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<p>1 Thursday, 30 May 2019 2 (10.01 am) 3 MR SHIEH: Good morning, Mr Chairman and Mr Commissioner 4 CHAIRMAN: Yes. 5 MR NG MAN CHUN (on former affirmation in Cantonese) 6 (All answers given via simultaneous interpreter 7 except where otherwise specified) 8 Cross-examination by MR SHIEH (continued) 9 MR SHIEH: Good morning, Mr Ng. I just have a few further 10 questions for you this morning. 11 Yesterday, you described a phenomenon where couplers 12 or the caps on the couplers were not exposed because the 13 concrete has not been fully chipped off. Do you 14 remember that? 15 A. Yes. 16 Q. And you said you had been told that you just put the end 17 of the rebar near the wall, so to speak, because there's 18 no coupler for you to put it in, so you've been told 19 just to put the threaded rebar near the wall, without 20 trying to connect? 21 A. That's right. 22 Q. This was what you said? 23 A. Yes, that's what I said. 24 Q. I just wish to understand how it's supposed to work. If 25 the threaded end of a rebar did not even touch or engage</p>	<p>1 A. Yes. 2 Q. -- they would interrupt the normal sequence, go to the 3 middle, lap the middle with the bar coming from the 4 other side; is that what you are saying? 5 A. That's right. 6 Q. Then they would go back and continue fixing the other 7 bars onto the 1111 wall? 8 A. Right. 9 Q. I suggest to you -- well, I've done that before but 10 I say it again -- Henry Lai never told you to just leave 11 the rebars outside the wall, as you suggested. Do you 12 accept that? Do you agree? 13 A. Disagree. 14 Q. Now, can I then move on to look at your witness 15 statement, at paragraph 63. You here describe this 16 further phenomenon of rebars which were thinner than the 17 couplers? 18 A. Right. 19 Q. And you again described a telephone call with Henry Lai 20 in which he told you "just [to] stick them in, it's not 21 as if the wall would collapse"; do you see that? 22 A. Yes, I see that. 23 Q. This is not a normal situation, because there's a size 24 mismatch. It's not a shape mismatch but it's a size 25 mismatch, so it's not normal; correct?</p>
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<p>1 with a coupler, but is basically left at a small 2 distance from the wall, are you saying that it's hanging 3 in midair? How is it suspended? 4 A. It's not in midair, because 1111, for the couplers, 5 since we could not screw in the rebars, we could not do 6 it, but there are two sides. For the other side, this 7 (demonstrating) would have been screwed in. So it would 8 be secured with steel wires. It's not in midair. 9 Q. Okay. I understand. I just wish to understand how it 10 is that it would work, because, as a matter of work 11 routine, the bar fixers would all go to, let's say, the 12 1111 wall, and they would try to screw in the threaded 13 ends to the couplers on the 1111 wall, as a matter of 14 normal routine; correct? 15 A. Correct. 16 Q. And after screwing in the bars on 1111, and after 17 screwing in the bars on 1112, they then lap the bars in 18 the middle, when they intersect or overlap; correct? 19 A. Right. 20 Q. That's the normal routine, the normal sequence; correct? 21 A. Correct. 22 Q. What you are saying is, when workers were trying to 23 connect the bars to the couplers, let's say along 1111, 24 and they come across a coupler or couplers which were 25 not exposed --</p>	<p>1 A. Correct. 2 Q. And again you had not tried to protect Wing &amp; Kwong by 3 recording it either in writing or in an audio message or 4 in WhatsApp message; correct? 5 A. I agree. 6 Q. I suggest to you that this simply did not happen. 7 A. Disagree. 8 Q. I've asked this before, in relation to the other 9 conversation, but in relation to this conversation, did 10 it occur to you even to try to have an audio record or 11 a written record of what Henry Lai has instructed? 12 A. Did not. 13 Q. So it was an oversight on your part, or are you too 14 trusting to Henry Lai, or what? 15 A. I admit that it was oversight on my part, and I also 16 trusted him. 17 Q. I suggest to you it's neither. There's no record 18 because it didn't happen. Do you accept that? 19 A. Disagree. 20 Q. Fine. I'll move on. 21 Paragraph 72. Here, you are talking about joint 1; 22 yes? Base slab. And you talk about a lot of concrete 23 that has not been chipped open; yes? 24 A. Right. 25 Q. And then again you talked about a conversation with</p>

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<p>1 Henry Lai. You say: 2 "... there hasn't been sufficient chipping off 3 again! Do we need to call ... to work overnight?" 4 And Henry then said, "Try to screw in as much as you 5 can." 6 Do you see that? 7 A. Yes, I see that. 8 Q. It wouldn't surprise you to hear that I'm suggesting to 9 you that, first of all, there's no record of this 10 anywhere; yes? 11 A. Well, it was a face-to-face conversation. It was 12 a face-to-face conversation, not a phone conversation. 13 Q. I'm sorry, it says you "immediately called Henry Lai". 14 You telephoned him. "(Via interpreter) I immediately 15 called Henry Lai". 16 A. I don't remember very clearly this part. If I didn't 17 see him, I would call him immediately, but if I was on 18 the spot, I would just approach him immediately. 19 Q. There's no record, I say, because it didn't happen, this 20 conversation did not happen. Do you accept that? 21 A. Disagree. 22 Q. Now, just so that we are clear on this, in this day and 23 age, people communicate by WhatsApp pretty regularly, 24 and you told us that you have WhatsApp function on your 25 phone; you have WhatsApp function on your phone, right?</p>	<p>1 A. Correct. 2 Q. So just to ask you to confirm there is no shape mismatch 3 for joint 2; yes? 4 A. Correct. 5 Q. Let me just see. Paragraph 78. Here, you are talking 6 about doing joint 1, and you are talking about some 7 concrete that had not been chipped off; yes? 8 A. Correct. 9 Q. And some problem of mismatch, and you talked about 10 a call with Henry Lai, and Henry Lai's answer; do you 11 see that? 12 A. Yes, I see that. 13 Q. I challenge you on the same basis, that this 14 conversation did not happen. 15 A. Disagree. 16 Q. Now, finally in relation to these "problems" that you 17 say you encountered, look at paragraph 84 and 85. 18 In paragraph 84, you are talking about a wall on 19 joint 2, and you saw a row of couplers which have not 20 been chipped open, do you see that, at paragraph 84? 21 A. Yes, I see it. 22 Q. You then described a call to Henry Lai and you described 23 a conversation? 24 A. Yes. 25 Q. Again, I suggest that you did not tell Henry Lai about</p>
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<p>1 A. Yes. 2 Q. And different people have different work habits, but you 3 actually regularly use WhatsApp in communication in work 4 matters; correct? 5 A. Yes. 6 Q. Let me just move on. Paragraph 76. This time -- this 7 is joint 2, the internal joint within 1112; yes? 8 A. Yes. 9 Q. This time, Henry Lai was there. You can see you recall 10 that "Henry Lai was present" -- this is about two or 11 three lines, near the bottom. You "recall that Henry 12 Lai was present to supervise ... at the time"; right? 13 A. I don't know whether he was supervising the works, but 14 I -- 15 Q. So this time you told him the problem, you say, and he 16 gave you the same answer, which was to tell you just to 17 proceed, do you see that, at the end of this paragraph? 18 A. Correct. 19 Q. I have to suggest that this conversation didn't take 20 place. 21 A. Disagree. 22 Q. Paragraph 82. You are talking about joint 2, and you 23 make the obvious point, which is correct, that joint 2 24 is not at the interface between 1111 and 1112; yes? 25 It's all within 1112; correct?</p>	<p>1 the problem that you say you have encountered, that 2 Henry Lai did not have that conversation that you 3 described at paragraph 85; do you accept that? 4 A. I disagree. 5 Q. Now, yesterday you showed us some photographs and you 6 said the photos show some couplers or some caps, red 7 caps not to be closed. I just wish to take you to one 8 or two of them. 9 Can I ask you to look at bundle EE, page 411. 10 A. Okay. 11 Q. This is I think one of the photos that you showed us 12 yesterday or which counsel took you to yesterday. When 13 you I think tried to say that there's a certain area 14 which shows that some concrete has not been hacked off 15 to reveal the couplers, you tried to circle part of this 16 photograph; do you remember? 17 A. Yes. 18 Q. I have to say that from what I can see, I can't see 19 anything which suggests a row of couplers and then some 20 couplers not exposed. 21 Now, Mr Chairman and Mr Commissioner, it may well be 22 that this is not really a point for cross-examination, 23 because you know that I challenge what he said to be 24 what he had observed. He tried to say that the 25 photographs bear out what he had seen. Now, the photos</p>

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<p>1 show what they show, and we can all see what it says and 2 we can make submissions, but I just wish to make it 3 clear that we are not accepting what this witness says 4 to be what is shown in the photographs. So that is why 5 formally I have to go through this. I wish to put my 6 questions in context. 7 So if the Commission thinks or if anyone thinks, "We 8 can all see the photos, we are not going to blame you 9 for not having challenged the witness", I can gladly 10 move on, but this really is the direction I'm going. 11 CHAIRMAN: We're not going to blame you for not challenging. 12 MR SHIEH: Very well. Then I can move along reasonably 13 quickly. 14 CHAIRMAN: Yes. 15 MR SHIEH: 411, do you remember you tried to circle an area 16 which you say showed unexposed couplers, and likewise -- 17 so we can move quickly -- at 409 you also circled 18 an area which you say showed some unexposed couplers, do 19 you remember, 409? 20 A. Yes. 21 Q. Do you remember yesterday you circled an area which you 22 say there were missing caps; remember? 23 A. Yes. 24 Q. I think also, 408 -- remember you again helped us by 25 circling an area on this photo --</p>	<p>1 you believe to be Henry Lai's superior did ask you, 2 "Around what percentage [was] actually ... screwed in", 3 and you said "definitely at least 70 per cent". 4 A. Correct. 5 Q. And following from this, he told you to go back and wait 6 for instructions. 7 You then drew a conclusion: 8 "Clearly, this superior knew that not all rebars 9 have been screwed into the couplers, which was why he 10 asked me around what percentage of the rebars has 11 actually been screwed in." 12 Do you see that? 13 A. I see it. I see it. 14 Q. What I suggest to you is this. The meeting which you 15 recall to have taken place and which Leighton recalls to 16 have taken place involved a certain foreigner called Jon 17 Kitching. Do you remember Jon Kitching being there? 18 A. I don't recall clearly. (Chinese spoken)? 19 Q. Yes, go ahead. I'm just giving you a chance to explain. 20 The meeting that you recall when you were asked 21 a question -- I'm telling you that from Leighton's 22 perspective, yes, there was a meeting when they asked 23 you questions, but that meeting involved Jon Kitching. 24 Do you remember a meeting with Jon Kitching? 25 A. There were one or two foreigners. They just said a few</p>
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<p>1 A. Yes. 2 Q. -- you say showed some missing caps which were not 3 exposed; yes? 4 A. Yes, I remember. 5 Q. Two things to suggest to you. First of all, you never 6 drew these to the attention of Leighton at the time, if 7 there were in fact these problems. 8 A. I disagree. 9 Q. And anyway -- you may say that we can all see for 10 ourselves -- I'm suggesting to you that from the photos 11 we can't really see any missing caps as you suggested. 12 A. What you said, you can't see it -- you can't see the 13 couplers. 14 Q. We can't see any phenomenon of caps that were not 15 exposed. 16 A. I disagree. 17 Q. Can I ask you to look at your witness statement, 18 paragraph 96. You described a meeting at the 19 construction site with Leighton's staff? 20 A. Yes. 21 Q. So Henry Lai was there and you said there was someone 22 who you believe to be Henry Lai's superior? 23 A. Yes. 24 Q. At paragraph 97, you describe what was said during the 25 meeting, and you said you remember that the person who</p>	<p>1 sentences and then left. 2 Q. So this meeting -- so, in this meeting that you 3 described in paragraph 96/97, you remember there were 4 one or two foreigners in this meeting? 5 A. Yes. 6 Q. Now, what happened was that in fact Jon Kitching asked 7 you questions and then a Chinese gentleman called 8 Mr Cheung Chi Wai translated Jon Kitching's question to 9 you. Do you remember that? 10 A. I think that was what happened. 11 Q. Right. So any questions asked of you in this meeting in 12 fact were Jon Kitching's questions which were translated 13 by Mr Cheung; do you accept that? 14 A. Yes, I accept. 15 Q. And the question was, basically, to ask you to tell the 16 truth on how many per cent of rebars you have actually 17 screwed in; yes? 18 A. Is that what he asked? I don't recall what he asked 19 exactly. 20 Q. But, on your evidence, Henry Lai was there? 21 A. Yes, he was. 22 Q. But leaving aside whether he was there, at this meeting, 23 you already knew that problems had arisen, problems had 24 already arisen, by way of water leakage; yes? 25 A. Yes, otherwise he wouldn't have called me over.</p>

<p style="text-align: right;">Page 13</p> <p>1 Q. Yes. And, on your recollection, on your recollection 2 and according to what you had discussed with Ben, as you 3 say, there were problems of mismatch and unexposed 4 couplers, et cetera, during construction. These were in 5 your mind at the time; correct? 6 A. Are you asking when Ben called me over the phone, or 7 when? 8 Q. Before this meeting, according to your witness 9 statement, you had a discussion with Ben Cheung already; 10 correct? 11 A. He called me and had a discussion. 12 Q. Yes, and you had basically described to him the sort of 13 problems you he encountered on site; correct? 14 A. Yes. 15 Q. Mismatch in shape, unexposed couplers, these problems 16 you had told Ben Cheung already; correct? 17 A. Yes. 18 Q. And, in your mind, you would have drawn a connection, 19 a link, between these problems with the water leakage 20 that had occurred; correct? 21 A. I don't understand your question. 22 Q. In your mind, at the time of this meeting, you would 23 have drawn a connection between the problems you 24 encountered on site, what Henry Lai had told you to do; 25 yes? "Screw as best as you can or just not screw at</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. And this meeting at Leighton was called because of the 2 water leakage problems; yes? 3 A. Correct. 4 Q. Yesterday, when Wing &amp; Kwong's lawyer, Mr Tsoi, on my 5 right, asked you why in this meeting you did not mention 6 your conversation with Henry Lai at this meeting -- do 7 you remember that? 8 A. What conversation? (Chinese spoken). 9 Q. Anyway, I am suggesting to you now that if the 10 conversations which Henry Lai had with you, where he 11 told you to try to screw in as best as you can or where 12 he told you just to put the bar near the wall, if these 13 conversations did take place, you ought to have 14 mentioned them at this meeting to explain the leakage. 15 Do you accept that? 16 A. At that moment, the questions put by those two 17 expatriates, there were a few questions, just a couple 18 of them and then they left. Then things were left to, 19 I believe, the superior of Henry Lai and then Ms Wong, 20 and Henry Lai, we went to do the site inspection, and 21 then Chi Wai asked me how much they were screwed in, 22 60/70 per cent, whereas Henry Lai didn't say anything to 23 me at all. He dared not. 24 CHAIRMAN: I think that in part the question asked of you 25 relates to what you said. In other words, did you</p>
<p style="text-align: right;">Page 14</p> <p>1 all" and the problem of water leakage that had 2 occurred -- you would have been able to draw 3 a connection between these things? 4 Put simply, you would have been able to say to 5 yourself "water leakage occurred because of the kind of 6 connection or non-connection that we did"? 7 Maybe too long. 8 CHAIRMAN: No, it's not too long. That presupposes 9 causation. That presupposes that it was the failure of 10 connection which led to the leaking. 11 MR SHIEH: Yes. I was asking -- it may or may not be but 12 I was just asking -- 13 CHAIRMAN: Exactly. So long as that's clear, that's all. 14 MR SHIEH: Maybe I will just rephrase it. Thank you, 15 Mr Chairman. 16 I will put my question again, Mr Ng, because maybe 17 it's too long and maybe the message has not been put 18 entirely correctly, so listen again. 19 Has it occurred to you at the time of this meeting 20 that the water leakage problems were attributable to or 21 caused by the non-connection of the rebars on site, or 22 inadequate connection of the rebars -- 23 A. Yes, I definitely thought about that. 24 Q. And you thought that it was a possible cause; yes? 25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 protest at any time that a failure of the connection of 2 rebars, which may have brought about water leakage, was 3 at the insistence of Henry Lai? 4 A. Well, at that meeting, nobody asked me anything. I was 5 only told to go there, when it was done, how it was 6 done, and then I was asked to inspect the site, and then 7 they said they would open up certain areas to check the 8 couplers. It was a very brief meeting. I wasn't asked 9 anything. I mean, I wasn't asked anything else. 10 CHAIRMAN: But, according to your statement, paragraph 97, 11 the meeting lasted about 20 minutes. 12 A. Roughly, in my recollection. 13 CHAIRMAN: From what you have said, it would seem to be the 14 case that you must have understood that what you had 15 done, under the instructions of Henry Lai, was to 16 complete the work well below acceptable standards. 17 A. Correct. 18 CHAIRMAN: And now, suddenly, you had this meeting with 19 a couple of senior foreigners from Leighton. You had 20 other people there, and you were going to be asked about 21 the failure to properly complete the installation of 22 rebars; right? 23 A. In my recollection, it seemed that they did not ask me 24 these questions. 25 CHAIRMAN: Well, you knew what the problem was, didn't you?</p>

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<p>1 A. Yes, I knew.</p> <p>2 CHAIRMAN: And, from what you tell me, Henry Lai was</p> <p>3 standing there?</p> <p>4 A. That's right.</p> <p>5 CHAIRMAN: Now, it may be suggested that when you realised</p> <p>6 that the reputation and perhaps the treasury of your</p> <p>7 company was at stake, and you were standing almost next</p> <p>8 to the man who had instructed you to do all these</p> <p>9 things, that you might not have raised the issue there</p> <p>10 and then, pointed at Henry Lai and said, "But look, I've</p> <p>11 done all this under his instructions. This is the man</p> <p>12 you need to speak to." But, from what you tell me, you</p> <p>13 didn't say anything about Henry Lai's participation in</p> <p>14 the work that had been done.</p> <p>15 A. Well, at that meeting, I probably did not say anything</p> <p>16 about it.</p> <p>17 CHAIRMAN: Sorry, Mr Shieh. Thank you.</p> <p>18 MR SHIEH: Can you look at paragraph 94 of your statement.</p> <p>19 You were describing what was in your mind when Ben</p> <p>20 Cheung first told you about the water leakage problem;</p> <p>21 yes? Do you remember that?</p> <p>22 A. Right. Right.</p> <p>23 Q. You remember clearly the main points of discussion. You</p> <p>24 say:</p> <p>25 "... when I heard him say that Leighton reckoned</p>	<p>1 Cheung who should deal with it, and I was only asked to</p> <p>2 go there by Leighton the following day for a meeting,</p> <p>3 and I was only responsible for the meeting. As to who</p> <p>4 asked me what at the time, I just answered those</p> <p>5 questions.</p> <p>6 At that moment, well, I don't think I could make</p> <p>7 such important decisions on behalf of either Loyal Ease</p> <p>8 or W&amp;K because it was Ben Cheung who should be</p> <p>9 responsible for it. As to whether I protested or not,</p> <p>10 I believed Ben Cheung would handle the matter. Well,</p> <p>11 perhaps I did not protest there and then because</p> <p>12 I wasn't asked, and it was a very brief meeting,</p> <p>13 frankly, those expatriates asked me just a couple of</p> <p>14 questions. Following that, we immediately proceeded to</p> <p>15 the site, three to four of us, for an inspection of</p> <p>16 about 15 minutes and then I was asked to leave and wait</p> <p>17 for further notice. It was a very brief meeting.</p> <p>18 Q. Just a few answers ago you said, "At that moment ...</p> <p>19 I don't think I could make such important decisions on</p> <p>20 behalf of either Loyal Ease or Wing &amp; Kwong because it</p> <p>21 was Ben Cheung who should be responsible for it." That</p> <p>22 is what you said just now.</p> <p>23 A. Right.</p> <p>24 Q. What was the important decisions which were for Ben</p> <p>25 Cheung to be responsible for? What are you referring</p>
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<p>1 that the water seepage may have been caused by problems</p> <p>2 with our construction works ..."</p> <p>3 So Leighton's blaming.</p> <p>4 "... my first reaction was probably that of anger as</p> <p>5 everything we have done throughout the entire</p> <p>6 construction was done pursuant to the RC details or the</p> <p>7 instructions provided to us by Leighton (especially</p> <p>8 Henry Lai)."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So there you are. You were angry, correct, when you</p> <p>12 spoke to Ben Cheung, when Ben Cheung told you the</p> <p>13 problem; yes?</p> <p>14 A. Right.</p> <p>15 Q. So Leighton, in your mind, was really being unfair to</p> <p>16 you; right? Having instructed you to do that, now</p> <p>17 blamed you for the problem; yes?</p> <p>18 A. I suppose so.</p> <p>19 Q. So Leighton was not accepting responsibility for it. It</p> <p>20 was forcing you to, in Cantonese -- I don't know how you</p> <p>21 translate it -- eat a dead cat, forcing you to accept</p> <p>22 responsibility unfairly?</p> <p>23 A. Let me clarify. If you talk about responsibility,</p> <p>24 basically this should be dealt with by Ben Cheung, not</p> <p>25 me, and in the phone conversation I explained to Ben</p>	<p>1 to?</p> <p>2 A. How should I put it? I only acted according to</p> <p>3 instructions given by them. So let me respond to your</p> <p>4 question. When he called me to talk about this, and</p> <p>5 then I was surprised, I also wondered why, and then</p> <p>6 I told him those instructions given, and then I was</p> <p>7 asked to go there for a meeting the following day. So</p> <p>8 I just followed his instruction to have a meeting with</p> <p>9 them the following day.</p> <p>10 At the meeting, I wasn't asked any specific</p> <p>11 questions. So, when you said that I did not protest or</p> <p>12 answer them, that's just roughly what happened, what</p> <p>13 I said, what I did at the time.</p> <p>14 Q. Let's get it clear. At the time of the meeting, your</p> <p>15 impression was that Leighton was blaming Wing &amp; Kwong</p> <p>16 for the water leakage problem?</p> <p>17 A. At that moment, I didn't consider Leighton blaming Wing</p> <p>18 &amp; Kwong. They seemed to try to clarify what happened,</p> <p>19 how was it done. They only put very simple questions.</p> <p>20 They didn't ask for details.</p> <p>21 Q. But the impression that you got from Ben Cheung's</p> <p>22 conversation with you before the meeting was that</p> <p>23 Leighton was laying the blame on Wing &amp; Kwong; correct?</p> <p>24 That was why you were angry?</p> <p>25 A. I suppose so.</p>

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<p>1 Q. So my question was, my question is, never mind whether 2 you were asked positively. As a matter of common sense, 3 you should set the record straight, shouldn't you? 4 A. You mean at that meeting I should have set the record 5 straight? 6 Q. Yes. 7 A. But I wasn't asked to explain anything at that meeting. 8 I mean, if Leighton finds it very important to have this 9 meeting, they would have asked all these questions, but 10 I was only very briefly asked a couple of questions, 11 followed by a site inspection, and then I left. If you 12 considered the meeting so important, why didn't you ask 13 those important questions at the time? I was only told 14 to go there to get an understanding of the matter. 15 That's it. 16 Q. Remember yesterday you talked about the need to protect 17 Wing &amp; Kwong, and that's why you need to expressly get 18 Henry Lai to agree that, yes, you can do that, in 19 relation to the mismatch in shape, "Just screw in as 20 best as you can"; you said you wanted to protect Wing 21 &amp; Kwong, that's why you had to expressly get Henry Lai 22 to agree that it was him who asked you to do that? 23 A. That's right. 24 Q. But on the day of the meeting, it was precisely why you 25 needed to invoke that protection; do you accept that?</p>	<p>1 to Ben Cheung, and I was only told and instructed to 2 attend the meeting, that Leighton had some questions for 3 me. 4 You can say I'm inexperienced. If that's the case, 5 then I could act like that other person, Mr Chung from 6 Intrafor -- China Tech, rather. 7 Q. I think what he meant was a Mr Somebody from China Tech. 8 A. Because how many couplers you have and how many of them 9 you can screw in, whether it's structurally safe, we 10 don't know. We just work according to instructions. 11 MR TSOI: I hesitate to interrupt but I think the 12 transcription has missed out part of the answer Mr Ng 13 gave in relation to a Mr X of China Tech. I think part 14 of the answer was, "I would have said what you guys 15 did." Perhaps we could hear the transcript. 16 MR SHIEH: Perhaps we can ask the witness to repeat what he 17 intended to say. 18 MR TSOI: Sure. 19 MR SHIEH: Mr Ng, just now you said something like, "You can 20 say I am inexperienced, I could have acted like the 21 other person from China Tech." I just wish -- because 22 there seem to be some missing bits in the translation or 23 the transcription -- perhaps you can repeat what you 24 intended to say in that answer. 25 A. I cannot remember. What are you referring to? I spoke</p>
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<p>1 A. You are saying that at the Leighton meeting I needed to 2 defend my case? Is that what you are saying? 3 Q. Yes. 4 A. Then I should ask you the same question. 5 Let me put it simply. I didn't think I needed to 6 defend anything at that meeting. Your company 7 instructed me to attend the meeting and I was going to 8 answer whatever was put to me. The meeting was very 9 brief. There weren't important questions. If there 10 were things that you wanted to clarify in the meeting, 11 the so-called senior management wanted to understand, 12 they would have had a lot of questions. Isn't that 13 right? 14 So isn't it the case that some of the people in the 15 meeting already knew that they didn't chip off enough 16 concrete and couldn't access the couplers -- shouldn't 17 everybody be aware? So if nobody asked -- your senior 18 management should have asked those questions. Why isn't 19 there any records of the meeting? There were just one 20 or two questions, I was taken for a walk and a few 21 pictures were taken, and I'm only right now -- when they 22 ask my company, when they ask for photographs of the 23 works, and I've only known about this at a later stage. 24 Now, I feel I did not need to protest at the 25 meeting, and I had already disclosed everything I knew</p>	<p>1 a lot just now. 2 Put simply, let me repeat, you were questioning me 3 what I should have protested at the meeting. I did not 4 think I needed to protest. And I repeated what 5 happened. I told Ben Cheung what had happened, and 6 I was told that there was going to be a meeting with 7 Leighton and I needed to attend. But nobody asked me 8 a lot of questions. The meeting was very brief. And 9 you were asking me -- and I think that you if you think 10 the meeting is so important, then there should have been 11 people asking important questions and they would be 12 keeping records; isn't that the case? 13 MR TSOI: I'm so sorry but I've been requested to ask the 14 witness to speak slower. I have been requested by those 15 instructing me. 16 MR SHIEH: So, Mr Ng, are you saying that, in your mind, at 17 the meeting, you thought maybe the supervisor or the 18 foreigner, or Mr Cheung from Leighton, already knew that 19 there had been inadequate connection made at the joints? 20 A. Yes. At that meeting, that's the impression I received. 21 Q. Wasn't it natural for you to say, "Well, yes, of course, 22 this guy told me so, Henry Lai told me to"? 23 A. I would have responded if people had asked me. There 24 weren't many people asking any other questions at that 25 meeting. If so, I would have only answered what I was</p>

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<p>1 being asked.</p> <p>2 Q. I think I have spent enough time on this topic.</p> <p>3 Can I then move on finally to one small point. At</p> <p>4 various points in your witness statement, you referred</p> <p>5 to a suggestion that the non-connection or the</p> <p>6 inadequate connection would have been obvious to the</p> <p>7 naked eye?</p> <p>8 A. If the connections were not good, yes.</p> <p>9 Q. In fact yesterday, at various points in time, you</p> <p>10 actually said you expected the work to be rejected?</p> <p>11 A. Normally, yes.</p> <p>12 Q. So nobody had promised you, for example, "Just do it,</p> <p>13 I'll close my eye and let it pass"; nobody had suggested</p> <p>14 that to you?</p> <p>15 A. Could you repeat the question slowly?</p> <p>16 Q. No one from Leighton had promised you, "Just do it, I'll</p> <p>17 close my eye when I inspect and I'll pass it"? No one</p> <p>18 had promised you that?</p> <p>19 A. Nobody made such a pledge.</p> <p>20 Q. Would you accept that the stitch joint was a rather</p> <p>21 confined and narrow environment?</p> <p>22 A. Not that narrow.</p> <p>23 Q. And, as and when bars were connected in layers, the</p> <p>24 space occupied by the bars could get a bit cluttered and</p> <p>25 congested?</p>	<p>1 witness statements to supplement the third witness</p> <p>2 statement of Henry Lai in reply to the witness statement</p> <p>3 of Mr Ng [who is currently in the witness box], and to</p> <p>4 provide additional information in relation to the</p> <p>5 matters raising in the opening address by counsel for</p> <p>6 the Commission."</p> <p>7 Sir, the position is that two of those witness</p> <p>8 statements deal with certain limited aspects of the</p> <p>9 current witness's evidence, and they are witness</p> <p>10 statements from Mr Jonathan Kitching and from Mr Cheung</p> <p>11 Chi Wai who, as I think we heard earlier, acted as the</p> <p>12 interpreter at the meeting that Mr Shieh has been</p> <p>13 discussing with the witness. Those two witness</p> <p>14 statements are pretty short and just deal essentially</p> <p>15 with that meeting and what was discussed, and obviously</p> <p>16 Mr Shieh has been cross-examining on the basis of what</p> <p>17 I've seen in these witness statements.</p> <p>18 I imagine no one else has had the benefit of seeing</p> <p>19 them yet.</p> <p>20 Sir, the other witness statement is the fifth</p> <p>21 witness statement of Joe Tam. That doesn't deal</p> <p>22 directly with this witness's evidence, but does deal</p> <p>23 with the whole question of who was responsible for the</p> <p>24 chipping off of the concrete, both in relation to the</p> <p>25 Gammon-Kaden side of the stitch joints and the Leighton</p>
<p>Page 26</p> <p>1 A. Yes.</p> <p>2 Q. Which could make detailed visual inspection difficult?</p> <p>3 A. I'm not sure.</p> <p>4 Q. I suggest to you that you made non-connections or</p> <p>5 inadequate connections of the bars without authority</p> <p>6 from Leighton, and taking your chance -- and took your</p> <p>7 chance that it would be -- it would not be spotted</p> <p>8 during inspections.</p> <p>9 A. I disagree.</p> <p>10 MR SHIEH: Thank you very much, Mr Ng. I have no further</p> <p>11 questions.</p> <p>12 CHAIRMAN: Thank you.</p> <p>13 Mr Khaw? Sorry, I'm not quite sure --</p> <p>14 MR PENNICOTT: Sorry, sir, before anybody else starts to ask</p> <p>15 any questions, can I just draw to your attention one</p> <p>16 matter -- potentially three matters.</p> <p>17 Just before we started this morning, at 9.48 -- you</p> <p>18 can see I'm reading from my phone -- we received</p> <p>19 an email from those instructing my learned friends</p> <p>20 Mr Shieh and Mr Chang. That email attached three new</p> <p>21 witness statements. They are mercifully short. I was</p> <p>22 given those statements at about 10.20 in hard copy, when</p> <p>23 somebody came in and gave them to me.</p> <p>24 The email goes on to say:</p> <p>25 "Leighton wishes to provide to the Commission these</p>	<p>Page 28</p> <p>1 side of the stitch joints.</p> <p>2 I won't say any more than that at the moment, but</p> <p>3 there is definitely, so far as the Gammon-Kaden side,</p> <p>4 a significant shift in, well, my understanding, if the</p> <p>5 witness statement is to be accepted as accurate, that is</p> <p>6 that indeed Gammon-Kaden were responsible for chipping</p> <p>7 off the concrete on their side of the stitch joint and</p> <p>8 not Leighton.</p> <p>9 So that's taken me, I am bound to say, a little bit</p> <p>10 by surprise, but there we are.</p> <p>11 Sir, I don't know what the best thing to do is.</p> <p>12 I do think it right that Mr Tsoi at least should see the</p> <p>13 two brief statements before he is required to</p> <p>14 re-examine. Maybe the answer is to adjourn now so that</p> <p>15 they are given maximum time, rather than continue with</p> <p>16 the cross-examination. But, sir, I'm in your hands and</p> <p>17 if anybody else has any observations, no doubt they will</p> <p>18 make them.</p> <p>19 MR TSOI: Thank you. I thank, as I usually do, counsel for</p> <p>20 the Commission for that. I am grateful.</p> <p>21 The trouble I may run into is that, whilst if the</p> <p>22 witness statements were provided to me before Mr Ng</p> <p>23 started to testify, I would have been able to ask him</p> <p>24 questions in private and take instructions thereof, but</p> <p>25 because of this, I wouldn't call "ambush", but the</p>

Page 29	1 information about this meeting has all along been in 2 Mr Ng's statement, so I'm quite surprised that we are 3 now obtaining last-minute information about the meeting. 4 Be that as it may -- I'm sure it's nothing to do 5 with my learned friends -- I am at a slight disadvantage 6 in that I can't talk to Mr Ng about those two 7 statements. With leave from the Commission, if I am to 8 have access to those statements, may I ask for 9 permission to talk to Mr Ng about them, and I shall 10 confine myself only to the contents of those two 11 statements? 12 MR SHIEH: Can I just say that it's only fair that my 13 learned friend can do that and we have absolutely no 14 problem, obviously subject to Mr Pennicott's position, 15 but from our perspective, it has come in late and 16 Mr Tsoi should be able to speak to this witness only on 17 the subject matter of those short statements which, as 18 Mr Pennicott indicated, concern that meeting. 19 MR PENNICOTT: Sir, I think that must be right. I'm 20 grateful to Mr Shieh for that indication. I think 21 Mr Tsoi will find, in fact, that there's not much he 22 needs to ask of the witness, given the answers the 23 witness has given, but obviously that's a matter for 24 Mr Tsoi, ultimately. 25 CHAIRMAN: Any further comments from any counsel?	Page 31	1 MR BOULDING: Well, sir, in the light of the evidence that 2 Mr Shieh has obtained from this witness, we've got no 3 questions. 4 CHAIRMAN: Fine. 5 Mr Shieh, could I ask you -- you're aware of it; 6 sorry, it was from Leighton in any event. 7 Mr Khaw? 8 Cross-examination by MR KHAW 9 MR KHAW: Mr Ng, good morning. I represent the government 10 and I have a few questions for you -- 11 A. Yes. 12 Q. -- arising from your evidence. 13 If I may ask you to look at paragraph 15 of your 14 witness statement. It's a very long paragraph 15, 15 consisting of various subparagraphs, talking about the 16 construction procedures. Do you see that? 17 A. Yes. 18 Q. If I can invite you to have a look at subparagraph 19 (10) -- 20 A. Yes. 21 Q. -- where you talk about supervision of the rebar fixing 22 works by Leighton; do you see that? 23 A. Yes. 24 Q. And you talked about representatives from Leighton who 25 came to patrol the site five to ten times every day?
Page 30	1 MR BOULDING: No, sir. It doesn't sound, from 2 Mr Pennicott's description of the contents of the 3 statement, that they impact upon MTR, but obviously we 4 would like to see them, just in case they do. 5 CHAIRMAN: Yes. Thank you very much. 6 So what we'll do is we'll have the mid-morning 7 adjournment now, and counsel will get an opportunity to 8 see these statements during the mid-morning adjournment, 9 in addition to which the witness will have 10 an opportunity to read them and to discuss the contents 11 of the statement with his counsel but no more than that. 12 MR PENNICOTT: Yes, sir. 13 CHAIRMAN: Is that satisfactory? 14 MR PENNICOTT: Yes, sir, and we will inform you, sir, when 15 everybody is ready to re-start, because we probably may 16 need a bit more than 15 minutes, perhaps. 17 CHAIRMAN: Good. If you let our staff know. 18 MR PENNICOTT: Yes, sir. 19 CHAIRMAN: Thank you. 20 (11.01 am) 21 (A short adjournment) 22 (11.30 am) 23 CHAIRMAN: I'm not sure if it was going to be MTR or 24 government. It depends which way you want to count the 25 next row back.	Page 32	1 A. Yes, I see that. 2 Q. You also told us that there were mainly a foreman and 3 an engineer who would carry out the patrol? 4 A. Yes. 5 Q. When you talk about "the engineer", were you referring 6 to Henry Lai or were you referring to somebody else? 7 A. Not just Henry Lai. I mean, for this paragraph, I was 8 referring to the normal procedure. 9 Q. Yes. Yes. I would like to ask you whether Henry Lai 10 also came to supervise the work, as an engineer from 11 Leighton? 12 A. I suppose he should. 13 Q. Do you remember the name of any other representative who 14 came to patrol the site? 15 A. You mean for other zones? 16 Q. I'm talking about the stitch joints first. 17 A. (Chinese spoken)? 18 Q. Yes. 19 A. No. 20 Q. Only Henry Lai? 21 A. I recall that there were those in MTR uniform passing 22 by. I don't know whether they were patrolling the site 23 but I did see them. As for Leighton, I rarely saw those 24 in Leighton uniform. 25 Q. Right. But, back to my question, did Henry Lai ever



<p style="text-align: right;">Page 33</p> <p>1 come to the site to supervise the rebar fixing work? 2 A. (Chinese spoken) -- 3 Q. For the stitch joints. 4 A. In my recollection, he came. Not many times. 5 Q. When the rebar fixing works were actually being carried 6 out -- I'm still talking about the stitch joints -- 7 would you agree that there were occasions where such 8 works were being carried out or executed without any 9 representative from Leighton being present at the site? 10 A. You mean when works were carried out, no Leighton 11 representative was present supervising the work 12 throughout? 13 Q. There were such occasions? 14 A. Correct. 15 Q. If we can look at -- now, if you talk about the patrol 16 in general, including the patrol for the stitch joints 17 and other parts of the project, how long did it last 18 each time? 19 A. Not fixed. For example, let's say I am working in the 20 middle of the room. They would just walk back and forth 21 like this (demonstrating), within the site area. It's 22 not fixed. 23 Q. Right. If I can now take you to have a look at your 24 paragraph (12), where you talk about completion of rebar 25 fixing works at each bay, and "Leighton's staff would</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. So, on those occasions where you were present at 2 hold-point inspections, did you see Henry Lai attending 3 the hold-point inspections? 4 A. No. 5 Q. Do you recall who from Leighton attended the hold-point 6 inspections? 7 A. Are you just referring to stitch joints? 8 Q. Yes. 9 A. No. 10 Q. The other areas, in relation to the other areas, do you 11 know who actually attended the hold-point inspections on 12 behalf of Leighton? 13 A. You mean other areas apart from stitch joints; that's 14 your question? 15 Q. Yes. 16 A. Yes, I could roughly recall. 17 Q. Can you tell us the names? 18 A. Many areas, involving many people. I think it's also in 19 my statement. I did specify who was responsible for 20 which area. 21 Q. If we take a look at your paragraph 14. 22 A. Yes. 23 Q. Are those the people who attended the hold-point 24 inspections at different areas? 25 A. Correct.</p>
<p style="text-align: right;">Page 34</p> <p>1 conduct inspection on the construction quality of the 2 relevant works". 3 MR PENNICOTT: That's 15(12), is it? 4 MR KHAW: Yes, 15(12), sorry. Subparagraph (12), yes. 5 A. Yes, I'm reading. 6 Q. Now, here you are talking about the hold-point 7 inspections, right, what we call the hold-point 8 inspections? 9 A. Correct. 10 Q. If we talk about the stitch joints only for the time 11 being -- 12 A. Mm-hmm. 13 Q. -- how many hold-point inspections were there? Do you 14 remember? 15 A. No, I don't. Can I explain? Hold point -- I think 16 that's referring to bar fixing work in the whole bay. 17 I won't regard any as a hold point because basically 18 they should inspect the whole bay. 19 Q. Did Henry Lai ever attend any of the hold-point 20 inspections? 21 A. No idea. Whether he did or not, I have no idea. 22 Q. Right. Now, let me put it this way. You have told us 23 that, in the normal course of events, you were present 24 at such hold-point inspections; right? 25 A. Right.</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Back to my earlier question, you told us that in the 2 normal course of events, you were present at the 3 hold-point inspections. Did the inspectors ask you 4 questions about the bar fixing works? 5 A. Yes. Yes. 6 Q. And that is why normally you would be there, you would 7 need to be there? 8 A. Correct. 9 Q. And you have also told us that if there was any 10 follow-up matters that you would need to attend to, then 11 you would also be asked to do it at or after the 12 hold-point inspection? 13 A. Correct. 14 Q. But, at the same time, you told us that in relation to 15 the inspection for the three stitch joints, that is the 16 last part of your subparagraph (13), you were not 17 required to be present during those inspections. Do you 18 remember that? The last few sentences of your 19 subparagraph (13). 348. 20 A. Correct. 21 Q. So how did you know or who told you that inspections 22 were actually carried out for those stitch joints? 23 A. I have absolutely no idea whether they did inspection. 24 As you could read from my statement, usually after 25 completing the bar fixing works at any bay, somebody</p>

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<p>1 from our side would be here to wait for inspection, but 2 if we were too busy, we would inform the staff of 3 Leighton that works had been completed for their 4 inspection, and if any follow-up on my part would be 5 required, I would immediately go back and do it. But 6 nobody contacted me. As I mentioned in the statement, 7 that I was required to go back to take remedial 8 measures, so I had no idea when they did the inspection, 9 because I had to lead the team to the other area to 10 carry on with works.</p> <p>11 Q. If I could then take you to have a look -- maybe we 12 don't need to turn up the transcript -- you remember 13 that Mr Shieh asked you, both today and yesterday, about 14 whether you expected, after your conversations with 15 Henry Lai, when he told you to screw in as much as 16 possible, et cetera, et cetera -- you remember all that, 17 right?</p> <p>18 A. Yes.</p> <p>19 Q. And he asked you about whether you expected that the 20 coupling works would not be accepted; do you remember 21 that?</p> <p>22 A. (Chinese spoken).</p> <p>23 Q. There's this point that I don't quite understand from 24 your evidence. First of all, after your conversations 25 with Mr Henry Lai, you told him about this big problem</p>	<p>1 led by me were in accordance with the requirements of 2 Leighton's RC details or the instructions or requests of 3 Leighton's personnel, therefore except for the situation 4 stated above, during the inspection process my frontline 5 workers and I have not been recalled to the scene to 6 carry out remedial measures (and did not expect to be so 7 recalled)."</p> <p>8 Do you see that?</p> <p>9 A. Yes, I see it.</p> <p>10 Q. What I don't quite understand is your last sentence: you 11 did not expect to be so recalled. But again, when you 12 answered Mr Shieh's question, you told us that you 13 expected that the works would be rejected. I don't 14 understand what you are talking about.</p> <p>15 A. The question he asked me was, after the first discovery, 16 I had expected, because as far as I know, that is not 17 correct, it's not appropriate, and why on the first 18 occasion they asked me to do the work and after it was 19 done it had passed -- I didn't understand. We just 20 follow the instructions, we follow the work plans, the 21 work drawings, and I thought maybe they had discussed it 22 amongst themselves and worked it out, ironed it out. 23 So, after those occasions, I just followed the 24 instructions. It felt like it was okay and I just 25 installed it as per his instructions.</p>
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<p>1 regarding the fact that you would need to have the 2 tapered rebars for the yellow caps; do you remember?</p> <p>3 A. Yes.</p> <p>4 Q. Now, after that conversation, after he told you, "You 5 have to screw in as much as possible", after he gave you 6 that instruction, according to your evidence, what I'm 7 asking you is once he gave you that instruction and once 8 you followed his instruction, you knew full well that if 9 the works were conducted by following his instructions, 10 such works would certainly be defective, no doubt about 11 that; correct?</p> <p>12 A. As far as I know, yes.</p> <p>13 Q. In your statement, there is one line which I don't 14 follow, particularly in view of your exchange with 15 Mr Shieh. That is subparagraph (16) of paragraph 15. 16 The Chinese version is page 349.</p> <p>17 There you said: 18 "... I have never been recalled to the scene to 19 undertake remedial measures or required to redo works 20 with respect to the situation with the connection 21 between rebars and couplers in the course of the 22 inspection process for the relevant connection points at 23 the HHS and NAT which are the subject of the present 24 Inquiry. In fact, as I will elaborate below, since the 25 rebar fixing works done by me and the frontline workers</p>	<p>1 Q. All right. If I can then ask you to have a look at 2 paragraph 79 of your witness statement.</p> <p>3 A. Yes.</p> <p>4 Q. There you say: 5 "As for the concrete not having been completely 6 chipped open, as this situation has already occurred 7 many times at different bays, and the response 8 I received from Henry Lai was the same, so I do not 9 recall whether or not I mentioned this problem during 10 the above conversation."</p> <p>11 A. Yes.</p> <p>12 Q. First of all, you are talking about this problem 13 regarding concrete not having been completely chipped 14 open, and you told us that this situation has occurred 15 many times at different bays. Now, when you talk about 16 "different bays", are those bays confined to only the 17 stitch joints, or you are talking about other areas as 18 well?</p> <p>19 A. No, only limited to the stitch joints.</p> <p>20 Q. Okay. Further, in relation to the inadequate or 21 improper coupler connections which were conducted in 22 accordance with -- according to your evidence -- 23 Mr Henry Lai's instructions, did they occur just at 24 stitch joints or did they occur at any other areas?</p> <p>25 A. No, it only occurred at the stitch joints.</p>

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<p>1 Q. Finally, you remember there's a company called Hills 2 Construction Co Ltd, which was responsible for the 3 formwork and concreting? You remember there was this 4 company? 5 A. Yes. 6 Q. Did you ever inform them regarding your alleged 7 instruction from Henry Lai in relation to the coupling 8 works, that is you screw in as much as possible? 9 A. No. 10 MR KHAW: I have no further questions. 11 CHAIRMAN: Mr Tsoi? 12 MR TSOI: I'm not sure if the representative of Pypun has 13 any questions. 14 CHAIRMAN: I'm sorry, I didn't -- 15 MR PENNICOTT: Probably formally for the record. 16 MR LIU: No questions. 17 CHAIRMAN: Thank you. 18 Re-examination by MR TSOI 19 MR TSOI: Mr Ng, you have been asked extensively in relation 20 to your conversation with Mr Lai and why you didn't 21 record the conversation or tell Wing &amp; Kwong about it; 22 yes? 23 A. Yes. 24 Q. In particular, you were asked yesterday by Mr Shieh this 25 question:</p>	<p>1 the -- 2 MR TSOI: I'm so sorry, I will look at the transcript. 3 MR SHIEH: I have learned my lesson. 4 MR TSOI: Those of us who practise in the criminal courts 5 usually don't have that problem. 6 Anyway, can you give us an approximate time when you 7 first met Henry Lai? The year? 8 A. How many years? At the end of 2015/beginning of 2016? 9 I don't really recall. 10 Q. All right. So by January 2017, you would have known him 11 for a year or maybe a bit more than a year; yes? 12 A. Yes, I think so. I think so. 13 Q. During this period, how often would you see him on the 14 site? 15 A. Very frequently. If he has more work that he's 16 responsible for on his own, then I would see him 17 probably every day. 18 Q. During that year, can you just tell me the approximate 19 period, what period would you see him every day? 20 A. Almost -- if I didn't see him every day, it would be 21 every other day, because if I remember correctly, the 22 work that he was responsible for was continuous. So, 23 except for holidays, if we weren't seeing every day, we 24 would be seeing every other day. 25 Q. Can I just understand this: are you saying to us that</p>
Page 42	Page 44
<p>1 "Has it ever occurred to you that Henry Lai would 2 deny having agreed with you that you could just screw in 3 two or three threads and if there's anything wrong, 4 Leighton would pay for the additional charges?" 5 And your answer was: 6 "Yes, I thought about that. I thought -- let's say 7 someone came for inspections and saw that they would be 8 asked to demolish and then Henry Lai could deny any 9 knowledge. But we had been doing the works for some 10 time. I treated him as a friend. He asked me to do it, 11 so I would do it. But if we had to demolish it and then 12 he wouldn't pay for it, then, 'I would just lose out to 13 you one time', you know, as friends." 14 Do you recall that answer? 15 A. Yes. 16 Q. So you told the Commission that you treated Henry Lai as 17 a friend? 18 A. Yes, you can say so. 19 Q. Right. So let's put some context to the conversation. 20 When did you first meet Henry Lai? 21 A. Roughly, I cannot recall the exact date, it was -- 22 I knew him from the site. 23 Q. Can you give us approximate, the year? 24 COMMISSIONER HANSFORD: It would be helpful if we could have 25 gaps between the question and answer, then we can have</p>	<p>1 from the end of 2015 or the beginning of 2016 until 2 January 2017, you saw Henry Lai almost every day? 3 A. Yes, you can say so. 4 Q. Do you ever see Henry Lai outside of work, when you are 5 not on the work site? 6 A. Yes. 7 Q. Would you meet up, I don't know, hang out, to do what? 8 A. We would have drinks and have meals. 9 Q. Why would you do that? 10 A. We were like colleagues. We were working on the same 11 job. So let's say during the work day we might have 12 lunch together, and we would be talking business during 13 lunch. 14 Q. So were there times that you would meet up with him 15 outside work but you're not talking about work? 16 A. Outside of work, talking about things -- 17 Q. No. Let me start again. It's my fault. 18 When you see Henry Lai outside of work, would you 19 always talk about work or would you talk about something 20 else? 21 A. We talk about both. 22 Q. Outside of work, would you contact him? Would you call 23 him, WhatsApp him, to say things which is not 24 work-related? 25 A. Very rarely.</p>

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<p>1 Q. How often? 2 A. Maybe wish him a Happy New Year, but typically our 3 conversations were about business. 4 Q. Did you treat your relationship with Henry Lai as purely 5 working relationship or did you treat him as a friend? 6 A. Well, I personally felt that there were both types of 7 elements. 8 Q. When you contact him for work, you would either call him 9 or WhatsApp him or talk to him in person; yes? 10 A. I usually call him. When outside the site, I would 11 usually call him. In the site, I would talk to him face 12 to face, but if I didn't see him I would call him. 13 Usually, I call him. 14 Q. And the choice of communication is completely random? 15 A. Mmm. 16 Q. What's "mm-hmm"; is it "yes"? 17 A. Call him. I usually call him. But sometimes, when 18 I call him, the line didn't go through, perhaps he was 19 working, I would leave a message, but usually I would 20 call him first. 21 Q. We know the first conversation you had with him, 22 contained in the witness statement about instructions to 23 "screw the rebars in as much as you can", that 24 conversation must have taken place in January 2017; yes? 25 A. I suppose so.</p>	<p>1 MR TSOI: Yes? It was undisputed, so ... 2 It's at entry 45 and it's undisputed, Mr Ng. 3 A. I just vaguely remember the dates. 4 Q. Right. 5 A. I cannot confirm whether it was exactly the date. 6 Q. I'm not asking you to confirm. I'm just telling you 7 what happened. 4 January was the track slab of the 8 shunt neck joint, and that would have been the first 9 occasion you saw the yellow caps. 10 A. That's right. 11 Q. Let's see what happened. According to your statement, 12 you went to that location, perhaps a day before, so you 13 went on 3 January, which was a Tuesday. You went the 14 day before; right? 15 A. Right. 16 Q. Do you now recall when during the day you went to the 17 track slab of shunt neck joint? 18 MR PENNICOTT: Bay 3. 19 MR TSOI: Bay 3. 20 A. You ask me when it was discovered? 21 Q. The time during the day, because we know you went 22 perhaps a day before, on 3 January, but when during the 23 day were you there? 24 A. I think it was either right before I knocked off or 25 after 3.00 or 4.00. I had this habit because the</p>
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<p>1 Q. By that time, of course, you had worked with him for 2 over a year? 3 A. Yes, more or less. 4 Q. The January occasion, that was not the first time he 5 gave you oral instruction over the phone, was it, about 6 work? 7 A. Correct. It wasn't the first time. 8 Q. He had already given you oral instructions about work 9 numerous times? 10 A. Yes, you can put it this way. 11 Q. Right. Let's put some context to the conversation. If 12 we can turn you to page BB6363, which I understand is 13 Mr Pennicott's favourite document. Now, again, I don't 14 profess I really understand the technical information, 15 but can I ask you this. In your witness statement, 16 although you say the shunt neck joint and joint 3 17 happened together, my learned friend for the Commission 18 has clarified with you in fact the shunt neck joint went 19 first. 20 MR PENNICOTT: The track slab. 21 MR TSOI: Sorry, the track slab of the shunt neck joint went 22 first. 23 COMMISSIONER HANSFORD: It's at the bottom of this sheet 24 MR TSOI: That's at entry 45. 25 COMMISSIONER HANSFORD: Yes, right down the bottom.</p>	<p>1 following day I have to work there, so usually after 2 3 o'clock I would go there and take a quick look and 3 then would ring him, if I saw that. 4 Q. Then we know it's undisputed that the rebar fixing work 5 commenced and completed on the same day, on 4 January 6 2017, on that track slab bay 3 of shunt neck joint; yes? 7 Perhaps you don't need to answer. I'm just telling 8 you what happened. 9 So it completed in one day; can you now recall? 10 A. No, no. I don't quite recall. Perhaps a day or two 11 because it was a small area. 12 Q. Right. Now, the concreting happened on 5 January. We 13 can see that on the far right. I am just informing you. 14 So the concreting happened on 5 January. But on 15 5 January you were already elsewhere working on another 16 location for rebar fixing. We can see that at entry 38. 17 That's the "East West Line bay 4 -- East Wall", 18 et cetera, at entry 38. 19 A. That's right. 20 Q. So, when the concrete was being poured, you were working 21 elsewhere? 22 A. Correct. 23 Q. And then of course the concrete was poured, it means 24 inspection passed, and you received no complaints; yes? 25 A. Right.</p>

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<p>1 COMMISSIONER HANSFORD: I'm not sure that's quite right. 2 I think the inspection must have occurred -- well, one 3 assumes, if it was carried out properly, the inspection 4 occurred before the concrete was poured. 5 MR TSOI: Absolutely. 6 COMMISSIONER HANSFORD: And it could have been the previous 7 day. 8 MR TSOI: Perhaps I should emphasise, we are assuming 9 inspection occurred, of course, but let's say that -- 10 COMMISSIONER HANSFORD: Sorry, but my point was not that. 11 My point was that the inspection could have been the 12 previous day. 13 MR TSOI: Yes. You mean the 4th? 14 COMMISSIONER HANSFORD: At the end of the reinforcement. 15 MR TSOI: Absolutely, yes. 16 COMMISSIONER HANSFORD: Without the RISC form, we don't 17 know. 18 MR TSOI: Absolutely. Right. But the point, of course -- 19 I will perhaps ask the witness to explain. 20 So you have moved on by the 5th to another location, 21 as we have seen; right? 22 A. Right. 23 Q. Now, the shunt neck joint that we see at entry 45, the 24 track slab, that did not only have Lenton couplers on 25 the 1111 side of the interface; right?</p>	<p>1 A. Correct. 2 Q. Now, you had a conversation with Henry about the yellow 3 caps at the track slab shunt neck joint location? 4 A. Yes. 5 Q. He told you to screw the rebars in as much as you can? 6 CHAIRMAN: No, I may have that wrong. Please forgive me. 7 MR TSOI: I'm so sorry. 8 CHAIRMAN: My understanding is that the shunt neck bay 3 9 track slab was a construction joint, not a stitch joint, 10 and as a construction joint there would have been yellow 11 couplers on either side, which means there was no need 12 to say, "Do the best you can", because everything would 13 have been -- 14 MR PENNICOTT: No. 15 COMMISSIONER HANSFORD: No. My understanding -- sorry to 16 contradict you -- 17 CHAIRMAN: No, that's why I said I had fallen behind on 18 that. 19 COMMISSIONER HANSFORD: My understanding is a construction 20 joint, consequently it had yellow caps on one side, and 21 the reinforcement -- the rebar fixer was required to fix 22 the bars into that one side, and as you say, Mr Tsoi, we 23 are told that Henry Lai said, "Screw them in as far as 24 they will go." 25 MR TSOI: What I'm trying to pinpoint, of course, is the</p>
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<p>1 A. The shunt neck, it seems that there are only couplers of 2 1111. You are referring to bay 3; is that right? 3 MR PENNICOTT: Don't forget it's a construction joint. It's 4 not a stitch joint. 5 MR TSOI: I'm so sorry. Yes. 6 Now, at that point, you knew -- well, you expected 7 the concrete was poured on the 5th? 8 A. As to when concrete was poured, I was not required to 9 know. 10 Q. Do you recall whether you were informed as to when they 11 were inspecting the works? 12 A. No. 13 MR PENNICOTT: Can you put that question again? 14 MR TSOI: Do you recall whether you were informed as to when 15 Leighton were inspecting the works at the shunt neck 16 track slab? 17 A. No. 18 Q. But after you completed your rebar fixing work at the 19 track slab, you informed Henry Lai to say you have 20 completed the work and for them to inspect; right? 21 A. That's right. 22 Q. Just pausing there, I want to ask you about this. You 23 were asked by Mr Shieh this morning that you said the 24 defect was obvious to the naked eye, and your answer 25 was, "Normally, yes."</p>	<p>1 time of the conversation and which location we are 2 talking about. 3 COMMISSIONER HANSFORD: Yes. The fact that it's 4 a construction joint and not a stitch joint -- 5 MR TSOI: It matters -- 6 COMMISSIONER HANSFORD: -- merely means that there's one 7 connection to make, not one each side -- 8 CHAIRMAN: Sorry, yes, you are quite right. But I thought, 9 because it was a construction joint, that meant it was 10 within contract 1111. 11 MR TSOI: No. That's my fault. Perhaps I should explain 12 this. The shunt neck joint, I think as Prof Hansford 13 explained, on the 1111 side, is still -- 14 CHAIRMAN: Okay. Thank you. That helps me. So, in other 15 words, that part of it, that's bay 3, was not internal. 16 MR PENNICOTT: No. 17 MR TSOI: No. 18 CHAIRMAN: That's all I needed to know. Thank you. 19 MR TSOI: That's how it pinpoints their conversation, 20 because that would have been the first time that -- 21 CHAIRMAN: I had assumed it was internal, sorry. 22 MR TSOI: If I may. My previous question to you was -- you 23 said to Mr Shieh -- to a question, he asked you if the 24 defect would have been obvious to the naked eye and you 25 said, "Normally, yes."</p>

<p style="text-align: right;">Page 53</p> <p>1 A. That's right. 2 Q. Then Mr Khaw asked you, at that point, when Henry Lai 3 told you to screw them in as much as you can, whether 4 you expected the work to go through, to pass inspection, 5 in other words. 6 A. No. 7 Q. No, that was the question asked. Mr Khaw asked you 8 whether you expected the work to pass inspection at the 9 shunt neck joint, the bay 3 track slab. I'm just 10 telling you that you were asked that question; all 11 right? And your answer was -- 12 A. Did he ask me that question? Yes, he did ask me that 13 question. 14 Q. And your answer was you didn't expect it to go through 15 the first time. 16 A. That's correct. 17 Q. At the time when Henry Lai asked you to screw the rebars 18 in as much as possible, or as far as you can, who did 19 you expect was the Leighton personnel who would inspect 20 that work? 21 A. Basically, it should be Henry Lai first, and I wouldn't 22 know who would subsequently check the works. 23 Q. So we go back to 5 January, so this is two days. So the 24 3rd you spoke to Henry Lai, the 5th the concrete is 25 poured already, all right, but you were working</p>	<p style="text-align: right;">Page 55</p> <p>1 MR TSOI: Let me get that translation right. 2 (Tribunal conferring) 3 I'm sorry -- 4 CHAIRMAN: Sorry, perhaps you assist me, Mr Tsoi. 5 MR TSOI: Of course. 6 CHAIRMAN: Where I need some assistance is -- I had not 7 assumed previously, obviously my error -- I had assumed 8 that when the hold-point inspections took place, you 9 didn't have somebody who'd been working with the steel 10 benders and telling them what to do doing the 11 inspection -- 12 MR TSOI: Well, he was. 13 CHAIRMAN: -- because there you had a working relationship 14 and I thought that it was somebody slightly independent 15 from Leighton who did the inspections. 16 MR TSOI: No. 17 MR PENNICOTT: Sir, it's unlikely that this witness is going 18 to know the answer to that particular question. 19 CHAIRMAN: No. That's why I just wanted to know that it was 20 definitely -- I'm quite happy to accept that. So 21 Leighton would say, "We want you to work with this man 22 for six months, and by the way we want you to inspect 23 all his quality as well." 24 MR PENNICOTT: Sir, I think the answer is obviously this 25 witness can explain to you, on the basis of the</p>
<p style="text-align: right;">Page 54</p> <p>1 elsewhere. Have you got that timeline? 2 A. I roughly recollect it. 3 Q. So, after the concrete was poured, you received no 4 complaints? You never received any complaints about the 5 connection of the shunt neck joint bay 3 track slab? 6 A. That's correct. 7 CHAIRMAN: Sorry, I'm falling behind yet again. 8 MR TSOI: It was my fault, completely my fault. 9 CHAIRMAN: No, it's not your fault at all. Let me just 10 ask -- to your knowledge, what was Henry Lai's position, 11 that is what was the post he held with Leighton at the 12 time? 13 A. Engineer? I don't know if he was promoted yet. He was 14 still an engineer. 15 CHAIRMAN: So he was an engineer, and you went to see him or 16 you discussed matters with him concerning engineering, 17 for example if you had difficulties with part of the 18 rebar fixing, and he would give you instructions? 19 MR TSOI: Oral instructions. 20 A. That is correct. 21 CHAIRMAN: Are you saying that he was also an inspector? 22 A. As far as I know and understand, Leighton would have 23 people inspect -- they need to inspect it a first time 24 before asking MTR to come and inspect. That's my 25 understanding.</p>	<p style="text-align: right;">Page 56</p> <p>1 questions being put, his understanding of the position. 2 CHAIRMAN: Yes. 3 MR PENNICOTT: But what as a matter of fact happened on the 4 routine inspections as opposed to the formal hold-point 5 inspections, I suspect we've got to wait for some other 6 witnesses. 7 CHAIRMAN: Okay. 8 MR TSOI: Perhaps we don't have to wait because I can tell 9 you -- it's actually part of my opening, and it's in 10 Henry Lai's own witness statement, that he did conduct 11 the so-called hold-point inspections, the rebar fixing 12 checks, for the three stitch joints and the shunt neck 13 joint. So he was the person who did the inspection on 14 behalf of Leighton, he says. So there's no independent 15 third person from Leighton who inspected the works; it 16 was Henry Lai. 17 CHAIRMAN: And that was a hold-point inspection too? 18 MR TSOI: That was a hold-point inspection. I can take you 19 to it, if I may. 20 CHAIRMAN: No, that's all right. It's just that when we 21 were talking about this -- again, that's why I said it's 22 obviously my fault -- I had assumed that the 23 inspections, the hold-point inspections, were conducted 24 by -- they had, like, inspection staff. 25 MR TSOI: No. The fault is mine, I'm sure.</p>

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<p>1 CHAIRMAN: No, it's not, I can assure you. I just need to 2 clear that up in my own head. 3 MR TSOI: I understand. 4 CHAIRMAN: Because there's a big difference between having 5 an independent inspector from Leightons coming along and 6 looking at something afresh, with no working connection 7 with a person, and somebody who has been working day by 8 day and giving instructions as to that very work, to 9 then be the inspector of it. 10 MR PENNICOTT: Sir, you can guarantee that I will be 11 exploring this with Mr Henry Lai when he gives evidence. 12 CHAIRMAN: Thank you very much. That's all I wish to know. 13 My apologies if I've kept everybody and confused 14 everybody. 15 MR TSOI: As we know, as I've asked you, after the pouring, 16 no complaint was received at all about the works, and 17 you have confirmed that? 18 A. Yes. 19 Q. At that point, after the pouring was completed, that was 20 two days after your conversation with Henry Lai -- this 21 is 5 January; all right? -- did you see a need to 22 complain to your employer or to complain to Leighton 23 about what Henry Lai, your friend, has told you to do? 24 A. No. 25 Q. Why not?</p>	<p>1 A. Yes, I remember. 2 Q. At that point, losing one time to him would only mean 3 one day's work; right? 4 A. Yes. 5 Q. Because the work was completed on the same day, the 4th. 6 A. Yes. 7 COMMISSIONER HANSFORD: Sorry, is that what "losing one time 8 to him" means? 9 MR TSOI: Yes, because if he lied about it, all you lose is 10 this one day, 4 January, that he did the work, and he 11 had to redo the 4 January work. 12 COMMISSIONER HANSFORD: Okay. Thank you. 13 A. Can I supplement? 14 MR TSOI: Yes. 15 A. Because that is a small location. Now that you remind 16 me, I recollect that, at the time, there were only few 17 workers working in that area and I recall maybe between 18 five to eight people. So five to eight people, the 19 salary of that would be \$10,000. So even if I'm blamed 20 by Ben Cheung, I can accept that. 21 MR SHIEH: I don't actually believe in objecting to leading 22 questions, because I always believe that the leading 23 nature is best borne out when one looks at the whole 24 thing at the end of the day, but that one question about 25 losing one day's work because the work was completed on</p>
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<p>1 A. As I said, we just followed the diagrams, and he 2 instructed me. He said it was okay, so I complied. 3 I also said later on I worked only for one day and the 4 next day I was at another location, and now I remember 5 I had only found out that it was approved two or three 6 days after the concrete pouring. So maybe it was okay. 7 I'm not that professional in this area. I don't know. 8 And he told me to do it and they were able to pour 9 concrete, so I continued to comply with his 10 instructions. 11 Q. In the same conversation, on 3 January, you said things 12 about, "I would charge you overtime"; right? Do you 13 remember that? 14 A. Which page are you on? 15 Q. If you want to look at your witness statement, it's at 16 EE357. 17 So this was the 3 January conversation; all right? 18 A. Yes. 19 Yes. 20 Q. Now, Mr Shieh asked you, "Well, hold on a second. You 21 just rely on your friend's oral promise", and then you 22 said this. You said, "Well, if he denies it, I will 23 just lose one time to him." 24 A. Yes. 25 Q. Do you recall that answer?</p>	<p>1 the same day, the 4th, is probably a textbook example of 2 not just feeding the question but also the thinking 3 behind the answer that was fed to the witness. 4 MR TSOI: Of course, because I want to explain to the 5 Commission that the work was one day, which is 6 undisputed. Is that disputed? 7 MR SHIEH: I'm not going to waste time on this, Mr Chairman, 8 and I'm not going to argue any further, save as to say 9 the question from the Commissioner actually came after 10 the leading question, so it's not an excuse for my 11 learned friend to say he was only trying to explain to 12 the Commission. His task is to ask the question to the 13 witness. The transcript is quite clear that 14 Prof Hansford only asked the question after the leading 15 question had been put. So it's wrong, inaccurate, to 16 say he was only explaining to the Commission. 17 CHAIRMAN: I think, Mr Tsoi, the point that's made is that 18 subject to argument, of course, and the Commission's 19 decision in the light of that argument, when this issue 20 was first raised yesterday, the presumption of what was 21 a fairly broad statement was that once caught, twice 22 shy. In other words, if this proved that I couldn't 23 trust this man, I would then know for later. But it 24 wasn't one of: if it proved on this one occasion in 25 respect of a very small part of the engineering works</p>

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<p>1 I was not trusted, then I would be shy thereafter. So 2 it was more of a general statement yesterday, and 3 I think your suggestion today was to try to reduce it 4 down to one incident, which was the beginning incident, 5 albeit. 6 MR TSOI: Because that was the first time. 7 CHAIRMAN: And I think Mr Shieh is taking objection to that, 8 that perhaps in a leading manner it's been reduced down 9 and the witness has seized upon it, as you might do in 10 rough weather when a bit of flotsam floats by. 11 MR TSOI: Again, the fault is completely mine, but as I say, 12 I'm trying to pinpoint the conversation of when this 13 took place. 14 CHAIRMAN: Yes. 15 MR TSOI: After that conversation on 3 January, did you see 16 Henry Lai again? 17 A. I am trying to recollect how many -- maybe it was two or 18 three days later. I don't remember clearly. We should 19 have communicated. I was working in other locations. 20 It's just that I did not go to the shunt neck joint. 21 Q. Listen to the question carefully. After this 22 conversation on 3 January, did you see Henry Lai 23 on site, when you went back to work every day? Not just 24 the shunt neck joint, just the whole construction site? 25 A. I think so. After 3 January, and I was working on</p>	<p>1 A. I treat him as one. 2 Q. All right. 3 A. But I don't know what he thought. 4 Q. Let's go to the meeting of February 2017 that you were 5 asked about this morning. 6 MR PENNICOTT: 2018. 7 MR TSOI: I'm so sorry, 2018. 8 CHAIRMAN: I don't think, Mr Tsoi -- again, please forgive 9 me; I may be at fault again -- that Mr Shieh was 10 suggesting the colourful language was used in order to 11 try to show any particular relationship. I think 12 Mr Shieh was saying colourful language was used as 13 an attempt to try to add credibility to a statement. 14 MR TSOI: That's what I asked. 15 CHAIRMAN: Is that what you asked, sorry? 16 MR TSOI: To make it look genuine. 17 CHAIRMAN: Yes, sorry. That's my fault. 18 MR TSOI: No, that was mine. 19 So the meeting in February 2018 on the site, with 20 a gentleman called Jon Kitching, who's a Westerner -- 21 now, you may not know his name but you recall there was 22 a Westerner there? 23 A. This morning, when this name was mentioned, I recalled. 24 Q. There was an interpreter? 25 A. Yes, in my recollection.</p>
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<p>1 4 January, theoretically I should have seen him. 2 Q. Did you continue to see him until 2018? 3 A. Yes, because I had to work in other locations, yes. 4 Q. Did you continue to see him on a friendly basis? 5 A. Yes. 6 Q. Right up to the meeting, the site meeting, you attended 7 in February 2018, did you still have -- see him outside 8 of work? Did you have lunch, did you have meals, things 9 like that? 10 A. No. When I finished the work and exited the site, I did 11 not see him any more. We communicated maybe once or 12 twice through WhatsApp and it was just on festivities. 13 Q. It has been put to you by Mr Shieh that you were 14 intentionally using colourful language to make the 15 conversation look genuine. Do you remember that 16 question? 17 CHAIRMAN: I think he would probably like to know "using 18 colourful language" in what context. 19 MR TSOI: The swear words. 20 CHAIRMAN: You mean in his written statement? 21 MR TSOI: In the written statement, yes. 22 CHAIRMAN: Thank you. 23 A. Yes, I remember. 24 MR TSOI: But Henry Lai isn't just some junior engineer you 25 didn't know; he was your friend. Is that right?</p>	<p>1 Q. And there was Henry Lai? 2 A. Yes, he was there. 3 Q. At that point, at that meeting, did you know whether 4 Henry Lai has said anything to his boss or not? 5 A. You mean the several of us were sitting down having 6 a meeting at that time? 7 Q. Because at that point of course you were then -- I'm so 8 sorry. 9 A. Please translate. 10 INTERPRETER: Or repeat so that the translator can 11 translate. 12 MR TSOI: Now, at that point, they were asking about the 13 water seepage; right? 14 A. Yes. That seems to be the case. 15 Q. You were called in because of the water seepage? 16 A. That's right. 17 Q. So you attended the meeting? 18 A. Correct. 19 Q. At the meeting, you saw Henry Lai; right? 20 A. Yes. 21 Q. Did you know -- if you don't know, tell us -- whether or 22 not, at that point, Henry Lai has said anything to his 23 boss about the stitch joints and things like that? 24 A. No idea. 25 Q. You know the Westerner was Henry Lai's superior; right?</p>



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<p>1 A. Well, I understand him to be somebody senior in 2 Leighton. 3 Q. At the meeting did you still regard Henry Lai as 4 a friend? 5 A. Correct. Correct. 6 Q. And you chose not to say anything about it, about the 7 instructions, at the meeting? 8 A. I already answered this morning. They didn't ask me 9 specifically about it. I just answered their questions, 10 just like what I explained this morning. 11 Q. This morning -- and this only for clarification -- you 12 referred to a Mr X of China Tech, but you didn't know 13 his name, Mr X of China Tech -- you said something about 14 China Tech, China Technology. Do you remember that? 15 A. Yes. 16 Q. And I'll be corrected if I'm wrong, in the Chinese, 17 which is not transcribed, you said this: 18 "(Via interpreter) If I had known, I would have 19 followed the example of that Mr X of China Tech to make 20 allegations of Leighton." 21 A. Yes, that's what I said this morning. 22 Q. What did you mean by that? 23 A. This morning, Mr Shieh put questions to me. It seemed 24 that he was alleging me of not keeping evidence to 25 protect myself or Wing &amp; Kwong.</p>	<p>1 May I call him, please? 2 CHAIRMAN: Yes. 3 MR LEUNG CHI WAH (affirmed in Cantonese) 4 (All answers given via simultaneous interpreter 5 except where otherwise specified) 6 Examination-in-chief by MR TSOI 7 MR TSOI: Can you turn to the bundle at page EE52. The 8 English is at page EE57.1. 9 A. Yes. 10 Q. Can you just flip through a few pages until you get your 11 signature page, which is at page EE57. 12 I'm afraid the English version is unsigned. 13 A. That's right. 14 Q. Can you recognise that's your signature? 15 A. Yes. 16 Q. Do you confirm this is your witness statement that 17 you've read and understood? 18 A. Right. 19 Q. Do you wish to adopt this witness statement as your 20 evidence here in front of this Commission of Inquiry? 21 A. Yes. 22 Q. Have you ever testified in a court before? 23 A. No. 24 Q. Other counsel will now ask you questions, just try your 25 best to answer them. All right?</p>
<p>Page 66</p> <p>1 So I just answered according to my statement and my 2 experience. For bay 3, the joint, the concrete had been 3 poured; as I explained, I just followed the drawings. 4 Perhaps he said something to the inspectors. Perhaps 5 they did some calculations and found it to be all right. 6 I didn't know. I wasn't required to know. I just 7 followed the instructions to screw in as much as 8 possible. I just followed the instructions. And since 9 pouring of concrete had been completed, there was no 10 need for me to question him. I just followed his 11 instructions. 12 As for this morning, he put questions to me, I mean, 13 that's what I said this morning. Had I known about it, 14 I would perhaps have followed what that gentleman did 15 and told you about it, but then I did not know. 16 MR TSOI: That's all I want to ask. Thank you, Mr Ng. 17 CHAIRMAN: Yes. Thank you very much. 18 Peter, anything you want to ask? 19 COMMISSIONER HANSFORD: No, nothing else for me. 20 CHAIRMAN: Thank you very much indeed, Mr Ng. Your evidence 21 is completed now, so you can be excused, and thank you. 22 WITNESS: Thank you. 23 (The witness was released) 24 MR TSOI: If it pleases the Commission, the next witness for 25 Wing &amp; Kwong is an individual called Mr Leung Chi Wah.</p>	<p>Page 68</p> <p>1 A. (In English) Okay. 2 Examination by MR PENNICOTT 3 MR PENNICOTT: Mr Leung, I think it's good afternoon rather 4 than good morning, but thank you very much for coming 5 along to give evidence to the Commission this morning. 6 My name is Ian Pennicott, I'm one of the counsel to the 7 Commission, so I'm going to ask you some questions 8 first, and as Mr Tsoi has just indicated, other counsel 9 behind me may then wish to ask you some questions as 10 well, and when that's all completed, Mr Tsoi may ask you 11 some further questions if he wishes to do so. 12 At any time during that process, the Chairman or the 13 Commissioner may also ask you some questions. 14 So I'm going to start. Are you still employed, 15 Mr Leung, by Loyal Ease at this moment? 16 A. Yes. 17 Q. And at Loyal Ease, when you were working on the project 18 with which we are concerned, who did you regard as your 19 boss? 20 A. Mr Ng. 21 Q. Ah Chun? 22 A. Correct. 23 Q. You say in paragraph 4 of your witness statement that 24 Loyal Ease was a sub-contractor to Wing &amp; Kwong. Did 25 you know, at the time that you were working on the site,</p>

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<p>1 that Loyal Ease was a sub-contractor to Wing &amp; Kwong? 2 A. I did not know, because at first I joined Wing &amp; Kwong 3 and I had no idea that Loyal Ease was the sub-contractor 4 of Wing &amp; Kwong. Until this incident had happened, 5 through lawyers, I came to know that in fact -- about 6 this, the Loyal Ease that I work for. 7 Q. All right. And does it follow from that that if you 8 look at paragraph 6 of your witness statement -- you 9 say: 10 "Wing &amp; Kwong had around 30-40 workers at the 11 Hung Hom Station construction site ..." 12 What you actually mean is Loyal Ease had around 30 13 to 40 workers; is that right? 14 A. Correct. 15 Q. All right. Can I ask you this, Mr Leung. You may know 16 that in this part of the Inquiry, we are concerned, 17 amongst other things, with a construction joint known as 18 the shunt neck construction joint. Are you aware of 19 that? 20 A. Yes. 21 Q. If you could please be shown BB1/90. You will see there 22 on the screen, Mr Leung, on the right-hand side, 23 an arrow that points to the 1111/1112 shunt neck joint; 24 do you see that? 25 A. Yes.</p>	<p>1 A. Yes. 2 Q. So we are at the lower underground level, the NSL level. 3 You understand? 4 A. I understand. 5 Q. And if you look on the right-hand side of this drawing, 6 you will see an arrow pointing to another shaded area, 7 and it's labelled "1111/1112 NSL stitch joint". Do you 8 see that? 9 A. Yes. 10 Q. Did you personally work in that area, Mr Leung? 11 A. Yes. 12 Q. Lastly, so far as these questions are concerned, if you 13 look to the left of that joint, you will see an arrow 14 pointing to the 1111/1112 NSL internal stitch joint. Do 15 you see that? 16 A. Yes. 17 Q. Did you personally, Mr Leung, work at that stitch joint? 18 A. Yes. 19 Q. So, in summary, you appear to accept and acknowledge 20 that you worked at the three primary stitch joints, 21 joints 1, 2 and 3, but you are not quite sure whether 22 you worked at the shunt neck joint. Is that a fair 23 summary? 24 A. Could you repeat the question? 25 Q. Yes. I think, from the answers you've just given me --</p>
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<p>1 Q. We can see that it's at the end of shunt neck bay 3; do 2 you see that? 3 A. Yes. 4 Q. Mr Leung, did you personally work in that area, that is 5 bay 3, and in particular at the shunt neck joint? 6 A. I don't recall clearly, because every day Ah Chun, 7 Mr Ng, would take to us different locations, so if you 8 are talking about the exact location, I cannot give you 9 an accurate answer. 10 Q. Okay. Mr Leung, if you look at the same document that 11 you are looking at at the moment, just above the shunt 12 neck bay 3 you will see shaded in brown and identified 13 as the 1111/1112 EWL stitch joint. Do you see that? 14 A. Yes, I see it. 15 Q. That is one of the other joints, it is a stitch joint 16 this time, that this Commission is concerned with. Do 17 you understand? 18 A. I understand. 19 Q. Can I ask you again, did you personally work on the EWL 20 interface stitch joint? 21 A. Yes. 22 Q. All right. If I could ask you, please, to look at 23 BB1/89, the previous page. You will see, Mr Leung, that 24 this is a plan, a diagram, of -- looking at the 25 bottom -- the NAT NSL track level. Do you see that?</p>	<p>1 I'm just trying to summarise -- you accept that you -- 2 and you tell us that you worked at the three stitch 3 joints, EWL and the two NSL ones we can see here, but 4 you are not sure whether you worked at the shunt neck 5 construction joint? 6 A. Correct. 7 Q. Now, in paragraph 17 of your witness statement, you 8 refer to the first type of situation, and what you are 9 referring to is problems that were encountered. You 10 say: 11 "The first type of situation was when we had to 12 connect a rebar with a rebar and coupler embedded in the 13 wall (ie to connect a rebar of contract number 1112 14 with a rebar and coupler of contract number 1111)." 15 You go on to say that what needed to be done was the 16 chipping away of the surface concrete of the wall, and 17 you say that that was Leighton's responsibility. Do you 18 see all of that? 19 A. Yes. 20 Q. You say: 21 "However, at times" -- this is paragraph 18 I'm 22 going on to now -- "Leighton did not chip away the 23 concrete deep sufficiently, leading to some of the 24 couplers embedded in the wall not being exposed." 25 Then you go on to say what your impression was of</p>

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<p>1 the extent of that particular problem. 2 Could you explain or -- did you actually see the 3 chipping process going on, Mr Leung? 4 A. I did not see them chip the cement in front -- with my 5 own eyes. 6 Q. You did not? Okay. So you can't help us, you can't 7 describe to us what equipment and tools were used to 8 chip away the concrete? 9 A. That is correct. 10 Q. Right. 11 You make reference to various instructions that you 12 received from Ah Chun as to what you should do if you 13 encountered this problem of the couplers not being -- 14 the concrete not being chipped away to expose the 15 couplers sufficiently. 16 Were all those instructions received from Ah Chun 17 and not from anybody direct from Leighton? Everything 18 that you were instructed to do was by Ah Chun; is that 19 right? 20 A. Correct. 21 Q. Do you know a gentleman by the name of Henry Lai of 22 Leighton? 23 A. No, I don't. 24 Q. Now, in paragraph 19 of your witness statement, you 25 refer to "The second type of situation", and you say,</p>	<p>1 Q. Did you encounter the problem, the non-matching problem 2 or the mismatching problem -- did you encounter that 3 problem when you constructed the base slab of that 4 stitch joint? 5 A. Yes, I had encountered it. 6 Q. Right. And did you encounter the same problem on the 7 walls of the stitch joint? 8 A. I don't recall that clearly. 9 Q. Right. Did you ever see, on the Gammon-Kaden -- the 10 1111 side of the stitch joint, yellow caps? 11 A. Yes. 12 Q. Did you ever go up to those caps and remove them? 13 A. Yes. 14 Q. Why did you do that? 15 A. Because we saw a cap and if you don't remove the cap you 16 cannot install the rebar into the coupler. 17 Q. Right. So where the chipping-off had taken place, those 18 responsible for chipping-off had left the caps on the 19 coupler, and when you came along to do your rebar fixing 20 work you would remove the caps yourselves in order to be 21 able to insert, or you hoped to be able to insert, the 22 rebar; is that right? 23 A. Correct. 24 Q. All right. So, having removed the cap, Mr Leung, what 25 was the problem?</p>
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<p>1 [that] was when the ends of rebars did not match the 2 coupler heads. Coupler heads are divided into pointed 3 and flat ones." 4 First of all, Mr Leung, do you recall when you 5 personally encountered that situation? 6 A. Yes, I do. 7 Q. When was that and where was it? 8 A. (Chinese spoken) -- 9 Q. If you wish to use the plans, please use the plans. 10 A. (Indicating). 11 Q. Right. So the witness is pointing to the EWL stitch 12 joint interface between 1111 and 1112. 13 Is that right, Mr Leung? 14 A. Correct. 15 COMMISSIONER HANSFORD: Joint 3? 16 MR PENNICOTT: Joint 3. 17 COMMISSIONER HANSFORD: Thank you. 18 MR PENNICOTT: Now, Mr Leung, we know that at that joint 19 there was -- what had to be constructed by way of 20 a stitch joint was a base slab and two walls. Do you 21 agree? 22 A. Agree. 23 Q. And the first operation would have been to construct the 24 base slab; do you agree? 25 A. Correct.</p>	<p>1 A. I discovered that the coupler, it was tapered, it was 2 not cylindrical. 3 Q. Right. As I understand it, as you say in your witness 4 statement, the rebar that you had been supplied with was 5 not tapered; it was parallel or cylindrical. Is that 6 correct? 7 A. Correct. 8 Q. So, faced with that problem, Mr Leung, what did you do? 9 A. I reported this incident to my superior, Ah Chun, and he 10 would decide how to proceed. 11 Q. And what did he tell you? How did he tell you to 12 proceed? 13 A. He made a call to the people responsible in Leighton. 14 After the call, he gave us instructions and told us that 15 Leighton's response was to screw in as much as we could. 16 Q. Right. And he told you that he had a call with 17 Leightons, or is that something that you've been told 18 subsequently? Did you know that at the time or is that 19 something that you've found out later? 20 A. At the time. 21 MR PENNICOTT: Sir, I see it's 1 o'clock. I've got a little 22 bit more, but it's probably going to be more than ten 23 minutes or so, so perhaps that would be a convenient 24 moment. 25 CHAIRMAN: Good. What time?</p>

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<p>1 MR PENNICOTT: 2.15, sir? 2 CHAIRMAN: Yes. 3 MR PENNICOTT: Warning. 4 CHAIRMAN: We are going to have the luncheon adjournment 5 now, and we will be returning at 2.15. You are giving 6 your evidence at the moment and you will continue to 7 give your evidence after lunch. 8 WITNESS: (In English) Okay. 9 CHAIRMAN: And while you are in the process of giving your 10 evidence, whether it's at the end of today or, like now, 11 over lunchtime, you are not allowed to discuss your 12 evidence with anybody else. 13 WITNESS: Understood. 14 CHAIRMAN: Thank you. 2.15. 15 (1.02 pm) 16 (The luncheon adjournment) 17 (2.17 pm) 18 MR PENNICOTT: Mr Leung, good afternoon. 19 Before lunch, we were discussing the mismatch of the 20 tapered threaded couplers and the parallel rebar. Do 21 you remember that? 22 A. I do. 23 Q. Can I ask you this, Mr Leung. Do you recall, in 24 relation to the EWL interface stitch joint, which we 25 were focusing on -- do you remember the size, the</p>	<p>1 A. We don't necessarily have to follow the drawings. It 2 depends on the circumstances. 3 Q. Right. But if the couplers on the Gammon side, the 4 yellow-capped couplers on the Gammon side, were 5 32 millimetres, would you then have tried to use the 6 32 millimetre rebar that you had been given? 7 A. I will. 8 Q. And if you used that 32 millimetre rebar, the position 9 is that you would, as I understand it, have been able to 10 screw in that rebar just by two or three threads; is 11 that correct? 12 A. If there were flat couplers on Gammon's side, and if we 13 had flat-topped rebars, it could be completely screwed 14 in, under normal circumstances. 15 Q. Yes, but we know, Mr Leung, the yellow-capped couplers 16 you say you saw were tapered couplers. 17 A. In my impression, the yellow-capped couplers were 18 tapered heads. 19 Q. Yes. So it would not be possible to screw in fully 20 a parallel threaded 32 millimetre rebar? 21 A. True. 22 Q. And it certainly wouldn't be possible to screw in at all 23 a 40 millimetre piece of rebar into a 32 millimetre 24 coupler? 25 A. You are correct.</p>
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<p>1 diameter, of the rebar that you were given to do the 2 rebar fixing works? 3 A. I do. 4 Q. What diameter rebar were you given? 5 A. There were three sizes, one being Y40, Y32, Y25. 6 Q. Right. Now, if you look at a photograph, at EE415 -- it 7 will either go on the screen or somebody will find it 8 for you -- this, I hesitate to say so -- this is not in 9 relation to the -- this photograph does not show 10 a picture of the EWL joint, Mr Leung. I'm just showing 11 this to you for illustration purposes. 12 Do we see the three different types of rebar here? 13 A. True. 14 Q. So far as the -- think back again now to the EWL stitch 15 joint. Where would you be using the 40 millimetre 16 rebar? 17 A. Where? They were used on the base slab. 18 Q. Right. But on the Gammon side of the stitch joint, the 19 EWL stitch joint, on the Gammon side, what size were the 20 yellow-capped couplers; do you know? 21 A. I am not sure, but it would be either Y40 or Y32, one of 22 the two. 23 Q. Right. But was it your understanding that the whole of 24 the base slab at the EWL interface stitch joint had to 25 be Y40?</p>	<p>1 Q. Do you recall, Mr Leung, what you in fact did on the 2 Gammon side of the EWL stitch joint? Can you recall 3 what measures you took to fix the rebar on that side of 4 the stitch joint? 5 A. I screw a Y32 parallel threaded rebar, but I could only 6 screw in two to three threads. 7 Q. And did you attempt to do that for as many couplers as 8 were exposed? 9 A. I did. 10 Q. Okay. And on the Leighton side of the stitch joint, we 11 know that there were BOSA couplers. Do you agree with 12 that? 13 A. Can you repeat the question, please? 14 Q. Yes. On the Leighton side of the stitch joint, you, 15 Wing &amp; Kwong/Loyal Ease, had installed rebar and BOSA 16 couplers. Do you agree with that? 17 A. Agree. 18 Q. Right. And you knew that they were BOSA couplers, and 19 what size were they? 20 A. I can't recall very clearly, but I can be sure they 21 would be one, either Y40 or Y32. 22 Q. All right. Can I ask you this, Mr Leung. With regard 23 to BOSA couplers, did you ever attend any courses, 24 instruction courses, run by BOSA? 25 A. No.</p>

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<p>1 Q. Before I move on to something else, can I just ask you 2 about one part, small part, of paragraph 19 of your 3 witness statement, please. 4 I'm at EE57.5 in the English version. 5 About seven or eight lines down, there's a sentence 6 which reads as follows: 7 "As a matter of fact, there were [always] ways to 8 remedy this problem ..." 9 Do you see that, Mr Leung? 10 A. I see it. 11 Q. It's the next few words I wanted to ask you about: 12 "... Leighton had machines capable of twisting the 13 flat heads of rebars into pointed heads ..." 14 Can you explain that, Mr Leung, because I'm afraid 15 I don't understand it? What sort of machine are you 16 talking about and where was it, and how do you know 17 Leighton had such a machine? 18 A. Because I know that there are two ways to turn flat 19 heads to pointed heads, and in my knowledge their 20 plant -- their factory should be able to do that. 21 Q. Right. Where do you say their factory was? Which 22 factory are you referring to? 23 A. The factory to twist the heads, the place. 24 Q. You mean the rebar yard or the -- yes, the rebar yard? 25 Is that what you are talking about?</p>	<p>1 statement, paragraph 17. I wish to clarify a very small 2 point here. You said: 3 "As the rebars and couplers within the wall of 4 contract 1111 were embedded in concrete, Leighton 5 therefore had to chip away some of the surface concrete 6 to expose the couplers ... so that we could screw 7 contract number 1112 rebars into the contract number 8 1111 couplers, so as to connect them with the contract 9 number 1111 rebars." 10 It might just be a matter of language. What is 11 meant by "contract number 1112 rebars"? 12 A. As far as I know, contract number 1111 refers to 13 couplers left behind by Gammon, whereas for 14 contract 1112 the couplers were from Wing &amp; Kwong. 15 Q. I know 1111 couplers are on the wall on the side of 16 contract 1111; yes? Correct? 17 A. Correct. 18 Q. I just want to understand what you mean by "screw 19 contract number 1112 rebars". What are "contract 1112 20 rebars"? 21 A. They were rebars provided to us by Leighton. 22 Q. Right, because in the same sentence you then say: 23 "... so as to connect them with the contract number 24 1111 rebars." 25 Do you see that?</p>
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<p>1 A. Yes, correct. 2 Q. Okay. If anyone else wants to pursue that ... 3 Just a couple more questions, Mr Leung. 4 Paragraph 24 of your witness statement, please. You 5 make reference there to the Leighton or MTR 6 representatives carrying out their inspections. 7 Can I ask you whether you ever witnessed, with your 8 own eyes, the formal inspections taking place after you 9 had completed your rebar in any particular area? 10 A. After I had completed my rebar and if I needed to return 11 to the area for rectification works, I had seen relevant 12 persons from Leighton and MTRCL present. Whether they 13 were there to inspect, I did not see. 14 Q. So I think the answer to my question is you never 15 witnessed them actually doing the formal inspection; is 16 that right? 17 A. Correct. 18 MR PENNICOTT: Okay. Thank you very much, Mr Leung. I have 19 no further questions. 20 CHAIRMAN: Mr Shieh? 21 Cross-examination by MR SHIEH 22 MR SHIEH: Just a few questions. 23 Mr Leung, good afternoon. I represent Leighton. 24 I only have a few questions for you. 25 First of all, can I ask you to look at your</p>	<p>1 A. Yes, I see that. 2 Q. So you are talking about two types of rebars? One is 3 called 1112 rebars, the other is called 1111 rebars; 4 yes? 5 A. Correct. 6 Q. Is there any difference between these rebars? 7 A. As far as I know, contract number 1111 rebars were 8 already embedded in the concrete together with the 9 couplers. We had to screw in 1112 rebars into 1111 10 couplers. That way, the 1111 and 1112 rebars could 11 connect with each other. 12 Q. Well, that is something new to us, because as 13 I understand it -- and I will just describe this to you 14 and see whether you agree -- because as we understand 15 it, rebars have to be screwed onto the couplers on the 16 1111 side. Rebars had to be screwed onto the couplers 17 on the 1112 side. And then they overlap in the middle 18 of the stitch joint and you have to lap them. This is 19 our understanding of how joint 1 and joint 3 are done. 20 In short, you insert -- you fix rebars on each side, 21 1112 and 1111, and then you lap the rebars in the 22 middle. Is that the way you understand the rebar fixing 23 work to progress? 24 A. Correct. 25 Q. Thank you. In this paragraph, you only talked about</p>

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<p>1 failure to chip away surface concrete on the wall on the 2 1111 side; correct? 3 A. Correct. 4 Q. Can I just clarify with you: is it your evidence that 5 there is no problem about failure to chip away concrete 6 on the 1112 side of the wall? 7 A. Correct. 8 Q. So you have ... 9 Next, can I ask you to look at paragraph 19. In 10 paragraph 19, you talked about what you called "the 11 second type of situation". According to your evidence, 12 this was in joint 3; correct? 13 A. Can you repeat the question, please? 14 Q. This morning, I think you were asked the question, 15 "Where did you observe this problem about the mismatch 16 in the shape?", and you said that you observed this 17 phenomenon at joint 3. Is that your evidence? 18 MR PENNICOTT: EWL stitch joint. 19 MR SHIEH: Yes, the EWL stitch joint, the stitch joint near 20 the shunt neck joint. 21 A. Are you referring to couplers left behind by Gammon when 22 you talked about joint 3? 23 Q. I might have confused you by mentioning joint numbers, 24 because we are rather used to referring to joints by 25 numbers. Let me show you a chart, a diagram. Can you</p>	<p>1 A. I remember. 2 Q. You are saying that you saw -- you were saying that you 3 saw mismatch between the shape of the coupler and the 4 shape of the rebar on the Leighton side of the contract? 5 A. No. As I remember, the couplers left behind by Leighton 6 were flat-topped ones, while at the construction site 7 I saw that the couplers were with yellow caps and 8 pointed. 9 Q. Yes, because that is actually what I want to clarify, 10 because my understanding is, on the Leighton side, 1112, 11 the couplers are cylindrical and the end of the rebars 12 are also cylindrical, so there could not be any 13 mismatch. Is that your recollection also? 14 A. Yes. 15 Q. Now, one final question. You mentioned in answer to 16 Mr Pennicott's question earlier that there would be 17 yards, the rebar yards, on the construction site which 18 can have machines to work on the rebars, to turn them 19 into a correct shape. Did you say that? 20 A. Yes. 21 Q. Was that your guess or have you seen these machines 22 before? 23 A. From my knowledge, if you can thread a rebar into 24 a flat-headed rebar, you can also thread it into 25 a pointed rebar. That is from my knowledge.</p>
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<p>1 look at BB1, page 90. You can see, on the top 2 right-hand corner of this diagram, there is "1111/1112 3 EWL stitch joint"; do you see that? 4 A. I see that. 5 Q. Is that where you saw this problem about mismatch in 6 shape? 7 A. On this diagram, I cannot be sure this is the place 8 I identified the problem, because I was taken to the 9 location of the works by Ah Chun and we would not ask 10 him where that location was exactly. But in the 11 aftermath of the incident, he showed me these locations 12 and I did work at these locations. And I remember that 13 there was a location with serious water seepage and 14 I remember it very well. I also visited other 15 locations, but I could not describe the exact locations 16 of those. 17 Q. Can I just have one moment? 18 Now, according to your statement, paragraph 19, you 19 said: 20 "I witnessed this type of situation in the 21 construction site area of contract number 1112." 22 Do you see that? 23 A. Correct. 24 Q. 1112 is not the Gammon contract. 1112 is the Leighton 25 side of -- it's the Leighton contract; do you remember?</p>	<p>1 Q. But a machine which can turn a rebar into a flat-headed 2 rebar may not be able to turn it into a pointed rebar; 3 do you accept that? It depends on what the machine can 4 do? 5 A. Correct. 6 Q. Thank you. 7 There is one possible matter of translation that 8 I wish to clarify with you. You remember earlier this 9 afternoon you were asked a question by Mr Pennicott 10 whether it was your understanding that the whole of the 11 base slab of the EWL stitch joint had to be Y40. Now, 12 that was when you were shown a certain photograph. 13 Remember that question? 14 A. I do. 15 Q. Your answer to that, as translated, was: 16 "We don't necessarily have to follow the drawings." 17 Now, it may be actually what you truly intended to 18 say, because when I listened to the Cantonese answer, 19 what I heard was ambiguous, because you said, "Mm 20 (Chinese spoken)". So it could mean "mm" is "not", "not 21 necessarily", but some people have a habit of starting 22 a sentence by "Mm", so it could be, "Mm 23 (Chinese spoken)"; "Mm, necessarily have to". 24 So did you truly mean "Not necessarily have to 25 follow the drawing", or were you saying, "Mm, must</p>

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<p>1 follow the drawing"?</p> <p>2 A. I wanted to say we must, we must follow the drawings.</p> <p>3 Perhaps you were confused. Let me reiterate that we</p> <p>4 must follow the drawings.</p> <p>5 MR SHIEH: Thank you very much. I have no further</p> <p>6 questions.</p> <p>7 Cross-examination by MR BOULDING</p> <p>8 MR BOULDING: Good afternoon, Mr Leung. I have just one</p> <p>9 matter to pick up with you arising out of Mr Pennicott's</p> <p>10 discussions with you earlier this afternoon.</p> <p>11 Do you recall Mr Pennicott asking you about the</p> <p>12 formal inspections of the steel reinforcement by MTR and</p> <p>13 Leightons?</p> <p>14 A. He was not asking about inspecting but inspection and</p> <p>15 receiving them -- accepting them.</p> <p>16 Q. Well, the transcript records that you told the</p> <p>17 Commission of Inquiry that you never witnessed MTR and</p> <p>18 Leighton doing the formal inspections. Do you remember</p> <p>19 giving that answer to Mr Pennicott?</p> <p>20 A. I was talking about not really inspecting but testing</p> <p>21 and accepting.</p> <p>22 Q. Well, I'm afraid that's not what the transcript records</p> <p>23 you as saying, Mr Leung. We can look it up if you want,</p> <p>24 but I really didn't think there was going to be any</p> <p>25 dispute about this.</p>	<p>1 A. I do.</p> <p>2 Q. And there you're talking, are you not, about the</p> <p>3 problems you have referred to in the previous paragraphs</p> <p>4 of your statement; that's correct, is it not?</p> <p>5 A. Correct.</p> <p>6 Q. Thank you.</p> <p>7 Then if you would be kind enough to cast your eye</p> <p>8 down paragraph 26, and about seven or eight lines from</p> <p>9 the bottom, do you see you state:</p> <p>10 "... when Leighton or MTR representatives carried</p> <p>11 out their inspections, these situations would definitely</p> <p>12 have been noticed."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. But of course you were never present at those</p> <p>16 inspections, were you?</p> <p>17 A. No, not present.</p> <p>18 Q. And I suggest that in those circumstances, this is pure</p> <p>19 speculation on your part, is it not?</p> <p>20 A. Because in my statement I said that anyone who -- anyone</p> <p>21 would be able to observe with their bare eyes that they</p> <p>22 were not screwed in. Well, you may say it was my</p> <p>23 speculation, but I put it to you that if you had looked</p> <p>24 carefully, you would have seen that they were not</p> <p>25 screwed in.</p>
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<p>1 We'd better look it up.</p> <p>2 (Discussion off the record)</p> <p>3 MR WONG: I think he's agreeing with you. It's just the</p> <p>4 translation. Does everyone agree?</p> <p>5 CHAIRMAN: I think that's right.</p> <p>6 COMMISSIONER HANSFORD: Can we have that explained to us,</p> <p>7 please?</p> <p>8 MR BOULDING: My learned junior tells me that it's all being</p> <p>9 lost in translation, but in fact he's agreeing with me.</p> <p>10 COMMISSIONER HANSFORD: In what way?</p> <p>11 MR BOULDING: That he never witnessed the formal inspection.</p> <p>12 CHAIRMAN: Right.</p> <p>13 MR PENNICOTT: That was my understanding.</p> <p>14 MR BOULDING: I'm grateful for that. Let's proceed on that</p> <p>15 basis.</p> <p>16 Could we have a look, please, at your witness</p> <p>17 statement, and that's page EE57.7. If you could scroll</p> <p>18 down, please, to paragraph 26.</p> <p>19 We can see, can we not, that in the first sentence</p> <p>20 there we are talking about the problems that you</p> <p>21 describe in the previous paragraphs of your statement;</p> <p>22 correct?</p> <p>23 A. Which paragraph are you referring to?</p> <p>24 Q. 26, the first sentence. Do you see the word "problems"</p> <p>25 on the second line?</p>	<p>1 Q. Well, I hear what you say, but quoting from your own</p> <p>2 statement, "when Leighton or MTR representatives carried</p> <p>3 out their inspections", you were not at those</p> <p>4 inspections, and your statement that they definitely had</p> <p>5 been noticed, ie the problems, that's speculation.</p> <p>6 That's what I put to you.</p> <p>7 A. I agree.</p> <p>8 MR BOULDING: Thank you.</p> <p>9 Cross-examination by MR HO</p> <p>10 MR HO: May it please you, Mr Commissioners, I will try to</p> <p>11 relieve the burden of Mr Khaw at this part.</p> <p>12 Mr Leung, good afternoon. I appear for government</p> <p>13 and I have some questions for you.</p> <p>14 Can I first take you to paragraph 17 of your witness</p> <p>15 statement. In paragraphs 17 and 18 of that statement,</p> <p>16 you mentioned that you encountered situations where the</p> <p>17 couplers were not exposed or were not sufficiently</p> <p>18 exposed. Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. I understand it's your evidence that it's not your duty</p> <p>21 or responsibility to chip away the concrete, but can</p> <p>22 I just ask you this. Suppose if you were asked to chip</p> <p>23 away the concrete, would that be possible or would it be</p> <p>24 feasible?</p> <p>25 A. It could not be done because I didn't have the tool.</p>

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<p>1 Q. Can you kindly cast your eyes on paragraph 19 of your 2 statement. In this paragraph, you mentioned the 3 situation when there is a shape mismatch between the 4 couplers and the rebars. Do you see that? 5 A. Yes. 6 Q. Now, you also mentioned to us that you think that there 7 are two ways to remedy this problem, one of which is 8 that Leighton is supposed to have machines being able to 9 twist the rebars from flat-headed to pointed-head. 10 A. Correct. 11 Q. Can I just ask you this: do you know, according to your 12 knowledge, whether any of these machines exist on site, 13 that is the construction site? 14 A. This I can't recall clearly. 15 Q. You also told us, of course, that it is -- according to 16 your knowledge that these machines exist. Would you be 17 able to tell us, according to your knowledge, if these 18 machines were indeed deployed, how long would the 19 twisting process take? 20 A. I really can't tell how long exactly, because I know 21 that such a machine can do so, but I've never done such 22 a process so I cannot tell for sure how long it's going 23 to take. 24 Q. Fair enough. What about the replacement of couplers? 25 So according to your knowledge, would you have knowledge</p>	<p>1 the site five to ten times per day and there are also 2 similar routine patrolling exercises by MTR staff. 3 My question to you is whether this statement accords 4 with your understanding? 5 A. During work, I saw Leighton staff appear multiple times 6 a day, but I did not pay attention to the number of 7 times and frequency of such patrols, but as I remember, 8 there were such patrols. 9 Q. My question to you is: did you notice that during those 10 patrolling exercises, did the Leighton staff or MTR 11 staff inspect any of the rebar fixing works? 12 A. What did you mean by "inspecting the bar fixing works"? 13 Q. Or would they have a look at the condition of the rebar 14 fixing works? 15 A. At that time, as we worked along, if they -- well, they 16 did look around or carried out inspections, but while 17 I worked I would not pay attention to whether they were 18 watching, but I did know that they could pass by and 19 have a look. 20 Q. Did any of those Leighton or MTR staff query or ask you 21 questions as to why some of the rebars were not 22 connected to the couplers? 23 A. No. 24 Q. Well, did you on your part report or, according to your 25 knowledge, whether any of your colleagues reported this</p>
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<p>1 as to how long would that process take? 2 A. To replace the coupler, we must chip out all the -- chip 3 away all the concrete before the coupler can be screwed 4 out. As regards the time to take to chip away all the 5 concrete, it would depend on the time the worker is 6 going to take. I really can't tell you how long it's 7 going to take, because it's not within my scope of work 8 and I've never been responsible for this part of work. 9 Q. In paragraph 19 of your statement, you also mention that 10 the problem of shape mismatch was about 30 per cent. Do 11 you see that? 12 A. I do. 13 Q. This is a point that I don't quite understand, because 14 if, according to you, the problem is about shape 15 mismatch, then certainly none of the rebars would be 16 able to be connected into the couplers. So can you 17 please clarify on what basis you arrived at this figure 18 or this impression? 19 A. Well, my impression is that all the rebars and couplers 20 left by Gammon, in my impression, there were only about 21 30 per cent. That's my impression. 22 Q. Understood. Now, the Commission has also heard evidence 23 from Mr Ng Man Chun that there is routine patrolling by 24 Leighton and MTR staff. Now, his evidence in his 25 witness statement is that Leighton staff would patrol</p>	<p>1 problem to either Leighton or MTRCL staff? 2 A. I can't remember. 3 Q. There's just one final point I wish to ask you. Can 4 I ask you to pick up your witness statement at 5 paragraph 24. In that paragraph, you talk about the 6 formal inspections by Leighton or MTRCL. 7 Now, we've heard your evidence given just now that 8 you never personally witnessed the formal inspection. 9 But, at the same time, we have also heard evidence from 10 Mr Ng Man Chun, your supervisor, that at least for the 11 initial period, that is before we are talking about the 12 stitch joints, Ah Chun and the Wing &amp; Kwong staff would 13 actually participate or stay behind for the formal 14 inspection process, to cater for any aftercare works. 15 A. Yes. 16 Q. Were you present at any of those formal inspections? 17 A. No. 18 Q. Did you receive any instructions to attend or not to 19 attend any of those formal inspections? 20 A. I did not receive any such instructions. 21 MR HO: I have no further questions. 22 MR TSOI: I guess my learned friend from Pypun needs to 23 state for the record. 24 MR LIU: No questions. 25 Re-examination by MR TSOI</p>



<p style="text-align: right;">Page 97</p> <p>1 MR TSOI: Mr Leung, just in relation to the questions asked 2 by counsel for the government, I have a couple of 3 questions for you. One of the answers you gave was 4 neither you nor your colleague raised the issues of 5 mismatch problem with either Leighton or MTR. That was 6 the question asked and you said you can't remember. 7 A. Yes. 8 Q. But in your statement, you have provided examples of 9 where you said Ah Chun has reported the matter to 10 Leighton. So which one is it? 11 A. My colleagues or workers would only report issues to 12 Ah Chun, and Ah Chun would report to either Leighton or 13 MTRCL. 14 Q. The other matter relates to the 30 per cent, because 15 I myself am a bit confused, I have to say. You say, in 16 relation to joint 1, the problem of the mismatch was 17 30 per cent of the rebar fixing works that you did. 18 Now, can I ask you this: when you did rebar fixing works 19 at the stitch joint, did you have to do -- did you have 20 to fix parallel threaded rebars into the Leighton side 21 of the joint? 22 A. Yes. 23 Q. And did you also have to screw in the tapered threaded 24 rebars into the 1111 side of the interface? 25 No, no, sorry -- the Gammon side, yes. The Gammon</p>	<p style="text-align: right;">Page 99</p> <p>1 do steel reinforcement works had a serious water seepage 2 and flooding situation, but Leighton requested that Wing 3 &amp; Kwong continue the steel reinforcement works at that 4 location." 5 Can you see that? 6 A. I see that. 7 Q. Do you know who in Leighton requested Wing &amp; Kwong to do 8 that or not? 9 A. I don't know who made that request. The request was 10 made through my supervisor who was Ah Chun, a Leighton 11 staff informed Ah Chun, and Ah Chun told us to continue. 12 MR TSOI: Thank you, Mr Leung. That's all my questions. 13 CHAIRMAN: Good. Thank you very much indeed. 14 Peter, do you have anything? 15 COMMISSIONER HANSFORD: No, nothing. 16 CHAIRMAN: That is the end of your evidence. Thank you. 17 You can be excused now. Thank you for your assistance. 18 WITNESS: (In English) Thank you. 19 (The witness was released) 20 MR SHIEH: Mr Chairman and Mr Commissioner, according to the 21 witness schedule -- 22 CHAIRMAN: Sorry, Mr Shieh, I lost you for a second. 23 Normally, it's a towering presence! 24 MR SHIEH: I can try to stand on one leg! 25 According to the witness schedule, the next witness</p>
<p style="text-align: right;">Page 98</p> <p>1 side of the couplers. 2 MR PENNICOTT: Sir, there is no suggestion there's tapered 3 threaded rebars. 4 MR TSOI: No, sorry. 5 Did you have to fit rebars into the 1111 side of the 6 interface? 7 A. Yes, I had to. 8 Q. So, when you say "30 per cent", what do you mean in that 9 context? Is it 30 per cent of all the rebar fixing work 10 that you yourself conducted, that you found the 11 mismatch, or what? 12 A. It corresponds to the works completed at this bay, 13 30 per cent of the couplers were pointed; they were 14 connected with flat-topped rebars. 15 Q. In answer to a question raised by Mr Shieh, you 16 mentioned about an incident of water seepage. Do you 17 recall that? 18 A. I remember that. 19 Q. I want you to turn to paragraph 21 of your witness 20 statement. 21 Is that the water seepage incident you were 22 referring to when answering Mr Shieh's question? 23 A. Yes. 24 Q. In the statement you said this, in the middle: 25 "At the time, the construction site where we had to</p>	<p style="text-align: right;">Page 100</p> <p>1 is Mr Henry Lai from Leighton. He is available and 2 ready to come in. I wonder whether you wish to take the 3 afternoon break now or whether we plough on until 4 an appropriate moment. 5 CHAIRMAN: It would seem like a reasonable time to do it 6 now, do you think? 7 MR PENNICOTT: I think so, sir, because we may have a little 8 bit of switching around of seating arrangements as well, 9 so that will give us a chance to do that. 10 CHAIRMAN: Okay. 10 minutes or quarter of an hour? 11 MR PENNICOTT: 15 minutes. 12 CHAIRMAN: 15 minutes. Thank you. 13 (3.11 pm) 14 (A short adjournment) 15 (3.30 pm) 16 MR SHIEH: Can I now call Mr Henry Lai. 17 MR HENRY LAI (affirmed) 18 Examination-in-chief by MR SHIEH 19 Q. Mr Lai, good afternoon. Can I ask you to look at -- you 20 have made three witness statements for the purpose of 21 this Inquiry, and can I ask you to look at these 22 statements one by one. 23 First of all, CC1, page 88. This is a document 24 entitled, "Witness statement of Henry Lai"; do you see 25 that?</p>

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<p>1 A. Yes.</p> <p>2 Q. Can you turn to page 97. Is that your signature on that</p> <p>3 page?</p> <p>4 A. Yes, that is.</p> <p>5 Q. Then can I ask you to turn to bundle CC6, page 3786.</p> <p>6 A. Yes.</p> <p>7 Q. That is your second witness statement; yes?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Can you turn to page 3789.</p> <p>10 A. Yes.</p> <p>11 Q. Is that your signature?</p> <p>12 A. Yes, that is.</p> <p>13 Q. Finally, bundle CC10, page 6506.</p> <p>14 A. Yes.</p> <p>15 Q. That is your third witness statement; can you see that?</p> <p>16 A. Yes, correct.</p> <p>17 Q. Can you turn to page 6509. Is that your signature?</p> <p>18 A. Yes, it is.</p> <p>19 Q. In accordance with a little convention we established</p> <p>20 when Leighton witnesses are called, can I show you</p> <p>21 an organisation chart, at CC2, page 526.</p> <p>22 A. Yes, I see it.</p> <p>23 Q. This is an organisation chart. You can see the dark</p> <p>24 blue box, "MTRC", at the top, in the middle; you can see</p> <p>25 that?</p>	<p>1 Examination by MR PENNICOTT</p> <p>2 MR PENNICOTT: Good afternoon, Mr Lai.</p> <p>3 A. Good afternoon, sir.</p> <p>4 Q. Mr Shieh has told you what's going to happen, so I won't</p> <p>5 repeat it.</p> <p>6 Mr Lai, you tell us that you have a bachelor of</p> <p>7 engineering in civil engineering. Which year did you</p> <p>8 obtain that?</p> <p>9 A. I obtained that in 2012.</p> <p>10 Q. And you have a master of science in civil engineering.</p> <p>11 In what year did you obtain that?</p> <p>12 A. That would be in 2013.</p> <p>13 Q. And from which institutions?</p> <p>14 A. University of Glasgow.</p> <p>15 Q. And you joined Leighton in that year, 2013?</p> <p>16 A. Yes.</p> <p>17 Q. So this was your first ever job, as it were?</p> <p>18 A. This is my --</p> <p>19 Q. Full-time job.</p> <p>20 A. Full-time job, yes. Previously -- sorry, this would be</p> <p>21 my second job. My first job was with Bachy Soletanche.</p> <p>22 I only worked for two months, and then I transferred to</p> <p>23 Leighton.</p> <p>24 Q. That would have also been in 2013, would it?</p> <p>25 A. Yes.</p>
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<p>1 A. Yes.</p> <p>2 Q. And you can see Mr Zervaas and Mr Ian Rawsthorne. At</p> <p>3 around 4 o'clock of Mr Rawsthorne, you can see</p> <p>4 "Joe Tam", "Project manager"; can you see?</p> <p>5 A. Yes.</p> <p>6 Q. If you move down Joe Tam, under "West" and then</p> <p>7 "(NAT/GLJ ...)" and you can see Chan Hon Sun and under</p> <p>8 Chan Hon Sun you can see, "Engineer Henry Lai"?</p> <p>9 A. Yes.</p> <p>10 Q. Does that correspond with your understanding of the</p> <p>11 relevant line of reporting during the relevant time?</p> <p>12 A. Yes.</p> <p>13 Q. So colloquially you would say Joe Tam is your ultimate</p> <p>14 boss for the area that you worked at?</p> <p>15 A. Yes.</p> <p>16 MR SHIEH: Thank you very much. Please remain in the</p> <p>17 witness box, because Mr Ian Pennicott in front of me for</p> <p>18 the Commission will have some questions for you, and</p> <p>19 also other parties may have their own questions for you</p> <p>20 as well, and if I have anything to follow up, I will ask</p> <p>21 questions of you in re-examination.</p> <p>22 Of course, Mr Chairman and Mr Commissioner may also</p> <p>23 have their questions for you.</p> <p>24 WITNESS: Understood.</p> <p>25 MR SHIEH: Please remain seated.</p>	<p>1 Q. Okay.</p> <p>2 You were promoted to senior engineer in early 2018?</p> <p>3 A. Yes.</p> <p>4 Q. And you are still with Leighton; is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. Mr Shieh helpfully took us to the organisation chart of</p> <p>7 May 2017. I think, we are not going to go to it, but if</p> <p>8 you look at an organisation chart of some five months</p> <p>9 later, in October, the situation is basically the same,</p> <p>10 and I think, as you indicated to Mr Shieh earlier,</p> <p>11 Joe Tam remained essentially as your superior, your</p> <p>12 boss, throughout the course of 2017?</p> <p>13 A. Yes, correct.</p> <p>14 Q. At paragraph 9 of your witness statement, if you could</p> <p>15 turn to that. Sorry, your first witness statement.</p> <p>16 A. Thank you, sir.</p> <p>17 Q. You say:</p> <p>18 "On a typical day, I spent most of my time (usually</p> <p>19 from around 9 am to 5 pm, especially around the period</p> <p>20 of the pouring of concrete) on site supervising various</p> <p>21 construction works, including conducting routine</p> <p>22 inspections.</p> <p>23 I would usually check once in the morning and once</p> <p>24 in the afternoon on the progress and manpower for the</p> <p>25 works. If there were any issues, I would raise them</p>

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<p>1 with the foremen of Wing &amp; Kwong and Hills." 2 Who was the foreman at Wing &amp; Kwong that you would 3 raise issues with? 4 A. That would be Ng Man Chun. 5 Q. Ah Chun? 6 A. Ah Chun, yes. 7 Q. Did that remain the case throughout the course of the 8 whole of the Wing &amp; Kwong works? 9 A. Yes. 10 Q. So you first met Ah Chun in around about February 2016, 11 is that right, when you first started working on this 12 project? 13 A. Yes, that would be the case. Yes. 14 Q. Did you get to know Ah Chun well? 15 A. On a work, professional basis, yes. 16 Q. Did you have any contact with him outside the work and 17 professional context? 18 A. No. 19 Q. Did you ever have and hold lunches with him and talk 20 about the work that was proceeding? 21 A. There would be, yes, lunch. 22 Q. But conversations would be limited to work and progress, 23 and work-related matters? 24 A. Work-related matters, progress. 25 Q. And outside lunches and the work context, did you ever</p>	<p>1 construction of the three stitch joints with which we 2 are concerned and indeed the shunt neck joint? 3 A. I carried inspections daily, once in the morning, once 4 in the afternoon. 5 Q. So I think the answer to my question is probably "yes", 6 that you did closely observe and monitor the 7 construction of those joints? 8 A. Yes. 9 Q. Now, what I'd like to do, if I may, Mr Lai, is show you 10 the witness statement of Michael Fu, one of the MTR 11 witnesses. I don't know whether you know Mr Fu, do you? 12 A. I know of Mr Fu. 13 Q. Have you read his witness statement? 14 A. No, I haven't. 15 Q. If you could please be shown BB1, page 71. As I say, if 16 you -- we're just picking it up just to show you -- this 17 is part of Mr Fu's witness statement, Mr Lai, just to 18 put us in context, and he's got a diagram there, 19 diagram 1 on page 71, which shows "Typical details of 20 a stitch joint (external walls)"; do you see that? 21 A. Yes, I do. 22 Q. If you could go over the page to page 72, please, Mr Fu 23 describes in some detail how the process of constructing 24 a stitch joint should be carried out. 25 What I would like you to do, if you would, is to</p>
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<p>1 have any other interaction with Ah Chun? 2 A. Maybe the festival greetings. That's all. 3 Q. That's all. Would you regard him as a friend? 4 A. I would regard him as a work friend. 5 Q. All right. But you had regular contact with him 6 throughout the course of the Wing &amp; Kwong works; would 7 you accept that? 8 A. I accept that. 9 Q. So how often would you see him during the course of 10 a working week? 11 A. Depends on the works, and the works that I involved with 12 him, so necessary when it's required. Maybe at least 13 once or twice a day. 14 Q. Once or twice ...? 15 A. A day. 16 Q. Okay. In paragraph 11 of your witness statement, you 17 explain how, in broad terms, a stitch joint was 18 constructed; is that right? Would that be a fair 19 summary? 20 A. Sorry, can you repeat that? 21 Q. Yes. In broad terms, in paragraph 11, you give 22 a general description of the construction process of 23 a stitch joint? 24 A. Yes. 25 Q. Did you yourself closely observe and monitor the</p>	<p>1 tell us whether you agree that this was how the 2 original -- I'm not talking about the remedied stitch 3 joints but the original stitch joints -- whether you 4 agree that this is how they were in fact carried out. 5 First of all, Mr Fu says this: 6 "... GKJV [so that's Gammon] should construct the 7 1111 NSL interfacing tunnel structures with couplers 8 (with protective caps) fixed at the end of the 9 structure. Note that there should be a collar at the 10 exterior of the structure. GKJV should also install 11 a waterproof membrane at the exterior of the collar and 12 a water stop at the structure." 13 Then he refers to the yellow parts of a diagram at 14 appendix D, which is page 91 in the same bundle. 15 First of all, do have a look at that, Mr Lai. It's 16 page 91. That's it. 17 So he's describing the yellow part of the diagram; 18 do you see that? 19 A. Yes, I do. 20 Q. Do you agree, first of all, with that description, and 21 do you -- from your recollection, is that what actually 22 happened? Is that what Gammon, the GKJV, actually did, 23 so far as you are aware? 24 A. Yes. 25 Q. Then going back to -- keep that diagram handy but going</p>

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<p>1 back to the narrative of Mr Fu's statement. He then 2 says: 3 "Then, Leighton should construct the 1112 NSL 4 interfacing tunnel structures also with couplers (with 5 protective caps) fixed at the end of the structure. 6 There should also be a collar at the exterior of the 7 structure. Leighton should also install a waterproof 8 membrane at the exterior of the collar and a water stop 9 at the structure. See the green parts of the 10 diagram ..." 11 And again, Mr Lai, to the best of your recollection, 12 is that what Leightons did? 13 A. Yes. 14 Q. So what we should have, therefore, is a mirror image of 15 the two sides of the joint; do you agree? 16 A. Yes. 17 Q. Then Mr Fu goes on to say: 18 "Upon the construction of the two interfacing tunnel 19 structures as mentioned in (a) and (b) above, the two 20 structures would not be 'stitched' together immediately. 21 This is because ..." 22 And then a reference is made to drawing 101 for 23 short. 24 "... expressly required that '2. The stitch joint 25 shall be cast as late as possible in the construction</p>	<p>1 structures, the Leighton structure, the Gammon 2 structure -- how do you know when it's okay to build the 3 stitch joints? 4 A. I only follow under the programme that we had to start 5 the stitch joint works. 6 Q. But if you read the note -- this is an engineering 7 matter -- 8 A. Yes. 9 Q. Mr Lai: 10 "The stitch joint shall be cast as late as possible 11 in the construction sequence ..." 12 Well, we understand that. 13 "... and preferably after groundwater recharge ..." 14 So how is the groundwater recharge monitored? How 15 is it measured? How do you know when it has recharged? 16 A. For that, I don't know. 17 Q. You don't know. Then it goes on: 18 "... to minimise the amount of differential 19 [settlement] after casting." 20 Again, do you know whether differential movement is 21 monitored on the Leighton structure and the Gammon 22 structure, so that you have some idea as to where the 23 structures have reached in terms of settlement before 24 you do the stitch joint? 25 A. I don't know.</p>
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<p>1 sequence, and preferably after groundwater recharge, to 2 minimise the amount of differential movement after 3 casting. Casting shall not be carried out until after 4 completion of backfilling'." 5 Pausing there. Is that a drawing with which you're 6 familiar, Mr Lai? 7 A. Can I please see the drawing to see the detail then? 8 Q. Yes, you can. It's in -- he says hesitatingly -- 9 BB1/463, please. It's up on the screen as well, Mr Lai. 10 Do you see that, Mr Lai? 11 A. Yes, I do. 12 Q. So the bit that I read out of Mr Fu's statement, he's 13 quoting the note 2 in the top right-hand corner? 14 A. Correct. 15 Q. If we could go back to his witness statement. Can I ask 16 you this. The note says: 17 "The stitch joint shall be cast as late as possible 18 ... to minimise the amount of differential movement", 19 and so forth. 20 Can you tell us, can you tell the Commission, 21 Mr Lai, upon what basis Leighton decided that the 22 differential movements had stabilised and that it would 23 be now appropriate to construct the stitch joints? 24 A. Can you repeat again, sorry? 25 Q. Yes, sure. How do you know when the movement of the two</p>	<p>1 Q. So do you know who in the Leighton organisation would be 2 responsible for saying or determining when the stitch 3 joint can be constructed? Not as a matter of timetable 4 but as a matter of engineering. 5 A. For the monitoring part, should be the design team. 6 Q. Right. So who heads up the design team in that respect? 7 A. I'm unsure. 8 Q. All right. 9 COMMISSIONER HANSFORD: Sorry, what was that answer? 10 A. I'm not sure. 11 COMMISSIONER HANSFORD: Okay. Sorry. I thought that 12 sounded like a Chinese name for a moment. 13 A. My apologies. 14 COMMISSIONER HANSFORD: No, it's fine. 15 MR PENNICOTT: Can I just ask you to look at 16 subparagraph (d) of Mr Fu's witness statement -- we are 17 still on page 72. What he says there is: 18 "At the stage of construction referred to in 19 subparagraph (c) above, the two collars at the exteriors 20 of the structures would serve the purpose of sealing up 21 the space within the tunnel structures (ie the red 22 part as shown in [the diagram]) ..." 23 Do you agree with that? 24 A. Agreed. 25 Q. Then he says:</p>

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<p>1 "As there would still be a gap between the collars 2 (through which soil and underground water might seep in 3 after backfilling and the recharging of underground 4 water had occurred), Leighton was required to install 5 an Omega seal at the inner intersection of the two 6 collars." 7 Do you agree with that, and was that done by 8 Leighton? 9 A. Yes, it was. 10 Q. Then, at subparagraph (e) on page BB73 -- so I'm moving 11 on to the next page in Mr Fu's witness statement -- he 12 says: 13 "After the differential movements of the two 14 structures were stabilised ..." 15 And, as I understand it, you are not able to assist 16 us at the moment as to how one knows that that 17 stabilisation has taken place? 18 A. No, sorry. 19 Q. I'm sure somebody else will. 20 "... Leighton should: 21 (i) Expose the couplers fixed at the 1111 NSL 22 interfacing tunnel structures and screw rebars (the 23 '1111 rebars') into those couplers". 24 Now, is that still your evidence, that it is 25 Leighton who should expose the couplers fixed at the</p>	<p>1 couplers -- 2 A. Yes. 3 Q. -- in the stitch joints? 4 A. Yes. 5 Q. And did you see those yellow-capped couplers on the 6 Gammon side of the stitch joint? 7 A. Sorry, can you repeat that again? 8 Q. Yes. Were all the yellow-capped couplers on the Gammon 9 side of the stitch joint? 10 A. Yes, only the yellow caps on the Gammon side of the 11 stitch joint. 12 Q. Did you, back in 2017, take it upon yourself to go and 13 closely inspect those yellow-capped couplers? 14 A. We had requested Gammon side to expose the work, for 15 doing the expose work. We were notified that they had 16 finished it, and at the time, during my daily 17 inspections, I would have had a look. 18 Q. And did you have occasion to remove any of the yellow 19 caps on those couplers? 20 A. No. It wouldn't be appropriate. 21 Q. Why not? 22 A. Because they are there to protect the couplers. 23 Q. Well, you could go and take the cap off, have a look, 24 inspect and put the cap on again. Did you not do that? 25 A. No.</p>
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<p>1 1111 side of the stitch joint? 2 A. But exposing work should be done by Gammon. 3 Q. Right. So you would want to change that to say that it 4 shouldn't be Leighton who exposes those couplers on the 5 Gammon side; it should be Gammon that exposes couplers? 6 Is that right? 7 A. Correct. 8 Q. Why is it that you've changed your evidence on that 9 point? 10 A. On which paragraph? 11 Q. Well, you -- sorry, your position is what, that -- has 12 it always been that Gammon should expose those couplers 13 on that side? 14 A. Correct. 15 Q. I beg your pardon. It's Mr Fu. We will ask Mr Fu about 16 that. Sorry. My problem. 17 Okay. So Gammon expose on the 1111 side? 18 A. Correct. 19 Q. Did you inspect Gammon's work when they exposed those 20 couplers? 21 A. It was notified to us. 22 Q. Right. Did you personally inspect the couplers exposed 23 by Gammon on the Gammon side? 24 A. I can't remember. 25 Q. All right. Did you at any time see yellow-capped</p>	<p>1 Q. The couplers that were used -- this is the next 2 subparagraph in Mr Fu's statement. The next thing to do 3 is: 4 "Expose the couplers fixed at the 1112 [side] ..." 5 Do you agree that the couplers on the 1112 side had 6 red caps? 7 A. Agreed. 8 Q. Did it ever occur to you there might be a difference -- 9 this is back in 2017. Did it ever occur to you that 10 there might be a difference between the red caps and the 11 yellow caps on these couplers? 12 A. No. 13 Q. Presumably, you knew that the red-capped couplers on the 14 Leighton side were manufactured by BOSA? 15 A. Correct. 16 Q. Did you know, in 2017, by whom the yellow-capped 17 couplers were manufactured? 18 A. No. 19 CHAIRMAN: Sorry, could I ask: did you not wonder at any 20 time why there would be the different coloured caps? 21 A. From my experience at the time, I had only worked with 22 one type of coupler, so I didn't take that into my mind 23 that they would be different. 24 CHAIRMAN: Okay. And the one type of coupler you had dealt 25 with was a BOSA coupler, was it?</p>

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<p>1 A. Only BOSA.</p> <p>2 MR PENNICOTT: All right. So the fact that when you saw the</p> <p>3 yellow caps it didn't register with you that they might</p> <p>4 be in some way different?</p> <p>5 A. No.</p> <p>6 CHAIRMAN: The only reason I ask is because -- and I'm not</p> <p>7 disputing your viewpoint -- but often, not always but</p> <p>8 often, different colours denote perhaps a slightly</p> <p>9 different design, and that goes right the way through,</p> <p>10 from simple pharmaceuticals, if you pick up a bottle of</p> <p>11 antacid that is turquoise and the one next to is bright</p> <p>12 yellow, you can probably work on the basis that one is</p> <p>13 mint and the other is lemon, for example. Do you know</p> <p>14 what I mean?</p> <p>15 A. Yes, I understood.</p> <p>16 CHAIRMAN: But you didn't think to yourself that perhaps --</p> <p>17 A. At that time, no.</p> <p>18 MR PENNICOTT: All right.</p> <p>19 With regard to the exposing of the couplers, let's</p> <p>20 just focus on the Gammon side first, which we now</p> <p>21 understand they were exposed by Gammon or somebody</p> <p>22 working for or on behalf of Gammon. Did you see, did</p> <p>23 you witness with your own eyes, the process of removing</p> <p>24 the concrete to expose the couplers?</p> <p>25 A. I have seen workers working down there, yes.</p>	<p>1 concrete? I mean, was it absolutely solid concrete or</p> <p>2 was it a cement paste? I mean, what was it -- how did</p> <p>3 it look, and how easy was it to do this chipping-off</p> <p>4 process?</p> <p>5 A. It wasn't easy. Solid concrete.</p> <p>6 Q. I see. Have you looked at the Hills sub-contract</p> <p>7 between Leighton and Hills?</p> <p>8 A. No.</p> <p>9 Q. All right. I'll deal with that with somebody else, on</p> <p>10 that basis.</p> <p>11 Now, could I ask you to go to subparagraph (f) in</p> <p>12 Mr Fu's witness statement -- we are now at BB74 -- where</p> <p>13 he deals in a little detail with the construction of the</p> <p>14 NSL interface joint. Do you see that, Mr Lai?</p> <p>15 A. Point (f) is pointing at the twin-box structure.</p> <p>16 Q. Yes. It's:</p> <p>17 "... the NSL Tunnel is a twin-box underground tunnel</p> <p>18 structure, Leighton had to connect ..."</p> <p>19 A. Okay. Yes.</p> <p>20 Q. He's now going on to provide the detail of the stitch</p> <p>21 joint at that point. He says, firstly:</p> <p>22 "The base slab of the 1111 NSL interfacing tunnel</p> <p>23 structures and the base slab of the 1112 NSL interfacing</p> <p>24 tunnel structures".</p> <p>25 So what had to be done in the base slab, no doubt</p>
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<p>1 Q. And what tools were they using to do the chipping off</p> <p>2 and the exposing of the couplers?</p> <p>3 A. They would use a hand-drill, pneumatic drill.</p> <p>4 Q. Right. Anything else?</p> <p>5 A. Possibly a hammer.</p> <p>6 Q. So a hand-drill and -- hand-tools?</p> <p>7 A. Yes.</p> <p>8 Q. That would be the same on the Leighton side, would it,</p> <p>9 the same sort of process?</p> <p>10 A. Correct.</p> <p>11 Q. And we understand now that so far as the Leighton side</p> <p>12 is concerned, the exposing of the couplers was done by</p> <p>13 Hills, together with Leighton's own employed labour; is</p> <p>14 that your understanding?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Do you have any recollection of how long the</p> <p>17 process took of exposing a row of couplers?</p> <p>18 A. That would depend on the difficulty of exposing.</p> <p>19 Q. And the difficulty would depend upon what?</p> <p>20 A. How deeply they could be embedded into the concrete, so</p> <p>21 depending on the thickness of the slurry, we would say,</p> <p>22 or concrete, then it would determine the amount of time</p> <p>23 that it required for us to expose the couplers.</p> <p>24 Q. Right. In the area where the exposing of the couplers</p> <p>25 had to take place, what was the actual nature of the</p>	<p>1 you will agree, is first of all the rebar work had to be</p> <p>2 done, and then it had to be concreted?</p> <p>3 A. Agreed.</p> <p>4 Q. When the rebar in the base slab had been completed,</p> <p>5 would that be regarded as a hold point?</p> <p>6 A. Yes.</p> <p>7 Q. So, at that point, the rebar should have been inspected</p> <p>8 by Leighton and by MTR?</p> <p>9 A. Yes.</p> <p>10 Q. And before the concrete of the base slab was poured,</p> <p>11 that's a pre-pour hold point; do you agree?</p> <p>12 A. Agree.</p> <p>13 Q. So there are two hold points so far as the base slab of</p> <p>14 the stitch joint is concerned?</p> <p>15 A. Correct.</p> <p>16 Q. He then goes on to say:</p> <p>17 "The external walls of the 1111 NSL interfacing</p> <p>18 tunnel structures and the external walls of the 1112 NSL</p> <p>19 interfacing tunnel structures".</p> <p>20 So we've got external walls on either side of the</p> <p>21 stitch joint; yes?</p> <p>22 A. Correct.</p> <p>23 Q. And, first of all, they have to be kitted out with</p> <p>24 rebar, reinforcement, on each wall; yes?</p> <p>25 A. Correct.</p>

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<p>1 Q. Separate hold points for each wall or just one hold 2 point for both walls, Mr Lai; what is your understanding 3 or recollection of what happened? 4 A. My understanding is for one hold point. 5 Q. In respect of both walls, as it were, so just one hold 6 point for both walls? 7 A. Yes, as they were inspected on the same day. 8 Q. Okay. So there would also be a rebar inspection, one 9 hold point, but also a pre-pour inspection. Again, one 10 hold point or two hold points for the pre-pour? 11 A. One hold point. 12 Q. Then he says: 13 "The dividing wall of the 1111 NSL interfacing 14 tunnel structures and the dividing wall of the 1112 NSL 15 interfacing tunnel structures". 16 Now, was there a separate hold point for the 17 dividing wall or was that done at the same time as the 18 East and West Walls, the external walls? 19 A. From my recollection, it should be one hold point, 20 because it was cast together with the external walls. 21 Q. Right. So all three walls, essentially, together, one 22 hold point for the rebar, one hold point for the 23 pre-concrete pour? 24 A. Correct. 25 Q. Then he says:</p>	<p>1 COMMISSIONER HANSFORD: And joint 3, but separately, so 2 therefore, assuming it's the same, which I have no doubt 3 you are going to -- 4 MR PENNICOTT: It's the next question. 5 COMMISSIONER HANSFORD: Fine. But you just dealt with 6 joint 1? 7 MR PENNICOTT: I just dealt with joint 1, that's right, 8 which is I think what Mr Fu is dealing with in that 9 subparagraph. 10 COMMISSIONER HANSFORD: Okay. I understand. 11 MR PENNICOTT: Mr Lai, do you agree that with regard to the 12 EWL interface stitch joint, it is the same, save that 13 the EWL doesn't have a roof, but the base slab and the 14 walls, it's the same principle? 15 A. Correct. 16 Q. However, if one looks at the famous BB9/6363 -- if you 17 look at items 58a, b and c; that's the pink bit towards 18 the bottom -- would you agree that it appears on the 19 face of this that there would in fact have been separate 20 inspections of rebar and pre-pour concrete on each of 21 the walls? 22 A. Sorry, can you repeat the question again? 23 Q. Yes, sure. On the EWL stitch joint, original, which is 24 items 58a, b and c on here, you see three lines. 25 There's the track slab, the West Wall and East Wall, and</p>
<p>1 "The roof slab of the ... interfacing tunnel 2 structures ..." 3 Again, the same process: rebar first, followed by 4 concrete pour, and two hold points, one for the rebar, 5 one for the concrete; is that right? 6 A. One for the rebar, one for the pre-pour. 7 Q. Sorry, the pre-pour concrete. Yes. 8 So, on that basis, for this particular joint, six 9 hold points essentially, three for the rebar, three for 10 the pre-pour? 11 A. Correct. 12 Q. And in respect of those there should have been a RISC 13 form? 14 A. Correct. 15 Q. But there wasn't? 16 A. No. 17 Q. Of more later. 18 CHAIRMAN: Sorry, how many RISC forms does that come to 19 on -- 20 MR PENNICOTT: Six. 21 CHAIRMAN: Thank you. I heard you say that. Thank you. 22 COMMISSIONER HANSFORD: Sorry, just so that I can 23 understand -- this is just covering -- this is covering 24 joint 1? 25 MR PENNICOTT: And joint 3 --</p>	<p>1 what I'm asking you is: is this telling us that there 2 was a separate hold point, or separate hold points, for 3 each of the walls, that is the West Wall and East Wall? 4 You may be helped in answering that question if you 5 look at the concrete pour dates on the right-hand side. 6 A. Sorry, just repeat the question one more time. Sorry, 7 I was reading. 8 Q. Can we infer from this information that we are given in 9 relation to the EWL interface stitch joint that there 10 were separate hold points for each of the walls? 11 A. No. 12 Q. Why do you say that? 13 A. Because the rebar can be fixed together but cast on 14 different dates. 15 Q. All right, but the rebar here, so far as the West Wall 16 is concerned, was, according to this, constructed in one 17 day, on 25 January, and indeed concreted on the same 18 day; yes? 19 A. Yes. 20 Q. However, the East Wall started on 19 January and didn't 21 finish until 28 January. So it must follow that they 22 could not have been inspected at the same time. 23 A. On this basis, yes. 24 Q. So there would have had to have been, on this analysis, 25 separate hold points for the rebar and the pre-pour for</p>

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<p>1 each of the walls? 2 A. Yes, by this, by this analysis, yes. 3 COMMISSIONER HANSFORD: Sorry, is that actually possible, to 4 do all of the reinforcement for one wall in one day, and 5 concrete it in the same day? Is that possible? 6 A. It would if a small section. 7 COMMISSIONER HANSFORD: Was this a small section? 8 A. Yes. 9 COMMISSIONER HANSFORD: Okay. 10 MR PENNICOTT: Sir, I will be coming back to the whole 11 question of the hold-point inspections later. I'm just 12 trying to lay the ground at the moment. 13 COMMISSIONER HANSFORD: I'm sure you will. I'm also trying 14 to get my mind around this chart. 15 MR PENNICOTT: Just how many there ought to have been and 16 whether they were all being done in one day is an issue 17 that arises on a couple of these. 18 COMMISSIONER HANSFORD: Okay. Thank you. 19 MR PENNICOTT: We've dealt with the two interface joints, 20 Mr Lai. Now, so far as the internal joint is concerned, 21 that's what we're calling joint 2 -- that's the one 22 internal to contract 1112 -- presumably the process is 23 very similar to the NSL interface joint that we went 24 through just a moment ago, because it does have a roof? 25 A. Yes, correct.</p>	<p>1 inspections being carried out, you had also carried out 2 routine inspections of the rebar work? 3 A. Yes. 4 Q. And so far as Leighton is concerned, on the engineering 5 side, was anybody else involved, first of all, in 6 carrying out routine inspections of the rebar work in 7 the stitch joints? 8 A. For the progress, the foreman would have seen the 9 progress; for the rebar checks, myself. 10 Q. That's routine, and so far as the formal hold-point 11 inspections are concerned, was anybody else from 12 Leightons involved in carrying out those formal 13 hold-point inspections of the rebar at these three 14 stitch joints? 15 A. Sorry, repeat again. 16 Q. So far as the hold points are concerned -- 17 A. Okay. 18 Q. -- and the inspection of the rebar, apart from you, was 19 anybody else at Leighton involved? 20 A. No. 21 Q. When you carried out those rebar hold-point inspections, 22 did you carry them out with an engineer from MTRC? 23 A. Yes. 24 Q. In relation to the EWL interface stitch joint, who was 25 that engineer?</p>
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<p>1 Q. But if you look at this sheet and you go to the pink 2 area at the top -- it's all a bit complicated -- but if 3 you look at the internal stitch joint, the 1112 joint, 4 it's items or box numbers 54 to 57; do you see that? 5 A. Yes. 6 Q. This time, unlike the NSL interface joint, which is 51, 7 52 and 53, would you agree that this suggests that there 8 would have been separate hold points for the dividing 9 wall and the East Wall on the one hand and the West Wall 10 on the other? 11 A. I disagree. 12 Q. You disagree because they were done on the same dates, 13 presumably? 14 A. Correct. 15 Q. Were you personally responsible, so far as Leighton is 16 concerned, for doing the hold-point inspections in 17 relation to those three stitch joints that we've just 18 looked at? 19 A. Sorry, could you repeat the question again? 20 Q. Yes. Okay. Let's break it down. So far as the rebar 21 hold-point inspections are concerned on those three 22 stitch joints, were you personally responsible for 23 carrying out those inspections on behalf of Leighton? 24 A. Yes. 25 Q. Is it correct that prior to those hold-point formal</p>	<p>1 A. Chris Chan. 2 Q. In relation to the NSL interface stitch joint, who was 3 the MTR engineer? 4 A. Chris. 5 Q. In relation to the internal stitch joint at the 1112 6 NSL, who was the MTR engineer? 7 A. Also Chris. 8 Q. Right. Could I ask you, please, to look at Mr Chan's 9 witness statement, which is at BB1/117. Sorry, if you 10 start at 106, I beg your pardon. 11 I don't know whether you've had a chance -- have you 12 had a chance to look at this witness statement, Mr Lai, 13 or not? 14 A. Yes. 15 Q. You have? All right. 16 Just so everybody knows what we are looking at, 17 BB106 is the start of Mr Chan's witness statement. Then 18 if you could please go to page 117. At paragraph 25, 19 this is what Mr Chris Chan says: 20 "I was never asked to inspect the 3 stitch joints or 21 the 1111/1112 shunt neck joint. This was because 22 I expected that Leighton would have contacted MTR's IOWs 23 or ConE II to conduct the necessary inspection. I must 24 emphasise that I was never informed of any rebar 25 coupling problems relating to the 3 stitch joints and/or</p>



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<p>1 the 1111/1112 shunt neck joint." 2 So Mr Chan is telling the Commission, as we 3 understand it, that he did not inspect those three 4 joints. What do you say about that? 5 A. I believe I have made my statement that I requested 6 inspection with him. 7 Q. Are you sure that you did not carry out those 8 inspections with another, different MTR engineer? 9 A. Yes. 10 CHAIRMAN: Sorry, how is it that you have some certainty in 11 your memory? 12 A. Because he is the first person I would contact for the 13 rebar inspection first, and from previous dealings with 14 the IOWs, the inspectors of works, they do not carry out 15 rebar checks. 16 COMMISSIONER HANSFORD: Sorry, maybe Mr Pennicott is going 17 to come to it, but you said you are sure that you 18 requested an inspection from him. 19 A. Yes, and inspected with him. 20 COMMISSIONER HANSFORD: "And inspected with him"? 21 A. Yes. 22 COMMISSIONER HANSFORD: Thank you. 23 MR PENNICOTT: Do you recall the names or identities of any 24 of the other engineers that worked with Mr Chan on the 25 NAT area?</p>	<p>1 Q. Right. Tony Tang? 2 A. Correct. 3 Q. Did you say "Chun", I'm sorry? 4 A. Chung, C-H-U-N-G. 5 Q. All right. 6 Could we then -- I'll be coming back with some more 7 questions on inspections and stuff a bit later, but 8 could we then just spend a few minutes on the shunt neck 9 construction joint. 10 A. Okay. 11 Q. Which you deal with in your witness statement at 12 paragraphs 20 to 24 in particular. 13 Again, you were involved in both routine inspection 14 and hold-point inspection so far as the shunt neck is 15 concerned, shunt neck joint? 16 A. Are we referring to the statement page CC92? 17 Q. That's right, yes. 18 A. Thank you. I just wanted to make sure. 19 Q. So you were involved in both the routine inspections and 20 the hold-point inspections in relation to the bay 3 and 21 the shunt neck joint; is that right? 22 A. Yes, correct. 23 Q. And at paragraph 24 of your witness statement you say: 24 "I was involved in the joint inspection of the rebar 25 fixing works with MTR."</p>
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<p>1 A. Kappa. 2 Q. Kappa Kang? 3 A. Yes. 4 Q. She was the ConE II? 5 A. Correct. 6 Q. And are you sure that she did not carry out the 7 hold-point rebar inspections with you? 8 A. Yes. 9 Q. Again, what makes you so sure about that? 10 A. From my recollection, I did not carry out any 11 inspections with her regarding the three stitch joints. 12 Q. With regard to the pre-pour inspections of those three 13 stitch joints -- 14 A. Yes. 15 Q. -- as I understand it, you were not involved in the 16 pre-pour inspections? 17 A. I was. 18 Q. You were involved -- in all of them, in relation to all 19 stitch joints? 20 A. Yes. 21 Q. And all parts of it: the base, the walls and the roof? 22 A. Yes. 23 Q. And which MTRC personnel were involved in the pre-pour 24 hold-point inspections? 25 A. There were two inspectors, Tony and Chung.</p>	<p>1 As I understand it, again, your evidence is that was 2 Chris Chan; is that right? 3 A. This one, you are referring to the shunt neck joint? 4 Q. Yes. 5 A. I gave my evidence for the stitch joint. 6 Q. Yes, but who do you say inspected the shunt neck joint 7 then, if it wasn't Chris Chan? 8 A. For that, I'm unsure. 9 Q. Could I ask you, please, to look at paragraph 35 of your 10 witness statement. Sorry, Mr Lai, it's not my intention 11 to try to catch you out, but can I just ask you to look 12 at paragraph 35: 13 "I was the Leighton engineer responsible for 14 conducting the rebar fixing check with the MTR's 15 construction engineer for the 3 stitch joints and the 16 shunt neck joint. I confirm that I conducted those 17 checks with MTR's construction engineer (Chris 18 Chan) ..." 19 So it seems to me that you were including the shunt 20 neck joint for Mr Chan as well as the other three 21 joints, but you are now not quite so sure? 22 A. No, now I'm sure, yes. 23 Q. Who were the other candidates if it wasn't Mr Chan? 24 A. Ms Kappa Kang. 25 Q. So you think it's at least possible that she was</p>

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1 involved in the inspection of the shunt neck joint? 2 A. No. I stand by my statement. 3 Q. What? 4 COMMISSIONER HANSFORD: He stands by his statement. 5 MR PENNICOTT: Okay. So you are not sure that it was 6 Chris -- you are sure it was Chris? "Now I'm sure", I'm 7 so sorry. 8 CHAIRMAN: Just to avoid any ambiguity, your memory 9 satisfies you that it was Chris Chan? 10 A. Yes. 11 MR PENNICOTT: Okay. 12 At the shunt neck joint, Mr Lai, did you, again, see 13 any exposed couplers with yellow caps at the shunt neck 14 joint; do you recall? 15 A. Yes. Yes. 16 Q. But again you took no steps to unscrew the caps and 17 investigate the yellow caps that you presumably, from 18 your earlier evidence, had never seen before? 19 A. No. 20 Q. When you carried out the hold-point inspections of the 21 rebar, what documentation did you take with you? 22 A. The latest rebar drawing at the time. 23 Q. Anything else or just the rebar drawings? 24 A. Just the rebar drawings. Tape measures. 25 Q. Do you have any recollection of what, on your evidence,	1 yes. 2 Q. So would you sort of get down on your knees and have 3 a good look; how would you do it? Carry a torch? What 4 was the process? 5 A. Process, we may kneel down but we would do -- carry out 6 the inspections as just we would have done as normally. 7 We duck where we needed. 8 Q. And the top, the T1/T2, was that more easily visible? 9 A. Yes. 10 Q. What about the walls: how many layers in the walls? 11 A. For the interface stitch joint? 12 Q. Yes. 13 A. It would have been the same. 14 Q. The same? 15 A. Yes. 16 Q. And the roof? Sorry, no, EWL, no roof. Forget that. 17 On the NSL -- let's go to the NSL interface one -- 18 A. Yes. 19 Q. -- was that a similar situation or different? 20 A. By that what do you -- sorry, similar situation as in -- 21 Q. In terms of the number of layers of rebar. 22 A. Yes, correct. 23 Q. And the internal, same as the interface in terms of -- 24 A. No. It's much more complicated. 25 Q. Could you explain to us why it was more complicated, the
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1 Mr Chan had with him in terms of documentation, if any? 2 A. It would have been drawings. Drawings, yes. 3 Q. Can you tell us how that hold-point inspection of the 4 stitch joints was carried out? Did you do your separate 5 inspections? Were you together all the time? How was 6 it done? 7 A. We would have walked together and he would spot-check. 8 Q. And so far as the rebar is concerned -- let's focus on 9 the base slab -- how many layers of rebar were there on, 10 let's say -- let's take the EWL interface stitch joint 11 to start with. I don't know whether they were all 12 different, but let's start with that one. How many 13 layers of rebar are we talking about, in the base slab? 14 A. Can I have a drawing to refer or do I have to -- 15 Q. You can't remember whether it was two, four, six, eight? 16 A. If there was an interface, would be two mats, four 17 layers. 18 Q. Two mats. Four layers in each? 19 A. No, two layers on the bottom, we call it B1, B2, and 20 then T2 and T1. 21 Q. How far apart would they be? 22 A. The slab itself is 800, if I remember. 23 Q. So, on that hold-point inspection, how easy or difficult 24 was it to see the B1 and B2 layers? 25 A. It wouldn't be too easy. You can still see, perhaps,	1 internal one? 2 A. From my recollection, the rebar arrangement at the 3 internal stitch joint, joint 2, it has more layers. 4 Q. Right. Can you remember how many? 5 A. Not off the top of my head. 6 Q. We may be able to find a drawing to assist. 7 How long would a typical hold-point inspection of 8 the rebar take for you and the MTR engineer? 9 A. It would depend on the size of the rebar or the cage 10 that we are inspecting. 11 Q. Okay. Take the EWL interface joint: how long would that 12 take? 13 A. That would be 15 to 30 minutes, maximum. 14 Q. For the base slab? 15 A. For the base slab. 16 Q. And similar for the walls? 17 A. Yes. 18 Q. And presumably, what, the NSL interface joint would be 19 similar? 20 A. Similar, yes. 21 Q. Except you've obviously got to do the roof as well. 22 A. Yes. 23 Q. And I think from your answer just now, joint 2, that's 24 the internal joint, would have taken longer? 25 A. Yes.

<p style="text-align: right;">Page 137</p> <p>1 Q. In that regard, if we can find BB9/6363 again, please. 2 Could you please look at the shunt neck first, item 45, 3 which you will see is described as, "Shunt neck -- 4 bay 3 -- track slab"; do you see that, Mr Lai? 5 A. Yes. 6 Q. And we can see, assuming this all to be accurate, 7 of course, that the rebar started and finished in one 8 day, on 4 January 2017; do you see that? 9 A. Yes. 10 Q. And the concrete was poured the following day, on 11 5 January; do you see that? 12 A. Yes. 13 Q. So in terms of when the rebar hold-point inspection took 14 place, when do you say it did take place? 15 A. Sorry, can you repeat that again? 16 Q. The rebar for bay 3 at the shunt neck is completed in 17 a day. 18 A. Yes. 19 Q. It then has to be hold-point inspected, as I understand 20 it? 21 A. Yes. 22 Q. When did the hold-point inspection take place? 23 A. Before the concreting. 24 Q. All right. The concreting took place the next day. So 25 when did it happen? In the evening of the 4th, the</p>	<p style="text-align: right;">Page 139</p> <p>1 Q. And so I'm just trying to understand how it worked. Did 2 you know that this rebar would just take one day, and 3 that you could be confident that either at the end of 4 4 January or presumably the beginning of 5 January you 5 could carry out this rebar inspection and so you could 6 set it up with MTR? 7 A. Yes. 8 Q. Okay. So how would you do that? How would you go about 9 setting it up? 10 A. When I know approximately when the rebar fixing would be 11 finished, then I would call Chris. 12 Q. And presumably you'd hope that he was available to carry 13 out the inspection? 14 A. Yes. 15 Q. But you can't -- because we don't have any RISC forms, 16 we have no idea of precisely when this rebar inspection, 17 hold-point inspection, took place? 18 A. Correct. 19 Q. And there's no entry -- we know the rebar was carried 20 out on the 4th because there's an entry in the diary, 21 but there's no entry in the diary regarding the actual 22 inspection; that's right, isn't it? 23 A. Correct. 24 Q. And there's an entry in the MTR diary that the concrete 25 was poured on 5 January, but there's no entry to tell us</p>
<p style="text-align: right;">Page 138</p> <p>1 morning of the 5th; have you any recollection at all 2 when that inspection would have taken place? 3 A. No. 4 Q. And what about the pre-pour inspection: when would that 5 have taken place? 6 A. That would have taken place before -- 7 Q. Before the concrete? 8 A. Yes. 9 Q. So sometime on 5 January before the concrete was poured? 10 A. Yes, before, before the 5th, yes. 11 Q. Have you any idea, any recollection, of how you lined up 12 the rebar hold-point inspection for this particular bay 13 and this particular slab with MTR? 14 A. Sorry, could you explain that again? 15 Q. Yes. You have got to carry out with an MTR engineer 16 a hold-point inspection of the rebar at bay 3 of the 17 shunt neck? 18 A. Yes. 19 Q. In order to do that with MTR, you need to contact them? 20 A. Yes. Yes. 21 Q. Presumably either Chris Chan or Kappa Kang? 22 A. Chris, yes. 23 Q. Because they are the two engineers that are responsible 24 for this area? 25 A. Correct.</p>	<p style="text-align: right;">Page 140</p> <p>1 that the pre-pour inspection took place? 2 A. Correct. 3 COMMISSIONER HANSFORD: Can I ask -- 4 MR PENNICOTT: Of course, sir. 5 COMMISSIONER HANSFORD: -- what happens between the 6 completion of the rebar inspection and the pre-pour 7 check? What work, what physical work, has to be done 8 between the two? 9 A. It would be the cleaning of the concreting area. There 10 might be sawdust, timber, or other rubbish left inside 11 the concreting area. Then we have to clean that up. 12 COMMISSIONER HANSFORD: But no shutters to be erected? 13 A. Formworks if necessary, yes. 14 COMMISSIONER HANSFORD: Okay. And in the case of shunt neck 15 bay 3 track slab, was there formwork that had to be 16 erected between completion of steelwork and the carrying 17 out of pre-pour check? 18 A. Yes, there would be shutters, from my recollection, yes; 19 formworks/shutters, yes. 20 COMMISSIONER HANSFORD: Yes, I understand formwork to be 21 shutters. And that would all have to be done in that 22 period? 23 A. Yes. 24 COMMISSIONER HANSFORD: Right. 25 MR PENNICOTT: If we just take a couple of other examples,</p>

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1 Mr Lai. If you go up, please, to the pink area,  
2 pink-shaded area, at item 51, towards the top. Item 51  
3 deals with the track slab at the 1112/1111 interface,  
4 NSL; do you see that?  
5 A. Yes.  
6 Q. We can see there that the rebar commenced on the 5th and  
7 finished on 6 July 2017; do you see that?  
8 A. Yes.  
9 Q. And the concreting took place on 8 July?  
10 A. Yes.  
11 Q. In relation to that, is the process always the same,  
12 that is a telephone call to the MTR engineers, setting  
13 up the rebar hold-point inspection, carrying it out and  
14 then giving the go-ahead for the concrete?  
15 A. Yes.  
16 Q. Mr Lai, you'll be aware, I think, that when water  
17 seepage and cracks started to appear in one or more of  
18 the stitch joints that we've been discussing, some  
19 opening-up took place.  
20 A. Yes.  
21 Q. Prior to the demolition and reconstruction of those  
22 stitch joints.  
23 A. Yes.  
24 Q. Did you yourself get involved in that opening-up  
25 process?

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1 A. No.  
2 Q. Did you have occasion to witness any of the areas that  
3 had been opened up before demolition took place?  
4 A. Only the opened-up areas.  
5 Q. Yes, the opened-up areas. So did you have occasion to  
6 view the opened-up areas in the NSL interface stitch  
7 joint?  
8 A. Yes.  
9 Q. Were you surprised at what you saw?  
10 A. Yes.  
11 Q. Did you see any of the photographs that are attached to  
12 the NCRs?  
13 A. Yes, I have.  
14 Q. Perhaps we could just look at a couple of those. Could  
15 we first of all look at NCR95, which is at CC3/1324.  
16 We can see there, can we not, Mr Lai, a number of  
17 apparently unconnected threaded rebar; do you agree?  
18 A. Yes.  
19 Q. If we go to the next page, please. A similar situation,  
20 Mr Lai: unconnected threaded rebar in a number of  
21 places?  
22 A. Yes.  
23 Q. And the next photograph, please. And similarly; do you  
24 agree?  
25 A. Yes.

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1 Q. So far as NCR96 is concerned, that's CC3/1373.  
2 Go to the photograph over the page, please. There  
3 should be a photograph somewhere. There we are.  
4 Here we have, apparently, a situation which shows  
5 some connection, some partial connection, and some no  
6 connection. Would you agree with that, Mr Lai?  
7 A. Yes.  
8 Q. As I understand your evidence so far, you made twice  
9 daily routine inspections of this rebar. You carried  
10 out yourself formal rebar hold-point inspections of this  
11 rebar. You carried out pre-pour inspections before the  
12 concrete was permitted to be placed. How was it you  
13 didn't spot any of this, Mr Lai?  
14 A. I didn't see it.  
15 Q. Can you rationalise now, thinking back, what happened?  
16 I mean, it's pretty obvious, isn't it, that we've got,  
17 just in this small selection of photographs, unconnected  
18 rebar in these stitch joints? How did you not see the  
19 situation?  
20 A. I just didn't see it at the time.  
21 Q. How careful were you, Mr Lai, when you were carrying out  
22 your inspections?  
23 A. I carried out my inspections with an MTR engineer, and  
24 we did random checks.  
25 Q. Forget about the MTR engineer, Mr Lai. How careful were

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1 you? I mean, how did this escape your notice?  
2 A. I had a look at the general arrangement and I didn't  
3 find any problems.  
4 Q. Right. Are you sure that you carried out these  
5 hold-point inspections, Mr Lai?  
6 A. Yes.  
7 Q. We have no documents to show us that you did. Are you  
8 sure, in your own mind, that these hold-point  
9 inspections were carried out?  
10 A. Yes.  
11 Q. I'll put to you again, a point I made earlier: Mr Chris  
12 Chan from the MTR, it's quite clear that he did not  
13 carry out the hold-point inspections of these stitch  
14 joints. I'll put it to you again: are you sure, in your  
15 own mind, that Mr Chan was with you when you carried out  
16 those hold-point inspections?  
17 A. Yes.  
18 Q. And are you sure that it wasn't somebody else?  
19 A. Yes.  
20 MR PENNICOTT: Sir, I see it's 4.55. I wonder if we might  
21 adjourn at this moment. I'm going to go on to another,  
22 entirely separate topic.  
23 CHAIRMAN: Good. Yes.  
24 Mr Lai, you are in the middle of giving your  
25 evidence at the moment, and it's a rule of all courts

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<p>1 and tribunals that when a witness is in the middle of 2 giving their evidence, they are not allowed to discuss 3 their evidence with anybody. Okay? That includes their 4 lawyers, friends or whatever else. Okay? 5 WITNESS: Yes. 6 CHAIRMAN: So you will be able to discuss your evidence when 7 it is completed. That hopefully will be tomorrow. 8 Okay? 9 WITNESS: Yes. 10 CHAIRMAN: What time will we start tomorrow? 11 MR PENNICOTT: Sir, I wonder if we could take a bit of 12 a straw poll as to how long everybody is going to be. 13 Obviously it's Friday, and we need to finish Mr Lai 14 tomorrow. 15 CHAIRMAN: Yes. 16 MR PENNICOTT: I should imagine I will be another half 17 an hour to three-quarters of an hour, of that order. 18 CHAIRMAN: All right. 10 to 11. 19 MR TSOI: About an hour, sir. 20 CHAIRMAN: 11 to 12. 21 MR KHAW: Not more than 40 minutes. 22 CHAIRMAN: 12 to 1. 23 MR BOULDING: 20 to 25 minutes. 24 CHAIRMAN: Okay, 2.30. And do we know what may or may not 25 happen with Pypun?</p>	<p style="text-align: center;">INDEX PAGE</p> <p>1 2 3 MR NG MAN CHUN (on former affirmation in Cantonese) ...1 4 Cross-examination by MR SHIEH (continued) .....1 5 Cross-examination by MR KHAW .....31 6 Re-examination by MR TSOI .....41 7 (The witness was released) .....66 8 MR LEUNG CHI WAH (affirmed in Cantonese) .....67 9 Examination-in-chief by MR TSOI .....67 10 Examination by MR PENNICOTT .....68 11 Cross-examination by MR SHIEH .....82 12 Cross-examination by MR BOULDING .....89 13 Cross-examination by MR HO .....92 14 Re-examination by MR TSOI .....96 15 (The witness was released) .....99 16 MR HENRY LAI (affirmed) .....100 17 Examination-in-chief by MR SHIEH .....100 18 Examination by MR PENNICOTT .....103 19 20 21 22 23 24 25</p>
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<p>1 MR LIU: No questions from us. 2 CHAIRMAN: Okay. We should be able to do it, and then 3 taking in coffee breaks and things like that. 4 MR PENNICOTT: So, sir, I think we are safe to start at 5 10.00. I understand, if we manage to complete Mr Lai 6 tomorrow and there's obviously sufficient time left, 7 then we are back to the Wing &amp; Kwong witnesses, and that 8 will be Mr Cheung, Ben Cheung. 9 CHAIRMAN: All right. 10 MR PENNICOTT: I guess we take a view as to whether we start 11 him, depending on how close we are to finishing. 12 CHAIRMAN: How close we are to the weekend. 13 MR PENNICOTT: Yes, quite. 14 CHAIRMAN: All right. Good. 15 So we are going to start tomorrow at 10 am. Okay? 16 WITNESS: Okay, thank you. 17 CHAIRMAN: Thank you very much. 18 (4.57 pm) 19 (The hearing adjourned until 10.00 am the following day) 20 21 22 23 24 25</p>	