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<p>1 Tuesday, 11 December 2018</p> <p>2 (10.00 am)</p> <p>3 (Proceedings delayed)</p> <p>4 (10.16 am)</p> <p>5 CHAIRMAN: Good morning, and apologies for keeping you all</p> <p>6 waiting. The Commission feels it should just make</p> <p>7 an announcement as to its progress with the Inquiry, and</p> <p>8 does so as follows.</p> <p>9 In light of the commencement of opening up of the</p> <p>10 East West Line and North South Line slabs of the</p> <p>11 Hung Hom Station Extension, the Commission is aware of</p> <p>12 public interest as to the extent to which, if at all,</p> <p>13 that exercise will impact upon the progress of the</p> <p>14 Commission's Inquiry.</p> <p>15 In this regard, it is the present intention of the</p> <p>16 Commission to continue to complete its Inquiry within</p> <p>17 the extended time granted to it by the Chief</p> <p>18 Executive-in-Council, delivering its report on or before</p> <p>19 26 February 2019.</p> <p>20 That said, naturally, the findings of the opening-up</p> <p>21 exercise, insofar as they may be known by the time the</p> <p>22 Commission completes its Inquiry, are and will be of</p> <p>23 immediate relevance.</p> <p>24 In this regard, steps are being taken to ensure that</p> <p>25 the Commission, and through the Commission the general</p>	<p>1 can be facilitated.</p> <p>2 So, sir, that is all I wish to say at this moment.</p> <p>3 If anybody's expert does wish to inspect next week, then</p> <p>4 appropriate communications can be made to the</p> <p>5 Commission's legal team and it will be organised through</p> <p>6 them.</p> <p>7 CHAIRMAN: Yes. Thank you very much. I think it should be</p> <p>8 said that there was a brief discussion between myself</p> <p>9 and Prof Hansford and the Commission's counsel, to the</p> <p>10 effect that because of constraints of the work</p> <p>11 environment and all the other relevant issues, the</p> <p>12 invitation is to the experts only, that is, independent</p> <p>13 experts appointed by any of the parties. And to ensure</p> <p>14 that matters are dealt with in an orderly fashion, if</p> <p>15 any independent expert appointed by any of the parties</p> <p>16 seeks to attend, then if that request could be</p> <p>17 channelled through the Commission first, just so that we</p> <p>18 all know where we are, rather than having somebody</p> <p>19 suddenly arrive at the site unannounced.</p> <p>20 Good. Thank you very much indeed. Sorry, to avoid</p> <p>21 being pedantic, but the invitation, as it stands, is</p> <p>22 therefore to independent experts. It is not to parties</p> <p>23 themselves generally. It is to be remembered that all</p> <p>24 parties are here to assist the tribunal and they don't</p> <p>25 have any particular right, as the Commission understands</p>
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<p>1 public, is kept informed of developments in the</p> <p>2 opening-up exercise.</p> <p>3 Thank you.</p> <p>4 MR PENNICOTT: Thank you, sir. As part of keeping the</p> <p>5 public informed and indeed the interested parties</p> <p>6 informed as to the Commission's steps in keeping</p> <p>7 a watchful eye on the opening up, I can tell everybody</p> <p>8 that the Commission's independent expert, Prof Don</p> <p>9 McQuillan, will be arriving in Hong Kong this coming</p> <p>10 weekend, and the expectation is that he will be</p> <p>11 inspecting such areas as are available to be inspected</p> <p>12 during the course of next week, with a view, obviously,</p> <p>13 to taking into account what he observes for the purposes</p> <p>14 of his report in due course.</p> <p>15 Sir, I am instructed to say that if any of the other</p> <p>16 interested parties who have appointed their own</p> <p>17 independent experts wish to accompany Prof McQuillan on</p> <p>18 any of his inspections, provided of course the MTRC can</p> <p>19 make the necessary arrangements, which I'm sure they</p> <p>20 can, they would be more than welcome to attend with</p> <p>21 Prof McQuillan.</p> <p>22 Indeed, from the Commission's perspective, we would</p> <p>23 encourage joint inspections, if at all possible, because</p> <p>24 that is likely to give rise to a greater degree of</p> <p>25 consensus amongst the experts, in due course, if that</p>	<p>1 it, to actually attend something of this nature.</p> <p>2 Good. Thank you. Yes, Mr Pennicott.</p> <p>3 MR LEE TZE MAN (on former affirmation)</p> <p>4 Examination by MR PENNICOTT</p> <p>5 MR PENNICOTT: Sir, I had indicated that I had finished</p> <p>6 asking my questions of Mr Lee last night, but as always</p> <p>7 happens when one has the night to reflect, there are</p> <p>8 just a couple more questions I'd like to ask you,</p> <p>9 Mr Lee. Thank you for coming back again this morning.</p> <p>10 Mr Lee, I hope I can deal with this very quickly.</p> <p>11 Can I ask you to look at paragraphs 32 to 34 of your</p> <p>12 witness statement, at B1/164.</p> <p>13 A. Yes, I can see that.</p> <p>14 Q. Thank you very much. This is evidence that you give</p> <p>15 about some events that took place after the 15 June</p> <p>16 report had been submitted to government.</p> <p>17 A. Yes.</p> <p>18 Q. It was followed up by a letter from RDO, as you</p> <p>19 mentioned in the first line of paragraph 32. That led</p> <p>20 to further work and research being done by various</p> <p>21 members of the MTRC team.</p> <p>22 A. Yes.</p> <p>23 Q. And the upshot was, in paragraph 34, that you were given</p> <p>24 a letter to sign --</p> <p>25 A. Yes.</p>

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	<p>1 Q. -- via Philco Wong.</p> <p>2 A. Yes.</p> <p>3 Q. Could we just look at that letter, please. It's at</p> <p>4 B1/69. I think this is the letter, Mr Lee.</p> <p>5 A. Yes.</p> <p>6 Q. In that letter, you refer to the report.</p> <p>7 A. Yes.</p> <p>8 Q. And you send to government, to RDO in particular,</p> <p>9 various further information?</p> <p>10 A. Yes.</p> <p>11 Q. Including two attachments, which we find at B71, 72, 73,</p> <p>12 over the page?</p> <p>13 A. Yes.</p> <p>14 Q. That's attachments A, B and C, three attachments.</p> <p>15 Really, the question is this, Mr Lee: did you</p> <p>16 appreciate, when you signed this letter, that</p> <p>17 essentially what you were telling government was that</p> <p>18 there were discrepancies and errors in the June 2015</p> <p>19 report?</p> <p>20 A. Okay. Now, the letter was not prepared by me.</p> <p>21 Q. I appreciate that.</p> <p>22 A. It was prepared by collective effort of our legal team</p> <p>23 and our civil team. When I was given this letter,</p> <p>24 I looked at the contents of the letter. I also looked</p> <p>25 at all the stream of email exchange between our various</p>	<p>1 Q. At that time, according to your evidence, Mr Aidan</p> <p>2 Rooney notified you about an earlier email from</p> <p>3 Michael Fu which contained an email chain containing the</p> <p>4 email from Jason Poon dated 6 January. You remember</p> <p>5 that, right?</p> <p>6 A. Yes.</p> <p>7 Q. At that time, did you have a chance to actually look at</p> <p>8 Jason Poon's email yourself?</p> <p>9 A. Yes.</p> <p>10 Q. Did you have a chance to also look at the photographs</p> <p>11 attached to his email?</p> <p>12 A. Yes.</p> <p>13 Q. Thank you. Now, at that time, I would like to know, at</p> <p>14 that time, did you think that if what was alleged by</p> <p>15 Mr Jason Poon and what you saw from the pictures did in</p> <p>16 fact happen, it was a serious matter which called for</p> <p>17 a thorough investigation? Did you think that it should</p> <p>18 call for a thorough investigation?</p> <p>19 A. Well, as I said yesterday, once I received the letter</p> <p>20 and looked at the photo, it was a surprise to me, so</p> <p>21 I needed to ask my colleagues, to understand them a bit</p> <p>22 more. That's my immediate reaction.</p> <p>23 Q. Right. So, from your point of view, according to what</p> <p>24 you saw from Mr Jason Poon's email and what you saw from</p> <p>25 the pictures that he provided, it's something which</p>
	<p>Page 6</p> <p>1 colleagues who have given inputs to the letter; okay?</p> <p>2 And the essence of the letter is just to update the</p> <p>3 government that in the last two weeks after we issue the</p> <p>4 report, we have retrieved more as-built records, and</p> <p>5 through this retrieval of as-built records, they realise</p> <p>6 that there has been some amendment during the</p> <p>7 construction stage and they want to take this</p> <p>8 opportunity as quickly as possible to update the</p> <p>9 government about the situation.</p> <p>10 Q. Right.</p> <p>11 A. That is the essence of the letter. As soon as we know,</p> <p>12 we send it to them.</p> <p>13 Q. Thank you very much, Mr Lee. I now have no further</p> <p>14 questions.</p> <p>15 A. Thank you.</p> <p>16 MR SHIEH: No questions.</p> <p>17 Cross-examination by MR KHAW</p> <p>18 MR KHAW: Mr Lee, good morning.</p> <p>19 A. Good morning.</p> <p>20 Q. My name is Richard Khaw. I'm one of the counsel</p> <p>21 representing the government.</p> <p>22 You recall Mr Pennicott yesterday, before we</p> <p>23 adjourned the hearing, referred you to Jason Poon's</p> <p>24 email dated 6 January 2017?</p> <p>25 A. Yes.</p>	<p>Page 8</p> <p>1 called for an investigation, at least?</p> <p>2 A. I wouldn't say investigation. I just want to understand</p> <p>3 what is it about.</p> <p>4 Q. Okay.</p> <p>5 A. I won't jump to the conclusion of what this is.</p> <p>6 Q. Right.</p> <p>7 A. This is very serious or what. I'm not that kind of</p> <p>8 person. I'm quite calm and natural.</p> <p>9 Q. No, no, no, I'm not saying you were jumping to</p> <p>10 conclusions at that stage. My question was simply, at</p> <p>11 that time, did you feel the need for an investigation?</p> <p>12 A. I wouldn't use the word "investigation". As I said</p> <p>13 yesterday, I did four management actions. First,</p> <p>14 I informed my senior. Second, I forwarded the email to</p> <p>15 Clement Ngai, he is civil design -- he's design but</p> <p>16 still civil-related; I want to get another angle.</p> <p>17 Third, I talked to our construction team, construction</p> <p>18 manager, who was doing the investigation as asked by</p> <p>19 Aidan Rooney. And fourth, I asked Carl Wu to do</p> <p>20 an internal review of the whole thing, to give me</p> <p>21 a better comfort and assurance. That is the things that</p> <p>22 come to my mind.</p> <p>23 Q. So it would be fair, at least, to say that, from your</p> <p>24 point of view, in view of what you saw from Mr Jason</p> <p>25 Poon's email and also the pictures, you would need to</p>

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<p>1 know more about the allegation?</p> <p>2 A. Yes.</p> <p>3 Q. From what you saw from Mr Jason Poon's email and also</p> <p>4 what you saw from the pictures, it could mean that</p> <p>5 people were trying to cut corners during the</p> <p>6 construction process; would you agree?</p> <p>7 A. It could.</p> <p>8 Q. Yes. Now, before you were notified by Mr Rooney about</p> <p>9 the email from Mr Jason Poon, you also spoke to</p> <p>10 Mr Rooney about Mr Jason Poon's allegation; is that</p> <p>11 correct?</p> <p>12 A. He briefed me about some background between Jason Poon's</p> <p>13 company and Leighton's company.</p> <p>14 Q. Yes.</p> <p>15 A. Something, the background of it, and then about this</p> <p>16 photo, et cetera.</p> <p>17 Q. Yes. Perhaps we can take a look at what you said in</p> <p>18 your witness statement --</p> <p>19 A. Okay.</p> <p>20 Q. -- regard your conversation or your communication with</p> <p>21 Mr Rooney. B161, paragraph 20. At 20 you said:</p> <p>22 "I also note that in the email from Aidan Rooney to</p> <p>23 myself dated 6 January [ie the same date of Mr Jason</p> <p>24 Poon's email] ..., Aidan Rooney said that:</p> <p>25 'Follow our discussion at lunchtime regarding China</p>	<p>1 that; okay?</p> <p>2 CHAIRMAN: I think, perhaps for myself, the issue becomes</p> <p>3 one of saying: yes, there are commercial disputes, but</p> <p>4 this commercial dispute had an extra edge to it -- in</p> <p>5 short, it had either intended to be entirely separate</p> <p>6 or, for the cynics, intended to be part of the</p> <p>7 commercial dispute -- was an allegation that there was</p> <p>8 malpractice in the actual construction of the site.</p> <p>9 A. I understand, Mr Chairman. I understand there is some</p> <p>10 commercial dispute behind, from the information that</p> <p>11 I gather from Aidan. But if you look at the four</p> <p>12 management actions that I have taken, they are not</p> <p>13 commercial. I want to understand what it is about from</p> <p>14 a technical point of view, from the site</p> <p>15 supervision/quality control point of view, purely in</p> <p>16 that angle.</p> <p>17 MR KHAW: From your discussions with Mr Rooney at that time,</p> <p>18 did you form any impression that in fact Mr Rooney</p> <p>19 believed that Jason Poon's allegation had no substance?</p> <p>20 A. No, because he already asked Michael to look at it,</p> <p>21 check the record, see whether there's any validity in</p> <p>22 the allegation. So we are not taking it light.</p> <p>23 Q. Thank you. In fact, that's exactly what I was about to</p> <p>24 explore with you a bit more.</p> <p>25 A. Yes.</p>
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<p>1 Technology and Jason Poon, refer below email from Jason.</p> <p>2 This is a part of Jason's strategy to put pressure</p> <p>3 on Leighton to pay him the extra 3 million this week.</p> <p>4 As Michael advises we are checking our records to</p> <p>5 ascertain whether there is any validity in Jason's</p> <p>6 claim.</p> <p>7 Jason may leak such claims to the media, we are</p> <p>8 preparing the LTT."</p> <p>9 I was struggling to try to figure out what "LTT"</p> <p>10 stands for.</p> <p>11 A. Line to take.</p> <p>12 Q. It stands for "line to take", yes.</p> <p>13 Here, if we simply focus on what you have quoted in</p> <p>14 relation to your communication with Mr Rooney. Now,</p> <p>15 from your discussions with Mr Rooney at that time, did</p> <p>16 he give you the impression that he was quite confident</p> <p>17 that Mr Jason Poon's allegation was caused by</p> <p>18 a commercial dispute? Did he give you that impression?</p> <p>19 A. Yes, I think he did, because at that time, when just</p> <p>20 before Chinese New Year, many sub-contractors have this</p> <p>21 kind of thing, not just Jason Poon; many other</p> <p>22 contractors, the main contractor have some argument on</p> <p>23 getting payment. So this kind of the -- commercial</p> <p>24 background at the back, of any argument is not uncommon</p> <p>25 in the Hong Kong construction industry. You can realise</p>	<p>1 Q. If you look at Mr Rooney's email, paragraph 3, he says:</p> <p>2 "As Michael advises we are checking our records to</p> <p>3 ascertain whether there is any validity in Jason's</p> <p>4 claim."</p> <p>5 Did you know from Mr Rooney what records he was</p> <p>6 talking about?</p> <p>7 A. Construction records.</p> <p>8 Q. What particularly were those records that you understood</p> <p>9 to be the relevant records?</p> <p>10 A. These are site inspection records, RISC forms, records</p> <p>11 from our inspector, diaries, logbooks, all kinds of</p> <p>12 records related to --</p> <p>13 Q. So, in your communications with Mr Rooney, you did talk</p> <p>14 about some specific categories of documents; right?</p> <p>15 A. I don't think we went to that detail. As you can</p> <p>16 appreciate, it's about two years ago, the conversation.</p> <p>17 There had been a lot going on in a very busy site.</p> <p>18 I can't answer that.</p> <p>19 Q. Right. But at that time you yourself knew that the</p> <p>20 relevant records were the records that you just</p> <p>21 mentioned?</p> <p>22 A. Yes.</p> <p>23 Q. In paragraphs 21 and 22 of your witness statement, you</p> <p>24 then went on to talk about further communications</p> <p>25 between you and your colleagues on 10 January 2017. Do</p>

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<p>1 you see that?</p> <p>2 A. Yes.</p> <p>3 Q. In fact you mentioned that Mr Rooney forwarded to you</p> <p>4 a draft statement regarding the line to take, which was</p> <p>5 intended to answer possible media questions. Do you</p> <p>6 remember that?</p> <p>7 A. Yes.</p> <p>8 Q. Maybe we can just have a look at the line to take</p> <p>9 proposed at that time. B10/7473.</p> <p>10 This is an email forwarded by Mr Rooney, and in fact</p> <p>11 the actual email regarding the line to take was from</p> <p>12 Floran Lee, the project communications manager; do you</p> <p>13 see that?</p> <p>14 A. Yes.</p> <p>15 Q. Here, the proposed line to take is as follows. It</p> <p>16 should be the second paragraph of this particular email:</p> <p>17 "Expansion works and the construction works of</p> <p>18 stabling sidings of SCL Hung Hom Station are in</p> <p>19 progress. With regard to the financial arrangements</p> <p>20 between the main contractor (Leighton) and</p> <p>21 sub-contractor (China Tech), the corporation has</p> <p>22 instructed the main contractor to resolve the issue with</p> <p>23 the sub-contractor as soon as possible. It is</p> <p>24 understood that the issue is currently under discussion</p> <p>25 from both sides and the relevant progress of the works</p>	<p>1 show non-compliance; do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Then you refer us in your witness statement,</p> <p>4 paragraph 22, your communication with Mr Michael Fu.</p> <p>5 A. Yes.</p> <p>6 Q. Mr Michael Fu at that time showed you an email between</p> <p>7 Mr Kobe Wong and Leighton, and that we now all</p> <p>8 understand relates to the NCR157 --</p> <p>9 A. Yes.</p> <p>10 Q. -- in relation to a previous threaded bar cutting</p> <p>11 incident; do you remember that?</p> <p>12 A. Yes.</p> <p>13 Q. In answer to Mr Pennicott's question yesterday, you told</p> <p>14 us that at that time Michael Fu assured you that it was</p> <p>15 an isolated incident because the defects had been</p> <p>16 rectified; do you remember that?</p> <p>17 A. Yes.</p> <p>18 Q. By now, you might have heard that in fact in 2015, MTR</p> <p>19 actually discovered about a total of five threaded rebar</p> <p>20 incidents?</p> <p>21 A. Yes.</p> <p>22 Q. You know about that; right? Because we heard from other</p> <p>23 witnesses of MTR that this was the case.</p> <p>24 A. Yes.</p> <p>25 Q. So, looking back, would you consider that you were not</p>
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<p>1 is not affected.</p> <p>2 In response to the doubt raised by sub-contractor on</p> <p>3 quality of individual works, MTR values construction</p> <p>4 safety and construction quality. Our project team</p> <p>5 conduct regular inspections and testing on works safety</p> <p>6 and quality to ensure that they are in compliance with</p> <p>7 the statutory and design requirements. This arrangement</p> <p>8 is proven to be an effective way to manage quality of</p> <p>9 works as record shows that non-compliance with design</p> <p>10 and statutory standard on some individual works were</p> <p>11 spotted by MTR engineers during routine inspections and</p> <p>12 testing in the past and the contractor was immediately</p> <p>13 requested to carry out rectification works.</p> <p>14 MTR is following up the case with the main</p> <p>15 contractor. To ensure the structural safety and quality</p> <p>16 of the newly constructed structure, the main contractor</p> <p>17 has carried out independent investigation to review the</p> <p>18 works procedures."</p> <p>19 Now, apparently you had no objection to the line to</p> <p>20 take at that time?</p> <p>21 A. This is a high-level line to take, so I had no objection</p> <p>22 at that time.</p> <p>23 Q. Yes, and the line to take, the proposed line to take</p> <p>24 here, also showed the importance of record, because it</p> <p>25 actually singles out that the record would be able to</p>	<p>1 told of the full picture by Michael Fu at that time,</p> <p>2 because he told you only about one incident and he</p> <p>3 assured you that that incident was an isolated incident?</p> <p>4 A. I don't -- from my recollection, I don't think he just</p> <p>5 told me about one incident. He told me, from my</p> <p>6 recollection, there had been this kind of -- there had</p> <p>7 been a few occasions of this malpractice, but the</p> <p>8 inspector, the site inspector, has identified them and</p> <p>9 they rectified them, and even with an email issued to</p> <p>10 Leighton on 15 December, because on that one, there</p> <p>11 were, from memory, three to five cut bars.</p> <p>12 So I got the impression that my inspectors on site,</p> <p>13 they were doing their job, and I worked with my team for</p> <p>14 the last few years, they are a very reliable team,</p> <p>15 a team I can trust. They have done a lot of good work</p> <p>16 on 1112, the Hung Hom Station, which is enormously</p> <p>17 complicated, and they have overcome lots of challenges</p> <p>18 in maintaining the station, the existing station, in</p> <p>19 a safe and working manner. They did a lot of work along</p> <p>20 the track. They did a lot of work underneath the</p> <p>21 running track. They did a lot of work above the track,</p> <p>22 in the nighttime, and then every morning we can have</p> <p>23 a train running safely for the passengers.</p> <p>24 So all these challenges that they have undertaken</p> <p>25 successfully gave me the impression that I got a very</p>

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<p>1 reliable team.</p> <p>2 I said yesterday to Mr Pennicott, when my inspector</p> <p>3 told me or Michael told me the inspector actually</p> <p>4 spotted this -- I mean, to me, this kind of detail, at</p> <p>5 the component level, they managed to spot it, I got</p> <p>6 a sense of relief, that I really had a team that I can</p> <p>7 rely on.</p> <p>8 SCL, if I may use a couple of minutes to say a few</p> <p>9 words about SCL: SCL is an extremely complicated and</p> <p>10 colossal project. In my view, it's as complicated as</p> <p>11 building Crossrail in London. It's not just building</p> <p>12 a new line, it involves modifying existing three lines,</p> <p>13 30 stations, big modification, most of them undertaken</p> <p>14 at night-time, and in the last five years my team</p> <p>15 managed to maintain operating service for the</p> <p>16 passengers, without even five minutes' hiccup.</p> <p>17 So this team, 700 of them under me, they have</p> <p>18 achieved a lot, and they are very reliable. They always</p> <p>19 carry one word in their mind, as I promulgate to them:</p> <p>20 safety. They lost a lot of sleep when they have</p> <p>21 undertaken critical works in the night-time to ensure</p> <p>22 tomorrow we have the train running again. We modify the</p> <p>23 signal lane, they modify the trains, we modify the</p> <p>24 overhead line, the track. All this, they support the</p> <p>25 Coliseum in Hung Hom Station. They did a lot of</p>	<p>1 email. Michael Fu showed me an email between Mr Kobe</p> <p>2 Wong ... and Leighton dated 15 December 2015, and</p> <p>3 assured me that the issue mentioned in Jason Poon's</p> <p>4 email had already been dealt with in 2015 during the</p> <p>5 construction period."</p> <p>6 Now, if we can take a look at the email from Kobe</p> <p>7 Wong to Leighton. It's B10/7456.</p> <p>8 Now, you understood at that time from Mr Michael Fu</p> <p>9 that this email related to the NCR157 incident; is that</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. So you just told us that in fact, when Mr Fu talked to</p> <p>13 you at that time, he did not just talk about this NCR</p> <p>14 incident; he also mentioned to you other incidents</p> <p>15 regarding previous threaded bar cutting. Is that</p> <p>16 correct?</p> <p>17 A. That's my recollection.</p> <p>18 Q. Do you remember how many incidents he referred you to?</p> <p>19 A. I can't recall that.</p> <p>20 Q. But certainly, from your discussion with Mr Fu, you knew</p> <p>21 that there was more than one bar cutting incident?</p> <p>22 A. Yes, I can say that.</p> <p>23 If I can add: I can recollect that -- because they</p> <p>24 found five incidents in that juncture of time, they</p> <p>25 issued this email.</p>
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<p>1 underpinning to maintain the integrity of the station.</p> <p>2 And nobody outside, in the public -- they may not</p> <p>3 realise, building a new station in an existing station,</p> <p>4 it's the first time in Hong Kong, and my inspector could</p> <p>5 tell me, "I even spot there are some coupler issue and</p> <p>6 I got the contractor to rectify that."</p> <p>7 So, on a macro scale, they did a good job. On</p> <p>8 a micro scale, they also managed to keep a close eye on</p> <p>9 it. They may be very -- they may not be up to speed in</p> <p>10 documentation. I appreciate that. It's a common</p> <p>11 problem in the construction industry. The reason why:</p> <p>12 the site inspector, the foreman, the paper-writing, or</p> <p>13 the writing, keeping records, they are not as good as</p> <p>14 legal professionals. Their priority is to maintain the</p> <p>15 site in a safe manner, making progress, moving the job</p> <p>16 forward. This is an area of improvement that the whole</p> <p>17 construction industry in Hong Kong needs to focus on.</p> <p>18 That's what I want the counsel to take into account.</p> <p>19 Q. Thank you, Mr Lee. If I may just go back to my earlier</p> <p>20 question. If you take a look at paragraph 22 of your</p> <p>21 witness statement, you said:</p> <p>22 "I recall that around that time (though I cannot</p> <p>23 recall the exact date and time), Michael Fu came to</p> <p>24 brief me and explain to me Jason Poon's allegations in</p> <p>25 (as well as the photographs attached to) Jason Poon's</p>	<p>1 Q. Yes.</p> <p>2 A. So previously, they found one bar, they dealt with it</p> <p>3 immediately, they didn't do the record, but in this</p> <p>4 particular case they thought they need to raise the</p> <p>5 yellow card or whatever, to warn the contractor.</p> <p>6 Q. Yes. Now, you apparently had a chance to look at</p> <p>7 Mr Kobe Wong's email.</p> <p>8 A. Yes.</p> <p>9 Q. If we then take a look at the pictures attached to this</p> <p>10 particular email. For example, if we can take a look at</p> <p>11 7459. When you looked at this picture, did you actually</p> <p>12 find the situation worrying, when you saw this?</p> <p>13 A. Well, as I said, when I looked at it, I didn't know what</p> <p>14 it is about, what was the cause of it, so I started</p> <p>15 asking people questions.</p> <p>16 Q. Yes. So you started to ask people questions. Now, let</p> <p>17 us try to understand this step by step. You got hold of</p> <p>18 Kobe Wong's email. You got hold of this picture. You</p> <p>19 knew from Mr Michael Fu that there were more than one</p> <p>20 bar cutting incident.</p> <p>21 Now, did this further ring a bell that there could</p> <p>22 be a widespread practice of bar cutting incident which</p> <p>23 might be consistent with Jason Poon's allegation? Did</p> <p>24 you consider that at that time?</p> <p>25 A. I can't remember my consideration at that time, but what</p>

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<p>1 I said yesterday was I want to conduct a thorough review 2 of the whole construction supervision process, whether 3 they are carried out in accordance with our PIMS system. 4 That's what I had in mind. This one, he identified this 5 one, it's been dealt with. It's been dealt with. But 6 then I want a bigger assurance, because as I said I was 7 the general manager of the line; I need to take the 8 responsibility, so I want bigger comfort that this line 9 or this slab is constructed in accordance with our PIMS 10 requirements. 11 Q. Yes. When you were told by Mr Michael Fu that there was 12 this NCR incident and there were in fact more incidents 13 previously, did you ask him whether MTR or your 14 colleagues were able to ascertain or identify the reason 15 for this problem? 16 A. I can't remember the details, but we talk about maybe 17 there's a difficulty in putting the bar in, it's a very 18 congested area, this kind of issue. But the important 19 thing is, they identify this one, they dealt with it 20 straightaway, so that's what is important. 21 Q. But the problem is, what puzzles me is, at that time, in 22 view of your discussions with Mr Michael Fu, you did not 23 only know about one isolated incident. You in fact knew 24 more. So did it consider that you had to actually know 25 more about the cause of such incidents?</p>	<p>1 But just going back to my earlier question, when you 2 knew from Mr Michael Fu that there were more than one 3 threaded rebar cutting incidents, you would agree with 4 me, would you not, that at that time you did not 5 consider it necessary to make further enquiry in 6 relation to the cause or causes of such incidents? 7 Would you agree with me? 8 A. Well, I wasn't putting too much focus in finding the 9 cause. There may be other different causes. But what 10 I focus is have they been rectified, have our inspection 11 team followed our PIMS system. That's what I had in 12 mind at that time. 13 Q. Thank you. 14 Now, in paragraph 23 of your witness statement, you 15 then talk about your conversation with Mr Carl Wu -- 16 A. Yes. 17 Q. -- who suggested conducting an internal interview, which 18 involved the examination of construction records to 19 confirm -- if I may use your own words -- that the steel 20 reinforcement and couplers had been properly installed 21 in accordance with the QC and QA assurance. 22 A. Yes. 23 Q. I would like to know whether, at that time, ie at the 24 time when Mr Carl Wu suggested doing an internal review 25 or sometime afterwards, were you aware of the</p>
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<p>1 A. Well, as I said, this one, this incident, had five bars. 2 The other one is one bar, two bars, which is very minor 3 or can easily be dealt with incident. If we identify 4 one bar and then we issue an NCR, then the team, the 5 site team, will have a colossal amount of paperwork to 6 deal with. And as I said we are not building a green 7 site. In Hung Hom Station, during construction of this 8 slab, there are more than 20 workfronts that the site 9 team needs to worry about, that we have to ensure the 10 trains and our passengers have a reliable and safe 11 system to travel. 12 Q. Thank you. 13 A. So we can't put every attention just on one workmanship 14 issue. My inspectors, my engineers, they are all 15 qualified, well-trained, experienced, conscientious 16 people. I always tell my team, "You are building a line 17 not just for the public, you are building it for 18 yourself and your family, your relatives will use it." 19 So with this mindset, nobody, even a contractor, even 20 a worker, once it's finished, everybody in Hong Kong 21 will use. We are not building it for rich guys. So 22 that's the safety culture I promulgate to my team as 23 well as to contractors that I have a chance to come 24 into. 25 Q. Thank you, Mr Lee. I heard what you said.</p>	<p>1 requirements under the QSP regarding coupler 2 installations? 3 A. Not to that level of details. 4 Q. Right. Did you, at that time -- in fact, did you have 5 a chance to look at the QSP? 6 A. I don't think so, but you have to understand, I was the 7 general manager of the whole line, SCL. I wasn't 8 managing one contract. MTR's project management system 9 is quite structured. We have a guy at the top who 10 manages the whole line and then we split individual 11 contracts, individual station, tunnel, and each 12 individual contract has a frontline team to manage it. 13 That's how the organisation is set up. 14 Q. Now, Mr Lee, the reason why I ask you this question is 15 that in your witness statement, you said that Mr Carl Wu 16 suggested to you that there should be an internal 17 review, for the purpose of confirming whether the steel 18 reinforcement and couplers had been installed properly, 19 in accordance with the QC/QA requirements. So I suppose 20 that at that time at least, from your point of view, you 21 should find it necessary to at least know about the 22 requirements for QC and QA under the QSP. Would you 23 agree with me? 24 A. What I knew very well was the RISC form, the hold point 25 check, that before they pour the concrete our inspector</p>

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<p>1 would attend the inspection together with the 2 contractor. All these are the key activities they have 3 to carry out. In my mind, if they attend the site 4 inspection, they are all experienced engineers, 5 experienced inspectors. They would look at everything 6 that needs to be looked at, be it steel bars, be it 7 couplers, be it formwork, et cetera, et cetera. 8 So I don't believe any inspector or any of my 9 engineers will just go there to the site, "Okay, I just 10 look at that one bar, I'm not looking at any other 11 things." They are not this kind of people. They are 12 all very experienced. They have done this hundreds of 13 times. So far what they have done with me, they are 14 very robust. 15 This line -- the beauty of SCL is like this. 16 I talked about the challenge earlier, but there were 17 also a lot of beauties. The beauties were we don't wait 18 until the opening time that we know the quality of our 19 works. We don't. Because during the course of the 20 construction, we have to finish this part, hand it over 21 to operations to use it, hand it over to the public to 22 use it. So these various stages of handing over to the 23 public for them to use it, experience it, then already 24 tell: this team is providing high-quality services to 25 Hong Kong, be they the new trains, the new platform</p>	<p>1 A. No, I disagree. I told them what I want, from 2 a high-level point of view, and I know my team, 3 Carl's QA team, then the site team, the construction 4 team, they would know exactly what is required. I don't 5 need to write them a detailed list of "Check this, check 6 that." So, for a general manager like me, I don't think 7 I need to go into that kind of detail. I have 70 sites 8 to manage and 7,000 people working day and night on the 9 job. There are a lot of other pressing issues that 10 require my attention. I task them and I believe them 11 and I trust them. 12 Q. Thank you. At the time when Mr Carl Wu suggested this 13 internal review or shortly afterwards, were you aware 14 that there were no contemporaneous records in respect of 15 the coupling installations for platform slabs? 16 A. When he briefed me, and when I looked at the report, 17 I asked him whether the coupler irregularities had been 18 reviewed, had been checked, had been cleared, and then 19 the NCR157, has it been closed out, have the people 20 attended the inspection before the concrete pouring? So 21 I asked him quite a lot of questions, I remember, and 22 then he gave me positive answers. He was very happy 23 that the team have done what they are supposed to do or 24 what they are required to do under the PIMS requirement. 25 I remember later on I ran into James Ho in the</p>
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<p>1 screen doors they did at night-time, all the -- in 2 Hung Hom, the concourse station area; Chairman and 3 Professor you have witnessed the new concourse, 4 right? -- they were also built by the same team. We 5 hand over to them and everybody was happy. 6 So I'm talking about these works are by very 7 reliable people, with track record, to tell them they 8 are capable. I accept, as I said earlier, they may be 9 not 100 per cent up to speed in documentation, which 10 I think is a bit regrettable and that's an area that we 11 can improve and we're thinking of using technology to 12 help them. So that is the bigger picture of the issue. 13 Q. Mr Lee, perhaps my focus was not really on how your 14 people would go out and do things. I am more interested 15 to know about your thinking at that time, as a general 16 manager. 17 Mr Carl Wu told you, "Hey, we will need to do 18 an internal review." You thought it was a good idea; 19 yes? 20 A. Yes. 21 Q. But as a general manager, you, without knowing the QC or 22 QA requirements under the QSP, you would not be able to 23 tell whether things were properly done or properly 24 installed, according to the QC and QA standards; would 25 you agree with me?</p>	<p>1 office and I asked him about this review, and this young 2 man was very proud to tell me: Carl Wu just did an audit 3 with them, every pour they have got a RISC form to prove 4 that the inspector attended the inspection, did the 5 work. So the auditor gave me a positive report, and 6 I don't see any question to challenge them. I asked 7 them questions about coupler irregularity and they said 8 it's been addressed to be cleared, and I believe they 9 must have told the auditor the few incidents they 10 encountered and then it's all done. 11 Q. Mr Lee, I'm sure that people at that time were very 12 confident, were very adamant about what they did. But 13 my question was: when did you come to know about the 14 lack of contemporaneous records in relation to coupling 15 installations for platform slabs? 16 A. At my position, I didn't ask to that level of details. 17 Q. No, no, no. I mean when did you realise that, "Ah, in 18 fact there were no contemporaneous records"? 19 A. Well, the report states clearly that there are a few 20 recommended for improvement action the team need to 21 follow up. So I asked Carl, "So all these improvement 22 actions, have you asked Michael to follow up?" He said, 23 "Yes." And for almost every audit report I received 24 over the years, every report carries some improvement 25 action, so it's not unusual; a positive conclusion still</p>

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<p>1 requires the team to follow up with some documentation, 2 et cetera. 3 CHAIRMAN: Sorry, I do apologise for interrupting, but 4 following on from Mr Khaw's question, which was, "When 5 did you realise that there were no contemporaneous 6 records in respect of the coupling installations?" -- 7 would it be correct to say that you never came to 8 realise that there were no contemporaneous records? 9 A. Not at that moment. 10 CHAIRMAN: No. So you would have come to appreciate that 11 fact at a much later stage; would that be after this 12 Commission commenced its work? 13 A. Yes. 14 MR KHAW: In the internal review, ie the report of the 15 internal review, if we can just take a brief look at the 16 contents of the report. B7/4516. 17 If we turn to 4519, 5.1, you see that there were 18 some recommended follow-up actions -- 19 A. Yes. 20 Q. -- referred to in the report, and bullet point number 2 21 says, as a recommended follow-up action: 22 "Confirm the frequency of Leighton and MTR 23 supervision were in compliance with the requirement of 24 the QSP, and were recorded on the record sheet ..." 25 So, at that time, did you know of any reasons why</p>	<p>1 the person reporting say that everything was done 2 according to the records when they haven't looked at the 3 records? It's a nonsense. 4 A. Well, they are experienced auditors -- I can't speak 5 for -- 6 CHAIRMAN: No, no. Bear with me, Mr Lee. I've given you 7 full time and I haven't interrupted, because it's very 8 important, and I appreciate that, that you have the 9 ability to speak up for the very many people who do 10 a tremendous day's work and work very hard and have 11 worked to build up the reputation of the MTR. I have 12 allowed you that time. 13 But the issue that we have at hand is a more 14 restricted issue but nevertheless an important issue. 15 I just have difficulty. Everybody seems to somehow have 16 skirted around the issues, and on a plain, simple basis, 17 if I'm asked, "Check your records", and in this 18 particular contract the QSP directs what has to be done, 19 and the QSP directs that records should be kept of 20 a particular kind, and nobody checks it as part of the 21 enquiry but merely says it would be a good idea as 22 follow-up action, that's, as I've said, not mincing 23 words, is a nonsense, unless you can show me that as 24 a layperson I have completely misunderstood this. 25 Because, you see, if somebody had checked the QSP</p>
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<p>1 such follow-up action was recommended? 2 A. Well, I don't think I asked questions to that level of 3 detail. 4 Q. Thank you. 5 CHAIRMAN: Could I ask here also -- and this may be because 6 I'm a layperson, and I emphasise that a lot, perhaps to 7 the smiles of many counsel who appear in front of me, 8 but I think it's important here to emphasise that 9 I don't immediately by some magic become an engineer -- 10 but to me, looking at this, if you look at 5.1, 11 number 2: 12 "Confirm the frequency of Leighton and MTR 13 supervision were in compliance with the requirement of 14 the QSP, and were recorded ..." 15 Now, to me, that's not a follow-up action. To me, 16 that's an essential part of the exercise, because 17 everybody -- or you're saying to me, "This was not 18 an investigation, so we're not actually going to go out 19 there and find out what's actually happened, because we 20 haven't got time to do that. What we're going to do is 21 we're going to look at our records." 22 Now, the central records surely are the QSP 23 directions and necessary recordings in accordance with 24 that. But what this report says is, "I think it's 25 a good idea as a follow-up action to do this." How can</p>	<p>1 records, as I understand it, they would find they 2 weren't there, and yet they were meant to be there as 3 a specific, underlying part of this project. 4 A. Mr Chairman, I understand where you come from. The 5 reports were prepared/produced by our audit team, and 6 then when they give me this report I did ask them 7 questions, maybe not to the level of details that you 8 ask, and they are very experienced auditors and they 9 know more than I do what are required to be looked at, 10 and they did go out to the site to look at some records. 11 They looked at a lot of paperwork, they told me, RISC 12 records. Many documentation they went through. 13 So I appreciate your point, Mr Chairman, and I can't 14 comment further on that. 15 CHAIRMAN: You're aware, are you, that there was an exercise 16 that took place to actually create records? 17 A. Retrospectively, you mean? 18 CHAIRMAN: Yes. 19 A. This is later on in -- 20 CHAIRMAN: That's right. You're aware of that now? 21 A. Now I realise. Now I realise but -- 22 CHAIRMAN: Were you aware of that before those records had 23 been created, that is the retrospective records? 24 A. No. 25 CHAIRMAN: You had no idea that that exercise was going to</p>

<p style="text-align: right;">Page 33</p> <p>1 be undertaken?</p> <p>2 A. No, I wasn't involved in that.</p> <p>3 COMMISSIONER HANSFORD: Actually, Mr Lee, just a follow-up</p> <p>4 question from me -- when you asked Mr Wu to carry out</p> <p>5 this work, how long after that was it before you</p> <p>6 received his report? What was the period between asking</p> <p>7 Mr Wu to carry out this work and receiving his report;</p> <p>8 do you recall?</p> <p>9 A. I think, if I can recall, it's around two weeks.</p> <p>10 COMMISSIONER HANSFORD: Right. Because Mr Wu tells us this</p> <p>11 work took two or three days.</p> <p>12 A. Yes, but then he has to do report-writing, this kind of</p> <p>13 thing. Fieldwork may be a few days, but then write</p> <p>14 report, draft it, look at it, check it, so normally the</p> <p>15 supplementation part also consumes a few days.</p> <p>16 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>17 MR KHAW: Mr Lee, now we all know that in fact there had</p> <p>18 been no contemporaneous records in relation to the</p> <p>19 coupling installations for the platform slabs. So,</p> <p>20 looking back, if we go back to the conclusion of this</p> <p>21 internal review, at 4520, it says:</p> <p>22 "It is concluded that, based on the above review of</p> <p>23 the construction records, the steel reinforcement and</p> <p>24 coupler for the East West Line track slab of [the</p> <p>25 contract] had been installed in accordance with the</p>	<p style="text-align: right;">Page 35</p> <p>1 on" -- do you see? -- that would now, with the benefit</p> <p>2 of hindsight, show two things. Number one, there had</p> <p>3 actually been a look at the records, and number two,</p> <p>4 there had been some decision-making and exercise of</p> <p>5 logic as to how and what records you can rely upon.</p> <p>6 Do you see the point I'm making?</p> <p>7 A. Yes.</p> <p>8 CHAIRMAN: Then there would be no real problem.</p> <p>9 A. Yes, understand. Well, we can always learn from past</p> <p>10 experience, with hindsight.</p> <p>11 CHAIRMAN: Yes.</p> <p>12 MR KHAW: But, Mr Lee, when you came to know about the lack</p> <p>13 of records in relation to the coupling installations for</p> <p>14 platform slabs recently -- you told us you only knew</p> <p>15 about this recently --</p> <p>16 A. Yes.</p> <p>17 Q. -- so I take it you mean after late May this year; is</p> <p>18 that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, when you knew about this lack of records, what was</p> <p>21 your reaction? Did you find it rather worrying?</p> <p>22 A. No, I didn't find it worrying. I just find it --</p> <p>23 somehow we have to close this gap, one way or another.</p> <p>24 So I knew quite confidently that our team of inspectors</p> <p>25 did do the physical check. This one I trust in them.</p>
<p style="text-align: right;">Page 34</p> <p>1 requirements of ... QA and QC regimes. Follow-up</p> <p>2 actions were recommended ..."</p> <p>3 Now, without the benefit of the contemporaneous</p> <p>4 records in relation to the coupling installations, would</p> <p>5 you agree that this conclusion made at that time is not</p> <p>6 appropriate?</p> <p>7 A. Well, personally, if you ask me my personal view,</p> <p>8 I think it's better we have everything there, all these</p> <p>9 contemporaneous records. But my team, the construction</p> <p>10 team, the auditor, they may have a different view,</p> <p>11 saying the RISC form, the RISC form record, that's</p> <p>12 a primary record they trust, and this primary record</p> <p>13 demonstrated the inspector did go to the site, did look</p> <p>14 at things. They may not table it or format them in the</p> <p>15 way BD require.</p> <p>16 So that's my personal --</p> <p>17 CHAIRMAN: But the point is, though -- and again, I'm not</p> <p>18 trying to be argumentative with you, Mr Lee; please</p> <p>19 forgive me -- but I can understand that entirely, and</p> <p>20 I like to think that I don't expect the whole world to</p> <p>21 write like lawyers; all right? Indeed, I've spent</p> <p>22 a good deal of my career promoting plain language. But</p> <p>23 if somebody had said, "We have checked, the actual QSP</p> <p>24 records unfortunately are not in proper order, but, you</p> <p>25 know, our proven RISC records we believe we can rely</p>	<p style="text-align: right;">Page 36</p> <p>1 Now, whether they present it in the QSP record format is</p> <p>2 I think something we need to close the gap.</p> <p>3 Q. But did you, as a general manager, at that time, when</p> <p>4 you realised that there were no contemporaneous</p> <p>5 construction records -- did you find that a rather</p> <p>6 serious deficiency in the system, which failed to keep</p> <p>7 such important records?</p> <p>8 A. Well, as I said, it's something we need to address. How</p> <p>9 to address this one, I knew our civil team was handling</p> <p>10 it.</p> <p>11 Q. So did you give any idea, at that time, when you</p> <p>12 realised the problem, how to address the problem?</p> <p>13 A. I wasn't involved at that time in how to close this gap,</p> <p>14 because it happened in May and -- around May to August,</p> <p>15 and during this four-month period I was fully tied up</p> <p>16 with the High Speed Rail project. My job at that time,</p> <p>17 with MTR I was also the head of E&M construction,</p> <p>18 responsible for leading the High Speed Rail team. So</p> <p>19 during that period, from May to August, I was spending</p> <p>20 most of my time rescuing XRL, making sure it could be</p> <p>21 opened in September.</p> <p>22 So, internally, we split our workload, I concentrate</p> <p>23 to rescue XRL. Aidan Rooney and his team, together with</p> <p>24 our top executives, were fully involved in addressing</p> <p>25 this issue.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q. Do I take it that at the time when you realised this 2 record-keeping problem, you, as a general manager, did 3 not give any advice or instruction as to what should be 4 done or what response you should make? 5 A. I wasn't involved at all. 6 Q. In view of what we heard as far as the evidence is 7 concerned at this Inquiry, I have to say the problem 8 goes beyond record-keeping, because it seems to us that 9 from the evidence we get from MTR, we are still not able 10 to identify who in fact was assigned to inspect the 11 coupling installations at hold points checking. Are you 12 aware of that? 13 A. Yes. 14 Q. As a general manager, did you find it worrying, given 15 that after hearing from so many people we still do not 16 know who was responsible for this very important 17 inspection? 18 A. Well, certainly that is something we need to look at, 19 why there's not a clear assignment. 20 Q. If I can just take you to another slightly different 21 matter, regarding the as-built drawings. If I may take 22 you to have a look at C34/26491. 23 I wonder whether you had an opportunity to look at 24 this letter. Perhaps you can have a look and then 25 I will ask you a few questions.</p>	<p style="text-align: right;">Page 39</p> <p>1 the construction period, and then close to the 2 completion of the project, then they submit the whole 3 thing to BD. That's a normal, usual process. 4 At this stage, whether they can assimilate enough 5 information to prepare the as-built drawings, I don't 6 know. There are many dimensions, I think, to this 7 issue. It's not just technical, not just as-built, in 8 my opinion. 9 Q. Thank you. If I can take you to B6/3665 to look at 10 MTR's PIMS. In the section under the heading 11 "Supervision (general)", you see at the right -- you see 12 the second item under the heading, "As-built records", 13 and then at the right column it says: 14 "Construction engineer and senior inspector of works 15 shall ensure that these records are prepared as 16 a continuous operation as construction proceeds, and 17 that brand names of actual materials used, instructed 18 and proposed changes, actual details of works determined 19 on site are recorded." 20 So would you agree with me at least it is 21 a requirement under the MTR PIMS that such as-built 22 records should be kept, should be prepared and kept as 23 a continuous process? 24 A. Yes, as is stated in the PIMS. 25 Q. So it is not something which should be done only after</p>
<p style="text-align: right;">Page 38</p> <p>1 A. This letter was issued in September this year. 2 Q. Yes, that's right. 3 A. That was after I left MTR. 4 Q. Right. Are you aware that no as-built records were 5 actually maintained while the construction process was 6 going on? Are you aware of this problem? 7 A. No. 8 Q. You understand that we now just started the opening-up 9 process? 10 A. Yes. 11 Q. You would agree with me, would you not, that one of the 12 purposes of the opening-up process was to ascertain the 13 as-built condition; you are aware of that? 14 A. Yes. 15 Q. Would you agree with me that the need to open up the 16 structure for the purpose of ascertaining the as-built 17 condition, at least one of the reasons why we have to do 18 so is that there were no proper as-built records kept 19 during the construction stage? 20 A. Well, it depends on what you mean by as-built records. 21 As-built records, they don't need to be submitted until 22 come to the later stage, when we submit the BA14, almost 23 at the completion of the project. We have built many 24 projects that we -- we only submit the as-built records, 25 we only capture all the amendments we have done during</p>	<p style="text-align: right;">Page 40</p> <p>1 the construction has been completed? 2 A. Okay. Can I say something on this? In an ideal world, 3 of course, we can follow exactly what is required from 4 this, from that, from that. But in a construction site, 5 as you can appreciate, every day so many things are 6 happening, and then there's a tremendous burden on the 7 construction people to fulfil a very big range of 8 requirements that they need to do. So people's tendency 9 is to set priorities. The most important priority to 10 them is to ensure what they are doing now, constructing, 11 is safe on a daily basis. 12 I said earlier, in Hong Kong construction industry, 13 it's always a challenge for construction, especially 14 site people, to fulfil up-to-speed documentation. So 15 this is a shortfall, I accept that. There are 16 shortcomings with this in almost every site that I have 17 encountered. I'm not denying this is not their job. 18 This is. But in a perfect world, they can obviously 19 comply with this. 20 Q. You would agree with me that in fact this is the 21 requirements laid down by MTR itself, given what is laid 22 down in the PIMS -- 23 A. Yes. 24 Q. -- which was actually created by MTR; MTR was committed 25 to fulfilling the requirements under the PIMS, you would</p>

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<p>1 agree?</p> <p>2 A. Yes.</p> <p>3 Q. Not simply telling the whole world what the ideal</p> <p>4 situation could be; would you agree?</p> <p>5 A. I'm telling you the reality of the situation.</p> <p>6 Q. If I can then take you to the joint statement made</p> <p>7 between MTR and Leighton, at B19/25480.</p> <p>8 Now, 1.2 says:</p> <p>9 "With a view to assisting the Commission as much as</p> <p>10 possible, MTR and Leighton have endeavoured to agree, to</p> <p>11 the best of our current knowledge and information</p> <p>12 respectively, the as-constructed works at the</p> <p>13 intersection of the EWL slab, eastern diaphragm wall and</p> <p>14 the OTE slab ... Enclosed are the following latest</p> <p>15 drawings showing the as-constructed works".</p> <p>16 Then if we can take a look at 3.3, at 25481:</p> <p>17 "In agreeing the joint statement at</p> <p>18 paragraph 1.2 ... MTR has relied on the site photographs</p> <p>19 attached as annex F to this statement."</p> <p>20 Then there's a footnote 2:</p> <p>21 "There is one panel (EM76) in respect of which MTR</p> <p>22 does not have sufficient photographic evidence. The</p> <p>23 as-constructed position for this panel ... will be</p> <p>24 verified by opening up at the locations to be agreed</p> <p>25 between MTR and government in due course."</p>	<p>1 MR CONNOR: No questions from Atkins, sir. Thank you.</p> <p>2 MR TO: No questions from China Technology.</p> <p>3 MR BOULDING: No re-examination. Thank you, sir. Unless</p> <p>4 you have any questions.</p> <p>5 COMMISSIONER HANSFORD: I just have one question, Mr Lee</p> <p>6 You explain in paragraph 4(f) of your witness</p> <p>7 statement -- perhaps we can go to that. It's on B155</p> <p>8 and B156. You explain in there the dotted-line</p> <p>9 relationship --</p> <p>10 A. Yes.</p> <p>11 COMMISSIONER HANSFORD: -- that existed between Mr Jason</p> <p>12 Wong and Philco Wong, and also between Aidan Rooney and</p> <p>13 Philco Wong.</p> <p>14 A. Yes.</p> <p>15 COMMISSIONER HANSFORD: Can you just explain that to us</p> <p>16 a little bit, because I just want to understand what</p> <p>17 impact, if any, that had on accountabilities.</p> <p>18 A. I think that that dotted line effectively means Philco</p> <p>19 Wong, as also a civil engineering specialist, he</p> <p>20 provided indirect technical support to Jason and Aidan</p> <p>21 Rooney. So, if Aidan Rooney and Jason have some</p> <p>22 technical issue that they need to consult higher</p> <p>23 authority, then they went straight to Philco.</p> <p>24 In a railway project, it's highly multidiscipline.</p> <p>25 COMMISSIONER HANSFORD: Of course.</p>
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<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Would you agree with me that it is a rather</p> <p>4 unsatisfactory state of affairs that MTR had to</p> <p>5 ascertain the as-built condition of such a large-scale</p> <p>6 railway project from photographs and perhaps memories of</p> <p>7 staff?</p> <p>8 A. Sorry, I beg your pardon; can you repeat your question?</p> <p>9 I just missed that, sorry.</p> <p>10 Q. Yes. In view of what we have just seen from the joint</p> <p>11 statement, that you have to rely on photographs,</p> <p>12 et cetera, would you agree with me that it is a rather</p> <p>13 unsatisfactory state of affairs that MTR had to</p> <p>14 ascertain the as-built condition of such a large railway</p> <p>15 project from photographs and perhaps memories of your</p> <p>16 own staff?</p> <p>17 A. Yes. I agree there is a shortfall in this area.</p> <p>18 Q. And but for this shortfall we would not have been</p> <p>19 required to open up the structure for this particular</p> <p>20 purpose, ie for the purpose of ascertaining the as-built</p> <p>21 condition; would you agree?</p> <p>22 A. Yes.</p> <p>23 MR KHAW: I have no further questions.</p> <p>24 WITNESS: Thank you.</p> <p>25 CHAIRMAN: Thank you.</p>	<p>1 A. You need people to complement each other to make the</p> <p>2 project a success. So I think this system makes sense</p> <p>3 and it works very well.</p> <p>4 COMMISSIONER HANSFORD: Do you see that having any impact on</p> <p>5 accountabilities?</p> <p>6 A. I don't think so. I don't think so. It's just</p> <p>7 strengthen the team, moving the project forward with</p> <p>8 certainty to success.</p> <p>9 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>10 WITNESS: Mr Chairman, can I say something?</p> <p>11 CHAIRMAN: Yes, of course.</p> <p>12 WITNESS: I want to thank you for giving me the time to tell</p> <p>13 the Commission and all the people here what the SCL is</p> <p>14 really about and the challenges that my team have</p> <p>15 overcome in the last few years.</p> <p>16 Thank you.</p> <p>17 CHAIRMAN: Thank you very much. Shall we have the morning</p> <p>18 adjournment now? Thank you.</p> <p>19 (The witness was released)</p> <p>20 (11.38 am)</p> <p>21 (A short adjournment)</p> <p>22 (11.55 am)</p> <p>23 CHAIRMAN: Yes.</p> <p>24 MR PENNICOTT: Sir, before Mr Boulding calls the MTR's next</p> <p>25 witness, can I mention one other matter for the record?</p>

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<p>1 The MTR has a witness, Chan Yuk Hung, Henry Chan, 2 and the Commission took the view that it did not need to 3 ask Mr Chan any questions. All parties have also agreed 4 that they do not wish to ask Mr Chan any questions 5 either. As a consequence, of course, he will not be 6 called. 7 However, for the record, his witness statement will 8 be updated onto the Commission's website in the usual 9 way. For the record, his statement is in bundle B1 at 10 page 464 and following. I just thought I'd better put 11 that on the transcript. 12 CHAIRMAN: Thank you. 13 MR BOULDING: Chairman, in those circumstances, MTR's next 14 witness will be Mr Raymond Au. 15 Good morning, Mr Au. 16 WITNESS: (In English) Good morning. 17 MR BOULDING: Are you giving evidence in Cantonese or 18 English? 19 WITNESS: (In English) Cantonese. 20 MR AU KOON SHAN, RAYMOND (affirmed in Punt) 21 (All answers given via simultaneous interpreter 22 except where otherwise specified) 23 Examination-in-chief by MR BOULDING 24 MR BOULDING: It's correct, is it not, that your full name 25 is Raymond Au Koon Shan?</p>	<p>1 Q. Subject to the clarifications and corrections you've 2 made in the second statement to the first statement, are 3 the contents of those statements true to the best of 4 your knowledge and belief? 5 A. Yes. 6 Q. Thank you. We've got a process whereby we try to 7 identify where you were in the MTR management 8 organisation. Perhaps we can go, please, for that 9 purpose, to B733. There, do we see you, Mr Raymond Au, 10 immediately below Mr TM Lee? 11 A. Yes. 12 Q. And your role, as I understand it, as stated there, 13 "Principal contracts administration manager-SCL"? 14 A. Yes. 15 MR BOULDING: Thank you, Mr Au. What's going to happen now 16 is that Mr Pennicott may well ask you some questions. 17 He's counsel for the Commission of Inquiry. Then 18 various lawyers in this room can ask you questions, if 19 they consider it appropriate. The Chairman and the 20 professor can ask you questions at any time, and then 21 I might have a few questions for you at the end of that 22 process. Thanks very much. Please stay there. 23 WITNESS: Understand. 24 MR PENNICOTT: Sir, somewhat uniquely so far, I have no 25 questions for Mr Au. I understand that China Technology</p>
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<p>1 A. (In English) Correct. 2 Q. You have produced, have you not, two witness statements 3 for the assistance of the Commissioners in this public 4 inquiry? 5 A. (In English) Yes. 6 Q. I wonder if we can look at the first page of your first 7 statement, which is bundle B/13674. There do we see the 8 first page of your first statement, Mr Au? 9 A. Yes. 10 Q. Please can we go on to page B13676. Is that your 11 signature under the date of 12 October 2018? 12 A. Yes. 13 Q. If we can then look at your second statement, which is 14 at B25742, and is that the first page of your second 15 statement there, Mr Au? 16 A. Yes. 17 Q. Do I understand that in your second statement you 18 clarified and changed certain matters that were referred 19 to in your first statement concerning the number of 20 phone calls you had? 21 A. Yes. 22 Q. Then if we could go on to page B25745, and there do we 23 see the signature, your signature, under the date of 24 27 November 2018? 25 A. Yes.</p>	<p>1 may have. 2 Cross-examination by MR TO 3 MR TO: Good morning, Chairman and Commissioner. 4 Mr Au, good morning. 5 A. (In English) Good morning. 6 Q. I represent China Technology and I thank you for 7 clarifying in your second witness statement in terms of 8 the telephone calls, so I will not be asking you 9 anything about the telephone calls whatsoever but I just 10 have two questions to ask you, if I may. 11 The first question relates to, for example your -- 12 in witness statement, if I can take you to that. That's 13 B13675. In paragraph 4 -- I'll just read it out to you, 14 Mr Au -- it says: 15 "Dr Wong told me that Mr Poon was complaining that 16 China Technology was underpaid by the main contractor. 17 He then gave me the mobile number of Mr Poon and asked 18 me to contact Mr Poon to find out what the problem was." 19 So could I ask you, Mr Au, were you shown a copy of 20 Mr Poon's email to Leighton of 6 January 2017 at 21 9.45 am, and is at D689, D1/689? 22 A. No. 23 Q. Okay, Mr Au. Now, in terms of what Dr Wong said to you, 24 it's just purely about the money side? 25 A. Correct.</p>

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<p>1 Q. In what way in terms of the money side did he tell you? 2 A. Dr Wong said Mr Poon had called him saying that MTR 3 didn't pay, therefore Leighton was unable to pay him, 4 and I was asked to phone Mr Poon to find out what 5 happened. 6 Q. Now, if I can take you to your paragraph 5 of your 7 witness statement. That's at B13675. If you look at 8 the very last sentence, Mr Au, it says: 9 "Since Mr Poon stated that everything was resolved, 10 there was no need for any follow-up action." 11 So what did Mr Poon say to you to convince you 12 there's no follow-up action? 13 A. Mr Poon said he had resolved the payment problem with 14 Leighton and there would be no need for follow-up 15 action, therefore no such action was taken. 16 Q. Mr Au, other than the telephone calls made by your 17 mobile phone, did you make any other telephone calls 18 during -- the office telephone number? 19 A. No. 20 MR TO: Mr Au, I have no further questions. 21 CHAIRMAN: Thank you. 22 MR SHIEH: None from Leighton. 23 MR CONNOR: None from Atkins, sir. 24 MR KHAW: For a change, nothing from the government. 25 MR BOULDING: Sir, no re-examination from me. I don't know</p>	<p>1 public inquiry, and I wonder if we can go to B131. 2 There do we see, Dr Wong, the first page of your first 3 witness statement; correct? 4 A. Correct. 5 Q. If we go to page 153, I hope we'll see your signature 6 under the date of 14 September 2018; is that correct? 7 A. Correct. 8 Q. I understand that there's a short corrigendum to that: 9 B153.1, please. Are they corrections that you'd like to 10 make to that first statement? 11 A. Correct. 12 Q. Subject to those corrections, are the contents of that 13 first statement true to the best of your knowledge and 14 belief? 15 A. (Chinese spoken). 16 Q. Then if we could have a look at your second statement. 17 Please can you go to B13617. Is that the first page of 18 your reply statement, Dr Wong? 19 A. Yes. 20 Q. Then if we can go on to B13618, do we there see your 21 signature under the date of 9 October 2018? 22 A. Correct. 23 Q. Are the contents of that statement true to the best of 24 your knowledge and belief? 25 A. Yes.</p>
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<p>1 whether you've got any questions. 2 COMMISSIONER HANSFORD: No. 3 CHAIRMAN: No, nor have I. 4 MR BOULDING: Thank you very much, Mr Au. Short and sweet. 5 WITNESS: (In English) Thank you. 6 CHAIRMAN: Thank you very much for your assistance. Thanks 7 for coming today. 8 (The witness was released) 9 MR BOULDING: Chairman, MTR's next witness is Mr Philco 10 Wong. 11 Good morning, Mr Wong. 12 WITNESS: (In English) Good morning. 13 DR WONG NAI KEUNG, PHILCO (affirmed in Puntì) 14 (All answers given via simultaneous interpreter 15 except where otherwise specified) 16 Examination-in-chief by MR BOULDING 17 MR BOULDING: Are you going to give your evidence in English 18 or Cantonese? 19 A. (In English) Cantonese. 20 Q. So you will need to put the headphones on. 21 It's correct, is it not, that your full name is 22 Philco Wong Nai Keung? 23 A. Correct. 24 Q. We know that you've produced two statements, witness 25 statements, for the Commissioners' assistance in this</p>	<p>1 Q. Just to see where you are in the overall MTR 2 organisation, could you be taken to B693. Do we there 3 see you, Dr Wong, at the top of the tree as the projects 4 director? 5 A. Correct. 6 Q. Now, Dr Wong, I'd like, with the Chairman's leave, to 7 ask you just one or two questions about evidence that's 8 been put before the Commissioners since the date of your 9 witness statements. 10 Have you had an opportunity to read the evidence 11 from Mr Aidan Rooney last week? 12 A. I did. 13 Q. I wonder if we could have up on the screen the 14 transcript for Day 28, page 68, please. If you could 15 cast your eye down at line 11, please, Dr Wong, and we 16 can see there a question: 17 "Can you please tell me who the members of the 18 executive team preparing this report were? 19 Answer: It was a combination of Lincoln, Philco and 20 the senior legal team." 21 So you can see a reference to yourself there, can 22 you not, Dr Wong? 23 A. I see that. 24 Q. Then the questioning continues, and for the record it 25 was Mr Pennicott:</p>

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<p>1 "Right. When you received the original instruction 2 to attach then the records to the report, so you would 3 have been told by either Philco Wong, is that right, or 4 Lincoln Leong, or somebody else". 5 Then the answer from Mr Rooney was: 6 "I believe it was Lincoln. 7 Question: Okay. 8 Answer: The discussion was primarily with Lincoln, 9 but Philco was there." 10 Now, did you ever hear Lincoln Leong instruct 11 Mr Rooney to attach the records which are referred to in 12 the transcript to the MTR report? Did you ever hear him 13 say that? 14 A. On 15 June, that meeting, that morning I had three 15 things to attend, all at IFC. I went in and out at 16 different times. So I went in and out of that 17 particular meeting with Mr Rooney. But I didn't hear 18 the instruction from Lincoln to Aidan for the attachment 19 of the records to the report. 20 Q. Thank you. Tell me this: did Aidan Rooney ever tell you 21 that the records we're talking about were retrospective? 22 A. I had no -- I didn't hear anything to that effect, that 23 the records were retrospective in nature. 24 Q. Thank you very much, Dr Wong. What's going to happen 25 now is that I suspect Mr Pennicott for the Commissioner</p>	<p>1 Q. Then, a few months later, you became -- that is in 2 October 2014 -- projects director for the MTR? 3 A. Correct. 4 Q. Your duties and responsibilities as projects director 5 are not project-specific, they are all-embracing for the 6 various projects that the MTRC had going at any given 7 time? 8 A. Correct. 9 Q. As projects director, as I understand it, you were 10 a member of the MTRC's executive committee? 11 A. Yes. 12 Q. Could I ask you, please, to look at paragraph 8 of your 13 witness statement. You say there -- sorry, it's B1/133, 14 towards the bottom: 15 "The projects division, under the leadership of the 16 projects director, was responsible to the executive 17 committee for the planning, design and construction of 18 railway projects. More specifically, my 19 responsibilities as the projects director during my time 20 in the role were essentially in the nature of overall 21 supervision, upward reporting, and overall relationship 22 management with external parties of various projects, 23 rather than the day-to-day, close at hand management of 24 individual projects." 25 Pausing there, I'll ask you a question in a moment.</p>
<p>Page 54</p> <p>1 is going to ask you some questions, then one or two 2 lawyers in the room might take the opportunity to ask 3 you questions. The Chairman and Professor can ask you 4 questions whenever they want. Then it may well be that, 5 at the end of the process, I'll have one or two more 6 questions for you. Do you understand that? 7 A. (In English) Thank you. 8 MR BOULDING: Thank you very much. 9 Examination by MR PENNICOTT 10 MR PENNICOTT: Good afternoon, Dr Wong. 11 A. (In English) Good afternoon. 12 Q. My name is Ian Pennicott. As Mr Boulding has just 13 indicated, I'm one of the counsel to the Commission and 14 I have a few questions for you. Thank you very much for 15 coming along to give evidence to the Commission this 16 afternoon. 17 Dr Wong, first of all, Mr Boulding has shown us the 18 organisation chart for July 2015. Can I just, however, 19 go back a little bit in history. My understanding is 20 that in November 2011, you were made general manager of 21 the SCL project as whole; is that right? 22 A. That's correct. 23 Q. Then in August 2014 you became the projects director 24 designate; is that right? 25 A. Correct.</p>	<p>Page 56</p> <p>1 Could we then look at paragraph 14 of your witness 2 statement, please, at 137, where you say: 3 "Specifically in relation to the SCL project, for 4 example, before I left my role as the projects director, 5 I had an overall supervisory role ... while the 6 day-to-day leadership and management of this project was 7 headed by those who had direct or indirect reporting 8 lines to me. Mr TM Lee (general manager ...), whose 9 specific leadership project responsibilities were those 10 set out in [the PIMS], would directly report to me at 11 the regular projects division communication meetings, 12 projects division leadership meetings and senior project 13 management meetings described ... above. Mr Lee would 14 also call for ad hoc meetings on a 'needs basis' if he 15 needed my advice. Mr Jason Wong (general manager-SCL 16 civil-EWL) and Mr Aidan Rooney (general engineer-SCL 17 civil-NSL), whose specific 'project manager' 18 responsibilities by reference to [and then you give 19 a reference] ... would in turn directly report to 20 Mr TM Lee at regular intervals during the departmental 21 communications meetings ... I would not typically engage 22 with Mr Jason Wong and Mr Aidan Rooney directly and 23 would typically address issues concerning the SCL 24 project to Mr Lee ..." 25 So would this be right then, Dr Wong, that other</p>

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<p>1 than Mr TM Lee, you had very little contact with anybody 2 else in relation to the SCL project? 3 A. I have different general managers reporting to me, and 4 TM Lee is my project general manager. Regarding SCL 5 project, he would report directly or have discussions 6 with me, but in different meetings -- we have regular 7 meetings -- I would talk with general managers under TM, 8 including Mr Rooney or Mr Jason Wong. In these regular 9 meetings, they would have a dialogue with me directly, 10 except, as I said in my witness statement, if Aidan 11 Rooney has specific civil engineering issues that he 12 needs to refer to me and receive my reference or 13 guidance, then he would notify Mr TM Lee and then he 14 would have a direct discussion on those issues with me. 15 Q. All right. So, in the context of meetings that you've 16 mentioned, there may be direct discussion between 17 yourself and Mr Rooney or yourself and Mr Jason Wong on 18 an as-needs basis; would that be fair? 19 A. That is correct. 20 Q. Okay. Could I ask you, please, to be shown part of the 21 PIMS document. It's at -- let's go to B3/1058, which 22 I hope is the first page of the document. 23 I assume, Dr Wong, that this is a document -- you 24 mention it a number of times in your witness 25 statement -- that you're very familiar with. We can</p>	<p>1 ensuring that the PIM policy and implementation 2 strategy are established for the PIMS ... 3 ensuring the integration of the PIMS requirements 4 into the projects division's business processes ..." 5 And so on and so forth. I'm not going to read it 6 all out, Dr Wong. 7 It's just a general question, Dr Wong: what did you 8 do yourself to promote and implement the PIMS ethos, if 9 I can call it that? 10 A. In the PIMS, there are different sections, there's a lot 11 of material in PIMS, so if I -- relating to this 12 incident, so I need to understand whether the 13 construction team working underneath me, did they 14 implement the PIMS requirements. So, under the 15 different sections, let's say monitoring of site works, 16 construction management, and the similar PIMS sections, 17 whether they had implemented the works, the 18 requirements, it needs -- my general managers or project 19 managers and construction managers working underneath 20 them, they need to do the relevant work. 21 So, in the regular meetings, every week I meet the 22 general managers and project managers, or every other 23 week I will meet with them, so we have regular meetings. 24 In the regular meetings, they have to report to me 25 that -- in their implementation work, construction</p>
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<p>1 see, from page 1058, some names that we're familiar 2 with: Mr Yeung, Mr Wu, and then you have approved this 3 as the projects director, Dr Wong? 4 A. That is correct. This is a revision. 5 Q. Yes. Am I right in thinking this is a revision, we can 6 see from the face of it, A4 in November 2014? 7 A. Correct. 8 Q. If we could go, please, to page 1069, there's a heading, 9 "Leadership"; do you see that? 10 A. Yes. 11 Q. It says, "Leadership and commitment": 12 "Top management of projects division shall 13 demonstrate leadership and commitment with respect to 14 the PIMS by ..." 15 Pausing there, as you have indicated, you are head 16 of the projects division? 17 A. Correct. 18 Q. So, by definition, you fall within the definition of 19 "top management"; would you agree with that? 20 A. That is correct. 21 Q. So what this says the top management is supposed to do 22 by way of demonstrating leadership and commitment with 23 respect to PIMS is: 24 "taking accountability for the effectiveness of the 25 PIMS;</p>	<p>1 management work I referred to just now, whether they 2 have run into any specific problems or are there any 3 issues that they weren't able to resolve that needed my 4 attention, and I would assist them and help them resolve 5 those problems. 6 Q. All right. In your day-to-day work at the MTR, in your 7 role as projects director, how often did you have to 8 specifically turn your mind to PIMS and whether it was 9 being properly complied with and whether it was being 10 implemented? Did it crop up very often? Did you give 11 it specific attention? 12 A. Well, in the PIMS -- PIMS has been implemented within 13 MTRC for a long time, so we didn't have to refer to it 14 daily. So maybe when we get new works we might need to 15 refresh ourselves, for example, in a new project we 16 would need an initiating meeting and we would have to 17 look at what the PIMS requirement was, and then we would 18 have to mobilise the site team what they needed to do. 19 And additionally, our PIMS -- we have a PIMS steering 20 group, and after I took up the programmes of projects 21 director I also chaired the PIMS steering group, and in 22 2015 and 2016 I was chairing the group, and in 2017 23 I delegated that to the general manager to chair the 24 PIMS steering group. 25 So this PIMS steering group, they need to consider</p>

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<p>1 the construction site and they have to take what they</p> <p>2 have learned from the site and make some revisions, and</p> <p>3 we also have to audit the PIMS, and that is done by the</p> <p>4 auditors in the PMO office. So they will conduct a PIM</p> <p>5 audit to see whether -- how the PIMS is implemented in</p> <p>6 the site and they might need some feedback on whether</p> <p>7 PIMS needs to be enhanced.</p> <p>8 Q. Okay. Thank you very much for that, Dr Wong.</p> <p>9 When you became the projects director, as you tell</p> <p>10 us in paragraph 6 of your witness statement, there were,</p> <p>11 you say, five railway expansion projects ongoing --</p> <p>12 that's the XRL, the West Island Line, the South Island</p> <p>13 Line, the Kwun Tong Line Extension and the SCL</p> <p>14 project -- and you also oversaw a railway project in</p> <p>15 Sydney in Australia.</p> <p>16 In terms of your time spent in relation to these</p> <p>17 various projects, would it be equally spread? I mean,</p> <p>18 how much time, let's say in a month, would you spend on</p> <p>19 the SCL project as opposed to any other project? Can</p> <p>20 you approximate or estimate for us, Dr Wong?</p> <p>21 A. Well, regarding the division of time over the different</p> <p>22 projects, there might be different weighting. It would</p> <p>23 depend on the stage of the project. So perhaps in the</p> <p>24 start-up phase I might have to spend a lot of time, but</p> <p>25 after it is running then I need to make sure there's</p>	<p>1 before you took up your new role; that would be fair,</p> <p>2 wouldn't it, Dr Wong?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. And certainly by the time you had taken up the</p> <p>5 role of projects director in October 2014, the SCL</p> <p>6 project had been going for some time?</p> <p>7 A. Yes. Yes. It had been going on for some three years.</p> <p>8 Q. Could I ask you about paragraph 9 of your witness</p> <p>9 statement, please. You say:</p> <p>10 "With respect to each of the five railway expansion</p> <p>11 projects [which I mentioned a moment ago] which</p> <p>12 I oversaw, there would be one general manager (project)</p> <p>13 responsible for each railway expansion project who</p> <p>14 directly reported to me. The organisation of the</p> <p>15 project management team of a typical railway project is</p> <p>16 set out [and you give us a reference to PIMS]. However,</p> <p>17 in 2015, two new positions, namely 'general manager-SCL</p> <p>18 civil-EWL' and 'general manager-SCL civil-NSL' (both of</p> <p>19 which would otherwise have been titled as 'project</p> <p>20 manager' prior to the creation of these titled roles),</p> <p>21 were created under and reported to 'general manager</p> <p>22 (SCL)'."</p> <p>23 Just help me with this, Dr Wong. Was this slight</p> <p>24 reorganisation specific to the SCL, or did it apply to</p> <p>25 all the five expansion projects that you're talking</p>
Page 62	Page 64
<p>1 a competent team working on the site, and they have to</p> <p>2 follow the project requirements. At that stage,</p> <p>3 construction will be handled by the project team. Each</p> <p>4 line, the project team will monitor the progress.</p> <p>5 But when the project is about to be completed and</p> <p>6 prior to completion, maybe a year and a half to two</p> <p>7 years before completion, I would spend more time on the</p> <p>8 project, because by that time I need to make sure all</p> <p>9 the completion of works have to comply with all the</p> <p>10 specified specifications and I have to meet all the</p> <p>11 statutory requirements. So then I will spend more time.</p> <p>12 So each project receives different time and it would</p> <p>13 depend on what phase the project is in.</p> <p>14 Q. Yes, I understand that. So perhaps this would be fair,</p> <p>15 that you would tend to spend more time on a particular</p> <p>16 project in its initial phases and in its final phases,</p> <p>17 and so once you were satisfied it was up and running you</p> <p>18 perhaps focus somewhere else, and then, for the reasons</p> <p>19 you have just given, you would return to the project as</p> <p>20 it was heading towards completion?</p> <p>21 A. That is correct.</p> <p>22 Q. On the SCL project, of course, because you had been the</p> <p>23 general manager of the SCL project, before you became</p> <p>24 the projects director, presumably you had built up</p> <p>25 a fair amount of knowledge about the SCL project itself,</p>	<p>1 about?</p> <p>2 A. Well, the creation of general manager-civil in EWL and</p> <p>3 NSL, actually the other new projects also had this</p> <p>4 occur. It all depends on the railway line, the scale of</p> <p>5 the railway line. If it's a large scale, then human</p> <p>6 resources can justify a general manager position of</p> <p>7 civil. If it's not as large, they could only have</p> <p>8 a general manager or project manager in civil.</p> <p>9 Q. I was going to ask you what actually precipitated this</p> <p>10 slight re-arrangement insofar as the SCL was concerned?</p> <p>11 Was it simply its massive scale; is that really what it</p> <p>12 came to?</p> <p>13 A. That's correct. That's the correct view.</p> <p>14 Q. Okay. As we know and as we've seen, the set-up after</p> <p>15 that slight reorganisation was you, Dr Wong, as the</p> <p>16 projects director; there TM Lee, the general manager,</p> <p>17 reporting to you; and then Mr Jason Wong and Mr Aidan</p> <p>18 Rooney reporting to TM Lee?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. Now could I move on to a different topic</p> <p>21 entirely. What I'd like to do, I hope relatively</p> <p>22 quickly, is set out in chronological order, your</p> <p>23 involvement, such as it was, with Jason Poon, because</p> <p>24 there's a bit of jumping around in your statement, and</p> <p>25 that's not a criticism at all. But can I put it like</p>

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<p>1 this, Dr Wong. Your first ever involvement with Jason 2 Poon was in relation to some work that China Technology 3 was doing on the South Island Line in June 2015? 4 A. That is correct. 5 Q. That's paragraph 41 of your statement. 6 Now, moving on, so far as I can discern from your 7 witness statement, your next involvement with him was in 8 late 2016, that is December 2016, when you had 9 a telephone conversation with him? 10 A. Correct. I think it's December. 11 Q. You deal with this in paragraphs 42 to 44 of your 12 witness statement, but I'm just trying to summarise the 13 position. And, as I understand it, what you say, 14 Dr Wong, is that conversation was limited to commercial 15 matters? 16 A. As far as I remember, he only told me something about 17 commercial issues. 18 Q. Did he explain the nature and extent of those commercial 19 issues to you? 20 A. The phone call was made some two years ago. I cannot 21 recall the details. Having taken the call, the message 22 I received was that Leighton had not paid him or at 23 least not fully and he wanted me to step in to help him 24 solve the problem. 25 Q. Right. As I understand it, Dr Wong, your position is</p>	<p>1 you were forwarded an email and some photographs by 2 Mr Lee? 3 A. Correct. 4 Q. And that email and photographs had been sent to 5 Leighton, they had forwarded it to MTR, to Mr Lee and to 6 others -- to others and then Mr Lee -- and then 7 ultimately it found its way to you? 8 A. Correct. 9 Q. We know that this is an incident, to put it broadly, to 10 do with contract 1112, part of the SCL project, one of, 11 as we've seen, a number of projects that you're 12 responsible for at any given time. 13 Were you surprised to be contacted about this sort 14 of thing or not? I mean, this is something that's gone 15 right to the top, effectively, to you, the projects 16 director. Presumably, this is not something that 17 happened every day? 18 A. I received the email through TM Lee. He forwarded the 19 mail to me. He, at the same time, told me that he would 20 take follow-up action. I saw that email. I knew at 21 once that it was about quality, about day-to-day quality 22 issues. But for the cutting of rebar, it was something 23 that I have rarely heard about, from my experience. 24 I expected my construction team would be able to find 25 out the extent of the issue and whether it had been</p>
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<p>1 that you have no recollection of him mentioning 2 allegations of rebar cutting to you during that 3 conversation? 4 A. Not in that conversation. He didn't mention anything 5 about rebar, thread, cutting, or things he mentioned in 6 his statement, that he witnessed certain things in 7 August; he didn't mention any of this. 8 Q. All right. In any event, after that telephone 9 conversation in December, you asked your commercial 10 manager, Mr Raymond Au, who we've just heard from, to 11 look into it? 12 A. After the telephone conversation, I immediately called 13 Raymond Au. Mr Raymond Au was the senior manager for 14 our contracts. I asked him to follow up the matter with 15 Jason Poon. 16 Q. As I understand it, from paragraph 45 of your witness 17 statement, Mr Raymond Au then told you that there was no 18 further action required, everything was settled, and the 19 matter had been closed out? 20 A. I called Raymond Au later to ask whether he had taken 21 any follow-up actions. He said that that's done and the 22 other party said the matter had been resolved. 23 Q. However, your next contact with him was at the beginning 24 of January -- when I say "contact", next involvement, 25 let's put it more broadly -- was in January 2017, when</p>	<p>1 addressed. 2 At that time, my understanding was that my 3 construction team, Mr TM Lee, would take the necessary 4 follow-up action. 5 Q. As I understand it, you personally didn't take any 6 follow-up action; you, as you've just indicated, 7 understood that Mr Lee would do so. Then the upshot, as 8 I understand it, in relation to this particular email 9 exchange, was that you were informed by Mr Rooney that 10 all had been resolved? 11 A. After receiving the email, apart from the remarks made 12 by Mr TM Lee, Mr Aidan Rooney at the regular meetings 13 afterwards told me that he would take follow-up action. 14 A few weeks later, Mr Aidan Rooney told me the matter 15 had been followed up and resolved. The site condition 16 was then under control. 17 Q. Right. In January/February 2017, Dr Wong, were you made 18 aware of a review that was being carried out, internal 19 review that was being carried out, by MTR, by 20 a Mr Carl Wu? Were you told about that in 21 January/February 2017? 22 A. Mr TM Lee or Mr Aidan Rooney or any other person did not 23 tell me that they asked Carl Wu to carry out 24 an internal, independent audit. 25 Q. Right. So you were unaware of it at the time?</p>

Page 69	1 A. I didn't know, at that time. 2 Q. Does it also follow that you were unaware that Leighton 3 had also been asked to carry out an investigation or 4 a review at roughly the same time? 5 A. I didn't know that. 6 Q. Okay. Now, that's January 2017. Going back to the 7 chronology, moving on to September 2017, you were copied 8 in or forwarded further email exchanges between Mr Poon 9 and Leighton and Mr Lee. As I understand it, from 10 paragraphs 27 and 28, after the receipt of those emails, 11 again you didn't take any specific action yourself, but 12 you were informed again that the issue had been 13 resolved? 14 A. At that time, I was forwarded some email. I tracked 15 those emails then at the end of that chain I was told 16 that the matter had been resolved. 17 Q. Right. Apart from perhaps more recent events this year, 18 as I understand it that really was the end of any 19 involvement you had with Mr Jason Poon? 20 A. Mmm. 21 Q. Now, in paragraph 31 of your witness statement, Dr Wong, 22 you start to deal with the various matters concerning 23 the MTRC June 2015 [sic] report, as it became. 24 A. (Nodded head). 25 Q. You presumably became involved, because it was the	Page 71	1 this to Aidan Rooney to lead the construction team to 2 prepare the report. 3 Q. We know it was submitted on -- dated and submitted on 4 15 June 2018. Did you personally see a copy of that or 5 a draft of that report before it was submitted to the 6 government? 7 A. Before the report was submitted to the government, the 8 contents were the subject of a number of circulation 9 exercises. But for the particular attachment, 10 et cetera, I had no involvement. 11 Q. Did you make any comments, editorial or otherwise, on 12 the narrative of the report, leaving aside the 13 attachments? 14 A. I did not make a lot of comments on the report and 15 I focused on the numbers of the couplers, so when 16 I prepared the report I had asked my design team, headed 17 by Mr Clement Ngai, to check the numbers of a number of 18 couplers. 19 Q. And during the course of the preparation of the report 20 and the instructions that you gave to the design team, 21 did you make any enquiries as to the existence of the 22 as-built drawings for the slabs? 23 A. I did not enquire into any issues regarding the as-built 24 drawings. Essentially, I wanted the two teams, the two 25 different groups of people, to count the couplers and
Page 70	1 government that had asked for two things: one, a report, 2 and secondly the carrying out of a load test; is that 3 right? 4 A. That's correct. 5 Q. Again, these were sufficiently important matters for you 6 to be contacted about and to become involved in? 7 A. Correct. 8 Q. We've seen what you say in your statement about this. 9 MR TO: Mr Chairman, there's a correction in the transcript. 10 It should be "2018" instead of "2015" at [draft] 11 line 16. 12 MR PENNICOTT: Absolutely right. It's my fault. "2018". 13 I beg your pardon. Thank you very much. 14 Dr Wong, in terms of your actual involvement in the 15 preparation of the June 2018 report, am I right in 16 thinking you had -- once you have given instructions for 17 the report to be prepared, you had no -- after that you 18 had no direct involvement; is that right? 19 A. That's correct. I received this request from 20 government, and the request was that we should submit 21 a report, to respond to media reports about defective 22 works and whether the defective work had been rectified, 23 and we were asked to talk about the supervision on site. 24 I referred this matter to the construction team, the 25 project team, for some fact-finding efforts. I handed	Page 72	1 they would have their own methodologies, because we are 2 talking about hundreds of drawings and I wanted them to 3 count it separately and if there were any discrepancies 4 or differences then we would be able to identify them 5 through the two separate teams. 6 Q. Right. Just so I've got it clear, that's the design 7 team on the one hand, Mr Clement Ngai, and the 8 construction team on the other, Aidan Rooney and his 9 team? 10 A. That is correct. 11 Q. Okay. Now, the report was then submitted, and what then 12 happened, as I understand it, Dr Wong, is that you 13 personally were involved in the discovery that there 14 were some errors and discrepancies in the report. 15 A. That was my understanding. 16 Q. Indeed, you personally started reviewing some site 17 photographs that you had been provided with by James Ho; 18 is that right? 19 A. That is correct. 20 Q. How did it come about -- I mean, in paragraph 36 of your 21 witness statement -- let's have a look at that, just so 22 we get the background to it -- you say: 23 "After the MTRCL report was submitted on 24 15 June 2018, I started to work on the method for the 25 safety loading test with MTR's independent consultant

<p style="text-align: right;">Page 73</p> <p>1 CM Wong & Associates, who was designing an appropriate 2 loading test to address the public's concerns." 3 Pausing there, Dr Wong, were you personally 4 therefore involved with CM Wong about the setting up of 5 this load test? 6 A. Initially, the work with CM Wong, I started the work, as 7 I said just now, in a new project. My involvement would 8 be quite significant. So, regarding the loading test, 9 even though I'm not an expert in structural engineering, 10 but I need to have -- to commission the independent 11 consultant, I have to give him the scope. So, in the 12 start-up process, I had to have a few meetings with 13 CM Wong & Associates. 14 Q. Right. So this was, from your perspective, certainly to 15 start with in getting the thing set up, fairly hands-on 16 so far as you're concerned? 17 A. Correct. 18 Q. And you go on to say: 19 "As part of this process, I reviewed some of the 20 site photographs provided by James Ho [that I just 21 mentioned], upon which I noticed that there were no 22 couplers on the top layer of the EWL slab." 23 Pausing there, when you were setting up or being 24 involved with the setting up of this loading test, did 25 you at that stage say to anybody, "Where are the</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. This must have been this, mustn't it, Dr Wong, that 2 CM Wong, you've engaged him to do a load test on the EWL 3 slab, and before he can sensibly come up with a proposal 4 for a load test, he needs to know what's there. He 5 needs to know the as-built condition before he can start 6 designing his load test. So he must have asked you that 7 question -- well, not you personally perhaps, but you 8 and your team for the as-built details, "What's there?", 9 he's asking. 10 So your primary answer to that is, "Well, look at 11 the photographs"; is that right? Is that what happened? 12 A. No, that's not what I mean. The information in the 13 as-built drawing does not rely on a single drawing. 14 I knew that the as-built drawing was not ready because 15 if the work is ongoing, the construction or the project 16 is so large, it is completed in phases. So primarily 17 the as-built drawing doesn't have sufficient information 18 to convey the actual as-built conditions. 19 Q. Let's go one layer down, Dr Wong. If there's no 20 as-built drawings, did you ask for the working drawings 21 for the top of the east diaphragm wall? 22 A. Well, at that point, when I was in meetings with 23 CM Wong, I did not request these details. CM Wong's 24 engineers and the construction engineers working for me, 25 they came up with that information. So why did I refer</p>
<p style="text-align: right;">Page 74</p> <p>1 as-built drawings for the slab?" 2 A. Regarding the issue of as-built drawings, in 3 a construction site the as-built drawings are made up of 4 a lot of different site records, including design 5 amendments, and we might have different site diaries, 6 photographs, or RFIs, the engineers' responses, and so 7 on. So these records theoretically have to be collated 8 together to compile an as-built drawing. So, during 9 construction and completion of our project, the as-built 10 drawings, they have to wait for an activity or 11 a structure to be completed before we have the drawings, 12 and at that point I did not ask them whether they had 13 as-built drawings, but I expected them to have design 14 amendments, DAmS, the RFIs, the photographs, or other -- 15 TQs, that would be collated together and we would be 16 able to compile the most updated information. 17 So the reason I looked at the photographs was 18 because I was not at the construction site. I wanted to 19 review the photographs they took, whatever the 20 photographs would be -- it might not be a slab, it might 21 be an excavation photograph -- I wanted to understand 22 what the situation or the environment was. So, when 23 I looked at the photographs, I noted that the top of the 24 diaphragm wall, why don't we have couplers there, and 25 then I discovered the issue.</p>	<p style="text-align: right;">Page 76</p> <p>1 to the pictures? It's because I wanted to know the 2 conditions of the site and that's why I took a look at 3 the pictures. 4 Q. All right. Anyway, the upshot of you looking at the 5 photographs was, as you say in the last sentence of 6 paragraph 36 of your statement: 7 "I then asked Mr James Ho for clarification and was 8 ultimately told" ..." 9 Presumably told by him; is that right? Is that what 10 you mean there? 11 A. Correct. 12 Q. "... that in most areas the top concrete of the east 13 diaphragm wall had been knocked down by approximately 14 450 millimetres." 15 A. Correct. 16 Q. Did this come as a surprise to you, Dr Wong? 17 A. At the time, I was a little bit surprised, because 18 finally they told me the east diaphragm wall, some -- 19 the top 450mm was knocked down, and when they counted 20 the couplers they didn't know -- they weren't aware of 21 that situation and I was surprised. 22 Q. Well, you say they weren't aware of it. Some of them 23 weren't aware of it and some of them had forgotten about 24 it. 25 A. Could you repeat the question?</p>

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<p>1 Q. Yes. When you say, as you did, "they weren't aware of 2 that situation and I was surprised", I think the factual 3 position is some of your construction management team 4 certainly knew about it, but perhaps others, the design 5 team, didn't know about it, and therefore those that did 6 know about it have forgotten about it. 7 A. Well, I think the situation was, when they did 8 supervision at the site, they definitely knew that 450mm 9 on the diaphragm wall had been knocked off, but their 10 records were incomplete. So, when the report was 11 compiled, they had only relied on available records, and 12 those records were not revised. 13 Q. They relied on the diaphragm wall drawings that had been 14 approved by the Buildings Department -- 15 A. Yes. 16 Q. -- that's right? 17 A. (In English) Agree. 18 Q. Anyway, the upshot of all of this, Dr Wong, was that 19 government needed to be informed of the updated 20 position, the revised position, and that's what 21 happened, and we looked at a letter earlier today with 22 Mr Lee that he had been asked to sign by you dated 23 13 July 2018, and we don't need to go back to that. 24 Then at paragraph 38 of your witness statement you 25 say:</p>	<p>1 between what you say and what Mr Lincoln Leong says in 2 his witness statement. 3 I don't know if you've had a chance to look at 4 Mr Leong's statement; have you seen that? 5 A. Yes. 6 Q. Let's just show everybody else that paragraph. 7 Paragraph 60, please, in Mr Leong's statement. B1/129. 8 In paragraph 60 -- I'm sure you've looked at this, 9 Dr Wong -- what Mr Leong says is: 10 "Subsequent to that meeting [and he's referred to 11 a meeting that he's had with Mr Chan from government and 12 others], I met with Dr Philco Wong and informed him of 13 the government's view." 14 That was the government's view that certain 15 employment contracts should be terminated. 16 "In the early hours of 7 August 2018, I received 17 Philco Wong's resignation by email." 18 Now, you say in paragraph 50 of your witness 19 statement, that's page 153 in B1: 20 "At no time prior to my resignation have there been 21 any suggestions from MTR that I should step down from my 22 position." 23 How do you reconcile those two statements, Dr Wong? 24 Is Mr Leong wrong or is there some other explanation? 25 A. On 6 August, there was a conversation between Mr Leong</p>
<p>Page 78</p> <p>1 "On 29 July 2018, I personally explained the 2 discrepancies between the as-built connection details 3 and the MTR report to Mr Frederick Ma, the non-executive 4 chairman of MTR." 5 What was his reaction what you told him about this, 6 Dr Wong? 7 A. Well, I recall that day Mr Fred Ma made a phone call, 8 gave me a call and asked me about this issue, and I told 9 him that the 15 June report coupler figures were 10 inaccurate, because we talked about 450mm of the 11 diaphragm wall was knocked off and there were some close 12 that were not counted, it was missing some couplers. 13 The message I received at that time was he was very 14 surprised because he expected that the 15 June report, 15 the figures should have been accurate. 16 Q. Yes. Okay. 17 In paragraphs 47 to 50 of your witness statement, 18 Dr Wong -- and I don't want to dwell on these 19 paragraphs -- you set out the circumstances in which you 20 resigned from the MTR earlier this year; yes? 21 A. Yes, I resigned. 22 Q. As I say, I'm not going to go into the details of this. 23 However, there's just one small point, Dr Wong. Right 24 at the end of your paragraph 50, there seems to be 25 a slight discrepancy, if I have understood it correctly,</p>	<p>Page 80</p> <p>1 and me. I didn't hear from him that I should resign. 2 He told me, in his meeting with the government and with 3 Mr Fred Ma, government said something about the MTR 4 management team. My resignation is not related to other 5 people's view on the MTR's management team and project 6 team. I only stated my reason for resignation in my 7 letter. 8 MR PENNICOTT: Okay. Thank you very much, Dr Wong. 9 Sir, I have no further questions for Dr Wong, so 10 perhaps that would be an opportune moment -- yes, it 11 is -- to break for lunch. 12 CHAIRMAN: Yes, certainly. Good. 13 Dr Wong, we are adjourning for lunch now. We will 14 come back at 2.15. Because you are in the middle of 15 giving your evidence, you are not entitled to discuss 16 your evidence with anybody, until it is completed. So 17 you can obviously talk to people, you don't have to go 18 into isolation over the lunch hour, but you must not 19 discuss your evidence with anybody. All right? 20 WITNESS: (In English) I understand. Thank you, Chairman. 21 CHAIRMAN: Thank you. 22 (1.04 pm) 23 (The luncheon adjournment) 24 (2.17 pm) 25 MR SO: Good afternoon, sir. Good afternoon, Professor.</p>

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<p>1 There are some questions from China Technology.</p> <p>2 CHAIRMAN: Yes, of course.</p> <p>3 Cross-examination by MR SO</p> <p>4 MR SO: Good afternoon, Dr Wong. I am Simon So.</p> <p>5 I represent China Technology. There are a few topics</p> <p>6 I would like to discuss with you.</p> <p>7 Dr Wong, can I refer you to page B3083. Dr Wong,</p> <p>8 this is the covering letter that you sent to the</p> <p>9 government's Highways Department when you submitted the</p> <p>10 15 June 2018 report; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. Dr Wong, no doubt, when you were conducting this review</p> <p>13 and compiling this report, you aimed to compile this</p> <p>14 report in a fair manner; right?</p> <p>15 A. I need to tell the government that the objective of the</p> <p>16 report is mainly that because of media reports, the</p> <p>17 government asked us whether the defects had been</p> <p>18 rectified and whether, as far as supervision was</p> <p>19 concerned, whether we did good site supervision. This</p> <p>20 report of mine needed to inform government what we had</p> <p>21 done with regard to the works, whether they were carried</p> <p>22 out in accordance with the specifications.</p> <p>23 Q. Dr Wong, perhaps you can listen to my question. My</p> <p>24 question was: when you were conducting the review and</p> <p>25 compiling the report, you obviously aimed at doing it in</p>	<p>1 members of its staff.</p> <p>2 A summary of the evidence provided by China</p> <p>3 Technology (which was observed by two representatives of</p> <p>4 Leighton) is attached in schedule 1 to this letter. We</p> <p>5 caution that this is not a transcript of interview but</p> <p>6 a summary prepared by individuals present at the</p> <p>7 interview. The summary has not been provided to China</p> <p>8 Technology or Leighton for comment or agreement."</p> <p>9 Now, this morning, Dr Wong, when you were answering</p> <p>10 to my learned friend Mr Pennicott's questions, you told</p> <p>11 him that you did take a look at the report but did not</p> <p>12 take a detailed look into the attachments of the report;</p> <p>13 correct?</p> <p>14 A. I did say so. I read the content of the report but</p> <p>15 I did not read the attachments to the report. However,</p> <p>16 I would like to add that I said that with regard to</p> <p>17 construction or the project, and whatever its works</p> <p>18 related, my construction team, led by Mr Aidan Rooney,</p> <p>19 would be doing the report.</p> <p>20 Separately, this investigation on the allegation --</p> <p>21 well, that was led by the legal team of our company.</p> <p>22 The content of the investigation was made known to the</p> <p>23 executive team and I was aware of it but I was not</p> <p>24 involved.</p> <p>25 Q. But certainly, Dr Wong, being the projects director,</p>
<p>Page 82</p> <p>1 a fair manner; correct?</p> <p>2 A. I already answered your question. The objective of</p> <p>3 compiling the report was, as I said, that according to</p> <p>4 site records the report must be factual and it must be</p> <p>5 based on facts, this is a report to the government.</p> <p>6 Q. Sorry to be labouring this point, but the third time --</p> <p>7 CHAIRMAN: Well, I think he's actually saying it's</p> <p>8 a factual-based report and therefore, by implication, is</p> <p>9 fair.</p> <p>10 MR SO: All right, then, sir.</p> <p>11 You would also try to make this report, given the</p> <p>12 public concern of the matter, to be as transparent as</p> <p>13 possible; correct?</p> <p>14 A. My report was to give a account to the government. The</p> <p>15 requirements of the government was that because of media</p> <p>16 reports, I had to tell the government the facts.</p> <p>17 Q. Dr Wong, can I refer you to the section where you</p> <p>18 referred to the statement of China Technology in this</p> <p>19 letter, which is near the end of page 3083. There you</p> <p>20 wrote this:</p> <p>21 "As noted in the report, during the interview of one</p> <p>22 of Leighton's sub-contractors, namely China Technology</p> <p>23 Corporation Ltd, oral statements were made that</p> <p>24 contradict assurances given to us by Leighton and raise</p> <p>25 potentially serious allegations against Leighton and</p>	<p>Page 84</p> <p>1 both the legal team and Mr Aidan Rooney would be under</p> <p>2 your supervision when preparing this report; correct?</p> <p>3 A. I repeat, Mr Aidan Rooney was my subordinate. He led</p> <p>4 the works-related fact-finding part of the report. And</p> <p>5 in terms of the investigation into the allegation, that</p> <p>6 was led by the legal team.</p> <p>7 Q. Does the legal team report to you, Dr Wong?</p> <p>8 A. The legal team reported to my fellow director, not me.</p> <p>9 Q. Now, we all know from facts and from the report,</p> <p>10 of course, that evidence of China Technology's</p> <p>11 representative, which is Mr Jason Poon's evidence in the</p> <p>12 interview, was at the end not placed inside the report;</p> <p>13 correct?</p> <p>14 A. That is a fact.</p> <p>15 Q. And the explanation that you have given for why this</p> <p>16 part of the evidence was not put in the report is</p> <p>17 because, as you said, they contradict assurances given</p> <p>18 to us, being MTR, by Leighton, and raise potentially</p> <p>19 serious allegations against Leighton and members of its</p> <p>20 staff; right?</p> <p>21 A. Can you repeat your question?</p> <p>22 Q. Of course. You explain in this letter the reason why</p> <p>23 Mr Poon's evidence was not put into the report was</p> <p>24 because the allegations made by Mr Poon contradict with</p> <p>25 the assurances given to MTR by Leighton; correct?</p>

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<p>1 A. (Chinese spoken)?</p> <p>2 Q. Assurances given to MTR by Leighton.</p> <p>3 A. In the letter, it is written very clearly the reason you</p> <p>4 cited. I cannot represent my legal team in telling the</p> <p>5 actual reason, but at that time I understood that the</p> <p>6 reason that it was not included was that the report</p> <p>7 would go public. And in the circumstance, since the</p> <p>8 statement of China Technology was directly related to</p> <p>9 the main contractor, Leighton, and also there was</p> <p>10 a contradiction between that evidence and Leighton's</p> <p>11 statement, that is why we decided not to include it in</p> <p>12 the report.</p> <p>13 But the main points of both statements were attached</p> <p>14 and submitted to government. That was what happened, as</p> <p>15 I understood it.</p> <p>16 Q. Thank you, Dr Wong. The situation is this, and my</p> <p>17 difficulty is this. When Leighton's evidence</p> <p>18 contradicts with China Technology's evidence, or being</p> <p>19 the other way around, when China Technology's evidence</p> <p>20 contradicts with those of Leighton's evidence, why and</p> <p>21 on what basis did you choose to put Leighton's evidence</p> <p>22 into the report but not China Technology's evidence into</p> <p>23 the report?</p> <p>24 A. I will repeat, the decision was not led by me, but</p> <p>25 I knew that the decision at that time was made because</p>	<p>1 have just told us is the true reason why you did not put</p> <p>2 China Technology's evidence into the report, then why</p> <p>3 not either (a) put both China Technology's and</p> <p>4 Leighton's versions into the report, or (b) neither put</p> <p>5 Leighton's nor China Technology's evidence into the</p> <p>6 report?</p> <p>7 A. It's a completely different matter. First, Leighton's</p> <p>8 evidence -- in this matter, Leighton was the registered</p> <p>9 general contractor. All the facts produced by them was</p> <p>10 based on the facts from a registered general contractor.</p> <p>11 They were obliged to fulfil all the obligations under</p> <p>12 the contract. As a result, all the information they</p> <p>13 have produced should be based on facts and evidence, as</p> <p>14 a registered general contractor. So they are</p> <p>15 responsible for producing a report based on facts.</p> <p>16 In relation to the allegations made by China</p> <p>17 Technology, they were not backed by facts at that time.</p> <p>18 So, from our perspective, we could only put Leighton's</p> <p>19 proven facts in the report. They produced these facts</p> <p>20 and we put them in. What China Technology said showed</p> <p>21 significant contradictions regarding facts on certain</p> <p>22 issues compared with the version put forward by</p> <p>23 Leighton. We decided not to put this version into</p> <p>24 a public report.</p> <p>25 Q. Dr Wong, I suggest to you, if what you said were true,</p>
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<p>1 the allegations of China Technology had been the subject</p> <p>2 of the setting up of a Commission of Inquiry by</p> <p>3 government. That is why they thought that since there</p> <p>4 was a contradictory situation, they would only submit</p> <p>5 the information to government but not include it in</p> <p>6 a public report.</p> <p>7 Q. Can you please help me a bit, Dr Wong. I don't</p> <p>8 understand. What is the correlation that the government</p> <p>9 has set up a COI and therefore leads to the conclusion</p> <p>10 that China Technology's evidence should not be placed</p> <p>11 inside the report? I don't understand.</p> <p>12 A. It was mentioned in the letter. It was because the</p> <p>13 allegations made by China Technology contradicted with</p> <p>14 the comments made by Leighton vis-a-vis the allegations</p> <p>15 of China Technology, and if that wasn't proved</p> <p>16 completely and if it was included in a public report, it</p> <p>17 might have an effect on the COI.</p> <p>18 What I said was in relation to my understanding from</p> <p>19 the meeting at that time, the real decision or the</p> <p>20 decision itself was a decision of the MTR, that is my</p> <p>21 company.</p> <p>22 Q. Can I bring you to the next page, B3085. This letter is</p> <p>23 signed by you; correct, Dr Wong?</p> <p>24 A. Yes.</p> <p>25 Q. If it is your true reason for not putting -- if what you</p>	<p>1 the best way to deal with it is simply to state, in</p> <p>2 neutral terms, what evidence China Technology gave and</p> <p>3 give a caveat to it and say nonetheless, there were no</p> <p>4 documentary evidence as of the time. Would this be</p> <p>5 a better option to do so, Dr Wong?</p> <p>6 A. At that time, we did not consider what you have just</p> <p>7 said.</p> <p>8 Q. Can I just refer you back to the letter: B3084. And can</p> <p>9 I draw your attention to the second paragraph,</p> <p>10 immediately where we have just paused, about the</p> <p>11 discussion. There the letter says:</p> <p>12 "The summary has not been provided to China</p> <p>13 Technology or Leighton for comment or agreement."</p> <p>14 My question comes: why did you not let China</p> <p>15 Technology give further documents or further evidence to</p> <p>16 substantiate his allegations after the interview?</p> <p>17 A. Could you please point out to me which is the sentence</p> <p>18 you've just used?</p> <p>19 Q. Of course, Dr Wong. It's the last sentence of the</p> <p>20 second paragraph:</p> <p>21 "The summary has not been provided to China</p> <p>22 Technology or Leighton for comment or agreement."</p> <p>23 A. Let me repeat what I've just said. The evidence given</p> <p>24 by China Technology showed significant discrepancies</p> <p>25 from the comments made by Leighton regarding these</p>

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<p>1 allegations, and we were aware of the setting up of the 2 Commission of Inquiry. That's why we did not pursue the 3 matter, that is what was happening to the evidence. We 4 did not ask China Technology or Leighton to comment, 5 because we were not prepared to include that in the 6 public report. 7 Q. Dr Wong, at the time when you were signing this letter, 8 were you aware of a document called the NCR157? 9 A. In relation to NCR157, at the time when we were 10 preparing the report, we had a discussion on this. We 11 were aware of it. 12 Q. Now, can I bring you to the fourth bullet point in this 13 letter. The fourth bullet point writes: 14 "China Technology produced no documentary evidence 15 in support of the allegations and stated that they had 16 either: 17 -- not created contemporaneous records; or 18 -- destroyed contemporaneous evidence in the way of 19 photographs or videos". 20 Now, Dr Wong, given that you were aware of NCR157, 21 given that you know and you are aware of the allegations 22 by China Technology, which corresponds with NCR157, were 23 did you not ask for documentary evidence, or any 24 evidence, so that China Technology can substantiate its 25 allegation?</p>	<p>1 You are aware that there were allegations made by 2 Fang Sheung against Leighton; correct? 3 A. Please repeat your question because I did not hear 4 clearly what you said. 5 Q. Of course. You were aware that there were allegations 6 made by representatives of Fang Sheung against Leighton, 7 were you not? 8 MR SHIEH: Can I just clarify about what, and it would be 9 best for the witness to be shown where the allegations 10 are made. 11 MR PENNICOTT: Indeed. 12 MR SO: Of course. 13 MR SHIEH: Because there's always a risk that transcript or 14 evidence could well have been taken out of context or 15 simply misquoted. 16 CHAIRMAN: Yes. 17 MR PENNICOTT: The time might be helpful as well. 18 MR SHIEH: Whether it is in a letter, whether it's in 19 an interview, whether it's in a transcript or whatever. 20 MR PENNICOTT: And when. 21 MR SO: Dr Wong, are you aware that Mr Joe Cheung and Mr Pun 22 Wai Shun were interviewed in the course of preparing of 23 this report? 24 A. I am not sure as to whom was interviewed by Fang Sheung. 25 Q. Fair enough. Can I bring you to B1/B36. This is the</p>
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<p>1 A. You must understand that the request for the report was 2 made at the end of May. By 15 June, we had to submit 3 the report. From my recollection, the evidence given by 4 various parties, including China Technology, reached the 5 last few days in the last week. So, with limited time, 6 we had to do what we could do. What I see was that we 7 could not include every piece of information we have 8 collected. 9 Q. Dr Wong, if you take a look at B3086 to B3089, this is 10 a summary prepared by MTRC and also an appendix to the 11 letter which was given to the government when you were 12 handing in the report; correct? 13 A. Yes. We gave these to the government. 14 Q. These are the summary of the evidence given by Mr Jason 15 Poon in the interview; correct? 16 A. That's right. 17 Q. So what time would be wasted; just put all this 18 information into the report and that's it, in a neutral 19 fashion, and then you would be stating the facts in the 20 public eye, is it not? 21 A. I think when you use the term "neutral" it's still 22 subjective. It depends on where you stand when you 23 decide whether it is neutral or not. The legal team of 24 the MTRC decided not to include it in the public report. 25 Q. Dr Wong, let's move to another topic then.</p>	<p>1 report itself, and I am assured by you, in the course of 2 the evidence, that you did read the content of the 3 report; correct? 4 A. This was included in the attachment, not part of the 5 report. 6 Q. So you have not read this page of the report? 7 A. I did not read the information in the attachment in 8 detail. 9 Q. Pardon my foolishness, Dr Wong. Then perhaps can you 10 point me to what are the content of the report? I do 11 apologise. I think this is part of the content of the 12 report, is it not? 13 A. As I said, I was responsible for works-related matter in 14 the report. That is in relation to the approach, what 15 supervision had been done, what defects had been 16 identified by the construction team. If it is about the 17 interview for the investigation into the matter, I was 18 not in a leading role; I did not participate in it. 19 I did not participate in any meetings relating to 20 the interviews. The statements, the contents, I did not 21 comment on them at all. 22 Q. Can I bring you to page B30. This is immediately above 23 that page. This is chapter 6 of that report which 24 states "Chronology", followed by subsection 6.1, if you 25 scroll down, then 6.1 on B32, and then eventually to</p>

<p style="text-align: right;">Page 93</p> <p>1 B36, where there was a subheading named "Interview of 2 sub-contractor (Fang Sheung)". 3 I have to put to you, Dr Wong, this section is part 4 of the main body, content, of the MTR report; do you 5 accept that? 6 A. That's right. Well, I was confused just now, because -- 7 well, you refer to statements of other witness in the 8 interview. I overlooked that. Yes, this was part of 9 the report. 10 Q. Thank you very much. Can we take a look at that 11 paragraph then: 12 "Interviews were held on 13 June with two 13 representatives from Fang Sheung. They confirmed their 14 steel fixing works were carried out in accordance with 15 Leighton's and MTRCL's procedures. During their course 16 of work, they might encounter difficulties in fixing the 17 threaded steel bars into the couplers. In such 18 circumstances, they would raise the difficulties with 19 Leighton and request Leighton to resolve the issue." 20 And the emphasis is here: 21 "On some occasions and as requested by Leighton, 22 they would carry out cutting of threaded steel bars to 23 meet the required threaded length. On other occasions 24 and as requested by Leighton, the threaded steel bars 25 could be cut and screwed into the couplers with the</p>	<p style="text-align: right;">Page 95</p> <p>1 workers -- led by witness. CT have lunch discussions on 2 progress and quality related to projects." 3 The third bullet point: 4 "-- Workers shared that someone was cutting rebars. 5 -- He took some photos showing someone is cutting 6 rebars." 7 And if you take a look at the third question: 8 "More information on the cutting of the bar?" 9 Answer: Informed by general foremen, gangers. 10 Didn't want to name staff." 11 If you take a look at the fourth question: 12 "Did they see who cut the bar?" 13 Answer: Witness personally saw cutting. 14 -- In July 2015 heard somebody cutting the bars." 15 Pausing there, Dr Wong, you would agree, would you 16 not, that these sections of the questions and answers of 17 the evidence of China Technology is actually exactly the 18 same as the summary that you have been shown on 19 page B36, produced by the witnesses of Fang Sheung, is 20 it not? 21 A. I think the evidence showed that someone did cut the 22 rebars. It was not just evidence. Our inspectors 23 themselves saw that that happened on site. This was not 24 to be doubted that, yes, in this part, they tallied. 25 Q. Then the simple question: why did you not put in the</p>
<p style="text-align: right;">Page 94</p> <p>1 understanding that rectification measures would be 2 carried out by Leighton." 3 When you saw that paragraph, did you seek to clarify 4 with either your legal department or Mr Aidan Rooney, 5 did Leighton agree with that allegation or did Leighton 6 not agree with that allegation? 7 A. As I said just now -- I can remember this -- at our 8 crisis management meeting, we talked about these matters 9 as raised by Fang Sheung. But I remember, at that time, 10 it was the 13th or the 14th, it was almost the last day 11 or last two days before we had to submit the report. At 12 that time, the situation was we had a discussion and 13 then we said we should submit whatever we had at hand, 14 and then there would still be a lot to be done after the 15 report was submitted. Therefore, at that meeting we 16 only submitted what was available at hand, all the 17 evidence and statements, that we had from different 18 people, including contractor and sub-contractors. 19 Q. Can I bring you back to the letter, B3086, your summary 20 of evidence of China Technology. I want you to focus on 21 the "Interview" part. Question: 22 "Are you aware of any bar being cut?" 23 Answer: Yes. 24 Question: How did you know? 25 Answer: -- Regular lunch meetings with CT</p>	<p style="text-align: right;">Page 96</p> <p>1 report that "China Technology's witness sees somebody 2 cutting the rebars"; why did you not put it? 3 A. In our public report, I said that our inspectors saw 4 cutting of rebars. That was a fact, and we discovered 5 it, and something had been done. 6 As to your question, I already answered that at that 7 time, our legal team had a reason not to include the 8 statement of China Technology in the public report. 9 Q. Dr Wong, with all due respect, don't use your legal team 10 as a shield. The point you said just now was that it 11 tallied. You gave the evidence and gave a summary of 12 the evidence of Fang Sheung in the report. The same 13 thing happened and the same thing was said by witnesses 14 of China Technology. Why was that not put down? 15 A. I repeat, whether it was my legal team or what I said 16 just now, at our meetings we concluded that because the 17 allegations of China Technology had significant 18 contradiction with Leighton's comment on the same, 19 therefore, without further evidence, we decided not to 20 put China Technology's statement into the public report. 21 Q. Dr Wong, insofar as you understand, when you were 22 signing this letter, do you know whether witnesses of 23 Leighton or whether Leighton's stance is that what was 24 reported on page B36 is correct or not correct? 25 A. In the stage of preparation of the report, I could not</p>

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<p>1 recall any discussion on Leighton's response, if any, to 2 what Fang Sheung said in that paragraph. 3 Q. Actually, you are entirely correct, Dr Wong. Can 4 I bring you to page B3090. This is a letter that you 5 have also appended to your letter to the government, 6 which is a response from Leighton. Can I bring you to 7 paragraph 2. The letter from Leighton says: 8 "We do not believe there are any matters to address 9 from the meeting with Fang Sheung." 10 If you take a look back at the first paragraph: 11 "We are in receipt of your letter requesting 12 a written response to the allegations raised this 13 morning in the China Tech meeting and in this 14 afternoon's Fang Sheung meeting." 15 So does this accord with your understanding that 16 Leighton do not have any matters to address with the 17 allegations of Fang Sheung? 18 A. I think this letter speaks for itself. I don't think 19 I need to comment. 20 Q. Were you told that various witnesses of Leighton would 21 eventually come to give evidence before this Commission 22 of Inquiry? 23 A. Please repeat your question. 24 Q. Of course. Were you told that various witnesses of 25 Leighton had eventually come to this Commission of</p>	<p>1 Q. So please tell me, Dr Wong, did I summarise your 2 position fairly or correctly? The summary of the 3 evidence of China Technology was given to Leighton so 4 that he can comment, was given to the government but he 5 was cautioned not to disseminate those information, but 6 then you never give one to China Technology; correct? 7 A. I cannot answer the question because I don't know 8 whether my legal team separately gave it to China 9 Technology. 10 Q. Can I bring you to -- I do apologise; one moment, 11 please. Can I bring you to page B3082. This is the 12 list of the witnesses that were interviewed by the 13 committee when preparing the report; correct? 14 A. Yes, "Interview schedule" is the title. 15 Q. You were also aware, weren't you, that all the 16 interviews, for matter of fairness, for matter of 17 transparency, were actually audio-recorded? 18 A. I know about that. 19 Q. Can I trouble the Secretariat to go to the folder in 20 B3082, the folder which contains the audio recordings. 21 If we may zoom into this page. 22 Dr Wong, were you aware that each and every 23 interview was recorded, save and except Mr Poon's 24 evidence was not recorded? 25 A. I knew about that recently.</p>
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<p>1 Inquiry to give evidence? 2 A. I know they came to the Inquiry to give evidence. 3 Q. Do you know that all witnesses from Leighton deny they 4 gave any instructions to Fang Sheung to cut the threaded 5 ends of a rebar? 6 A. I am not aware. You just told me. 7 Q. Can I bring you to the last paragraph of the letter -- 8 sorry, the first paragraph of page B3085. Then you 9 reported the matter in the closing of this letter to the 10 government and you said: 11 "After careful consideration the corporation 12 considers it prudent and appropriate to provide you with 13 such details in this separate document but would caution 14 government against disseminating the information 15 generally." 16 Can you please kindly explain, why did you ask the 17 government to be caution in disseminating the attachment 18 which contains the evidence of China Technology? 19 A. I will repeat my previous answer. For the same reason. 20 We do not include China Technology's statement in the 21 public report. So that we can have the same reason to 22 caution the government. This is because there is a huge 23 contradiction between the China Technology statement and 24 Leighton's comment on it. We just like to tell the 25 government this point.</p>	<p>1 Q. Why was that? 2 A. I cannot answer the question, but I heard recently that 3 Mr Poon did not allow us to audio-record it. I heard it 4 but I cannot prove it. 5 Q. I put it to you, Dr Wong, this is simply not true. Is 6 it not -- do you agree or disagree; this is not true? 7 A. I cannot prove anything. I don't know; I just heard 8 about this recently. 9 Q. Can I bring you back to the letter: B3085. 10 In concluding that letter, this is what you wrote to 11 the government: 12 "The corporation expresses no opinion nor reaches 13 any conclusions concerning the credibility or 14 reliability of those making the allegations and denials 15 and the corporation bears no liability for further 16 publication by government." 17 Dr Wong, I have to suggest to you, from beginning to 18 the end, in the course of the interview, you were not 19 doing fairness and you were not doing it transparently 20 and independently, in conducting the interview against 21 China Technology. 22 A. I disagree totally. 23 Q. The fact that you deliberately take away -- or MTRC 24 deliberately take away the evidence of China Technology 25 from the MTR is to prejudice the image of China</p>

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<p>1 Technology in the eyes of the government; correct? 2 A. I gave many reasons. I totally disagree. 3 Q. Lastly, I need to suggest to you the sentence that you 4 said "The [MTRC] expresses no opinion nor reaches any 5 conclusions" is only paying lip-service; would you 6 agree? 7 A. I completely disagree. 8 MR SO: Thank you. No further questions. 9 Cross-examination by MR KHAW 10 MR KHAW: Good afternoon, Dr Wong. 11 A. Good afternoon. 12 Q. I'm acting for the government and I have a few matters 13 that I would like to discuss with you. 14 If I may first of all ask you to have a look at 15 paragraph 14 of your first witness statement, where you 16 describe your role and also division of responsibilities 17 in relation to this project. Do you see that? 18 A. Yes. You mean where? 19 Q. Sorry, page B137, the last paragraph, paragraph 14. 20 A. (In English) Okay. 21 Q. Maybe we can have a look together. It's quite a long 22 paragraph: 23 "Specifically in relation to the SCL project ... 24 before I left my role as the projects director, I had 25 an overall supervisory role ... while the day-to-day</p>	<p>1 "On the other hand, Philco Wong continued to oversee 2 and supervise the technical aspects of the civil 3 engineering works. Mr Aidan Rooney (who specialises in 4 civil engineering) was promoted to acting general 5 manager/general manager ... to look after the civil 6 technical aspects of the works in conjunction with 7 Philco Wong. Under this arrangement, if there was 8 a technical issue regarding civil engineering and 9 construction, Aidan Rooney would directly report to 10 Philco Wong (even though he was my subordinate), and he 11 would deal with his team and/or in conjunction with 12 Philco Wong." 13 Now, correct me if I am wrong, I just want to 14 understand a bit more about the division of 15 responsibility here. What Mr TM Lee said here was that 16 he expected you, Dr Wong, to oversee and supervise the 17 technical aspects of civil engineering works, if there 18 was a technical issue regarding civil engineering and 19 also -- if there's a technical issue regarding civil 20 engineering and also construction. 21 But in your statement you seemed to suggest 22 otherwise. Do you find there's some inconsistency 23 between the two descriptions of division of 24 responsibilities as set out in both of your witness 25 statements? Can you explain a bit to us?</p>
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<p>1 leadership and management of this project was headed by 2 those who had direct or indirect reporting lines to me. 3 Mr TM Lee ..., whose specific leadership project 4 responsibilities were those set out in section 3.21.1 of 5 PIMS ..., would directly report to me at the regular 6 projects division communication meetings, projects 7 division leadership meetings ... Mr TM Lee would also 8 call for ad hoc meetings on a 'needs basis' if he needed 9 my advice. Mr Jason Wong ... and Mr Rooney ..., whose 10 specific 'project manager' responsibilities by reference 11 to PIMS ... were those set out in [the document], would 12 in turn directly report to TM Lee at regular 13 intervals ... I would not typically engage with Mr Jason 14 Wong and Mr Aidan Rooney directly and would typically 15 address issues concerning the SCL project to Mr TM Lee 16 (being the general manager of the entire SCL project and 17 thus the most senior of the three)." 18 Now, pausing here, if I can take you to have a look 19 at Mr Lee's witness statement, which also has 20 a description in relation to division of 21 responsibilities. That appears at B1/155. At 155, 22 subparagraph (e), he said: 23 "... as I specialise in E&M engineering, I oversaw 24 and supervised the project managers ..." 25 Then at (f) he said:</p>	<p>1 A. Actually, there are no differences, but I can explain to 2 you. In relation to SCL-general manager-projects, 3 Mr TM Lee was still fully responsible for that, and that 4 was a point covered by both our statements. Mr TM Lee 5 was a general manager. He had a full role. So Mr Aidan 6 Rooney and Mr Jason Wong reported to him. However, 7 there were some circumstances under which I was asked to 8 give some input. Then Mr Aidan Rooney and Mr Jason Wong 9 would first inform TM and possibly came to me to ask me 10 directly. These civil works -- well, I am an engineer 11 with a civil engineering background. Those technical 12 issues are not general construction issues. 13 Let me give you an example. Say on Hong Kong Island 14 the SCL from Causeway Bay, tunnel is to be constructed 15 to go to Admiralty, and an approach of tunnel boring 16 would be used to construct the tunnel. There would be 17 excavation underneath the existing Tsuen Wan Line at 18 a distance of 1 metre only. In a live environment, 19 perhaps the Tsuen Wan Line would be subject to huge 20 risks. 21 So, in relation to technical issues, I would give my 22 input as a projects director -- Mr Aidan Rooney would 23 ask me. When I have finalised all the mitigation 24 measures, they would be given to the construction team 25 led by Mr TM Lee of the SCL project, for him to carry</p>

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<p>1 out the monitoring of the TBM works.</p> <p>2 Q. So what you are saying is that Mr TM Lee was right in</p> <p>3 saying that he would expect you to oversee and supervise</p> <p>4 various aspects of engineering works, but not general</p> <p>5 aspects of engineering work on the site; is that</p> <p>6 correct?</p> <p>7 A. Right. If you use our normal works term, I won't be</p> <p>8 doubling down as a GM.</p> <p>9 Q. Earlier on, before the lunch break, you probably recall,</p> <p>10 in answer to Mr Pennicott's question, you told us that</p> <p>11 you were not aware of both the MTR internal review</p> <p>12 report and Leighton's internal review report at the time</p> <p>13 when they were published; is that correct?</p> <p>14 A. That's right. At that time, the two reports were not</p> <p>15 given to me, not any information.</p> <p>16 Q. Let's focus on MTR's internal review for the time being.</p> <p>17 Am I correct in saying that this kind of internal review</p> <p>18 as conducted by MTR is not something that would be done</p> <p>19 by MTR regularly? It's quite a special review; would</p> <p>20 you agree?</p> <p>21 A. I can't agree with you 100 per cent. Audit quality team</p> <p>22 was under our project management office. Apart from</p> <p>23 regular auditing work, on PIMS requirement there would</p> <p>24 be other ad hoc task-oriented and other works as</p> <p>25 required.</p>	<p>1 or such reports which were compiled at that time ought</p> <p>2 to have been brought to your attention at the time when</p> <p>3 they were prepared or published?</p> <p>4 A. Well, on an audit procedure, whether they are ad hoc</p> <p>5 review required by project team or whichever party or</p> <p>6 senior management or regular review, this is what</p> <p>7 happens. If they don't identify any special issues that</p> <p>8 require my attention, say for example it has taken</p> <p>9 a long time for the NCR to be closed out, or a lot of</p> <p>10 resources and money was used to deal with the NCR, or</p> <p>11 that the NCR may have significant risk on the project,</p> <p>12 then they would request a face-to-face meeting. That</p> <p>13 has happened before but not on this review.</p> <p>14 Q. Now, in relation to this particular review conducted by</p> <p>15 MTR, we have heard evidence from certain witnesses, and</p> <p>16 I believe at least one of the witnesses -- I believe</p> <p>17 it's Mr Derek Ma -- who told us that in fact, at the</p> <p>18 time when this internal review was conducted, MTR</p> <p>19 already realised and discovered the lack of</p> <p>20 contemporaneous construction site records regarding the</p> <p>21 coupling installations for platform slabs.</p> <p>22 If that was the case, would you consider that you</p> <p>23 ought to have been told of this problem, ie the problem</p> <p>24 regarding the lack of contemporaneous documents, at that</p> <p>25 time; would you at least have expected that someone</p>
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<p>1 Q. Right. Since you joined MTR, how many of such similar</p> <p>2 reviews have been conducted, according to your</p> <p>3 understanding?</p> <p>4 A. I can't remember exactly. But as far as I know -- say,</p> <p>5 for example, there were work issues in other projects --</p> <p>6 we would make a request for a works quality audit.</p> <p>7 Q. And according to your understanding, are there any</p> <p>8 guidelines within the MTR regarding how and in what</p> <p>9 circumstances such internal reviews would be conducted?</p> <p>10 A. If you are talking about internal reviews, it's</p> <p>11 a special term. Well, there would be internal reviews</p> <p>12 on PIMS implementation. There may be quality audit,</p> <p>13 safety audit or something similar. If something</p> <p>14 happened, and if something that might have</p> <p>15 an implication on cost, quality or safety, we might</p> <p>16 commission an independent audit of this nature through</p> <p>17 our project management office. This would be taken up</p> <p>18 by the project management team on top.</p> <p>19 Q. We know from the facts that both the MTR internal review</p> <p>20 and Leighton's internal review were conducted as</p> <p>21 a result of Mr Jason Poon's complaint or his allegation;</p> <p>22 do you agree?</p> <p>23 A. Let me say this. The two reviews were done at the same</p> <p>24 time.</p> <p>25 Q. As projects director, would you agree that such reviews</p>	<p>1 would tell you about this problem?</p> <p>2 A. Well, in the situation you have just described, it may</p> <p>3 not be necessary, if they could control the situation.</p> <p>4 It means that they might not be complete records, that</p> <p>5 is contemporaneous records, but would there be other</p> <p>6 records to substantiate and support the inspection to</p> <p>7 show that the quality satisfies the requirement and</p> <p>8 specifications?</p> <p>9 If that is the case, then there was no need to bring</p> <p>10 my attention to it. However, it was not possible,</p> <p>11 an additional investigation or other subsequent remedial</p> <p>12 works had to be conducted and definitely that would have</p> <p>13 to be brought up to me.</p> <p>14 Q. Dr Wong, when did you first come to realise that there</p> <p>15 were in fact no contemporaneous records in relation to</p> <p>16 the coupling installation for the platform slabs? When</p> <p>17 did you first realise?</p> <p>18 A. It was after I left my job.</p> <p>19 Q. Right. Was it before -- so that was after MTR prepared</p> <p>20 the 15 June report; is that right?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. You talked about the NCR during your discussion with</p> <p>23 Mr So, in relation to his questions to you. At the time</p> <p>24 when MTR conducted the internal review, were you aware</p> <p>25 of NCR157?</p>

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<p>1 A. I didn't know. I didn't know the existence of NCR157 2 then. 3 Q. When did you first come to realise the existence of this 4 particular NCR? 5 A. In June, when we prepared the report, I got to know it. 6 Q. Right. In answer to Mr So's question, you said: 7 "I think the evidence showed that someone did cut 8 the rebars. It was not just evidence. Our inspectors 9 themselves saw that happened on site." 10 So is it your evidence, or is it not, Dr Wong, that 11 your inspectors actually witnessed somebody cutting the 12 threaded rebars on site, or it's simply the case that 13 they discovered that rebars had been cut on site? 14 A. Well, from what I know, I only knew that they saw rebars 15 cut, not someone cutting the rebars. 16 Q. Right. If I can take you to have a look at paragraph 34 17 of your witness statement. 18 If I may just take you to have a look at a letter 19 which is at G3/1823. It's a letter to the government 20 dated 13 July this year, and it was signed by TM Lee. 21 Did you have a chance to have a look at this letter 22 before it was signed off? 23 A. At that time, I did not read the letter in detail. If 24 we take a look at the government's letter to us -- well, 25 further to our report on 15 June, it asked us to confirm</p>	<p>1 Q. Right. In response to Mr Pennicott's question regarding 2 the retrospective records, at the time -- I believe you 3 told us, at the time when the 15 June report was 4 prepared, you were not aware of the fact that records 5 were made or created retrospectively. Do you remember 6 that? 7 A. Yes, that was what I said this morning. 8 Q. Did you have a chance to look at the records attached to 9 the MTR report at that time? 10 A. At that time, I did not read them. 11 Q. As a project director or as an experienced engineer, 12 would you consider that the creation of retrospective 13 records in such circumstances is inappropriate? 14 A. Any retrospective records should not be created. But in 15 these two weeks, I watched the evidence given by my 16 ex-colleagues, and I would state my position to 17 chairman/counsel for consideration. I think that when 18 they created those records, they did it on a genuine 19 basis. They knew that the records were not 20 contemporaneous, so they put the word "retrospective" 21 in, but they did not understand the meaning of the word 22 "retrospective". 23 Actually, according to my understanding, it could be 24 regarded as a faked record, but they did not understand 25 it.</p>
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<p>1 that the structure of the EWL slab was in a safe 2 condition under our supervision in order to allow the 3 construction work to continue. This letter was to 4 respond to the government's letter, to say we have 5 checked the structure of the EWL slab, that it was safe 6 and that construction could continue. I appointed my 7 construction team to do the checking and to give this 8 final response. 9 The message they gave me was that whether it was the 10 design or the construction side, the condition was safe 11 for continued construction works. So, when the letter 12 came to me, I did not hold a meeting to discuss the 13 letter in detail with them. I only asked Mr TM Lee to 14 finalise it and to sign it off. 15 Q. You earlier told us that you were aware of the lack of 16 contemporaneous construction site records regarding the 17 coupling installations for platform slabs, after you 18 left MTR; right? 19 A. Well, after 7 August this year. 20 Q. Do you know whether any steps were taken by MTR to make 21 enquiry as to how this could have happened? 22 A. Are you asking me whether I asked MTR about it after 23 I got to know it? 24 Q. Yes. Correct. 25 A. Well, because I left my job already, so I didn't ask.</p>	<p>1 Secondly, they did something wrong. They wrote 2 a date to their signature, and the date was 10 February 3 2017. It was totally meaningless. It was impossible to 4 write down that date. They could have put down the date 5 of the inspection. And the record of the inspection 6 should state the date the inspection was done, and why 7 the record was not done, but then they did not do 8 anything like this. 9 To me, that was a big honest mistake. 10 Q. Right. You are aware that in fact these retrospective 11 records were created without the benefit of any 12 contemporaneous records in relation to the coupling 13 installations, would you not find such retrospective 14 records quite meaningless? 15 A. No, it was not that they were meaningless. They should 16 not have been created. No one should ever do anything 17 like that. 18 Q. The last matter I wish to discuss with you -- it's we 19 have asked engineers and also inspectors of works in 20 relation to the knowledge of the QSP. You probably 21 might have heard from the earlier evidence. But, 22 strangely, not many of them were aware of the actual 23 requirements under the QSP at the time of the 24 construction process. 25 I would like to know whether there was any system or</p>

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<p>1 mechanism within the MTR which would ensure that those 2 relevant personnel, ie engineers or inspectors of works, 3 were fully aware of such requirements under the QSP 4 which would need to be implemented.</p> <p>5 A. Here I would like to explain the operation on site, both 6 before and now. Under PIMS, we write down very clearly 7 that the construction manager, before the commencement 8 of activities, must ask the contractor to submit an ITP, 9 and that is the inspection and test plan.</p> <p>10 What is the ITP? It is a master plan for all 11 construction activities, whether it is the slab 12 construction, the diaphragm wall, excavation and lateral 13 support. The ITP specifies where the hold points should 14 be. It is very clear.</p> <p>15 With regard to the construction of the EWL slab, it 16 is within the ITP framework. My experience is that this 17 is not something new. It has been used in Hong Kong for 18 a few decades.</p> <p>19 In the last five years, we have had this term of 20 QSP. It was not called QSP. We called it the method 21 statement; "Do you have a method statement?", we asked 22 people. You followed the method statement. And this 23 time around, the QSP specifies the condition in the 24 acceptance letter of the Buildings Department.</p> <p>25 Well, I can go deeper. Actually, what is a QSP? It</p>	<p>1 However, when it comes to the record and the 2 logbook, the QSP was not followed. My view is that 3 I can't pass comment on what actually happened in the 4 site. However, for the three things under the QSP I've 5 just mentioned, they have done at least 50 per cent of 6 it, I think. I think, when it comes to the records, 7 that might be a mistake.</p> <p>8 Q. My earlier question was: was there any mechanism or 9 system within the MTR which would ensure that the 10 frontline staff, for example the engineers, the 11 inspectors of works, would know clearly the requirements 12 under the QSP so that they could know how these 13 requirements would be implemented?</p> <p>14 A. As I've said previously, when it comes to monitoring and 15 site work under PIMS, that has been specified very 16 clearly and there is also a matrix. It sets out staff 17 members of a particular group would be responsible for 18 ITP, that is inspection and test plan, and the staff 19 members of a particular group will be responsible for 20 site surveillance and supervision and another for 21 records, and then another for design changes. There is 22 a matrix covering all of this for the staff members to 23 follow. I think our staff members follow PIMS.</p> <p>24 From what I can see in the past few weeks, I think 25 the biggest oversight was that the QSP was not put in</p>
<p>Page 114</p> <p>1 includes three parts. The first part, even without 2 a QSP, you have to do this, and that is site 3 surveillance, and supervision, supervision on site. No 4 supervision, no work. Whether or not you have a QSP, 5 PIMS states very clearly, and there should be full-time 6 inspectors on site, and there must be engineers who 7 visit the site on a regular basis.</p> <p>8 Under the QSP, even without it being specified, you 9 will still have to do it. That is another thing. You 10 have to specify the percentage of certified records. 11 That is, 20 per cent or 50 per cent, it may be changed 12 to 30 per cent or to 60 per cent next year. It changes. 13 The percentage itself is variable. Even without a QSP 14 there needs to be supervision and a percentage of 15 completed installation.</p> <p>16 The third thing is the logbook. Logbook was 17 included in QSP. It was specifically included in the 18 plan because it was for checking, not to be submitted 19 but just checking by the Buildings Department. The most 20 important thing is that there must be a RISC form for 21 bar fixing as well as concrete pouring; they can specify 22 how much supervision was done because it was 23 specification as to who has done what. And frontline 24 supervisors have confirmed that they have done the 25 supervision.</p>	<p>Page 116</p> <p>1 the ITP, that is the inspection and test plan.</p> <p>2 Q. From the evidence we have heard, there's also a big 3 question mark, because nobody seems to know who was the 4 site quality supervisor responsible for actually 5 checking the coupling installations.</p> <p>6 Do you know how this could have happened?</p> <p>7 A. I have been following in the past few weeks the 8 testimony of witnesses. I think it's very clear when it 9 comes to diaphragm wall, because Intrafor is a very 10 experienced foundation and diaphragm wall contractor, 11 and they follow the guidance of the main contractor.</p> <p>12 Regarding the EWL slab, as I said, the Code of 13 Practice of reinforced concrete works, back in 2003, it 14 was issued. It is only in recent years that we have the 15 QSP. So not many engineers or site supervisors were 16 familiar with it.</p> <p>17 Regarding EWL slab, under the QSP, a quality 18 supervisor had to be appointed, but there was no such 19 assignment. Maybe there was no such assignment.</p> <p>20 But in fact, before I left, I had a discussion with 21 my colleagues. Kobe Wong said it very clearly himself 22 that he was responsible for inspecting couplers 23 installation. However, he did not know that he was 24 an appointed qualified T3 responsible for quality 25 supervision, but actually he did it. But on record he</p>

<p style="text-align: right;">Page 117</p> <p>1 could not produce the logbook and a full report to 2 support that. 3 MR KHAW: Thank you. I have no further questions. 4 MR CONNOR: No questions for Atkins, sir. Thank you. 5 MR SHIEH: No questions from Leighton. 6 Re-examination by MR BOULDING 7 MR BOULDING: Good afternoon, Dr Wong. I just have one or 8 two questions for you. 9 Do you remember being asked many questions by Mr So 10 on behalf of China Technology as to why China 11 Technology's material and statements were not included 12 in MTR's report of 15 June 2018? 13 A. (In English) Can you repeat your question? 14 Q. Yes. Do you remember being asked by Mr So of China 15 Technology many questions as to why China Technology's 16 material and statements were not included in MTR's 17 report of 15 June 2018? 18 A. (In English) Yes, I remember. Yes. 19 Q. And the transcript records that it was not included, on 20 the advice of the legal team. Do you remember giving 21 that answer? 22 A. I remember. 23 Q. Can you tell me, if you know, what the legal team's 24 reasons for not including China Technology's material 25 and statements in the report was?</p>	<p style="text-align: right;">Page 119</p> <p>1 That's why we decided not to include it. 2 Q. I see. I wonder if we can just have a look at 3 a document together, B3084. 4 If you could enlarge that, please. 5 I think this was a letter you signed off, was it 6 not? 7 A. Right. 8 Q. If you look at -- I think it's the third proper 9 paragraph on that page: 10 "The corporation's decision not to include the 11 allegations from China Technology or Leighton's response 12 in the report was based on the following factors". 13 Did you read that before you signed the letter, 14 Dr Wong? 15 A. I have read it, basically, but I may not remember 16 clearly what I have read at that time. 17 Q. No, but looking at it now, do those reasons summarise 18 why the China Technology statements, the China 19 Technology material, was not included in the report? 20 A. I now remember that in the meeting we have discussed all 21 these points, and it's because of these reasons that 22 we've decided not to include China Technology's 23 statement. 24 Q. I see. You'd better tell the Commissioners what 25 a crisis management meeting is. It sounds awful. But</p>
<p style="text-align: right;">Page 118</p> <p>1 A. I recall that at that time, it was in a crisis 2 management meeting. I think it was just one or two days 3 before the submission of the report. If I remember 4 correctly, it was on Friday the 15th that we had to 5 submit the report, and on the morning of Thursday our 6 legal team interviewed China Technology. We had 7 a meeting that morning. The legal team had to rush over 8 there to interview China Technology. That's what they 9 told us. 10 After the meeting, I think -- I don't remember the 11 date but it was very close to the time I was talking 12 about, two or three days -- they said that China 13 Technology made a lot of allegations. I remember there 14 were representatives of Leighton at the interview. It 15 was said the allegations or things said by China 16 Technology were not supported. It was also said that 17 they did not know whether there could be any way to 18 prove the things that different people said, and 19 Leighton, to a large extent, did not agree with what 20 China Technology said. 21 It was decided, as a result, in a meeting, that 22 since the COI had already been set up, if we, in a rush, 23 include something, that is allegations, that were not 24 supported in the public report, it might affect the 25 investigation conducted by the COL.</p>	<p style="text-align: right;">Page 120</p> <p>1 what is a crisis management meeting? What's the purpose 2 of such a meeting? 3 A. At the end of May, after media reports have been made, 4 we think that our reputation and the way we carry out 5 the works might have been affected. We would be under 6 public scrutiny as a result. The main purpose of 7 setting up the crisis management meeting was to deal 8 with what happened on a daily basis. We tried to 9 contain and control the matter. 10 Q. Thank you. Now, casting your mind back slightly earlier 11 in your questioning -- do you remember being asked by 12 Mr Pennicott, counsel for the Commission, various 13 questions about the as-built drawings? 14 A. Yes, I remember. 15 Q. If I might be permitted to read from [draft] page 32 of 16 the transcript. Mr Pennicott said: 17 "Pausing there, when you were setting up or being 18 involved with the setting up of this loading test, did 19 you at that stage say to anybody, 'Where are the 20 as-built drawings for the slab?'" 21 Do you remember that question? 22 A. I remember. 23 Q. And you said -- this is [draft] page 32 of the 24 transcript: 25 "Regarding the issue of as-built drawings, in</p>

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<p>1 a construction site the as-built drawings are made up of</p> <p>2 a lot of different site records, including design</p> <p>3 amendments, and we might have different site diaries,</p> <p>4 photographs, or RFIs, the engineers' responses, and so</p> <p>5 on."</p> <p>6 And then you said:</p> <p>7 "So these records theoretically have to be collated</p> <p>8 together to compile an as-built drawing."</p> <p>9 Can you tell me this: why do you say that the</p> <p>10 as-built drawings are, in effect, made up of so many</p> <p>11 different components?</p> <p>12 A. Because, in a construction site, the construction</p> <p>13 activities were not individual and single ones. Say for</p> <p>14 example there would be formwork, reinforcement,</p> <p>15 concreting, and then afterwards there would be finishes,</p> <p>16 and there might even be tests on electrical and</p> <p>17 mechanical areas. Every step would have an impact on</p> <p>18 the next. Say, for example, when we do electrical and</p> <p>19 mechanical work, if there is a structure in the way, you</p> <p>20 may have to demolish it and then you have to revise the</p> <p>21 design; then you can get on with the E&M works.</p> <p>22 So, about this EWL slab, the structure may have been</p> <p>23 built, but then, when you go to the final stage, you</p> <p>24 have to wait for everything to be done and that there</p> <p>25 will not be any changes, then you can do the as-built</p>	<p>1 that correct?</p> <p>2 A. Yes, within three months or half a year before the total</p> <p>3 completion of the project.</p> <p>4 MR BOULDING: I see. Thank you very much. Thank you,</p> <p>5 Dr Wong.</p> <p>6 Chairman, Professor, I have no further questions.</p> <p>7 I don't know whether you have.</p> <p>8 COMMISSIONER HANSFORD: Not from me.</p> <p>9 CHAIRMAN: No, not from me.</p> <p>10 Thank you very much indeed, Doctor. Your evidence</p> <p>11 is completed now. Thank you for your assistance.</p> <p>12 WITNESS: (In English) Thank you, Chairman. Thank you,</p> <p>13 Professor.</p> <p>14 (The witness was released)</p> <p>15 MR BOULDING: Sir, would that be a convenient moment to --</p> <p>16 CHAIRMAN: I think it would, Mr Boulding. Who do you have</p> <p>17 after the tea break?</p> <p>18 MR BOULDING: I am calling Mr Lincoln Leong.</p> <p>19 CHAIRMAN: That's right. Thank you. 15 minutes.</p> <p>20 (3.48 pm)</p> <p>21 (A short adjournment)</p> <p>22 (4.06 pm)</p> <p>23 MR BOULDING: Good afternoon again, Chairman, Professor.</p> <p>24 Good afternoon, Mr Leong.</p> <p>25</p>
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<p>1 drawings.</p> <p>2 Therefore, it is not that you can work on one part</p> <p>3 and then you work on the as-built drawings. You have to</p> <p>4 wait for the final construction stage, and then you can</p> <p>5 do the as-built drawing. This must be based on all</p> <p>6 previous documentation, including design and amendment</p> <p>7 drawings, engineers' instructions, TQs, RFIs, and other</p> <p>8 associated documents.</p> <p>9 Q. Does the need to take into account all those factors</p> <p>10 that you've just referred to affect the time by which</p> <p>11 the as-built drawings can be prepared?</p> <p>12 A. Can you please repeat your question?</p> <p>13 Q. Yes. Does the need to take into account all of those</p> <p>14 factors that you've just referred to in your answer</p> <p>15 affect the time by which the as-built drawings can be</p> <p>16 prepared?</p> <p>17 A. Practically, yes, this must be the case.</p> <p>18 Q. And where, in your experience, are the as-built drawings</p> <p>19 for a project like this actually prepared?</p> <p>20 A. I can say that if, for example, at the end of the year</p> <p>21 we should complete a project for operation, then within</p> <p>22 the year, maybe three or four months before that, then</p> <p>23 we can complete the drawings.</p> <p>24 Q. I see. So I would be right in thinking, would I, that</p> <p>25 they are completed towards the end of the project; is</p>	<p>1 MR LEONG KWOK KUEN, LINCOLN (sworn)</p> <p>2 Examination-in-chief by MR BOULDING</p> <p>3 Q. So we've got your full name on the transcript, Mr Leong,</p> <p>4 and it's correct, is it not, that you've provided to the</p> <p>5 Commission a witness statement in this particular matter</p> <p>6 for their assistance?</p> <p>7 A. That's correct.</p> <p>8 Q. I wonder if we can go to the first page of that, B115,</p> <p>9 and there do we see the first page of your witness</p> <p>10 statement, Mr Leong?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Thank you. If we can scroll down to page B130, I hope</p> <p>13 we'll find your signature.</p> <p>14 A. Yes.</p> <p>15 Q. Do we there see your signature under the date of</p> <p>16 14 September 2018?</p> <p>17 A. Yes, you do.</p> <p>18 Q. I understand that there is a minor correction to be</p> <p>19 made. Could we go to page B130.1. Do they represent</p> <p>20 changes that you'd like to make to the text of your</p> <p>21 witness statement, Mr Leong?</p> <p>22 A. Yes, they do, Mr Leong.</p> <p>23 Q. Subject to those corrections, are the contents of that</p> <p>24 statement true to the best of your knowledge and belief?</p> <p>25 A. They are true to the best of my knowledge and belief.</p>

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<p>1 Q. Thank you very much. Now, I think we know where the 2 chief executive officer of an organisation sits, but 3 just to see the lines of reporting, perhaps we can go to 4 B821. There we see you, do we not, Mr Leong -- this is 5 dated July 2015 -- at the very top of the tree; correct? 6 A. Correct. 7 Q. Do we understand that the people below you would report 8 to you as necessary? 9 A. That's correct. 10 Q. Thank you very much. Now, with the Chairman's leave, 11 I'd like to ask you one or two questions about some 12 evidence which has been given since you signed off your 13 witness statement. 14 Am I correct in thinking that you've read the 15 evidence given by Mr Aidan Rooney of MTR last week? 16 A. Yes, I have. 17 Q. Did you read that he believed that you had given him the 18 instruction to attach the Kobe Wong signed records to 19 the MTR report dated 15 June 2018? 20 A. I did read that. 21 Q. Thank you. I wonder if we can have a look at the 22 transcript together, please. Day 28, page 67. Thank 23 you. 24 If you read from the top of the page, 67, Mr Leong, 25 question:</p>	<p>1 discussion that they didn't add any value and that there 2 was no necessity to attach them. 3 Question: Can you please tell me who the members of 4 the executive team preparing this report were? 5 Answer: It was a combination of Lincoln, Philco and 6 the senior legal team. 7 Question: Right. When you received the original 8 instruction to attach then the records to the report, so 9 you would have been told by either Philco Wong, is that 10 right, or Lincoln Leong, or somebody else? 11 Answer: I believe it was Lincoln." 12 Now, can I ask you this, Mr Leong: did you instruct 13 Mr Rooney that the Kobe Wong records were to be attached 14 to the report? 15 A. No, I don't think so. 16 Q. Thank you very much. Tell me this, one final question: 17 did Mr Aidan Rooney ever tell you that these records 18 were retrospective records? 19 A. No, I do not know or did not know that these records 20 were retrospective, nor did I know that they were 21 backdated. 22 Q. Thank you very much, Mr Leong. I have no further 23 questions for you. The procedure now is that you're 24 likely to be questioned by Mr Pennicott in the front 25 row. He is counsel for the Commission. Then some of</p>
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<p>1 "Well, you say that, Mr Rooney." 2 I ought to say this is Mr Pennicott questioning. 3 "Could we go, please, to paragraph 94 of your 4 witness statement, at B211, where you say, the second 5 sentence: 6 'After several rounds of comments on the 7 calculations of the total quantity of couplers required 8 to comply with the BD requirements of minimum 9 20 per cent and 50 per cent of the total quantity 10 referred to in paragraph 92 above, I received the 11 finalised version of Kobe Wong's signed record 12 sheets ..." 13 Now, can I ask you this: before the MTR report was 14 signed off and submitted on 15 June 2018, Mr Leong, had 15 you ever seen Kobe Wong's signed record sheets? 16 A. No, I haven't. 17 Q. Then if we may read on then in the transcript. Perhaps 18 we can pick it up at page 68, line 3. Mr Pennicott 19 says, question: 20 "Then what happened? 21 Answer: Apparently they were attached. 22 Question: All right. 23 Answer: But I believe that that was, as I said, 24 an administration error. I was initially told that they 25 would be attached, then there was a subsequent</p>	<p>1 the lawyers in the room might take the opportunity to 2 ask you questions. The Chairman and the professor can 3 ask you questions at any time that takes their fancy. 4 Then it may be case that I'll ask some further questions 5 to wrap proceedings up so far as your evidence is 6 concerned. Do you understand that? 7 A. Thank you. Yes. 8 Examination by MR PENNICOTT 9 MR PENNICOTT: Good afternoon, Mr Leong. First of all, 10 am I pronouncing your name correctly? 11 A. You are. 12 Q. Thank you very much. Thank you for coming along to give 13 evidence to the Commission this afternoon. Mr Boulding 14 has explained the procedure, so I have a few questions 15 for you which I hope won't take too long. 16 Mr Leong, by profession you are a chartered 17 accountant, I understand? 18 A. That's correct. 19 Q. You joined the MTR some time ago, in 2002? 20 A. That's correct as well. 21 Q. At that time, you were the finance director of the MTRC 22 corporation? 23 A. That's correct. 24 Q. In 2002, that was the same year as Mr Frederick Ma 25 became Secretary for Financial Services and the Treasury</p>

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<p>1 and a non-executive director of MTR. Did you know Mr Ma 2 before 2002? 3 A. Yes, I did. 4 Q. How did you know him before 2002? 5 A. I've known Mr Ma for quite some time. In fact, when 6 I first came back to Hong Kong, after having spent 7 a number of years abroad, in 1989, at that time I was 8 with a company called RBC Dominion Securities, Mr Ma was 9 my superior, was my boss at that time. 10 Q. I think you tell us you were in the accountancy and 11 investment banking industries in London, Vancouver and 12 the UK; is that correct? 13 A. Correct. 14 Q. So whereabouts were you when you met Mr Ma back in 1989? 15 A. Mr Ma has known my family for some time, and when I met 16 Mr Ma it was in Hong Kong, with RBC Dominion Securities 17 in Hong Kong. 18 Q. In Hong Kong, understood. All right. In any event, in 19 2008, you became the finance and business development 20 director of MTR? 21 A. Correct. 22 Q. Then, four years later, in 2012, you became deputy CEO? 23 A. Correct. 24 Q. Then, in 2014, acting CEO? 25 A. Correct.</p>	<p>1 committee, are subcommittees of the board. They are 2 not, I stress, subcommittees of the executive committee. 3 Q. Right. So they report directly to the board, not 4 through the executive committee; is that right? 5 A. Correct. 6 Q. What about the project control group? 7 A. The project control group is a group that reports 8 through the projects director to the executive 9 committee. 10 Q. Right. So the projects -- it is the project control 11 group that goes through, via the projects director, to 12 the executive committee -- 13 A. Correct. 14 Q. -- so that is an example. And what about the crisis 15 management group? 16 A. The crisis management group is something that is 17 established on an ad hoc basis as required. The crisis 18 management group was established for, amongst other 19 things, to look at and to deal with the issue at hand, 20 the slab in the Hung Hom Station. 21 Q. Yes. Does that report to the executive committee or to 22 the board of directors? 23 A. I chair that crisis management group, and that crisis 24 management group will report to the executive committee. 25 Q. All right. That's clear. Thank you very much.</p>
<p>Page 130</p> <p>1 Q. Then, as we've just seen with the organisation chart 2 that Mr Boulding's taken us to, I think in 2015, I think 3 it was March, you became the CEO of MTR? 4 A. That's correct. 5 Q. Okay. Just so we've got the picture, the structure, 6 Mr Leong -- at the top, a board of directors? 7 A. Correct. 8 Q. And you are on the board of directors as an executive 9 director? 10 A. That's correct. 11 Q. Underneath that, we have the executive committee? 12 A. Correct. 13 Q. And you are also not only a member but the chair of the 14 executive committee? 15 A. That's correct. 16 Q. Then there are a series of, if you like, subcommittees 17 beneath that executive committee. There's the audit 18 committee; is that right? 19 A. I would like to make an amendment to your statement. 20 Q. Yes, sure, please do. 21 A. -- Mr Pennicott. The various subcommittees are 22 subcommittees of the board. 23 Q. Right. 24 A. So the audit committee, the capital works committee, the 25 risk committee, et cetera, et cetera, remuneration</p>	<p>Page 132</p> <p>1 Paragraph 14 of your witness statement, please. You 2 refer in paragraph 14, under the heading of "Management 3 of capital works projects and oversight" and "Projects 4 director's and projects team" to the projects director's 5 monthly report to the executive committee. Do you see 6 that? 7 A. I do see that. 8 Q. At the end of -- the last couple of sentences, picking 9 it up four lines from the bottom, you say: 10 "In addition, approximately one year before the 11 opening [up] of a new line, 'top team' meetings would be 12 established involving the projects team and colleagues 13 from operations and other divisions to prepare for 14 opening. The first 'top team' meeting for SCL was held 15 in September 2017." 16 I assume that you attend those "top team" meetings, 17 Mr Leong; would that be right? 18 A. I actually chair the "top team" meetings. 19 Q. Right. As I understand it, implicit in what you say 20 here, what is happening is that you are gearing up for 21 the opening of a new line, and this is part of the 22 process by which the projects team hand over to the 23 operations team? 24 A. That is correct. 25 Q. Good. Can I then ask you, please, to turn to</p>

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<p>1 paragraph 37 of your -- well, let's pick it up at 31, 2 just to see where we are, page 122 in the bundle. 3 You are dealing with "The present incident" starting 4 at paragraph 31, and taking it through to paragraph 36 5 you say: 6 "... on 1 June 2018 MTRC received a letter from the 7 Buildings Department which also requested a report ..." 8 And obviously that's the report that ended up being 9 submitted on 15 June 2018, this year? 10 A. That's correct. 11 Q. You go on to say in paragraph 37: 12 "On 4 June 2018, I met representatives of Leighton 13 as well as representatives of Leighton's parent company, 14 ... [CIMIC for short], together with Dr Philco Wong and 15 the corporate affairs director. At the meeting, 16 I requested Leighton to provide us with further 17 information regarding the issue. This was followed up 18 by a letter to Leighton of the same date." 19 Could we have a quick look at that letter, Mr Leong. 20 It's at B7/4599. 21 A. Can I have a hard copy of this letter? 22 Q. Yes, of course. Somebody will hand it to you. 23 (Handed). 24 A. Thanks very much. 25 Q. I think this is the letter that you're referring to,</p>	<p>1 Leighton on 11 ... 27 ... and 25 July ... as well as 2 having other telephone calls with members of the senior 3 management ... as well as representatives of CIMIC. On 4 each occasion I made the same request and also asked 5 Leighton to release the relevant information to the 6 public. Regrettably, as at the date hereof, Leighton 7 has chosen not to provide any information to the 8 public." 9 Before we turn to the question of "public", could 10 you be given back that file, please, and could I ask 11 you, please, to go a couple of pages on from where we 12 were looking at just a moment ago. That is to B7/4601. 13 This is a letter from Leighton of 6 June, so a couple of 14 days after the letter we were just looking at. In that 15 letter -- it's to Mr Rooney, as we can see, but is it 16 a letter that you would have seen at the time, Mr Leong? 17 A. No, I do not believe I saw this letter at that time. 18 Q. Because it seems to me that it obviously is, unless I've 19 got this wrong, a response to your letter that we were 20 just looking at; is that right? The reference seems to 21 be correct. Yes, 182. Do you see? 22 A. Mr Pennicott, I also have, on the page before, 1314, 23 a letter that's actually addressed to me -- 24 Q. Yes, I see that. 25 A. -- from Leightons, which were really pertaining to the</p>
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<p>1 Mr Leong; is that right? 2 A. This is a letter, as noted, signed by Aidan Rooney to 3 Leighton's contractors. I believe that this would have 4 been the letter, although at that time there were lots 5 of other things going on. 6 Q. Right. It seems to me -- certainly we're told -- 7 A. Yes. 8 Q. -- in the annotated version of the witness statements 9 that I've got that this is the letter, and it seems to 10 be consistent with you making a request to Leighton to 11 provide you with a series of items of information? 12 A. That's correct. 13 Q. You were asking them for a chronology of events, 14 relevant as-built records and photographs, details of 15 actions taken against responsible sub-contractors, 16 relevant reports produced or investigations undertaken 17 into the issue, evidence to demonstrate that any 18 irregularities of steel bar fixing works were fully 19 rectified before concreting, assurance as to the safety 20 and integrity of the works. 21 You go on -- just hold that letter for a moment and 22 just keep it to one side. In your witness statement -- 23 don't lose that file because we'll need to come back to 24 it -- you say: 25 "I subsequently attended 3 more meetings with</p>	<p>1 issues that we would have discussed on the telephone 2 call, sir. 3 Q. Right. But what I just -- well, we may or may not come 4 back to that letter at 4600, but the letter at 4601 is 5 a response to the letter at 4599 that we were just 6 looking at. 7 A. Mmm. 8 Q. And it, we can see, has a number of headings, 9 "Chronology of events surrounding the issue", "Relevant 10 as-built records and photographs of the works", so it 11 seems to be following the headings or the requests that 12 you were making in the earlier letter, or Mr Rooney was 13 making in the earlier letter; do you see that? 14 A. Yes. As Mr Rooney was making in the earlier letter. 15 Q. The reason I'm putting that to you -- and it clearly 16 has -- a long letter, three and a bit pages -- it has 17 a series of attachments that run on for a little while, 18 and having looked at that, can I suggest perhaps that 19 your criticism that, leaving aside the question of what 20 was released to the public, that at least Leighton at 21 that stage were addressing your requests for 22 information. Do you accept that? 23 A. Chairman, we do accept that Leightons was providing 24 information, albeit at times they were taking a bit of 25 time to provide that information. However, as noted in</p>

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1 my statement, what MTR was also impressing on Leightons
2 was to go out in the public domain and explain
3 themselves and explain the situation with regards to the
4 Hung Hom slab.
5 Q. All right. What did you -- in a nutshell, Mr Leong,
6 what were you hoping Leighton would choose to tell the
7 public? What were you hoping for?
8 A. Chairman, at that time, because this issue started at
9 the end of May/beginning of June, we had done our
10 preliminary investigation. We were hoping that
11 Leightons would also, having gotten their information,
12 go out in the public and tell the public what
13 information they have and how their information stacks
14 up.
15 Q. Right.
16 At paragraph 41 -- just another similar point -- you
17 refer to a crisis management group meeting that you
18 chaired on 11 June; do you see that?
19 A. I do.
20 Q. You say, towards the end of that paragraph, that
21 representatives of Atkins/CM Wong attended those
22 meetings on a number of occasions?
23 A. Correct.
24 Q. You say you also invited -- sorry, you also add that you
25 invited Leighton to attend a meeting of the group but it

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1 declined to do so?
2 A. That's correct.
3 Q. Did Leighton give any reasons as to why they would not
4 attend this meeting or meetings?
5 A. I do not believe they gave any reasons.
6 Q. Right. Was it at your suggestion that they did attend
7 the meeting or meetings with you?
8 A. This was at the suggestion -- this was discussed in the
9 crisis management group, which I chaired, and this
10 crisis management group at that time was meeting on
11 a daily basis. So it would have been initially
12 discussed at the crisis management group, and I would
13 have been party to that decision.
14 Q. Okay.
15 Now, in a sense, I rather hope that the little bit
16 of examination-in-chief that Mr Boulding did with you
17 a short while ago has covered my next few questions. As
18 I understand your position, Mr Leong, you were unaware
19 of, at the time the June 2018 report was prepared and
20 given to government, that it contained any retrospective
21 records; you were unaware of that?
22 A. Correct, I was unaware of the fact that those records
23 were retrospective and, as proven subsequently,
24 backdated.
25 Q. So, on that basis, as I understand it, you, contrary to

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1 what Mr Rooney has said, could not have been responsible
2 or partly responsible for what he described as the
3 "administrative error" in attaching those records to the
4 report?
5 A. Yes, I'm not familiar with that "administrative error".
6 Q. Right. Indeed, it must follow that you're simply unable
7 to explain how those retrospective records came to be
8 included?
9 A. Mr Pennicott, as highlighted in my statement right from
10 the beginning when we started this whole exercise, our
11 aim, my aim, MTR's aim, is for the report to be complete
12 and accurate, and that's highlighted in my statement as
13 well.
14 For the completeness, we, as others have also noted,
15 interviewed a number of parties, as well as collected
16 a large body of documents. Now, for accuracy, the
17 verification of those comments and statements made in
18 the report were subject to verification, some of which
19 was actually done by an external law firm. That
20 verification resulted in what became the technical list
21 that went to government. Originally, it was the
22 appendices. I understand that the so-called coupler
23 checklist was in those appendices.
24 Q. They were indeed. That's right. And from your
25 position, you can't explain how it is that they came to

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1 be there as part of the appendices?
2 A. Well, what I would know is that there is a clear
3 direction for the report to be complete and accurate.
4 That accuracy is verification of the statements in the
5 report. And the appendices or the technical checklists
6 or the technical lists would be evidence of the comments
7 in the report.
8 Q. I'm asking you a few questions about this, Mr Leong,
9 because I've noted that in paragraph 45 of your witness
10 statement, on B1/125, you say, penultimate sentence:
11 "The drafts of the report were also discussed during
12 the meetings of the crisis management group."
13 Then the last sentence in particular you say:
14 "I did, however, repeatedly emphasise that the
15 contents of the report must be verified and supported by
16 documents."
17 A. Correct.
18 Q. First of all, "repeatedly emphasise" -- who did you
19 repeatedly emphasise that to?
20 A. To the crisis management meeting.
21 Q. Right. I'm not sure we know -- I'm not sure if you tell
22 us or we've got it from somewhere else or I've
23 forgotten -- but apart from yourself, who were the other
24 members of that crisis management group?
25 A. The membership varies slightly depending on the day,

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1 because we were meeting on a daily basis.
2 Q. Yes.
3 A. Generally, there would be a number of executive
4 directors and a number of managers who were supporting
5 those executive directors. So those executive directors
6 that were part of that group would include our projects
7 director, previously Mr Philco Wong. It would include
8 our managing director of operations and our China
9 business. It would include our operations director. It
10 would include our legal director. It would include our
11 corporate affairs -- our corporate relations director.
12 It would also include our general manager for our legal
13 business. It would include a number of professional
14 general managers from the projects team.
15 Q. So was Mr Rooney on it?
16 A. Yes.
17 Q. And Jason Wong?
18 A. And Jason Wong, they were both on that committee.
19 Q. Right.
20 A. As well as a number of other colleagues who were in the
21 corporate relations area, and of course our human
22 resources director as well.
23 That meeting generally would have somewhere between
24 12 and 14 people in it.
25 Q. All right. We've heard, without going into any detail,

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1 that the legal team, if I can put it that way, both
2 perhaps internal and external, were involved in the
3 preparation of the report?
4 A. The legal team was involved in the preparation of the
5 report, but as I understand it most of the information
6 would have come from our projects colleagues.
7 Q. Yes, but in terms of you emphasising that the contents
8 of the report must be verified and supported by
9 documents, I'm just trying to find out who amongst the
10 people involved in writing the report would have heard
11 you say that? And I think you've identified that there
12 would have been legal representatives, for example, at
13 the crisis management group meetings.
14 A. Correct.
15 Q. And would those legal representatives have been involved
16 in writing the report?
17 A. I think they would have been involved in editing the
18 report, but the base information for the report would
19 have come from the projects team.
20 Q. All right. Thank you for that, Mr Leong.
21 Could I then move on in your witness statement. At
22 paragraph 51 of your witness statement, you start to
23 deal with the inaccuracies in the MTR report.
24 A. Mm-hmm.
25 Q. You refer to the letter of 13 July that we looked at

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1 earlier today with Mr Lee, and you explain how all that
2 was prepared.
3 Then at paragraph 54 of your witness statement you
4 say:
5 "I considered this matter to be potentially serious
6 and I instructed the projects team to find out all of
7 the facts regarding the change in the way that the
8 rebars connecting the EWL slab and diaphragm wall was
9 constructed and the number of couplers. On the same
10 day ..."
11 And I think we're referring back to 25 July in the
12 previous paragraph.
13 A. Mm-hmm.
14 Q. "... I also informed the Chairman, who was out of
15 Hong Kong at the time, of this development although
16 I did not go into the details."
17 A. Correct.
18 Q. Did you get an initial reaction from the chairman to
19 this news that you were giving him?
20 A. I cannot remember -- we would have communicated by
21 electronic means, either email or WhatsApp. I cannot
22 remember whether he responded immediately. But he was
23 out of town and he was in receipt of that electronic
24 communication.
25 Q. All right.

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1 You then deal with, Mr Leong, your early retirement
2 in paragraph 57 and following of your statement.
3 I would just like to ask you a few questions about
4 this, if I may. You say:
5 "On 6 August 2018, I received a telephone call from
6 the chairman ..."
7 That's Mr Frederick Ma?
8 A. Correct.
9 Q. "... who asked me to meet with him and Mr Frank Chan,
10 the Secretary for Transport and Housing. At the
11 meeting ..."
12 So this was on 6 August, was it?
13 A. This was on the morning of 6 August.
14 Q. "At the meeting, Mr Frank Chan explained that government
15 had lost confidence in the projects team and
16 specifically identified several senior members of the
17 projects team, namely Dr Philco Wong, TM Lee, Aidan
18 Rooney and Jason Wong whom in the government's view
19 should be immediately relieved of their
20 responsibilities."
21 First of all, Mr Leong, did you make any enquiry of
22 Mr Frank Chan as to why the government had lost
23 confidence in the projects team?
24 A. My recollection is that Mr Frank Chan had said that
25 based on the change in detailing on that slab and the

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<p>1 information that has subsequently been given to 2 government which contradicts with information in the 3 report, government has lost confidence in a number of 4 senior managers in MTR, and that was the reason for that 5 decision. 6 Q. So it was very much focused, is this right, Mr Leong, on 7 the errors/discrepancies in the report that have 8 subsequently been discovered? 9 A. That would be my understanding, yes. 10 Q. Did you ask him? 11 A. I did not ask him directly, but we were talking about 12 that matter during that discussion. 13 Q. Right. So, at that point in time, and the assertion of 14 loss of confidence, there was no discussion about the 15 cutting of threaded rebar and that sort of topic; it was 16 very much the misreporting and the discrepancies? 17 A. Correct. 18 Q. In paragraph 58 you go on to say: 19 "Although the matter was still under investigation 20 and issues in connection with contract 1112 were subject 21 to the upcoming Commission of Inquiry, I understood the 22 concerns of the government ..." 23 Pausing there, in what sense did you understand the 24 concerns, Mr Leong? 25 A. I understand the concerns of government insofar as their</p>	<p>1 investigation should be completed and the explanations 2 fully gathered? 3 A. That would have been my view, yes. 4 Q. Okay. Just another relatively small point, I think. At 5 paragraph 60 of your witness statement, Mr Leong, you 6 say: 7 "Subsequent to that meeting ..." 8 So that's the morning of 6 August, as you've just 9 told us. 10 "... I met with Dr Philco Wong and informed him of 11 the government's view." 12 So was that later on on 6 August you had that 13 meeting? 14 A. That's correct. 15 Q. What did you actually tell Mr Philco Wong? 16 A. I told Mr Philco Wong that we had the meeting or I had 17 that meeting with senior government officials on the 18 morning of 6 August, together with the chairman, 19 Mr Fred Ma, and then I also informed Mr Philco Wong of 20 the views of government, that view in particular being 21 that government has lost confidence in our senior 22 projects team, and the decision which was communicated 23 to me at that meeting by Mr Frank Chan on the actions 24 which government would like, would expect, MTR to take. 25 Q. Okay. So you didn't tell Dr Wong that he would</p>
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<p>1 comments with regards to the change in detailing, 2 creating the error in the report, and hence themselves, 3 government, losing confidence in the senior management 4 team, in our senior projects management team. That was 5 my understanding. 6 Q. Okay. You go on to say: 7 "... and their request for MTRC to take decisive 8 action by relieving the senior projects team members 9 responsible for the SCL project of their duties." 10 Did you agree with the request that the senior 11 projects management team should be relieved of their 12 duties? 13 A. My own thinking at that time is that the Commission of 14 Inquiry was just about to commence its 15 evidence-gathering and that it would -- my own 16 thinking -- have been much better to wait until the 17 conclusion of the Commission of Inquiry, so all the 18 facts and information would be out in the public domain. 19 But that was only my own thinking at that time. 20 Q. Did you voice that opinion to anybody at the time? 21 A. I did not voice that opinion to either Mr Frank Chan or 22 Mr Fred Ma, no. 23 Q. Okay. So the position that you took, at least privately 24 and to yourself perhaps, was that there ought to be 25 a chance given to the individuals concerned that the</p>	<p>1 definitely be relieved of his responsibilities or his 2 duties, but that the government had asked MTRC to 3 consider taking that step; is that right? 4 A. Correct. What I said to Dr Philco Wong would have been 5 this was the view of government and the request, the 6 indications, of government, and there would be a special 7 board meeting, I believe the next day. 8 Q. Okay, which was there was. 9 A. Which there was. 10 Q. But in the meantime you had received Dr Wong's 11 resignation by email I think in the early hours of 12 7 August? 13 A. Correct. 14 Q. In paragraph 61 of your statement, you refer to the 15 board meeting that took place on the morning of 16 7 August, and you say that you explained to the board 17 members, so far as you were able to do so, the 18 inaccuracies contained in the MTR report. Then you say: 19 "Mr Frank Chan ..." 20 Of course, he was a non-executive director, is that 21 right -- 22 A. Correct. 23 Q. -- of the board? 24 "[He] informed the board that government had lost 25 confidence in the project management team of the SCL and</p>

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<p>1 that, as such, the corporation should consider whether 2 senior members of the projects team should leave MTR." 3 Mr Leong, did you, or anybody else who knew the 4 position, that is presumably Mr Frank Chan -- and 5 presumably Mr Frederick Ma was at the meeting as well, 6 obviously -- the three of you at least knew that in fact 7 what the government had said was that the senior members 8 of the team should be immediately relieved of their 9 responsibilities. That was the government's view at the 10 time. 11 A. Correct. 12 Q. Did you tell all the board members that that was the 13 government's position? 14 A. I think Mr Frank Chan told the members that that was the 15 government's position. 16 Q. So, when you put it, if I may say so, a little softly, 17 "the corporation should consider whether senior members 18 of the projects team should leave MTR", the reality is 19 that the government had said they should be relieved of 20 their responsibilities immediately? 21 A. That's correct, and from an MTR perspective, because we 22 do so much work with government, and government is both 23 a shareholder and a regulator, obviously if government 24 as regulator and a client in the case of both the 25 Express Rail Link and the Shatin to Central Link, if</p>	<p>1 Technology, just a few questions, that's all. 2 Can I take you to your witness statement, if I may, 3 at B118, paragraph 12; can you see that? 4 A. Yes, I do see that. 5 Q. Can I just clarify, Mr Leong: are you the chairman of 6 the executive committee of the MTR Corporation? 7 A. That's correct. I'm the chairman of the executive 8 committee. 9 Q. In paragraph 12, I'm just going to read out one sentence 10 to you. It says: 11 "Any issues of concern will be raised as and when 12 the need arises." 13 Do you see that? 14 A. Correct, I do. 15 Q. Then in paragraph 13, it says, in the last sentence: 16 "Dr Wong had the overall responsibility to report to 17 me and the executive committee on matters in relation to 18 the SCL project, including the works relating to the 19 platform slabs and diaphragm walls in the Hung Hom 20 Station Extension under contract 1112, which is the 21 subject matter of the present inquiry." 22 I will read on, paragraph 14, you see in the middle 23 there it says "better oversight"; do you see that, those 24 words there? 25 A. I'm trying to find it.</p>
<p>Page 150</p> <p>1 they have lost confidence it would be very difficult for 2 a continuation of these projects under the same 3 management. 4 Q. Tell me this, Mr Leong: does the MTR have the usual 5 termination procedures for terminating people's 6 employment? 7 A. Yes, we do. 8 Q. So warning letters and perhaps disciplinary tribunals, 9 that sort of thing? 10 A. Mr Pennicott, there are different ways for 11 colleagues/employees to leave the company. You can 12 leave for cause or leave without cause, and without 13 cause then there will be normal notice period given. 14 Q. No notice period given to these four gentlemen, 15 I understand? 16 A. There was actually a notice period -- the normal notice 17 period given to three of the four gentlemen. Mr Philco 18 Wong resigned. Those three gentlemen were paid out 19 their notice period. That's my understanding, sir. 20 MR PENNICOTT: Thank you very much. Thank you very much, 21 Mr Leong. I have no further questions. I don't know 22 whether anybody else has. 23 Cross-examination by MR TO 24 MR TO: Mr Chairman and Commissioner. 25 I have a few questions, Mr Leong, from China</p>	<p>Page 152</p> <p>1 Q. The fifth line down. 2 A. I see it. 3 Q. If you go down again, three more lines down, you see at 4 the end, it says "and any issues of concern would be 5 raised"; do you see that? 6 A. I see that. 7 Q. Let's turn over to paragraph 15. If you look at 8 paragraph 15, it says you basically make regular visits 9 to site and if there are any significant issues of 10 concern, basically you attend to those on site? 11 A. No. Generally I would pay -- if there are they 12 significant issues or concerns, they would be told to me 13 generally before I go on site and when I'm on site it 14 would be highlighted as well. 15 Q. Thank you, Mr Leong. Then in paragraph 16 you see it 16 says in the last sentence: 17 "Only issues of significant concern will be elevated 18 to me ..." 19 A. Yes, I see that. 20 Q. Going on, you told us in your witness statement -- page 21 B120, in paragraph 23, you mentioned three lines of 22 defence, the first one meaning the management control; 23 the second one relating to risk and compliance 24 oversight; the third one relating to internal audits; 25 and also you mentioned there's another oversight</p>

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<p>1 relating to the capital works committee, and on top of 2 that you mentioned, for example, in paragraph 28 of your 3 witness statement, there's a risk committee who does 4 what we call "deep dive", and also an audit committee in 5 paragraph 29. 6 A. That's correct. 7 Q. So my question to you, Mr Leong, is you only found out 8 about this issue in May 2018? 9 A. It was at the very end of May 2018. 10 Q. Yes. And in terms of Mr Jason Poon's first contact, 11 I would say it is 6 January 2017, there was an email. 12 Have you seen that email before? 13 A. Not at that time, no. I only saw that email very 14 recently. 15 Q. I understand. And also did you see an email that Jason 16 Poon wrote to the Transport and Housing Bureau on 17 15 September 2017? 18 A. No, I did not. 19 Q. So my point to you, Mr Leong, is you have all these 20 systems in place, the email was raised in January 2017, 21 but you only found out about it in May 2018. Being 22 a person of integrity, wouldn't you find that this is 23 a something that's a problem in terms of the system? 24 A. It all depends on the severity of the matter at hand, as 25 judged by the professions in our projects team. They</p>	<p>1 After the opening up and depending on the result of 2 that, there will be a re-assessment of the overall 3 structural integrity and, as highlighted in our report 4 which I believe members have a copy of, if and only as 5 necessary, there may be the necessity, if it's 6 necessary, to have that loading test. But that loading 7 test right now is not confirmed. 8 Q. Thank you very much. 9 Can I take you to paragraph 40 of your witness 10 statement. You touched on this just a few minutes ago. 11 In the last sentence it says: 12 "... ensure the completeness and accuracy of the 13 report." 14 In the transcript, [draft] page 143, at line 7, you 15 did mention about complete and accurate; yes? 16 A. Correct. 17 Q. Now, there was a draft report prepared, so if you go to 18 your witness statement in paragraph 44, and you mention, 19 for example, you received it, you reviewed it and you 20 made some comments to it in terms of high-level 21 feedback, and there was an email issued, I think. If 22 you go to B16/14036. It was sent on behalf of Mr Allan 23 Wong, the Chairman of the CWC, Capital Works Committee, 24 and if you look at the second paragraph of that email, 25 it says:</p>
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<p>1 would have looked at these matters and, as we have 2 subsequently discovered, they believed that they had 3 dealt with these matters. 4 So, on that basis, it would be their professional 5 judgment whether these matters need to be elevated or 6 not. 7 Q. Thank you. I just want to move on to another paragraph, 8 paragraph 35 of your witness statement. You mention 9 about an independent consultant, and we know the 10 consultant is called CM Wong & Associates, and you also 11 mention, in paragraph 42 of your witness statement, 12 again: 13 "The work of CM Wong is still ongoing." 14 Can I ask the question of whether the CM Wong 15 consultants, their work has been completed? 16 A. CM Wong had been appointed initially to work with us and 17 to help us with regards to the loading test. That's 18 been slightly overtaken by events. As the Chairman and 19 the Commissioner is well aware, MTR presented 20 a so-called holistic proposal to government recently to 21 look at an overall investigation of the Hung Hom 22 Extension, that overall investigation would include, 23 amongst other things, opening up of certain areas in 24 both the so-called East West Line as well as the North 25 South Line slab.</p>	<p>1 "In terms of the report, CWC was broadly supportive 2 of the contents of the report and made a number of 3 comments and suggestions which management will take on 4 board. It should be noted that, as much of the evidence 5 for the report has been gathered from interviews with 6 those who were involved in the relevant works some two 7 to three years ago, there are some contradictions and 8 inconsistencies between the recollections of certain 9 individuals. In these areas, CWC encouraged management 10 to simply state the different recollections, without 11 making a judgment as to the underlying facts ..." 12 Can you see that, Mr Leong? 13 A. Yes, I can see that. 14 Q. Mr Leong, can I take you to another report, in B1 at 15 page B36. This is the report, the MTRC report, issued 16 on 15 June 2018. 17 A. Mm-hmm. 18 Q. Can you see, in the interview there, it says, "Interview 19 of sub-contractor (China Technology)"? 20 A. Yes, I can see that. 21 Q. "No information in relation to the interview with China 22 Technology is included here." 23 Can you tell us the reason why, even though the 24 chairman of the CWC said very clearly: state the facts? 25 A. Chairman, it was -- there were a number of discussions</p>

<p style="text-align: right;">Page 157</p> <p>1 with regards to this report and with regards to the 2 interview at our crisis management meeting. There was 3 the interview with China Technology towards the end of 4 that whole exercise. After that interview, we were told 5 by our lawyers that there were a number of comments that 6 came up from that interview or during that interview, 7 and those comments, one, could lead to legal liability 8 and risk of defamation if we were to publish it; and 9 two, there was allegation of corruption. 10 So particularly with the allegation of corruption, 11 we reported it to the ICAC. As members are aware, the 12 interview with China Technology was included as 13 a package to government. 14 Q. Thank you very much. Mr Leong, can I take you to 15 another letter. It's B4643. This letter was issued on 16 13 June 2018, one day before the draft report was given 17 to the CWC. 18 If you look here, this letter, your legal team did 19 ask Leighton for certain information relating to what 20 was stated in Mr Jason Poon's allegations. Can you see 21 that? 22 A. I do see that. 23 Q. Was there any reply to this letter? 24 A. I believe there was a response to this letter. 25 Q. Can you recollect what the response was?</p>	<p style="text-align: right;">Page 159</p> <p>1 be -- the fact that those interviews had taken place 2 would have been well known to all members of the CWC. 3 Q. Thank you. Can I take you on to the very last topic 4 I have, and in paragraph 48, Mr Leong -- do you have 5 that, Mr Leong? 6 A. I have that, yes. 7 Q. Now, this relates to a press release that was issued on 8 21 June 2018, this year. If you were to look at the 9 very last sentence, it says: 10 "In this press release, it was also made clear that 11 if any violation was found, MTRC would take the matter 12 very seriously and report it to relevant law enforcement 13 agencies." 14 Can I take you to that press release. It's B9/7031. 15 Mr Leong, can you see any law enforcement agencies' 16 words mentioned in this press release? 17 A. Can I just have a hard copy? 18 Q. No problem. Maybe I'll just tell you -- it's much 19 quicker -- the only word I can see there is 20 "seriousness", you can see that in the first paragraph: 21 "The board takes these matters very seriously", full 22 stop. 23 There is no mention about the relevant law 24 enforcement agencies in this press release. 25 A. I do see that, yes.</p>
<p style="text-align: right;">Page 158</p> <p>1 A. I think the response would have been along the lines of 2 Leighton strongly disagreeing with the comments made 3 during that interview, and I do recall that at the end 4 of that letter they are saying that they reserve their 5 legal position with regards to issues pertaining to that 6 interview. 7 Q. Nevertheless, your legal team made a decision not to 8 include either this letter or the response from Leighton 9 or Mr Poon's interview into the report? 10 A. As I mentioned, Chairman, the reason we did not include 11 the Jason Poon and China Technology interviews in our 12 report -- in fact, it's well highlighted in the cover 13 letter that we sent to government -- and the reason for 14 that, and once again I will highlight two key aspects of 15 the rationale: one key aspect is that there were 16 allegations of corruption, so we reported to the ICAC; 17 and the other key aspect is that a number of the 18 allegations our legal team believed could be defamatory 19 and therefore could have legal liability implications 20 for MTR as well. 21 Q. Was this informed to the CWC chairman, Allan Wong? 22 A. I would believe that during that CWC meeting, which 23 would have been on 14 June, there were discussions on 24 many, many matters, and I cannot recollect whether 25 Mr Allan Wong actually asked about this, but he would</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. So when you say "seriously", you really mean you are 2 reporting it to law enforcement agencies? 3 A. If and as required, yes. 4 MR TO: Thank you very much. I have no further questions. 5 MR KHAW: Mr Chairman, I note -- 6 CHAIRMAN: How long are you likely to be? 7 MR KHAW: Probably 10 to 15 minutes. Since we are on this 8 superfast train, I'll see whether I can keep the 9 momentum going by trying to finish the cross-examination 10 of Mr Leong. 11 CHAIRMAN: I would rather complete it today, and then it's 12 not necessary for Mr Leong to return. 13 MR KHAW: That's what I intended to do, Mr Chairman. 14 CHAIRMAN: Good. Thank you. 15 Cross-examination by MR KHAW 16 MR KHAW: Thank you. 17 Mr Leong, good afternoon. I represent the 18 government. Just a few questions for you. 19 May I know when approximately were you first told 20 that there were no contemporaneous records in relation 21 to the coupling installations for the platform slabs, as 22 a CEO? 23 A. It's difficult for me to recall because it's -- I would 24 assume that it would have been after -- it would be 25 sometime after delivery of the report and into -- maybe</p>

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1 into August?

2 Q. Right. So between the mid of June and August?

3 A. Mm-hmm.

4 Q. Around that time. Now, from a management point of view,

5 when you realised that there was this problem regarding

6 the lack of contemporaneous records, would you actually

7 regard it as quite a serious deficiency in the

8 record-keeping system?

9 A. As with all record-keeping systems, including ours, one

10 can always do better, and I would say that in this

11 particular case there are issues with record-keeping

12 where we could have improved and we could have done

13 better, and in fact, because of that, there's been

14 a number of external consultants, including Turner

15 & Townsend, appointed to look at this and other related

16 matters.

17 Q. Now, once you became aware of this problem, was there

18 any discussion within the MTR as to why this could have

19 happened?

20 A. It was -- this whole issue of the backdating as well as

21 the retrospective nature of those papers were

22 highlighted in one of, I believe, the crisis management

23 meetings in August, and after that, this was then left

24 in the hands of our legal colleagues, because it was

25 raised, I believe, by one of our other colleagues to our

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1 legal colleagues on this matter.

2 Q. Right.

3 CHAIRMAN: Sorry -- you appreciate, of course -- and I think

4 part of the concern is that as a result of it being

5 a retrospective record, backdated, and, so it would

6 appear, based on recollection, that you ended up having,

7 for example, a large number of couplers which didn't

8 exist but nevertheless being successfully installed,

9 which of course undermines the credibility of those

10 records as well. I think that's perhaps a worrying

11 feature.

12 A. Chairman, my colleagues, particularly my project

13 colleagues, they are dedicated, hard-working

14 individuals. The inspectors and our engineers work

15 extremely hard. I don't know the background or the

16 details, but in the times I've seen them, that I've met

17 with them, they're the sort of people who would go and

18 fulfil their job requirements, be that inspection or

19 whatever that job requirement is.

20 Chairman, as I've said, it is highly unfortunate,

21 this issue with the backdating as well as the

22 retrospective nature of those reports, and it does raise

23 question marks, I absolutely agree. We are looking --

24 and having appointed consultants to look into this to

25 see how we could improve, as we always try to improve

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1 our systems, how we can continue to improve our systems.

2 CHAIRMAN: Earlier today, it was said by a very senior

3 executive that the -- and this is going a little

4 collaterally, perhaps, but nevertheless looking at the

5 question of record-keeping -- that, for example, keeping

6 relevant drawings for changes in building development,

7 as it goes along, and as I've been reminded by

8 Prof Hansford, there's a difference between the drawings

9 that you prepare as you go along, to give you the basis

10 for later as-built final drawings.

11 The real difficulty is that, as was said by this

12 executive, well, in an ideal world, you would expect

13 these drawings to be kept, but in fact it's not an ideal

14 world. The difficulty perhaps -- and your comment on

15 this would help -- from my perspective is that when you

16 have a very complex, driven, time-pressed building

17 project such as the one here, you have a very large

18 number of working and moving parts. You have different

19 organisations, sub-contractors; you have to keep control

20 of the costs. It seems to me, therefore, that if you

21 say, "Well, in an ideal world, keeping records is good

22 but this is not an ideal world", you very quickly lose

23 control of almost everything.

24 So keeping records, therefore -- and I seek your

25 comment really on this -- surely must be at the

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1 forefront?

2 A. I would absolutely agree with you, Chairman, that

3 keeping records is at the forefront of project

4 management, because in addition to just the physical

5 build there is the records that demonstrate what has

6 physically been built, and therefore record-keeping is

7 very important.

8 Once again, I would say that MTR and the use of

9 PIMS, our project integrated management system, has been

10 used for a number of years and have successfully built

11 new railway lines, four of which have been opened in the

12 last three or so years, and I'm sure that proper records

13 have been kept for many of those projects. It's very

14 unfortunate, I do agree with you, that we may not have

15 had that for this particular situation.

16 CHAIRMAN: Thank you very much. Sorry, Mr Khaw.

17 MR KHAW: Not at all.

18 Mr Leong, do I take it that you came to realise the

19 creation of the retrospective records at around the same

20 time when you were aware of the lack of contemporaneous

21 records?

22 A. Firstly, I would say that I never aware of what the

23 record requirements were for the QSP.

24 Q. Right.

25 A. So the fact that -- that's the first point. The fact

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<p>1 that these were retrospective records and backdated, as 2 I mentioned, I only became aware of them in the August 3 time frame that I mentioned. 4 Q. Right. As a CEO, when you became aware of the creation 5 of the retrospective records, were you upset with what 6 was done? 7 A. Well, firstly, it's finding out what has happened and 8 what those records pertain to, and once again, as 9 I mentioned, the legal -- when this was broached and 10 mentioned, the legal department, our legal department 11 certainly continued looking at this. 12 Q. Did you actually make any enquiry as to why the 13 retrospective records were actually created? 14 A. I did not at that time, because the Commission of 15 Inquiry had -- the process had already started, and this 16 would all come out in the Commission of Inquiry. 17 Q. Right. It seems to me that there was no mention 18 whatsoever from MTR in relation to the lack of 19 contemporaneous records regarding the coupling 20 installations for platform slabs until witness 21 statements were filed for the purpose of this particular 22 Inquiry. 23 I was just wondering whether there was any 24 discussion within the MTR that you should at least have 25 informed the government of the lack of contemporaneous</p>	<p>1 actually checked it or did it. I would just add that 2 as -- I hope I haven't overstated that, but there was 3 evidence I think from more than one witness that they 4 did that. 5 MR KHAW: Thank you, Chairman. Yes. 6 Given these issues that have apparently been 7 identified, if we go back to your paragraph 23 of your 8 witness statement, regarding the three-lines-of-defence 9 model, would you consider that this 10 three-lines-of-defence model probably failed to work 11 effectively? 12 A. As with all systems including our three lines of 13 defence, there can always be improvements. As I've 14 mentioned, the MTR systems, including our project 15 integrated management system and the three lines of 16 defence, have historically delivered a number of rail 17 lines very successfully. In fact, in some previous 18 studies back in 2008/09, as highlighted in a report 19 which the Chairman himself had chaired and penned in 20 2014, there were some discussions on the quality of 21 PIMS, project integrated management systems, which -- 22 CHAIRMAN: Prof Hansford was a member of that expert panel 23 as well. 24 A. And Prof Hansford was a member of that expert panel as 25 well.</p>
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<p>1 records earlier? 2 A. I don't recall any of those discussions. 3 Q. Right. Given the evidence we heard over the past couple 4 of weeks, there are a few issues that we might be able 5 to identify from the evidence given by the witnesses. 6 First of all, the frontline staff did not seem to 7 know full well the requirements set out under the QSP. 8 That's the first point. Secondly, no keeping of 9 contemporaneous records that we just discussed. Also, 10 it was a bit unclear as to who was the site quality 11 supervisor responsible for actually checking the 12 coupling installations. Also, we heard from Louis Kwan, 13 who gave evidence earlier, that the RISC form actually 14 did not record the extent of supervision or inspection 15 or the details of such supervision or inspection. 16 Given these issues -- 17 CHAIRMAN: Sorry, could I add to that. 18 MR KHAW: Yes. 19 CHAIRMAN: Collateral to the lack of contemporaneous records 20 was what appears to be a habit of backdating, at least 21 it's evidence from a few people. In other words, you 22 wouldn't keep the record now, you would get around to 23 it, hopefully in an hour but maybe not, maybe in 24 a couple of days, so when you got around to it you just 25 backdated it to what you thought was the day that you</p>	<p>1 But with all systems, improvements would always be 2 welcome, and I would say that with these three lines of 3 defence having served us well, there are improvements 4 which we are already planning and in fact have been 5 implementing to further enhance the system. 6 COMMISSIONER HANSFORD: If I can ask a question on that, 7 Mr Leong. Fundamentally, are you planning -- do you 8 know -- to add a fourth line of defence or are you 9 planning to strengthen one or more of the three lines of 10 defence? 11 A. Prof Hansford, the current thinking is to strengthen 12 a number of the lines of defence, including, from 13 a government perspective, looking at enablers like more 14 technology, including enhancing the quality -- the 15 number of people, for instance, and the extent of our 16 quality assurance aspect. 17 So there are a number of issues that we are looking 18 at, and some have already been implemented, to further 19 strengthen the three lines of defence. 20 COMMISSIONER HANSFORD: Thank you. 21 MR KHAW: If I may take you to paragraph 24, Mr Leong, in 22 relation to the CWC. You say: 23 "Aside from the three-lines-of-defence model, 24 a Capital Works Committee of the board was also set up 25 in October 2014 to oversee MTR's capital works projects.</p>

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1 Its mandate includes ..." 2 And if I can take you to subparagraph (c): 3 "check that there are adequate resources for and 4 supervision of such projects". 5 May I know whether the CWC has ever raised any 6 concern regarding the level of resources allocated to 7 the supervision of the construction works for this 8 particular project? 9 A. I do not believe so. I do not sit on the CWC and from 10 the minutes that I've seen, I do not believe that's been 11 raised before. 12 MR KHAW: Thank you, Mr Leong. I have no further questions. 13 Re-examination by MR BOULDING 14 MR BOULDING: Mr Leong, I only have one question. Perhaps 15 we can put up on the monitor document B4643. 16 MR SHIEH: The transcript has probably not picked it up but 17 Leighton has no questions. 18 MR CONNOR: Nor has Atkins, sir. 19 CHAIRMAN: Thank you. 20 MR BOULDING: Do you remember being asked about this 21 particular letter, Mr Leong? 22 A. Yes, I do. 23 Q. The transcript, [draft] page 161, records you saying 24 that I think there was a reply to this letter. Do you 25 remember giving that answer to one of my learned	1 CHAIRMAN: It's coming. 2 A. (Handed). 3 Well, I think, once again, if I may, Chairman, if 4 one looks right at the -- well, throughout the letter 5 from Leightons, they are disputing the allegations from 6 Mr Jason Poon, and right at the end of that letter, just 7 before the signatory, I quote once again: 8 "LCAL [that's Leightons] and its officers and 9 employees reserve their rights in respect of these 10 matters." 11 We were, as a result of that and other comments, 12 concerned about potential defamation liabilities. 13 MR BOULDING: I see. Thank you very much for identifying 14 that letter. I hope that helps the Commissioners. 15 Chairman, Professor, I don't know whether you have 16 any questions. 17 CHAIRMAN: Good. Thank you very much indeed, Mr Leong. 18 We're sorry we've kept you a little bit later, but I'm 19 sure it's better than coming back tomorrow. 20 WITNESS: Not at all. Thank you very much, Chairman. 21 CHAIRMAN: It's a pleasure. 22 (The witness was released) 23 MR PENNICOTT: Sir, may I just mention tomorrow? 24 CHAIRMAN: Yes. 25
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1 friends? 2 A. Yes, I believe there was a reply to this letter. 3 Q. I wonder, with a bit of pot luck, whether we can find 4 it. B3090. You might want to look at a hard copy, 5 actually, but whilst that's coming, could you 6 familiarise yourself with that and tell the learned 7 Commissioners whether that is the reply you had in mind. 8 It may well be that you'll want to have both letters on 9 the monitor at the same time, and I know the operators 10 are very skilful and can do that. 11 MR PENNICOTT: What's the page number again? 12 MR BOULDING: 4643 is the other one that may well assist the 13 witness. 14 That's better. Thank you very much. 15 A. Mr Boulding, your question is: is the letter from 16 Leightons a response to the letter from Ms Gillian? 17 Q. Correct. That's my question. 18 A. Correct, it is, I believe. 19 Q. And that was the letter you were referring to? 20 A. That is the letter that I was referring to, correct. 21 Q. Is there anything that you'd like to draw to the 22 Commissioners' attention so far as that reply is 23 concerned? 24 A. If I could just get a hard copy of that first. 25 Q. I have a hard copy of the reply here, actually.	1 HOUSEKEEPING 2 MR PENNICOTT: We have, I think, the last MTRC witness, 3 that's the chairman, Mr Frederick Ma, tomorrow morning. 4 MR BOULDING: That's correct. 5 MR PENNICOTT: Thank you very much for that confirmation. 6 If one was looking at the currently published 7 timetable on the website, you will see that after Mr Ma 8 are Mr Mak and Mr Yueng from Pypun, but they are not 9 going to be here until Thursday. So what I hope is 10 going to happen tomorrow is that we will have Mr Ma 11 first thing, and then, having discussed matters with 12 Mr Connor from Pinsent Masons acting for Atkins, we will 13 bring up the batting order, as it were, Mr Blackwood, 14 director of Atkins, and also then, if we need to, 15 Mr Sung, Wilson Sung, head of structures of Atkins, and 16 that will be the three witnesses that are available to 17 us tomorrow. 18 Unfortunately, there is also another gentleman from 19 Atkins, Mr Lee, but he has other engagements tomorrow, 20 and so we won't reach him until later in the week. So 21 it's three witnesses tomorrow and I hope that's going to 22 fill a good part of the day. It may be that we go 23 a little bit short but we'll see. So it's Mr Ma, 24 Mr Blackwood and Mr Sung. 25 CHAIRMAN: We're completing pre-Christmas hearings on Friday

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<p>1 the 21st, but as far as completing on that day is 2 concerned, do you have any concerns at the moment? 3 MR PENNICOTT: Not at all, sir, no. Indeed, I think I'm 4 right in saying -- I'll be corrected if I'm wrong -- 5 that indeed, so far as Thursday and Friday are concerned 6 this week, we only have available to us Mr Mak and 7 Mr Yueng from Pypun, and then Mr Lee from Atkins. 8 That's Thursday and Friday. 9 We then switch over to next week where, as you know, 10 we will be having a potentially long day on Monday, 11 because we will first of all have Mr Chan, who is the 12 one remaining witness from Atkins, on Monday morning. 13 We will then have Mr Kevin Harman, I hope, although 14 I may be wrong about that -- it may be the 18th -- but 15 in any event we will then start the government witnesses 16 and fit in the other witnesses that we're calling, if 17 necessary, between certain government witnesses. 18 Sir, I'm certainly not concerned in the least at the 19 moment. I think we can comfortably finish the two or 20 three witnesses, non-government witnesses, in the early 21 part of next week, and we will comfortably, in my view, 22 finish the government witnesses in the course of next 23 week. 24 CHAIRMAN: Good. That will all being well and subject to 25 anything else rearing its head, be the end of factual</p>	<p>1 a view then perhaps, I think what Mr Boulding is really 2 driving at, it would be great to have the following 3 Friday off rather than this Friday. 4 CHAIRMAN: Yes. 5 MR PENNICOTT: But I'll need to speak to Mr Khaw about that 6 and to see whether we can reorganise things, but we will 7 see how we go. 8 MR KHAW: Yes, Mr Chairman, in response to Mr Boulding's 9 question, in fact we have -- I should have told 10 Mr Pennicott more clearly -- made arrangements so that 11 at least two of the government witnesses will be 12 available this Friday, in case we have some spare time 13 to deal with their evidence. 14 MR PENNICOTT: Okay. 15 MR KHAW: So in fact I have given Mr Pennicott a tentative 16 list of witnesses, and that is made on the assumption 17 that perhaps the first or the second of our witnesses 18 will need to come forward to give evidence this Friday. 19 MR PENNICOTT: Right. I hadn't appreciated that that was 20 built into the list that I had been given. It looked 21 like various other documents. There's no date on it or 22 any dates. But, sir, that's helpful. I can look at the 23 first couple of government witnesses on the list, focus 24 on them, and see whether we can accommodate them on 25 Friday, if we've got time.</p>
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<p>1 evidence, and we'll then move on after the New Year to 2 opinion evidence, expert evidence? 3 MR PENNICOTT: Yes, sir. 4 CHAIRMAN: Good. 5 MR BOULDING: Sir, can I just raise a query? Mr Pennicott 6 needs to be commended for how efficiently it's run so 7 far, but can I just ask whether there's any prospect of 8 any of the government witnesses coming in on Friday if 9 there's going to be any spare time? 10 MR PENNICOTT: Sir, I have to say, I have a personal 11 interest in that question. I can advise you tomorrow 12 whether that's going to be possible, because two things 13 have to happen. One, I need to speak to Mr Khaw to make 14 sure they're available, because the arrangement that 15 we've had with the government is the government 16 witnesses will be next week, and so they've organised 17 themselves on that basis, and certainly I take full 18 responsibility for that. 19 The other aspect is whether I'm actually going to be 20 ready for any of the government witnesses on Friday. So 21 that's a personal plea from me. But I expect I can get 22 around that one way or the other. 23 So, sir, I can see Mr Boulding's point. It would 24 certainly be -- I agree entirely, if we can, not waste 25 time on Friday, have a government witness or two, with</p>	<p>1 CHAIRMAN: All right. Good. 2 MR KHAW: One caveat, that is I have also told Mr Pennicott 3 that the Secretary for Transport and Housing will be 4 available next Monday and Tuesday, and I believe that 5 arrangements can be made so that he can give evidence on 6 Monday or Tuesday. 7 MR PENNICOTT: Yes. I'm aware of that. 8 CHAIRMAN: And if necessary you will go in search of some 9 midnight oil. 10 MR PENNICOTT: Indeed I will. Perhaps I'll borrow some from 11 Mr Shieh. 12 CHAIRMAN: Thank you. Then tomorrow morning, 10 o'clock. 13 Thank you. 14 (5.33 pm) 15 (The hearing adjourned until 10.00 am the following day) 16 17 18 19 20 21 22 23 24 25</p>

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