

1 Tuesday, 11 December 2018

2 (10.00 am)

3 (Proceedings delayed)

4 (10.16 am)

5 CHAIRMAN: Good morning, and apologies for keeping you all
6 waiting. The Commission feels it should just make
7 an announcement as to its progress with the Inquiry, and
8 does so as follows.

9 In light of the commencement of opening up of the
10 East West Line and North South Line slabs of the
11 Hung Hom Station Extension, the Commission is aware of
12 public interest as to the extent to which, if at all,
13 that exercise will impact upon the progress of the
14 Commission's Inquiry.

15 In this regard, it is the present intention of the
16 Commission to continue to complete its Inquiry within
17 the extended time granted to it by the Chief
18 Executive-in-Council, delivering its report on or before
19 26 February 2019.

20 That said, naturally, the findings of the opening-up
21 exercise, insofar as they may be known by the time the
22 Commission completes its Inquiry, are and will be of
23 immediate relevance.

24 In this regard, steps are being taken to ensure that
25 the Commission, and through the Commission the general
26 public, is kept informed of developments in the

1 opening-up exercise.

2 Thank you.

3 MR PENNICOTT: Thank you, sir. As part of keeping the
4 public informed and indeed the interested parties
5 informed as to the Commission's steps in keeping
6 a watchful eye on the opening up, I can tell everybody
7 that the Commission's independent expert, Prof Don
8 McQuillan, will be arriving in Hong Kong this coming
9 weekend, and the expectation is that he will be
10 inspecting such areas as are available to be inspected
11 during the course of next week, with a view, obviously,
12 to taking into account what he observes for the purposes
13 of his report in due course.

14 Sir, I am instructed to say that if any of the other
15 interested parties who have appointed their own
16 independent experts wish to accompany Prof McQuillan on
17 any of his inspections, provided of course the MTRC can
18 make the necessary arrangements, which I'm sure they
19 can, they would be more than welcome to attend with
20 Prof McQuillan.

21 Indeed, from the Commission's perspective, we would
22 encourage joint inspections, if at all possible, because
23 that is likely to give rise to a greater degree of
24 consensus amongst the experts, in due course, if that
25 can be facilitated.

26 So, sir, that is all I wish to say at this moment.

1 If anybody's expert does wish to inspect next week, then
2 appropriate communications can be made to the
3 Commission's legal team and it will be organised through
4 them.

5 CHAIRMAN: Yes. Thank you very much. I think it should be
6 said that there was a brief discussion between myself
7 and Prof Hansford and the Commission's counsel, to the
8 effect that because of constraints of the work
9 environment and all the other relevant issues, the
10 invitation is to the experts only, that is, independent
11 experts appointed by any of the parties. And to ensure
12 that matters are dealt with in an orderly fashion, if
13 any independent expert appointed by any of the parties
14 seeks to attend, then if that request could be
15 channelled through the Commission first, just so that we
16 all know where we are, rather than having somebody
17 suddenly arrive at the site unannounced.

18 Good. Thank you very much indeed. Sorry, to avoid
19 being pedantic, but the invitation, as it stands, is
20 therefore to independent experts. It is not to parties
21 themselves generally. It is to be remembered that all
22 parties are here to assist the tribunal and they don't
23 have any particular right, as the Commission understands
24 it, to actually attend something of this nature.

25 Good. Thank you. Yes, Mr Pennicott.

26 MR LEE TZE MAN (on former affirmation)

1 Examination by MR PENNICOTT

2 MR PENNICOTT: Sir, I had indicated that I had finished
3 asking my questions of Mr Lee last night, but as always
4 happens when one has the night to reflect, there are
5 just a couple more questions I'd like to ask you,
6 Mr Lee. Thank you for coming back again this morning.

7 Mr Lee, I hope I can deal with this very quickly.
8 Can I ask you to look at paragraphs 32 to 34 of your
9 witness statement, at B1/164.

10 A. Yes, I can see that.

11 Q. Thank you very much. This is evidence that you give
12 about some events that took place after the 15 June
13 report had been submitted to government.

14 A. Yes.

15 Q. It was followed up by a letter from RDO, as you
16 mentioned in the first line of paragraph 32. That led
17 to further work and research being done by various
18 members of the MTRC team.

19 A. Yes.

20 Q. And the upshot was, in paragraph 34, that you were given
21 a letter to sign --

22 A. Yes.

23 Q. -- via Philco Wong.

24 A. Yes.

25 Q. Could we just look at that letter, please. It's at
26 B1/69. I think this is the letter, Mr Lee.

1 A. Yes.

2 Q. In that letter, you refer to the report.

3 A. Yes.

4 Q. And you send to government, to RDO in particular,
5 various further information?

6 A. Yes.

7 Q. Including two attachments, which we find at B71, 72, 73,
8 over the page?

9 A. Yes.

10 Q. That's attachments A, B and C, three attachments.

11 Really, the question is this, Mr Lee: did you
12 appreciate, when you signed this letter, that
13 essentially what you were telling government was that
14 there were discrepancies and errors in the June 2015
15 report?

16 A. Okay. Now, the letter was not prepared by me.

17 Q. I appreciate that.

18 A. It was prepared by collective effort of our legal team
19 and our civil team. When I was given this letter,
20 I looked at the contents of the letter. I also looked
21 at all the stream of email exchange between our various
22 colleagues who have given inputs to the letter; okay?
23 And the essence of the letter is just to update the
24 government that in the last two weeks after we issue the
25 report, we have retrieved more as-built records, and
26 through this retrieval of as-built records, they realise

1 that there has been some amendment during the
2 construction stage and they want to take this
3 opportunity as quickly as possible to update the
4 government about the situation.

5 Q. Right.

6 A. That is the essence of the letter. As soon as we know,
7 we send it to them.

8 Q. Thank you very much, Mr Lee. I now have no further
9 questions.

10 A. Thank you.

11 MR SHIEH: No questions.

12 Cross-examination by MR KHAW

13 MR KHAW: Mr Lee, good morning.

14 A. Good morning.

15 Q. My name is Richard Khaw. I'm one of the counsel
16 representing the government.

17 You recall Mr Pennicott yesterday, before we
18 adjourned the hearing, referred you to Jason Poon's
19 email dated 6 January 2017?

20 A. Yes.

21 Q. At that time, according to your evidence, Mr Aidan
22 Rooney notified you about an earlier email from
23 Michael Fu which contained an email chain containing the
24 email from Jason Poon dated 6 January. You remember
25 that, right?

26 A. Yes.

1 Q. At that time, did you have a chance to actually look at
2 Jason Poon's email yourself?

3 A. Yes.

4 Q. Did you have a chance to also look at the photographs
5 attached to his email?

6 A. Yes.

7 Q. Thank you. Now, at that time, I would like to know, at
8 that time, did you think that if what was alleged by
9 Mr Jason Poon and what you saw from the pictures did in
10 fact happen, it was a serious matter which called for
11 a thorough investigation? Did you think that it should
12 call for a thorough investigation?

13 A. Well, as I said yesterday, once I received the letter
14 and looked at the photo, it was a surprise to me, so
15 I needed to ask my colleagues, to understand them a bit
16 more. That's my immediate reaction.

17 Q. Right. So, from your point of view, according to what
18 you saw from Mr Jason Poon's email and what you saw from
19 the pictures that he provided, it's something which
20 called for an investigation, at least?

21 A. I wouldn't say investigation. I just want to understand
22 what is it about.

23 Q. Okay.

24 A. I won't jump to the conclusion of what this is.

25 Q. Right.

26 A. This is very serious or what. I'm not that kind of

1 person. I'm quite calm and natural.

2 Q. No, no, no, I'm not saying you were jumping to
3 conclusions at that stage. My question was simply, at
4 that time, did you feel the need for an investigation?

5 A. I wouldn't use the word "investigation". As I said
6 yesterday, I did four management actions. First,
7 I informed my senior. Second, I forwarded the email to
8 Clement Ngai, he is civil design -- he's design but
9 still civil-related; I want to get another angle.
10 Third, I talked to our construction team, construction
11 manager, who was doing the investigation as asked by
12 Aidan Rooney. And fourth, I asked Carl Wu to do
13 an internal review of the whole thing, to give me
14 a better comfort and assurance. That is the things that
15 come to my mind.

16 Q. So it would be fair, at least, to say that, from your
17 point of view, in view of what you saw from Mr Jason
18 Poon's email and also the pictures, you would need to
19 know more about the allegation?

20 A. Yes.

21 Q. From what you saw from Mr Jason Poon's email and also
22 what you saw from the pictures, it could mean that
23 people were trying to cut corners during the
24 construction process; would you agree?

25 A. It could.

26 Q. Yes. Now, before you were notified by Mr Rooney about

1 the email from Mr Jason Poon, you also spoke to
2 Mr Rooney about Mr Jason Poon's allegation; is that
3 correct?

4 A. He briefed me about some background between Jason Poon's
5 company and Leighton's company.

6 Q. Yes.

7 A. Something, the background of it, and then about this
8 photo, et cetera.

9 Q. Yes. Perhaps we can take a look at what you said in
10 your witness statement --

11 A. Okay.

12 Q. -- regard your conversation or your communication with
13 Mr Rooney. B161, paragraph 20. At 20 you said:

14 "I also note that in the email from Aidan Rooney to
15 myself dated 6 January [ie the same date of Mr Jason
16 Poon's email] ..., Aidan Rooney said that:

17 'Follow our discussion at lunchtime regarding China
18 Technology and Jason Poon, refer below email from Jason.

19 This is a part of Jason's strategy to put pressure
20 on Leighton to pay him the extra 3 million this week.

21 As Michael advises we are checking our records to
22 ascertain whether there is any validity in Jason's
23 claim.

24 Jason may leak such claims to the media, we are
25 preparing the LTT.'" "

26 I was struggling to try to figure out what "LTT"

1 stands for.

2 A. Line to take.

3 Q. It stands for "line to take", yes.

4 Here, if we simply focus on what you have quoted in
5 relation to your communication with Mr Rooney. Now,
6 from your discussions with Mr Rooney at that time, did
7 he give you the impression that he was quite confident
8 that Mr Jason Poon's allegation was caused by
9 a commercial dispute? Did he give you that impression?

10 A. Yes, I think he did, because at that time, when just
11 before Chinese New Year, many sub-contractors have this
12 kind of thing, not just Jason Poon; many other
13 contractors, the main contractor have some argument on
14 getting payment. So this kind of the -- commercial
15 background at the back, of any argument is not uncommon
16 in the Hong Kong construction industry. You can realise
17 that; okay?

18 CHAIRMAN: I think, perhaps for myself, the issue becomes
19 one of saying: yes, there are commercial disputes, but
20 this commercial dispute had an extra edge to it -- in
21 short, it had either intended to be entirely separate
22 or, for the cynics, intended to be part of the
23 commercial dispute -- was an allegation that there was
24 malpractice in the actual construction of the site.

25 A. I understand, Mr Chairman. I understand there is some
26 commercial dispute behind, from the information that

1 I gather from Aidan. But if you look at the four
2 management actions that I have taken, they are not
3 commercial. I want to understand what it is about from
4 a technical point of view, from the site
5 supervision/quality control point of view, purely in
6 that angle.

7 MR KHAW: From your discussions with Mr Rooney at that time,
8 did you form any impression that in fact Mr Rooney
9 believed that Jason Poon's allegation had no substance?

10 A. No, because he already asked Michael to look at it,
11 check the record, see whether there's any validity in
12 the allegation. So we are not taking it light.

13 Q. Thank you. In fact, that's exactly what I was about to
14 explore with you a bit more.

15 A. Yes.

16 Q. If you look at Mr Rooney's email, paragraph 3, he says:

17 "As Michael advises we are checking our records to
18 ascertain whether there is any validity in Jason's
19 claim."

20 Did you know from Mr Rooney what records he was
21 talking about?

22 A. Construction records.

23 Q. What particularly were those records that you understood
24 to be the relevant records?

25 A. These are site inspection records, RISC forms, records
26 from our inspector, diaries, logbooks, all kinds of

1 records related to --

2 Q. So, in your communications with Mr Rooney, you did talk
3 about some specific categories of documents; right?

4 A. I don't think we went to that detail. As you can
5 appreciate, it's about two years ago, the conversation.
6 There had been a lot going on in a very busy site.
7 I can't answer that.

8 Q. Right. But at that time you yourself knew that the
9 relevant records were the records that you just
10 mentioned?

11 A. Yes.

12 Q. In paragraphs 21 and 22 of your witness statement, you
13 then went on to talk about further communications
14 between you and your colleagues on 10 January 2017. Do
15 you see that?

16 A. Yes.

17 Q. In fact you mentioned that Mr Rooney forwarded to you
18 a draft statement regarding the line to take, which was
19 intended to answer possible media questions. Do you
20 remember that?

21 A. Yes.

22 Q. Maybe we can just have a look at the line to take
23 proposed at that time. B10/7473.

24 This is an email forwarded by Mr Rooney, and in fact
25 the actual email regarding the line to take was from
26 Floran Lee, the project communications manager; do you

1 see that?

2 A. Yes.

3 Q. Here, the proposed line to take is as follows. It
4 should be the second paragraph of this particular email:

5 "Expansion works and the construction works of
6 stabling sidings of SCL Hung Hom Station are in
7 progress. With regard to the financial arrangements
8 between the main contractor (Leighton) and
9 sub-contractor (China Tech), the corporation has
10 instructed the main contractor to resolve the issue with
11 the sub-contractor as soon as possible. It is
12 understood that the issue is currently under discussion
13 from both sides and the relevant progress of the works
14 is not affected.

15 In response to the doubt raised by sub-contractor on
16 quality of individual works, MTR values construction
17 safety and construction quality. Our project team
18 conduct regular inspections and testing on works safety
19 and quality to ensure that they are in compliance with
20 the statutory and design requirements. This arrangement
21 is proven to be an effective way to manage quality of
22 works as record shows that non-compliance with design
23 and statutory standard on some individual works were
24 spotted by MTR engineers during routine inspections and
25 testing in the past and the contractor was immediately
26 requested to carry out rectification works.

1 MTR is following up the case with the main
2 contractor. To ensure the structural safety and quality
3 of the newly constructed structure, the main contractor
4 has carried out independent investigation to review the
5 works procedures."

6 Now, apparently you had no objection to the line to
7 take at that time?

8 A. This is a high-level line to take, so I had no objection
9 at that time.

10 Q. Yes, and the line to take, the proposed line to take
11 here, also showed the importance of record, because it
12 actually singles out that the record would be able to
13 show non-compliance; do you see that?

14 A. Yes.

15 Q. Then you refer us in your witness statement,
16 paragraph 22, your communication with Mr Michael Fu.

17 A. Yes.

18 Q. Mr Michael Fu at that time showed you an email between
19 Mr Kobe Wong and Leighton, and that we now all
20 understand relates to the NCR157 --

21 A. Yes.

22 Q. -- in relation to a previous threaded bar cutting
23 incident; do you remember that?

24 A. Yes.

25 Q. In answer to Mr Pennicott's question yesterday, you told
26 us that at that time Michael Fu assured you that it was

1 an isolated incident because the defects had been
2 rectified; do you remember that?

3 A. Yes.

4 Q. By now, you might have heard that in fact in 2015, MTR
5 actually discovered about a total of five threaded rebar
6 incidents?

7 A. Yes.

8 Q. You know about that; right? Because we heard from other
9 witnesses of MTR that this was the case.

10 A. Yes.

11 Q. So, looking back, would you consider that you were not
12 told of the full picture by Michael Fu at that time,
13 because he told you only about one incident and he
14 assured you that that incident was an isolated incident?

15 A. I don't -- from my recollection, I don't think he just
16 told me about one incident. He told me, from my
17 recollection, there had been this kind of -- there had
18 been a few occasions of this malpractice, but the
19 inspector, the site inspector, has identified them and
20 they rectified them, and even with an email issued to
21 Leighton on 15 December, because on that one, there
22 were, from memory, three to five cut bars.

23 So I got the impression that my inspectors on site,
24 they were doing their job, and I worked with my team for
25 the last few years, they are a very reliable team,
26 a team I can trust. They have done a lot of good work

1 on 1112, the Hung Hom Station, which is enormously
2 complicated, and they have overcome lots of challenges
3 in maintaining the station, the existing station, in
4 a safe and working manner. They did a lot of work along
5 the track. They did a lot of work underneath the
6 running track. They did a lot of work above the track,
7 in the nighttime, and then every morning we can have
8 a train running safely for the passengers.

9 So all these challenges that they have undertaken
10 successfully gave me the impression that I got a very
11 reliable team.

12 I said yesterday to Mr Pennicott, when my inspector
13 told me or Michael told me the inspector actually
14 spotted this -- I mean, to me, this kind of detail, at
15 the component level, they managed to spot it, I got
16 a sense of relief, that I really had a team that I can
17 rely on.

18 SCL, if I may use a couple of minutes to say a few
19 words about SCL: SCL is an extremely complicated and
20 colossal project. In my view, it's as complicated as
21 building Crossrail in London. It's not just building
22 a new line, it involves modifying existing three lines,
23 30 stations, big modification, most of them undertaken
24 at night-time, and in the last five years my team
25 managed to maintain operating service for the
26 passengers, without even five minutes' hiccup.

1 So this team, 700 of them under me, they have
2 achieved a lot, and they are very reliable. They always
3 carry one word in their mind, as I promulgate to them:
4 safety. They lost a lot of sleep when they have
5 undertaken critical works in the night-time to ensure
6 tomorrow we have the train running again. We modify the
7 signal lane, they modify the trains, we modify the
8 overhead line, the track. All this, they support the
9 Coliseum in Hung Hom Station. They did a lot of
10 underpinning to maintain the integrity of the station.
11 And nobody outside, in the public -- they may not
12 realise, building a new station in an existing station,
13 it's the first time in Hong Kong, and my inspector could
14 tell me, "I even spot there are some coupler issue and
15 I got the contractor to rectify that."

16 So, on a macro scale, they did a good job. On
17 a micro scale, they also managed to keep a close eye on
18 it. They may be very -- they may not be up to speed in
19 documentation. I appreciate that. It's a common
20 problem in the construction industry. The reason why:
21 the site inspector, the foreman, the paper-writing, or
22 the writing, keeping records, they are not as good as
23 legal professionals. Their priority is to maintain the
24 site in a safe manner, making progress, moving the job
25 forward. This is an area of improvement that the whole
26 construction industry in Hong Kong needs to focus on.

1 That's what I want the counsel to take into account.

2 Q. Thank you, Mr Lee. If I may just go back to my earlier
3 question. If you take a look at paragraph 22 of your
4 witness statement, you said:

5 "I recall that around that time (though I cannot
6 recall the exact date and time), Michael Fu came to
7 brief me and explain to me Jason Poon's allegations in
8 (as well as the photographs attached to) Jason Poon's
9 email. Michael Fu showed me an email between Mr Kobe
10 Wong ... and Leighton dated 15 December 2015, and
11 assured me that the issue mentioned in Jason Poon's
12 email had already been dealt with in 2015 during the
13 construction period."

14 Now, if we can take a look at the email from Kobe
15 Wong to Leighton. It's B10/7456.

16 Now, you understood at that time from Mr Michael Fu
17 that this email related to the NCR157 incident; is that
18 correct?

19 A. Yes.

20 Q. So you just told us that in fact, when Mr Fu talked to
21 you at that time, he did not just talk about this NCR
22 incident; he also mentioned to you other incidents
23 regarding previous threaded bar cutting. Is that
24 correct?

25 A. That's my recollection.

26 Q. Do you remember how many incidents he referred you to?

1 A. I can't recall that.

2 Q. But certainly, from your discussion with Mr Fu, you knew
3 that there was more than one bar cutting incident?

4 A. Yes, I can say that.

5 If I can add: I can recollect that -- because they
6 found five incidents in that juncture of time, they
7 issued this email.

8 Q. Yes.

9 A. So previously, they found one bar, they dealt with it
10 immediately, they didn't do the record, but in this
11 particular case they thought they need to raise the
12 yellow card or whatever, to warn the contractor.

13 Q. Yes. Now, you apparently had a chance to look at
14 Mr Kobe Wong's email.

15 A. Yes.

16 Q. If we then take a look at the pictures attached to this
17 particular email. For example, if we can take a look at
18 7459. When you looked at this picture, did you actually
19 find the situation worrying, when you saw this?

20 A. Well, as I said, when I looked at it, I didn't know what
21 it is about, what was the cause of it, so I started
22 asking people questions.

23 Q. Yes. So you started to ask people questions. Now, let
24 us try to understand this step by step. You got hold of
25 Kobe Wong's email. You got hold of this picture. You
26 knew from Mr Michael Fu that there were more than one

1 bar cutting incident.

2 Now, did this further ring a bell that there could
3 be a widespread practice of bar cutting incident which
4 might be consistent with Jason Poon's allegation? Did
5 you consider that at that time?

6 A. I can't remember my consideration at that time, but what
7 I said yesterday was I want to conduct a thorough review
8 of the whole construction supervision process, whether
9 they are carried out in accordance with our PIMS system.
10 That's what I had in mind. This one, he identified this
11 one, it's been dealt with. It's been dealt with. But
12 then I want a bigger assurance, because as I said I was
13 the general manager of the line; I need to take the
14 responsibility, so I want bigger comfort that this line
15 or this slab is constructed in accordance with our PIMS
16 requirements.

17 Q. Yes. When you were told by Mr Michael Fu that there was
18 this NCR incident and there were in fact more incidents
19 previously, did you ask him whether MTR or your
20 colleagues were able to ascertain or identify the reason
21 for this problem?

22 A. I can't remember the details, but we talk about maybe
23 there's a difficulty in putting the bar in, it's a very
24 congested area, this kind of issue. But the important
25 thing is, they identify this one, they dealt with it
26 straightaway, so that's what is important.

1 Q. But the problem is, what puzzles me is, at that time, in
2 view of your discussions with Mr Michael Fu, you did not
3 only know about one isolated incident. You in fact knew
4 more. So did it consider that you had to actually know
5 more about the cause of such incidents?

6 A. Well, as I said, this one, this incident, had five bars.
7 The other one is one bar, two bars, which is very minor
8 or can easily be dealt with incident. If we identify
9 one bar and then we issue an NCR, then the team, the
10 site team, will have a colossal amount of paperwork to
11 deal with. And as I said we are not building a green
12 site. In Hung Hom Station, during construction of this
13 slab, there are more than 20 workfronts that the site
14 team needs to worry about, that we have to ensure the
15 trains and our passengers have a reliable and safe
16 system to travel.

17 Q. Thank you.

18 A. So we can't put every attention just on one workmanship
19 issue. My inspectors, my engineers, they are all
20 qualified, well-trained, experienced, conscientious
21 people. I always tell my team, "You are building a line
22 not just for the public, you are building it for
23 yourself and your family, your relatives will use it."
24 So with this mindset, nobody, even a contractor, even
25 a worker, once it's finished, everybody in Hong Kong
26 will use. We are not building it for rich guys. So

1 that's the safety culture I promulgate to my team as
2 well as to contractors that I have a chance to come
3 into.

4 Q. Thank you, Mr Lee. I heard what you said.

5 But just going back to my earlier question, when you
6 knew from Mr Michael Fu that there were more than one
7 threaded rebar cutting incidents, you would agree with
8 me, would you not, that at that time you did not
9 consider it necessary to make further enquiry in
10 relation to the cause or causes of such incidents?
11 Would you agree with me?

12 A. Well, I wasn't putting too much focus in finding the
13 cause. There may be other different causes. But what
14 I focus is have they been rectified, have our inspection
15 team followed our PIMS system. That's what I had in
16 mind at that time.

17 Q. Thank you.

18 Now, in paragraph 23 of your witness statement, you
19 then talk about your conversation with Mr Carl Wu --

20 A. Yes.

21 Q. -- who suggested conducting an internal interview, which
22 involved the examination of construction records to
23 confirm -- if I may use your own words -- that the steel
24 reinforcement and couplers had been properly installed
25 in accordance with the QC and QA assurance.

26 A. Yes.

1 Q. I would like to know whether, at that time, ie at the
2 time when Mr Carl Wu suggested doing an internal review
3 or sometime afterwards, were you aware of the
4 requirements under the QSP regarding coupler
5 installations?

6 A. Not to that level of details.

7 Q. Right. Did you, at that time -- in fact, did you have
8 a chance to look at the QSP?

9 A. I don't think so, but you have to understand, I was the
10 general manager of the whole line, SCL. I wasn't
11 managing one contract. MTR's project management system
12 is quite structured. We have a guy at the top who
13 manages the whole line and then we split individual
14 contracts, individual station, tunnel, and each
15 individual contract has a frontline team to manage it.
16 That's how the organisation is set up.

17 Q. Now, Mr Lee, the reason why I ask you this question is
18 that in your witness statement, you said that Mr Carl Wu
19 suggested to you that there should be an internal
20 review, for the purpose of confirming whether the steel
21 reinforcement and couplers had been installed properly,
22 in accordance with the QC/QA requirements. So I suppose
23 that at that time at least, from your point of view, you
24 should find it necessary to at least know about the
25 requirements for QC and QA under the QSP. Would you
26 agree with me?

1 A. What I knew very well was the RISC form, the hold point
2 check, that before they pour the concrete our inspector
3 would attend the inspection together with the
4 contractor. All these are the key activities they have
5 to carry out. In my mind, if they attend the site
6 inspection, they are all experienced engineers,
7 experienced inspectors. They would look at everything
8 that needs to be looked at, be it steel bars, be it
9 couplers, be it formwork, et cetera, et cetera.

10 So I don't believe any inspector or any of my
11 engineers will just go there to the site, "Okay, I just
12 look at that one bar, I'm not looking at any other
13 things." They are not this kind of people. They are
14 all very experienced. They have done this hundreds of
15 times. So far what they have done with me, they are
16 very robust.

17 This line -- the beauty of SCL is like this.
18 I talked about the challenge earlier, but there were
19 also a lot of beauties. The beauties were we don't wait
20 until the opening time that we know the quality of our
21 works. We don't. Because during the course of the
22 construction, we have to finish this part, hand it over
23 to operations to use it, hand it over to the public to
24 use it. So these various stages of handing over to the
25 public for them to use it, experience it, then already
26 tell: this team is providing high-quality services to

1 Hong Kong, be they the new trains, the new platform
2 screen doors they did at night-time, all the -- in
3 Hung Hom, the concourse station area; Chairman and
4 Professor you have witnessed the new concourse,
5 right? -- they were also built by the same team. We
6 hand over to them and everybody was happy.

7 So I'm talking about these works are by very
8 reliable people, with track record, to tell them they
9 are capable. I accept, as I said earlier, they may be
10 not 100 per cent up to speed in documentation, which
11 I think is a bit regrettable and that's an area that we
12 can improve and we're thinking of using technology to
13 help them. So that is the bigger picture of the issue.

14 Q. Mr Lee, perhaps my focus was not really on how your
15 people would go out and do things. I am more interested
16 to know about your thinking at that time, as a general
17 manager.

18 Mr Carl Wu told you, "Hey, we will need to do
19 an internal review." You thought it was a good idea;
20 yes?

21 A. Yes.

22 Q. But as a general manager, you, without knowing the QC or
23 QA requirements under the QSP, you would not be able to
24 tell whether things were properly done or properly
25 installed, according to the QC and QA standards; would
26 you agree with me?

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
26 office and I asked him about this review, and this young

1 man was very proud to tell me: Carl Wu just did an audit
2 with them, every pour they have got a RISC form to prove
3 that the inspector attended the inspection, did the
4 work. So the auditor gave me a positive report, and
5 I don't see any question to challenge them. I asked
6 them questions about coupler irregularity and they said
7 it's been addressed to be cleared, and I believe they
8 must have told the auditor the few incidents they
9 encountered and then it's all done.

10 Q. Mr Lee, I'm sure that people at that time were very
11 confident, were very adamant about what they did. But
12 my question was: when did you come to know about the
13 lack of contemporaneous records in relation to coupling
14 installations for platform slabs?

15 A. At my position, I didn't ask to that level of details.

16 Q. No, no, no. I mean when did you realise that, "Ah, in
17 fact there were no contemporaneous records"?

18 A. Well, the report states clearly that there are a few
19 recommended for improvement action the team need to
20 follow up. So I asked Carl, "So all these improvement
21 actions, have you asked Michael to follow up?" He said,
22 "Yes." And for almost every audit report I received
23 over the years, every report carries some improvement
24 action, so it's not unusual; a positive conclusion still
25 requires the team to follow up with some documentation,
26 et cetera.

1 CHAIRMAN: Sorry, I do apologise for interrupting, but
2 following on from Mr Khaw's question, which was, "When
3 did you realise that there were no contemporaneous
4 records in respect of the coupling installations?" --
5 would it be correct to say that you never came to
6 realise that there were no contemporaneous records?

7 A. Not at that moment.

8 CHAIRMAN: No. So you would have come to appreciate that
9 fact at a much later stage; would that be after this
10 Commission commenced its work?

11 A. Yes.

12 MR KHAW: In the internal review, ie the report of the
13 internal review, if we can just take a brief look at the
14 contents of the report. B7/4516.

15 If we turn to 4519, 5.1, you see that there were
16 some recommended follow-up actions --

17 A. Yes.

18 Q. -- referred to in the report, and bullet point number 2
19 says, as a recommended follow-up action:

20 "Confirm the frequency of Leighton and MTR
21 supervision were in compliance with the requirement of
22 the QSP, and were recorded on the record sheet ..."

23 So, at that time, did you know of any reasons why
24 such follow-up action was recommended?

25 A. Well, I don't think I asked questions to that level of
26 detail.

1 Q. Thank you.

2 CHAIRMAN: Could I ask here also -- and this may be because
3 I'm a layperson, and I emphasise that a lot, perhaps to
4 the smiles of many counsel who appear in front of me,
5 but I think it's important here to emphasise that
6 I don't immediately by some magic become an engineer --
7 but to me, looking at this, if you look at 5.1,
8 number 2:

9 "Confirm the frequency of Leighton and MTR
10 supervision were in compliance with the requirement of
11 the QSP, and were recorded ..."

12 Now, to me, that's not a follow-up action. To me,
13 that's an essential part of the exercise, because
14 everybody -- or you're saying to me, "This was not
15 an investigation, so we're not actually going to go out
16 there and find out what's actually happened, because we
17 haven't got time to do that. What we're going to do is
18 we're going to look at our records."

19 Now, the central records surely are the QSP
20 directions and necessary recordings in accordance with
21 that. But what this report says is, "I think it's
22 a good idea as a follow-up action to do this." How can
23 the person reporting say that everything was done
24 according to the records when they haven't looked at the
25 records? It's a nonsense.

26 A. Well, they are experienced auditors -- I can't speak

1 for --

2 CHAIRMAN: No, no. Bear with me, Mr Lee. I've given you
3 full time and I haven't interrupted, because it's very
4 important, and I appreciate that, that you have the
5 ability to speak up for the very many people who do
6 a tremendous day's work and work very hard and have
7 worked to build up the reputation of the MTR. I have
8 allowed you that time.

9 But the issue that we have at hand is a more
10 restricted issue but nevertheless an important issue.
11 I just have difficulty. Everybody seems to somehow have
12 skirted around the issues, and on a plain, simple basis,
13 if I'm asked, "Check your records", and in this
14 particular contract the QSP directs what has to be done,
15 and the QSP directs that records should be kept of
16 a particular kind, and nobody checks it as part of the
17 enquiry but merely says it would be a good idea as
18 follow-up action, that's, as I've said, not mincing
19 words, is a nonsense, unless you can show me that as
20 a layperson I have completely misunderstood this.

21 Because, you see, if somebody had checked the QSP
22 records, as I understand it, they would find they
23 weren't there, and yet they were meant to be there as
24 a specific, underlying part of this project.

25 A. Mr Chairman, I understand where you come from. The
26 reports were prepared/produced by our audit team, and

1 then when they give me this report I did ask them
2 questions, maybe not to the level of details that you
3 ask, and they are very experienced auditors and they
4 know more than I do what are required to be looked at,
5 and they did go out to the site to look at some records.
6 They looked at a lot of paperwork, they told me, RISC
7 records. Many documentation they went through.

8 So I appreciate your point, Mr Chairman, and I can't
9 comment further on that.

10 CHAIRMAN: You're aware, are you, that there was an exercise
11 that took place to actually create records?

12 A. Retrospectively, you mean?

13 CHAIRMAN: Yes.

14 A. This is later on in --

15 CHAIRMAN: That's right. You're aware of that now?

16 A. Now I realise. Now I realise but --

17 CHAIRMAN: Were you aware of that before those records had
18 been created, that is the retrospective records?

19 A. No.

20 CHAIRMAN: You had no idea that that exercise was going to
21 be undertaken?

22 A. No, I wasn't involved in that.

23 COMMISSIONER HANSFORD: Actually, Mr Lee, just a follow-up
24 question from me -- when you asked Mr Wu to carry out
25 this work, how long after that was it before you
26 received his report? What was the period between asking

1 Mr Wu to carry out this work and receiving his report;
2 do you recall?

3 A. I think, if I can recall, it's around two weeks.

4 COMMISSIONER HANSFORD: Right. Because Mr Wu tells us this
5 work took two or three days.

6 A. Yes, but then he has to do report-writing, this kind of
7 thing. Fieldwork may be a few days, but then write
8 report, draft it, look at it, check it, so normally the
9 supplementation part also consumes a few days.

10 COMMISSIONER HANSFORD: Okay. Thank you.

11 MR KHAW: Mr Lee, now we all know that in fact there had
12 been no contemporaneous records in relation to the
13 coupling installations for the platform slabs. So,
14 looking back, if we go back to the conclusion of this
15 internal review, at 4520, it says:

16 "It is concluded that, based on the above review of
17 the construction records, the steel reinforcement and
18 coupler for the East West Line track slab of [the
19 contract] had been installed in accordance with the
20 requirements of ... QA and QC regimes. Follow-up
21 actions were recommended ..."

22 Now, without the benefit of the contemporaneous
23 records in relation to the coupling installations, would
24 you agree that this conclusion made at that time is not
25 appropriate?

26 A. Well, personally, if you ask me my personal view,

1 I think it's better we have everything there, all these
2 contemporaneous records. But my team, the construction
3 team, the auditor, they may have a different view,
4 saying the RISC form, the RISC form record, that's
5 a primary record they trust, and this primary record
6 demonstrated the inspector did go to the site, did look
7 at things. They may not table it or format them in the
8 way BD require.

9 So that's my personal --

10 CHAIRMAN: But the point is, though -- and again, I'm not
11 trying to be argumentative with you, Mr Lee; please
12 forgive me -- but I can understand that entirely, and
13 I like to think that I don't expect the whole world to
14 write like lawyers; all right? Indeed, I've spent
15 a good deal of my career promoting plain language. But
16 if somebody had said, "We have checked, the actual QSP
17 records unfortunately are not in proper order, but, you
18 know, our proven RISC records we believe we can rely
19 on" -- do you see? -- that would now, with the benefit
20 of hindsight, show two things. Number one, there had
21 actually been a look at the records, and number two,
22 there had been some decision-making and exercise of
23 logic as to how and what records you can rely upon.

24 Do you see the point I'm making?

25 A. Yes.

26 CHAIRMAN: Then there would be no real problem.

1 A. Yes, understand. Well, we can always learn from past
2 experience, with hindsight.

3 CHAIRMAN: Yes.

4 MR KHAW: But, Mr Lee, when you came to know about the lack
5 of records in relation to the coupling installations for
6 platform slabs recently -- you told us you only knew
7 about this recently --

8 A. Yes.

9 Q. -- so I take it you mean after late May this year; is
10 that correct?

11 A. Yes.

12 Q. Now, when you knew about this lack of records, what was
13 your reaction? Did you find it rather worrying?

14 A. No, I didn't find it worrying. I just find it --
15 somehow we have to close this gap, one way or another.
16 So I knew quite confidently that our team of inspectors
17 did do the physical check. This one I trust in them.
18 Now, whether they present it in the QSP record format is
19 I think something we need to close the gap.

20 Q. But did you, as a general manager, at that time, when
21 you realised that there were no contemporaneous
22 construction records -- did you find that a rather
23 serious deficiency in the system, which failed to keep
24 such important records?

25 A. Well, as I said, it's something we need to address. How
26 to address this one, I knew our civil team was handling

1 it.

2 Q. So did you give any idea, at that time, when you
3 realised the problem, how to address the problem?

4 A. I wasn't involved at that time in how to close this gap,
5 because it happened in May and -- around May to August,
6 and during this four-month period I was fully tied up
7 with the High Speed Rail project. My job at that time,
8 with MTR I was also the head of E&M construction,
9 responsible for leading the High Speed Rail team. So
10 during that period, from May to August, I was spending
11 most of my time rescuing XRL, making sure it could be
12 opened in September.

13 So, internally, we split our workload, I concentrate
14 to rescue XRL. Aidan Rooney and his team, together with
15 our top executives, were fully involved in addressing
16 this issue.

17 Q. Do I take it that at the time when you realised this
18 record-keeping problem, you, as a general manager, did
19 not give any advice or instruction as to what should be
20 done or what response you should make?

21 A. I wasn't involved at all.

22 Q. In view of what we heard as far as the evidence is
23 concerned at this Inquiry, I have to say the problem
24 goes beyond record-keeping, because it seems to us that
25 from the evidence we get from MTR, we are still not able
26 to identify who in fact was assigned to inspect the

1 coupling installations at hold points checking. Are you
2 aware of that?

3 A. Yes.

4 Q. As a general manager, did you find it worrying, given
5 that after hearing from so many people we still do not
6 know who was responsible for this very important
7 inspection?

8 A. Well, certainly that is something we need to look at,
9 why there's not a clear assignment.

10 Q. If I can just take you to another slightly different
11 matter, regarding the as-built drawings. If I may take
12 you to have a look at C34/26491.

13 I wonder whether you had an opportunity to look at
14 this letter. Perhaps you can have a look and then
15 I will ask you a few questions.

16 A. This letter was issued in September this year.

17 Q. Yes, that's right.

18 A. That was after I left MTR.

19 Q. Right. Are you aware that no as-built records were
20 actually maintained while the construction process was
21 going on? Are you aware of this problem?

22 A. No.

23 Q. You understand that we now just started the opening-up
24 process?

25 A. Yes.

26 Q. You would agree with me, would you not, that one of the

1 purposes of the opening-up process was to ascertain the
2 as-built condition; you are aware of that?

3 A. Yes.

4 Q. Would you agree with me that the need to open up the
5 structure for the purpose of ascertaining the as-built
6 condition, at least one of the reasons why we have to do
7 so is that there were no proper as-built records kept
8 during the construction stage?

9 A. Well, it depends on what you mean by as-built records.
10 As-built records, they don't need to be submitted until
11 come to the later stage, when we submit the BA14, almost
12 at the completion of the project. We have built many
13 projects that we -- we only submit the as-built records,
14 we only capture all the amendments we have done during
15 the construction period, and then close to the
16 completion of the project, then they submit the whole
17 thing to BD. That's a normal, usual process.

18 At this stage, whether they can assimilate enough
19 information to prepare the as-built drawings, I don't
20 know. There are many dimensions, I think, to this
21 issue. It's not just technical, not just as-built, in
22 my opinion.

23 Q. Thank you. If I can take you to B6/3665 to look at
24 MTR's PIMS. In the section under the heading
25 "Supervision (general)", you see at the right -- you see
26 the second item under the heading, "As-built records",

1 and then at the right column it says:

2 "Construction engineer and senior inspector of works
3 shall ensure that these records are prepared as
4 a continuous operation as construction proceeds, and
5 that brand names of actual materials used, instructed
6 and proposed changes, actual details of works determined
7 on site are recorded."

8 So would you agree with me at least it is
9 a requirement under the MTR PIMS that such as-built
10 records should be kept, should be prepared and kept as
11 a continuous process?

12 A. Yes, as is stated in the PIMS.

13 Q. So it is not something which should be done only after
14 the construction has been completed?

15 A. Okay. Can I say something on this? In an ideal world,
16 of course, we can follow exactly what is required from
17 this, from that, from that. But in a construction site,
18 as you can appreciate, every day so many things are
19 happening, and then there's a tremendous burden on the
20 construction people to fulfil a very big range of
21 requirements that they need to do. So people's tendency
22 is to set priorities. The most important priority to
23 them is to ensure what they are doing now, constructing,
24 is safe on a daily basis.

25 I said earlier, in Hong Kong construction industry,
26 it's always a challenge for construction, especially

1 site people, to fulfil up-to-speed documentation. So
2 this is a shortfall, I accept that. There are
3 shortcomings with this in almost every site that I have
4 encountered. I'm not denying this is not their job.
5 This is. But in a perfect world, they can obviously
6 comply with this.

7 Q. You would agree with me that in fact this is the
8 requirements laid down by MTR itself, given what is laid
9 down in the PIMS --

10 A. Yes.

11 Q. -- which was actually created by MTR; MTR was committed
12 to fulfilling the requirements under the PIMS, you would
13 agree?

14 A. Yes.

15 Q. Not simply telling the whole world what the ideal
16 situation could be; would you agree?

17 A. I'm telling you the reality of the situation.

18 Q. If I can then take you to the joint statement made
19 between MTR and Leighton, at B19/25480.

20 Now, 1.2 says:

21 "With a view to assisting the Commission as much as
22 possible, MTR and Leighton have endeavoured to agree, to
23 the best of our current knowledge and information
24 respectively, the as-constructed works at the
25 intersection of the EWL slab, eastern diaphragm wall and
26 the OTE slab ... Enclosed are the following latest

1 drawings showing the as-constructed works".

2 Then if we can take a look at 3.3, at 25481:

3 "In agreeing the joint statement at
4 paragraph 1.2 ... MTR has relied on the site photographs
5 attached as annex F to this statement."

6 Then there's a footnote 2:

7 "There is one panel (EM76) in respect of which MTR
8 does not have sufficient photographic evidence. The
9 as-constructed position for this panel ... will be
10 verified by opening up at the locations to be agreed
11 between MTR and government in due course."

12 Do you see that?

13 A. Yes.

14 Q. Would you agree with me that it is a rather
15 unsatisfactory state of affairs that MTR had to
16 ascertain the as-built condition of such a large-scale
17 railway project from photographs and perhaps memories of
18 staff?

19 A. Sorry, I beg your pardon; can you repeat your question?

20 I just missed that, sorry.

21 Q. Yes. In view of what we have just seen from the joint
22 statement, that you have to rely on photographs,
23 et cetera, would you agree with me that it is a rather
24 unsatisfactory state of affairs that MTR had to
25 ascertain the as-built condition of such a large railway
26 project from photographs and perhaps memories of your

1 own staff?

2 A. Yes. I agree there is a shortfall in this area.

3 Q. And but for this shortfall we would not have been
4 required to open up the structure for this particular
5 purpose, ie for the purpose of ascertaining the as-built
6 condition; would you agree?

7 A. Yes.

8 MR KHAW: I have no further questions.

9 WITNESS: Thank you.

10 CHAIRMAN: Thank you.

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

12 MR TO: No questions from China Technology.

13 MR BOULDING: No re-examination. Thank you, sir. Unless
14 you have any questions.

15 COMMISSIONER HANSFORD: I just have one question, Mr Lee.

16 You explain in paragraph 4(f) of your witness
17 statement -- perhaps we can go to that. It's on B155
18 and B156. You explain in there the dotted-line
19 relationship --

20 A. Yes.

21 COMMISSIONER HANSFORD: -- that existed between Mr Jason
22 Wong and Philco Wong, and also between Aidan Rooney and
23 Philco Wong.

24 A. Yes.

25 COMMISSIONER HANSFORD: Can you just explain that to us
26 a little bit, because I just want to understand what

1 impact, if any, that had on accountabilities.

2 A. I think that that dotted line effectively means Philco
3 Wong, as also a civil engineering specialist, he
4 provided indirect technical support to Jason and Aidan
5 Rooney. So, if Aidan Rooney and Jason have some
6 technical issue that they need to consult higher
7 authority, then they went straight to Philco.

8 In a railway project, it's highly multidiscipline.

9 COMMISSIONER HANSFORD: Of course.

10 A. You need people to complement each other to make the
11 project a success. So I think this system makes sense
12 and it works very well.

13 COMMISSIONER HANSFORD: Do you see that having any impact on
14 accountabilities?

15 A. I don't think so. I don't think so. It's just
16 strengthen the team, moving the project forward with
17 certainty to success.

18 COMMISSIONER HANSFORD: Okay. Thank you.

19 WITNESS: Mr Chairman, can I say something?

20 CHAIRMAN: Yes, of course.

21 WITNESS: I want to thank you for giving me the time to tell
22 the Commission and all the people here what the SCL is
23 really about and the challenges that my team have
24 overcome in the last few years.

25 Thank you.

26 CHAIRMAN: Thank you very much. Shall we have the morning

1 adjournment now? Thank you.

2 (The witness was released)

3 (11.38 am)

4 (A short adjournment)

5 (11.55 am)

6 CHAIRMAN: Yes.

7 MR PENNICOTT: Sir, before Mr Boulding calls the MTR's next
8 witness, can I mention one other matter for the record?

9 The MTR has a witness, Chan Yuk Hung, Henry Chan,
10 and the Commission took the view that it did not need to
11 ask Mr Chan any questions. All parties have also agreed
12 that they do not wish to ask Mr Chan any questions
13 either. As a consequence, of course, he will not be
14 called.

15 However, for the record, his witness statement will
16 be updated onto the Commission's website in the usual
17 way. For the record, his statement is in bundle B1 at
18 page 464 and following. I just thought I'd better put
19 that on the transcript.

20 CHAIRMAN: Thank you.

21 MR BOULDING: Chairman, in those circumstances, MTR's next
22 witness will be Mr Raymond Au.

23 Good morning, Mr Au.

24 WITNESS: Good morning.

25 MR BOULDING: Are you giving evidence in Cantonese or
26 English?

1 WITNESS: Cantonese.

2 MR AU KOON SHAN, RAYMOND (affirmed in Puntì)

3 Examination-in-chief by MR BOULDING

4 MR BOULDING: It's correct, is it not, that your full name
5 is Raymond Au Koon Shan?

6 A. Correct.

7 Q. You have produced, have you not, two witness statements
8 for the assistance of the Commissioners in this public
9 inquiry?

10 A. Yes.

11 Q. I wonder if we can look at the first page of your first
12 statement, which is bundle B/13674. There do we see the
13 first page of your first statement, Mr Au?

14 A. 係。

15 Q. Please can we go on to page B13676. Is that your
16 signature under the date of 12 October 2018?

17 A. 係。

18 Q. If we can then look at your second statement, which is
19 at B25742, and is that the first page of your second
20 statement there, Mr Au?

21 A. 係。

22 Q. Do I understand that in your second statement you
23 clarified and changed certain matters that were referred
24 to in your first statement concerning the number of
25 phone calls you had?

1 A. 係。

2 Q. Then if we could go on to page B25745, and there do we
3 see the signature, your signature, under the date of
4 27 November 2018?

5 A. 係。

6 Q. Subject to the clarifications and corrections you've
7 made in the second statement to the first statement, are
8 the contents of those statements true to the best of
9 your knowledge and belief?

10 A. 係。

11 Q. Thank you. We've got a process whereby we try to
12 identify where you were in the MTR management
13 organisation. Perhaps we can go, please, for that
14 purpose, to B733. There, do we see you, Mr Raymond Au,
15 immediately below Mr TM Lee?

16 A. 係。

17 Q. And your role, as I understand it, as stated there,
18 "Principal contracts administration manager-SCL"?

19 A. 係。

20 MR BOULDING: Thank you, Mr Au. What's going to happen now
21 is that Mr Pennicott may well ask you some questions.
22 He's counsel for the Commission of Inquiry. Then
23 various lawyers in this room can ask you questions, if
24 they consider it appropriate. The Chairman and the
25 professor can ask you questions at any time, and then

1 I might have a few questions for you at the end of that
2 process. Thanks very much. Please stay there.

3 WITNESS: 知道。

4 MR PENNICOTT: Sir, somewhat uniquely so far, I have no
5 questions for Mr Au. I understand that China Technology
6 may have.

7 Cross-examination by MR TO

8 MR TO: Good morning, Chairman and Commissioner.

9 Mr Au, good morning.

10 A. Good morning.

11 Q. I represent China Technology and I thank you for
12 clarifying in your second witness statement in terms of
13 the telephone calls, so I will not be asking you
14 anything about the telephone calls whatsoever but I just
15 have two questions to ask you, if I may.

16 The first question relates to, for example your --
17 in witness statement, if I can take you to that. That's
18 B13675. In paragraph 4 -- I'll just read it out to you,
19 Mr Au -- it says:

20 "Dr Wong told me that Mr Poon was complaining that
21 China Technology was underpaid by the main contractor.
22 He then gave me the mobile number of Mr Poon and asked
23 me to contact Mr Poon to find out what the problem was."

24 So could I ask you, Mr Au, were you shown a copy of
25 Mr Poon's email to Leighton of 6 January 2017 at
26 9.45 am, and is at D689, D1/689?

1 A. 冇嘅。

2 Q. Okay, Mr Au. Now, in terms of what Dr Wong said to you,
3 it's just purely about the money side?

4 A. 正確。

5 Q. In what way in terms of the money side did he tell you?

6 A. Dr Wong就話就潘生打電話畀佢，就話佢就話禮頓就話港鐵冇畀錢禮頓，所
7 以禮頓畀唔到錢佢，所以佢就叫我打電話畀潘生了解下究竟係發生咩嘢事。

8 Q. Now, if I can take you to your paragraph 5 of your
9 witness statement. That's at B13675. If you look at
10 the very last sentence, Mr Au, it says:

11 "Since Mr Poon stated that everything was resolved,
12 there was no need for any follow-up action."

13 So what did Mr Poon say to you to convince you
14 there's no follow-up action?

15 A. 潘生就話佢現時同禮頓就傾呢個payment就基本上係解決嘅，所以佢話唔
16 需要再跟進，所以就冇再跟進。

17 Q. Mr Au, other than the telephone calls made by your
18 mobile phone, did you make any other telephone calls
19 during -- the office telephone number?

20 A. 冇，冇。

21 MR TO: Mr Au, I have no further questions.

22 CHAIRMAN: Thank you.

23 MR SHIEH: None from Leighton.

24 MR CONNOR: None from Atkins, sir.

25 MR KHAW: For a change, nothing from the government.

1 MR BOULDING: Sir, no re-examination from me. I don't know
2 whether you've got any questions.

3 COMMISSIONER HANSFORD: No.

4 CHAIRMAN: No, nor have I.

5 MR BOULDING: Thank you very much, Mr Au. Short and sweet.

6 WITNESS: Thank you.

7 CHAIRMAN: Thank you very much for your assistance. Thanks
8 for coming today.

9 (The witness was released)

10 MR BOULDING: Chairman, MTR's next witness is Mr Philco
11 Wong.

12 Good morning, Mr Wong.

13 WITNESS: Good morning.

14 DR WONG NAI KEUNG, PHILCO (affirmed in Puntì)

15 Examination-in-chief by MR BOULDING

16 MR BOULDING: Are you going to give your evidence in English
17 or Cantonese?

18 A. Cantonese.

19 Q. So you will need to put the headphones on.

20 It's correct, is it not, that your full name is
21 Philco Wong Nai Keung?

22 A. 啱嘅。

23 Q. We know that you've produced two statements, witness
24 statements, for the Commissioners' assistance in this
25 public inquiry, and I wonder if we can go to B131.

26 There do we see, Dr Wong, the first page of your first

1 witness statement; correct?

2 A. 啱嘅。

3 Q. If we go to page 153, I hope we'll see your signature
4 under the date of 14 September 2018; is that correct?

5 A. 啱嘅。

6 Q. I understand that there's a short corrigendum to that:
7 B153.1, please. Are there corrections that you'd like to
8 make to that first statement?

9 A. 係，啱嘅。

10 Q. Subject to those corrections, are the contents of that
11 first statement true to the best of your knowledge and
12 belief?

13 A. 冇。

14 Q. Then if we could have a look at your second statement.
15 Please can you go to B13617. Is that the first page of
16 your reply statement, Dr Wong?

17 A. 啱嘅。

18 Q. Then if we can go on to B13618, do we there see your
19 signature under the date of 9 October 2018?

20 A. 係，啱嘅。

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

23 A. 係，啱嘅。

24 Q. Just to see where you are in the overall MTR
25 organisation, could you be taken to B693. Do we there

1 see you, Dr Wong, at the top of the tree as the projects
2 director?

3 A. 啱嘅。

4 Q. Now, Dr Wong, I'd like, with the Chairman's leave, to
5 ask you just one or two questions about evidence that's
6 been put before the Commissioners since the date of your
7 witness statements.

8 Have you had an opportunity to read the evidence
9 from Mr Aidan Rooney last week?

10 A. 我有睇過。

11 Q. I wonder if we could have up on the screen the
12 transcript for Day 28, page 68, please. If you could
13 cast your eye down at line 11, please, Dr Wong, and we
14 can see there a question:

15 "Can you please tell me who the members of the
16 executive team preparing this report were?

17 Answer: It was a combination of Lincoln, Philco and
18 the senior legal team."

19 So you can see a reference to yourself there, can
20 you not, Dr Wong?

21 A. 見到，係。

22 Q. Then the questioning continues, and for the record it
23 was Mr Pennicott:

24 "Right. When you received the original instruction
25 to attach then the records to the report, so you would
26 have been told by either Philco Wong, is that right, or

1 Lincoln Leong, or somebody else".

2 Then the answer from Mr Rooney was:

3 "I believe it was Lincoln.

4 Question: Okay.

5 Answer: The discussion was primarily with Lincoln,
6 but Philco was there."

7 Now, did you ever hear Lincoln Leong instruct
8 Mr Rooney to attach the records which are referred to in
9 the transcript to the MTR report? Did you ever hear him
10 say that?

11 A. 喺當日6月15號嗰個會上面，嗰朝早其實我仲有三個會嘅，都係喺IFC，即係
12 嗰個地方，我就行出行人嘅，我就喺頭先refer嗰個會上面，但係我喺嗰個
13 會上面嘅時間，我有聽過頭先即係喺嗰個transcript上面Aidan就有聽到
14 Lincoln話叫佢擠嗰個report落去。

15 Q. Thank you. Tell me this: did Aidan Rooney ever tell you
16 that the records we're talking about were retrospective?

17 A. 係完全冇聽過Mr Aidan Rooney話過畀我聽嗰個report係retrospective。

18 Q. Thank you very much, Dr Wong. What's going to happen
19 now is that I suspect Mr Pennicott for the Commissioner
20 is going to ask you some questions, then one or two
21 lawyers in the room might take the opportunity to ask
22 you questions. The Chairman and Professor can ask you
23 questions whenever they want. Then it may well be that,
24 at the end of the process, I'll have one or two more
25 questions for you. Do you understand that?

1 A. Thank you.

2 MR BOULDING: Thank you very much.

3 Examination by MR PENNICOTT

4 MR PENNICOTT: Good afternoon, Dr Wong.

5 A. Good afternoon.

6 Q. My name is Ian Pennicott. As Mr Boulding has just
7 indicated, I'm one of the counsel to the Commission and
8 I have a few questions for you. Thank you very much for
9 coming along to give evidence to the Commission this
10 afternoon.

11 Dr Wong, first of all, Mr Boulding has shown us the
12 organisation chart for July 2015. Can I just, however,
13 go back a little bit in history. My understanding is
14 that in November 2011, you were made general manager of
15 the SCL project as whole; is that right?

16 A. 係，對嘅。

17 Q. Then in August 2014 you became the projects director
18 designate; is that right?

19 A. 係，啱嘅。

20 Q. Then, a few months later, you became -- that is in
21 October 2014 -- projects director for the MTR?

22 A. 係，對嘅。

23 Q. Your duties and responsibilities as projects director
24 are not project-specific, they are all-embracing for the
25 various projects that the MTRC had going at any given
26 time?

1 A. 啱嘅。

2 Q. As projects director, as I understand it, you were
3 a member of the MTRC's executive committee?

4 A. 啱嘅。

5 Q. Could I ask you, please, to look at paragraph 8 of your
6 witness statement. You say there -- sorry, it's B1/133,
7 towards the bottom:

8 "The projects division, under the leadership of the
9 projects director, was responsible to the executive
10 committee for the planning, design and construction of
11 railway projects. More specifically, my
12 responsibilities as the projects director during my time
13 in the role were essentially in the nature of overall
14 supervision, upward reporting, and overall relationship
15 management with external parties of various projects,
16 rather than the day-to-day, close at hand management of
17 individual projects."

18 Pausing there, I'll ask you a question in a moment.

19 Could we then look at paragraph 14 of your witness
20 statement, please, at 137, where you say:

21 "Specifically in relation to the SCL project, for
22 example, before I left my role as the projects director,
23 I had an overall supervisory role ... while the
24 day-to-day leadership and management of this project was
25 headed by those who had direct or indirect reporting
26 lines to me. Mr TM Lee (general manager ...), whose

1 specific leadership project responsibilities were those
2 set out in [the PIMS], would directly report to me at
3 the regular projects division communication meetings,
4 projects division leadership meetings and senior project
5 management meetings described ... above. Mr Lee would
6 also call for ad hoc meetings on a 'needs basis' if he
7 needed my advice. Mr Jason Wong (general manager-SCL
8 civil-EWL) and Mr Aidan Rooney (general engineer-SCL
9 civil-NSL), whose specific 'project manager'
10 responsibilities by reference to [and then you give
11 a reference] ... would in turn directly report to
12 Mr TM Lee at regular intervals during the departmental
13 communications meetings ... I would not typically engage
14 with Mr Jason Wong and Mr Aidan Rooney directly and
15 would typically address issues concerning the SCL
16 project to Mr Lee ..."

17 So would this be right then, Dr Wong, that other
18 than Mr TM Lee, you had very little contact with anybody
19 else in relation to the SCL project?

20 A. 喺嗰個我嘅下面我有唔同嘅general manager, TM Lee就係我嘅project
21 嘅general manager, 如果係關於SCL project嘅事, 佢會直接同我匯報
22 或者discuss, 但係我亦都喺唔同嘅會上面, 有啲regular meetings係直
23 接會同TM下面嘅general manager, including Mr Aidan Rooney或者
24 係Mr Jason Wong, 喺同一個會上面, 佢哋會直接同我係對話嘅。除咗好似
25 我喺我嘅witness statement上面咁講, 如果Aidan Rooney係有一啲特

1 別嘅civil engineering issue佢要refer畀我，攞我嘅guideline或
2 者係reference，佢會先通知咗Mr TM Lee，然後亦都會直接同我去討論嘅
3 啲咁嘅issues嘅。

4 Q. All right. So, in the context of meetings that you've
5 mentioned, there may be direct discussion between
6 yourself and Mr Rooney or yourself and Mr Jason Wong on
7 an as-needs basis; would that be fair?

8 A. 正確嘅。

9 Q. Okay. Could I ask you, please, to be shown part of the
10 PIMS document. It's at -- let's go to B3/1058, which
11 I hope is the first page of the document.

12 I assume, Dr Wong, that this is a document -- you
13 mention it a number of times in your witness
14 statement -- that you're very familiar with. We can
15 see, from page 1058, some names that we're familiar
16 with: Mr Yeung, Mr Wu, and then you have approved this
17 as the projects director, Dr Wong?

18 A. 啱嘅，呢個係一個revision嚟。

19 Q. Yes. Am I right in thinking this is a revision, we can
20 see from the face of it, A4 in November 2014?

21 A. 啱嘅。

22 Q. If we could go, please, to page 1069, there's a heading,
23 "Leadership"; do you see that?

24 A. 我見到。

25 Q. It says, "Leadership and commitment":

1 "Top management of projects division shall
2 demonstrate leadership and commitment with respect to
3 the PIMS by ..."

4 Pausing there, as you have indicated, you are head
5 of the projects division?

6 A. 啱嘅。

7 Q. So, by definition, you fall within the definition of
8 "top management"; would you agree with that?

9 A. 對嘅。

10 Q. So what this says the top management is supposed to do
11 by way of demonstrating leadership and commitment with
12 respect to PIMS is:

13 "taking accountability for the effectiveness of the
14 PIMS;

15 ensuring that the PIM policy and implementation
16 strategy are established for the PIMS ...

17 ensuring the integration of the PIMS requirements
18 into the projects division's business processes ..."

19 And so on and so forth. I'm not going to read it
20 all out, Dr Wong.

21 It's just a general question, Dr Wong: what did you
22 do yourself to promote and implement the PIMS ethos, if
23 I can call it that?

24 A. 喺個PIMS上面，如果我喺幾個section嗰度，因為個PIMS係好多好多
25 嘢，如果我講番係related to今次呢件咁嘅事，我最主要就係喺個PIMS

1 上面要知道我下面個construction team有冇執行到佢哋嘅PIMS嘅嗰個
2 requirement，就喺幾個section裏面，譬如係呢個monitoring of
3 site works、construction management、類似嗰啲PIMS嘅裏面嗰個
4 咁嘅section。

5 佢哋有冇執行呢？就係我係需要我嘅project managers或者general
6 managers或者係project managers以下嘅construction managers
7 佢哋要去做所需嘅工件。

8 我喺呢個定期嘅會上面，我每個星期我都會同project managers
9 或者general managers或者係隔個星期都會有定期嘅會，喺個定期嘅
10 會上面，佢哋需要report畀我聽喺佢哋執行上面，尤其是就係我頭先講嘅
11 construction嘅management嘅上面有冇特別嘅問題，有冇有啲issues
12 係佢哋resolve唔到嘅，要bring up to我attention，而係由我去呢
13 個即係幫佢一齊去discuss點去解決。

14 Q. All right. In your day-to-day work at the MTR, in your
15 role as projects director, how often did you have to
16 specifically turn your mind to PIMS and whether it was
17 being properly complied with and whether it was being
18 implemented? Did it crop up very often? Did you give
19 it specific attention?

20 A. 喺嗰個PIMS上面，我哋係因為呢個PIMS已經係喺呢個港鐵裏面就implement
21 咗好耐，所以唔係話日日都要去睇，而係每一次可能有一啲新嘅job嘅時間，
22 我哋就需要就要refresh一下，譬如我哋每一個新嘅project都要有一個
23 initiating meeting，個initiating meeting就可能要睇下個PIMS

1 上面require啲咩嘢，然後去開始start去mobilise嗰個site team，
2 site team上面要做啲咩嘢。

3 另外就係我哋呢一個PIMS有一個叫做PIMS嘅steering group嘅，咁
4 就我take up咗呢個projects director之後，我都chair呢個PIMS嘅
5 steering group，喺2015年、16年，我都有chair，2017年之後我就交
6 咗畀呢個general manager去chair。呢個PIMS嘅steering group就係
7 需要睇下嗰個PIMS係咪有咩嘢根據地盤上面或者工地上面有一啲發生嘅即係
8 嗰啲learning，而去做一個revision。

9 另外我哋都係需要就係喺嗰個PIMS上面，我哋就要做一個audit嘅，
10 呢個audit亦都係由我嘅PMO嘅office下面嗰啲auditor就走去做呢個
11 PIMS嘅audit，睇下嗰個PIMS係喺嗰個工地上面係點樣implement、有冇
12 implement到或者係要攞番啲feedback返嚟，就係需唔需要將個PIMS係
13 enhance。

14 Q. Okay. Thank you very much for that, Dr Wong.

15 When you became the projects director, as you tell
16 us in paragraph 6 of your witness statement, there were,
17 you say, five railway expansion projects ongoing --
18 that's the XRL, the West Island Line, the South Island
19 Line, the Kwun Tong Line Extension and the SCL
20 project -- and you also oversaw a railway project in
21 Sydney in Australia.

22 In terms of your time spent in relation to these
23 various projects, would it be equally spread? I mean,
24 how much time, let's say in a month, would you spend on

1 the SCL project as opposed to any other project? Can
2 you approximate or estimate for us, Dr Wong?

3 A. 喺我嗰個時間分配上面，喺唔同嘅project，可能都係有唔同嘅嗰個分配嘅
4 時間，係要depends喺嗰個project嗰個stage，可能喺嗰個project嘅
5 start up嘅時間，我嘅分配嘅時間唔會好多，但係佢start work之後，
6 我最主要就係要將嗰個site就係有一個competent嘅team set up咗，然
7 後就佢哋要follow，即係話嚟緊嘅嗰個project嘅requirement點樣去做，
8 by that time，嗰個就construction就會由呢個project team就嗰
9 個每一條線嘅project team就去做呢個monitoring。

10 但係喺呢個project就嚟complete，可能係project complete之
11 前一年半至兩年，我又會spend多啲時間喺個project，因為by that
12 time我係需要make sure所有嘅completion of work係要comply
13 with所有嘅指定嘅specification同埋requirement同埋meet所有嘅
14 statutory requirement，嗰陣時我係會花多啲時間落去。所以每一個
15 project就係要depends on個stage，係嗰個分配嘅時間都係唔同。

16 Q. Yes, I understand that. So perhaps this would be fair,
17 that you would tend to spend more time on a particular
18 project in its initial phases and in its final phases,
19 and so once you were satisfied it was up and running you
20 perhaps focus somewhere else, and then, for the reasons
21 you have just given, you would return to the project as
22 it was heading towards completion?

23 A. 係，對嘅。

24 Q. On the SCL project, of course, because you had been the

1 general manager of the SCL project, before you became
2 the projects director, presumably you had built up
3 a fair amount of knowledge about the SCL project itself,
4 before you took up your new role; that would be fair,
5 wouldn't it, Dr Wong?

6 A. 係，對嘅。

7 Q. Okay. And certainly by the time you had taken up the
8 role of projects director in October 2014, the SCL
9 project had been going for some time?

10 A. 係，差唔多係已經有即係三年。

11 Q. Could I ask you about paragraph 9 of your witness
12 statement, please. You say:

13 "With respect to each of the five railway expansion
14 projects [which I mentioned a moment ago] which
15 I oversaw, there would be one general manager (project)
16 responsible for each railway expansion project who
17 directly reported to me. The organisation of the
18 project management team of a typical railway project is
19 set out [and you give us a reference to PIMS]. However,
20 in 2015, two new positions, namely 'general manager-SCL
21 civil-EWL' and 'general manager-SCL civil-NSL' (both of
22 which would otherwise have been titled as 'project
23 manager' prior to the creation of these titled roles),
24 were created under and reported to 'general manager
25 (SCL)'."

26 Just help me with this, Dr Wong. Was this slight

1 reorganisation specific to the SCL, or did it apply to
2 all the five expansion projects that you're talking
3 about?

4 A. 呢個creation呢個general manager-civil, 即係喺EWL同埋NSL, 其
5 實都係其他嘅新嘅鐵路線嗰度都有咁嘅情況, 係all depends on就係嗰個
6 鐵路線嗰個scale有幾大, 如果呢個scale大嘅話, 即係HR可以justify就
7 係一個general manager嘅position for civil, 如果係個scale係
8 有咁大嘅, 可能只係justify一個general manager--一個project
9 manager in civil。

10 Q. I was going to ask you what actually precipitated this
11 slight re-arrangement insofar as the SCL was concerned?
12 Was it simply its massive scale; is that really what it
13 came to?

14 A. 呢個個睇法係啱嘅。

15 Q. Okay. As we know and as we've seen, the set-up after
16 that slight reorganisation was you, Dr Wong, as the
17 projects director; there TM Lee, the general manager,
18 reporting to you; and then Mr Jason Wong and Mr Aidan
19 Rooney reporting to TM Lee?

20 A. 係啱嘅。

21 Q. Okay. Now could I move on to a different topic
22 entirely. What I'd like to do, I hope relatively
23 quickly, is set out in chronological order, your
24 involvement, such as it was, with Jason Poon, because
25 there's a bit of jumping around in your statement, and

1 that's not a criticism at all. But can I put it like
2 this, Dr Wong. Your first ever involvement with Jason
3 Poon was in relation to some work that China Technology
4 was doing on the South Island Line in June 2015?

5 A. 係啱嘅。

6 Q. That's paragraph 41 of your statement.

7 Now, moving on, so far as I can discern from your
8 witness statement, your next involvement with him was in
9 late 2016, that is December 2016, when you had
10 a telephone conversation with him?

11 A. Yes, 啱嘅, 係, 喺12月, 應該係。

12 Q. You deal with this in paragraphs 42 to 44 of your
13 witness statement, but I'm just trying to summarise the
14 position. And, as I understand it, what you say,
15 Dr Wong, is that conversation was limited to commercial
16 matters?

17 A. 我記到出嚟就係佢只係同我講關於commercial嘅issues。

18 Q. Did he explain the nature and extent of those commercial
19 issues to you?

20 A. 呢個電話喺兩年幾之前, 所以詳細嘅內容我記唔到, 但係我聽咗個電話, 我
21 收到嘅嗰個message, 就係佢話畀我聽禮頓係冇畀錢佢或者畀唔夠錢佢, 佢
22 就想我去step in去幫佢解決一下佢嘅問題。

23 Q. Right. As I understand it, Dr Wong, your position is
24 that you have no recollection of him mentioning
25 allegations of rebar cutting to you during that

1 conversation?

2 A. 喺個電話度我完全冇聽過關於佢講過關於係rebar thread cutting或者
3 係會有講過而佢嘅陳述書上面講係8月份佢睇到嗰個咁嘅incident嘅事，
4 完全冇聽過。

5 Q. All right. In any event, after that telephone
6 conversation in December, you asked your commercial
7 manager, Mr Raymond Au, who we've just heard from, to
8 look into it?

9 A. 完咗個電話之後，我就係即刻打電話畀Raymond Au嘅，因為Mr Raymond
10 Au就係我哋嘅contracts嘅department嘅senior manager，佢就叫佢
11 去follow up with Mr Jason Poon。

12 Q. As I understand it, from paragraph 45 of your witness
13 statement, Mr Raymond Au then told you that there was no
14 further action required, everything was settled, and the
15 matter had been closed out?

16 A. 係我收完我再打電話畀Raymond Au，我問佢「你follow up咗未呀？」咁
17 樣，佢就話畀我聽，佢話佢打咗，就對方話畀佢聽件事已經解決咁樣。

18 Q. However, your next contact with him was at the beginning
19 of January -- when I say "contact", next involvement,
20 let's put it more broadly -- was in January 2017, when
21 you were forwarded an email and some photographs by
22 Mr Lee?

23 A. 對嘅。

24 Q. And that email and photographs had been sent to
25 Leighton, they had forwarded it to MTR, to Mr Lee and to

1 others -- to others and then Mr Lee -- and then
2 ultimately it found its way to you?

3 A. 對嘅。

4 Q. We know that this is an incident, to put it broadly, to
5 do with contract 1112, part of the SCL project, one of,
6 as we've seen, a number of projects that you're
7 responsible for at any given time.

8 Were you surprised to be contacted about this sort
9 of thing or not? I mean, this is something that's gone
10 right to the top, effectively, to you, the projects
11 director. Presumably, this is not something that
12 happened every day?

13 A. 我收到呢個email，就係經Mr TM Lee forward畀我嘅，佢at the same
14 time forward畀我，其實佢都好簡短咁同我講，佢話佢會follow up，我
15 收到呢個email，我一睇落去，就一定係一啲quality嘅issue，而且係一
16 啲每一日daily發生嘅quality issue，但係你話講嗰個cut鐵，呢樣嘢係
17 好少聽到有人咁嚟cut鐵嘅，喺我個經驗上面，但係我expect就係我下面嘅
18 construction team一定會find out得到個事嘅extent去到幾大同埋有
19 冇處理。當時我嘅認知，就係我嘅construction team Mr TM Lee佢哋
20 會跟進。

21 Q. As I understand it, you personally didn't take any
22 follow-up action; you, as you've just indicated,
23 understood that Mr Lee would do so. Then the upshot, as
24 I understand it, in relation to this particular email
25 exchange, was that you were informed by Mr Rooney that

1 all had been resolved?

2 A. 收咗呢個email之後，即係除咗頭先Mr TM Lee同我提咗一、兩句，Mr
3 Aidan Rooney喺一啲regular嘅會之後都有同我講佢係會跟件事嘅咁樣，
4 過咗幾個禮拜之後，Mr Aidan Rooney亦都話畀我聽嗰件事已經係跟咗，
5 而且就係已經係解決咗，已經係嗰個site嘅condition係under control
6 咁樣。

7 Q. Right. In January/February 2017, Dr Wong, were you made
8 aware of a review that was being carried out, internal
9 review that was being carried out, by MTR, by
10 a Mr Carl Wu? Were you told about that in
11 January/February 2017?

12 A. 喺當時係Mr TM Lee或者係Mr Aidan Rooney或者係冇任何人通知我佢哋
13 嘅跟進係有用到Carl Wu去做呢個independent即係嗰個audit。

14 Q. Right. So you were unaware of it at the time?

15 A. 我唔知道，at that time。

16 Q. Does it also follow that you were unaware that Leighton
17 had also been asked to carry out an investigation or
18 a review at roughly the same time?

19 A. 我唔知道。

20 Q. Okay. Now, that's January 2017. Going back to the
21 chronology, moving on to September 2017, you were copied
22 in or forwarded further email exchanges between Mr Poon
23 and Leighton and Mr Lee. As I understand it, from
24 paragraphs 27 and 28, after the receipt of those emails,
25 again you didn't take any specific action yourself, but

1 you were informed again that the issue had been
2 resolved?

3 A. 喺當時，我只係--即係有一啲email forward畀我，我一路跟住啲email，
4 睇到最後個email，就見到就係話件事已經係resolve咗，conclude喇咁
5 樣。

6 Q. Right. Apart from perhaps more recent events this year,
7 as I understand it that really was the end of any
8 involvement you had with Mr Jason Poon?

9 A. Mmm.

10 Q. Now, in paragraph 31 of your witness statement, Dr Wong,
11 you start to deal with the various matters concerning
12 the MTRC June 2015 [sic] report, as it became.

13 A. (Nodded head).

14 Q. You presumably became involved, because it was the
15 government that had asked for two things: one, a report,
16 and secondly the carrying out of a load test; is that
17 right?

18 A. 係啱嘅。

19 Q. Again, these were sufficiently important matters for you
20 to be contacted about and to become involved in?

21 A. 啱嘅。

22 Q. We've seen what you say in your statement about this.

23 MR TO: Mr Chairman, there's a correction in the transcript.
24 It should be "2018" instead of "2015" at [draft]
25 line 16.

1 MR PENNICOTT: Absolutely right. It's my fault. "2018".

2 I beg your pardon. Thank you very much.

3 Dr Wong, in terms of your actual involvement in the
4 preparation of the June 2018 report, am I right in
5 thinking you had -- once you have given instructions for
6 the report to be prepared, you had no -- after that you
7 had no direct involvement; is that right?

8 A. 係啱嘅，因為當時我收咗呢個request from government，就因為佢個
9 要求就係我哋要交一啲report畀佢，講一講就係話個media嘅嗰個報道嗰
10 個係defective work係rectify咗未，同埋我哋嗰個supervision on
11 site嘅嗰個當時嘅情況係點樣樣，呢樣嘢我就交咗畀我嘅project team
12 後面有construction team，就去將呢啲咁嘅fact finding擺出嚟，就
13 當時亦都係我就交咗畀Mr Aidan Rooney，由佢去lead佢下面嗰個
14 construction team去prepare呢個report嘅。

15 Q. We know it was submitted on -- dated and submitted on
16 15 June 2018. Did you personally see a copy of that or
17 a draft of that report before it was submitted to the
18 government?

19 A. Before嗰個report submit畀government，嗰個content of個report
20 係有circulate咗幾次嘅，即係佢一路做，一路去circulate，但係嗰個詳
21 細嘅report、particular嗰啲attachment就我有係去接觸過。

22 Q. Did you make any comments, editorial or otherwise, on
23 the narrative of the report, leaving aside the
24 attachments?

1 A. Narrative嘅report我make咗好少comment，我就focus就係喺嗰個
2 number of嗰個couplers嗰度，所以我喺個prepare個report嗰個時
3 間裏面，我就特別就叫咗我嘅design team，headed by Mr Clement
4 Ngai去separately去check 呢個number of couplers。

5 Q. And during the course of the preparation of the report
6 and the instructions that you gave to the design team,
7 did you make any enquiries as to the existence of the
8 as-built drawings for the slabs?

9 A. 當時我有特別enquire即係有任何嘅issues喺嗰個as-built drawing上面
10 嘅，我基本上我係想兩team嘅人，唔同嘅人去分別去count嗰啲couplers，
11 佢哋可能count couplers係有佢哋嘅方法，因為講緊係好多百張圖嘅
12 couplers嘅，我想佢哋分別去count，如果有任何嘅differences，就可
13 以喺兩個separate team上面都可以搵到出嚟。

14 Q. Right. Just so I've got it clear, that's the design
15 team on the one hand, Mr Clement Ngai, and the
16 construction team on the other, Aidan Rooney and his
17 team?

18 A. 係，對嘅。

19 Q. Okay. Now, the report was then submitted, and what then
20 happened, as I understand it, Dr Wong, is that you
21 personally were involved in the discovery that there
22 were some errors and discrepancies in the report.

23 A. 呢個係我嘅認知係咁樣情況。

24 Q. Indeed, you personally started reviewing some site

1 photographs that you had been provided with by James Ho;
2 is that right?

3 A. 係對嘅，係。

4 Q. How did it come about -- I mean, in paragraph 36 of your
5 witness statement -- let's have a look at that, just so
6 we get the background to it -- you say:

7 "After the MTRCL report was submitted on
8 15 June 2018, I started to work on the method for the
9 safety loading test with MTR's independent consultant
10 CM Wong & Associates, who was designing an appropriate
11 loading test to address the public's concerns."

12 Pausing there, Dr Wong, were you personally
13 therefore involved with CM Wong about the setting up of
14 this load test?

15 A. 喺嗰個同CM Wong嗰度係開頭係我去start up嘅，因為好似我頭先咁講，好
16 似一個新嘅project，我嘅involvement都會好多嘅，今次喺個loading
17 test上面，雖然我唔係expert in structural engineering，但係我
18 係需要就係將呢個independent consultant bring in入嚟、點樣去
19 start同埋佢做啲咩嘢嘅scope，我哋要好清楚，所以喺呢個start up嘅時
20 間，我係直接就係同呢個CM Wong & Associates就係開幾個會嘅。

21 Q. Right. So this was, from your perspective, certainly to
22 start with in getting the thing set up, fairly hands-on
23 so far as you're concerned?

24 A. Correct, 啱嘅。

25 Q. And you go on to say:

1 "As part of this process, I reviewed some of the
2 site photographs provided by James Ho [that I just
3 mentioned], upon which I noticed that there were no
4 couplers on the top layer of the EWL slab."

5 Pausing there, when you were setting up or being
6 involved with the setting up of this loading test, did
7 you at that stage say to anybody, "Where are the
8 as-built drawings for the slab?"

9 A. 喺嗰個as-built drawing呢個issue上面，就係一個construction
10 site，佢嗰個as-built drawing係make up with好多好多唔同嘅
11 site record嘅，包括係可能有啲design amendment，亦都係一啲
12 啲唔同嘅啲啲咁嘅site diary、photographs或者係啲啲咁嘅RFI或者
13 係engineer response嘅啲啲咁嘅information咁樣。呢啲咁嘅record
14 理論上就係一定係要get together，然後可以produce到個as-built
15 drawing嘅。As-built drawing就係一個project嘅construction
16 同理completion嘅stage上面，as-built drawing係需要嗰個某一
17 個structure或者activity complete咗之後先會做。

18 At that time，我有去問佢哋有冇as-built drawing，但係我
19 expect佢哋頭先我講啲啲有呢個design amendment、DAmS，有RFI，有
20 其他啲photographs或者係有其他啲啲咁嘅TQ咁樣，會gather埋
21 together，就會攞到最update嘅啲啲咁嘅information。

22 咁樣畀我比較去要睇啲啲相呢？就係因為我唔係喺地盤，我想自己親身
23 去睇番佢哋嗰陣時影啲啲相，不論係咩嘢相都好，未必係呢個嗰個做緊個
24 slab嘅相，可能做緊excavation，我想知道嗰陣時周圍嘅環境係點樣樣。

1 我喺個睇相嘅時間，我就發覺得到就係嗰個diaphragm wall個頂嗰度點解
2 會有咗嗰啲couplers喺度，當時我就先至係問呢個問題。

3 Q. This must have been this, mustn't it, Dr Wong, that
4 CM Wong, you've engaged him to do a load test on the EWL
5 slab, and before he can sensibly come up with a proposal
6 for a load test, he needs to know what's there. He
7 needs to know the as-built condition before he can start
8 designing his load test. So he must have asked you that
9 question -- well, not you personally perhaps, but you
10 and your team for the as-built details, "What's there?",
11 he's asking.

12 So your primary answer to that is, "Well, look at
13 the photographs"; is that right? Is that what happened?

14 A. 唔係，我唔係咁嘅意思嘅，我話嗰個as-built嗰啲information唔係靠
15 一張drawing，at that time，即係我知道嗰個as-built嘅drawing
16 就可能係未ready嘅，因為佢哋如果係一路做嘅時間，可能個project或者
17 嗰個construction咁大，可能係分好多段時間去做嘅。最主要就係嗰個
18 as-built有冇一個足夠嘅information係可以攞到嗰個實際嘅as-built
19 嘅情況。

20 Q. Let's go one layer down, Dr Wong. If there's no
21 as-built drawings, did you ask for the working drawings
22 for the top of the east diaphragm wall?

23 A. 喺嗰個時間，我去同CM Wong開會嘅時間，我有set到呢啲咁嘅details
24 嘅，嗰啲details係由CM Wong嘅engineers同我下面嘅construction

1 engineers去做嘅，我最主要我要--點解我要睇啲相呢？嗰陣時我就想知道
2 嗰個site嘅即係construction嗰陣時嗰個condition係點樣樣，我就擺啲
3 相嚟睇嘅啫。

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. 冇錯，係。

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. 冇錯。

16 Q. Did this come as a surprise to you, Dr Wong?

17 A. 喺當時係我有啲驚訝嘅，因為佢哋最後話畀我聽係嗰個east diaphragm
18 wall有部分嘅--即係嗰啲diaphragm wall嘅top 450mm係knocked off，
19 而做嗰個report，count嗰啲couplers嘅時間係唔知道，呢個係當時我有
20 啲驚訝。

21 Q. Well, you say they weren't aware of it. Some of them
22 weren't aware of it and some of them had forgotten about
23 it.

24 A. 可唔可以再重複你嘅問題？

25 Q. Yes. When you say, as you did, "they weren't aware of

1 that situation and I was surprised", I think the factual
2 position is some of your construction management team
3 certainly knew about it, but perhaps others, the design
4 team, didn't know about it, and therefore those that did
5 know about it have forgotten about it.

6 A. 我諗個情況就係喺個site上面，佢哋做呢個supervision肯定係知道嗰個
7 diaphragm wall上面嗰450個mm係knock off咗，但係佢哋嘅紀錄上面
8 就唔齊全，所以喺做個report嗰個時間裏面佢哋只係用番一啲available
9 嘅紀錄，嗰啲紀錄就可能係未去做嗰個revision。

10 Q. They relied on the diaphragm wall drawings that had been
11 approved by the Buildings Department --

12 A. 係。

13 Q. -- that's right?

14 A. Agree.

15 Q. Anyway, the upshot of all of this, Dr Wong, was that
16 government needed to be informed of the updated
17 position, the revised position, and that's what
18 happened, and we looked at a letter earlier today with
19 Mr Lee that he had been asked to sign by you dated
20 13 July 2018, and we don't need to go back to that.

21 Then at paragraph 38 of your witness statement you
22 say:

23 "On 29 July 2018, I personally explained the
24 discrepancies between the as-built connection details
25 and the MTR report to Mr Frederick Ma, the non-executive

1 chairman of MTR."

2 What was his reaction what you told him about this,
3 Dr Wong?

4 A. 我記得嗰日就係Mr Fred Ma就打咗畀我，就問我呢件事，然後我就話咗畀
5 佢聽嗰個6月15號個report嗰啲number of couplers係唔accurate，因
6 為頭先講話嗰啲咁嘅diaphragm wall上面就knock off咗by 450mm，有
7 啲couplers就係少咗咁樣，佢喺嗰個當時個message畀我就話十分之驚訝，
8 因為佢expect我哋6月15號個report嗰個--尤其是喺啲數字上面係應該係
9 好準確。

10 Q. Yes. Okay.

11 In paragraphs 47 to 50 of your witness statement,
12 Dr Wong -- and I don't want to dwell on these
13 paragraphs -- you set out the circumstances in which you
14 resigned from the MTR earlier this year; yes?

15 A. 我resign嘅，係，冇錯。

16 Q. As I say, I'm not going to go into the details of this.
17 However, there's just one small point, Dr Wong. Right
18 at the end of your paragraph 50, there seems to be
19 a slight discrepancy, if I have understood it correctly,
20 between what you say and what Mr Lincoln Leong says in
21 his witness statement.

22 I don't know if you've had a chance to look at
23 Mr Leong's statement; have you seen that?

24 A. 有。

25 Q. Let's just show everybody else that paragraph.

1 Paragraph 60, please, in Mr Leong's statement. B1/129.

2 In paragraph 60 -- I'm sure you've looked at this,

3 Dr Wong -- what Mr Leong says is:

4 "Subsequent to that meeting [and he's referred to
5 a meeting that he's had with Mr Chan from government and
6 others], I met with Dr Philco Wong and informed him of
7 the government's view."

8 That was the government's view that certain
9 employment contracts should be terminated.

10 "In the early hours of 7 August 2018, I received
11 Philco Wong's resignation by email."

12 Now, you say in paragraph 50 of your witness
13 statement, that's page 153 in B1:

14 "At no time prior to my resignation have there been
15 any suggestions from MTR that I should step down from my
16 position."

17 How do you reconcile those two statements, Dr Wong?
18 Is Mr Leong wrong or is there some other explanation?

19 A. 喺呢個8月6號Mr Leong同我嘅conversation, 我係有聽到佢係叫我
20 resign, 佢同我講就係佢嘅會議同呢個government, 同埋Mr Fred Ma,
21 就係講咗government對我哋MTR project team嘅management嘅睇法,
22 我嘅resignation有考慮到其他人點樣睇我個project management
23 team或者我自己, 我只係consider我自己嘅reason去resign。

24 MR PENNICOTT: Okay. Thank you very much, Dr Wong.

25 Sir, I have no further questions for Dr Wong, so

1 perhaps that would be an opportune moment -- yes, it
2 is -- to break for lunch.

3 CHAIRMAN: Yes, certainly. Good.

4 Dr Wong, we are adjourning for lunch now. We will
5 come back at 2.15. Because you are in the middle of
6 giving your evidence, you are not entitled to discuss
7 your evidence with anybody, until it is completed. So
8 you can obviously talk to people, you don't have to go
9 into isolation over the lunch hour, but you must not
10 discuss your evidence with anybody. All right?

11 WITNESS: I understand. Thank you, Chairman.

12 CHAIRMAN: Thank you.

13 (1.04 pm)

14 (The luncheon adjournment)

15 (2.17 pm)

16 MR SO: Good afternoon, sir. Good afternoon, Professor.

17 There are some questions from China Technology.

18 CHAIRMAN: Yes, of course.

19 Cross-examination by MR SO

20 MR SO: Good afternoon, Dr Wong. I am Simon So.

21 I represent China Technology. There are a few topics
22 I would like to discuss with you.

23 Dr Wong, can I refer you to page B3083. Dr Wong,
24 this is the covering letter that you sent to the
25 government's Highways Department when you submitted the
26 15 June 2018 report; is that correct?

1 A. 冇錯，係。

2 Q. Dr Wong, no doubt, when you were conducting this review
3 and compiling this report, you aimed to compile this
4 report in a fair manner; right?

5 A. 我係需要答畀呢個government聽個objective呢個report就係最主要
6 就係由於呢個media嘅報道，government問我哋就係呢啲defects有冇
7 rectify到同埋我哋有冇喺呢個supervision上面做好咗喺工地上面嘅監
8 管嘅工作，我呢個report就係需要話畀government聽我哋做咗啲咩嘢，
9 對於呢個works上面係咪carry out，就係in accordance with個
10 specification。

11 Q. Dr Wong, perhaps you can listen to my question. My
12 question was: when you were conducting the review and
13 compiling the report, you obviously aimed at doing it in
14 a fair manner; correct?

15 A. 我亦都答咗你嘅問題，我做呢個report嘅objective，頭先講嗰兩個，我
16 做呢個report一定係根據我工地上面嘅紀錄，一定係factual同埋係全部都
17 係依據呢個事實，向呢個government報道。

18 Q. Sorry to be labouring this point, but the third time --
19 CHAIRMAN: Well, I think he's actually saying it's
20 a factual-based report and therefore, by implication, is
21 fair.

22 MR SO: All right, then, sir.

23 You would also try to make this report, given the
24 public concern of the matter, to be as transparent as
25 possible; correct?

1 A. 我呢個report係要向government交代，而喺呢個government畀到我嘅
2 要求就係由於呢個傳媒嘅報道，就向呢件事實，我要去就係向government
3 將呢個事實講出嚟。

4 Q. Dr Wong, can I refer you to the section where you
5 referred to the statement of China Technology in this
6 letter, which is near the end of page 3083. There you
7 wrote this:

8 "As noted in the report, during the interview of one
9 of Leighton's sub-contractors, namely China Technology
10 Corporation Ltd, oral statements were made that
11 contradict assurances given to us by Leighton and raise
12 potentially serious allegations against Leighton and
13 members of its staff.

14 A summary of the evidence provided by China
15 Technology (which was observed by two representatives of
16 Leighton) is attached in schedule 1 to this letter. We
17 caution that this is not a transcript of interview but
18 a summary prepared by individuals present at the
19 interview. The summary has not been provided to China
20 Technology or Leighton for comment or agreement."

21 Now, this morning, Dr Wong, when you were answering
22 to my learned friend Mr Pennicott's questions, you told
23 him that you did take a look at the report but did not
24 take a detailed look into the attachments of the report;
25 correct?

1 A. 我係咁講過嘅，我係就係睇嗰個report嘅content，而嗰個attachment
2 of嗰個report，我有睇。但係我想補充一句，喺呢個report上面，頭先我
3 講嘅，如果係喺construction或者係project上面，關於呢個works嘅嘢
4 係我嘅construction team，就係Mr Aidan Rooney lead住我一個
5 team去做呢個report，separately呢個investigation on呢個關於呢
6 個allegation，係由我哋公司嘅legal team去lead呢個investigation。
7 佢哋呢個investigation嘅內容，我喺個executive team上面係知道，
8 但係我有參與。

9 Q. But certainly, Dr Wong, being the projects director,
10 both the legal team and Mr Aidan Rooney would be under
11 your supervision when preparing this report; correct?

12 A. 我重複，Mr Aidan Rooney係我嘅subordinate，佢係lead呢個report
13 去做一個works嘅嗰個factual finding，喺呢個investigation of呢
14 個allegation係由我嘅同事嘅legal department去lead呢個
15 investigation。

16 Q. Does the legal team report to you, Dr Wong?

17 A. 個legal team係report畀我一個fellow director，就唔係report畀我。

18 Q. Now, we all know from facts and from the report,
19 of course, that evidence of China Technology's
20 representative, which is Mr Jason Poon's evidence in the
21 interview, was at the end not placed inside the report;
22 correct?

23 A. 呢個係事實。

24 Q. And the explanation that you have given for why this

1 part of the evidence was not put in the report is
2 because, as you said, they contradict assurances given
3 to us, being MTR, by Leighton, and raise potentially
4 serious allegations against Leighton and members of its
5 staff; right?

6 A. 可唔可以重複你個問題？

7 Q. Of course. You explain in this letter the reason why
8 Mr Poon's evidence was not put into the report was
9 because the allegations made by Mr Poon contradict with
10 the assurances given to MTR by Leighton; correct?

11 A. By邊個？聽唔到。

12 Q. Assurances given to MTR by Leighton.

13 A. 喺封信度已經係講得好清楚頭先你講個原因，但係我可以代表或者係我唔
14 可以代表我嘅legal team 講出呢個實際嘅原因，但係當時我知道或者理解，
15 唔擺落去嘅原因，因為呢個report係go public嘅，而喺呢個情況之下，
16 由於呢個China Technology嘅statement，佢哋係直接就係同呢個佢哋
17 嘅main contractor Leighton係有直接嘅關係，亦都係Leighton嘅
18 statement同佢哋係有contradiction嘅，所以我哋就決定唔擺落去個
19 report度，但係我亦都有將個佢哋嘅互相嘅statement啲main points
20 就attachment咗就係畀咗government，呢個就係當時嘅情況，以我嘅理解。

21 Q. Thank you, Dr Wong. The situation is this, and my
22 difficulty is this. When Leighton's evidence
23 contradicts with China Technology's evidence, or being
24 the other way around, when China Technology's evidence
25 contradicts with those of Leighton's evidence, why and

1 on what basis did you choose to put Leighton's evidence
2 into the report but not China Technology's evidence into
3 the report?

4 A. 我重複，呢個咁嘅決定亦都唔係由我去lead嘅，但係我知道就係當時嘅決定
5 亦都係base on由於呢個China Technology嘅allegation就已經香港政
6 府set up咗一個COI，commission of inquiry去做，所以佢哋認為有一
7 啲咁嘅contradictory嘅情況，佢哋就只係將呢啲資料畀咗政府，但係就唔
8 擠落去喺個public report嗰度。

9 Q. Can you please help me a bit, Dr Wong. I don't
10 understand. What is the correlation that the government
11 has set up a COI and therefore leads to the conclusion
12 that China Technology's evidence should not be placed
13 inside the report? I don't understand.

14 A. 喺封信嗰度都有少少提到，就係因為China Technology嗰個allegation
15 同埋Leighton comment on China Technology嘅allegation係
16 contradictory，如果呢樣嘢係未可以完全證實，我哋如果擺咗出嚟喺個
17 public report度，就有可能係對呢個COI有一個影響。但係我以上所講
18 嘅嘢只係我當時喺個meeting上面嘅理解，真正或者係完全嘅決定仍然都係
19 個我哋公司MTR at that time嘅決定。

20 Q. Can I bring you to the next page, B3085. This letter is
21 signed by you; correct, Dr Wong?

22 A. 係，冇錯。

23 Q. If it is your true reason for not putting -- if what you
24 have just told us is the true reason why you did not put

1 China Technology's evidence into the report, then why
2 not either (a) put both China Technology's and
3 Leighton's versions into the report, or (b) neither put
4 Leighton's nor China Technology's evidence into the
5 report?

6 A. 係兩回事嚟嘅，呢度，第一，Leighton嘅evidence，Leighton同--喺
7 呢個事件上面佢係一個registered building contractor或者係
8 registered general contractor，佢擺出嚟嘅嗰個所有嘅fact都係
9 base on佢as一個registered general contractor嘅事實，佢要履
10 行喺個合約上面所有嘅責任，所以佢擺出嚟嘅嘢，佢係要由呢個registered
11 building contractor負責嘅事實、理據，所以佢係有自己嘅嗰個
12 responsible嘅factual嘅report。

13 喺呢個China Technology嘅allegation，呢個allegation嘅
14 fact係冇任何--即係喺嗰個時間嘅根據，所以我哋喺嗰陣時睇出嚟，就係
15 我哋只係可以擺禮頓佢自己講出嚟佢自己嘅proven嘅fact喺呢件事上面，
16 係佢擺出嚟嘅，我哋就擺出嚟。但係China Technology講出嚟係根據
17 同禮頓自己當事人係有咁大嘅contradictory嘅fact嘅話，或者係
18 report contradictory嘅issue嘅話，我哋係當時嘅決定係唔放出嚟畀
19 一個report畀所有嘅public去知道。

20 Q. Dr Wong, I suggest to you, if what you said were true,
21 the best way to deal with it is simply to state, in
22 neutral terms, what evidence China Technology gave and
23 give a caveat to it and say nonetheless, there were no
24 documentary evidence as of the time. Would this be

1 a better option to do so, Dr Wong?

2 A. 當時我哋冇考慮到你而家今日呢個時間講畀我哋嘅建議。

3 Q. Can I just refer you back to the letter: B3084. And can
4 I draw your attention to the second paragraph,
5 immediately where we have just paused, about the
6 discussion. There the letter says:

7 "The summary has not been provided to China
8 Technology or Leighton for comment or agreement."

9 My question comes: why did you not let China
10 Technology give further documents or further evidence to
11 substantiate his allegations after the interview?

12 A. 你可唔可以refer畀我睇喺邊個sentence呢句說話?

13 Q. Of course, Dr Wong. It's the last sentence of the
14 second paragraph:

15 "The summary has not been provided to China
16 Technology or Leighton for comment or agreement."

17 A. 我重複我頭先所講嘅嗰個情況，由於China Technology畀出嘅嗰個口供同
18 埋禮頓comment China Technology嘅口供係有好大嘅分歧，我哋亦都係
19 知道咗呢個commissioning of呢個inquiry係應該係會開始，所以我哋冇
20 去pursue係嗰個口供上面係咩嘢情況，所以我哋就有畀--冇繼續去畀China
21 Technology或者係Leighton去comment或者agreement，嗰啲唔準備係
22 擺落去個public report嗰度。

23 Q. Dr Wong, at the time when you were signing this letter,
24 were you aware of a document called the NCR157?

25 A. NCR157，我哋喺做嗰個report嘅時間係有呢個大家討論過，我係知嘅。

1 Q. Now, can I bring you to the fourth bullet point in this
2 letter. The fourth bullet point writes:

3 "China Technology produced no documentary evidence
4 in support of the allegations and stated that they had
5 either:

6 -- not created contemporaneous records; or

7 -- destroyed contemporaneous evidence in the way of
8 photographs or videos".

9 Now, Dr Wong, given that you were aware of NCR157,
10 given that you know and you are aware of the allegations
11 by China Technology, which corresponds with NCR157, were
12 did you not ask for documentary evidence, or any
13 evidence, so that China Technology can substantiate its
14 allegation?

15 A. 大家明白嗰個report嗰個request就係喺5月底，我哋需要喺6月15號就要
16 submit呢個report，以我嘅記憶，當時嗰個evidence given by唔同嘅
17 人，包括China Technology，已經係去到差唔多係最尾嗰個星期嘅最尾嗰
18 幾日，呢個report，我哋只係可以喺有限時間裏面同埋有限嘅嗰個空間裏面
19 可以做到嘅嘢，所以呢個情況，我睇落去就係話唔能夠喺個report裏面包含
20 晒所有、所有任何嘅可以搜集到嘅資料。

21 Q. Dr Wong, if you take a look at B3086 to B3089, this is
22 a summary prepared by MTRC and also an appendix to the
23 letter which was given to the government when you were
24 handing in the report; correct?

25 A. 係，我頭先都講咗，係，就係呢啲我哋hand over--hand咗畀government。

1 Q. These are the summary of the evidence given by Mr Jason
2 Poon in the interview; correct?

3 A. 係啱嘅。

4 Q. So what time would be wasted; just put all this
5 information into the report and that's it, in a neutral
6 fashion, and then you would be stating the facts in the
7 public eye, is it not?

8 A. 我諗你講嘅“neutral”嗰個係subjective嘅，係睇下你喺邊方面去睇佢
9 係neutral或者唔係neutral，但係當時我哋MTR嘅legal team係decide
10 就係唔擺落去public report。

11 Q. Dr Wong, let's move to another topic then.

12 You are aware that there were allegations made by
13 Fang Sheung against Leighton; correct?

14 A. 唔該你再重複你嘅問題，我聽唔到係邊個人名。

15 Q. Of course. You were aware that there were allegations
16 made by representatives of Fang Sheung against Leighton,
17 were you not?

18 MR SHIEH: Can I just clarify about what, and it would be
19 best for the witness to be shown where the allegations
20 are made.

21 MR PENNICOTT: Indeed.

22 MR SO: Of course.

23 MR SHIEH: Because there's always a risk that transcript or
24 evidence could well have been taken out of context or
25 simply misquoted.

1 CHAIRMAN: Yes.

2 MR PENNICOTT: The time might be helpful as well.

3 MR SHIEH: Whether it is in a letter, whether it's in
4 an interview, whether it's in a transcript or whatever.

5 MR PENNICOTT: And when.

6 MR SO: Dr Wong, are you aware that Mr Joe Cheung and Mr Pun
7 Wai Shun were interviewed in the course of preparing of
8 this report?

9 A. 我唔記得清楚邊個係被interview from泛迅，我記唔到。

10 Q. Fair enough. Can I bring you to B1/B36. This is the
11 report itself, and I am assured by you, in the course of
12 the evidence, that you did read the content of the
13 report; correct?

14 A. 呢個係擺咗attachment度嘅，唔喺個content度。

15 Q. So you have not read this page of the report?

16 A. 我有詳細去睇呢啲attachment嘅資料。

17 Q. Pardon my foolishness, Dr Wong. Then perhaps can you
18 point me to what are the content of the report? I do
19 apologise. I think this is part of the content of the
20 report, is it not?

21 A. 我頭先都講咗，喺個report上面我係負責所有嘅works，喺個works上面，
22 由個個--點樣做，然後跟住我哋有啲咩supervision做咗，亦都係有咩
23 defects find out from我嘅construction team，但係如果係喺一個
24 interview for呢個investigation of呢件咁嘅事，我係冇去lead，亦
25 都有去參與嘅。喺個interview上面，我都係冇去參加任何嘅個interview

1 嘅啲 meetings 嘅。佢嘅內容，任何嘅啲出嚟嘅 statement，我都有去
2 comment。

3 Q. Can I bring you to page B30. This is immediately above
4 that page. This is chapter 6 of that report which
5 states "Chronology", followed by subsection 6.1, if you
6 scroll down, then 6.1 on B32, and then eventually to
7 B36, where there was a subheading named "Interview of
8 sub-contractor (Fang Sheung)".

9 I have to put to you, Dr Wong, this section is part
10 of the main body, content, of the MTR report; do you
11 accept that?

12 A. 呢個啱嘅，因為頭先我係 confuse 咗你攞咗其他啲證人嘅當時我哋做嘅
13 investigation 嗰陣時嘅啲咁嘅 interview 嗰啲咁嘅 statement，所
14 以我係 overlook 咗嘅，呢個係喺個 report 裏面嘅，呢個，冇錯。

15 Q. Thank you very much. Can we take a look at that
16 paragraph then:

17 "Interviews were held on 13 June with two
18 representatives from Fang Sheung. They confirmed their
19 steel fixing works were carried out in accordance with
20 Leighton's and MTRCL's procedures. During their course
21 of work, they might encounter difficulties in fixing the
22 threaded steel bars into the couplers. In such
23 circumstances, they would raise the difficulties with
24 Leighton and request Leighton to resolve the issue."

25 And the emphasis is here:

1 "On some occasions and as requested by Leighton,
2 they would carry out cutting of threaded steel bars to
3 meet the required threaded length. On other occasions
4 and as requested by Leighton, the threaded steel bars
5 could be cut and screwed into the couplers with the
6 understanding that rectification measures would be
7 carried out by Leighton."

8 When you saw that paragraph, did you seek to clarify
9 with either your legal department or Mr Aidan Rooney,
10 did Leighton agree with that allegation or did Leighton
11 not agree with that allegation?

12 A. 頭先我都講，就係呢樣嘢我都記得到嘅，我哋喺呢個我哋嘅個個crisis
13 management meeting嗰度都有講到呢個咁嘅泛迅講出嚟嘅事，但係我記得
14 嗰陣時已經係--應該係13號或者14號已經係，已經係差唔多係已經係最尾個
15 一、兩日要交個report，我哋嗰陣時嘅情況就係大家討論完之後，就講我哋
16 交咗whatever我哋有喺手上面嘅嘢，我哋仲要去做好多嘢，交完個report
17 之後，所以喺嗰個moment，我哋只係交咗手頭上面available所有嘅證供
18 或者係find out到嘅嗰啲咁嘅statement from唔同嘅人裏面，或者
19 subcontractor或者contractor嗰度咁去做。

20 Q. Can I bring you back to the letter, B3086, your summary
21 of evidence of China Technology. I want you to focus on
22 the "Interview" part. Question:

23 "Are you aware of any bar being cut?"

24 Answer: Yes.

25 Question: How did you know?

1 Answer: -- Regular lunch meetings with CT
2 workers -- led by witness. CT have lunch discussions on
3 progress and quality related to projects."

4 The third bullet point:

5 "-- Workers shared that someone was cutting rebars.

6 -- He took some photos showing someone is cutting
7 rebars."

8 And if you take a look at the third question:

9 "More information on the cutting of the bar?

10 Answer: Informed by general foremen, gangers.

11 Didn't want to name staff."

12 If you take a look at the fourth question:

13 "Did they see who cut the bar?

14 Answer: Witness personally saw cutting.

15 -- In July 2015 heard somebody cutting the bars."

16 Pausing there, Dr Wong, you would agree, would you
17 not, that these sections of the questions and answers of
18 the evidence of China Technology is actually exactly the
19 same as the summary that you have been shown on
20 page B36, produced by the witnesses of Fang Sheung, is
21 it not?

22 A. 我諗啲evidence係show到出嚟係有人cut鐵嘅，呢個唔係淨係evidence，
23 係我哋嘅inspectors都睇到係地盤上面有呢個事件發生嘅，呢個係無可置疑
24 嘅，係完全係脛合嘅。

25 Q. Then the simple question: why did you not put in the
26 report that "China Technology's witness sees somebody

1 cutting the rebars"; why did you not put it?

2 A. 我哋喺我哋嘅public report上面都講咗我哋嘅inspector係睇到有呢個
3 cut鐵嘅情況，係一個事實，我亦都發現咗個情況，亦都係做咗啲咩嘢。而
4 你問我個問題，我已經係答咗，嗰陣時我哋嘅legal team係咩嘢理由係唔
5 將China Technology嘅statement就put喺個public report嗰度。

6 Q. Dr Wong, with all due respect, don't use your legal team
7 as a shield. The point you said just now was that it
8 tallied. You gave the evidence and gave a summary of
9 the evidence of Fang Sheung in the report. The same
10 thing happened and the same thing was said by witnesses
11 of China Technology. Why was that not put down?

12 A. 我再重複，不論係我個legal team或者係我頭先所講嘅嘢，我哋嘅嗰個喺
13 嗰個大家嘅meeting上面都係conclude，就係因為China Technology嘅
14 allegation係同呢個禮頓嘅comment係好大嘅contradictory嘅情況，
15 所以喺未有任何嘅嗰個further嘅evidence嘅話，我哋係decide係唔put
16 呢個China Technology嘅statement into the public report。

17 Q. Dr Wong, insofar as you understand, when you were
18 signing this letter, do you know whether witnesses of
19 Leighton or whether Leighton's stance is that what was
20 reported on page B36 is correct or not correct?

21 A. 喺嗰個report嘅preparation嘅階段，我係記唔到任何嘅嗰個discussion
22 喺呢個禮頓喺呢個嗰個泛迅嘅嗰個頭先講嗰段嘢嗰度有咩嘢回應。

23 Q. Actually, you are entirely correct, Dr Wong. Can
24 I bring you to page B3090. This is a letter that you

1 have also appended to your letter to the government,
2 which is a response from Leighton. Can I bring you to
3 paragraph 2. The letter from Leighton says:

4 "We do not believe there are any matters to address
5 from the meeting with Fang Sheung."

6 If you take a look back at the first paragraph:

7 "We are in receipt of your letter requesting
8 a written response to the allegations raised this
9 morning in the China Tech meeting and in this
10 afternoon's Fang Sheung meeting."

11 So does this accord with your understanding that
12 Leighton do not have any matters to address with the
13 allegations of Fang Sheung?

14 A. 我諗呢封信都speak itself, 即係唔需要我有任何comment。

15 Q. Were you told that various witnesses of Leighton would
16 eventually come to give evidence before this Commission
17 of Inquiry?

18 A. 唔該你重複你嘅問題。

19 Q. Of course. Were you told that various witnesses of
20 Leighton had eventually come to this Commission of
21 Inquiry to give evidence?

22 A. 我知道佢哋有嚟過呢個Inquiry to give evidence。

23 Q. Do you know that all witnesses from Leighton deny they
24 gave any instructions to Fang Sheung to cut the threaded
25 ends of a rebar?

1 A. 我有留意到，你啱啱話畀我聽。

2 Q. Can I bring you to the last paragraph of the letter --
3 sorry, the first paragraph of page B3085. Then you
4 reported the matter in the closing of this letter to the
5 government and you said:

6 "After careful consideration the corporation
7 considers it prudent and appropriate to provide you with
8 such details in this separate document but would caution
9 government against disseminating the information
10 generally."

11 Can you please kindly explain, why did you ask the
12 government to be caution in disseminating the attachment
13 which contains the evidence of China Technology?

14 A. 我都再repeat頭先我個answer，就係同一個道理，我哋唔將呢個China
15 Technology嘅嗰個statement擺出去public report，亦都係想呢個
16 government be cautioned，同一個原因，就係China Technology
17 嘅嗰個statement係因為好大概contradictory to呢個Leighton嘅
18 comment，所以我哋只係將呢個咁嘅point就話畀government聽啫。

19 Q. So please tell me, Dr Wong, did I summarise your
20 position fairly or correctly? The summary of the
21 evidence of China Technology was given to Leighton so
22 that he can comment, was given to the government but he
23 was cautioned not to disseminate those information, but
24 then you never give one to China Technology; correct?

25 A. 我唔能夠答呢個問題，因為我唔知道我哋嘅legal team有冇separately

1 畀咗呢個China Technology。

2 Q. Can I bring you to -- I do apologise; one moment,
3 please. Can I bring you to page B3082. This is the
4 list of the witnesses that were interviewed by the
5 committee when preparing the report; correct?

6 A. Interview schedule” , yes, 個title就係咁寫, 應該係。

7 Q. You were also aware, weren't you, that all the
8 interviews, for matter of fairness, for matter of
9 transparency, were actually audio-recorded?

10 A. 我知道。

11 Q. Can I trouble the Secretariat to go to the folder in
12 B3082, the folder which contains the audio recordings.
13 If we may zoom into this page.

14 Dr Wong, were you aware that each and every
15 interview was recorded, save and except Mr Poon's
16 evidence was not recorded?

17 A. 我最近知道嘅。

18 Q. Why was that?

19 A. 我唔能夠答呢個問題, 但係我聽到返嚟, 我都係最近先聽到返嚟, 因為我已
20 經離咗職, 就係因為Mr Poon佢唔allow錄音, 我聽到返嚟啫, 我唔能夠證
21 明。

22 Q. I put it to you, Dr Wong, this is simply not true. Is
23 it not -- do you agree or disagree; this is not true?

24 A. 我唔能夠證明, 我亦都唔知道, 我係最近先知道嘅啫。

25 Q. Can I bring you back to the letter: B3085.

1 In concluding that letter, this is what you wrote to
2 the government:

3 "The corporation expresses no opinion nor reaches
4 any conclusions concerning the credibility or
5 reliability of those making the allegations and denials
6 and the corporation bears no liability for further
7 publication by government."

8 Dr Wong, I have to suggest to you, from beginning to
9 the end, in the course of the interview, you were not
10 doing fairness and you were not doing it transparently
11 and independently, in conducting the interview against
12 China Technology.

13 A. 我完全唔同意。

14 Q. The fact that you deliberately take away -- or MTRC
15 deliberately take away the evidence of China Technology
16 from the MTR is to prejudice the image of China
17 Technology in the eyes of the government; correct?

18 A. 我畀過好多次理由，我完全唔同意。

19 Q. Lastly, I need to suggest to you the sentence that you
20 said "The [MTRC] expresses no opinion nor reaches any
21 conclusions" is only paying lip-service; would you
22 agree?

23 A. 完全唔同意。

24 MR SO: Thank you. No further questions.

25 Cross-examination by MR KHAW

26 MR KHAW: Good afternoon, Dr Wong.

1 A. Good afternoon.

2 Q. I'm acting for the government and I have a few matters
3 that I would like to discuss with you.

4 If I may first of all ask you to have a look at
5 paragraph 14 of your first witness statement, where you
6 describe your role and also division of responsibilities
7 in relation to this project. Do you see that?

8 A. 係，係第一邊個paragraph?

9 Q. Sorry, page B137, the last paragraph, paragraph 14.

10 A. Okay.

11 Q. Maybe we can have a look together. It's quite a long
12 paragraph:

13 "Specifically in relation to the SCL project ...
14 before I left my role as the projects director, I had
15 an overall supervisory role ... while the day-to-day
16 leadership and management of this project was headed by
17 those who had direct or indirect reporting lines to me.
18 Mr TM Lee ..., whose specific leadership project
19 responsibilities were those set out in section 3.21.1 of
20 PIMS ..., would directly report to me at the regular
21 projects division communication meetings, projects
22 division leadership meetings ... Mr TM Lee would also
23 call for ad hoc meetings on a 'needs basis' if he needed
24 my advice. Mr Jason Wong ... and Mr Rooney ..., whose
25 specific 'project manager' responsibilities by reference
26 to PIMS ... were those set out in [the document], would

1 in turn directly report to TM Lee at regular
2 intervals ... I would not typically engage with Mr Jason
3 Wong and Mr Aidan Rooney directly and would typically
4 address issues concerning the SCL project to Mr TM Lee
5 (being the general manager of the entire SCL project and
6 thus the most senior of the three)."

7 Now, pausing here, if I can take you to have a look
8 at Mr Lee's witness statement, which also has
9 a description in relation to division of
10 responsibilities. That appears at B1/155. At 155,
11 subparagraph (e), he said:

12 "... as I specialise in E&M engineering, I oversaw
13 and supervised the project managers ..."

14 Then at (f) he said:

15 "On the other hand, Philco Wong continued to oversee
16 and supervise the technical aspects of the civil
17 engineering works. Mr Aidan Rooney (who specialises in
18 civil engineering) was promoted to acting general
19 manager/general manager ... to look after the civil
20 technical aspects of the works in conjunction with
21 Philco Wong. Under this arrangement, if there was
22 a technical issue regarding civil engineering and
23 construction, Aidan Rooney would directly report to
24 Philco Wong (even though he was my subordinate), and he
25 would deal with his team and/or in conjunction with
26 Philco Wong."

1 Now, correct me if I am wrong, I just want to
2 understand a bit more about the division of
3 responsibility here. What Mr TM Lee said here was that
4 he expected you, Dr Wong, to oversee and supervise the
5 technical aspects of civil engineering works, if there
6 was a technical issue regarding civil engineering and
7 also -- if there's a technical issue regarding civil
8 engineering and also construction.

9 But in your statement you seemed to suggest
10 otherwise. Do you find there's some inconsistency
11 between the two descriptions of division of
12 responsibilities as set out in both of your witness
13 statements? Can you explain a bit to us?

14 A. 其實就有difference嘅，但係我可以解釋得清楚一啲，喺嗰個SCL嗰個
15 general manager-project, Mr TM Lee仍然係fully hold嗰個role，
16 但係喺我哋兩個人嘅statement上面都係咁講，第一，就係話Mr TM Lee
17 係hold呢個general manager-project嘅full role，所以Mr Aidan
18 Rooney同埋Mr Jason Wong都係report畀佢。但係有啲情況，如果係佢
19 需要我去畀一啲input嘅，Mr Aidan Rooney同埋Mr Jason Wong就會
20 先inform TM，然後可能會直接嚟搵我，問我。

21 嗰啲咁嘅所謂civil，尤其是我係一個civil嘅engineering嘅
22 background嘅engineer，個issue，technical issue係咩嘢issue，
23 唔係代表係一般嘅construction issue。我畀個example出嚟，譬如我
24 哋沙中線喺呢個港島區，由呢個銅鑼灣，要做一條隧道去到金鐘嘅，嗰條隧

1 道係用呢個tunnel boring approach，而嗰條隧道會excavate
2 underneath而家existing嘅荃灣線，佢哋嘅距離只係得1 metre，喺做
3 緊呢個咁嘅情況之下，喺個live environment，可能荃灣線係會subject
4 to好大嘅risk嘅，喺呢啲咁嘅technical issue上面，我會去畀我嘅input
5 as一個project director，就幫SCL，即係in a way，就係Mr Aidan
6 Rooney就會問我。但係到我將呢個issue，將呢個risk嘅mitigation
7 measures final咗之後，finalise咗之後，就會係交番落去SCL嘅
8 construction team，即係led by Mr TM Lee，去carry out嗰個
9 monitoring of呢個TBM works。

10 Q. So what you are saying is that Mr TM Lee was right in
11 saying that he would expect you to oversee and supervise
12 various aspects of engineering works, but not general
13 aspects of engineering work on the site; is that
14 correct?

15 A. 講得好啱，如果我用一啲我哋一般我哋嘅works嘅term，即係我唔會
16 doubling down as a GM。

17 Q. Earlier on, before the lunch break, you probably recall,
18 in answer to Mr Pennicott's question, you told us that
19 you were not aware of both the MTR internal review
20 report and Leighton's internal review report at the time
21 when they were published; is that correct?

22 A. 係對嘅，喺嗰個時間佢哋冇畀到有個report嘅即係資料--任何資料畀我。

23 Q. Let's focus on MTR's internal review for the time being.
24 Am I correct in saying that this kind of internal review

1 as conducted by MTR is not something that would be done
2 by MTR regularly? It's quite a special review; would
3 you agree?

4 A. 呢個唔能夠100%同意，因為呢個quality audit team就under我哋嘅
5 project management office嘅，佢除咗做佢嘅regular嘅auditing
6 work on一個PIMS嘅requirement basis，佢係做一啲好多ad hoc，即
7 係task-oriented或者係需要做嘅works嘅。

8 Q. Right. Since you joined MTR, how many of such similar
9 reviews have been conducted, according to your
10 understanding?

11 A. Exactly我唔能夠記得好清楚，但係我知道譬如我哋有一啲works嘅issue
12 喺其他啲project，我哋都會request佢哋去做一個啲咁嘅works
13 quality嘅啲audit嘅。

14 Q. And according to your understanding, are there any
15 guidelines within the MTR regarding how and in what
16 circumstances such internal reviews would be conducted?

17 A. 如果你講嗰個，你個internal review係我哋一個特別嘅term嚟嘅，如果
18 我哋另外一個特別嘅term，就係internal review就係一個regular
19 review，就去review我哋嘅PIMS嘅個個implementation。如果你講番，
20 我講你套用番呢個咁嘅情況，我哋有一啲audit，不論係quality audit、
21 safety audit，類似咁樣，如果係有一啲事情發生，呢個事情發生唔係一
22 個--即係可以講係一個可以影響得到我個project上面嘅不論quality、
23 safety或者我嘅cost嘅話，我哋都會有可能要commission一個
24 independent，呢啲咁audit係through我嘅project management

1 office係on top of個project team去做。

2 Q. We know from the facts that both the MTR internal review
3 and Leighton's internal review were conducted as
4 a result of Mr Jason Poon's complaint or his allegation;
5 do you agree?

6 A. 我即係今日咁講，兩個review都係at that time同時做嘅。

7 Q. As projects director, would you agree that such reviews
8 or such reports which were compiled at that time ought
9 to have been brought to your attention at the time when
10 they were prepared or published?

11 A. 根據audit嘅情況，不論係好似呢啲ad hoc嘅review demanded by
12 whatever, project team或者係其他嘅senior manager或者係
13 regular review, 嗰個情況就係咁樣嘅，如果佢哋發覺個review係冇特
14 別嘅情況要ring up我attention, 點樣算做有特別嘅情況呢？可能呢個
15 review出嚟就係話呢個NCR需要好長時間先至可以close得到，或者係呢個
16 NCR係會involve好多錢同埋時間嘅impact, 或者係呢個NCR係會有一個--
17 對於一個好大嘅risk嘅，佢唔係淨係circulate個report畀我，通常佢會
18 係一個face to face嘅meeting, 呢啲係有發生嘅，但係唔係喺今次呢個
19 咁嘅review上面。

20 Q. Now, in relation to this particular review conducted by
21 MTR, we have heard evidence from certain witnesses, and
22 I believe at least one of the witnesses -- I believe
23 it's Mr Derek Ma -- who told us that in fact, at the
24 time when this internal review was conducted, MTR

1 already realised and discovered the lack of
2 contemporaneous construction site records regarding the
3 coupling installations for platform slabs.

4 If that was the case, would you consider that you
5 ought to have been told of this problem, ie the problem
6 regarding the lack of contemporaneous documents, at that
7 time; would you at least have expected that someone
8 would tell you about this problem?

9 A. 喺呢個情況之下，我覺得係未必一定需要，如果佢哋能夠可以control個個
10 situation, means what呢? means就話佢哋嘅record當時係唔齊整，
11 有一啲當時嘅record，但係有冇其他嘅substantiate嘅record可以即係
12 support得到個個inspection或者個個works個quality係仍然係
13 satisfy with個個specify個個condition，佢哋就唔會需要係bring
14 up to me，但係如果佢哋覺得唔得嘅，可能要做好多一啲additional
15 investigation或者係其他嘅所有嘅，或者係一啲subsequent啲啲
16 remedial work咁樣，definitely佢哋係需要bring up to me。

17 Q. Dr Wong, when did you first come to realise that there
18 were in fact no contemporaneous records in relation to
19 the coupling installation for the platform slabs? When
20 did you first realise?

21 A. 喺我離職之後先知。

22 Q. Right. Was it before -- so that was after MTR prepared
23 the 15 June report; is that right?

24 A. 係，冇錯，係。

25 Q. You talked about the NCR during your discussion with

1 Mr So, in relation to his questions to you. At the time
2 when MTR conducted the internal review, were you aware
3 of NCR157?

4 A. 唔知道，嗰陣時係唔知道有個NCR157。

5 Q. When did you first come to realise the existence of this
6 particular NCR?

7 A. 喺我哋6月嗰陣時，今年6月嗰陣時做個report嗰陣時我知道。

8 Q. Right. In answer to Mr So's question, you said:

9 "I think the evidence showed that someone did cut
10 the rebars. It was not just evidence. Our inspectors
11 themselves saw that happened on site."

12 So is it your evidence, or is it not, Dr Wong, that
13 your inspectors actually witnessed somebody cutting the
14 threaded rebars on site, or it's simply the case that
15 they discovered that rebars had been cut on site?

16 A. 喺我個認知，我淨係知道佢哋係見到有cut咗嘅bar，唔係見到有人cut緊條
17 bar。

18 Q. Right. If I can take you to have a look at paragraph 34
19 of your witness statement.

20 If I may just take you to have a look at a letter
21 which is at G3/1823. It's a letter to the government
22 dated 13 July this year, and it was signed by TM Lee.

23 Did you have a chance to have a look at this letter
24 before it was signed off?

25 A. 喺當時我係冇點樣詳細去睇呢封信，因為如果我哋睇番government畀我哋

1 嗰封信，最主要即係further to我哋6月15號嘅report，佢要我哋
2 confirm嗰個而家嘅EWL slab嗰個structure喺我哋嘅supervision下
3 面係咪一個safe嘅condition繼續去carry out而家嘅--即係嗰個--at
4 that time，at that time嗰個咁嘅construction work。

5 呢封信最主要就係要respond to government就係我哋check過嗰
6 個condition of呢個EWL slab嘅structure係咪safe，係可以去繼續
7 去carry on嗰啲continue嘅construction work。

8 我就係委派咗我嘅construction team就做呢個咁嘅checking同埋
9 呢個final response，所以佢哋返嚟畀到我嘅message，就係嗰個不論
10 design同埋呢個construction兩方面都話係嗰個condition係safe嘅，
11 for carry on the construction work，所以嗰封信嚟到我嗰度，我
12 就係有詳細去同佢哋開會去講，只係叫個site，即係led by Mr TM Lee
13 去即係finalise咗佢同埋呢個sign off咗。

14 Q. You earlier told us that you were aware of the lack of
15 contemporaneous construction site records regarding the
16 coupling installations for platform slabs, after you
17 left MTR; right?

18 A. 係，即係喺8月7號之後，今年嘅8月7號之後。

19 Q. Do you know whether any steps were taken by MTR to make
20 enquiry as to how this could have happened?

21 A. 你係咪問緊個問題，我知道咗之後有冇問MTR？

22 Q. Yes. Correct.

23 A. 因為我已經離咗職，我有再問。

24 Q. Right. In response to Mr Pennicott's question regarding

1 the retrospective records, at the time -- I believe you
2 told us, at the time when the 15 June report was
3 prepared, you were not aware of the fact that records
4 were made or created retrospectively. Do you remember
5 that?

6 A. 我今朝答咗喇，係。

7 Q. Did you have a chance to look at the records attached to
8 the MTR report at that time?

9 A. 冇睇過，at that time，冇睇過。

10 Q. As a project director or as an experienced engineer,
11 would you consider that the creation of retrospective
12 records in such circumstances is inappropriate?

13 A. 任何嘅retrospective record都唔可以create嘅，但係我喺呢兩個
14 星期睇番我啲舊同事嘅transcript，我講番我自己嘅睇法，可能畀
15 counsel同埋Chairman同埋commissioner可以參考，我覺得佢哋
16 create呢個record嘅時間亦都係on一個genuine嘅basis，佢哋知道
17 呢個record唔係喺當時做嘅，所以佢哋就擠咗個字落去，叫做
18 “retrospective”，但係佢哋完全唔明白“retrospective”嘅
19 meaning，其實可以講就係--即係以我粗略嘅認知，可以講係一個作假
20 嘅record嚟，但係佢哋完全唔明白。

21 第二樣嘢，佢哋做錯咗嘅，就係佢哋唔知點解會簽個名，側邊寫咗個
22 日子係2017年2月10號，係totally meaning nothing，冇可能係寫
23 2017年2月10號，佢可以簽名係簽當日嘅日子，但係個record，做個
24 inspection應該係要好clear寫番邊日做inspection，亦都寫番點解

1 當時冇做嗰個record，但係佢完全冇做到，呢個係一個好大概--我覺得
2 係一個honesty mistake。

3 Q. Right. You are aware that in fact these retrospective
4 records were created without the benefit of any
5 contemporaneous records in relation to the coupling
6 installations, would you not find such retrospective
7 records quite meaningless?

8 A. 我諗唔係meaningless，直頭係唔應該，係一啲都唔可以咁做。

9 Q. The last matter I wish to discuss with you -- it's we
10 have asked engineers and also inspectors of works in
11 relation to the knowledge of the QSP. You probably
12 might have heard from the earlier evidence. But,
13 strangely, not many of them were aware of the actual
14 requirements under the QSP at the time of the
15 construction process.

16 I would like to know whether there was any system or
17 mechanism within the MTR which would ensure that those
18 relevant personnel, ie engineers or inspectors of works,
19 were fully aware of such requirements under the QSP
20 which would need to be implemented.

21 A. 喺呢度，或者我要解釋一下嗰個喺site裏面嗰個construction嘅運作，
22 喺以前，唔係而家，首先喺我嘅PIMS上面，我哋係寫得好清楚，個
23 construction manager係需要喺commencement of呢啲activities
24 之前，一定要有個contractor submit個ITP，即係inspection and
25 test plan。

1 呢個ITP係咩嘢呢？ITP就係一個master plan for所有嘅
2 construction嘅activities，不論係呢個slab construction、
3 diaphragm wall、excavation of呢個lateral support咁樣。呢
4 個ITP都係specify咗喺邊度有hold point嘅，好清楚嘅，喺呢個EWL嘅
5 slab嘅construction上面其實都係within呢個ITP嘅framework，喺
6 我一向嘅經驗，其實就係呢樣嘢唔係新，係用咗喺香港都有幾十年㗎喇。

7 QSP係最近呢五年先至有呢個terminology嘅啫，以前唔係叫做QSP，
8 係叫乜嘢呢？我哋一個統稱，就叫做method statement，「你有冇
9 method statement？你有method statement就做。」喺今次上面QSP
10 就specify咗by Buildings Department嘅acceptance letter有個
11 condition，就要畀個QSP。

12 我再講深啲，其實QSP係乜嘢呢？QSP其實就係包括三個部分，第一個
13 部分，其實冇QSP都要做㗎喇，就係site surveillance，即係
14 supervision on site，no supervision，no work。呢個有冇QSP？
15 個PIMS都講得好清楚，所以一定係有inspector full-time on site，
16 一定係有engineer on a regular basis，幾多個visit on site。

17 呢樣嘢就係喺個QSP上面，佢唔講，都係有人咁做，但係QSP多咗第二
18 樣嘢，就要specify percentage of your certified record。
19 Certify record可能係20%、50%，可能出年改為30%、60%，成日都會變
20 嘅，個percentage係variable㗎嘅。但係就算冇呢個QSP，佢哋都要
21 supervise，佢哋都要有一個percentage嘅supervision of嗰啲
22 completed嘅installation。

23 第三樣嘢，就係logbook，logbook呢樣嘢係QSP先擺落去嘅，佢特

1 登要擺個logbook落去，因為佢要畀Buildings Department去check，
2 唔係要submit，係check。

3 Buildings Department最主要係要啲咩嘢呢？就係根據我哋嘅個個
4 PMP，一定要有個RISC form，你落石屎之前紮鐵紮好晒，一定要有個RISC
5 form佢哋有做、inspection佢哋有做，佢哋可以自己certify咗自己
6 inspect咗幾多，因為個site supervision plan講咗邊啲人做咩嘢。就
7 算個個呢度，我哋嘅inspector、我哋嘅前線嘅supervision都confirm佢
8 哋有做到supervision，但係個record就係有follow exactly個QSP做，
9 個logbook係有做，所以我嘅睇法就係喺呢個咁嘅情況之下，地盤實際嘅情況
10 我唔能夠同佢哋點樣去分析或者去判斷，但係喺個QSP上面，三樣嘢，頭先都
11 講咗三樣，佢應該做咗最少係超過50%，但係record上面，呢個係一個失誤。

12 Q. My earlier question was: was there any mechanism or
13 system within the MTR which would ensure that the
14 frontline staff, for example the engineers, the
15 inspectors of works, would know clearly the requirements
16 under the QSP so that they could know how these
17 requirements would be implemented?

18 A. 好似我頭先講，其實嗰個PIMS就係個monitoring in site work嗰度
19 係講得好清楚嘅，而且佢哋都有個matrix嗰度嘅，matrix分開咗邊一個
20 group嘅staff就要係做嗰個ITP，即係inspection and test plan，
21 邊一個group嘅staff就要做site supervision同埋呢個surveillance，
22 邊一個group嘅staff又要做record，然後仲有就係邊個group嘅staff
23 就要係做嗰個負責啲咁嘅design change咁樣，我哋有個matrix就擠晒

1 落去係畀嗰啲staff係點樣去follow。

2 我諗我哋啲staff都依個PIMS去做，但係今次最大嘅--我即係呢幾個
3 禮拜睇到出嚟佢哋最大嘅miss out就係佢哋嗰個QSP就有擺咗上去自己嗰個
4 ITP嗰度，即係inspection and test plan。

5 Q. From the evidence we have heard, there's also a big
6 question mark, because nobody seems to know who was the
7 site quality supervisor responsible for actually
8 checking the coupling installations.

9 Do you know how this could have happened?

10 A. 喺呢兩個禮拜裏面，我一路都有follow佢哋嗰啲出嚟做嗰啲witness
11 statement，diaphragm wall好清楚，diaphragm wall我諗個清楚嘅
12 原因就係因為Intrafor係一個好experience嘅diaphragm wall
13 contractor或者foundation contractor，所以佢直頭係guide住個
14 main contractor去做，但係喺個EWL slab上面，我諗就in a way嚟講，
15 好似我頭先咁講，呢個code of practice for呢個reinforced
16 concrete work，喺2003年就已經出咗，但係呢個QSP就係最近呢幾年先
17 至開始有，所以亦都未必咁多engineers或者係site嘅supervisor係
18 familiar。

19 喺呢個EWL slab上面其實就嗰個QSP係需要assign一個quality
20 supervisor，其實佢哋冇assign到，可能係冇assign到，但係實質上面
21 before我離職之前，我都有同我啲同事傾，Kobe Wong佢自己都講得好清
22 楚，佢話佢自己係負責睇嗰啲couplers嘅installation，但係佢唔知道
23 自己係一個qualify嘅--一個appoint qualify嘅T3去做嗰個quality

1 supervisor, 但係實質上面佢有做到, 但係record上面, 佢係produce
2 唔到個logbook, 同埋嗰個full report。

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. 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. Yes, I remember. Yes. 我記得。

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. 我記得。

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?

1 A. 我記得嗰陣時我哋喺一個我哋嘅crisis management meeting嗰度有講
2 到，因為嗰陣時應該已經去到係要交report之前一、兩日，就我記得係應該--
3 如果我有記錯，應該係星期五，15號交report，星期四朝頭早，就我哋嘅
4 legal team先至係interview China Technology，嗰日朝頭早我哋仲
5 開緊會，就我哋嘅legal team嘅同事仲要趕過去，同我哋講話「我哋要趕
6 過去要同呢個China Technology開會。」

7 佢開完會之後，好似就係--我唔記得咗係早一日定--日子我唔記得唔清
8 楚，總之係好做嗰兩、三日。開完會返嚟佢就講，佢哋話China Technology
9 就係講咗好多allegation，當時我都記得就係禮頓有representative喺
10 度，喺嗰個interview嗰度，就返嚟就係話有好多China Technology講
11 嘅嘢，或者佢哋嘅allegation就not supported，佢話即係唔知係可唔
12 可以substantiate by唔同嘅人講嘅嘢。就禮頓亦都好多唔同意China
13 Technology當時講嗰啲嘢。

14 我哋就喺個會上面決定，由於呢個COI已經成立咗，如果我哋咁倉猝
15 喺呢個時間將一啲我哋都覺得唔係可以support嘅allegation擺落去嘅
16 話，畀public呢，可能會係影響咗呢個COI嘅以後嘅嗰個調查嘅嗰個情況，
17 所以我哋決定係冇擺落去。

18 Q. I see. I wonder if we can just have a look at
19 a document together, B3084.

20 If you could enlarge that, please.

21 I think this was a letter you signed off, was it
22 not?

23 A. 係。

1 Q. If you look at -- I think it's the third proper
2 paragraph on that page:

3 "The corporation's decision not to include the
4 allegations from China Technology or Leighton's response
5 in the report was based on the following factors".

6 Did you read that before you signed the letter,
7 Dr Wong?

8 A. 我基本上有睇過，但係當時睇嘅內容我而家可能記得唔清楚。

9 Q. No, but looking at it now, do those reasons summarise
10 why the China Technology statements, the China
11 Technology material, was not included in the report?

12 A. 呢度其實每一點都係我哋嗰陣時喺個會上面，我記番起，就係都有discuss
13 過，都係完全都係由於呢啲咁嘅原因，我哋唔擺呢個China Technology嗰
14 個statement落去。

15 Q. I see. You'd better tell the Commissioners what
16 a crisis management meeting is. It sounds awful. But
17 what is a crisis management meeting? What's the purpose
18 of such a meeting?

19 A. 因為喺5月底，喺呢個咁嘅media嗰個報道之後，就我哋就認為呢個咁嘅
20 event會係影響咗我哋成個corporation嘅reputation，同埋我哋嘅way
21 carry out the works會唔會受到嗰個公眾嘅嗰個關注，所以我哋每一個--
22 即係我哋開咗呢個--我哋要成立呢個crisis management meeting，最
23 主要就係要去deal with day-to-day嗰陣時發生嘅事，就令到佢係可以
24 under一個controlled manner去處理。

25 Q. Thank you. Now, casting your mind back slightly earlier

1 in your questioning -- do you remember being asked by
2 Mr Pennicott, counsel for the Commission, various
3 questions about the as-built drawings?

4 A. Yes, 我記得。

5 Q. If I might be permitted to read from [draft] page 32 of
6 the transcript. Mr Pennicott said:

7 "Pausing there, when you were setting up or being
8 involved with the setting up of this loading test, did
9 you at that stage say to anybody, 'Where are the
10 as-built drawings for the slab?'"

11 Do you remember that question?

12 A. 我記得。

13 Q. And you said -- this is [draft] page 32 of the
14 transcript:

15 "Regarding the issue of as-built drawings, in
16 a construction site the as-built drawings are made up of
17 a lot of different site records, including design
18 amendments, and we might have different site diaries,
19 photographs, or RFIs, the engineers' responses, and so
20 on."

21 And then you said:

22 "So these records theoretically have to be collated
23 together to compile an as-built drawing."

24 Can you tell me this: why do you say that the
25 as-built drawings are, in effect, made up of so many
26 different components?

1 A. 因為喺一個construction site上面，每一個construction activity
2 唔係一個single activity嚟，因為就算我講一個structure，佢有個
3 formwork，跟住reinforcement，跟住就concrete，concrete完之後，
4 仲有一個啲啲咁嘅finishes，finishes可能上面仲有一啲其他啲啲咁嘅--
5 即係attach啲啲咁嘅electrical and mechanical嘅嘢，咁樣每一個步
6 驟其實佢都會對前期做嘅嘢都有影響。

7 For example，我講到你做嗰個--呢個咁嘅electrical and
8 mechanical work，嗰個structure阻咗啲嘢，真係要demolish咗佢，
9 然後revise個design，然後先做到嗰個electrical and mechanical
10 嘅嗰個咁嘅works嘅。

11 所以就算好似而家呢個EWL slab 咁樣樣，雖然佢係做好個structure，
12 但係佢final build嗰陣時，唔係而家可以做到出嚟嘅，可能都要等到係做
13 晒所有嘢，冇變，然後先可以做個as-built，所以個as-built drawing
14 就唔係話你做完one part就可以做as-built，因為as-built可以再改，
15 等到係final completion嗰陣時，先至有一個final as-built，呢個
16 final as-built一定係要base on以前所有嘅唔同嘅documentation，
17 including頭先我講啲design amendment drawings、engineer's
18 instructions、TQ、RFI或者係其他所有、所有associate嘅嘢，先至可
19 以做得到出嚟。

20 Q. Does the need to take into account all those factors
21 that you've just referred to affect the time by which
22 the as-built drawings can be prepared?

23 A. 可唔可以再重複一次？

1 Q. Yes. Does the need to take into account all of those
2 factors that you've just referred to in your answer
3 affect the time by which the as-built drawings can be
4 prepared?

5 A. 呢個practically is a must, yes, yes.

6 Q. And where, in your experience, are the as-built drawings
7 for a project like this actually prepared?

8 A. 可以咁講, 差唔多係我啲project就係如果係譬如今年年尾係要complete,
9 係for呢個operation嘅, within今年之前, 可能係三、四個月先至做得
10 起。

11 Q. I see. So I would be right in thinking, would I, that
12 they are completed towards the end of the project; is
13 that correct?

14 A. 係, within我諗三個月至半年之內, before the total completion
15 of project.

16 MR BOULDING: I see. Thank you very much. Thank you,
17 Dr Wong.

18 Chairman, Professor, I have no further questions.

19 I don't know whether you have.

20 COMMISSIONER HANSFORD: Not from me.

21 CHAIRMAN: No, not from me.

22 Thank you very much indeed, Doctor. Your evidence
23 is completed now. Thank you for your assistance.

24 WITNESS: Thank you, Chairman. Thank you, Professor.

25 (The witness was released)

1 MR BOULDING: Sir, would that be a convenient moment to --

2 CHAIRMAN: I think it would, Mr Boulding. Who do you have
3 after the tea break?

4 MR BOULDING: I am calling Mr Lincoln Leong.

5 CHAIRMAN: That's right. Thank you. 15 minutes.

6 (3.48 pm)

7 (A short adjournment)

8 (4.06 pm)

9 MR BOULDING: Good afternoon again, Chairman, Professor.

10 Good afternoon, Mr Leong.

11 MR LEONG KWOK KUEN, LINCOLN (sworn)

12 Examination-in-chief by MR BOULDING

13 Q. So we've got your full name on the transcript, Mr Leong,
14 and it's correct, is it not, that you've provided to the
15 Commission a witness statement in this particular matter
16 for their assistance?

17 A. That's correct.

18 Q. I wonder if we can go to the first page of that, B115,
19 and there do we see the first page of your witness
20 statement, Mr Leong?

21 A. Yes, I do.

22 Q. Thank you. If we can scroll down to page B130, I hope
23 we'll find your signature.

24 A. Yes.

25 Q. Do we there see your signature under the date of
26 14 September 2018?

1 A. Yes, you do.

2 Q. I understand that there is a minor correction to be
3 made. Could we go to page B130.1. Do they represent
4 changes that you'd like to make to the text of your
5 witness statement, Mr Leong?

6 A. Yes, they do, Mr Leong.

7 Q. Subject to those corrections, are the contents of that
8 statement true to the best of your knowledge and belief?

9 A. They are true to the best of my knowledge and belief.

10 Q. Thank you very much. Now, I think we know where the
11 chief executive officer of an organisation sits, but
12 just to see the lines of reporting, perhaps we can go to
13 B821. There we see you, do we not, Mr Leong -- this is
14 dated July 2015 -- at the very top of the tree; correct?

15 A. Correct.

16 Q. Do we understand that the people below you would report
17 to you as necessary?

18 A. That's correct.

19 Q. Thank you very much. Now, with the Chairman's leave,
20 I'd like to ask you one or two questions about some
21 evidence which has been given since you signed off your
22 witness statement.

23 Am I correct in thinking that you've read the
24 evidence given by Mr Aidan Rooney of MTR last week?

25 A. Yes, I have.

26 Q. Did you read that he believed that you had given him the

1 instruction to attach the Kobe Wong signed records to
2 the MTR report dated 15 June 2018?

3 A. I did read that.

4 Q. Thank you. I wonder if we can have a look at the
5 transcript together, please. Day 28, page 67. Thank
6 you.

7 If you read from the top of the page, 67, Mr Leong,
8 question:

9 "Well, you say that, Mr Rooney."

10 I ought to say this is Mr Pennicott questioning.

11 "Could we go, please, to paragraph 94 of your
12 witness statement, at B211, where you say, the second
13 sentence:

14 'After several rounds of comments on the
15 calculations of the total quantity of couplers required
16 to comply with the BD requirements of minimum
17 20 per cent and 50 per cent of the total quantity
18 referred to in paragraph 92 above, I received the
19 finalised version of Kobe Wong's signed record
20 sheets ...'"

21 Now, can I ask you this: before the MTR report was
22 signed off and submitted on 15 June 2018, Mr Leong, had
23 you ever seen Kobe Wong's signed record sheets?

24 A. No, I haven't.

25 Q. Then if we may read on then in the transcript. Perhaps
26 we can pick it up at page 68, line 3. Mr Pennicott

1 says, question:

2 "Then what happened?

3 Answer: Apparently they were attached.

4 Question: All right.

5 Answer: But I believe that that was, as I said,
6 an administration error. I was initially told that they
7 would be attached, then there was a subsequent
8 discussion that they didn't add any value and that there
9 was no necessity to attach them.

10 Question: Can you please tell me who the members of
11 the executive team preparing this report were?

12 Answer: It was a combination of Lincoln, Philco and
13 the senior legal team.

14 Question: Right. When you received the original
15 instruction to attach then the records to the report, so
16 you would have been told by either Philco Wong, is that
17 right, or Lincoln Leong, or somebody else?

18 Answer: I believe it was Lincoln."

19 Now, can I ask you this, Mr Leong: did you instruct
20 Mr Rooney that the Kobe Wong records were to be attached
21 to the report?

22 A. No, I don't think so.

23 Q. Thank you very much. Tell me this, one final question:
24 did Mr Aidan Rooney ever tell you that these records
25 were retrospective records?

26 A. No, I do not know or did not know that these records

1 were retrospective, nor did I know that they were
2 backdated.

3 Q. Thank you very much, Mr Leong. I have no further
4 questions for you. The procedure now is that you're
5 likely to be questioned by Mr Pennicott in the front
6 row. He is counsel for the Commission. Then some of
7 the lawyers in the room might take the opportunity to
8 ask you questions. The Chairman and the professor can
9 ask you questions at any time that takes their fancy.
10 Then it may be case that I'll ask some further questions
11 to wrap proceedings up so far as your evidence is
12 concerned. Do you understand that?

13 A. Thank you. Yes.

14 Examination by MR PENNICOTT

15 MR PENNICOTT: Good afternoon, Mr Leong. First of all,
16 am I pronouncing your name correctly?

17 A. You are.

18 Q. Thank you very much. Thank you for coming along to give
19 evidence to the Commission this afternoon. Mr Boulding
20 has explained the procedure, so I have a few questions
21 for you which I hope won't take too long.

22 Mr Leong, by profession you are a chartered
23 accountant, I understand?

24 A. That's correct.

25 Q. You joined the MTR some time ago, in 2002?

26 A. That's correct as well.

1 Q. At that time, you were the finance director of the MTRC
2 corporation?

3 A. That's correct.

4 Q. In 2002, that was the same year as Mr Frederick Ma
5 became Secretary for Financial Services and the Treasury
6 and a non-executive director of MTR. Did you know Mr Ma
7 before 2002?

8 A. Yes, I did.

9 Q. How did you know him before 2002?

10 A. I've known Mr Ma for quite some time. In fact, when
11 I first came back to Hong Kong, after having spent
12 a number of years abroad, in 1989, at that time I was
13 with a company called RBC Dominion Securities, Mr Ma was
14 my superior, was my boss at that time.

15 Q. I think you tell us you were in the accountancy and
16 investment banking industries in London, Vancouver and
17 the UK; is that correct?

18 A. Correct.

19 Q. So whereabouts were you when you met Mr Ma back in 1989?

20 A. Mr Ma has known my family for some time, and when I met
21 Mr Ma it was in Hong Kong, with RBC Dominion Securities
22 in Hong Kong.

23 Q. In Hong Kong, understood. All right. In any event, in
24 2008, you became the finance and business development
25 director of MTR?

26 A. Correct.

1 Q. Then, four years later, in 2012, you became deputy CEO?

2 A. Correct.

3 Q. Then, in 2014, acting CEO?

4 A. Correct.

5 Q. Then, as we've just seen with the organisation chart
6 that Mr Boulding's taken us to, I think in 2015, I think
7 it was March, you became the CEO of MTR?

8 A. That's correct.

9 Q. Okay. Just so we've got the picture, the structure,
10 Mr Leong -- at the top, a board of directors?

11 A. Correct.

12 Q. And you are on the board of directors as an executive
13 director?

14 A. That's correct.

15 Q. Underneath that, we have the executive committee?

16 A. Correct.

17 Q. And you are also not only a member but the chair of the
18 executive committee?

19 A. That's correct.

20 Q. Then there are a series of, if you like, subcommittees
21 beneath that executive committee. There's the audit
22 committee; is that right?

23 A. I would like to make an amendment to your statement.

24 Q. Yes, sure, please do.

25 A. -- Mr Pennicott. The various subcommittees are
26 subcommittees of the board.

1 Q. Right.

2 A. So the audit committee, the capital works committee, the
3 risk committee, et cetera, et cetera, remuneration
4 committee, are subcommittees of the board. They are
5 not, I stress, subcommittees of the executive committee.

6 Q. Right. So they report directly to the board, not
7 through the executive committee; is that right?

8 A. Correct.

9 Q. What about the project control group?

10 A. The project control group is a group that reports
11 through the projects director to the executive
12 committee.

13 Q. Right. So the projects -- it is the project control
14 group that goes through, via the projects director, to
15 the executive committee --

16 A. Correct.

17 Q. -- so that is an example. And what about the crisis
18 management group?

19 A. The crisis management group is something that is
20 established on an ad hoc basis as required. The crisis
21 management group was established for, amongst other
22 things, to look at and to deal with the issue at hand,
23 the slab in the Hung Hom Station.

24 Q. Yes. Does that report to the executive committee or to
25 the board of directors?

26 A. I chair that crisis management group, and that crisis

1 management group will report to the executive committee.

2 Q. All right. That's clear. Thank you very much.

3 Paragraph 14 of your witness statement, please. You
4 refer in paragraph 14, under the heading of "Management
5 of capital works projects and oversight" and "Projects
6 director's and projects team" to the projects director's
7 monthly report to the executive committee. Do you see
8 that?

9 A. I do see that.

10 Q. At the end of -- the last couple of sentences, picking
11 it up four lines from the bottom, you say:

12 "In addition, approximately one year before the
13 opening [up] of a new line, 'top team' meetings would be
14 established involving the projects team and colleagues
15 from operations and other divisions to prepare for
16 opening. The first 'top team' meeting for SCL was held
17 in September 2017."

18 I assume that you attend those "top team" meetings,
19 Mr Leong; would that be right?

20 A. I actually chair the "top team" meetings.

21 Q. Right. As I understand it, implicit in what you say
22 here, what is happening is that you are gearing up for
23 the opening of a new line, and this is part of the
24 process by which the projects team hand over to the
25 operations team?

26 A. That is correct.

1 Q. Good. Can I then ask you, please, to turn to
2 paragraph 37 of your -- well, let's pick it up at 31,
3 just to see where we are, page 122 in the bundle.

4 You are dealing with "The present incident" starting
5 at paragraph 31, and taking it through to paragraph 36
6 you say:

7 "... on 1 June 2018 MTRC received a letter from the
8 Buildings Department which also requested a report ..."

9 And obviously that's the report that ended up being
10 submitted on 15 June 2018, this year?

11 A. That's correct.

12 Q. You go on to say in paragraph 37:

13 "On 4 June 2018, I met representatives of Leighton
14 as well as representatives of Leighton's parent company,
15 ... [CIMIC for short], together with Dr Philco Wong and
16 the corporate affairs director. At the meeting,
17 I requested Leighton to provide us with further
18 information regarding the issue. This was followed up
19 by a letter to Leighton of the same date."

20 Could we have a quick look at that letter, Mr Leong.
21 It's at B7/4599.

22 A. Can I have a hard copy of this letter?

23 Q. Yes, of course. Somebody will hand it to you.

24 (Handed).

25 A. Thanks very much.

26 Q. I think this is the letter that you're referring to,

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
26 Leighton on 11 ... 27 ... and 25 July ... as well as

1 having other telephone calls with members of the senior
2 management ... as well as representatives of CIMIC. On
3 each occasion I made the same request and also asked
4 Leighton to release the relevant information to the
5 public. Regrettably, as at the date hereof, Leighton
6 has chosen not to provide any information to the
7 public."

8 Before we turn to the question of "public", could
9 you be given back that file, please, and could I ask
10 you, please, to go a couple of pages on from where we
11 were looking at just a moment ago. That is to B7/4601.
12 This is a letter from Leighton of 6 June, so a couple of
13 days after the letter we were just looking at. In that
14 letter -- it's to Mr Rooney, as we can see, but is it
15 a letter that you would have seen at the time, Mr Leong?

16 A. No, I do not believe I saw this letter at that time.

17 Q. Because it seems to me that it obviously is, unless I've
18 got this wrong, a response to your letter that we were
19 just looking at; is that right? The reference seems to
20 be correct. Yes, 182. Do you see?

21 A. Mr Pennicott, I also have, on the page before, 1314,
22 a letter that's actually addressed to me --

23 Q. Yes, I see that.

24 A. -- from Leightons, which were really pertaining to the
25 issues that we would have discussed on the telephone
26 call, sir.

1 Q. Right. But what I just -- well, we may or may not come
2 back to that letter at 4600, but the letter at 4601 is
3 a response to the letter at 4599 that we were just
4 looking at.

5 A. Mmm.

6 Q. And it, we can see, has a number of headings,
7 "Chronology of events surrounding the issue", "Relevant
8 as-built records and photographs of the works", so it
9 seems to be following the headings or the requests that
10 you were making in the earlier letter, or Mr Rooney was
11 making in the earlier letter; do you see that?

12 A. Yes. As Mr Rooney was making in the earlier letter.

13 Q. The reason I'm putting that to you -- and it clearly
14 has -- a long letter, three and a bit pages -- it has
15 a series of attachments that run on for a little while,
16 and having looked at that, can I suggest perhaps that
17 your criticism that, leaving aside the question of what
18 was released to the public, that at least Leighton at
19 that stage were addressing your requests for
20 information. Do you accept that?

21 A. Chairman, we do accept that Leightons was providing
22 information, albeit at times they were taking a bit of
23 time to provide that information. However, as noted in
24 my statement, what MTR was also impressing on Leightons
25 was to go out in the public domain and explain
26 themselves and explain the situation with regards to the

1 Hung Hom slab.

2 Q. All right. What did you -- in a nutshell, Mr Leong,
3 what were you hoping Leighton would choose to tell the
4 public? What were you hoping for?

5 A. Chairman, at that time, because this issue started at
6 the end of May/beginning of June, we had done our
7 preliminary investigation. We were hoping that
8 Leightons would also, having gotten their information,
9 go out in the public and tell the public what
10 information they have and how their information stacks
11 up.

12 Q. Right.

13 At paragraph 41 -- just another similar point -- you
14 refer to a crisis management group meeting that you
15 chaired on 11 June; do you see that?

16 A. I do.

17 Q. You say, towards the end of that paragraph, that
18 representatives of Atkins/CM Wong attended those
19 meetings on a number of occasions?

20 A. Correct.

21 Q. You say you also invited -- sorry, you also add that you
22 invited Leighton to attend a meeting of the group but it
23 declined to do so?

24 A. That's correct.

25 Q. Did Leighton give any reasons as to why they would not
26 attend this meeting or meetings?

1 A. I do not believe they gave any reasons.

2 Q. Right. Was it at your suggestion that they did attend
3 the meeting or meetings with you?

4 A. This was at the suggestion -- this was discussed in the
5 crisis management group, which I chaired, and this
6 crisis management group at that time was meeting on
7 a daily basis. So it would have been initially
8 discussed at the crisis management group, and I would
9 have been party to that decision.

10 Q. Okay.

11 Now, in a sense, I rather hope that the little bit
12 of examination-in-chief that Mr Boulding did with you
13 a short while ago has covered my next few questions. As
14 I understand your position, Mr Leong, you were unaware
15 of, at the time the June 2018 report was prepared and
16 given to government, that it contained any retrospective
17 records; you were unaware of that?

18 A. Correct, I was unaware of the fact that those records
19 were retrospective and, as proven subsequently,
20 backdated.

21 Q. So, on that basis, as I understand it, you, contrary to
22 what Mr Rooney has said, could not have been responsible
23 or partly responsible for what he described as the
24 "administrative error" in attaching those records to the
25 report?

26 A. Yes, I'm not familiar with that "administrative error".

1 Q. Right. Indeed, it must follow that you're simply unable
2 to explain how those retrospective records came to be
3 included?

4 A. Mr Pennicott, as highlighted in my statement right from
5 the beginning when we started this whole exercise, our
6 aim, my aim, MTR's aim, is for the report to be complete
7 and accurate, and that's highlighted in my statement as
8 well.

9 For the completeness, we, as others have also noted,
10 interviewed a number of parties, as well as collected
11 a large body of documents. Now, for accuracy, the
12 verification of those comments and statements made in
13 the report were subject to verification, some of which
14 was actually done by an external law firm. That
15 verification resulted in what became the technical list
16 that went to government. Originally, it was the
17 appendices. I understand that the so-called coupler
18 checklist was in those appendices.

19 Q. They were indeed. That's right. And from your
20 position, you can't explain how it is that they came to
21 be there as part of the appendices?

22 A. Well, what I would know is that there is a clear
23 direction for the report to be complete and accurate.
24 That accuracy is verification of the statements in the
25 report. And the appendices or the technical checklists
26 or the technical lists would be evidence of the comments

1 in the report.

2 Q. I'm asking you a few questions about this, Mr Leong,
3 because I've noted that in paragraph 45 of your witness
4 statement, on B1/125, you say, penultimate sentence:

5 "The drafts of the report were also discussed during
6 the meetings of the crisis management group."

7 Then the last sentence in particular you say:

8 "I did, however, repeatedly emphasise that the
9 contents of the report must be verified and supported by
10 documents."

11 A. Correct.

12 Q. First of all, "repeatedly emphasise" -- who did you
13 repeatedly emphasise that to?

14 A. To the crisis management meeting.

15 Q. Right. I'm not sure we know -- I'm not sure if you tell
16 us or we've got it from somewhere else or I've
17 forgotten -- but apart from yourself, who were the other
18 members of that crisis management group?

19 A. The membership varies slightly depending on the day,
20 because we were meeting on a daily basis.

21 Q. Yes.

22 A. Generally, there would be a number of executive
23 directors and a number of managers who were supporting
24 those executive directors. So those executive directors
25 that were part of that group would include our projects
26 director, previously Mr Philco Wong. It would include

1 our managing director of operations and our China
2 business. It would include our operations director. It
3 would include our legal director. It would include our
4 corporate affairs -- our corporate relations director.
5 It would also include our general manager for our legal
6 business. It would include a number of professional
7 general managers from the projects team.

8 Q. So was Mr Rooney on it?

9 A. Yes.

10 Q. And Jason Wong?

11 A. And Jason Wong, they were both on that committee.

12 Q. Right.

13 A. As well as a number of other colleagues who were in the
14 corporate relations area, and of course our human
15 resources director as well.

16 That meeting generally would have somewhere between
17 12 and 14 people in it.

18 Q. All right. We've heard, without going into any detail,
19 that the legal team, if I can put it that way, both
20 perhaps internal and external, were involved in the
21 preparation of the report?

22 A. The legal team was involved in the preparation of the
23 report, but as I understand it most of the information
24 would have come from our projects colleagues.

25 Q. Yes, but in terms of you emphasising that the contents
26 of the report must be verified and supported by

1 documents, I'm just trying to find out who amongst the
2 people involved in writing the report would have heard
3 you say that? And I think you've identified that there
4 would have been legal representatives, for example, at
5 the crisis management group meetings.

6 A. Correct.

7 Q. And would those legal representatives have been involved
8 in writing the report?

9 A. I think they would have been involved in editing the
10 report, but the base information for the report would
11 have come from the projects team.

12 Q. All right. Thank you for that, Mr Leong.

13 Could I then move on in your witness statement. At
14 paragraph 51 of your witness statement, you start to
15 deal with the inaccuracies in the MTR report.

16 A. Mm-hmm.

17 Q. You refer to the letter of 13 July that we looked at
18 earlier today with Mr Lee, and you explain how all that
19 was prepared.

20 Then at paragraph 54 of your witness statement you
21 say:

22 "I considered this matter to be potentially serious
23 and I instructed the projects team to find out all of
24 the facts regarding the change in the way that the
25 rebars connecting the EWL slab and diaphragm wall was
26 constructed and the number of couplers. On the same

1 day ..."

2 And I think we're referring back to 25 July in the
3 previous paragraph.

4 A. Mm-hmm.

5 Q. "... I also informed the Chairman, who was out of
6 Hong Kong at the time, of this development although
7 I did not go into the details."

8 A. Correct.

9 Q. Did you get an initial reaction from the chairman to
10 this news that you were giving him?

11 A. I cannot remember -- we would have communicated by
12 electronic means, either email or WhatsApp. I cannot
13 remember whether he responded immediately. But he was
14 out of town and he was in receipt of that electronic
15 communication.

16 Q. All right.

17 You then deal with, Mr Leong, your early retirement
18 in paragraph 57 and following of your statement.

19 I would just like to ask you a few questions about
20 this, if I may. You say:

21 "On 6 August 2018, I received a telephone call from
22 the chairman ..."

23 That's Mr Frederick Ma?

24 A. Correct.

25 Q. "... who asked me to meet with him and Mr Frank Chan,
26 the Secretary for Transport and Housing. At the

1 meeting ..."

2 So this was on 6 August, was it?

3 A. This was on the morning of 6 August.

4 Q. "At the meeting, Mr Frank Chan explained that government
5 had lost confidence in the projects team and
6 specifically identified several senior members of the
7 projects team, namely Dr Philco Wong, TM Lee, Aidan
8 Rooney and Jason Wong whom in the government's view
9 should be immediately relieved of their
10 responsibilities."

11 First of all, Mr Leong, did you make any enquiry of
12 Mr Frank Chan as to why the government had lost
13 confidence in the projects team?

14 A. My recollection is that Mr Frank Chan had said that
15 based on the change in detailing on that slab and the
16 information that has subsequently been given to
17 government which contradicts with information in the
18 report, government has lost confidence in a number of
19 senior managers in MTR, and that was the reason for that
20 decision.

21 Q. So it was very much focused, is this right, Mr Leong, on
22 the errors/discrepancies in the report that have
23 subsequently been discovered?

24 A. That would be my understanding, yes.

25 Q. Did you ask him?

26 A. I did not ask him directly, but we were talking about

1 that matter during that discussion.

2 Q. Right. So, at that point in time, and the assertion of
3 loss of confidence, there was no discussion about the
4 cutting of threaded rebar and that sort of topic; it was
5 very much the misreporting and the discrepancies?

6 A. Correct.

7 Q. In paragraph 58 you go on to say:

8 "Although the matter was still under investigation
9 and issues in connection with contract 1112 were subject
10 to the upcoming Commission of Inquiry, I understood the
11 concerns of the government ..."

12 Pausing there, in what sense did you understand the
13 concerns, Mr Leong?

14 A. I understand the concerns of government insofar as their
15 comments with regards to the change in detailing,
16 creating the error in the report, and hence themselves,
17 government, losing confidence in the senior management
18 team, in our senior projects management team. That was
19 my understanding.

20 Q. Okay. You go on to say:

21 "... and their request for MTRC to take decisive
22 action by relieving the senior projects team members
23 responsible for the SCL project of their duties."

24 Did you agree with the request that the senior
25 projects management team should be relieved of their
26 duties?

1 A. My own thinking at that time is that the Commission of
2 Inquiry was just about to commence its
3 evidence-gathering and that it would -- my own
4 thinking -- have been much better to wait until the
5 conclusion of the Commission of Inquiry, so all the
6 facts and information would be out in the public domain.
7 But that was only my own thinking at that time.

8 Q. Did you voice that opinion to anybody at the time?

9 A. I did not voice that opinion to either Mr Frank Chan or
10 Mr Fred Ma, no.

11 Q. Okay. So the position that you took, at least privately
12 and to yourself perhaps, was that there ought to be
13 a chance given to the individuals concerned that the
14 investigation should be completed and the explanations
15 fully gathered?

16 A. That would have been my view, yes.

17 Q. Okay. Just another relatively small point, I think. At
18 paragraph 60 of your witness statement, Mr Leong, you
19 say:

20 "Subsequent to that meeting ..."

21 So that's the morning of 6 August, as you've just
22 told us.

23 "... I met with Dr Philco Wong and informed him of
24 the government's view."

25 So was that later on on 6 August you had that
26 meeting?

1 A. That's correct.

2 Q. What did you actually tell Mr Philco Wong?

3 A. I told Mr Philco Wong that we had the meeting or I had
4 that meeting with senior government officials on the
5 morning of 6 August, together with the chairman,
6 Mr Fred Ma, and then I also informed Mr Philco Wong of
7 the views of government, that view in particular being
8 that government has lost confidence in our senior
9 projects team, and the decision which was communicated
10 to me at that meeting by Mr Frank Chan on the actions
11 which government would like, would expect, MTR to take.

12 Q. Okay. So you didn't tell Dr Wong that he would
13 definitely be relieved of his responsibilities or his
14 duties, but that the government had asked MTRC to
15 consider taking that step; is that right?

16 A. Correct. What I said to Dr Philco Wong would have been
17 this was the view of government and the request, the
18 indications, of government, and there would be a special
19 board meeting, I believe the next day.

20 Q. Okay, which was there was.

21 A. Which there was.

22 Q. But in the meantime you had received Dr Wong's
23 resignation by email I think in the early hours of
24 7 August?

25 A. Correct.

26 Q. In paragraph 61 of your statement, you refer to the

1 board meeting that took place on the morning of
2 7 August, and you say that you explained to the board
3 members, so far as you were able to do so, the
4 inaccuracies contained in the MTR report. Then you say:

5 "Mr Frank Chan ..."

6 Of course, he was a non-executive director, is that
7 right --

8 A. Correct.

9 Q. -- of the board?

10 "[He] informed the board that government had lost
11 confidence in the project management team of the SCL and
12 that, as such, the corporation should consider whether
13 senior members of the projects team should leave MTR."

14 Mr Leong, did you, or anybody else who knew the
15 position, that is presumably Mr Frank Chan -- and
16 presumably Mr Frederick Ma was at the meeting as well,
17 obviously -- the three of you at least knew that in fact
18 what the government had said was that the senior members
19 of the team should be immediately relieved of their
20 responsibilities. That was the government's view at the
21 time.

22 A. Correct.

23 Q. Did you tell all the board members that that was the
24 government's position?

25 A. I think Mr Frank Chan told the members that that was the
26 government's position.

1 Q. So, when you put it, if I may say so, a little softly,
2 "the corporation should consider whether senior members
3 of the projects team should leave MTR", the reality is
4 that the government had said they should be relieved of
5 their responsibilities immediately?

6 A. That's correct, and from an MTR perspective, because we
7 do so much work with government, and government is both
8 a shareholder and a regulator, obviously if government
9 as regulator and a client in the case of both the
10 Express Rail Link and the Shatin to Central Link, if
11 they have lost confidence it would be very difficult for
12 a continuation of these projects under the same
13 management.

14 Q. Tell me this, Mr Leong: does the MTR have the usual
15 termination procedures for terminating people's
16 employment?

17 A. Yes, we do.

18 Q. So warning letters and perhaps disciplinary tribunals,
19 that sort of thing?

20 A. Mr Pennicott, there are different ways for
21 colleagues/employees to leave the company. You can
22 leave for cause or leave without cause, and without
23 cause then there will be normal notice period given.

24 Q. No notice period given to these four gentlemen,
25 I understand?

26 A. There was actually a notice period -- the normal notice

1 period given to three of the four gentlemen. Mr Philco
2 Wong resigned. Those three gentlemen were paid out
3 their notice period. That's my understanding, sir.

4 MR PENNICOTT: Thank you very much. Thank you very much,
5 Mr Leong. I have no further questions. I don't know
6 whether anybody else has.

7 Cross-examination by MR TO

8 MR TO: Mr Chairman and Commissioner.

9 I have a few questions, Mr Leong, from China
10 Technology, just a few questions, that's all.

11 Can I take you to your witness statement, if I may,
12 at B118, paragraph 12; can you see that?

13 A. Yes, I do see that.

14 Q. Can I just clarify, Mr Leong: are you the chairman of
15 the executive committee of the MTR Corporation?

16 A. That's correct. I'm the chairman of the executive
17 committee.

18 Q. In paragraph 12, I'm just going to read out one sentence
19 to you. It says:

20 "Any issues of concern will be raised as and when
21 the need arises."

22 Do you see that?

23 A. Correct, I do.

24 Q. Then in paragraph 13, it says, in the last sentence:

25 "Dr Wong had the overall responsibility to report to
26 me and the executive committee on matters in relation to

1 the SCL project, including the works relating to the
2 platform slabs and diaphragm walls in the Hung Hom
3 Station Extension under contract 1112, which is the
4 subject matter of the present inquiry."

5 I will read on, paragraph 14, you see in the middle
6 there it says "better oversight"; do you see that, those
7 words there?

8 A. I'm trying to find it.

9 Q. The fifth line down.

10 A. I see it.

11 Q. If you go down again, three more lines down, you see at
12 the end, it says "and any issues of concern would be
13 raised"; do you see that?

14 A. I see that.

15 Q. Let's turn over to paragraph 15. If you look at
16 paragraph 15, it says you basically make regular visits
17 to site and if there are any significant issues of
18 concern, basically you attend to those on site?

19 A. No. Generally I would pay -- if there are they
20 significant issues or concerns, they would be told to me
21 generally before I go on site and when I'm on site it
22 would be highlighted as well.

23 Q. Thank you, Mr Leong. Then in paragraph 16 you see it
24 says in the last sentence:

25 "Only issues of significant concern will be elevated
26 to me ..."

1 A. Yes, I see that.

2 Q. Going on, you told us in your witness statement -- page
3 B120, in paragraph 23, you mentioned three lines of
4 defence, the first one meaning the management control;
5 the second one relating to risk and compliance
6 oversight; the third one relating to internal audits;
7 and also you mentioned there's another oversight
8 relating to the capital works committee, and on top of
9 that you mentioned, for example, in paragraph 28 of your
10 witness statement, there's a risk committee who does
11 what we call "deep dive", and also an audit committee in
12 paragraph 29.

13 A. That's correct.

14 Q. So my question to you, Mr Leong, is you only found out
15 about this issue in May 2018?

16 A. It was at the very end of May 2018.

17 Q. Yes. And in terms of Mr Jason Poon's first contact,
18 I would say it is 6 January 2017, there was an email.
19 Have you seen that email before?

20 A. Not at that time, no. I only saw that email very
21 recently.

22 Q. I understand. And also did you see an email that Jason
23 Poon wrote to the Transport and Housing Bureau on
24 15 September 2017?

25 A. No, I did not.

26 Q. So my point to you, Mr Leong, is you have all these

1 systems in place, the email was raised in January 2017,
2 but you only found out about it in May 2018. Being
3 a person of integrity, wouldn't you find that this is
4 a something that's a problem in terms of the system?

5 A. It all depends on the severity of the matter at hand, as
6 judged by the professions in our projects team. They
7 would have looked at these matters and, as we have
8 subsequently discovered, they believed that they had
9 dealt with these matters.

10 So, on that basis, it would be their professional
11 judgment whether these matters need to be elevated or
12 not.

13 Q. Thank you. I just want to move on to another paragraph,
14 paragraph 35 of your witness statement. You mention
15 about an independent consultant, and we know the
16 consultant is called CM Wong & Associates, and you also
17 mention, in paragraph 42 of your witness statement,
18 again:

19 "The work of CM Wong is still ongoing."

20 Can I ask the question of whether the CM Wong
21 consultants, their work has been completed?

22 A. CM Wong had been appointed initially to work with us and
23 to help us with regards to the loading test. That's
24 been slightly overtaken by events. As the Chairman and
25 the Commissioner is well aware, MTR presented
26 a so-called holistic proposal to government recently to

1 look at an overall investigation of the Hung Hom
2 Extension, that overall investigation would include,
3 amongst other things, opening up of certain areas in
4 both the so-called East West Line as well as the North
5 South Line slab.

6 After the opening up and depending on the result of
7 that, there will be a re-assessment of the overall
8 structural integrity and, as highlighted in our report
9 which I believe members have a copy of, if and only as
10 necessary, there may be the necessity, if it's
11 necessary, to have that loading test. But that loading
12 test right now is not confirmed.

13 Q. Thank you very much.

14 Can I take you to paragraph 40 of your witness
15 statement. You touched on this just a few minutes ago.
16 In the last sentence it says:

17 "... ensure the completeness and accuracy of the
18 report."

19 In the transcript, [draft] page 143, at line 7, you
20 did mention about complete and accurate; yes?

21 A. Correct.

22 Q. Now, there was a draft report prepared, so if you go to
23 your witness statement in paragraph 44, and you mention,
24 for example, you received it, you reviewed it and you
25 made some comments to it in terms of high-level
26 feedback, and there was an email issued, I think. If

1 you go to B16/14036. It was sent on behalf of Mr Allan
2 Wong, the Chairman of the CWC, Capital Works Committee,
3 and if you look at the second paragraph of that email,
4 it says:

5 "In terms of the report, CWC was broadly supportive
6 of the contents of the report and made a number of
7 comments and suggestions which management will take on
8 board. It should be noted that, as much of the evidence
9 for the report has been gathered from interviews with
10 those who were involved in the relevant works some two
11 to three years ago, there are some contradictions and
12 inconsistencies between the recollections of certain
13 individuals. In these areas, CWC encouraged management
14 to simply state the different recollections, without
15 making a judgment as to the underlying facts ..."

16 Can you see that, Mr Leong?

17 A. Yes, I can see that.

18 Q. Mr Leong, can I take you to another report, in B1 at
19 page B36. This is the report, the MTRC report, issued
20 on 15 June 2018.

21 A. Mm-hmm.

22 Q. Can you see, in the interview there, it says, "Interview
23 of sub-contractor (China Technology)"?

24 A. Yes, I can see that.

25 Q. "No information in relation to the interview with China
26 Technology is included here."

1 Can you tell us the reason why, even though the
2 chairman of the CWC said very clearly: state the facts?

3 A. Chairman, it was -- there were a number of discussions
4 with regards to this report and with regards to the
5 interview at our crisis management meeting. There was
6 the interview with China Technology towards the end of
7 that whole exercise. After that interview, we were told
8 by our lawyers that there were a number of comments that
9 came up from that interview or during that interview,
10 and those comments, one, could lead to legal liability
11 and risk of defamation if we were to publish it; and
12 two, there was allegation of corruption.

13 So particularly with the allegation of corruption,
14 we reported it to the ICAC. As members are aware, the
15 interview with China Technology was included as
16 a package to government.

17 Q. Thank you very much. Mr Leong, can I take you to
18 another letter. It's B4643. This letter was issued on
19 13 June 2018, one day before the draft report was given
20 to the CWC.

21 If you look here, this letter, your legal team did
22 ask Leighton for certain information relating to what
23 was stated in Mr Jason Poon's allegations. Can you see
24 that?

25 A. I do see that.

26 Q. Was there any reply to this letter?

1 A. I believe there was a response to this letter.

2 Q. Can you recollect what the response was?

3 A. I think the response would have been along the lines of
4 Leighton strongly disagreeing with the comments made
5 during that interview, and I do recall that at the end
6 of that letter they are saying that they reserve their
7 legal position with regards to issues pertaining to that
8 interview.

9 Q. Nevertheless, your legal team made a decision not to
10 include either this letter or the response from Leighton
11 or Mr Poon's interview into the report?

12 A. As I mentioned, Chairman, the reason we did not include
13 the Jason Poon and China Technology interviews in our
14 report -- in fact, it's well highlighted in the cover
15 letter that we sent to government -- and the reason for
16 that, and once again I will highlight two key aspects of
17 the rationale: one key aspect is that there were
18 allegations of corruption, so we reported to the ICAC;
19 and the other key aspect is that a number of the
20 allegations our legal team believed could be defamatory
21 and therefore could have legal liability implications
22 for MTR as well.

23 Q. Was this informed to the CWC chairman, Allan Wong?

24 A. I would believe that during that CWC meeting, which
25 would have been on 14 June, there were discussions on
26 many, many matters, and I cannot recollect whether

1 Mr Allan Wong actually asked about this, but he would
2 be -- the fact that those interviews had taken place
3 would have been well known to all members of the CWC.

4 Q. Thank you. Can I take you on to the very last topic
5 I have, and in paragraph 48, Mr Leong -- do you have
6 that, Mr Leong?

7 A. I have that, yes.

8 Q. Now, this relates to a press release that was issued on
9 21 June 2018, this year. If you were to look at the
10 very last sentence, it says:

11 "In this press release, it was also made clear that
12 if any violation was found, MTRC would take the matter
13 very seriously and report it to relevant law enforcement
14 agencies."

15 Can I take you to that press release. It's B9/7031.
16 Mr Leong, can you see any law enforcement agencies'
17 words mentioned in this press release?

18 A. Can I just have a hard copy?

19 Q. No problem. Maybe I'll just tell you -- it's much
20 quicker -- the only word I can see there is
21 "seriousness", you can see that in the first paragraph:

22 "The board takes these matters very seriously", full
23 stop.

24 There is no mention about the relevant law
25 enforcement agencies in this press release.

26 A. I do see that, yes.

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
26 into August?

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

2 A. Mm-hmm.

3 Q. Around that time. Now, from a management point of view,
4 when you realised that there was this problem regarding
5 the lack of contemporaneous records, would you actually
6 regard it as quite a serious deficiency in the
7 record-keeping system?

8 A. As with all record-keeping systems, including ours, one
9 can always do better, and I would say that in this
10 particular case there are issues with record-keeping
11 where we could have improved and we could have done
12 better, and in fact, because of that, there's been
13 a number of external consultants, including Turner
14 & Townsend, appointed to look at this and other related
15 matters.

16 Q. Now, once you became aware of this problem, was there
17 any discussion within the MTR as to why this could have
18 happened?

19 A. It was -- this whole issue of the backdating as well as
20 the retrospective nature of those papers were
21 highlighted in one of, I believe, the crisis management
22 meetings in August, and after that, this was then left
23 in the hands of our legal colleagues, because it was
24 raised, I believe, by one of our other colleagues to our
25 legal colleagues on this matter.

26 Q. Right.

1 CHAIRMAN: Sorry -- you appreciate, of course -- and I think
2 part of the concern is that as a result of it being
3 a retrospective record, backdated, and, so it would
4 appear, based on recollection, that you ended up having,
5 for example, a large number of couplers which didn't
6 exist but nevertheless being successfully installed,
7 which of course undermines the credibility of those
8 records as well. I think that's perhaps a worrying
9 feature.

10 A. Chairman, my colleagues, particularly my project
11 colleagues, they are dedicated, hard-working
12 individuals. The inspectors and our engineers work
13 extremely hard. I don't know the background or the
14 details, but in the times I've seen them, that I've met
15 with them, they're the sort of people who would go and
16 fulfil their job requirements, be that inspection or
17 whatever that job requirement is.

18 Chairman, as I've said, it is highly unfortunate,
19 this issue with the backdating as well as the
20 retrospective nature of those reports, and it does raise
21 question marks, I absolutely agree. We are looking --
22 and having appointed consultants to look into this to
23 see how we could improve, as we always try to improve
24 our systems, how we can continue to improve our systems.

25 CHAIRMAN: Earlier today, it was said by a very senior
26 executive that the -- and this is going a little

1 collaterally, perhaps, but nevertheless looking at the
2 question of record-keeping -- that, for example, keeping
3 relevant drawings for changes in building development,
4 as it goes along, and as I've been reminded by
5 Prof Hansford, there's a difference between the drawings
6 that you prepare as you go along, to give you the basis
7 for later as-built final drawings.

8 The real difficulty is that, as was said by this
9 executive, well, in an ideal world, you would expect
10 these drawings to be kept, but in fact it's not an ideal
11 world. The difficulty perhaps -- and your comment on
12 this would help -- from my perspective is that when you
13 have a very complex, driven, time-pressed building
14 project such as the one here, you have a very large
15 number of working and moving parts. You have different
16 organisations, sub-contractors; you have to keep control
17 of the costs. It seems to me, therefore, that if you
18 say, "Well, in an ideal world, keeping records is good
19 but this is not an ideal world", you very quickly lose
20 control of almost everything.

21 So keeping records, therefore -- and I seek your
22 comment really on this -- surely must be at the
23 forefront?

24 A. I would absolutely agree with you, Chairman, that
25 keeping records is at the forefront of project
26 management, because in addition to just the physical

1 build there is the records that demonstrate what has
2 physically been built, and therefore record-keeping is
3 very important.

4 Once again, I would say that MTR and the use of
5 PIMS, our project integrated management system, has been
6 used for a number of years and have successfully built
7 new railway lines, four of which have been opened in the
8 last three or so years, and I'm sure that proper records
9 have been kept for many of those projects. It's very
10 unfortunate, I do agree with you, that we may not have
11 had that for this particular situation.

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

13 MR KHAW: Not at all.

14 Mr Leong, do I take it that you came to realise the
15 creation of the retrospective records at around the same
16 time when you were aware of the lack of contemporaneous
17 records?

18 A. Firstly, I would say that I never aware of what the
19 record requirements were for the QSP.

20 Q. Right.

21 A. So the fact that -- that's the first point. The fact
22 that these were retrospective records and backdated, as
23 I mentioned, I only became aware of them in the August
24 time frame that I mentioned.

25 Q. Right. As a CEO, when you became aware of the creation
26 of the retrospective records, were you upset with what

1 was done?

2 A. Well, firstly, it's finding out what has happened and
3 what those records pertain to, and once again, as
4 I mentioned, the legal -- when this was broached and
5 mentioned, the legal department, our legal department
6 certainly continued looking at this.

7 Q. Did you actually make any enquiry as to why the
8 retrospective records were actually created?

9 A. I did not at that time, because the Commission of
10 Inquiry had -- the process had already started, and this
11 would all come out in the Commission of Inquiry.

12 Q. Right. It seems to me that there was no mention
13 whatsoever from MTR in relation to the lack of
14 contemporaneous records regarding the coupling
15 installations for platform slabs until witness
16 statements were filed for the purpose of this particular
17 Inquiry.

18 I was just wondering whether there was any
19 discussion within the MTR that you should at least have
20 informed the government of the lack of contemporaneous
21 records earlier?

22 A. I don't recall any of those discussions.

23 Q. Right. Given the evidence we heard over the past couple
24 of weeks, there are a few issues that we might be able
25 to identify from the evidence given by the witnesses.

26 First of all, the frontline staff did not seem to

1 know full well the requirements set out under the QSP.
2 That's the first point. Secondly, no keeping of
3 contemporaneous records that we just discussed. Also,
4 it was a bit unclear as to who was the site quality
5 supervisor responsible for actually checking the
6 coupling installations. Also, we heard from Louis Kwan,
7 who gave evidence earlier, that the RISC form actually
8 did not record the extent of supervision or inspection
9 or the details of such supervision or inspection.

10 Given these issues --

11 CHAIRMAN: Sorry, could I add to that.

12 MR KHAW: Yes.

13 CHAIRMAN: Collateral to the lack of contemporaneous records
14 was what appears to be a habit of backdating, at least
15 it's evidence from a few people. In other words, you
16 wouldn't keep the record now, you would get around to
17 it, hopefully in an hour but maybe not, maybe in
18 a couple of days, so when you got around to it you just
19 backdated it to what you thought was the day that you
20 actually checked it or did it. I would just add that
21 as -- I hope I haven't overstated that, but there was
22 evidence I think from more than one witness that they
23 did that.

24 MR KHAW: Thank you, Chairman. Yes.

25 Given these issues that have apparently been
26 identified, if we go back to your paragraph 23 of your

1 witness statement, regarding the three-lines-of-defence
2 model, would you consider that this
3 three-lines-of-defence model probably failed to work
4 effectively?

5 A. As with all systems including our three lines of
6 defence, there can always be improvements. As I've
7 mentioned, the MTR systems, including our project
8 integrated management system and the three lines of
9 defence, have historically delivered a number of rail
10 lines very successfully. In fact, in some previous
11 studies back in 2008/09, as highlighted in a report
12 which the Chairman himself had chaired and penned in
13 2014, there were some discussions on the quality of
14 PIMS, project integrated management systems, which --

15 CHAIRMAN: Prof Hansford was a member of that expert panel
16 as well.

17 A. And Prof Hansford was a member of that expert panel as
18 well.

19 But with all systems, improvements would always be
20 welcome, and I would say that with these three lines of
21 defence having served us well, there are improvements
22 which we are already planning and in fact have been
23 implementing to further enhance the system.

24 COMMISSIONER HANSFORD: If I can ask a question on that,
25 Mr Leong. Fundamentally, are you planning -- do you
26 know -- to add a fourth line of defence or are you

1 planning to strengthen one or more of the three lines of
2 defence?

3 A. Prof Hansford, the current thinking is to strengthen
4 a number of the lines of defence, including, from
5 a government perspective, looking at enablers like more
6 technology, including enhancing the quality -- the
7 number of people, for instance, and the extent of our
8 quality assurance aspect.

9 So there are a number of issues that we are looking
10 at, and some have already been implemented, to further
11 strengthen the three lines of defence.

12 COMMISSIONER HANSFORD: Thank you.

13 MR KHAW: If I may take you to paragraph 24, Mr Leong, in
14 relation to the CWC. You say:

15 "Aside from the three-lines-of-defence model,
16 a Capital Works Committee of the board was also set up
17 in October 2014 to oversee MTR's capital works projects.
18 Its mandate includes ..."

19 And if I can take you to subparagraph (c):

20 "check that there are adequate resources for and
21 supervision of such projects".

22 May I know whether the CWC has ever raised any
23 concern regarding the level of resources allocated to
24 the supervision of the construction works for this
25 particular project?

26 A. I do not believe so. I do not sit on the CWC and from

1 the minutes that I've seen, I do not believe that's been
2 raised before.

3 MR KHAW: Thank you, Mr Leong. I have no further questions.

4 Re-examination by MR BOULDING

5 MR BOULDING: Mr Leong, I only have one question. Perhaps
6 we can put up on the monitor document B4643.

7 MR SHIEH: The transcript has probably not picked it up but
8 Leighton has no questions.

9 MR CONNOR: Nor has Atkins, sir.

10 CHAIRMAN: Thank you.

11 MR BOULDING: Do you remember being asked about this
12 particular letter, Mr Leong?

13 A. Yes, I do.

14 Q. The transcript, [draft] page 161, records you saying
15 that I think there was a reply to this letter. Do you
16 remember giving that answer to one of my learned
17 friends?

18 A. Yes, I believe there was a reply to this letter.

19 Q. I wonder, with a bit of pot luck, whether we can find
20 it. B3090. You might want to look at a hard copy,
21 actually, but whilst that's coming, could you
22 familiarise yourself with that and tell the learned
23 Commissioners whether that is the reply you had in mind.
24 It may well be that you'll want to have both letters on
25 the monitor at the same time, and I know the operators
26 are very skilful and can do that.

1 MR PENNICOTT: What's the page number again?

2 MR BOULDING: 4643 is the other one that may well assist the
3 witness.

4 That's better. Thank you very much.

5 A. Mr Boulding, your question is: is the letter from
6 Leightons a response to the letter from Ms Gillian?

7 Q. Correct. That's my question.

8 A. Correct, it is, I believe.

9 Q. And that was the letter you were referring to?

10 A. That is the letter that I was referring to, correct.

11 Q. Is there anything that you'd like to draw to the
12 Commissioners' attention so far as that reply is
13 concerned?

14 A. If I could just get a hard copy of that first.

15 Q. I have a hard copy of the reply here, actually.

16 CHAIRMAN: It's coming.

17 A. (Handed).

18 Well, I think, once again, if I may, Chairman, if
19 one looks right at the -- well, throughout the letter
20 from Leightons, they are disputing the allegations from
21 Mr Jason Poon, and right at the end of that letter, just
22 before the signatory, I quote once again:

23 "LCAL [that's Leightons] and its officers and
24 employees reserve their rights in respect of these
25 matters."

26 We were, as a result of that and other comments,

1 concerned about potential defamation liabilities.

2 MR BOULDING: I see. Thank you very much for identifying
3 that letter. I hope that helps the Commissioners.

4 Chairman, Professor, I don't know whether you have
5 any questions.

6 CHAIRMAN: Good. Thank you very much indeed, Mr Leong.

7 We're sorry we've kept you a little bit later, but I'm
8 sure it's better than coming back tomorrow.

9 WITNESS: Not at all. Thank you very much, Chairman.

10 CHAIRMAN: It's a pleasure.

11 (The witness was released)

12 MR PENNICOTT: Sir, may I just mention tomorrow?

13 CHAIRMAN: Yes.

14

15 H O U S E K E E P I N G

16 MR PENNICOTT: We have, I think, the last MTRC witness,
17 that's the chairman, Mr Frederick Ma, tomorrow morning.

18 MR BOULDING: That's correct.

19 MR PENNICOTT: Thank you very much for that confirmation.

20 If one was looking at the currently published
21 timetable on the website, you will see that after Mr Ma
22 are Mr Mak and Mr Yueng from Pypun, but they are not
23 going to be here until Thursday. So what I hope is
24 going to happen tomorrow is that we will have Mr Ma
25 first thing, and then, having discussed matters with
26 Mr Connor from Pinsent Masons acting for Atkins, we will

1 bring up the batting order, as it were, Mr Blackwood,
2 director of Atkins, and also then, if we need to,
3 Mr Sung, Wilson Sung, head of structures of Atkins, and
4 that will be the three witnesses that are available to
5 us tomorrow.

6 Unfortunately, there is also another gentleman from
7 Atkins, Mr Lee, but he has other engagements tomorrow,
8 and so we won't reach him until later in the week. So
9 it's three witnesses tomorrow and I hope that's going to
10 fill a good part of the day. It may be that we go
11 a little bit short but we'll see. So it's Mr Ma,
12 Mr Blackwood and Mr Sung.

13 CHAIRMAN: We're completing pre-Christmas hearings on Friday
14 the 21st, but as far as completing on that day is
15 concerned, do you have any concerns at the moment?

16 MR PENNICOTT: Not at all, sir, no. Indeed, I think I'm
17 right in saying -- I'll be corrected if I'm wrong --
18 that indeed, so far as Thursday and Friday are concerned
19 this week, we only have available to us Mr Mak and
20 Mr Yueng from Pypun, and then Mr Lee from Atkins.
21 That's Thursday and Friday.

22 We then switch over to next week where, as you know,
23 we will be having a potentially long day on Monday,
24 because we will first of all have Mr Chan, who is the
25 one remaining witness from Atkins, on Monday morning.
26 We will then have Mr Kevin Harman, I hope, although

1 I may be wrong about that -- it may be the 18th -- but
2 in any event we will then start the government witnesses
3 and fit in the other witnesses that we're calling, if
4 necessary, between certain government witnesses.

5 Sir, I'm certainly not concerned in the least at the
6 moment. I think we can comfortably finish the two or
7 three witnesses, non-government witnesses, in the early
8 part of next week, and we will comfortably, in my view,
9 finish the government witnesses in the course of next
10 week.

11 CHAIRMAN: Good. That will all being well and subject to
12 anything else rearing its head, be the end of factual
13 evidence, and we'll then move on after the New Year to
14 opinion evidence, expert evidence?

15 MR PENNICOTT: Yes, sir.

16 CHAIRMAN: Good.

17 MR BOULDING: Sir, can I just raise a query? Mr Pennicott
18 needs to be commended for how efficiently it's run so
19 far, but can I just ask whether there's any prospect of
20 any of the government witnesses coming in on Friday if
21 there's going to be any spare time?

22 MR PENNICOTT: Sir, I have to say, I have a personal
23 interest in that question. I can advise you tomorrow
24 whether that's going to be possible, because two things
25 have to happen. One, I need to speak to Mr Khaw to make
26 sure they're available, because the arrangement that

1 we've had with the government is the government
2 witnesses will be next week, and so they've organised
3 themselves on that basis, and certainly I take full
4 responsibility for that.

5 The other aspect is whether I'm actually going to be
6 ready for any of the government witnesses on Friday. So
7 that's a personal plea from me. But I expect I can get
8 around that one way or the other.

9 So, sir, I can see Mr Boulding's point. It would
10 certainly be -- I agree entirely, if we can, not waste
11 time on Friday, have a government witness or two, with
12 a view then perhaps, I think what Mr Boulding is really
13 driving at, it would be great to have the following
14 Friday off rather than this Friday.

15 CHAIRMAN: Yes.

16 MR PENNICOTT: But I'll need to speak to Mr Khaw about that
17 and to see whether we can reorganise things, but we will
18 see how we go.

19 MR KHAW: Yes, Mr Chairman, in response to Mr Boulding's
20 question, in fact we have -- I should have told
21 Mr Pennicott more clearly -- made arrangements so that
22 at least two of the government witnesses will be
23 available this Friday, in case we have some spare time
24 to deal with their evidence.

25 MR PENNICOTT: Okay.

26 MR KHAW: So in fact I have given Mr Pennicott a tentative

1 list of witnesses, and that is made on the assumption
2 that perhaps the first or the second of our witnesses
3 will need to come forward to give evidence this Friday.

4 MR PENNICOTT: Right. I hadn't appreciated that that was
5 built into the list that I had been given. It looked
6 like various other documents. There's no date on it or
7 any dates. But, sir, that's helpful. I can look at the
8 first couple of government witnesses on the list, focus
9 on them, and see whether we can accommodate them on
10 Friday, if we've got time.

11 CHAIRMAN: All right. Good.

12 MR KHAW: One caveat, that is I have also told Mr Pennicott
13 that the Secretary for Transport and Housing will be
14 available next Monday and Tuesday, and I believe that
15 arrangements can be made so that he can give evidence on
16 Monday or Tuesday.

17 MR PENNICOTT: Yes. I'm aware of that.

18 CHAIRMAN: And if necessary you will go in search of some
19 midnight oil.

20 MR PENNICOTT: Indeed I will. Perhaps I'll borrow some from
21 Mr Shieh.

22 CHAIRMAN: Thank you. Then tomorrow morning, 10 o'clock.

23 Thank you.

24 (5.33 pm)

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

26

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