

26 A. Yes, I hear what you say, but my interpretation of this

1 requirement of the quality control supervisor is that he
2 is a separate person from the SSP TCPs. He only needs
3 to have a qualification equivalent or the same as the
4 TCP-T3, as defined in the Code of Practice.

5 Q. Okay.

6 A. And whether he is the same person under the SSP TCP, he
7 can or cannot -- he may or may not be the same person.

8 Q. Right. So your position is that provided he's
9 a qualified T3 --

10 A. Yes, that's what I'm saying.

11 Q. -- that meets the requirements of the QSP?

12 A. Correct.

13 Q. Even though he's not specifically referred to on the
14 SSP?

15 A. Correct. That's my interpretation, yes.

16 Q. But on the other hand, possibly it could be the same
17 person?

18 A. Yes, could be the same person or could be a different
19 person.

20 Q. I understand. Thank you very much.

21 A. That's why when I asked the question whether Kobe will
22 continue to be the quality control supervisor, I was
23 given a "yes" answer, and I was satisfied, because based
24 on my understanding, that could not be the sort of same
25 person that is named under the competent person stream
26 TCPs.

1 Q. All right. Could I ask you, please, to look at
2 paragraph 25 of your witness statement.

3 A. Yes.

4 Q. You say:

5 "In respect of contract 1112, I would conduct
6 monthly site walks to supervise the works, in the
7 company of Mr James Ho ... for EWL slab construction
8 during the majority of my tenure as competent
9 person ..."

10 A. Mm-hmm.

11 Q. Then at paragraph 26 you say:

12 "During the monthly site walks, the respective
13 senior con engineer would explain to me the status and
14 issues of the various works. If there was any
15 non-conformance, rectification would be carried out
16 immediately in my presence, if possible. If immediate
17 rectification was not possible, the respective SConE
18 would send photos via WhatsApp directly to me ... after
19 the rectification had been carried out. I would mark an
20 'S' (satisfactory) on the record of specific tasks
21 performed by TCP under CP stream as required under the
22 Code of Practice after such rectification had been
23 confirmed. I would not look at the works in minute
24 detail, but would rely on the site inspections ..."

25 I understand that you kept a record of your monthly
26 site visits?

1 A. Yes.

2 Q. Just flipping back to paragraph 23 of your witness
3 statement, you say:

4 "I have also devised checklists for the TCPs in
5 accordance with the requirements of the CoP."

6 First of all, can you tell me what checklists you're
7 referring to in that sentence?

8 A. There's a checklist where myself and also the TCP need
9 to sign when they conduct the site visits. That's the
10 format in the Code of Practice, actually. It typically
11 lists down the items that myself and my TCP should look
12 at, again based on the items in the Code of Practice,
13 and then there is a "satisfactory/non-satisfactory" area
14 to circle and then sign.

15 Q. Okay. Then could I ask you, please, to go to
16 B5/TS2/40451.

17 A. Yes, that's the form.

18 Q. This is the form --

19 A. That's the form.

20 Q. -- the checklist that you're talking about?

21 A. Yes. That's correct.

22 Q. Then if I could take you, please, to page 40799, I think
23 it is -- this doesn't look like a right reference at
24 all -- yes, 40799.

25 Mr Wong, trying to be as serious as I can about
26 this, here comes the afternoon entertainment. Do you

1 see, at 40799, that you have made your monthly visit in
2 September 2015 on 22 September?

3 A. Yes.

4 Q. I'm tempted to ask you whether you were there at about
5 6:18/6:19 in the afternoon.

6 MR BOULDING: With a camera.

7 MR PENNICOTT: With or without a camera.

8 A. No, not at that time. Typically, I do it after lunch.
9 I know what you're trying to ask.

10 Q. It caused me some amusement when I spotted it, Mr Wong,
11 I must say.

12 Anyway, your visits would be when; in the morning,
13 the afternoon?

14 A. Typically in the afternoon, after lunch.

15 Q. And they would last for I think you say three hours or
16 so?

17 A. Two to three hours. It depends on how much I need to
18 look at.

19 Q. What happened? If you look at the next page, perhaps
20 a more serious question, Mr Wong, is this. The
21 frequency -- if you look at 40800 -- we've got that up
22 on the screen -- the frequency of inspection for you,
23 the competent person, appears to have increased from
24 a monthly visit to a fortnightly visit --

25 A. Yes, from --

26 Q. -- around November 2015. Was there any particular

1 reason for that?

2 A. Well, in the site supervision plan, in the technical
3 memorandum I understand there is a calculation as to the
4 volume of the work, the complication of the work, and
5 then we will determine each category of TCP, the
6 frequency of their visits.

7 So most of the time, for the CP, it should be
8 monthly, but for some of the big volume of work,
9 complicated work, it could be fortnightly.

10 Q. Right.

11 A. So -- but, yes, limited time.

12 Q. So you can't recall anything that might have happened in
13 about October/November 2015 to increase your frequency
14 of visits?

15 A. That's based on the SSP. If the SSP for that piece of
16 work says fortnightly, then I go fortnightly.

17 Q. So one would need to trace it back into the SSP to try
18 to work it out?

19 A. Yes, exactly, yes.

20 Q. Understood.

21 A. But most of the time I do monthly site visits. That's
22 my recollection.

23 MR PENNICOTT: Okay.

24 Can I just check a transcript reference, I'm sorry.

25 Thank you very much, Mr Wong. I have nothing else
26 for you. Thanks very much.

1 MR CHANG: No questions from Leighton.

2 MR SO: No questions from China Tech.

3 MR CHOW: Chairman, I have a few questions.

4 CHAIRMAN: Yes, please.

5 Cross-examination by MR CHOW

6 MR CHOW: Good afternoon, Mr Wong.

7 A. Good afternoon.

8 Q. My name is Anthony Chow and I represent the government.

9 We have a few questions for you.

10 A. Yes.

11 Q. Mr Wong, just to follow up on Mr Pennicott's question --

12 Mr Pennicott took you to a few site inspection forms A

13 that we've just looked at.

14 A. Yes.

15 Q. We see that, and also we understand your evidence is

16 that you did carry out site visits either monthly or

17 fortnightly --

18 A. Yes.

19 Q. -- to fulfil your requirement under the SSP?

20 A. Yes.

21 Q. Can you explain why, at the same time you said you did

22 not have direct involvement in contract 1112?

23 A. Well, as I mentioned in this witness statement, my

24 responsibility is just the competent person under the

25 IoE/IoC for contract 1112, and the day-to-day contract

26 management falls under Mr Aidan Rooney. So the

1 management of the contractor, the financial side of it,
2 the main technical side and quality side of it is under
3 Mr Aidan Rooney, so I don't get involved in the
4 day-to-day management of that particular contract,
5 except the CP responsibilities under the IoE/IoC.

6 Q. So in terms of supervision or ensuring supervision or
7 compliance with the requirements of the contract, that
8 will be all under Mr Rooney?

9 A. That's correct. That's correct.

10 Q. If I may refer you to paragraph 23 of your witness
11 statement at page 172, please.

12 A. Yes.

13 Q. In paragraph 23 you say:

14 "The TCPs were appointed to carry out their
15 respective roles and duties as prescribed in the Code of
16 Practice. All the TCPs, including those under the CP
17 stream, were appointed on the recommendation of
18 Mr Rooney as they are also the site personnel
19 responsible to Mr Rooney for the day-to-day management
20 of [the contract], although I reviewed the relevant CVs
21 of the TCPs to ensure they are fit for their
22 appointment. I have also devised checklists for the
23 TCPs in accordance with the requirements of the CoP."

24 Regarding devising checklists, are you familiar with
25 the requirement under the Code of Practice, in
26 particular table 5.1, as to the items that you have to

1 include in the checklist?

2 A. Yes.

3 Q. Do I need to take you to that table?

4 A. I think I'm reasonably familiar with that.

5 Q. Good. Thank you.

6 The last item under the AP stream requires the
7 checklist to take into consideration the specific
8 requirements set out by the Building Authority under the
9 approval letters --

10 A. Yes.

11 Q. -- and in this particular case it means the acceptance
12 letters?

13 A. Well, I would disagree, because that says, in the Code
14 of Practice, "approval of plans" which is exempted under
15 the Buildings Ordinance, under the IoE/IoC. So those
16 are relating to approval or plans and consent
17 requirement, which is exempted. So that's why I would
18 not include those acceptance conditions which is under
19 the consultation submission submit under the IoE into
20 the checklist. Different things.

21 Q. I see, because --

22 A. Sorry, I don't want to confuse my people of their
23 statutory and non-statutory responsibilities, put it
24 this way.

25 Q. So your understanding at that time is, notwithstanding
26 the requirement under table 5.1 of the Code of Practice,

1 you consider that because we have a different procedure
2 under the IoE, there was no approval letter --

3 A. That's correct.

4 Q. -- so although a condition or specific requirement was
5 set out in the acceptance letter, you don't need to take
6 those into consideration in devising the checklist?

7 A. That's my understanding, because the SSP forms are
8 statutory. The acceptance condition under the IoE
9 consultation submission are non-statutory. So that's
10 why I don't want to mix them up.

11 Q. I see.

12 A. I don't want to confuse my people as to statutory
13 responsibility and non-statutory responsibilities. So
14 that was my interpretation, if you like.

15 Q. I see. So, in that case, why -- as far as I understand,
16 there is no requirement for a competent person under the
17 Code of Practice?

18 A. Yes, that's correct.

19 Q. So, in that case, why would you need to prepare SSP?

20 A. Well, the IoE and also the project management plan, if
21 I remember correctly, also says the competent person is
22 required to supervise the works in accordance with the
23 site supervision plan. So that's why I have to sort of
24 fulfil that particular requirement, although it is --
25 yes.

26 Q. I'm sure you are pretty familiar with the requirement of

1 the IoE. Do you agree with me that in the IoE it is
2 specifically set out that the competent person is to
3 take up the role of an AP and RSE?

4 A. With respect to the work --

5 Q. Yes, yes.

6 A. With respect to the exempted clauses that are under the
7 IoE/IoC, yes.

8 Q. So you were aware of that at the time?

9 A. Yes, yes.

10 Q. So, if the Code of Practice requires certain things,
11 like the checklist that I mentioned earlier, for AP and
12 RSE --

13 A. Mm-hmm.

14 Q. -- to that extent you don't think that you need to
15 comply with those requirements?

16 A. No. As I tried to explain, I was trying to distinguish
17 the statutory and non-statutory responsibilities of my
18 TCPs, so that's why I didn't include them. That was the
19 reason.

20 Q. Am I right in thinking that because of your
21 understanding at the time, you have not devised any
22 checklist to record the contemporaneous inspection
23 carried out by your quality control supervisor in
24 relation to either 20 per cent or 50 per cent of the
25 splicing assembly work, because you didn't see the
26 necessity of doing so; right?

1 A. No. If I want to put it this way -- because, as I tried
2 to explain before, when I signed off the BA14 submission
3 for the diaphragm wall, I saw that my TCP or my people
4 have prepared quite a comprehensive set of records,
5 including the coupler testing, the coupler inspection
6 checklist, and also the quality supervision report. So
7 I had the impression that they would carry on doing this
8 for the slab. That's why I have no reason to sort of
9 expect they would have a different approach.

10 Q. I see.

11 A. -- for the diaphragm wall and for the slab.

12 Q. I see.

13 A. Because I also asked the question as to whether Kobe
14 Wong would continue to be the quality control
15 supervisor, and I was given a "yes" answer.

16 So that's why my sort of thinking at that time was
17 that that would follow through.

18 Q. I see. So you believe that your site team will continue
19 with similar practice for the slab?

20 A. Yes, that was my belief at that time.

21 Q. And during the time of the execution of the slab, it
22 didn't occur to you that you need to, for example,
23 follow up on that to make sure that this would happen as
24 you expected?

25 A. As I explained, I have seen a very comprehensive set of
26 record for the diaphragm wall, and I believed he would

1 do the same for the slab.

2 Q. I see.

3 A. And typically this sort of report and compiling this
4 sort of record are typically done towards the end of the
5 job, when the BA14 sort of submissions are being
6 compiled. So I didn't sort of ask them in the course of
7 the works.

8 Q. But your understanding is that the record sheets that
9 have been prepared for the diaphragm wall were prepared
10 contemporaneously, not at the time of the submission of
11 the BA14; that you were aware, right?

12 A. I know. I know.

13 Q. So you would expect that if the same practice had been
14 adopted, there would have been record sheets --

15 A. Yes.

16 Q. -- for the coupling works in the slab?

17 A. Yes. That was my expectation.

18 Q. That's actually what my earlier question is about --

19 A. I know, I --

20 Q. -- it didn't occur to you that you need to follow up or
21 need to make sure that a similar practice was actually
22 adopted for the slab? So your answer was --

23 A. Put it this way, I didn't check, so that's the answer.
24 I didn't check, but I would expect that would have been
25 done similar to the diaphragm wall.

26 Q. I see.

1 If I may then refer you to paragraph 53 of your
2 statement, at page 179. Here, at the end of the
3 paragraph -- no, at the beginning of the paragraph, you
4 talk about that during your visit, back in 2015 and
5 2016, actually you observed that the east diaphragm wall
6 was being trimmed down.

7 A. Yes.

8 Q. Then you asked a question and then you were told that
9 that somehow relates to rectification of a defect --

10 A. That's correct.

11 Q. -- in the diaphragm wall. Can you recall whether -- who
12 actually told you this? It's your construction --

13 A. I cannot recall because --

14 Q. -- management team member or --

15 A. Typically, as I said in the witness statement, I was
16 typically accompanied by my T5, which is typically
17 James Ho and Joe Tsang, but when I get to a particular
18 spot on the site, typically there were other people
19 there. It could be the inspectors of works who are
20 there all the time, and also sometimes the contractor's
21 site foremen.

22 So I cannot remember actually, when I asked the
23 question, who from that team of people responded to me
24 that it's to do with rectification of tremie concrete
25 defects.

26 Q. I see. So it would have been either a member of your

1 construction management team or someone from Leighton?

2 A. Yes, that's correct.

3 Q. Right. I would like to move on to another area. You
4 recall that there was an issue regarding the missing
5 U-bar --

6 A. Yes.

7 Q. -- at the top of the diaphragm wall, and because of that
8 an incident report was submitted to the BD?

9 A. Yes.

10 Q. I believe it was on 29 July 2015.

11 A. Yes.

12 Q. Before the incident report was submitted to the BD, have
13 you had a chance to look at the content of the report?

14 A. Yes, of course.

15 Q. So you basically agree with the contents of the report?

16 A. Yes. It was a concerted effort between the design team,
17 the construction team, and I also gave some comment on
18 the report itself before it gets out.

19 Q. Very well. On the face of the report, actually you were
20 concerned because it mentioned something that you have
21 done or you were expected to do; right?

22 A. Yes.

23 Q. If you don't mind, I would like to refer you to the
24 report, at bundle H11, starting from page 5540, please.

25 From the report, we understand that the purpose of
26 the report is to give an account to the Building

1 Authority as to what happened and why the problem
2 arose --

3 A. Yes.

4 Q. -- and the measures to be taken to avoid similar problem
5 from occurring in future; right?

6 A. Yes.

7 Q. Paragraph 3.3.1 at page 5544 -- here the report says:

8 "This non-conformity was largely as a result of
9 communicating and formalising the changes made by the
10 contractor. In this connection, CP [that is you
11 yourself] has instructed his TCPs and the construction
12 manager to strictly follow the working drawings which
13 are prepared in accordance with plans accepted by the
14 authority such as BD/GEO ... in the execution of the
15 works. TCPs should bring CP's attention to any
16 deviations in a timely manner."

17 Then, on the following paragraph, it says:

18 "The amended connection design had substantially
19 changed the original design intent of the reinforcement
20 lap and anchorage at the connection but the change was
21 allowed to progress in the shop drawing preparation
22 process. CP has instructed his TCPs not to deal with
23 future design changes to the permanent works proposed by
24 the contractor in the shop drawings process which could
25 not guarantee a thorough review by all concerned
26 parties."

1 Do you see that?

2 A. Yes.

3 Q. If we can then go to section 4 at page 5545. Under
4 paragraph 4.3:

5 "In order to mitigate the impacts to the permanent
6 works and prevent the recurrence of non-conformity of
7 this nature, CP has instructed the following actions to
8 be taken by his TCPs and the contractor".

9 Then, in paragraph 4.4:

10 "In addition to the procedures ... stipulated for
11 reviewing contractor's submissions in MTRCL's project
12 integrated management system (PIMS) which is included in
13 the PMP of SCL, TCPs shall not allow changes to be made
14 to the permanent works in contractor's shop drawing
15 submissions. TCPs in the CP stream shall supervise the
16 works to ensure they are executed in accordance with the
17 working drawings/accepted plans. They should bring CP's
18 attention to any deviations in a timely manner".

19 So, in the paragraphs that I have taken you to, it
20 indicates that you have given some sort of instruction
21 to ensure that similar problem would not happen again.

22 A. Yes.

23 Q. May I ask, at the time, who in particular that you have
24 given such instruction?

25 A. That was discussed with Mr Kit Chan, because Kit is my
26 representative, and also this report didn't go out

1 without Kit's agreement to it, because it said a lot of
2 things that Kit and his team needs to do. That's why,
3 when Andy Leung prepared this report, it went to Kit
4 with his agreement and I also remember talking to Kit
5 about all this before the report got out to the
6 Buildings Department.

7 Q. Right, and the instruction was given orally or in
8 writing?

9 A. Orally.

10 Q. I see.

11 A. But also they were given a copy of this report, so they
12 should have at least seen the report themselves.

13 Q. Quite right.

14 Now we all know that in relation to one of the
15 matters that this Commission has to deal with, that
16 relates to the changes made at the connection between
17 the east diaphragm wall and the EWL slab and the OTE
18 slab --

19 A. Yes.

20 Q. -- and the problem that we are facing is that at the
21 time there were changes made and it was allowed to
22 proceed without any updated working drawings.

23 A. Yes.

24 Q. And worse still is after so many months, we have no
25 as-built records, and we have been having problems over
26 the past few months that different versions of detail

1 have been put forward by MTRC over the past few months,
2 and that caused so much confusion.

3 A. Yes.

4 Q. So that's the problem that we are facing. So obviously
5 the instruction that you have given to Mr Kit Chan at
6 the time has not been followed, has not been followed
7 through by Mr Kit Chan; right? Apparently you must
8 agree with me?

9 A. Yes, but I think he got some explanation as to why,
10 because he thought it's a minor detail change, so he
11 didn't go through the communication with the design
12 management team, et cetera, et cetera. I thought Kit
13 already explained here.

14 Q. Yes, he did.

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

16 Q. Yes, he did. So notwithstanding what is the commitment
17 given to the Building Authority at the time set out this
18 table, in fact when you say the TCP would not allow
19 works to proceed without -- well, effectively without
20 updated drawings, you didn't even mean that? If it only
21 involves minor changes, then it can still proceed
22 without an updated working drawings? Is that what you
23 are saying that?

24 A. No, I didn't mean that. What I'm saying is that Kit has
25 his own sort of explanation as to why he thought the
26 second change could be implemented.

1 Q. Then do you --

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

3 Q. Yes, sure, sure. But do you agree -- then do you find
4 what Mr Kit Chan did was proper, in the circumstances?

5 A. Well, I'm not going to go into the argument about
6 whether it's a major or a minor change, but I would at
7 least think an updated drawing needs to be produced,
8 because if there's no updated drawing it would be very
9 difficult for the site team to follow the works on site.

10 Q. Right.

11 A. So I think, at the very least, there must be a working
12 drawing update --

13 Q. I see.

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

15 Q. So you would not support what he did at that time;
16 right?

17 A. I would not.

18 Q. Thank you.

19 Just now, you have clarified to us what you mean by
20 not having directly involved in the works of
21 contract 1112.

22 A. Yes.

23 Q. If I may then now refer you to a specific part of the
24 IoE, at bundle H7, page 2404, please.

25 Subparagraph (b) --

26 A. Yes.

1 Q. -- provides that to "appoint a competent person, who
2 shall take up the responsibilities and duties of
3 authorised person/registered structural engineer, to
4 coordinate and supervise each area of the works in
5 accordance with the agreed proposals, to certify the
6 preparation of plans or documents ..."

7 Now, what was required under the IoE is that the
8 competent person has to coordinate and supervise each
9 area of the works, and that is precisely something that
10 you have not done; is that correct?

11 A. Sorry, can you repeat the question? What I have not
12 done?

13 Q. What is required under the IoE from the competent person
14 is that he has to coordinate and supervise each area of
15 the works. Now, this is something that you have not
16 done; is that correct?

17 A. Well, my interpretation is this "supervise" is in
18 accordance with the Code of Practice -- for Site
19 Supervision 2009, to be more precise.

20 Q. I see. So you interpret that this requirement relates
21 to the Code of Practice?

22 A. That's my interpretation.

23 Q. I see. Okay.

24 A. And when Buildings Department accepted my appointment as
25 competent person, I think they know that I'm not
26 daily -- I'm not responsible on a daily execution of the

1 contract under 1112.

2 Q. On what basis -- what gave you that understanding?

3 A. Because the area of responsibility has been made known
4 to the RDO and Buildings Department for some time, when
5 I was -- when Aidan and myself were appointed as general
6 managers respectively for different areas of the works.
7 So I think the Buildings Department and RDO know full
8 well which contract that I am responsible for managing
9 on a daily basis. So if they accepted my appointment as
10 competent person but they know I'm not responsible for
11 the day-to-day execution of the works, I think they
12 should have understand that sort of different
13 responsibility under myself. That's my interpretation,
14 again.

15 Q. I see. Can I then look at what is set out in the
16 project management plan. The same bundle, page 2382,
17 please. Clause 5.2.3 defines the duties and
18 responsibilities of a competent person under MTRC's own
19 PMP:

20 "The competent persons are responsible for
21 coordinating and supervising the works to ensure that
22 the project is executed to the quality, safety, and
23 environmental standards required by MTR Corporation as
24 well as to fulfil the requirements under the
25 consultation process."

26 You can foresee my question: again, this is

1 something that you have not done; correct?

2 A. Well, you may say that, because it specifically goes to
3 the PIMS requirement.

4 Q. So you agree?

5 A. Yes.

6 Q. Can I then go to the notice of appointment, same bundle,
7 page 2443. This is a notice of appointment issued to
8 the Building Authority. The lower part of it -- yes,
9 the bottom part; can we scroll further down --
10 "Confirmation of appointment". Can you confirm that the
11 signature shown at the bottom of the page is your
12 signature?

13 A. Yes, that's my signature.

14 Q. Here, you confirm that you have been appointed as
15 "competent person to coordinate, supervise and certify
16 the completion of the above works." Now, here you have
17 not mentioned about "supervise for the purpose of SSP".
18 So do you agree with me, when you provide this
19 confirmation to the BD, you gave a commitment to the
20 Building Authority that you would coordinate and
21 supervise the works; do you agree or not?

22 A. Well, my understanding, as I said again, is that is
23 limited to the Code of Practice. That was my
24 understanding.

25 Q. Limited to the Code of Practice? I see. Okay.

26 A. Well, let me try to explain, because the PIMS also

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
26 you.

1 A. Thank you.

2 MR CONNOR: No questions from Atkins, sir. Thank you.

3 Re-examination by MR BOULDING

4 MR BOULDING: Hello, Mr Wong.

5 A. Hello, Mr Boulding.

6 Q. I just have one matter I would like to ask
7 a clarification on.

8 A. Sure.

9 Q. Do you remember being asked by Mr Chow why you have not
10 devised a checklist to record the contemporaneous
11 inspection by the quality control supervisor of either
12 20 per cent or 50 per cent of the splicing assembly work
13 for the slab?

14 A. Yes.

15 Q. The transcript, at [draft] page 155, records you as
16 saying -- you said you saw your TCP had prepared
17 a comprehensive set of records, including coupler
18 inspection checklists for the D-wall, so you thought
19 they would continue to do it for the slab; do you
20 remember giving that answer?

21 A. Yes, that's right.

22 Q. Then Mr Chow, my learned friend, asked you why you
23 hadn't checked whether there were in fact coupler
24 inspection records for the slab; do you remember that?

25 A. Yes.

26 Q. And you said no, and you gave this answer, typically

1 records prepared are prepared towards the end of the
2 job, "when the BA14 submissions are being compiled."

3 Do you remember that?

4 A. I think I said records are compiled.

5 Q. Are compiled?

6 A. Yes.

7 Q. Can you tell me why records of this nature are typically
8 prepared towards the end of a job, in your experience?

9 A. Well, the contemporaneous records should be prepared at
10 the time, but at the end of the job, if you look at the
11 Buildings Department's acceptance conditions, they
12 require also what they call the quality supervision
13 report, and that includes a summary of the inspection,
14 whether they are satisfactory, which is a summary of the
15 checklist.

16 Q. I see.

17 A. So that's why I'm saying that typically were compiled at
18 the BA14 stage.

19 MR BOULDING: I follow. Thank you very much for clarifying
20 that.

21 Sir, Professor, I have no further questions.

22 I wonder whether you have.

23 Questioning by THE COMMISSIONERS

24 COMMISSIONER HANSFORD: I have a couple.

25 Mr Wong, I'm very interested in this sort of split
26 accountability between the competent person, which is

1 yourself, and the general manager under PIMS, which is
2 Mr Rooney.

3 A. Yes.

4 COMMISSIONER HANSFORD: There are a couple of points arising
5 from that. One is certain members of staff, for example
6 Kit Chan and James Ho, also have dual reporting lines
7 there; is that correct?

8 A. That's correct.

9 COMMISSIONER HANSFORD: Did that ever cause any problems?

10 A. Well, I would say there are pros and cons of this
11 arrangement. The pros, if you like, me as the competent
12 person, rather independent from the team, I don't need
13 to consider progress and financial side of the job, so I
14 can just focus on the compliance of the Buildings
15 Ordinance or the IoE requirement, put it this way. So
16 I have a sort of check and balance role. That's the
17 pros.

18 The cons of course is typically they will go through
19 their normal line of reporting, which is to Mr Aidan
20 Rooney, and that's why somehow I do not get all the
21 necessary reporting to me on the day-to-day running of
22 the job. So unless they have something they want to
23 tell the Buildings Department, otherwise they will
24 typically go through Aidan Rooney's tree, if you like,
25 rather than go through myself. So that's the con, sir.

26 COMMISSIONER HANSFORD: So there is a con?

1 A. Yes.

2 COMMISSIONER HANSFORD: There's a pro. And did they fully
3 understand, in your view, their dual reporting?

4 A. I think they do, in particular Kit and James, because in
5 occasion they would also tell me there are things that
6 we probably need to -- that I need to be aware because
7 this could probably be asked by the Buildings
8 Department, et cetera.

9 COMMISSIONER HANSFORD: Okay.

10 The second question, related to it, really -- in
11 your site walks, which you did monthly or so, you did
12 them with James Ho and Joe Tsang?

13 A. Yes.

14 COMMISSIONER HANSFORD: Did you ever involve Aidan Rooney in
15 those site walks?

16 A. No, because, as I said, these site walks are sort of
17 required under the Code of Practice, so I should only
18 invite the TCPs to go with me. Typically they are James
19 and Joe, which are the respective T5s for the station
20 and the stabling sidings --

21 COMMISSIONER HANSFORD: Aren't site walks, as I understand
22 them, also an opportunity to see first-hand what's
23 happening on the site?

24 A. Yes and no. There are, if you like, different focus,
25 because Aidan's site walk typically will put a lot more
26 effort on site safety and resources level, that sort of

1 discussion, because when he sees that things are not
2 progressing satisfactorily, they will probably ask the
3 sub-contractor boss to come in and explain why you don't
4 put in sufficient people, that sort of discussion, which
5 may not necessarily be the focus of the sort of site
6 walks that I had. That's why I tend to have different
7 site walks, rather than joining Aidan's site walks.

8 COMMISSIONER HANSFORD: So you never had joint site walks
9 with Aidan?

10 A. I don't recall I did.

11 COMMISSIONER HANSFORD: Thank you.

12 MR BOULDING: Thank you very much indeed, Mr Wong.

13 CHAIRMAN: Good. Thank you.

14 (The witness was released)

15 MR BOULDING: Chairman, we've picked up speed, and we are
16 going faster, perhaps, then the proverbial MTR train,
17 but nevertheless I have a witness standing by and I'm
18 quite prepared to call him. We have about ten minutes
19 to go.

20 CHAIRMAN: Yes, I make it quarter to. Shall we start?

21 MR PENNICOTT: It's entirely up to Mr Boulding. It's
22 Mr TM Lee. I don't know how everybody is fixed and how
23 long we are going to be with him. I won't be very long,
24 I accept, but I doubt we'll finish him tonight.

25 CHAIRMAN: Yes. No, I doubt that, but we might as well get
26 started. If we have five minutes left, that would be

1 a different story, but we have quarter of an hour.

2 MR PENNICOTT: Sure.

3 CHAIRMAN: Thank you.

4 MR BOULDING: We are now finding him.

5 Good afternoon, Mr Lee.

6 WITNESS: Good afternoon.

7 MR BOULDING: Are you going to give evidence in English or
8 Cantonese?

9 WITNESS: English, please.

10 MR BOULDING: Splendid.

11 WITNESS: It will save a lot of time.

12 MR LEE TZE MAN (affirmed)

13 Examination-in-chief by MR BOULDING

14 MR BOULDING: I know you are always referred to as TM Lee,
15 but can you please give your full name?

16 A. My full name is Lee Tze Man.

17 Q. I understand you have prepared one witness statement for
18 the assistance of the Commissioners in this matter. If
19 we can look at the first page together. It's B154.

20 There do we see the first page of your witness
21 statement, Mr Lee?

22 A. Yes.

23 Q. If we could be taken on to B166, please, do we there see
24 your signature under the date of 14 September 2018?

25 A. Yes.

26 Q. But I know there are one or two corrections that you'd

1 like to make, so if we can go to B166.1. Do we there
2 see a correction that you'd like to make to your witness
3 statement?

4 A. Yes.

5 Q. But subject to that correction, are the contents of the
6 statement true to the best of your knowledge and belief?

7 A. Yes.

8 Q. Thank you. It's conventional, Mr Lee, to try to work
9 out where you are in the MTR management organisation.
10 With that point in mind, perhaps we can go to B676.

11 Can we there see you, Mr Lee, the general manager,
12 immediately below Mr Philco Wong?

13 A. Yes.

14 Q. Was that the situation as at January 2015? That's the
15 bottom left-hand corner.

16 A. Yes.

17 Q. If we then look at another organisation chart, a little
18 bit later, B693, again do we see a very similar
19 organisational chart, with you again immediately below
20 Mr Philco Wong and above Jason Wong?

21 A. Yes.

22 COMMISSIONER HANSFORD: Isn't that the same chart?

23 A. No, I don't think it's the same chart.

24 COMMISSIONER HANSFORD: Sorry.

25 A. I was promoted from acting to general manager.

26 MR BOULDING: Yes.

1 COMMISSIONER HANSFORD: Forgive me.

2 MR BOULDING: Sorry, Professor. I ought to have made that
3 clear.

4 This was the position as at July 2015, was it not,
5 after you had been promoted?

6 A. Yes.

7 Q. Thank you, Mr Lee. What's going to happen now is that
8 Mr Pennicott will ask you some questions first. We
9 might then well run out of time, but tomorrow morning or
10 late tonight you'll be asked questions by my fellow
11 lawyers in the room. The Chairman and the professor can
12 ask questions at any time they like, and I may well have
13 some questions for you at the end of the process. Do
14 you understand that?

15 A. I understand.

16 MR BOULDING: Please sit there.

17 Examination by MR PENNICOTT

18 MR PENNICOTT: Mr Lee, good afternoon.

19 A. Good afternoon.

20 Q. As Mr Boulding has indicated, my name is Ian Pennicott
21 and I'm one of the counsel to the Commission. I'm going
22 to ask you a few questions before we adjourn for the
23 evening. Thank you very much for coming to give
24 evidence to the Commission this afternoon.

25 A. Okay. Thank you.

26 Q. Mr Lee, as I understand it, you regard yourself very

1 much as the E&M specialist --

2 A. Yes.

3 Q. -- rather than civil or structural; you're an electrical
4 and mechanical chap?

5 A. Yes.

6 Q. Indeed, from what you tell us, I think before you joined
7 the MTRC in 1995, 23 years ago, you were about 12 years
8 in essentially private practice at various E&M --
9 a couple of E&M companies.

10 A. Yes.

11 Q. So far as the SCL project is concerned, from 2010 to the
12 end of 2012, you were the project manager-E&M.

13 A. Yes.

14 Q. Then from the beginning of 2013 towards the end of 2014,
15 you were the general manager-SCL-E&M?

16 A. Yes.

17 Q. Then, as we've just seen, in November 2014 through to
18 April 2105, acting general manager-SCL. Then, finally,
19 April 2015 to August of this year, you were the general
20 manager for the SCL.

21 A. (Nodded head).

22 Q. For the period of time that we're primarily interested
23 in, Mr Lee, in the Commission, the two people that
24 really reported to you on a regular basis were Mr Rooney
25 and Mr Jason Wong?

26 A. Yes.

1 Q. Could we please go straight to paragraph 18 of your
2 witness statement, and you can either have it on the
3 screen or in hard copy or both.

4 A. On the screen, please.

5 Q. Mr Lee, we see there that you make reference, in
6 paragraph 18, to the fact that you had not heard of the
7 alleged defective steel works until January 2017, when
8 Mr Rooney notified you that he'd received an email
9 earlier that day from Michael Fu, forwarding an email
10 chain containing an email from Mr Poon of China
11 Technology to Mr Zervaas of Leighton.

12 A. Yes.

13 Q. As I understand it from the succeeding paragraphs in
14 your witness statement -- that's in particular 21, 22
15 and 23 -- you had received Michael Fu's assurances that
16 matters arising from Mr Poon's email have been dealt
17 with?

18 A. Yes.

19 Q. Leightons had have been requested to carry out
20 an investigation and review and submit it to MTR?

21 A. Yes.

22 Q. But, nonetheless, you asked Mr Carl Wu to carry out
23 a review of the MTR procedures?

24 A. Correct.

25 Q. Knowing that Leighton were carrying out this
26 investigation, what was sort of underlying the request

1 to Mr Wu to carry out a review?

2 A. Okay. First, this coupler malpractice was new to me;
3 I never heard of it before. As soon as I received the
4 email from Michael, I thought I need to look --
5 understand it a bit more, look into it; okay? So
6 I forwarded the email -- from my recent recollection --
7 to Philco Wong, although I didn't put it down here
8 because I didn't have a computer when I prepared this
9 witness statement.

10 At the same time, I also forwarded the email to
11 Clement Ngai, asking him to talk to Andy to look into
12 it, et cetera.

13 I remember I called Andy and asked him whether he
14 knows anything about this, and Andy said to me he has
15 never heard of it on site and it's not a design-related
16 issue.

17 Then subsequently I talked to Michael, because he
18 was the construction manager, he has done some
19 investigation on retrieving the records, et cetera, so
20 he came to my office and then showed me Kobe's email,
21 which you are familiar with, the NCR157.

22 Q. Yes.

23 A. He talked to me: these issues have been rectified
24 on site in 2015, inspector spotted this, identified this
25 malpractice and then they rectified it. So it's
26 an isolated case.

1 I remember I was quite pleased that my inspectors
2 were actually doing what they were supposed to do, so
3 that gave me some sense of relief. That was the
4 feeling.

5 At the same time, I thought my inspector team was
6 doing what they were required to do in an isolated case
7 in that area, but I also wanted to take the opportunity
8 to look at the whole thing, in bigger scale. That's
9 where I come from. That was my thinking.

10 So I talked to Carl Wu, he's a very experienced
11 quality assurance manager, he knows all our PIMS, our
12 hold point check, RISC form, et cetera. So I talked to
13 Carl, I said, "I want to see how our inspector,
14 frontline inspector, working on site for the whole
15 slab". That's why he organised a quality assurance
16 department, get a quality engineer on site, to review
17 the records, et cetera, et cetera, whether PIMS are --
18 the PIMS system were well followed at that time.

19 Q. That's what I was going to ask you about.

20 A. That is the intention. I want to see a bigger scale of
21 the situation.

22 Q. I see, Mr Lee, but if one looks at paragraph 23 of your
23 witness statement --

24 A. Yes.

25 Q. -- picking it up about four lines down, you say:

26 "Carl Wu suggested performing an internal

1 review ..."

2 A. Yes.

3 Q. No problem with that.

4 "... independent of the MTRCL construction team ..."

5 No problem with that.

6 "... to examine the construction records to confirm
7 that the steel reinforcement and couplers for the EWL
8 track slab ... had been installed in accordance with the
9 requirements of the relevant quality assurance
10 [documents] ..."

11 A. Yes.

12 Q. So it was very much -- and we've obviously heard from
13 Mr Carl Wu earlier today -- it was very much
14 a records-focused exercise?

15 A. Yes.

16 Q. Is that really what you wanted or did it go wide enough
17 for your bigger picture exercise?

18 A. No, I -- actually, I just want to understand, let him
19 conduct a review, whether our frontline inspectors and
20 engineers follow the system, the PIMS system, of
21 inspecting all the steel bars before concreting.

22 Q. Okay.

23 A. At that time, the slab was already cast, fully cast, in
24 2017.

25 Q. Yes, of course.

26 A. So they have to look at all the records that were

1 compiled during that time.

2 Q. Right. And we heard from Mr Wu that he, and we can see
3 on the face of the report -- that he interviewed just
4 Mr James Ho and Mr Kobe Wong. From your perspective --
5 I know that you invited Michael Fu to really coordinate
6 the report or the production of the report -- you
7 personally didn't seek to limit the people he talked to
8 or the records he got access to or anything like that,
9 but you just left it to him?

10 A. Okay. When I asked them to do the report, there's one
11 word in my mind that I keep very clear, it's
12 "independence". The audit team is independent from the
13 civil construction team, and they are very qualified
14 audit people. I leave it entirely to them. I want the
15 comfort that the whole thing, whole slab, that was
16 constructed was in -- follows the due requirements of
17 our PIMS system.

18 Q. Okay.

19 A. That's why I didn't give them any guideline or didn't
20 give them any methodology. They are the quality
21 assurance people. They have been doing this for many
22 years, and they have done this report for my contract
23 over the 23 years I was with MTR.

24 Q. Right. So you did see this as, essentially,
25 a specialist audit-type exercise?

26 A. Yes.

1 Q. All right. Obviously you received the report --

2 A. Yes.

3 Q. -- once it had been prepared, and you considered it.

4 A. Yes.

5 Q. You say that you talked to Mr Rooney about it.

6 A. Yes.

7 Q. And the upshot is that both you and Mr Rooney were
8 satisfied; is that right?

9 A. Yes.

10 Q. We don't need to look at it. We've looked at it once or
11 twice today already and I suspect perhaps you can
12 remember it. The report sets out a number of follow-up
13 actions, Mr Lee.

14 A. Yes.

15 Q. After the report, at any particular point in time, did
16 you speak to Carl Wu or anybody else to see whether
17 those follow-up actions had been indeed followed up?

18 A. Once I received the report from Carl Wu, he briefed me
19 the process of the auditing. He briefed me that some
20 improvement or recommended action that the site team
21 need to follow up, and he said to me: Carl, our
22 construction manager, is aware of these improvement
23 action and he has already tasked or requested them to
24 follow up.

25 And I look at this record issue, it's purely for the
26 construction manager and his team to follow through.

1 I was the construction manager 15 years ago. This would
2 be exactly what I would do. So I delegate that to the
3 construction manager to close them all out.

4 Q. Okay. At or about the time that Mr Wu and Mr Fung were
5 preparing the MTRC report, Leighton, through Mr Lumb and
6 his team, were preparing or doing a similar
7 investigation and review, as we've heard.

8 Did you get to see Mr Lumb's report at the time,
9 Mr Lee?

10 A. I didn't. I knew from Aidan that Leighton is doing
11 their in-house internal report, but as I explained
12 earlier, the thinking was the report I want to do is --
13 I want to see whether my frontline staff follow the PIMS
14 system. I trust MTR's PIMS system a lot, because we've
15 been building railway using exactly this robust system.

16 Q. But just so I've got that clear, you were aware that
17 Leightons were carrying out some review and had been
18 requested to produce a report --

19 A. Yes.

20 Q. -- back in 2015, but you didn't enquire about that
21 report and ask to see a copy of it?

22 A. I talked to Aidan many times, our offices are actually
23 next to each other, and he said Leighton is doing the
24 report and then the result come out, there's no problem,
25 they've been rectified, they align with what the
26 inspectors have identified, et cetera.

1 Q. All right. So although you didn't see the report,
2 Mr Rooney had indicated to you, having himself seen the
3 report, that there was consistency?

4 A. Yes.

5 Q. All right.

6 CHAIRMAN: So both reports -- I know you didn't see the one,
7 but both reports appear to be purely internal and
8 looking to records?

9 A. Yes. For me, as the general manager, I need the comfort
10 that our team is following our PIMS system when they
11 implement the work on site. That's something I need to
12 get.

13 CHAIRMAN: One of the things that's arisen during the
14 hearing is the fact that nobody actually sought to speak
15 to Jason Poon and get him to explain what he says he
16 saw, and perhaps to give consideration to his photograph
17 or photographs.

18 A. Yes.

19 CHAIRMAN: Nor indeed did anybody, at the end of it all,
20 write to him or phone him to say there had even been
21 an investigation.

22 Do you think that your purely internal report, based
23 on records, might have been expanded to perhaps involve
24 some form of interview with him?

25 A. Well, as I said, when I commissioned to do this report,
26 I wanted it to be independent. I wanted the auditor to

1 make up their mind what they need to -- who they need to
2 interview and how much records they want to see. The
3 focus is I want to make sure the work done in accordance
4 with PIMS, not because of somebody making some
5 allegation.

6 CHAIRMAN: All right.

7 A. At that time, that was the focus in my mind.

8 CHAIRMAN: All right. And of course you wouldn't have been
9 able to dictate to Leightons how they did their report,
10 presumably?

11 A. I try not to.

12 MR PENNICOTT: Sir, unless there's anything I might think of
13 overnight, I have no further questions for Mr Lee, so
14 perhaps that might be an appropriate moment.

15 CHAIRMAN: Thank you. Yes.

16 Mr Lee, we're sorry but we're going to have to ask
17 you to come back tomorrow. We hope that we won't keep
18 you too long.

19 WITNESS: Okay.

20 CHAIRMAN: We'll start again tomorrow at 10 am.

21 WITNESS: 10 am.

22 CHAIRMAN: Because you are in the middle of giving your
23 evidence, you are not entitled to discuss your evidence
24 with anybody overnight or until it is completed.

25 WITNESS: Understand.

26 CHAIRMAN: Good. Thank you very much indeed.

1 (5.08 pm)

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

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