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<p>1 Friday, 31 May 2019 2 (10.01 am) 3 MR HENRY LAI (on former affirmation) 4 Examination by MR PENNICOTT (continued) 5 MR PENNICOTT: Good morning, sir. Good morning, 6 Prof Hansford. 7 Good morning, Mr Lai. 8 A. Good morning. 9 Q. Mr Lai, could I just ask you a few questions about 10 paragraph 13 of your first witness statement, which is 11 at CC page 90. 12 You are dealing there with your, if I may put it 13 this way, lack of knowledge of any discussions or 14 meetings between Leighton and the 1111 contractor? 15 A. Yes. 16 Q. As I understand it, you were not aware of the fact that 17 there were meetings called interface meetings between 18 Leighton and MTR and the Gammon JV contractor? 19 A. No. 20 Q. You certainly didn't receive the minutes of those 21 interface meetings? 22 A. No. 23 Q. Could we just look at the front sheet of one of those 24 meetings, please, just for the purposes of the next 25 couple of questions. Could we look at CC2/855, please,</p>	<p>1 A. Yes. 2 Q. Did they never mention the fact that there were 3 interface meetings going on from time to time? 4 A. No. 5 Q. So the position is this, then, is it, Mr Lai: that you 6 are effectively the hands-on Leighton engineer 7 responsible for the stitch joints and the shunt neck 8 joint? 9 A. Yes. 10 Q. You knew nothing about the interface meetings, and you 11 knew nothing about the details of the 1111 side of the 12 interface; is that right? 13 A. Yes. 14 Q. In your position as the hands-on engineer for the stitch 15 joints and the shunt neck joint, did you not think it 16 your business to find out some information about the 17 interface details? 18 A. I worked under our drawings and I believed it was 19 sufficient at the time. 20 Q. And so far as the 1111 side is concerned, you didn't 21 think it was necessary or appropriate to find out the 22 details of that side of the stitch joint? 23 A. No. 24 Q. All right. 25 CHAIRMAN: Sorry, why was it not necessary?</p>
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<p>1 which is the front sheet of the minutes of the 2 20th meeting. It will be up on the screen momentarily, 3 I hope. 4 All I'm interested in is the front sheet, and 5 perhaps we can just see all the names of all the people 6 who were there. 7 So, Mr Lai, we can see that from MTR there was Chris 8 Chan and Kappa Kang; do you see that? 9 A. Yes, I do. 10 Q. And from Leighton -- and obviously I'm just focusing on 11 the 1112 contract; I'm not concerned about the 1111 12 representatives -- then there's Jim Wong and Regina 13 Wong, do you see that, from Leighton? 14 A. Yes. 15 Q. Do you know Jim Wong and Regina Wong from Leighton? 16 A. Yes. 17 Q. Did you have occasion to have any discussions about 18 anything with either Jim Wong or Regina Wong? 19 A. We were under the same team, yes. Yes. 20 Q. At any time, did they mention the fact that there were 21 interface meetings going on with the 1111 contractor? 22 A. No. 23 Q. And what about -- you tell us that you had contact from 24 time to time with Chris Chan and Kappa Kang, I think, 25 from MTR?</p>	<p>1 A. Because our RC drawings already show the rebar 2 arrangement at the joint area, so therefore I thought it 3 has sufficient information to proceed with the works. 4 CHAIRMAN: Thank you. 5 COMMISSIONER HANSFORD: And the RC details showed couplers 6 from 1111, but they didn't identify them as being any 7 different; is that correct? 8 A. There would be no mention of the factory or type of 9 coupler used mentioned on the drawings. It would only 10 show up as a coupler. 11 COMMISSIONER HANSFORD: Thank you. 12 MR PENNICOTT: So what assumption did you make about the 13 1111 side couplers, if any? 14 A. Same as ours. 15 Q. You assumed, you made the assumption, that they were the 16 same as yours? 17 A. Yes. 18 Q. When you joined the project in February 2016, did you -- 19 did Joe Tam, your ultimate boss, as we've seen, give you 20 any information about the level of supervision that 21 Leighton was required to provide where the works, the 22 rebar works in particular, involved the installation of 23 couplers? 24 A. Sorry, can you explain that again? 25 Q. Yes, sure.</p>

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<p>1 We know that part of the works, the rebar works, 2 involved couplers; yes? 3 A. Okay. 4 Q. Were you given any information by Joe Tam as to the 5 level of supervision that was required by Leighton, by 6 reason of the fact that couplers were being installed? 7 A. No. 8 Q. Could I ask you, please, to be shown DD10327. I'm not 9 suggesting this is a letter you would have seen before, 10 Mr Lai. It's what's known as the acceptance or approval 11 letter from the government to MTR, and it relates to the 12 approval for the NAT. It's what gives the go-ahead for 13 the NAT works to start. 14 If you could please be taken to 10339. This is 15 appendix V to the letter. Do you follow? 16 A. Yes. 17 Q. What it says there is, "Mechanical couplers for steel 18 reinforcing bars without ductility requirement"; do you 19 see that? 20 A. Yes. 21 Q. I assume this is a document you've not seen before? 22 A. No. 23 Q. If we could go down, please, to (d). It says this: 24 "The names and qualifications of the supervisory 25 personnel representing the competent person and" -- for</p>	<p>1 Q. But in paragraphs 15 and 17 of your second witness 2 statement -- perhaps you can go to that, please. It's 3 at CC3788. Paragraph 15 at the bottom of the page; do 4 you have that? It's on the screen, is it? 5 A. Yes, okay. 6 Q. We can do it that way. You say: 7 "Please refer to paragraphs 14 to 16 of [your] first 8 statement in relation to the process of rebar ordering 9 and testing." 10 Then, over the page at paragraph 16, you say this: 11 "After the rebar was delivered to the site, the 12 rebar fixing sub-contractor would cut samples of the 13 rebar for testing. For the rebar that I ordered for the 14 areas that I was responsible for in the NAT, I arranged 15 for the sampling and testing of 103 out of the 159 16 batches of rebar, and did not arrange for the sampling 17 and testing of the remaining 56 batches, because my 18 workload got very heavy later on and I did not have time 19 to arrange for the testing of the remaining batches." 20 Now, that calculation that you've carried out there 21 or deduction you've made, that you didn't sample and 22 test 56 batches, can you explain to us how you arrived 23 at that, Mr Lai? Because I'm afraid it's defeated us. 24 You must have looked at some records and documents. Are 25 you able to explain to us how you reached that</p>
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<p>1 present purposes, more importantly, the registered 2 building contractor, which is Leighton -- "respectively 3 should be recorded in an inspection log book. The date, 4 time, items inspected and inspection results should be 5 clearly recorded in the log book. The log book should 6 be kept at the site office and, when required, produced 7 to the Director of Highways for inspection." 8 Were you aware, Mr Lai, of any log book being kept 9 on site and those details set out in that letter being 10 recorded in that log book? 11 A. No. 12 Q. Did you ever see any type of log book recording this 13 sort of material, this material details? 14 A. No. 15 Q. So this requirement was not drawn to your attention by 16 Joe Tam or anybody else at Leighton when you joined the 17 project? 18 A. No. 19 Q. All right. You can put that one away. Could we then 20 move on to the testing of rebar, a topic which you deal 21 with in your witness statement. In paragraphs 14 to 16 22 of your first statement, you describe in a little detail 23 the process that took place or should have taken place 24 in relation to the testing of rebar; yes? 25 A. Yes.</p>	<p>1 conclusion? 2 A. This is, I believe, by our record of order, for ordering 3 steel, the steel order, and then, by then -- for each 4 batch, and then we will have done the rebar testing for 5 the batch, and I believe this number is derived from the 6 overall orders. 7 Q. Right. So it's essentially the rebar order 8 documentation that we should be looking for, in relation 9 to, presumably, the NAT? 10 A. Yes. 11 Q. Did you look at that documentation for the purposes of 12 arriving at the evidence that you've set out in 13 paragraph 16? 14 A. Yes. 15 Q. You did that yourself? Somebody else didn't do the 16 calculation for you? You did it yourself, did you? 17 A. We did it together, yes. 18 Q. Together with whom? 19 A. Just my colleagues at the company. 20 Q. All right. 21 Can I then go on to ask you some questions about 22 RISC forms. 23 A. Yes. 24 Q. A topic we touched on yesterday. 25 In paragraphs 27 to 30 of your first witness</p>

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<p>1 statement, you set out the process of hold-point 2 inspections that we discussed yesterday, not just in the 3 context of the stitch joints but the NAT generally. Do 4 you recall that? 5 A. Yes. 6 Q. You explain in those paragraphs that, essentially, 7 everything was done between you and the MTR, in broad 8 terms, so far as the NAT is concerned, verbally rather 9 than by the issuing of RISC forms. Would you accept 10 that? 11 A. Yes. 12 Q. Can I ask you this, Mr Lai: was it your intention to try 13 and issue the RISC forms subsequently and try and catch 14 up, as it were? Is that what you intended? 15 A. I intended to issue on the same day of the inspections. 16 Q. But you never did, apart from a very small number of 17 occasions, which we're going to look at in a moment; 18 that's right, isn't it? 19 A. Yes. Yes. 20 Q. So I'm asking you, with regard to the ones that were not 21 issued, was it your intention just to issue them after 22 the event, as it were? 23 A. No. 24 Q. Was that your intention? 25 A. No.</p>	<p>1 A. Yes. 2 Q. But you never did? 3 A. No. 4 Q. Why not? 5 A. I was too caught up with the work and I just forgot to 6 do it. 7 CHAIRMAN: Sorry, could I ask, in this regard: would it be 8 correct to say that a time would be reached when, in 9 order for completion to take place, to get the necessary 10 certificate, you would have to submit all the necessary 11 RISC forms? 12 A. Sorry, can you repeat that again? 13 CHAIRMAN: Before you can walk away from the job, there has 14 to be a completion certificate. The government has to 15 give its okay. 16 A. Yes. 17 CHAIRMAN: And my understanding, and I may be wrong here, is 18 that before government gives the okay and says, "Thank 19 you, we are happy with the work, you can walk away from 20 the site", it needs all the up-to-date documents which 21 show inspections and the like, which would include the 22 RISC forms and their annexures? 23 A. Yes. 24 CHAIRMAN: So, somewhere along the line, in the future, you 25 were going to have to come up with the RISC forms?</p>
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<p>1 Q. So your intention was to never issue them; is that 2 right? 3 A. No. My intention was to issue them on the same day, but 4 then I didn't do it. 5 Q. All right. So, not having done it, did you have any 6 belief that you perhaps ought to issue them 7 subsequently? 8 A. Maybe one or two days afterwards, but then I forgot to 9 do it. 10 Q. Right. 11 CHAIRMAN: Sorry, and then you forgot to do it? 12 A. Yes. 13 MR PENNICOTT: All right. But whilst you may be asked a few 14 more questions on this topic by the MTR, my 15 understanding of the MTR's position is that there's 16 an acceptance that verbal instructions were given to 17 proceed with the concrete pours and so forth after the 18 rebar inspections, but there was an expectation on the 19 part of the MTR that the RISC forms would be produced, 20 by you -- they called it a collaborative approach, 21 I think, in their opening address to the Commission. 22 Did you understand that the MTR expected you to issue 23 those RISC forms, albeit late? 24 A. Yes. 25 Q. You did?</p>	<p>1 A. I believe, on this issue, MTR raised the NCRs for varied 2 RISC forms that were not issued, and I believe we were 3 working on a proposal as to how to cover the RISC forms. 4 CHAIRMAN: Right. So I appreciate that happened. I'm 5 a little more interested in your own thinking at the 6 time because, as qualified engineer, you would have 7 known, "We're going to have to come up with the RISC 8 forms at some time." 9 A. Yes, but at the time I didn't issue and it wouldn't be 10 appropriate to issue now. 11 CHAIRMAN: Okay. All right. Did you at any stage go to 12 your superiors and say, "Look, I'm sorry, I forgot to do 13 the RISC forms for this period of time; I was just too 14 busy"?" 15 A. Yes. 16 CHAIRMAN: You did? 17 A. Yes. 18 MR PENNICOTT: Sir, can I now take that point up with the 19 witness? 20 CHAIRMAN: Yes. Thank you. 21 MR PENNICOTT: Because I can see where this is going. 22 CHAIRMAN: Thank you. 23 MR PENNICOTT: Let me ask you this specifically, Mr Lai. In 24 the period 2016 -- obviously you started in February 25 2016 -- up to, let's say, one year later, February 2017,</p>

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<p>1 had you made your superiors, including Joe Tam, aware of</p> <p>2 the fact that you had not been issuing the RISC forms?</p> <p>3 A. From my recollection, I had.</p> <p>4 Q. On one or more occasions?</p> <p>5 A. I don't remember.</p> <p>6 Q. It's quite important, Mr Lai, this point, as I'm sure</p> <p>7 you'll appreciate. So your evidence to the Commission</p> <p>8 is that you have a recollection that somewhere between</p> <p>9 February 2016 and February 2017, you would have informed</p> <p>10 Joe Tam that the RISC forms were not being issued for</p> <p>11 rebar inspection and pre-pour concrete?</p> <p>12 A. Sorry, can you repeat that again?</p> <p>13 Q. Yes. It's quite important, Mr Lai. Is it your evidence</p> <p>14 that in the year between February 2016 and February</p> <p>15 2017, you had a conversation with Joe Tam in which you</p> <p>16 told him that you were not issuing RISC forms?</p> <p>17 A. From my recollection, I raised that to my superiors,</p> <p>18 yes.</p> <p>19 Q. You did. And what reaction did you get; do you recall?</p> <p>20 A. I don't recall now.</p> <p>21 Q. You say your superiors. My request was specifically</p> <p>22 directed at Mr Tam. Can you confirm you had such</p> <p>23 a conversation with Mr Tam or with somebody else?</p> <p>24 A. It would be just a quick chat, just to express that</p> <p>25 I hadn't done my RISC forms, and maybe just carry on</p>	<p>1 Over the page, at paragraph 5, Mr Tam goes on:</p> <p>2 "Upon receiving MTR's email dated 24 March 2017</p> <p>3 ([apparently a] Friday) and over the next few days,</p> <p>4 I spoke to my team members in person on an individual</p> <p>5 basis while at the site office and reminded them that</p> <p>6 going forward, they should submit the RISC forms</p> <p>7 immediately. I spoke to every team under my</p> <p>8 supervision."</p> <p>9 Perhaps "team member".</p> <p>10 "Those team members with whom I had spoken responded</p> <p>11 on the spot that they would deal with the matter."</p> <p>12 I will come back to that paragraph in a moment.</p> <p>13 Could we please look at the email to which Mr Tam makes</p> <p>14 reference, which is at CC10/6208.</p> <p>15 At the top, we see Mr Harman, who we heard from last</p> <p>16 time in the Inquiry, forwarding an email to a number of</p> <p>17 people, including Joe Tam, William Holden, and others.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. He says:</p> <p>21 "Gents,</p> <p>22 Please see the RISC customer complaint below.</p> <p>23 Please check with your teams that you have ITP for</p> <p>24 all current works and are submitting RISC to MTR as per</p> <p>25 the ITP.</p>
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<p>1 working. Yes.</p> <p>2 Q. And you think you had that conversation with Mr Tam?</p> <p>3 A. I had, but for how many times, I don't remember.</p> <p>4 Q. Okay.</p> <p>5 Could I then ask you, please, to look at Mr Tam's</p> <p>6 witness statement. It's at CC3784.</p> <p>7 I don't know whether you've had an opportunity of</p> <p>8 reading Mr Tam's witness statement?</p> <p>9 A. Not yet, no.</p> <p>10 Q. You haven't?</p> <p>11 A. No.</p> <p>12 Q. Let's have a look at it together.</p> <p>13 If you could look, please, at paragraph 4, at the</p> <p>14 bottom of this page, headed, "RISC forms" -- do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. He says:</p> <p>18 "I became aware on or around 24 March 2017 that</p> <p>19 formal joint inspections by Leighton and MTR had been</p> <p>20 completed, while some of the relevant RISC forms were</p> <p>21 still outstanding, when I was copied in an email dated</p> <p>22 24 March 2017 from Kenneth Kong (senior inspector of</p> <p>23 works) of MTRC to Leighton ..."</p> <p>24 Then a reference is given to the email which we will</p> <p>25 look at in a moment.</p>	<p>1 I will also review the INCITE/RISC module and then</p> <p>2 see you with my findings."</p> <p>3 More importantly, could we please scroll up to see</p> <p>4 the email at the bottom of the page, perhaps over the</p> <p>5 page. This is Mr Kong writing, as we know, on 24 March</p> <p>6 2017:</p> <p>7 "Dear Ian [that's Mr Rawsthorne],</p> <p>8 It is very disappointed for your frontline</p> <p>9 engineers/agents without submit the request for</p> <p>10 inspection form to our inspectors/construction engineers</p> <p>11 I/II for any black and white notice of works through the</p> <p>12 RISF for a certain months. This cases were mostly</p> <p>13 happened at SAT, NAT and HHS respectively. The</p> <p>14 contractor should adequate notice MTR through the RISF</p> <p>15 to our construction engineers I/II/inspectors to carry</p> <p>16 out the individual on-site inspection."</p> <p>17 And so forth. I won't read the rest of it out.</p> <p>18 CHAIRMAN: Sorry, just to help me a second, "ITP"? I've got</p> <p>19 a mental block.</p> <p>20 MR PENNICOTT: Inspection testing procedure. Sorry, "plan",</p> <p>21 not "procedure".</p> <p>22 CHAIRMAN: Thank you. It's like Trivial Pursuit questions.</p> <p>23 MR PENNICOTT: Yes.</p> <p>24 Pausing there, Mr Lai -- first of all, were you ever</p> <p>25 shown this email?</p>

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<p>1 A. Sorry?</p> <p>2 Q. Were you ever shown this email? You don't appear to</p> <p>3 have been on the receiver list. Were you ever shown it?</p> <p>4 A. I think so. I don't remember.</p> <p>5 Q. Okay. This email was sent, as we know, in March 2017,</p> <p>6 and we know, as a matter of chronology, so far as we're</p> <p>7 concerned in the Commission, that by this time the shunt</p> <p>8 neck joint and the EWL interface joint had already been</p> <p>9 done and completed?</p> <p>10 A. Yes.</p> <p>11 Q. But the NSL joints, joints 1 and 2, interface and</p> <p>12 internal, had not yet been done?</p> <p>13 A. No.</p> <p>14 Q. Going back to that passage in Mr Tam's witness statement</p> <p>15 that I read out just a moment ago, do you recall him</p> <p>16 having a conversation with you to remind you that the</p> <p>17 RISC forms needed to be issued?</p> <p>18 A. I don't remember.</p> <p>19 Q. You don't deny that he had a conversation with you to</p> <p>20 remind you, but you simply don't remember; is that the</p> <p>21 position?</p> <p>22 A. I don't remember.</p> <p>23 Q. The position is, is it not, Mr Lai, whether or not he</p> <p>24 had a conversation with you, RISC forms were not issued</p> <p>25 by you subsequent to that email, particularly in</p>	<p>1 53 rebar fixing checks; and</p> <p>2 (b) I did not submit a RISC form for the 53 pre-pour</p> <p>3 checks."</p> <p>4 First of all, Mr Lai, were you involved in the</p> <p>5 preparation of the table that you refer to in this</p> <p>6 paragraph?</p> <p>7 A. Yes. I assist, but yes.</p> <p>8 Q. Secondly, can you tell me, tell us, who a gentleman</p> <p>9 called Billy Ng, N-G, was?</p> <p>10 A. My colleague.</p> <p>11 Q. What was his role and what was his position, please?</p> <p>12 A. As a buddy to me, in the partnering system, for the</p> <p>13 works.</p> <p>14 Q. Was he an engineer?</p> <p>15 A. Yes.</p> <p>16 Q. At a similar level to you or more senior or more junior?</p> <p>17 A. I'm not sure.</p> <p>18 Q. But he was an engineering colleague?</p> <p>19 A. Yes.</p> <p>20 Q. Working on the NAT specifically, or what was his role?</p> <p>21 A. Yes, working in NAT.</p> <p>22 Q. Okay. Could we then look at, please, the table which is</p> <p>23 at CC3864.</p> <p>24 Sir, I don't know whether it's of assistance but</p> <p>25 I've had the A4 version blown up into A3, if anybody</p>
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<p>1 relation to the stitch joints?</p> <p>2 A. Yes.</p> <p>3 MR SHIEH: Can I just interpose here. Mr Pennicott might</p> <p>4 have put that conversation to Mr Lai on the basis that</p> <p>5 when Mr Tam said in his witness statement "spoke to</p> <p>6 every team under [his] supervision" he meant "every team</p> <p>7 member". He did mean "every team", not "every team</p> <p>8 member".</p> <p>9 MR PENNICOTT: All right.</p> <p>10 But, in any event, you cannot recall having such</p> <p>11 a conversation as indicated by Mr Tam in March, late</p> <p>12 March, 2017?</p> <p>13 A. No, I don't remember.</p> <p>14 Q. Okay. Now, in paragraph 5 of your second witness</p> <p>15 statement, Mr Lai -- we are still on the subject of the</p> <p>16 RISC forms -- you say:</p> <p>17 "Leighton has disclosed a table summarising the</p> <p>18 records of the formal joint inspections for rebar fixing</p> <p>19 checks and pre-pour checks for the NAT."</p> <p>20 Which we will look at in a moment.</p> <p>21 "This table indicates that for the first few</p> <p>22 concrete pours in the NAT, I issued the RISC forms to</p> <p>23 document the request for formal joint inspections. The</p> <p>24 details are as follows:</p> <p>25 (a) I did not submit a RISC forms for 51 out of the</p>	<p>1 would like one.</p> <p>2 COMMISSIONER HANSFORD: Yes. I think we should see that.</p> <p>3 Can I just pause a second, Mr Pennicott.</p> <p>4 MR PENNICOTT: Of course, sir.</p> <p>5 COMMISSIONER HANSFORD: Mr Lai, you said he was a buddy in</p> <p>6 the partnering system. Is a "buddy" a formal term or</p> <p>7 did you mean a friend? What do you mean by "buddy"?</p> <p>8 A. As in work colleague, we work side by side under the</p> <p>9 same area.</p> <p>10 COMMISSIONER HANSFORD: Okay. So there wasn't a sort of</p> <p>11 formalised buddy system where two people support each</p> <p>12 other?</p> <p>13 A. No. Well, we work together, so in that sense -- in the</p> <p>14 same area.</p> <p>15 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>16 MR PENNICOTT: Sorry, there's a second page coming as well.</p> <p>17 This is a two-page document. (Handed).</p> <p>18 COMMISSIONER HANSFORD: Okay.</p> <p>19 CHAIRMAN: Thank you.</p> <p>20 MR PENNICOTT: Mr Lai, what we need to focus on for present</p> <p>21 purposes, I think, is the columns that are shaded brown</p> <p>22 at the top, do you see that, which deal with the rebar?</p> <p>23 A. Yes.</p> <p>24 Q. The dates of rebar fixing are given in the first two</p> <p>25 columns; the date of inspection, subject to the asterisk</p>

<p style="text-align: right;">Page 21</p> <p>1 note, are given; then the RISC form numbers, insofar as 2 they exist, are given; and then the responsible 3 engineer. Do you see that? 4 A. Yes. 5 Q. Now, from this table, Mr Lai, I have deduced that you 6 were responsible for issuing one solitary RISC form. 7 That is number 11118 at lines 3 and 4. Do you see that? 8 A. Yes. 9 Q. Because the others appear to have been issued by 10 Billy Ng, or at least he's described as the responsible 11 engineer; do you see that? 12 A. Yes. 13 Q. With regard to those RISC forms that either you, that's 14 the one, or Billy Ng issued, do you have any 15 recollection of who the MTR inspectors, engineering 16 inspectors were, that carried out the inspections in 17 relation to those RISC forms? 18 A. If it's for the rebar, it wouldn't be the inspectors. 19 It would be the engineers. 20 Q. The engineers, yes. Do you recall which of the MTR 21 engineers carried out the inspections in relation to 22 these RISC forms? 23 A. It would be Chris or Kappa. 24 Q. Right. If I tell you that none of those RISC forms show 25 that the inspection was carried out by Chris Chan --</p>	<p style="text-align: right;">Page 23</p> <p>1 to track some of this down. 2 Here's the first one on the table, Mr Lai, and you 3 can see it's 010259; do you see that? 4 A. Yes. 5 Q. In fact, this one, so far as Leighton is concerned, 6 appears to have been signed by somebody called Cheung 7 Tim Fu; do you see that? 8 A. Yes. 9 Q. Do you know Mr Cheung? 10 A. He was an old colleague. 11 Q. All right. 12 Then if we scroll down, please, "To be completed by 13 MTR Corporation", "Received by", a gentleman we've heard 14 of before, "Kobe Wong"; and then further down, 15 "Inspection check was carried out on", and then "Name: 16 Kappa Kang", "CON II", and the observation is 17 "Satisfactory"; do you see that? 18 A. Yes. 19 Q. So that's the first one. Then if we could go to 9746. 20 Again, it's Mr Cheung, so far as Leighton is concerned. 21 If we scroll down, we see again it is Kappa Kang who has 22 carried out the inspection; do you see that? 23 A. Yes. 24 Q. She says that the observation is acceptable. 25 Then if we go to the one that you issued, that's</p>
<p style="text-align: right;">Page 22</p> <p>1 none of them -- would that surprise you? 2 A. No. 3 Q. Would it surprise you if I told you that the vast 4 majority -- there's one or two exceptions, I accept -- 5 but the vast majority were carried out by Kappa Kang; 6 would that surprise you? 7 A. Sorry, for what type of works? 8 Q. The rebar. 9 A. Inspections? 10 Q. Yes. 11 A. Sorry, can you repeat the question again? 12 Q. Yes. Would it surprise you to hear that the majority of 13 the rebar formal inspections referable to these RISC 14 forms, the MTR engineer that carried out the inspection 15 was Kappa Kang? 16 A. Yes. 17 Q. It would surprise you? 18 A. Yes. 19 Q. Let's look at them. Could we please look at the first 20 one, which is 10259. 21 Sir, I have slightly cheated because I have given 22 the Secretariat a list of the references so they can get 23 them up quickly. Unfortunately, they are all in soft 24 copy, not in hard copy, in the bundles. They are all on 25 discs. It was a bit of a late night last night trying</p>	<p style="text-align: right;">Page 24</p> <p>1 11118, the next one, we see on this one, Mr Lai, your 2 name appears. 3 A. Yes. 4 Q. Do you see that? 5 A. Yes. 6 Q. Then if we scroll down, we see again, so far as MTRC is 7 concerned, the person who actually did the inspection 8 was Kappa Kang; do you see that? 9 A. Yes. 10 Q. So am I right in thinking that you personally would have 11 carried out that inspection with Ms Kang? 12 A. Yes. 13 Q. Then 10595. 14 COMMISSIONER HANSFORD: Could I just understand this? 15 MR PENNICOTT: Yes, sir. 16 COMMISSIONER HANSFORD: So Mr Lai's name is typed in there. 17 MR PENNICOTT: Yes. 18 COMMISSIONER HANSFORD: Who types that name in? 19 A. It is in the system, company system, that we type our 20 works and then the date, all the details, and then it 21 generates a form. 22 COMMISSIONER HANSFORD: So you request the form is generated 23 and then it types your name? 24 A. Yes, because -- yes. Yes. 25 COMMISSIONER HANSFORD: Okay. Thank you.</p>

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<p>1 MR PENNICOTT: Here, on this one -- this is 10595 -- we can 2 see that Billy Ng is the -- we see actually here he is 3 described as a graduate engineer, so perhaps we should 4 have sorted that out before but that confirms his 5 position at the time? 6 A. Yes. 7 Q. Again, Kappa Kang is the MTR inspector. 8 COMMISSIONER HANSFORD: So what number is this one? 9 MR PENNICOTT: This is 10595, sir. I have missed out 10594. 10 COMMISSIONER HANSFORD: Okay, yes. I understand. 11 MR PENNICOTT: Because that is one of the ones that Ms Kang 12 was not involved in. 13 COMMISSIONER HANSFORD: I understand. Okay. 14 MR PENNICOTT: Then 10625, again, Billy Ng responsible for 15 this one, and again Kappa Kang is the MTR inspector. 16 Then 10669, again Billy Ng and Ms Kang for the MTR. 17 Then 9933, this time Kang Pu, but I think it's 18 common ground, not disputed, that that is Kappa Kang. 19 A. (Nodded head). 20 Q. Then lastly 10108, and again we can see Ms Kang's name 21 there. 22 A. (Nodded head). 23 Q. As I say, if one goes back to your table and just casts 24 one's eye down those numbers, apart from 10594, it seems 25 to be the position, on the face of those documents, that</p>	<p>1 the second page, and still no further RISC forms issued. 2 Sir, just to make it clear, from items 59 onwards, 3 that all deals with the remedial works, not the original 4 joints. 5 CHAIRMAN: Okay. 6 COMMISSIONER HANSFORD: 59 onwards? 7 MR PENNICOTT: Yes. 8 That's right, is it not, Mr Lai? 9 A. Yes. 10 Q. Mr Lai, is there a typo at item 58, where it says, "NAT 11 EWL 1111/1111"? Should it be "1112", that is the 12 interface joint at EWL? 13 A. Yes, it should be a typo. Yes. 14 Q. I've not managed to find a row on this table that refers 15 to the NAT EWL 1111/1112 walls. 16 A. Sorry, could you repeat that again? 17 Q. Yes. I've not been able to find a row on this table 18 that covers the NAT EWL 1111/1112 stitch joint walls. 19 A. Yes. 20 Q. 67 is the remedial works. I want the original. 21 A. Yes. 22 Q. It's not there. 23 A. Yes. 24 Q. So there appears to be a row missing. All right. 25 Now, looking at -- going back to the column where we</p>
Page 26	Page 28
<p>1 Ms Kang carried out the inspections for the MTR in 2 relation to the rebar inspection; do you see? Do you 3 understand now? 4 A. Yes, for these RISC forms. 5 Q. Apart from the RISC form 11118 that has your name on it, 6 Mr Lai, and you've confirmed that you carried out 7 an inspection with Ms Kang in relation to that 8 particular RISC form and the bays that it relates to, 9 did you carry out any other inspections or was it Mr Ng 10 that carried out the inspections with Ms Kang in 11 relation to the other RISC forms that we have? 12 A. Sorry, for -- can you repeat? 13 Q. For the actual RISC forms that we have, where Billy Ng's 14 name appears, did he do the inspection with Ms Kang, not 15 you? 16 A. Yes. 17 Q. Then if we go to the "RISC form no." column on the 18 table, and we look at the number 10108, which is the 19 last RISC form we looked at, we then see that there were 20 no further RISC forms issued in this column. 21 In particular, if we start picking it up towards the 22 bottom of the page, we see references to the shunt neck 23 bay 3, which we've spent some time on already, and then 24 we see the stitch joints being picked up towards the 25 bottom of the page, and that continues over the page to</p>	<p>1 see "N/A" running from item 11 onwards, there clearly 2 were quite a number of individual rebar hold-point 3 inspections that took place; yes, Mr Lai? 4 A. Yes. 5 Q. Now, just thinking back, it's got -- Billy Ng's name 6 stops at number 10, and your name then appears as the 7 responsible engineer for all the other numbers, all the 8 other inspections; yes? 9 A. Yes. 10 Q. Can you recall, do you have a recollection, in broad 11 terms, so far as the MTR engineer is concerned, how many 12 of those do you say were carried out by Chris Chan and 13 how many were carried out by Kappa Kang? Have you any 14 idea? 15 A. I don't know. 16 Q. Have you got any impression at all? 17 A. I would contact Chris Chan first, and if he was 18 unavailable, which he was most of the time, then he 19 would pass on to Ms Kang. 20 Q. Yes. Whilst I appreciate that the RISC forms that we 21 have got and we've just looked at are dated between 22 January and October -- sorry, January and July, I think, 23 2016; yes, January and July 2016 -- it's quite clear 24 that, in respect of -- apart from one, all of those 25 inspections were carried out by Ms Kang?</p>

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<p>1 A. I wouldn't have known that. I only joined that area in 2 June. 3 Q. So would I be right in suggesting that that sets 4 something of a pattern: that the likelihood is that 5 these inspections would more likely be done by the 6 construction engineer number II rather than Chris Chan, 7 the construction engineer number I? 8 A. No. 9 Q. You don't accept that? 10 A. No. 11 Q. All right. Can we move on, Mr Lai -- 12 CHAIRMAN: Sorry, just one question, if I may. 13 MR PENNICOTT: Of course. 14 CHAIRMAN: Site diary entries -- are you going to come to 15 that? I don't know. 16 MR PENNICOTT: I wasn't planning to, not with Mr Lai anyway 17 CHAIRMAN: Okay. Did you have any role in completing the 18 site diary entries? 19 A. They were completed by MTR and countersigned. We report 20 the daily activities to the inspectors. 21 CHAIRMAN: Right. So you didn't actually have a role in 22 completing the actual details in the site diary? 23 A. No. 24 CHAIRMAN: Thank you. 25 MR PENNICOTT: Now, Mr Lai, we are going to sort of go back</p>	<p>1 Q. Many occasions or few occasions? 2 A. A few. 3 Q. Okay. Now, let us picture the situation at the 4 beginning of January where Mr Ng turns up at the shunt 5 neck joint. Gammon have exposed the couplers with 6 yellow caps. He sees the yellow caps, which he tells 7 us, like you, he had never seen before; all right? 8 A. (Nodded head). 9 Q. He, unlike you, goes up to the yellow cap or a yellow 10 cap, unscrews it, and finds that it's a tapered threaded 11 coupler. All right? That's the scenario that we're in. 12 All right? 13 A. Okay. 14 Q. That he says he found himself in. 15 Don't you agree that the natural reaction of this 16 sub-contractor supervisor would have been to say -- I'll 17 be careful what language I use in this arena -- "Well, 18 this is a bit of a problem; I'd better go and speak to 19 Leighton, because this is not something I was 20 expecting"? Don't you think that would be the natural 21 reaction of a sub-contractor in that situation? 22 A. I never receive any reactions from him like that. 23 Q. Because, if that isn't his reaction, then the conclusion 24 is that he thought, "Well, never mind, I'll just get on 25 with it and I'll do the best I can and hope I get away</p>
Page 30	Page 32
<p>1 to where we started, unfortunately. Ah Chun, Mr Ng 2 Man Chun -- he was a supervisor of the rebar 3 sub-contractor? 4 A. Correct. 5 Q. By the time that the shunt neck joint and the EWL joint 6 came to be constructed, you had known him for, what, 7 some seven/eight months or so, perhaps; is that about 8 right? 9 A. Yes. 10 Q. You had got to know him reasonably well? 11 A. Professionally, yes. 12 Q. Professionally, yes. 13 A. (Nodded head). 14 Q. Indeed, it's the professional side that I wanted to ask 15 you about. 16 What impression did you form of him? Was he 17 a hard-working, conscientious sort of chap? 18 A. Yes. 19 Q. Did he strike you, in the observations that you made of 20 his supervision functions and the way he dealt with his 21 workers, that he was competent? 22 A. He got the work done, yes. 23 Q. Were there any occasions where you had to complain to 24 him about the quality of work that was being done? 25 A. Occasions.</p>	<p>1 with it." Isn't that the reality of this situation, 2 Mr Lai? 3 A. Sorry, could you explain -- 4 Q. The reality is that faced with this problem, the 5 incompatibility problem, the tapered threaded couplers, 6 this sub-contractor would have contacted you, Leighton, 7 the main contractor, and drawn this to your attention, 8 saying, "Look, I've got the wrong materials; what are we 9 going to do?" Isn't that the natural reaction? 10 A. I was not made aware of it. 11 Q. So your -- 12 CHAIRMAN: Sorry, I do apologise for cutting across. 13 MR PENNICOTT: No, no. 14 CHAIRMAN: I appreciate you say you were not made aware of 15 it, but I don't think the question was would it not have 16 been more natural for him to contact you. I think the 17 question was: seen just hypothetically, wouldn't it have 18 been a more natural approach to go to Leighton and say, 19 "We have a problem"? I would add, if I may, one thing, 20 which is that it's not as if one odd coupler had 21 suddenly found itself there with a yellow cap. There 22 would have been quite a lot of these couplers, and that 23 would have presented a fairly material problem, some 24 sort of obstacle that had to be overcome. And I think 25 the question was: wouldn't a sub-contractor be much more</p>



Page 33	1 likely, in the initial instance at least, to go along 2 and say, "I'm suddenly facing dozens of these couplers; 3 what do we do?" 4 A. Hypothetically, yes. 5 CHAIRMAN: But you yourself didn't receive anything? 6 A. No. 7 CHAIRMAN: And nobody reported to you from Leightons? 8 A. No. 9 CHAIRMAN: You never knew there was a problem with couplers? 10 A. No. 11 CHAIRMAN: Not until it was all opened up and then you saw? 12 A. Correct. 13 CHAIRMAN: And even then, you wouldn't have known initially, 14 because the yellow covers were not there then, were 15 they, when you opened up? 16 A. Sorry? 17 CHAIRMAN: The yellow covers to the couplers had been 18 removed by the time you opened all the works up? 19 A. Yes. 20 CHAIRMAN: Because they were sort of stuck in a little bit 21 or whatever? 22 A. Yes. 23 CHAIRMAN: So when did you learn that the couplers were 24 tapered couplers, Lenton couplers? 25 A. During the remedial works. Remedial works.
Page 35	1 I mean? He was a sub-contractor who was suddenly faced 2 with a position or a situation which was the creation of 3 other people, and if he went and reported it, he was 4 protecting his company, was he not, initially? 5 A. I don't know. 6 MR PENNICOTT: The next question I've got here is similar. 7 CHAIRMAN: Sorry. 8 MR PENNICOTT: Not at all. It's similar. 9 Can you think of any reason why he would run that 10 sort of risk? 11 A. No. 12 COMMISSIONER HANSFORD: Was he under a particular time 13 pressure? 14 A. We had a schedule, yes, but if there were any problems, 15 we would have raised it up and corrected it, but we 16 never received any problems. 17 MR PENNICOTT: All right. 18 We know, Mr Lai, that on the Gammon side of the 19 stitch joints, the structures had been completed 20 sometime in advance of the Leighton structure. 21 A. Yes. 22 Q. You agree with that? All right. 23 Have you any knowledge -- I mean, can you recall -- 24 had Gammon actually finished their works by this stage 25 and left, as it were, the site, or were they still
Page 34	1 CHAIRMAN: And nobody had mentioned Lenton couplers to you 2 at any stage prior to that discovery? 3 A. No. 4 MR PENNICOTT: So is it your evidence, Mr Lai, that none of 5 the various telephone conversations that Mr Ng refers to 6 in his witness statement -- none of them ever took 7 place; is that your position? 8 A. No, they never took place. 9 Q. So, if that's right, the conclusion must be that Mr Ng 10 of Wing & Kwong just took the risk on his own shoulders 11 to get on with this work, first of all hope that it 12 wasn't spotted by you -- and he got lucky because it 13 wasn't spotted by you -- that it wasn't spotted by the 14 MTR, and it wasn't spotted by MTR either. And that 15 really is the alternative scenario if he didn't contact 16 you; is that right? 17 A. Sorry, can you -- 18 Q. If he didn't contact you -- and there's no suggestion he 19 contacted anybody else in Leighton -- then the 20 alternative scenario must be he just hoped to get away 21 with it? 22 A. Yes. 23 CHAIRMAN: Sorry, could I just follow that up, just with one 24 question, and that is: what was in it for him to do 25 that? Because this wasn't his fault. Do you know what
Page 36	1 working away? 2 A. No. Still working. 3 Q. Still working? Okay. 4 Do you know -- if you don't, don't worry -- whether, 5 for example, Lenton had a rebar yard on the Gammon site 6 which was still operating in the first half of 2017? 7 A. No, I don't know. 8 Q. All right. Let's press on. 9 Mr Lai, you tell us, in paragraph 11 of your third 10 witness statement, that you had a meeting in February 11 2018 with Mr Ng. 12 Sorry, it's at CC6508. 13 You make reference to Mr Ng's statement, and then 14 you say: 15 "I remember having such a meeting in around February 16 2018, because when we were preparing for the remedial 17 works, after the defects which caused the water seepages 18 were identified at the 3 stitch joints." 19 Then you say that Regina Wong, Cheung Chi Wai were 20 there, and so far as the conversation that took place 21 between your senior -- and I think you are referring to 22 Mr Kitching; is that right, Mr Lai? 23 A. From my recollection, I only remember I saw Regina and 24 Cheung Chi Wai, yes. So the meeting may have other 25 people but I do not remember.

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<p>1 Q. Okay. But you didn't hear any conversation between 2 Mr Kitching and Mr Ng? 3 A. No. 4 Q. Then -- I don't know whether you were aware of this; 5 this is the last few questions I've got -- there was, 6 after that meeting, through February and into March 7 2018, a series of correspondence between Wing &amp; Kwong 8 and Leighton. Were you made aware of that 9 correspondence? 10 A. Not at the time. 11 Q. Could we just, therefore, have a look at that. Could we 12 go, first of all, to CC1335. 13 This is essentially the letter that kicked off the 14 chain of correspondence. If we could scroll down. It's 15 a letter of 12 February, you can see. It's to Wing 16 &amp; Kwong, to Ben Cheung, and I think it's signed by 17 Mr Kitching -- it is -- and it's headed, "Water leaks 18 and structural cracking at NAT NSL and EWL stitch 19 joints"; do you see that? 20 A. Yes. 21 Q. Were you consulted before this letter was sent? 22 A. I don't remember. 23 Q. Do you have any recollection of having a conversation 24 with Mr Kitching or -- could we scroll down a bit, 25 please -- Mr Holden, because I think that's "WLH", or</p>	<p>1 A. I don't remember. 2 Q. All right. Then lastly 1356. This is a letter three 3 days later from Wing &amp; Kwong to Mr Kitching again, and 4 some of this -- can we scroll down, please; stop there, 5 thanks very much. Sorry, just scroll up a little bit, 6 please. Right. Now down. Right. 7 In the fourth paragraph there, Mr Lai, we see -- it 8 repeats what we read earlier: 9 "To avoid the responsibility of any instability, our 10 site supervisor, Mr Ng, had deliberated the particulars 11 of the relevant location with your engineer, Mr Lai, 12 seven months [that is a change from five months which 13 was in the previous letter] before the start of the 14 work." 15 Then scroll down, please, and towards the end there 16 it says: 17 "To make sure the connection is either coupler with 18 parallel threads or with taper-cut threads so as to 19 prepare the relevant materials to carry out the work at 20 all time, our Chun has inquired your Henry in February 21 2017. We received a reply from Henry that he did not 22 know the details of contract 1111. He then instructed 23 us to prepare materials of parallel threads, according 24 to his experience and final confirmed order material by 25 Leighton."</p>
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<p>1 anyone else at Leighton, before correspondence was sent, 2 before 12 February, to Wing &amp; Kwong? Oh? 3 A. I don't remember, no. 4 Q. If we could go on in the same bundle, please, to 1350. 5 This is Wing &amp; Kwong's response to the letter that we've 6 just looked at, and it's from Ben Cheung, I think, to -- 7 no, it's not -- from Tommy Chan, senior quantity 8 surveyor, to Mr Kitching. 9 In the second paragraph, what is said is this: 10 "To avoid the possibility of any instability, our 11 site supervisor, Mr Ng, had deliberated the particulars 12 of the relevant location with your engineer, Mr Henry 13 Lai, five months before the start of the work." 14 Have you seen this letter before, Mr Lai? 15 A. No. 16 Q. Have you never been shown this letter? 17 A. Only recently. 18 Q. So you have seen it but only recently? 19 A. Yes, not at the time it was issued. 20 Q. When you say "recently" you mean in the last few weeks 21 or -- 22 A. Yes, last few weeks. 23 Q. If you didn't see the letter, did Mr Kitching speak to 24 you in around the end of February 2018 about a letter he 25 had received from Wing &amp; Kwong? Do you recall?</p>	<p>1 Again, Mr Lai, when was the first time you saw this 2 letter? 3 A. Recently. 4 Q. In the last few weeks? 5 A. Yes. 6 Q. And you were not shown this by Mr Kitching back in 7 February 2018? 8 A. No. I don't -- no. No. No. 9 Q. And you did not -- do you recall any conversation that 10 you had with Mr Kitching about this letter? 11 A. I don't know. 12 MR PENNICOTT: All right. 13 Sir, you will be pleased to hear that's all I have, 14 but I'm sure others, as they indicated yesterday, will 15 have questions for Mr Lai. 16 CHAIRMAN: Sorry, can you scroll down just a couple of 17 lines. Thank you, that's fine. 18 So would you agree, Mr Lai, that the obvious way to 19 deal with this problem would have been to leave the 20 Lenton couplers where they were but just get new rebars, 21 which were threaded at the end in a tapered way, so to 22 overcome the problem would have been just to get new 23 rebars? 24 A. If I had known the problem, yes. 25 CHAIRMAN: How long would that have taken; do you know?</p>

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<p>1 A. I wouldn't know, as I haven't dealt with Lenton before, 2 so I'm not aware of their operations. 3 CHAIRMAN: Okay. Were you aware whether they had a yard at 4 the site? 5 A. No. 6 CHAIRMAN: Thank you. 7 MR PENNICOTT: Sir, I imagine, as it's 16 minutes past 11, 8 that might be a good time to have 15 minutes. 9 CHAIRMAN: That might be an idea. Quarter of an hour. 10 You are just reminded you are still giving your 11 evidence, Mr Lai. 12 WITNESS: Yes, sir. Thank you. 13 CHAIRMAN: Thank you. 14 (11.17 am) 15 (A short adjournment) 16 (11.36 am) 17 Cross-examination by MR TSOI 18 MR TSOI: Mr Lai, I appear for Wing &amp; Kwong and I have some 19 questions for you. 20 I'm sure you told us about this: you joined Leighton 21 as an engineer in 2013; is that right? 22 A. Yes. 23 Q. You told us you were promoted to senior engineer in 24 2018? 25 A. Yes.</p>	<p>1 Q. So you would look at how they lay the rebars and screw 2 the rebars into a coupler? 3 A. I see them lay the rebars. 4 Q. Do you see them screwing the rebars into the couplers, 5 because surely that's part of their work? 6 A. If that was necessary, yes. 7 Q. So, in the sites where it was necessary for the rebars 8 to be screwed into a coupler, you would observe that? 9 A. If that was the procedures that was happening, yes. 10 Q. But this is during your routine inspection? 11 A. Yes. 12 Q. How long were these routine inspections? 13 A. Five to ten minutes. 14 Q. Or may it depend on the site, the size of the location 15 that you were inspecting? 16 A. On the location, five to ten minutes. 17 Q. Well, after that, there would come to a point where the 18 rebar fixers would tell you they've completed the rebar 19 fixing? 20 A. The rebar fixers don't tell me directly. 21 Q. The foreman? 22 A. The foreman. 23 Q. In this case, Ah Chun? 24 A. Yes. 25 Q. Right, Ah Chun will tell you directly the rebar fixing</p>
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<p>1 Q. Can you recall which month? This was last year. 2 A. April. 3 Q. April? I see. 4 I'm going to ask you about these inspections, these 5 routine inspections, rebar fixing checks, pre-pour 6 checks, because as you may know I'm not really 7 a construction lawyer, so I need to know the 8 information. 9 As I understand it, when there's rebar fixing work 10 on site, you would conduct routine inspection? 11 A. Yes. 12 Q. And you would do that every day? 13 A. Where necessary, yes, for the works. 14 Q. So you do it every day? 15 A. If there's rebar fixing, yes. 16 Q. That's what I asked. Now, is that twice a day, three 17 times a day? 18 A. Twice; once in the morning, once in the afternoon. 19 Q. I'm sorry, can you repeat that? 20 A. Once in the morning, once in the afternoon. 21 Q. During these routine inspections, what exactly do you 22 do? Do you stand there and observe? 23 A. Yes. 24 Q. And you look at the rebar workers conducting their work? 25 A. Yes.</p>	<p>1 has been completed? 2 A. Yes. 3 Q. The next official step is called a hold-point check? 4 A. Yes. 5 Q. And part of it is the rebar fixing check? 6 A. Yes. 7 Q. Before the rebar fixing check, so before you asked 8 an MTR personnel to come and check it with you, would 9 you yourself inspect the completed works first, once? 10 A. Yes. 11 Q. So that would be an informal check before you call up 12 MTR to ask for a rebar fixing check? 13 A. Yes. 14 Q. At the rebar fixing check, there would be an MTR 15 individual there, an engineer? 16 A. Yes. 17 Q. And if that's passed, then what happens? Then there's a 18 pre-pour check? 19 A. That would be correct. 20 Q. So that personnel from MTR who conducted the rebar 21 fixing check would then, what, leave the site? 22 A. Leave the work location. 23 Q. Leave the location, and you would then call the relevant 24 MTR personnel to do the pre-pour check? 25 A. Not directly.</p>

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<p>1 Q. Not directly. So how do you --</p> <p>2 CHAIRMAN: Sorry, I think the pre-pour check is done after</p> <p>3 more work is done.</p> <p>4 MR TSOI: After more work is done. I'm so sorry. That's</p> <p>5 why I'm asking for information, yes.</p> <p>6 CHAIRMAN: What happens is -- I'm going to jump in and --</p> <p>7 MR TSOI: Sure, I'm learning myself.</p> <p>8 CHAIRMAN: -- show off my learning. My understanding is</p> <p>9 that once that's done, then they have to do formwork,</p> <p>10 because when you pour concrete, without formwork, it's</p> <p>11 just going to go all over the floor.</p> <p>12 MR TSOI: Yes, I remember one co-counsel teaching me that.</p> <p>13 CHAIRMAN: Then you have to also make sure you are not going</p> <p>14 to be left with cavities in the concrete, brought about</p> <p>15 by, for example, lumps of polystyrene and things like</p> <p>16 left lying around.</p> <p>17 So there you are, I've given you my lecture and</p> <p>18 I can sit back now.</p> <p>19 COMMISSIONER HANSFORD: The Chairman has learned a great</p> <p>20 deal about construction.</p> <p>21 MR TSOI: The Chairman definitely knows more about that than</p> <p>22 me.</p> <p>23 What I'm going to do now is take you through the</p> <p>24 various locations, because I'm still not sure about the</p> <p>25 timing, so I'm going to take you to the various</p>	<p>1 Q. But the works were being conducted on 4 January.</p> <p>2 Routine inspection, not hold-point check yet; I'll come</p> <p>3 to that. Routine inspection?</p> <p>4 A. Routine inspection, yes.</p> <p>5 Q. Yes, on the 4th; right?</p> <p>6 A. Routine inspections.</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. On the 4th?</p> <p>10 A. Routine inspections.</p> <p>11 Q. Twice?</p> <p>12 A. Depends the time it starts.</p> <p>13 Q. I'm asking: did you conduct it twice?</p> <p>14 A. It depends when the work starts.</p> <p>15 Q. Did you recall when the work started?</p> <p>16 A. I don't recall.</p> <p>17 Q. Can you then tell us, in normal practice, whether it</p> <p>18 would have been once or twice?</p> <p>19 A. At least once.</p> <p>20 Q. At least once. Okay.</p> <p>21 How long was that routine inspection?</p> <p>22 A. Five to ten minutes.</p> <p>23 Q. Five to ten minutes. All right.</p> <p>24 So, after that, there was the hold-point inspection;</p> <p>25 right?</p>
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<p>1 locations of the shunt neck joint and the stitch joints,</p> <p>2 and can you then tell me what happened during that time.</p> <p>3 So if we go back to page BB6363. Have you got that?</p> <p>4 A. Yes. Sorry, just a moment.</p> <p>5 Q. Sure.</p> <p>6 A. Sorry. Thanks.</p> <p>7 Q. This is the NAT pour summary; do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. What I understand from this, if we go to entry 45, that</p> <p>10 explains the rebar fixing work at the shunt neck bay 3</p> <p>11 track slab, and that took place, as recorded, on</p> <p>12 4 January and completed on 4 January.</p> <p>13 A. Yes.</p> <p>14 Q. Do you see that? It was inspected on 5 January. I'm so</p> <p>15 sorry, it was poured on 5 January, but we don't know</p> <p>16 when it was inspected from the chart.</p> <p>17 A. Yes.</p> <p>18 Q. So, for this one, for this location, did you conduct</p> <p>19 a routine inspection on 4 January? You would have?</p> <p>20 A. I don't remember.</p> <p>21 Q. But you would have, according to your normal practice;</p> <p>22 yes?</p> <p>23 A. No.</p> <p>24 Q. No?</p> <p>25 A. It could have been done just before the concreting.</p>	<p>1 A. (Nodded head).</p> <p>2 Q. So you called Chris Chan to do the rebar fixing check</p> <p>3 part of the hold-point inspection; yes?</p> <p>4 A. Yes.</p> <p>5 Q. So, for this particular location, how long was that</p> <p>6 rebar fixing check with Chris Chan?</p> <p>7 A. Five to ten minutes.</p> <p>8 Q. Five to ten minutes.</p> <p>9 Now, during that rebar fixing check, in order to do</p> <p>10 it properly, you would have to check that the rebars</p> <p>11 were screwed into the couplers; right?</p> <p>12 A. That would be one of the checks.</p> <p>13 Q. Sorry?</p> <p>14 A. That would be one of the checks.</p> <p>15 Q. Yes. Now, what tools did you have with you?</p> <p>16 A. I had the drawings and tape.</p> <p>17 Q. Right. So Chris Chan was there too; right?</p> <p>18 A. Yes.</p> <p>19 Q. What tools did he have with him to check the rebar</p> <p>20 fixing part?</p> <p>21 A. The drawings.</p> <p>22 Q. And you looked at the connections between the rebar and</p> <p>23 the coupler?</p> <p>24 A. Yes.</p> <p>25 Q. And you must have satisfied yourself that they were</p>

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<p>1 connected properly? 2 A. To my knowledge, yes. 3 Q. Yes, and Chris Chan must have satisfied himself that the 4 connection was conducted properly? 5 A. Yes. 6 Q. Right. So, after that, there was some clean-up, the 7 construction of the formwork, as explained by the 8 Chairman. There would come a time where there was 9 a pre-pour check? 10 A. Yes. 11 Q. You were also the Leighton member for the pre-pour 12 check? 13 A. Yes. 14 Q. How long did that pre-pour check take? 15 A. Five to ten minutes. 16 Q. Five to ten minutes, all right. 17 Is this a big area or a small area? 18 A. Small. 19 Q. Small, right. 20 So let's move on to the next area, entry 58c, the 21 old East West Link stitch joint 1112/1111 East Wall -- 22 I think that was the next entry, 19 January. So the 23 work was conducted between 19 and 28 January; do you see 24 that? 25 A. Yes.</p>	<p>1 with Chris Chan? 2 A. It was conducted but I do not remember who it was from 3 MTR. 4 Q. You don't remember who it was from MTR? 5 A. Yes. 6 Q. I thought this was part of the stitch joint. 7 A. Yes. 8 Q. And you were sure yesterday you conducted the stitch 9 joint rebar fixing checks with Chris Chan. 10 A. Sorry, my apologies. Yes, Chris Chan. 11 Q. So it is Chris Chan? 12 A. Yes. 13 Q. So this time, it is Chris Chan again? 14 A. Yes. 15 Q. Again, how long was the rebar fixing check for this? 16 A. Five to ten minutes. 17 Q. Five to ten minutes? 18 A. Yes. 19 Q. And the pre-pour check? 20 A. The same. 21 Q. The same? 22 A. Yes. 23 Q. Lets go through the list. 58a: how many times you did 24 routine inspection for that? 25 A. Three.</p>
Page 50	Page 52
<p>1 Q. So you did inspection every day, routine inspection, 2 twice a day, during that period? 3 A. When there were workers there. 4 Q. But we see the work was from 19 to 28 January? 5 A. It could have been stopped in the middle. The work 6 could have stopped in the middle. 7 Q. It could have stopped in the middle. 8 A. Yes. 9 Q. But it's not recorded? 10 A. This only marks the start and the end date of the rebar 11 fixing. 12 Q. So how many times do you estimate you would have done 13 routine inspection for this East Wall? 14 A. Three to four times. 15 Q. Three to four times in total? 16 A. Yes. 17 Q. And each time would be, what, five to ten minutes? 18 A. Yes. 19 Q. For this East Wall then, there was the concrete pouring 20 on 22 March, so that's quite far away from the 21 completion of the works; is that right? 22 A. Yes. 23 Q. When was the rebar fixing check for this wall? 24 A. I don't remember. 25 Q. You don't remember? But you remember you conducted that</p>	<p>1 Q. Three times? 2 A. Yes. 3 Q. How long was the rebar fixing check? 4 A. Rebar fixing check -- 5 Q. Yes. 6 A. -- with -- personally or? 7 Q. Well, did you do rebar fixing check personally? 8 I thought you did it -- 9 A. Was it for the hold-point rebar fixing check? 10 Q. Yes, hold-point rebar fixing check. 11 A. Five to ten minutes. 12 Q. Five to ten minutes. 13 A. Yes. 14 Q. This was also with Chris Chan? 15 A. Yes. 16 Q. The pre-pour check? 17 A. Five to ten minutes. 18 Q. How about the next one, 59b -- 58b, sorry. My typo. 19 This is the stitch joint 1112/1111 West Wall. So how 20 many routine inspections? 21 A. Once. 22 Q. One? 23 A. Yes. 24 Q. How long was the joint hold-point check, rebar fixing 25 check?</p>

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<p>1 A. Five to ten minutes. 2 Q. With Chris Chan again? 3 A. Yes. 4 Q. And the pre-pour check? 5 A. Five to ten minutes. 6 Q. All right. The next one, entry 48, the shunt neck bay 3 7 wall. 8 This was from 13 February to the 28th, that was the 9 rebar fixing work; right? 10 A. 13 to 28th. 11 Q. Is that right? 12 A. Yes. 13 Q. So how many inspection, routine inspections, 14 approximately? 15 A. Approximately ... If it's working day, it would have 16 been once a twice per working day. 17 Q. So how many routine inspections in total do you 18 estimate? 19 A. That depends on the working day, as I said, yes. 20 Q. All right. We see how long it took to commence and 21 complete, but can you estimate how many times you would 22 have inspected it routinely? Once, twice, three times, 23 four times? I don't know. You tell me. 24 A. Twice. 25 Q. Twice?</p>	<p>1 Q. Move on to item 54. 2 This is the North South Link stitch joint 1112 track 3 slab. Again, can you estimate the number of routine 4 inspections you did there? 5 A. Twice daily. 6 Q. Twice daily. And how long was the rebar fixing check? 7 A. For the ...? 8 Q. For this location. 9 A. Five to ten minutes. 10 Q. The same? 11 A. Yes. 12 Q. And Chris Chan was there too; right? 13 A. Yes. 14 Q. And the pre-pour check, the same? 15 A. Yes, five to ten minutes. 16 Q. I think I have conducted enough of this exercise. So is 17 it your evidence that for each of the locations we see 18 here, for the three stitch joints and the shunt neck 19 joint, you would have conducted inspection every day, if 20 it's a working day, and for the pre-pour check, for each 21 of these locations, it would be five to ten minutes with 22 Chris Chan, and the pre-pour check would be -- sorry, 23 the rebar fixing check would be five to ten minutes with 24 Chris Chan, and then you also conducted a pre-pour check 25 which is also five to ten minutes?</p>
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<p>1 A. Yes, once or twice. 2 Q. For that 15 days of work, twice? 3 A. If it was working day, yes. 4 Q. Sorry, I don't understand. I'm asking for the total, 5 not every day. So can you give us an approximate total 6 of how many routine inspections you would have 7 conducted? 8 A. The start and end dates don't take the holiday into 9 account. 10 Q. Yes, right. So are you saying that you inspected it in 11 total twice; that's your estimation? 12 A. No, on the working day, if it's a working day, I would 13 have inspected once or twice. 14 Q. We will work that out ourselves. 15 And the rebar fixing check, that was again with 16 Chris Chan, I assume? 17 A. Yes. 18 Q. Yes? 19 A. Yes. 20 Q. And how long was that, the rebar fixing check? 21 A. It depends -- five to ten minutes. 22 Q. Five to ten minutes? 23 A. Five to ten minutes. 24 Q. Pre-pour? 25 A. Same.</p>	<p>1 A. Yes. 2 Q. Right. You say you performed the rebar fixing check, 3 these hold-point inspection rebar fixing checks, with 4 Chris Chan? 5 A. Sorry, can you repeat your question? 6 Q. You say that you conducted these rebar fixing checks 7 with Chris Chan? 8 A. For? 9 Q. For the three stitch joints and the shunt neck joint. 10 A. Yes. 11 Q. Of course you have seen evidence that he said he was 12 never invited to do so? 13 A. Yes. 14 Q. Now, at these inspections, how long does it take to fill 15 in a RISC form? You have a joint inspection, right, 16 called a hold-point inspection? 17 A. Yes. 18 Q. And for that purpose you need to fill in a RISC form? 19 A. Yes. 20 Q. How long does it take to fill in a RISC form? 21 A. Five to ten minutes. 22 Q. Five to ten minutes? 23 A. Yes. 24 Q. Let's look at one of these RISC forms. I think you've 25 been taken to this, I'm not sure, but page BB338.</p>

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<p>1 So we see the information there. We see, for 2 example, your name is typed; yes? 3 A. Yes. 4 Q. Then you would sign it, and then there's a bit to be 5 completed by MTR; yes? 6 A. Yes. 7 Q. These RISC forms could be filled in after the 8 inspection, after the event? 9 A. Within a reasonable time period, yes. 10 Q. So it could be filled in retrospectively, so to speak; 11 yes? 12 A. Within a reasonable time period, yes. 13 Q. We know that you never retrospectively made any RISC 14 forms, right, for the three stitch joints and the shunt 15 neck joint? 16 A. Sorry, can you repeat that? 17 Q. You did not make any rebar fixing RISC forms, checks, 18 RISC forms, for the three stitch joints and the shunt 19 neck joint after the inspections? 20 A. No. 21 Q. Right. The information that MTR has to fill in is in 22 part B, so all they have to do is sign the date of the 23 inspection and basically say who conducted the 24 inspection and say whether they were happy with the 25 work; yes?</p>	<p>1 inappropriate for him, after a certain period of time 2 had elapsed, to then fill in retrospective forms. 3 MR TSOI: Perhaps at the time, if I could just ask, at the 4 time, within the reasonable time. 5 CHAIRMAN: Yes. 6 MR TSOI: Within the reasonable time you say you were too 7 busy -- 8 CHAIRMAN: Because my understanding -- sorry, I'm not giving 9 another lecture -- is that the purpose of a RISC form is 10 a request form, so it's a request to do something prior 11 to inspection. You fill it out prior to inspection 12 saying, "Can you please do this". 13 MR TSOI: Yes, but my point, of course, Chairman, is that he 14 can't get Chris Chan to sign it because he never did the 15 inspection. 16 CHAIRMAN: Yes, of course. 17 MR SHIEH: A few observations. I stand up on this occasion 18 because it's going to be short. 19 First of all, Mr Chairman was completely right. He 20 did say it would be inappropriate. But my learned 21 friend's point, however, with some sarcasm or 22 insinuation, as always, is that, "You say you were too 23 busy even until now." These are the three words which 24 caught my eyes, because if it is his suggestion that 25 within a reasonable time afterwards he still didn't do</p>
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<p>1 A. Yes. 2 Q. For the three stitch joints and the shunt neck joint, 3 you say that you were too busy to fill in the RISC 4 forms? 5 A. Yes. 6 Q. But, in truth, isn't the situation this: you can't get 7 the RISC forms signed by MTR because Chris Chan has said 8 he never inspected it with you? 9 A. Disagree. 10 Q. So you were able to get Chris Chan to sign on a RISC 11 form when he said he never inspected the site with you? 12 A. That's his statement. 13 Q. So he's lying; he did inspect it with you, yes? 14 A. I inspected with him. 15 Q. He's lying? 16 CHAIRMAN: Sorry, are there Chris Chan signatures? 17 MR TSOI: No, but that's the point, because there won't be. 18 He never inspected it. 19 CHAIRMAN: I appreciate that, yes. Okay. 20 MR TSOI: So I'm putting it to you again. You say you were 21 too busy to produce RISC forms, even until now, because 22 you are just too busy. You were too busy at the time 23 and you are too busy now; even retrospectively you can't 24 produce the RISC forms. Yes? 25 CHAIRMAN: I think in fairness he did say it would be</p>	<p>1 that, that might be appropriate, but if he were to say 2 "even until now", the hidden insinuation is that he 3 could actually have done it even now. 4 That would match Mr Chairman's observation that he 5 did say it would be inappropriate. So that's the first 6 point. 7 The second point is that my learned friend said he 8 could not get Chris Chan to sign it "because Chris Chan 9 had said he never inspected it with you." 10 I'm not sure whether my learned friend is going to 11 make submissions through the guise of cross-examination, 12 because we now know Chris Chan, in his witness 13 statement, said he did not do any inspection, but my 14 learned friend, if he were to actually explore the 15 reasons for not asking MTRC to fill in the RISC forms -- 16 he could not possibly have been putting questions to 17 this witness based on what we now know to be Chris 18 Chan's position. That's point 1. And point 2, he 19 should actually start with the procedure for getting 20 MTRC to sign these RISC forms, because whoever from MTRC 21 did the inspection, we know, as a matter of fact, the 22 MTRC's position is that someone from the MTRC did do the 23 inspection, whether it's Chris Chan or someone else. 24 MR TSOI: Thank you for the lecture. I'm always grateful. 25 But let's restrict my question to the reasonable time.</p>

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<p>1 Within a reasonable time, did you ever attempt to 2 ask Chris Chan to fill in RISC forms? 3 A. The RISC form was not generated. 4 Q. Right. I'm suggesting to you -- it's a suggestion from 5 me to you -- that what you say, you were too busy, is 6 untrue, because Chris Chan never inspected these joints 7 with you. 8 A. Disagree. 9 Q. Couplers. For stitch joints 1 and 3, on the 1112 side 10 of the interface, there were couplers with red caps; is 11 that right? 1112, that's the Leighton side, there were 12 couplers with red caps? 13 A. Yes. 14 Q. On the 1112 side of the contract that you worked with, 15 the Leighton contract, you've only ever seen red-capped 16 couplers? 17 A. Yes. 18 Q. You've never seen yellow-capped couplers? 19 A. No. 20 Q. When the red-capped couplers were exposed, did you 21 inspect them? 22 A. No. 23 Q. You did not inspect them? You did not look whether they 24 were exposed or not? 25 A. I didn't open the cap to inspect the coupler.</p>	<p>1 Q. And you were alone in that exercise as well? 2 A. Yes. 3 Q. You've been asked this before but since you have been 4 working on the 1112 contract, by this time, for some 5 months -- this is January 2017 -- 6 A. Yes. 7 Q. -- you have only ever seen red-capped couplers? 8 A. Yes. 9 Q. In all these months? 10 A. Yes. 11 Q. It never struck you as strange that suddenly, in January 12 2017, you see yellow-capped couplers? 13 A. It didn't cross my mind at the time. 14 Q. You never spoke to any of your superiors? 15 A. I -- no. 16 Q. You never spoke to Joe Tam? 17 A. No. 18 Q. Or Chan Hon Sun? 19 A. No. 20 Q. You see, why I'm asking whether you spoke with them is 21 because they might have known, they might be a source of 22 information, but it just never struck you to ask them; 23 right? 24 A. Sorry? 25 Q. It just never struck you to ask them?</p>
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<p>1 Q. Right, but you looked at whether or not they were 2 exposed, surely? 3 A. Yes. 4 Q. So you could see the caps? 5 A. Yes. 6 Q. And you would see that they were all red? 7 A. Red caps. 8 Q. In this process or in this procedure, were you alone all 9 the time or did you have someone else inspecting whether 10 the couplers were exposed with you? 11 A. Sorry, can you -- 12 Q. When you inspected to see whether the couplers were 13 exposed, were you alone or did you have a team, did you 14 have other people with you or what? 15 A. Alone. 16 Q. You were alone? 17 A. Alone. 18 Q. Just like when you were inspecting whether the GKJV side 19 of the interface, whether their couplers were exposed; 20 yes? 21 A. We were notified that they were exposed. 22 Q. You were notified they were exposed, but did you check? 23 A. Yes. 24 Q. That's why I asked: you checked that they were exposed? 25 A. Yes.</p>	<p>1 A. No. 2 Q. And it's on that assumption that you allowed the BOSA 3 rebars to be used when the 1111 side of the interface 4 was Lenton couplers; yes? 5 A. The rebar fixing were done according at my knowledge at 6 the time, but only BOSA involved. 7 Q. I see. 8 Do you accept that the parallel threaded rebar 9 cannot be screwed into the Lenton coupler? 10 A. At the remedial works time, yes, I was notified at the 11 time. 12 Q. Would you accept now, as a matter of fact -- 13 A. Now, yes. 14 Q. -- that the parallel threaded rebar can't be screwed 15 into a Lenton coupler? 16 A. Yes. 17 Q. Do you accept that if you tried to do that, there would 18 be lots of threads exposed? 19 A. I may need a demonstration to see. 20 CHAIRMAN: Here we go. I did it just a little -- 21 MR TSOI: Actually, I haven't seen it myself. 22 CHAIRMAN: Can I give it to somebody? Thank you very much. 23 MR PENNICOTT: It's very heavy. (Physical exhibit handed). 24 MR TSOI: I really thank the Chairman. 25 A. Okay, I see it now.</p>



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<p>1 Q. Do you accept that there would be a lot of threads 2 exposed? 3 COMMISSIONER HANSFORD: It's probably worth trying it, 4 Mr Lai. I've tried it. 5 A. (Demonstrating). Okay, I see it now, yes. 6 MR TSOI: For rebars that are not connected to a coupler, in 7 the sense that it's not even in contact with a coupler, 8 that would be very obvious; right? Because all the 9 threads of the rebars would be showing. 10 COMMISSIONER HANSFORD: Can we have it back on the bench, 11 please. 12 MR TSOI: Sorry. Actually, can I have a look? 13 COMMISSIONER HANSFORD: One end is rather rusty, so 14 you'll ... 15 MR PENNICOTT: Or getting dirty. 16 MR TSOI: I'm not sure if you've answered the question -- 17 yes. So, for a rebar that is not connected to 18 a coupler, in the sense that it is not even in contact, 19 that would be even more obvious, because all the threads 20 would be exposed? 21 A. If you lay it out like this, yes. 22 Q. Right. So, from our calculation, for the three stitch 23 joints and the shunt neck joint, you would have done, 24 for the rebar fixing checks, approximately an hour to 25 two hours of rebar fixing check inspections; that's from</p>	<p>1 Q. Right? It's quite obvious, isn't it? 2 A. I see it now, yes. 3 Q. So are you saying to this Commission that, having spent 4 a total of one hour or two hours of rebar fixing checks, 5 you never spotted one single defective rebar coupler 6 connection, in the entire stitch joint or shunt neck 7 joint? 8 A. I was not aware of any defective connections, and during 9 my routine checks I may have just looked at the general 10 arrangement, I looked at some couplers, but not all of 11 them. So I haven't spent my time checking 100 per cent 12 of the couplers, so I didn't -- I wasn't aware of any 13 disconnections. 14 Q. So you are agreeing with me, having spent one to two 15 hours of rebar fixing checks, you never spotted a single 16 defective connection? 17 A. I didn't, no. 18 Q. And, from our total, you would have conducted between 19 four hours to 15 hours of routine inspection of those 20 12 locations. Four hours to 15 hours. Are you telling 21 us that during those routine inspections you never once 22 saw a rebar fixer being unable to screw in the rebar 23 into a coupler? 24 A. I was not notified of any problems. 25 Q. Is that what you are saying to the Commission?</p>
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<p>1 our calculation? 2 A. In total? 3 Q. Yes, because there were 12 locations. 4 A. Yes. 5 Q. And the pre-pour check would be the same: 6 60 minutes/an hour in total? 7 A. Yes. 8 Q. No, 60 minutes to two hours, I'm so sorry. That's our 9 estimate. So you've got an hour to two hours of rebar 10 fixing check inspection, and an hour to two hours of 11 pre-pour check inspections? 12 A. In total. 13 Q. Yes. I want to look at page CC1323. That's a photo 14 Mr Pennicott has shown you. 15 Would you say the disconnection of the rebar is 16 pretty obvious, the disconnect of the rebar? 17 CHAIRMAN: Sorry, can we enlarge that very slightly 18 somewhere? 19 Sorry, whereabouts is the disconnect? 20 MR TSOI: If you look at this particular example, the top 21 one you see a disconnect. Yes, there's a gap. 22 A. Okay, I see it now. Yes. 23 Q. And the bottom one is quite clear. Yes, this one in the 24 middle; yes? 25 A. Okay.</p>	<p>1 A. I was not notified of any problems. 2 COMMISSIONER HANSFORD: Sorry, that's a different answer to 3 the question, isn't it? 4 A. Sorry, could you repeat your question? 5 MR TSOI: You never saw, in the four to 15 hours of routine 6 inspection, any rebar fixers having difficulty screwing 7 in the rebars into couplers, ever? 8 A. I didn't, no. 9 Q. No. Could that really be true? 10 A. Yes. 11 Q. Seepage. Now, you were first notified of the seepage in 12 February 2017; yes? 13 A. Yes. 14 Q. Who told you? 15 MR PENNICOTT: "2018". 16 MR TSOI: Sorry, 2018. Right, 2018. 17 Who told you? 18 A. I don't remember. 19 Q. You don't remember who told you about the water seepage? 20 A. By MTR? Yes. 21 Q. By MTR? 22 A. Yes. 23 Q. Okay. Did anyone in Leighton talk to you about the 24 water seepage in February? 25 A. When we were notified, possibly, yes.</p>

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<p>1 Q. When you were notified?</p> <p>2 A. Yes.</p> <p>3 Q. So who spoke to you?</p> <p>4 A. I don't remember.</p> <p>5 Q. You don't remember who spoke to you about the water seepage?</p> <p>6</p> <p>7 A. No.</p> <p>8 Q. After you were informed of the water seepage, did you talk to your superiors, Joe Tam or Chan Hon Sun?</p> <p>9</p> <p>10 A. I don't remember.</p> <p>11 Q. You don't remember?</p> <p>12 A. No.</p> <p>13 Q. Did there come a point where Jon Kitching came to talk to you about the water seepage?</p> <p>14</p> <p>15 A. I don't remember.</p> <p>16 Q. You don't remember?</p> <p>17 A. Yes.</p> <p>18 Q. Let's look at his statement. Page CC6489.</p> <p>19 This is Jon Kitching's witness statement. If you look at paragraph 11:</p> <p>20</p> <p>21 "While the investigation into the defects was underway, I instructed Leighton's commercial team on the project to write to all sub-contractors that were involved ..."</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Do you see that in paragraph 11?</p>	<p>1 until recently?</p> <p>2 A. Yes.</p> <p>3 Q. Jon Kitching said, having received this letter, he came to speak to you.</p> <p>4</p> <p>5 A. Yes.</p> <p>6 Q. He never showed you the letter?</p> <p>7 A. I don't remember.</p> <p>8 Q. Did he say to you at the time that Wing &amp; Kwong was making allegation against you?</p> <p>9</p> <p>10 A. I don't remember.</p> <p>11 Q. You don't remember?</p> <p>12 A. Yes.</p> <p>13 Q. You've worked for Leighton from 2013 to -- so far, this is 2018; right? So five years, four years?</p> <p>14</p> <p>15 A. Yes.</p> <p>16 Q. Has there ever been an occasion where a sub-contractor wrote to your company to say that you instructed them to do defective work?</p> <p>17</p> <p>18</p> <p>19 A. No.</p> <p>20 Q. No. Right. Let's start again.</p> <p>21 When Jon Kitching came to talk to you, did he tell you, "A sub-contractor has written to us, accusing you of instructing them to do defective work"?</p> <p>22</p> <p>23</p> <p>24 This was last year.</p> <p>25 A. I don't remember.</p>
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<p>1 A. Yes, I see it now.</p> <p>2 Q. If we jump to paragraph 14:</p> <p>3 "On or around 23 and 26 February 2018, Leighton received letters from Wing &amp; Kwong in response to Leighton's letter and backcharge ... These letters essentially alleged that Wing &amp; Kwong were not responsible for the issues ... and ... acted on the instruction of ... (Henry Lai)."</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Do you see that?</p> <p>10 A. Yes, I see it.</p> <p>11 Q. The next paragraph:</p> <p>12 "After receiving those letters, I spoke to Henry Lai again."</p> <p>13</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. So he must have spoken to you before, but let's concentrate on this:</p> <p>17</p> <p>18 "... I spoke to Henry Lai again."</p> <p>19 A. Sorry, paragraph 15?</p> <p>20 Q. Yes.</p> <p>21 A. Yes.</p> <p>22 Q. Let's look at the letter. You will find that at EE277, and EE290. Let's look at the one at EE290, because that's the later one.</p> <p>23</p> <p>24</p> <p>25 You say that you have never seen this letter before,</p>	<p>1 Q. Sorry, two years ago -- no, last year, 2018.</p> <p>2 A. Sorry.</p> <p>3 Q. Do you remember? You don't remember?</p> <p>4 A. May have a conversation about it but I don't remember exactly.</p> <p>5</p> <p>6 Q. May have a conversation about it?</p> <p>7 A. Yes.</p> <p>8 Q. All right. What was the conversation about?</p> <p>9 A. I don't remember the contents.</p> <p>10 Q. You don't remember the contents?</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember him telling you that a sub-contractor has written to the company accusing you? Do you remember him saying that?</p> <p>13</p> <p>14</p> <p>15 A. He may have but I don't remember.</p> <p>16 Q. He may have but you don't remember? All right.</p> <p>17 Now, 23 February, this was after the site meeting, was it not, with Ah Chun be and Jon Kitching and Cheung Chi Wai and Regina Wong; is that right?</p> <p>18</p> <p>19</p> <p>20 A. Which date, sorry?</p> <p>21 Q. The letter is the 26th, you see.</p> <p>22 A. Okay.</p> <p>23 Q. I want to try to pinpoint when the site meeting was.</p> <p>24 There was a site meeting with you, Ah Chun, Jon Kitching, Regina Wong and Cheung Chi Wai; right?</p> <p>25</p>

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<p>1 A. I can't remember the date exactly. 2 Q. Was it before or after this letter? 3 A. I don't know. 4 Q. In the letter -- are you saying you never saw this 5 letter, the 26 February one? 6 A. I saw it recently. 7 Q. You saw it recently? 8 A. Yes. 9 Q. Because in that letter it talks about your instructions 10 and the mismatch, you see. 11 A. Yes, in the letter. Yes. 12 Q. Yes. Now, did anyone raise that with you, that there 13 was a mismatch allegation in Wing &amp; Kwong's letter? 14 CHAIRMAN: Sorry, when you say "mismatch" ...? 15 MR TSOI: The parallel threaded rebar, in the letter. 16 CHAIRMAN: The letter, thank you, yes. Thank you. 17 A. Sorry? 18 MR TSOI: Did anyone raise the issue of mismatch with you, 19 in Leighton, when they received this letter around that 20 time, 26 February 2018? 21 A. I think it was discovered and recorded in the NCR. 22 Q. Right. So you knew about it? 23 A. When the NCR was issued. 24 Q. When the NCR was issued. So you knew when the NCR was 25 issued about the Lenton coupler; right?</p>	<p>1 A. I was surprised, yes. 2 Q. Well, this is your bit. This is the stitch joint. You 3 are supposed to inspect it. Surely you talked to 4 someone about it in Leighton and said, "Hold on, 5 I inspected this. It was normal. I don't know why 6 there's this allegation." Surely you spoke to someone 7 in Leighton about this; right, surely? Or you don't 8 remember? 9 A. I don't remember. 10 Q. I see. Let's start again. Now, at the site meeting 11 with Ah Chun and Jon Kitching and Cheung Chi Wai, did 12 you recall Jon Kitching asking any questions of 13 Ah Wah -- sorry, of Ah Chun, the foreman? 14 A. I don't remember. 15 Q. You don't remember Jon Kitching asking any questions? 16 A. I don't remember the events, but they were chatting and 17 I was aside. 18 Q. They were chatting, you were aside? 19 A. Yes. 20 Q. So you're not interested? 21 A. I had other works ongoing as well. I initiated the 22 meeting, yes. 23 Q. Sorry, you initiated the meeting, you attended the 24 meeting, but you were aside, not interested in the 25 meeting?</p>
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<p>1 A. Yes, at that time, yes -- 2 Q. I see. Because that's completely inconsistent with what 3 you said this morning. You said you discovered about 4 the Lenton coupler when it was remedial works. So which 5 one is it? Did you discover it when the NCR was issued 6 or at the time of the remedial work? 7 A. I remember the NCR was issued in February. 8 Q. Right. So, at that time, you knew there was a mismatch 9 of material? 10 A. Only at that time, yes. 11 Q. Right. Were you shocked? 12 A. Yes. 13 Q. Did you talk to anyone about it, in Leighton? 14 A. I don't remember, but -- I don't remember. 15 Q. You don't remember? This was last year. Come on, 16 Mr Lai. 17 A. I just don't remember. 18 Q. Okay. Let's try again. You don't remember speaking to 19 anyone about the mismatch; right? That's your evidence 20 so far; yes? 21 A. Yes. 22 Q. But this is the work that you have spent an hour/two 23 hours inspecting, and hours of routine inspection. Were 24 you not surprised? Didn't you want to talk to anyone 25 about it?</p>	<p>1 A. I was doing something else. They had their own chats. 2 Q. So, in the site meeting, you were doing something else 3 in the same room; yes? 4 A. It was an open area. 5 Q. I see. So you're just not involved in the meeting? 6 A. The inspection I was, just wasn't the initial meeting. 7 Q. Right. You see, this is what I'm getting at. You had 8 received by then the NCR, right, so you know exactly 9 it's about the stitch joint, the area you inspected, 10 supposedly; yes? 11 A. Yes. 12 Q. And this meeting, you called for it, and it was about 13 the stitch joint? 14 A. Leighton called for it. 15 Q. I thought you called for it. You said you called for 16 it. "I called for it", you said. 17 A. No, I asked Wing &amp; Kwong to attend the meeting because 18 I had their contact, but it was called for by the 19 company. 20 Q. Right. So you called Wing &amp; Kwong, Ah Chun, over for 21 a meeting; right? 22 A. Yes. 23 Q. And you were not actually involved in the meeting? 24 A. I was involved during the site inspections. 25 Q. But not in the meeting?</p>

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<p>1 A. A site inspection is still a meeting, yes. 2 Q. Hold on. This is a meeting with Jon Kitching; right? 3 A. Yes. 4 Q. And Cheung Chi Wai? 5 A. I was not involved in that meeting. 6 Q. You were not involved in that meeting? 7 A. No. 8 Q. You see, Ah Chun, Jon Kitching and Cheung Chi Wai, all 9 of them say you were in that meeting, so which one is 10 it? Were you in the meeting or were you not in the 11 meeting? I'm kind of lost. 12 A. I was in the meeting -- 13 Q. So now you were in the meeting, okay. And? 14 A. They had their discussions. I wasn't aware of what was 15 spoken. 16 Q. You were not aware of what was spoken? 17 A. Correct. 18 Q. They were talking about the stitch joint that you 19 inspected. You were not aware of what was spoken? 20 Seriously? 21 A. Yes. 22 Q. So what were you doing in the meeting? 23 A. I was close by the table that they were meeting, but 24 I had other works ongoing as well. 25 Q. Did you care about what they said to each other? Did</p>	<p>1 Q. You don't remember? 2 A. No. 3 Q. This was -- of course, when you received the NCR, the 4 stitch joint that you inspected, and you called Ah Chun 5 for the site meeting; right? 6 A. Sorry? 7 Q. You called Ah Chun, right, for the site meeting? 8 A. Yes. 9 Q. Did you call him directly? 10 A. Yes. 11 Q. What did you tell him? 12 A. Sorry? 13 Q. What did you tell him when you called him directly? 14 What did you say? 15 A. Said -- request a meeting. 16 Q. For what? 17 A. Would have been about the seepage. 18 Q. Would have been about the seepage? 19 A. Yes. 20 Q. Did you say anything else? 21 A. I don't remember. 22 Q. You don't remember. But you knew about the location, 23 right? It's about the seepage of the stitch joint? 24 A. Yes. 25 MR TSOI: Sorry, something troubles you, Mr Chairman?</p>
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<p>1 you care about Ah Chun said? 2 A. I didn't take much notice at the time. 3 Q. No. I said: did you care about what Ah Chun may say or 4 what Jon Kitching may be asking? 5 A. If there was any discussion needs to pass back onto me, 6 I'm sure my seniors would have told me afterwards. 7 Q. Sorry, can you explain that again? If there was 8 something that your seniors thought they need to pass to 9 you, they would come to you afterwards? 10 A. Yes. 11 Q. But this is the joint -- you inspected and you worked 12 with Ah Chun, right, and you were there? You were just 13 not involved in that meeting? 14 A. I was involved in the meeting, for the site inspections. 15 Q. Now I'm a bit lost. So Jon Kitching was talking to 16 Ah Chun, right, through Cheung Chi Wai? 17 A. Yes. 18 Q. But you were not involved in that process? 19 A. They were chatting, yes. 20 Q. So you were not involved in that process? You didn't 21 know what they were talking about? 22 A. No. 23 Q. Afterwards, did Jon Kitching come say to you what he 24 asked Ah Chun and what Ah Chun said? 25 A. I don't remember.</p>	<p>1 CHAIRMAN: Sorry, Mr Tsoi, I really don't want to hold you 2 back, but it's not the aim, and I made that clear in the 3 first portion of the Inquiry, to look to pinning 4 individual -- 5 MR TSOI: I understand. 6 CHAIRMAN: -- guilt, if I can put it that way. That's 7 perhaps an overstatement. 8 MR TSOI: I understand. 9 CHAIRMAN: What we are more interested in as a Commission is 10 obviously general conduct and inter-reaction, but we are 11 looking more at oversight, management issues, and 12 culpability there. Do you see what I mean? 13 MR TSOI: I was about to come to that. 14 CHAIRMAN: And I appreciate entirely that there is 15 a conflict between the bar fixers who you represent and 16 Leightons as to what happened, and that's why we were 17 both giving you -- 18 MR TSOI: Some leeway. 19 CHAIRMAN: Well, a fair amount of leeway, but it's just to 20 remind you that this is not a criminal trial, as such, 21 of each individual. It's more looking at, through the 22 evidence of individuals, what is reflected by way of 23 a broader aspect as to oversight and management and 24 safety issues, and all that sort of stuff. 25 MR TSOI: I will come to that and I will bear in mind</p>

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<p>1 completely that this not a criminal trial. 2 CHAIRMAN: As I say, it's not meant as a criticism. 3 MR TSOI: No, no, sometimes the old habits will just pop in 4 and I can't stop it. 5 So let's talk about that. This is now the stitch 6 joint that you had supposedly inspected and now we see 7 all this disconnect and cracking and problems; right? 8 A. Yes. 9 Q. Now, rebar and coupler use or connections, that's not 10 just the three stitch joints and the shunt neck joint, 11 is it? It happened on other locations of NSL and the 12 EWL; you see? 13 A. Yes. 14 Q. And you did inspections for those as well, right, or 15 some of those? 16 A. Yes. 17 Q. Did it not concern you that if this is the type of 18 quality of work that you passed inspection, then you may 19 have some concern about the other locations that you 20 inspected? Did that cross your mind? 21 A. At that time, we had no defects reported. 22 Q. No, but now you know about the defect, and now you see 23 there was, for example, the photo I showed you, there 24 was a complete disconnect with the rebar and the 25 couplers, that you supposedly inspected; right?</p>	<p>1 Q. No, did you raise it with your superior? 2 A. I don't remember. 3 Q. You don't? 4 A. I don't remember. 5 Q. I'm suggesting you didn't, because you knew, for the 6 three stitch joints and the shunt neck joint, you were 7 the one who told Ah Chun to do it that way. 8 A. I didn't tell him to do it in any way. It was just 9 a normal rebar fixing. 10 Q. When you learned about the use of Lenton couplers on the 11 1111 side of the interface, did you talk to anyone about 12 it? It must have been a shock to you, because you 13 didn't know before? 14 A. Yes, I've raised it out that I was not notified in any 15 way. 16 Q. Who did you raise it with? 17 A. At the time, my senior would be ... 18 Q. Joe? Chan Hon Sun? Joe Tam? Jon Kitching? 19 A. No, it was Colin. 20 Q. Colin? 21 A. Mitchell. 22 Q. All right. Did you talk to Jon Kitching, Joe Tam or 23 Chan Hon Sun about it? 24 A. No. 25 Q. Did you talk to Regina Wong?</p>
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<p>1 A. Mm-hmm. 2 Q. But you have also inspected other areas of the NAT. 3 Were you not concerned that your inspection may be not 4 as satisfactory as it should be, in those other 5 locations as well? Did you care? 6 A. Yes, I care. Yes. 7 Q. Did you say this to your boss: "Hold on, I don't know 8 how I missed this, this is obvious, but let's check the 9 other locations that I also inspected"? 10 A. They are -- we have conducted other checks in the 11 tunnel. 12 Q. Right. That's not my question though. Did you raise it 13 with your boss or your superiors that, "Hold on, I also 14 did inspections for other inspections in the North 15 Approach Tunnel, and if this is what I missed then we'd 16 better check those as well"? Did you say that to your 17 boss? 18 A. No, if it's issued in NCR, then we have own our proposal 19 to try to confirm the inspections. 20 Q. Yes, I understand that, but can you answer the question: 21 did you raise that concern with your boss? Because 22 after your inspection, this is what happens. Did you 23 raise it with your boss that, "We should check the other 24 parts of the NAT as well"? 25 A. It was raised already, I mean, yes.</p>	<p>1 A. Regina, I don't think so, no. 2 Q. Were they surprised at what you said to them, that you 3 didn't know about the 1111 side of the interface used 4 Lenton couplers? 5 A. I don't remember their reactions. 6 Q. What exactly did you say to them; do you remember? The 7 people you spoke to. 8 A. I remember I told Colin that I didn't know and I was 9 shocked, yes. 10 Q. You told Colin you didn't know and you were shocked? 11 A. Yes. 12 Q. Did you tell Jon Kitching? You say you didn't? 13 A. No. 14 Q. You didn't talk to Jon Kitching? 15 A. No, because at the time Colin was my boss and I talked 16 to him directly, yes. 17 Q. Now, we've seen the statement of Jon Kitching. He says 18 he spoke to you about the Wing &amp; Kwong letters; right? 19 A. Okay, from the statement, yes. 20 Q. Do you now recall or accept that he did speak to you 21 about the Wing &amp; Kwong letters? Or you don't remember? 22 A. I don't remember. 23 Q. Right. Did anyone say to you -- sorry, you spoke to 24 Colin about the Lenton couplers? 25 A. Yes.</p>

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<p>1 Q. Was he shocked that you didn't know that Lenton couplers 2 were used on the 1111 side of the interface? 3 A. I don't remember his reaction. 4 Q. You don't remember his reaction; you just remember 5 telling him, yes? 6 A. Yes. 7 COMMISSIONER HANSFORD: Sorry, I may have missed something 8 here. Can I be reminded who Colin is? 9 MR TSOI: It's an individual called Colin Mitchell, who is 10 a construction manager. 11 COMMISSIONER HANSFORD: Thank you. That's fine. I will do 12 my homework in a break. 13 MR TSOI: I'm doing it right now. 14 Is he above Joe Tam? 15 A. I'm not sure of their positions, the grades, how we 16 would distinguish whether ... 17 Q. If we go to CC535, we can see an organisation chart that 18 may show, I'm not sure. 19 COMMISSIONER HANSFORD: Ah yes, I see, underneath Jon 20 Kitching in the middle. But that's in a different 21 branch of the organisation, isn't it? Maybe. Where's 22 Joe? I've lost Joe Tam now. 23 MR TSOI: I can't see Joe Tam either. 24 COMMISSIONER HANSFORD: Joe Leung. 25 MR PENNICOTT: What date is this?</p>	<p>1 MR TSOI: That I have to seek assistance from -- 2 COMMISSIONER HANSFORD: Mr Shieh, is this an organisation 3 chart with Joe Leung having replaced Joe Tam? 4 MR SHIEH: Just a wild guess: maybe Colin Mitchell replaced 5 Joe Tam, because Joe Tam -- 6 COMMISSIONER HANSFORD: Like I said earlier, we will do our 7 homework in the break. 8 MR SHIEH: We can ask the witness, maybe. 9 COMMISSIONER HANSFORD: But we now know Colin Mitchell is 10 the construction manager. Thank you very much. 11 MR TSOI: Yes, because if you leave it on the screen, you 12 see, Mr Lai, Regina Wong, whose name is directly above 13 you, she attended various interface meetings, you see, 14 and she knew about the Lenton couplers. 15 A. Yes. 16 Q. And Chan Hon Sun, your immediate superior when you were 17 working at the NAT site -- Chan Hon Sun -- 18 A. Yes. 19 Q. -- he knew about the Lenton couplers, because he 20 attended some of the interface meetings? 21 A. On that basis, yes. 22 Q. Joe Tam, he knew about the Lenton couplers too, because 23 people reported to him? 24 A. On that basis, yes. 25 Q. You know Jim Wong, right, you said?</p>
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<p>1 COMMISSIONER HANSFORD: Maybe because it's a different date, 2 is it? 3 MR TSOI: February 2018, yes. 4 MR SHIEH: The one at 535, we can see Colin Mitchell, and on 5 the right-hand side, next to HHS, down there is Joe 6 Leung, and then there's Regina Wong and Henry Lai. 7 If we have the one at CC2/535, if we find Colin 8 Mitchell, then -- maybe 4 o'clock, Colin Mitchell, one 9 sees. 10 COMMISSIONER HANSFORD: Okay. Can we go to that one, 11 please. 12 MR SHIEH: CC2/535. 13 COMMISSIONER HANSFORD: It is 535? 14 MR SHIEH: Yes. 15 COMMISSIONER HANSFORD: So where is Joe Tam on here? I've 16 lost him. 17 MR SHIEH: Joe Tam is not here, but Henry Lai is 4 o'clock 18 to Colin Mitchell. 19 COMMISSIONER HANSFORD: Yes. So we have Henry Lai, Regina 20 Wong, Joe Leung, and then Colin Mitchell, in the line 21 of -- in the hierarchy. 22 MR TSOI: Yes. I'm very grateful. 23 COMMISSIONER HANSFORD: So this is -- presumably, this is 24 an organisation chart showing Joe Leung having replaced 25 Joe Tam; is that right?</p>	<p>1 A. Yes. 2 Q. Who is Jim Wong? 3 A. Jim Wong, he was at the time on the NAT Tunnel senior 4 site agent. 5 Q. Right, and you worked with him too; right? 6 A. Yes. 7 Q. You see, all these people knew about the Lenton couplers 8 at the relevant time. You are the only one who says you 9 didn't. 10 A. I never received any information from them. 11 Q. From any of them? 12 A. No. 13 Q. And afterwards, when the water seepage came out, you 14 never spoke to any one of them about the Lenton 15 couplers? 16 A. I didn't know they were Lenton couplers at the time. 17 Q. No, you said when the NCR came out, so seepage -- 18 A. Yes, the seepage now. 19 Q. -- you then knew about the Lenton couplers? 20 A. Yes. Then, when the -- 21 Q. So after that, did you speak to any one of them? 22 A. I don't believe I spoke to any one of them. I spoke to 23 Colin about that I had no information about the Lenton 24 couplers. 25 Q. You only spoke to Colin?</p>

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<p>1 A. Yes.</p> <p>2 Q. Why didn't you speak to Joe Tam? Because Joe Tam, you</p> <p>3 see -- Joe Tam and Chan Hon Sun, they were your</p> <p>4 superiors when you worked on the NAT site. Why didn't</p> <p>5 you speak to them?</p> <p>6 A. They were not my superiors at the time that it was</p> <p>7 discovered, so I spoke to my immediate senior.</p> <p>8 COMMISSIONER HANSFORD: Your immediate senior is Joe Leung?</p> <p>9 A. Joe Leung, yes, at the time, but I spoke with Colin.</p> <p>10 COMMISSIONER HANSFORD: Which is one up?</p> <p>11 A. Yes.</p> <p>12 MR TSOI: Sorry, but Regina Wong here is right above you;</p> <p>13 right? But you didn't speak to her either?</p> <p>14 A. No.</p> <p>15 Q. BB6363, please. We are going back to that chart.</p> <p>16 I'm sure you know --</p> <p>17 CHAIRMAN: Sorry, could I just ask one question --</p> <p>18 I apologise -- did you attend any of the interface</p> <p>19 meetings?</p> <p>20 A. No.</p> <p>21 CHAIRMAN: Were the Leighton attendees at those meetings</p> <p>22 senior to you?</p> <p>23 A. Yes.</p> <p>24 CHAIRMAN: Did those senior personnel, having attended</p> <p>25 interface meetings, pass down information to you, that</p>	<p>1 Q. That was the relevant time -- at the relevant time,</p> <p>2 about the interface?</p> <p>3 A. At the --</p> <p>4 Q. Meetings that took place in 2015 to 2017.</p> <p>5 A. I never saw them, never saw the minutes.</p> <p>6 Q. You never saw those minutes?</p> <p>7 A. I only saw them during the remedial stage, that there</p> <p>8 were mentions of Lenton couplers used at the interface</p> <p>9 joints.</p> <p>10 Q. Right. Now, you saw those minutes, right, at the</p> <p>11 remedial stage?</p> <p>12 A. Yes.</p> <p>13 Q. So you saw who attended those meetings --</p> <p>14 A. Yes.</p> <p>15 Q. -- on behalf of Leighton?</p> <p>16 A. Yes.</p> <p>17 Q. Did you not talk to those attendees and ask them, "Why</p> <p>18 didn't you tell me about the Lenton couplers"? Because</p> <p>19 Regina Wong was there, Jim Wong was there. Why didn't</p> <p>20 you go and say, "Hey, look at the meeting minutes. You</p> <p>21 were there. Why didn't you tell me about the Lenton</p> <p>22 couplers at the time?"</p> <p>23 A. At that time, I already reported that I didn't know --</p> <p>24 it didn't strike me to try to pinpoint why it was not</p> <p>25 passed down to me.</p>
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<p>1 you can remember, of any kind?</p> <p>2 A. No.</p> <p>3 CHAIRMAN: Did you receive from those senior members of</p> <p>4 Leighton, or more senior members of Leighton, any form</p> <p>5 of documentation telling you and members of the team</p> <p>6 with you what had transpired at those interface</p> <p>7 meetings?</p> <p>8 A. Not during the construction period.</p> <p>9 CHAIRMAN: Okay. When you say "not during the construction</p> <p>10 period", do you mean at any other period you did?</p> <p>11 A. It was later that the -- tried to identify the Lenton</p> <p>12 couplers, then we tried to find the minutes. So it was</p> <p>13 at a later stage, like remedial stage.</p> <p>14 CHAIRMAN: All right. So, in other words, during the</p> <p>15 construction period, if I understand it, you were not</p> <p>16 verbally advised by any of your seniors who had attended</p> <p>17 interface meetings of what had transpired, nor did you</p> <p>18 receive any form of written memorandum as to what had</p> <p>19 transpired at the interface meetings?</p> <p>20 A. No.</p> <p>21 CHAIRMAN: So, on that basis, nothing of relevance to you?</p> <p>22 A. No.</p> <p>23 MR TSOI: So there was a point that you saw the interface</p> <p>24 meeting minutes?</p> <p>25 A. At remedial stage, yes.</p>	<p>1 Q. I don't quite get that. This is your inspection. This</p> <p>2 is your area of inspection.</p> <p>3 CHAIRMAN: I suppose -- again, I'm not trying to take sides</p> <p>4 here.</p> <p>5 MR TSOI: No, no, no.</p> <p>6 CHAIRMAN: But we are talking about a large organisation,</p> <p>7 which has rank and hierarchy -- senior engineers,</p> <p>8 project managers -- they are undertaking work, and</p> <p>9 perhaps, I don't know, but it might be worthy just to</p> <p>10 canvass the degree to which there is familiarity between</p> <p>11 people of different levels of authority or not.</p> <p>12 MR TSOI: I understand. I could ask that.</p> <p>13 CHAIRMAN: I can imagine perhaps a very junior engineer not</p> <p>14 particularly wishing to sidle up to and be chummy with</p> <p>15 a project manager, for example, at a site meeting. Do</p> <p>16 you see the point I make? I'm just trying to look at it</p> <p>17 more broadly. There are hierarchies and in different</p> <p>18 cultures sometimes those hierarchies are more</p> <p>19 pronounced.</p> <p>20 MR TSOI: Yes, but as Mr --</p> <p>21 CHAIRMAN: I just make that comment so that any questions</p> <p>22 you put can then be within that, or at least bearing in</p> <p>23 mind that comment.</p> <p>24 MR TSOI: Sure. Let me canvass -- so you knew Chan Hon Sun;</p> <p>25 right? He's not your superior, is he, or was he your</p>

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<p>1 superior at any time? 2 A. He was during various construction stages, yes. 3 Q. But by the time of the remedial work was he still your 4 superior or were you just colleagues? 5 A. No, he was not my superior. 6 Q. Right, so at that time he's not your superior. How 7 about Regina Wong? 8 A. Yes, she was for the remedial works, yes. 9 Q. Joe Tam? 10 A. He was not here. 11 Q. He was not here; right? 12 A. Yes. 13 Q. "Not here" as in no longer in Leighton? 14 A. He was not in the project. 15 Q. He was not in the project? 16 A. Yes. 17 Q. So he's no longer your superior at the time when you did 18 the remedial works? 19 A. No. 20 Q. So you didn't report to him or anything? 21 A. No. 22 Q. So Chan Hon Sun, because he knew about the Lenton 23 couplers, because you saw the minutes, he attended some 24 of the interface meetings? 25 A. Yes.</p>	<p>1 competence as an engineer, to look for faults, to check 2 rebar fixing works and all that; yes? 3 A. Yes. 4 Q. Right? Surely, when you knew that Lenton couplers were 5 used, by April or by the remedial work stage -- 6 A. Yes. 7 Q. -- and that someone else in the company also knew, in 8 your team, you would want to speak to them about it, 9 surely? 10 A. No. 11 Q. No? You just don't care? 12 A. I care but there was no need to speak to them. 13 Q. Sir, I've got some handwriting I can't decipher. I'm so 14 sorry. I might come back to that. 15 I'm so sorry, page 6363 we were on, the chart. 16 I want you to go to entry 45. That is the shunt 17 neck bay 3 track slab; do you see that? 18 A. Yes. 19 Q. Now, the work, the rebar fixing work there, commenced 20 and completed on 4 January? 21 A. Yes. 22 Q. And the pre-pour -- sorry, the pouring of the concrete 23 was 5 January? 24 A. Yes. 25 Q. As you know, and you know this is coming, Ah Chun's</p>
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<p>1 Q. Did you not ask Chan Hon Sun, who is now no longer in 2 your team, who is not your superior, "Hey, you didn't 3 tell me about the Lenton couplers"? 4 A. I didn't think of it at that time, no. 5 Q. And Joe Tam too, I suppose? 6 A. Yes. 7 Q. Why not? 8 A. Didn't think of it at the time. 9 Q. You were just happy that you can say, "I didn't know 10 about the Lenton couplers"? 11 A. At the time the remedial work already started. 12 Q. Right. 13 A. So, yes, I just didn't think of it at the time, to ask 14 what happened in the past. 15 Q. Yes, but this is a matter, as you say in your third 16 statement -- this is a matter that went to your 17 professional integrity, and you are the person who 18 passed inspections of these locations. Surely you 19 wanted to say something to the people who knew about the 20 Lenton couplers; right? That's only natural, isn't it? 21 A. Sorry, can you say that again? 22 Q. You said, in your third statement, that these are 23 matters that go to your professional integrity; right? 24 A. Yes. 25 Q. And they are. They go to your competence in inspection,</p>	<p>1 evidence is that on 3 January he called you about the 2 Lenton couplers. You deny that; right? 3 A. Yes. 4 Q. So he never called you? 5 A. No. 6 Q. And on the 4th Wing &amp; Kwong, just as normal, went to the 7 site and did the rebar fixing, with the Lenton couplers 8 there? 9 A. The work went on, yes. 10 Q. Yes, so they must have -- using parallel threaded rebars 11 and screwing them into Lenton couplers, that must be 12 a matter of fact, that's what happened, yes, on the 4th? 13 A. I was not aware of any problems. 14 Q. Yes, and then you inspected the works with Chris Chan -- 15 A. Yes. 16 Q. -- of MTR -- 17 A. Yes. 18 Q. -- and you both passed the inspection? 19 A. Yes. 20 Q. If I can take you to the other entry, 5 January, 21 entry 38. So that is the East West Link bay 4 East Wall 22 pour 3, et cetera, and that we see the commencement of 23 the rebar fixing work on 5 January? 24 A. Yes. 25 Q. So, when the shunt neck joint bay 3 track slab was being</p>



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<p>1 poured, Ah Chun's team was already somewhere else, 2 conducting rebar fixing work; do you agree with that? 3 A. Yes. 4 Q. I'm going to suggest to you, on 3 January, Ah Chun did 5 make a phone call to you, informing you about the 6 tapered threaded couplers. Do you agree with that? 7 A. Disagree. 8 Q. You disagree. And there was no reason why he would take 9 the risk of trying to screw in the parallel threaded 10 rebar into a Lenton coupler, because you just can't 11 screw them in? 12 A. Sorry, can you say that again? 13 Q. There is no reason, but for your instruction, for him to 14 screw in or try to screw in parallel threaded rebars? 15 CHAIRMAN: I'm not sure about that question, because I don't 16 know that he can really answer that, because there may 17 be reasons that we haven't come to yet -- 18 MR TSOI: I shall take refuge in Mr Pennicott's question and 19 answer. 20 Now, I'm not going to take you through Ah Chun's 21 statement of the various conversations that he says he 22 had with you, unless the Commission wants me to, because 23 your case is simply that he never did, he never called 24 you, he never told you anything. 25 A. Yes.</p>	<p>1 Q. If you admit that you told a sub-contractor to screw in 2 a parallel threaded rebar into a taper-cut coupler, your 3 career with Leighton is over? 4 A. No. 5 Q. Oh, so Leighton would continue to engage you, would 6 they? 7 A. No. I wouldn't have given those instructions. 8 Q. In fact, your career as an engineer may be over? 9 A. I never receive any problems and no instructions were 10 given by me to him. 11 Q. That's why I'm suggesting to you that you came to this 12 Commission yesterday and today and you have no choice 13 but to lie about -- notwithstanding you have spent one 14 to two hours looking at these joints, you did not see 15 a single defective connection with the rebar and 16 coupler. Do you accept that? 17 A. I was not -- 18 CHAIRMAN: Sorry, there are two questions there. One 19 suggests telling an untruth. The other suggests he 20 didn't see the -- 21 MR TSOI: Because of what I say, the "didn't see" is the 22 untruth. 23 CHAIRMAN: All right. 24 COMMISSIONER HANSFORD: It just may be slightly 25 complicated --</p>
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<p>1 Q. You've worked in Leighton since 2013. This is your 2 first long-term job after you graduated? 3 A. Yes. 4 Q. In fact, you were promoted in April, so after the water 5 seepage matter came to light you were promoted to senior 6 engineer? 7 A. Yes. 8 Q. Ah Chun is a rebar fixer -- no, sorry, a foreman; yes? 9 A. Yes. 10 Q. On site, normally, if there were any problems, he would 11 call you and you would give him instructions? 12 A. Sorry, say that again. 13 Q. On site, when he was working with you, he would call you 14 and seek instructions, and you would tell him what to 15 do? 16 A. If there were problems, yes. 17 Q. That's his normal practice? 18 A. Yes. 19 Q. Of course, Ah Chun, being a foreman, if it is said by 20 Wing &amp; Kwong, he can just go somewhere; we don't know. 21 But you, if you admit that you told Ah Chun to screw in 22 the parallel threaded rebars into Lenton coupler as much 23 as possible, your career at Leighton would be over; 24 would you accept that? 25 A. Sorry, can you say that again?</p>	<p>1 MR TSOI: No, it's my fault. 2 CHAIRMAN: I think we have the picture. I don't think you 3 need to put it to him. 4 MR TSOI: I see the time. Can I just ask for a slightly 5 earlier break, just to make sure I haven't missed 6 anything? I'm pretty sure I've completed my 7 cross-examination, but I just want to check to make 8 sure. 9 CHAIRMAN: Yes, certainly. It's about two minutes to 1.00 10 now. We can then have the luncheon adjournment. 11 MR PENNICOTT: Before you rise, can I just have a word with 12 Mr Tsoi and Mr Shieh, because I know there's a witness, 13 the next Wing &amp; Kwong witness, there may be reasons for 14 him to be released, to save him sitting around this 15 afternoon. 16 CHAIRMAN: Yes, of course. 17 (Discussion off the record) 18 MR PENNICOTT: Sir, if my learned friends Mr Khaw and 19 Mr Boulding are still going to be the sort of time that 20 they indicated last night, and for reasons which may 21 become apparent later, my view is that we should -- the 22 next witness is Ben Cheung, Mr Cheung from Wing 23 &amp; Kwong -- we should stand him down this afternoon. 24 CHAIRMAN: All right. 25 MR PENNICOTT: And if we lose a bit of time this afternoon,</p>

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<p>1 we lose it. I don't think it's going to be critical. 2 But I am told by Mr Shieh that there might be another 3 witness statement coming from Leighton which might be 4 relevant to Mr Cheung in any event. 5 CHAIRMAN: Thank you very much. You have a far better idea 6 of what lies ahead and the matters there. I will rest 7 with that. 8 MR PENNICOTT: Right. 9 CHAIRMAN: So we can give -- Mr Cheung, is it? 10 MR PENNICOTT: Yes. 11 CHAIRMAN: We can give him the required notice that he 12 needn't stay this afternoon. 13 MR PENNICOTT: I think we should do that, yes. 14 CHAIRMAN: All right. When should we start this afternoon, 15 how are we looking, absent Mr Cheung? 16 MR PENNICOTT: I think it would be safer to start at 2.15 in 17 any event, unless I'm told it's going to be shorter. 18 MR BOULDING: Sir, a lot of my thunder has been stolen, so 19 I'm going to be a little bit shorter than I predicted 20 yesterday, I would have thought 15 or 20 minutes, 21 because a lot of the matters I wanted to ask this 22 witness about have been ventilated already. 23 CHAIRMAN: All right. Fine. 24 MR KHAW: Mr Chairman, I said 40 minutes yesterday. I think 25 I will be about 30 to 35 minutes.</p>	<p>1 The first matter is Leighton's failure to issue RISC 2 forms. As I read your witness statement, you say, do 3 you not, that during the construction period, MTR's 4 engineers and inspectors did not complain about or 5 mention the fact that RISC forms were not completed for 6 rebar fixing and pre-pour inspection; that's your 7 evidence, is it not, Mr Lai? 8 A. Sorry, which statement? 9 Q. If you would like to look at your statement, we can go 10 to your first statement at paragraph 30. That's CC93 11 and 94. 12 If we pick it up just before we go on to the next 13 page, do you see that there you say: 14 "During the construction period, MTRCL's 15 construction engineer/inspector of works did not 16 complain about or mention the fact that RISC forms were 17 not completed for rebar fixing checks and pre-pour 18 checks." 19 Do you see that? 20 A. Yes. 21 Q. I've got to suggest, Mr Lai, that that's simply not 22 correct, is it? That's not correct. 23 A. As I aware, I was -- I didn't receive complaint. 24 Q. Well, it's right, is it not, that Mr Tony Tang -- you 25 know Mr Tony Tang, do you not, of MTR?</p>
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<p>1 CHAIRMAN: That was obviously a careful refinement 2 overnight! 3 MR PENNICOTT: Sir, on that basis, probably 2.30 is all 4 right. 5 CHAIRMAN: We will start at 2.15, out of an abundance of 6 caution. 7 MR PENNICOTT: Yes, indeed. 8 CHAIRMAN: Thank you. 2.15. 9 (1.01 pm) 10 (The luncheon adjournment) 11 (2.17 pm) 12 MR TSOI: May it please you, Chairman and Professor, I have 13 no further questions. 14 CHAIRMAN: Thank you very much. 15 Who is going next? 16 MR BOULDING: I'll go next, sir. 17 CHAIRMAN: Thank you. 18 Cross-examination by MR BOULDING 19 MR BOULDING: Good afternoon, Mr Lai. 20 A. Good afternoon, sir. 21 Q. As you probably heard me say before the luncheon 22 adjournment, many of the matters that I wanted to ask 23 you about have been covered already by my learned 24 friends, but there are one or two points that I would 25 like to ask you about.</p>	<p>1 A. Yes. 2 Q. And he made repeated oral complaints to you, in 2016 and 3 2017, in relation to outstanding RISC forms; that's 4 correct, isn't it? 5 A. Yes, he may have. 6 Q. So, on the basis of that answer, for you to suggest, as 7 you do, in the paragraph of your witness statement that 8 we've just looked at, that "MTR's construction 9 engineer/inspector of works did not complain about or 10 mention the fact that RISC forms were not completed for 11 rebar fixing checks and pre-pour checks", is simply not 12 correct, is it? 13 A. But the complaint was a later stage. It wasn't during 14 the construction stage. 15 Q. Well, it was during 2016 and 2017, as Mr Tony Tang says 16 and you've just agreed. 17 A. Well, he may have said it and I may have overlooked it. 18 Q. So you accept Mr Tang told you and made complaints to 19 you in relation to the outstanding RISC forms? That's 20 your evidence now, is it, Mr Lai? 21 A. I'm unsure. I'm unsure. 22 Q. Well, I don't want there to be any doubt about this. 23 Please can we look at Mr Tony Tang's witness statement, 24 which is at BB126. If you would be kind enough to look 25 at paragraph 25, do you see Mr Tang says there:</p>

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<p>1 "For most of the inspections that I conducted in NAT 2 (other than the North Fan Area), Leighton never 3 submitted any RISC form." 4 As a matter of fact, that's correct, isn't it? 5 A. Yes. 6 Q. Then: 7 "Between 2016 and 2017, I made repeated oral 8 complaints to Henry Lai" -- and we'll forget about the 9 other two for the time being -- "in relation to the 10 outstanding RISC forms, but to no avail." 11 What he says there, I suggest to you, Mr Lai, is 12 correct, is it not? 13 A. He may have said it but I don't remember. 14 Q. We heard that answer many, many times during the course 15 of your evidence, Mr Lai. 16 A. Yes. 17 Q. But it doesn't stop there because we were taken by 18 Mr Tsoi this morning to a document that I'd just like to 19 look at with you, if I may: BB2245, please. 20 Here we see, do we not, an email that I think 21 Mr Pennicott or Mr Tsoi took you to this morning, do you 22 see, 24 March 2017? 23 A. Yes. 24 Q. You can take it from me that that email, whilst it 25 doesn't go direct to you, goes to eight Leighton</p>	<p>1 Mr Kong goes so far as to draw the attention of the 2 recipients to the relevant clause in the General 3 Specification? Do you see that clause, G12.4.3? 4 A. Yes. 5 Q. And for good measure, if we go on to BB2246, we can see, 6 can we not, that he went so far as to append it? 7 A. Okay. Sorry? 8 Q. Is that an answer? 9 A. Sorry, can you repeat the question? 10 Q. Yes. What I was suggesting to you is that if you were 11 to go to page BB2246 -- and it looks as though you are 12 there -- that Mr Kenneth Kong went so far as to draw the 13 recipients of the email's attention to clause G12.4.3 of 14 the General Specification; correct? 15 A. Yes. 16 Q. And he says -- go back to BB245 -- in the second 17 paragraph, having identified that clause: 18 "... your current performance near 'zero submission 19 of RISF' is totally unacceptable for the above-mentioned 20 locations. 21 In order to avoid any breaching of the contract 22 obligation and please chase your guys to take 23 immediately follow-up action for this issue." 24 Do you see that? 25 A. Yes.</p>
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<p>1 employees, with the first person being Mr Ian 2 Rawsthorne; do you see that? 3 A. Yes. 4 Q. We can see that he is saying, can we not: 5 "Dear Ian, 6 It is very disappointed for your frontline 7 engineers/agents without submit the request for 8 inspection form to our inspectors/construction engineers 9 I/II for any black and white notice of works through the 10 RISF for a certain months. This cases were mostly 11 happened at SAT, NAT and HHS respectively. The 12 contractor should adequate notice MTR through the RISF 13 to our construction engineers I/II/inspectors to carry 14 out the individual on-site inspection." 15 So we can see, can we not, that that's the nature of 16 Mr Kenneth Kong's, senior inspector of works's, 17 complaint? 18 A. Yes. 19 Q. And he is correct, is he not, that is something which 20 Leighton indeed should have done? 21 A. Sorry, can you say it again? 22 Q. Yes. He is correct in his complaint: Leighton ought to 23 have been submitting RISC forms, should they not? 24 A. Yes. 25 Q. We can see, can we not, that in the second paragraph</p>	<p>1 Q. If we look up at the recipients, we can see, can we not, 2 under the "cc", that this email goes to a Mr Hon Sun 3 Chan; correct? 4 A. Yes. 5 Q. And Hon Sun Chan was, was he not, your boss at the time, 6 your direct boss? 7 A. Yes. 8 Q. And do I assume that he drew the contents of the very 9 important email that we've just been through together to 10 your attention? 11 A. He may have. 12 Q. Thank you. Well, I've got your answer, but I suggest it 13 would be rather surprising if he didn't, wouldn't it? 14 A. Yes. 15 Q. Thank you. I think I can move on from that matter and 16 go on to another matter I'd like to deal with with you, 17 please, Mr Lai. That's Chris Chan. 18 Now, it's right, is it not, that for the first few 19 concrete pours in the NAT, you issued the RISC forms to 20 document the request for rebar fixing and pre-pour 21 inspections? That's what you did, did you not? 22 A. For which pours, may I ask? 23 Q. The NAT. You issued RISC forms to document the request 24 for both rebar fixing and the pre-pour inspections? 25 A. Can I see the reference of it, please?</p>

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<p>1 Q. Let's go to your witness statement again, CC93. 2 I didn't think this was going to be contentious, Mr Lai, 3 but obviously your recollection is not very good at all, 4 is it? 5 Go to CC93, if you would be so kind. There, to 6 stimulate your recollection, do we see you say: 7 "For the first few concrete pours in the NAT, 8 I issued the RISC forms to document the request for 9 a rebar fixing check and a pre-pour check." 10 Is that what you did? 11 A. I remember, for rebar for bay 3 and 4. 12 Q. So you want to qualify that by saying it was just bays 3 13 and 4, do you? 14 A. From my recollection, yes. 15 Q. But then it's right, is it not, that your workload got 16 very heavy; correct? 17 A. Yes. 18 Q. And it was very heavy, you tell us, do you not, when the 19 three stitch joints and the shunt neck joint were being 20 constructed; correct? 21 A. Yes. 22 Q. As a result, you tell us, do you not, that you didn't 23 have time to complete the RISC forms before the formal 24 inspections with MTR? 25 A. Yes.</p>	<p>1 A. No, I can't. 2 Q. And it was interesting yesterday that Mr Pennicott 3 questioned you about this particular matter. Do you 4 remember being questioned by Mr Pennicott about 5 inspections in the three stitch joints and the shunt 6 neck joint? 7 A. Yes. 8 Q. And pages 131, 132 of the transcript read as follows, 9 because I want to remind you of what you said. 10 Mr Pennicott says: 11 "So you were involved in both the routine 12 inspections and the hold-point inspections in relation 13 to the bay 3 and the shunt neck joint; is that right? 14 Answer: Yes, correct. 15 Question: And at paragraph 24 of your witness 16 statement, you say: 17 'I was involved in the joint inspection of the rebar 18 fixing works with MTR.' 19 As I understand it, again, your evidence is that was 20 Chris Chan; is that right?" 21 A. Yes. 22 Q. "Answer: This one, you are referring to the shunt neck 23 joint? 24 Question: Yes. 25 Answer: I gave my evidence for the stitch joint."</p>
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<p>1 Q. Unfortunately for you, your workload never eased up, did 2 it, and you forgot? You forgot to complete the RISC 3 forms for the rebar fixing and the pre-pour inspections 4 at both the three stitch joints and the shunt neck 5 tunnel; correct? 6 A. My workload never eased up, yes. 7 Q. And, moreover, you forgot to complete the RISC forms for 8 the rebar fixing and the pre-pour inspections at the 9 three stitch joints and the shunt neck joint; that's 10 correct, isn't it? 11 A. Yes. 12 Q. It's also correct, is it not, that you cannot produce to 13 this Commission of Inquiry any record in writing that 14 you requested Chris Chan to conduct rebar fixings at any 15 of the three stitch joints or the shunt neck joint? 16 A. Yes. 17 Q. In addition, it's also correct, is it not, that you can 18 produce any record in writing, any record in writing 19 that Chris Chan -- 20 MR SHIEH: You mean he can't? 21 MR BOULDING: "He cannot". Sorry. 22 You cannot produce any record in writing that Chris 23 Chan in fact conducted the rebar fixing inspections at 24 any of the three stitch joints or the shunt neck joint; 25 you can't do that, can you?</p>	<p>1 Then Mr Pennicott presses you and says: 2 "Yes, but who do you say inspected the shunt neck 3 joint then, if it wasn't Chris Chan? 4 Answer: For that, I'm unsure." 5 Now, it's right, is it not, that all of these 6 inspections took place, what, about two years ago? 7 A. Yes. 8 Q. And we know, do we not, that over two years ago/two 9 years ago you conducted many other inspections of the 10 works, the rebar and the pre-pour, with MTR's engineers 11 and inspectors; that's right, isn't it? 12 A. Yes. 13 Q. Again, without any documentary records; that's correct, 14 isn't it? 15 A. Yes. 16 Q. And what I suggest to you, Mr Lai, is that you simply 17 cannot remember who from MTR conducted the rebar fixing 18 inspections for the three stitch joints and the shunt 19 neck joint; that's right, isn't it? You simply cannot 20 remember? 21 A. No, I remember. 22 Q. Let's see what Mr Chan says. If we go to BB117, and 23 then if we could go to paragraph 25. 24 You've had the opportunity to read this statement, 25 have you?</p>

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<p>1 A. Yes.</p> <p>2 Q. And this is Chris Chan -- you know Chris Chan, don't</p> <p>3 you?</p> <p>4 A. Yes, work-wise.</p> <p>5 Q. And here we can see that Mr Chan -- and he's coming to</p> <p>6 give evidence in due course:</p> <p>7 "I was never asked to inspect the 3 stitch joints or</p> <p>8 the 1111/1112 shunt neck joint. This was because</p> <p>9 I expected that Leighton would have contacted MTRCL's</p> <p>10 IOWs [inspector of works] or ConE II [construction</p> <p>11 engineer II] to conduct the necessary inspection.</p> <p>12 I must emphasise that I was never informed of any rebar</p> <p>13 coupling problems relating to the 3 stitch joints and/or</p> <p>14 the 1111/1112 shunt neck joint."</p> <p>15 Now, you've had the opportunity to reflect upon the</p> <p>16 contents of that paragraph, have you not, Mr Lai?</p> <p>17 A. Yes.</p> <p>18 Q. And what he says in the first sentence, "I was never</p> <p>19 asked to inspect the 3 stitch joints or the 1111/1112</p> <p>20 shunt neck joint", that's correct, is it not? You never</p> <p>21 asked him to inspect, did you?</p> <p>22 A. No, that's not correct.</p> <p>23 Q. We heard evidence, did we not, earlier today from you as</p> <p>24 to whether or not you instructed Mr Ng of Wing &amp; Kwong</p> <p>25 to perform the rebar works --</p>	<p>1 inspections for the three stitch joints and the shunt</p> <p>2 neck joint, and neither did he conduct those</p> <p>3 inspections. That's what I suggest to you.</p> <p>4 A. I disagree.</p> <p>5 MR BOULDING: Thank you very much, Mr Lai.</p> <p>6 MR SHIEH: I wonder whether or not my learned friend is</p> <p>7 going to put any positive case to this witness as to</p> <p>8 whether or not it is MTRC's case that someone other than</p> <p>9 Chris Chan, whether asked by this witness or not,</p> <p>10 actually accompanied him to inspect the rebars, or</p> <p>11 whether it is the MTRC's case that no one from MTRC</p> <p>12 actually accompanied him to do any rebar inspection, or</p> <p>13 whether my learned friend wants to keep that powder dry.</p> <p>14 MR BOULDING: The answer --</p> <p>15 MR SHIEH: Because we ploughed through the MTRC witness</p> <p>16 statements and we couldn't find an iota of evidence on</p> <p>17 what the MTRC's position is.</p> <p>18 MR BOULDING: The MTRC's position will become clear when the</p> <p>19 evidence is given, when it's tested under oath.</p> <p>20 I emphasise that the purpose of my cross-examination is</p> <p>21 to test the credibility of this witness's statement that</p> <p>22 it was Mr Chris Chan who he contacted to come and</p> <p>23 inspect and who indeed inspected. I trust I have made</p> <p>24 that clear and I trust I've done it, and Mr Chan is</p> <p>25 going to come along on oath to tell you that he wasn't</p>
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<p>1 MR SHIEH: I wonder whether my learned friend has finished</p> <p>2 examining the question of Mr Chris Chan, the topic of</p> <p>3 Mr Chris Chan?</p> <p>4 MR BOULDING: No, I'm still with him.</p> <p>5 MR SHIEH: Very well.</p> <p>6 MR BOULDING: We heard evidence today as to whether or not</p> <p>7 you had instructed your friend, Mr Ng of Wing &amp; Kwong,</p> <p>8 to perform the rebar works at the stitch joint and the</p> <p>9 shunt neck joint in a defective fashion. Do you</p> <p>10 remember discussing that with Mr Tsoi this morning,</p> <p>11 during the course of his cross-examination of you?</p> <p>12 A. Yes.</p> <p>13 Q. And MTR's position on this, I have to emphasise, is</p> <p>14 entirely neutral, because we do not know what went on</p> <p>15 between you and Mr Ng, if indeed anything went on at</p> <p>16 all. But can I put this proposition to you. If it be</p> <p>17 found -- if it be found -- that you did instruct Mr Ng</p> <p>18 to carry out defective work, can I suggest that that</p> <p>19 would provide an explanation as to why you didn't</p> <p>20 contact Mr Chan to inspect: because you didn't want him</p> <p>21 to see the defective work? That would be</p> <p>22 an explanation, wouldn't it?</p> <p>23 A. I disagree.</p> <p>24 Q. I've simply got to suggest to you, Mr Lai, that you</p> <p>25 never asked Mr Chris Chan to inspect the rebar fixing</p>	<p>1 contacted and he didn't inspect in due course. And it's</p> <p>2 no part and parcel of this element of my</p> <p>3 cross-examination to do what my learned friend suggests</p> <p>4 that I might want to do, and I do not propose to do so.</p> <p>5 So thank you very much.</p> <p>6 Thank you, Mr Lai.</p> <p>7 Questioning by THE TRIBUNAL</p> <p>8 CHAIRMAN: Sorry, can I just ask a couple of questions, if</p> <p>9 I may, Mr Lai. When you joined Leighton, were you</p> <p>10 instructed as to the importance in the quality assurance</p> <p>11 process of the RISC forms?</p> <p>12 A. Yes.</p> <p>13 CHAIRMAN: And so you knew it was an integral part of your</p> <p>14 job?</p> <p>15 A. Yes.</p> <p>16 CHAIRMAN: Okay. And that would explain, perhaps, why it</p> <p>17 was, when everything started, you were filling out the</p> <p>18 RISC forms?</p> <p>19 A. Sorry?</p> <p>20 CHAIRMAN: That would explain why, when we first look at</p> <p>21 what happened, you were, at the beginning, completing</p> <p>22 RISC forms?</p> <p>23 A. Yes.</p> <p>24 CHAIRMAN: Do you recall anybody coming to you when you did</p> <p>25 not complete RISC forms, to say how important it was</p>

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<p>1 that you do so and to urge you to catch up with any 2 backlog or to make sure that future RISC forms were 3 completed? 4 A. There may have been, yes. 5 CHAIRMAN: Let me put it this way. We are all made up 6 differently. We've got different characters and 7 different personalities. But -- and I put this purely 8 to illustrate the question -- for myself, and I imagine 9 for a lot of people in this room, if they knew that 10 an important part of their professional job was to do 11 something and they didn't do it, there would often be 12 a pang in the stomach. Do you know what I mean? A sort 13 of, "Oh dear, I'd better get this done, otherwise I'm 14 going to be in considerable trouble", and consequently, 15 when people do come to your office and say, "Look, hang 16 on, what's going on? You've got to do it", it's the 17 sort of thing that one would remember. 18 But you don't have any memory of that? 19 A. I'm sorry? 20 CHAIRMAN: You don't have any memory of, number one, feeling 21 deeply concerned that you were falling behind? 22 A. I was. I was concerned, yes. 23 CHAIRMAN: Okay. And then, number two, of people coming to 24 you and saying, "Look, what's going on? We must get 25 work done."</p>	<p>1 a lot of time doing extra work in the end result, that 2 nothing happened. Are you able to explain that? 3 A. I was just focusing to get the site work done. The 4 paperwork was behind and I made a mistake of not doing 5 the paperwork and I'm aware of it, yes. 6 CHAIRMAN: All right. Thank you. 7 COMMISSIONER HANSFORD: Can I have a follow-up question on 8 that? You may not be aware, Mr Lai, but I've been 9 a site engineer working for a contractor. I spent the 10 first part of my career in a job very similar to yours. 11 A. Yes. 12 COMMISSIONER HANSFORD: Why was your workload so heavy? 13 What was it that was taking your time that prevented you 14 from doing these important quality forms? 15 A. I was the only responsible engineer for a large part of 16 the site, primarily for NAT, which covers the top and 17 bottom levels of the tunnel. My workload includes the 18 external areas for the NAT, which would have been the 19 drainage works and other parts of the NAT. 20 So, basically, I was on my own for patrolling around 21 the site. I would have been responsible for the 22 paperworks as well. But when I get on site, it would 23 take me the full day just to do my patrolling, twice 24 daily, because of the size of the area that I was 25 responsible. By the time I'm done with my patrolling,</p>
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<p>1 A. At that moment, I just focused on the site work, so yes, 2 I was behind on the paperwork, yes. 3 CHAIRMAN: Okay. So you focused on the site work, even 4 though you were behind on the paperwork? 5 A. Yes, sir. 6 CHAIRMAN: Okay. Were you aware what the consequence of not 7 putting in the paperwork, the RISC forms, would be? 8 A. Yes. 9 CHAIRMAN: And what would be the likely consequence? 10 A. We will get questions of the work, the work will be 11 questioned, the completed work will be questioned. 12 CHAIRMAN: And how would your colleagues have to go around 13 answering the questions? 14 A. Toughly, by other means. 15 CHAIRMAN: I'm sorry, I missed that. 16 COMMISSIONER HANSFORD: "Toughly". 17 A. Toughly, by other means. 18 CHAIRMAN: Yes, they would try to get photographic records 19 and other forms of record and everything else. It's 20 just that I'm a little puzzled -- and I accept that 21 we're all different, we all have different characters -- 22 as to how it is, when you knew it was important, when 23 you knew it was integral to the system, and when you 24 knew that the consequences of not doing it meant that 25 a lot of your colleagues would have to go and spend</p>	<p>1 site inspections, it would have been near the end of 2 work already and everything was done on my own. 3 COMMISSIONER HANSFORD: Did you find it overwhelming? 4 A. Yes, but it was the situation that I just had to work 5 in. 6 COMMISSIONER HANSFORD: Okay. Thank you. 7 CHAIRMAN: Did you think of going to your superiors and 8 simply saying, "Look, I just can't manage this on my 9 own"? I appreciate that's difficult. Nobody wants to 10 go to their boss and say, "I can't manage this on my 11 own." Nobody does. It's almost a personal criticism. 12 But sometimes you are forced into that. 13 A. I may have explained it, but just the nature that we 14 were not getting another new people coming in, I just 15 had to get on with it. 16 CHAIRMAN: Okay. So would it be correct to say that 17 something had to give, looking back on it, and what gave 18 was not the site work; what gave was the paperwork? 19 A. Yes. 20 CHAIRMAN: Yes. 21 Mr Khaw? 22 Cross-examination by MR KHAW 23 MR KHAW: Mr Lai -- 24 A. Good afternoon. 25 Q. -- I represent the government, but in view of the</p>

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<p>1 questions which were just asked by Mr Chairman and 2 Mr Commissioner, I probably do not need my original 3 32.5 minutes with you. 4 If I may start with the RISC forms first, as you 5 were just discussing that point. 6 A. Yes. 7 Q. You just told you that you actually realise the 8 importance of the RISC forms. 9 A. Yes. 10 Q. To sum up, basically, it is "the" documents which serve 11 the purpose of ensuring that the construction works, 12 inspected at each hold point, were in order and also 13 ready to go into the next stage? 14 A. Yes. 15 Q. Earlier on, perhaps this morning, I think, when 16 Mr Pennicott asked you some questions about the RISC 17 form, you told us that you originally wanted to complete 18 the RISC forms on the same day, ie on the same day of 19 your inspection. Do you remember that? 20 A. Yes. 21 Q. So the reason why you originally wanted to complete 22 those RISC forms on the same day, after the inspection, 23 was that you realised that it was important to compile, 24 to do those forms, either at or shortly after the 25 inspection, or at least within a reasonable time after</p>	<p>1 A. Yes. 2 Q. Then you must have had some discussion with your 3 superior as to how we could remedy the situation, how we 4 could solve this problem? You must have talked about 5 this; right? 6 A. Perhaps, yes. 7 Q. Yes? 8 A. Yes. 9 Q. So now if I can just try to cast your memory back to 10 what you actually discussed with Joe Tam. I mean, did 11 Joe Tam give you any suggestion regarding what to do? 12 Because you admit it's a serious problem. 13 A. I don't remember the conclusion of that conversation. 14 Q. Right. Nothing, nothing whatsoever? 15 A. I don't remember. I don't. 16 Q. Right. Now, let me ask you another matter regarding the 17 hold-point inspection. You were supposed to complete 18 the RISC forms; okay? You failed to do so. I mean you 19 failed to do a number of them. When you were conducting 20 the hold-point inspection -- now, apart from this RISC 21 form that you were supposed to complete, did you make 22 any other records? 23 A. No. 24 Q. Did you take pictures? 25 A. I'm not sure.</p>
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<p>1 the inspection; right? 2 A. Yes. 3 Q. You were aware of the importance of having such 4 contemporaneous documents, so to speak? 5 A. Yes. 6 Q. This morning, again when you were answering 7 Mr Pennicott's questions, you told us that you in fact 8 did tell Joe Tam about your mistake, about the fact that 9 you failed to complete the RISC forms; remember that? 10 A. Yes. 11 Q. Unfortunately, that was the first time you told us about 12 this communication between you and Joe Tam regarding 13 your failure to complete the RISC forms; right? 14 A. Yes. 15 Q. Now, when Mr Pennicott then asked you, "So what did you 16 talk about when you informed Mr Joe Tam that you failed 17 to complete the RISC forms?", according to your 18 evidence, you said, "Oh, it's just some short chats" 19 between the two of you; you could not remember the 20 details, right? 21 A. Yes. 22 Q. First of all, you told us that you made a mistake. At 23 the time when you told Joe Tam about your failure to 24 complete the RISC forms, did you feel bad about it? Did 25 you?</p>	<p>1 Q. Try to remember. Did you or did you not? 2 A. I may have. I may have. 3 Q. Did you check whether you actually took pictures of any 4 of the RISC form inspections? Did you check? 5 A. I lost my phone and the photos were in that period, and 6 I could not retrieve any pictures. 7 Q. How unfortunate. Right. 8 So when you talked to Joe Tam, did you talk about 9 the fact that you actually took some pictures during the 10 hold-point inspections, "Ah, I might have some 11 pictures" -- did you tell him about these things? 12 A. I don't remember our conversation, no. 13 Q. Thank you. If I may then ask you -- another topic -- to 14 take a look at your statement, paragraph 27. 15 CHAIRMAN: Sorry, this is -- can I just ask this, and you 16 may smile when you answer -- that's permissible -- 17 because I'm not of the technological age, but at this 18 time, could you sync your photos through to the cloud? 19 Because a lot of people do that. Even I do that. 20 MR KHAW: Mr Chairman, you are very advanced! 21 CHAIRMAN: So it's evidence of the Neolithic age catching 22 up. 23 Did you do that sort of thing? 24 A. I did not. 25 CHAIRMAN: You did not?</p>

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<p>1 A. No.</p> <p>2 CHAIRMAN: Okay. But if you weren't doing the RISC forms,</p> <p>3 you would have known that some other form of evidence</p> <p>4 may come in handy?</p> <p>5 A. Yes.</p> <p>6 MR KHAW: I was about to just take you to paragraph 27 of</p> <p>7 your witness statement. There, you were talking about</p> <p>8 some routine checks; do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. You say:</p> <p>11 "Whenever I was on site, I saw MTRCL's inspector of</p> <p>12 works (Tony and Chung) carrying out routine checks at</p> <p>13 the NAT, the 3 stitch joints and the shunt neck joint.</p> <p>14 Sometimes I also saw MTRCL's construction engineers</p> <p>15 (Chris and Kappa) conducting routine site</p> <p>16 inspections ... Members of Leighton staff and I would</p> <p>17 communicate with them ... They would also let us know if</p> <p>18 they identified any defects that [would need] to be</p> <p>19 rectified."</p> <p>20 Very well. Then:</p> <p>21 "MTR's construction engineers/inspectors of works</p> <p>22 were always aware of what was happening ..."</p> <p>23 Now, you talk a lot about the work carried out by</p> <p>24 the MTR engineers, their staff. You didn't say much</p> <p>25 about what you were supposed to do during the routine</p>	<p>1 Q. But you were quite new at that time in Leighton; right?</p> <p>2 A. Yes.</p> <p>3 Q. So if you talk about experience, you can't really say</p> <p>4 you had a long experience in dealing with these things?</p> <p>5 A. Yes.</p> <p>6 Q. Did you actually think of asking anyone in Leighton,</p> <p>7 "Hey, when I do the routine check, can you tell me what</p> <p>8 to do"?</p> <p>9 A. I didn't think of it at the time.</p> <p>10 Q. So, basically, you would agree that you would have to</p> <p>11 exercise your own judgment? You would have to use your</p> <p>12 own common sense?</p> <p>13 A. From my experience.</p> <p>14 Q. Thank you. There's a minor point that I wish to just</p> <p>15 explore with you. That is paragraph 16. I remember</p> <p>16 Mr Pennicott was on this paragraph this morning as well.</p> <p>17 I just want to clarify this with you. You say:</p> <p>18 "I am aware that the ends of rebar that were subject</p> <p>19 to testing were painted but, at that time, I did not</p> <p>20 realise that this was to indicate their testing status.</p> <p>21 Rebar was deployed on site before the test results were</p> <p>22 received in order to achieve the progress required by</p> <p>23 MTR ..."</p> <p>24 Now, when you say, "Rebar was deployed on site</p> <p>25 before the test results were received", do you mean that</p>
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<p>1 checks.</p> <p>2 I would like to just try to gather from you more</p> <p>3 information about what you were supposed to do during</p> <p>4 those routine checks; okay?</p> <p>5 A. Okay.</p> <p>6 Q. We all know you were responsible for checking the</p> <p>7 condition or quality of the rebar fixing work and also</p> <p>8 cementing works?</p> <p>9 A. Yes.</p> <p>10 Q. For the purpose of carrying out -- let's talk about the</p> <p>11 routine checks first. Let's not talk about the</p> <p>12 hold-point inspections first. For the routine checks,</p> <p>13 did anyone in Leighton tell you what to check, what to</p> <p>14 look for?</p> <p>15 A. No.</p> <p>16 Q. Did you receive any document, instruction, et cetera,</p> <p>17 a piece of paper, telling you, "Hey, Henry, when you go</p> <p>18 to do the routine check, these are the things you need</p> <p>19 to look at, these are the things you need to pay</p> <p>20 attention to"?</p> <p>21 A. No.</p> <p>22 Q. So on what basis then did you know what to do during the</p> <p>23 routine checks?</p> <p>24 A. From the basis from my experience gathered from previous</p> <p>25 sites.</p>	<p>1 the rebars were there, ready/available for the workers'</p> <p>2 use before they were even -- before they had completed</p> <p>3 the testing?</p> <p>4 A. Yes.</p> <p>5 Q. It's a very normal phenomenon on site?</p> <p>6 A. Yes.</p> <p>7 Q. Did you find anything was wrong with that? I mean,</p> <p>8 having made the rebars available for use before they</p> <p>9 were tested?</p> <p>10 A. It was already ongoing and I was not made aware of any</p> <p>11 problems.</p> <p>12 Q. Right. So you didn't raise any particular questions</p> <p>13 when you were working on the site?</p> <p>14 A. No.</p> <p>15 Q. Thank you. Finally, if I may just take you to one point</p> <p>16 that Mr Tsoi for Wing &amp; Kwong had discussed with you.</p> <p>17 Now, you remember Mr Tsoi asked you questions about</p> <p>18 the correspondence between Leighton and Wing &amp; Kwong,</p> <p>19 and you were referred to some of the letters in which</p> <p>20 Wing &amp; Kwong actually pointed out that you gave them</p> <p>21 instructions to proceed, et cetera, et cetera. We've</p> <p>22 seen all that; remember?</p> <p>23 A. Yes.</p> <p>24 Q. You were asked whether Mr Kitching actually discussed</p> <p>25 those letters with you; do you remember that?</p>



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<p>1 A. Sorry, can you say again?</p> <p>2 Q. Yes. Mr Tsoi actually asked you about whether</p> <p>3 Mr Kitching told you or talked to you about those</p> <p>4 letters between Wing &amp; Kwong and Leighton; remember</p> <p>5 that? You said you cannot remember.</p> <p>6 A. Yes. Yes.</p> <p>7 Q. Now, if we can have a look at Mr Kitching's statement</p> <p>8 for the time being. CC6487.</p> <p>9 If I can first ask you to take a look at the third</p> <p>10 page, internal page 3, paragraph 13. You will remember,</p> <p>11 I hope, that you have seen this paragraph. I believe</p> <p>12 Mr Tsoi took you to this paragraph. It was about the</p> <p>13 letter between Leighton and Wing &amp; Kwong and</p> <p>14 a backcharge notice, et cetera.</p> <p>15 A. Okay.</p> <p>16 Q. And then paragraph 14, again, it's about the</p> <p>17 correspondence between Wing &amp; Kwong and Leighton; do you</p> <p>18 see that?</p> <p>19 A. Yes.</p> <p>20 Q. Then Mr Tsoi also asked you about paragraph 15; do you</p> <p>21 see that?</p> <p>22 A. Yes.</p> <p>23 Q. But if you can move up to little bit, if we can go to</p> <p>24 paragraph 9. Perhaps we can start from paragraph 6</p> <p>25 first. This is before the correspondence between Wing</p>	<p>1 you had to do; did you always talk to him?</p> <p>2 A. No.</p> <p>3 Q. So it was quite rare for you to speak to him?</p> <p>4 A. Yes.</p> <p>5 Q. Do you agree with me that in that case, if there was</p> <p>6 an occasion that he actually spoke to you about</p> <p>7 something wrong regarding the work that you were</p> <p>8 supposed to do, you would remember that conversation?</p> <p>9 A. Sorry, can you repeat that again? Sorry.</p> <p>10 Q. You just told us that it was quite rare for you to talk</p> <p>11 to Mr Kitching, because he is quite high up.</p> <p>12 A. Yes.</p> <p>13 Q. If there was an occasion where the two of you had to</p> <p>14 discuss something, about something wrong which was</p> <p>15 detected, and that something wrong related to your work,</p> <p>16 something that you might have failed to detect, if there</p> <p>17 was such a conversation you should have remembered?</p> <p>18 A. Perhaps, yes.</p> <p>19 Q. Did you remember that there was this conversation</p> <p>20 between you and Mr Kitching, as described in</p> <p>21 Mr Kitching's witness statement?</p> <p>22 A. Yes.</p> <p>23 Q. Did you consider this a serious matter, when Mr Kitching</p> <p>24 talked to you about this?</p> <p>25 A. Yes.</p>
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<p>1 &amp; Kwong and Leighton; okay? Now:</p> <p>2 "In early February ... the existing crack became</p> <p>3 noticeably wider along the perimeter of the NSL stitch</p> <p>4 joint ... William Holden [then] reported the crack to me</p> <p>5 and recommended that we break open a few areas of the</p> <p>6 concrete along the NSL stitch joint ... in order to</p> <p>7 identify the cause of the cracking and water leakage.</p> <p>8 I agreed and left William to obtain approval from MTRCL</p> <p>9 and proceed with the investigation."</p> <p>10 So that is what Mr Kitching said.</p> <p>11 Then if we can go to paragraph 9, he said:</p> <p>12 "When I learned of the defects at the NAT stitch</p> <p>13 joints and the joint at the shunt neck joint,</p> <p>14 I personally sought out and spoke to Leighton's engineer</p> <p>15 who supervised for these works, Mr Henry Lai. During</p> <p>16 that conversation, I asked Henry why the rebar was not</p> <p>17 properly connected to the couplers at the NAT stitch</p> <p>18 joints and the shunt neck joint and pressed him to</p> <p>19 explain what happened. I cannot recall the exact words</p> <p>20 of the conversation but the gist of Henry's response was</p> <p>21 that he had no idea why the defects had occurred and did</p> <p>22 not remember anything of note ..."</p> <p>23 Okay? Now, let's pause here. Before February,</p> <p>24 early February, 2018, last year, did you always have</p> <p>25 a chance to speak to Mr Kitching, in view of the work</p>	<p>1 Q. I suppose Mr Kitching was also very serious about it?</p> <p>2 A. Yes.</p> <p>3 Q. I don't think he smiled kindly on this at the time when</p> <p>4 he talked to you.</p> <p>5 A. Probably not.</p> <p>6 Q. No. Were you criticised for not doing your job</p> <p>7 properly?</p> <p>8 A. I don't remember.</p> <p>9 Q. Was Mr Kitching quite unhappy when he talked to you</p> <p>10 about the defects found?</p> <p>11 A. I don't remember.</p> <p>12 Q. If you can't remember, you can't remember. I'm just</p> <p>13 trying to apply my mind to the thinking behind this</p> <p>14 whole incident, because when you just told us that you</p> <p>15 remember there was this conversation, you remember that</p> <p>16 both of you were very serious about it, the simple</p> <p>17 question I asked was whether you were criticised for not</p> <p>18 doing your job properly. You could not remember</p> <p>19 anything to that effect.</p> <p>20 A. No.</p> <p>21 Q. Do you remember whether you received any warning from</p> <p>22 Leighton or any reprimand from anybody?</p> <p>23 A. I had to undergo an internal survey.</p> <p>24 Q. Which is?</p> <p>25 A. I forgot the name of it.</p>

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<p>1 Q. "Internal survey" is like an appraisal of your work? 2 A. Yes. 3 Q. And that internal survey related particularly to this 4 problem; it was caused by this problem? 5 A. Yes. 6 Q. So it was not a normal appraisal, it was a particular 7 one, dealing with this particular problem? 8 A. Yes. 9 Q. Apart from that internal survey, did Leighton take any 10 steps or did anyone from Leighton discuss with you, 11 "Hey, Henry, these are what happened. We have to avoid 12 these things in the future, so these are the things that 13 you need to bear in mind"? Did anyone talk to you about 14 these things? 15 A. Yes. 16 Q. Orally or in writing? 17 A. Orally. 18 Q. Who talked to you about these things? 19 A. Jon and Colin. 20 Q. Jon and Colin? 21 A. Yes. 22 Q. Both of them? 23 A. Yes. 24 Q. Jon, you mean Jon Kitching? 25 A. Jon Kitching, yes.</p>	<p>1 CHAIRMAN: Were you aware that if, for example, you had to 2 get new reinforcing bars in these stitch joints, because 3 of the Lenton couplers, that would perhaps cause 4 a two/three-day delay, maybe longer? 5 A. Perhaps, yes. 6 CHAIRMAN: Okay. 7 A. But that would depend on the procurement of the Lenton 8 couplers, which I -- at that time, I had no knowledge of 9 the whole process of it. 10 CHAIRMAN: And of course you've already said that you didn't 11 even know they were Lenton couplers at the time. 12 A. Correct. 13 CHAIRMAN: Nobody told you that. But you felt the pressure 14 of the need to get the work moving? 15 A. Yes. 16 CHAIRMAN: Thank you. 17 MR PENNICOTT: Sir, before Mr Shieh re-examines, if he has 18 any re-examination, can I just raise one point? 19 CHAIRMAN: Yes. 20 MR PENNICOTT: And I'm rightly reminded about it by those 21 instructing me, for which I'm grateful. 22 You may recall that during the course of Mr Tsoi's 23 re-examination of Mr Ng, at some point yesterday 24 afternoon, there was essentially a three-way 25 conversation between you, sir, Mr Tsoi and myself</p>
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<p>1 Q. You just mentioned the survey which was conducted. 2 A. Yes. 3 Q. Do you know whether that survey has been disclosed to 4 this Commission? 5 A. I'm unsure. I'm not sure. 6 Q. You're not sure. And I suppose that survey was 7 conducted shortly after February 2018? 8 A. I believe so, yes. 9 Q. And you got promoted in about April 2018; right? 10 A. Yes. 11 MR KHAW: I have no further questions. 12 CHAIRMAN: There's just one little area I would like to test 13 with you, if I may. 14 We've heard from other statements that the work at 15 the stitch joints was raised often. To your knowledge, 16 were there any concerns about the time it was taking to 17 get the work completed? 18 A. Yes. 19 CHAIRMAN: Did you feel under any particular pressures in 20 that regard, as a young engineer? 21 A. Yes. 22 CHAIRMAN: Did you discuss that with your superiors at all, 23 not the fact you felt under pressure, but how you could 24 to try and avoid delay? 25 A. No.</p>	<p>1 regarding the distinction between somebody who carries 2 out a routine inspection and somebody who carries out 3 the hold-point inspection. 4 Sir, I think you were expressing the view, or 5 certainly raising the issue, as to whether there ought 6 to be somebody independent carrying out the hold-point 7 inspection -- 8 CHAIRMAN: That's right, yes. 9 MR PENNICOTT: -- from the routine inspection. You will 10 probably recall that. 11 CHAIRMAN: Yes. 12 MR PENNICOTT: The sort of punchline of that discussion was 13 this. 14 CHAIRMAN: You said you would ... 15 MR PENNICOTT: First of all, you said: 16 "Because there's a big difference between having an 17 independent inspector from Leightons coming along and 18 looking at something afresh, with no working connection 19 with a person, and somebody who has been working day by 20 day and giving instructions as to that very work ..." 21 I then said: 22 "Sir, you can guarantee that I will be exploring 23 this with Mr Henry Lai when he gives evidence." 24 Sir, the position is that both in his statement and 25 I think a number of times in his evidence he has</p>

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<p>1 accepted quite openly that he was responsible for both 2 the routine inspection and the hold-point inspection. 3 That is the factual position from this witness. 4 I didn't feel it appropriate, therefore, to carry on and 5 explore why that was. It may be that there are other, 6 more senior, people amongst Leightons that we may want 7 to try to address that issue with. 8 But I thought I would raise it with you now just in 9 case there was anything you wish to ask Mr Lai about on 10 that particular point. 11 CHAIRMAN: Thank you very much. No, we have accepted that 12 that is the gist of what Mr Lai says. 13 MR PENNICOTT: Yes, and if we want to take it up with more 14 senior people at Leighton as to why that was, we can do 15 so in due course. That's the view I've taken. I just 16 wanted to make sure so that we weren't missing anything. 17 CHAIRMAN: Thank you very much. 18 MR TSOI: Chairman, just before Mr Shieh re-examines, can 19 I just put on the record -- I might be wrong, but I had 20 not been made aware from Leighton that there was this 21 internal survey, which was a warning to Mr Lai. 22 Certainly Mr Lai himself has not disclosed it in his 23 statement. Of course it's a matter for my learned 24 friend whether he discloses those materials. 25 MR PENNICOTT: It's not only a matter for Mr Shieh, it's</p>	<p>1 qualified member of an engineering institution? 2 A. No. 3 COMMISSIONER HANSFORD: You are not? 4 A. No. 5 COMMISSIONER HANSFORD: Thank you. 6 CHAIRMAN: Nothing arising? Good. 7 Mr Lai, thank you very much indeed. Your evidence 8 is now completed and you are free to go. 9 WITNESS: Thank you. 10 CHAIRMAN: Thank you. 11 (The witness was released) 12 We have made reasonably good progress. 13 MR PENNICOTT: Yes. Sir, as discussed just prior to lunch, 14 we've stood down Mr Cheung, primarily, I have to say, on 15 the basis that Leighton had given us an indication that 16 another witness statement is coming, I'm not sure from 17 whom, but it deals with certain of Mr Cheung's evidence. 18 That being the case, certainly I and certainly Mr Tsoi 19 and perhaps others need to look at that witness 20 statement, I think, before we start examining Mr Cheung. 21 So, sir, on that basis, that really concludes the 22 business for today and for this week. 23 However, can I, just in case anybody has missed 24 it -- next week, sir, we will obviously, once we've 25 dealt with Mr Cheung, then return to the Leighton</p>
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<p>1 a matter for me and the Commission as to whether we wish 2 to see it. Of course I have heard the cross-examination 3 by Mr Khaw of this witness. I'm not going to make 4 a decision on the hoof. I will discuss that with those 5 instructing me when we adjourn this afternoon, and we'll 6 take a view as to whether we wish to ask Leighton to 7 disclose it or not. 8 MR TSOI: I'm grateful. 9 CHAIRMAN: Mr Shieh, I think at last we get back to you. 10 MR SHIEH: I have vacillated between a minute and 20 seconds 11 or two minutes and five seconds, but I have now decided 12 that I have no re-examination. 13 COMMISSIONER HANSFORD: I just have a couple of questions, 14 Mr Lai. 15 Mr Lai, as the site engineer, were you familiar with 16 the Particular Specification for the contract? 17 A. I will look it up where it's appropriate, yes. 18 COMMISSIONER HANSFORD: Were you aware there was 19 a Particular Specification for interfacing requirements 20 between contracts? 21 A. I didn't know at the time. 22 COMMISSIONER HANSFORD: You didn't know? 23 A. I didn't know. 24 COMMISSIONER HANSFORD: Okay. Thank you. 25 My other question is: are you a professionally</p>	<p>1 witnesses. They are listed in the provisional hearing 2 timetable for next week, but can I just draw attention 3 to a couple of things on that timetable, just in case, 4 as I say, people have missed it. It's right towards the 5 end of the timetable. Thank you. 6 That is, at the request of Leighton and MTR 7 respectively, we've given a time slot to Mr Jeff Lii, 8 an engineer from Leighton, and he will be taken, come 9 what may, on Tuesday, 4 June, in the morning. That will 10 either be at 10 o'clock or when we finish whatever 11 witness is left over, as it were, from Monday evening. 12 CHAIRMAN: Yes. 13 MR PENNICOTT: And also, at the request of the MTR, 14 Mr Sebastian Kong will be similarly called but on 15 Thursday morning, on 6 June, in similar circumstances. 16 Sir, this morning, we have received a request from 17 Leighton that Mr Karl Speed, if possible, be given 18 a definite date, either on the morning of the 5th or the 19 morning of 6 June. I will look into that and see 20 whether that can be accommodated. I'm sure it can be 21 but it's a question of which date, whether it's the 5th 22 or the 6th. 23 CHAIRMAN: Yes. 24 MR PENNICOTT: Sir, unless anybody else has any procedural 25 matters, I just thought I ought to draw that to the</p>

1 attention of everybody.  
2 CHAIRMAN: Thank you very much.  
3 MR BOULDING: Sir, I just wonder if I can enquire through  
4 Mr Pennicott when we should expect to receive this  
5 statement from Leightons.  
6 MR PENNICOTT: Yes. I was told that it would be with us  
7 this afternoon but I'm told it has not yet arrived.  
8 MR BOULDING: Thank you.  
9 CHAIRMAN: Is there anything else, gentlemen?  
10 Mr Pennicott, 10 o'clock on Monday morning?  
11 MR PENNICOTT: Yes, sir. Thank you very much.  
12 CHAIRMAN: Thank you, everybody. 10 o'clock Monday morning  
13 (3.23 pm)  
14 (The hearing adjourned until 10.00 am  
15 on Monday, 3 June 2019)  
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