

| Page 1 | Page 3 |
|---|--|
| <p>1 Monday, 10 June 2019</p> <p>2 (10.01 am)</p> <p>3 MR LEUNG CHI YUNG, RONALD (affirmed in Cantonese)</p> <p>4 (All answers given via simultaneous interpreter</p> <p>5 except where otherwise specified)</p> <p>6 Examination-in-chief by MR SHIEH</p> <p>7 MR SHIEH: Good morning, Mr Leung.</p> <p>8 A. (In English) Good morning.</p> <p>9 Q. Welcome to the Commission of Inquiry to assist us.</p> <p>10 You have made one witness statement for the purpose</p> <p>11 of this Inquiry. Can I ask you to turn to bundle CC6,</p> <p>12 page 3828. This is a document headed, "First witness</p> <p>13 statement of Ronald Leung"; can you see that?</p> <p>14 A. (In English) Yes.</p> <p>15 Q. Can you turn to page 3835, and you can see what appears</p> <p>16 to be your signature there?</p> <p>17 A. (In English) Yes.</p> <p>18 Q. Do you put forward the contents of this witness</p> <p>19 statement as your evidence in this Commission of</p> <p>20 Inquiry?</p> <p>21 A. (In English) Sorry?</p> <p>22 Q. Are you prepared to put forward the contents of this</p> <p>23 witness statement as your evidence before this</p> <p>24 Commission of Inquiry? Do you confirm that the contents</p> <p>25 are true?</p> | <p>1 A. (In English) No.</p> <p>2 Q. You are not responsible for NFA?</p> <p>3 A. (In English) No.</p> <p>4 Q. But you were responsible for SAT and HHS; is that</p> <p>5 correct?</p> <p>6 A. (In English) Yes.</p> <p>7 Q. Thank you. And if you look in the top left-hand corner,</p> <p>8 this is the chart in relation to the situation as of May</p> <p>9 2017?</p> <p>10 A. (In English) Mmm.</p> <p>11 Q. Subject to the correction about NFA, you confirm that</p> <p>12 this accurately reflects your position in the</p> <p>13 organisation structure?</p> <p>14 A. (In English) Yes. During that time, yes. Sorry.</p> <p>15 Q. Thank you. Can you remain seated in the witness box,</p> <p>16 because other lawyers, other counsel, would have</p> <p>17 questions for you, starting with Mr Ian Pennicott in</p> <p>18 front of me, and then lawyers from the other parties, as</p> <p>19 well as Mr Chairman and Mr Commissioner. Following</p> <p>20 their questions, I may have some follow-up questions for</p> <p>21 you. Do you understand?</p> <p>22 A. (In English) Okay.</p> <p>23 MR SHIEH: Can you remain seated and answer the questions.</p> <p>24 Thank you.</p> <p>25 Examination by MR PENNICOTT</p> |
| Page 2 | Page 4 |
| <p>1 A. (In English) Yes.</p> <p>2 Q. Thank you.</p> <p>3 Just to let the Commission have an idea as to your</p> <p>4 position in the organisation structure, can I first of</p> <p>5 all ask you to look at -- for this, we have to look at</p> <p>6 the old bundle, in part 1 of the Inquiry. It's</p> <p>7 bundle C7, page 5536, under "HHS", "Senior site agent",</p> <p>8 you can see Marco Chan, and on the left, "Accommodation</p> <p>9 Blocks", we can see "Site agent Ronald Leung"; that's</p> <p>10 you?</p> <p>11 A. (In English) Yes.</p> <p>12 Q. If we turn to the top left-hand corner of this chart, it</p> <p>13 shows the situation as of late 2015; do you see that?</p> <p>14 A. (In English) Yes.</p> <p>15 Q. Can you confirm that this accurately reflects your</p> <p>16 position in the organisation structure of the project?</p> <p>17 A. (In English) Yes.</p> <p>18 Q. Can I then ask you to look at bundle CC2, page 526.</p> <p>19 Under "East (SAT/HHS/NFA)", we can immediately see</p> <p>20 your name, "Site agent Ronald Leung"; can you see that?</p> <p>21 A. (In English) Yes, but not quite agree because I didn't</p> <p>22 responsible for NFA previously.</p> <p>23 Q. Sorry, you said you were not responsible for NFA?</p> <p>24 A. (In English) Yes.</p> <p>25 Q. North Fan Area?</p> | <p>1 MR PENNICOTT: Good morning, Mr Leung.</p> <p>2 A. (In English) Good morning.</p> <p>3 Q. On behalf of the Commission, thank you for coming along</p> <p>4 to give evidence this morning.</p> <p>5 First of all, can I confirm you are currently</p> <p>6 content to give your evidence in English and we don't</p> <p>7 need to use the interpretation services?</p> <p>8 A. (In English) Sorry, I'm not. Can I have a translator?</p> <p>9 Q. You can. We perhaps should have explained that to you</p> <p>10 earlier. If you wish to give your evidence in</p> <p>11 Cantonese, please do, and it will be interpreted to you</p> <p>12 through the headphones.</p> <p>13 (The witness put on the headphones)</p> <p>14 So I'm now expecting you to give your answers in</p> <p>15 Cantonese and they will be interpreted --</p> <p>16 A. Yes.</p> <p>17 Q. -- so we can all understand what's going on.</p> <p>18 You were, as we have just seen, for the majority of</p> <p>19 the time, a site agent on the project?</p> <p>20 A. Right.</p> <p>21 Q. And you started work on the project at the end of May</p> <p>22 2015, and you left in or about June 2018; is that</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. Then I think you say that you now returned to the</p> |

| Page 5 | Page 7 |
|--|--|
| <p>1 project earlier this year, that is 2019; is that right?</p> <p>2 A. Right.</p> <p>3 Q. And for the whole of the period, that is May 2015 to</p> <p>4 June 2018, my understanding is that you worked in the</p> <p>5 HHS area, principally on the accommodation blocks, but</p> <p>6 also the track slabs, is that right, but not in the NFA,</p> <p>7 as you have made clear?</p> <p>8 A. Right.</p> <p>9 Q. But also, in the period May 2017 to June 2018, so</p> <p>10 essentially the last year of your involvement, you also</p> <p>11 worked on the SAT area; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And by May 2017, when you started doing some work in the</p> <p>14 SAT area, presumably most of the rebar and concreting</p> <p>15 had been completed by that time, is that right, in the</p> <p>16 SAT area?</p> <p>17 A. Right. That's correct.</p> <p>18 Q. So, in the SAT area, just so we clear that out of the</p> <p>19 way first, what duties or responsibilities did you have</p> <p>20 in the SAT area from May 2017 to June 2018?</p> <p>21 A. I was responsible for snagging and minor outstanding</p> <p>22 works.</p> <p>23 Q. Good. Now, in paragraph 8 of your witness statement, if</p> <p>24 you would be good enough to look at that, please --</p> <p>25 that's at page CC6/3829 -- you say:</p> | <p>1 were enough engineers in any particular area at any</p> <p>2 given time? Was that part of your responsibility or</p> <p>3 somebody else's?</p> <p>4 A. It's the responsibility of my superior.</p> <p>5 Q. And your superior being?</p> <p>6 A. Marco Chan.</p> <p>7 Q. Okay. But presumably, if any of those frontline</p> <p>8 engineers that you've identified had a problem, would</p> <p>9 they come to see you first, before they went to</p> <p>10 Mr Marco Chan?</p> <p>11 A. Right.</p> <p>12 Q. And presumably, if the problem were serious enough, you</p> <p>13 would then pass it on to Mr Chan; is that right?</p> <p>14 A. Of course.</p> <p>15 Q. Right. And throughout the course of your works managing</p> <p>16 the frontline engineers that we've identified in the HHS</p> <p>17 area, did any of them come to you with any problems</p> <p>18 concerning being overworked and overstretched,</p> <p>19 overwhelmed with the amount of work they were required</p> <p>20 to do?</p> <p>21 A. Yes, very often.</p> <p>22 Q. Right. What did you do about it?</p> <p>23 A. Sometimes, if it was at this construction site and they</p> <p>24 could not free themselves to do some other work, I would</p> <p>25 help with the inspection.</p> |
| Page 6 | Page 8 |
| <p>1 "My role as site agent in the HHS involved managing</p> <p>2 Leighton's team of 'frontline' engineers for this area."</p> <p>3 Do you see that, Mr Leung?</p> <p>4 A. Yes.</p> <p>5 Q. And the frontline engineers included the following</p> <p>6 people, is this right: Jeff Lii?</p> <p>7 A. Right.</p> <p>8 Q. Matthew Tse?</p> <p>9 A. Yes.</p> <p>10 Q. Alan Yeung?</p> <p>11 A. From my recollection, Alan Yeung wasn't under me at any</p> <p>12 time.</p> <p>13 Q. All right. Roger Lai?</p> <p>14 A. Not directly under my line of accountability.</p> <p>15 Q. All right. Kelvin Cheung?</p> <p>16 A. No.</p> <p>17 Q. WC Lam?</p> <p>18 A. Right.</p> <p>19 Q. Hugh Harrington?</p> <p>20 A. Yes.</p> <p>21 Q. And SK Ng? Probably not, he was in the NFA.</p> <p>22 A. Mmm.</p> <p>23 Q. Right, okay. Right.</p> <p>24 A. No, he's not.</p> <p>25 Q. Mr Leung, who was responsible for ensuring that there</p> | <p>1 Q. All right. Let's just break it down a bit. Do you ever</p> <p>2 recall Mr Jeff Lii coming to you and saying that he felt</p> <p>3 that he was under too much pressure and overworked? Do</p> <p>4 you remember Mr Jeff Lii having any such conversation</p> <p>5 with you?</p> <p>6 A. He mentioned it but I can't recall exactly when it was.</p> <p>7 Q. Was it just on one occasion or more than one occasion?</p> <p>8 A. More than once.</p> <p>9 Q. Right. Several times?</p> <p>10 A. Yes.</p> <p>11 Q. Right. So what did -- in relation to -- focusing on</p> <p>12 Mr Lii, what did you do about that, about his</p> <p>13 complaints, if that's the right word?</p> <p>14 A. I would look at what areas he was overwhelmed and see if</p> <p>15 there were others who could help. Perhaps I would hand</p> <p>16 over the part of the documentary works to other TA or</p> <p>17 engineers.</p> <p>18 Q. All right. I'll come back to the question of paperwork</p> <p>19 and RISC forms in a moment, Mr Leung, but before we get</p> <p>20 there, can I just ask you this. If you look at</p> <p>21 paragraph 10 of your witness statement, please, you make</p> <p>22 reference to your site visits, and you say that you</p> <p>23 would usually see the engineers in your team and MTRC's</p> <p>24 engineers or IOWs conducting both routine and formal</p> <p>25 inspections of the works. You say:</p> |

| Page 9 | Page 11 |
|--|--|
| <p>1 "I would also sometimes conduct inspections of the 2 works myself, including to visually inspect the 3 reinforcement that was installed (or in the process of 4 being installed) by the rebar fixing sub-contractor 5 (Wing & Kwong Steel Engineering Co Ltd for the HHS) ..." 6 Just pausing there, did you have frequent contact 7 with the foreman or supervisor of Wing & Kwong? 8 A. You can put it that way. 9 Q. Who was that? Do you remember his name? 10 A. Ah Chun. 11 Q. Right. So how often would you get to speak to him 12 during the course of a week, Mr Leung; do you recall? 13 A. At least twice. 14 Q. Right. If he had any particular problems or issues with 15 the rebar fixing, would he raise them with you? 16 A. Typically, he would refer the matter to our engineers 17 first, and if there were any severe issues that the 18 engineers couldn't handle, then he would contact me. 19 Q. Right. Did that happen on occasion, that he would make 20 contact with you because there were sufficiently serious 21 issues? 22 A. I don't recall anything like that happening. 23 Q. Right. What sort of impression did you form of 24 Mr Ah Chun, of Ah Chun? 25 A. He was hard-working, very serious.</p> | <p>1 In paragraph 17 of your witness statement, Mr Leung, you 2 say: 3 "Leighton has disclosed a table summarising the 4 records of the formal inspections for rebar fixing and 5 pre-pour checks for the HHS ... This table shows that 6 Leighton's engineers in the HHS submitted some but not 7 all of the RISC forms for these formal inspections." 8 First of all, Mr Leung, did you have any involvement 9 in the preparation of that table? 10 A. Yes. 11 Q. And what involvement was that? What was your role? 12 A. My role was to assist in finding the relevant documents 13 and putting that information into the form. 14 Q. Right. Did you actually input the information into the 15 form yourself or was that somebody else's 16 responsibility? 17 A. Well, aside from myself, there were other colleagues who 18 drafted this table. 19 Q. Right. Anyway, you had some involvement in it. Have 20 you checked its accuracy? 21 A. Yes, I would check more than once. 22 Q. Right. Okay. We'll look at one or two entries in 23 a moment. 24 Was it part of your responsibility, as you saw it, 25 Mr Leung, to ensure that the RISC forms were issued by</p> |
| Page 10 | Page 12 |
| <p>1 Q. Right. Conscientious? 2 A. Yes, conscientious. 3 Q. Right. 4 In paragraph 15 of your witness statement, Mr Leung, 5 at page 3831, you refer to the formal inspections: 6 "The formal inspections for rebar fixing usually 7 involved checking the arrangement of the rebar, the size 8 of the rebar, the spacing of the rebar, the lap length 9 of the rebar and the connections between rebar and 10 couplers. I instructed the frontline engineers in my 11 team to perform these tasks." 12 In terms of the connections between the rebar and 13 the couplers, Mr Leung, were you satisfied that the 14 engineers knew what a properly connected rebar to 15 coupler looked like? 16 A. They should be familiar with the requirement. 17 Q. Did you yourself know what a properly connected rebar to 18 a coupler should look like? 19 A. Well, I think all the threads should be inserted. 20 Q. And so that was the primary thing that the engineers and 21 yourself would be looking for, full connection or almost 22 full connection; is that right? That is, no threads or 23 very few threads showing. 24 A. That is correct. 25 Q. I said I would turn to the RISC forms. I'm going to.</p> | <p>1 your team of engineers that you were managing? 2 A. Yes. 3 Q. You say, in paragraph 19 of your witness statement, if 4 I have understood it correctly, that you had at least 5 three conversations with an MTRC senior inspector of 6 works, a Mr Victor Tung, about the non-issuing or 7 non-submission of RISC forms. Is that correct? 8 A. Yes. 9 Q. And Mr Tung, as I understand it, told you about the lack 10 of RISC forms and, as I understand it, you spoke to your 11 team about that and asked them why they had not 12 completed some of the RISC forms. Is that right? 13 A. Yes. 14 Q. Now, when did these conversations take place, Mr Leung? 15 I've had some difficulty understanding the time frame 16 when these conversations took place. Was it during -- 17 I mean, there's a sentence -- the second sentence of 18 paragraph 19 says: 19 "It was only brought to my attention a few weeks 20 after the construction of the HHS had been completed." 21 Is that right, that these conversations took place 22 after the HHS completion? 23 A. I cannot recall which time frame exactly I received this 24 information. It should have been -- I should have 25 received this before the works were completed, and</p> |

| Page 13 | Page 15 |
|---|--|
| <p>1 Mr Tung had reminded us to submit the RISC forms.</p> <p>2 Q. Yes. You see, you say in the first sentence of</p> <p>3 paragraph 19 -- Mr Leung, I'm genuinely trying to</p> <p>4 understand this:</p> <p>5 "I did not know during the period of construction of</p> <p>6 the HHS that some of the RISC forms of the formal</p> <p>7 inspections in the HHS had not been completed by the</p> <p>8 frontline engineers in my team."</p> <p>9 Now, my understanding of some answers you gave to me</p> <p>10 a little earlier was that you had complaints by somebody</p> <p>11 such as Mr Jeff Lii that he was overworked, and did you</p> <p>12 not understand from those conversations that you had</p> <p>13 with Mr Lii that the paperwork, the RISC forms, weren't</p> <p>14 being done at that time, during the course of the works?</p> <p>15 A. I was aware.</p> <p>16 Q. Right. So you were aware during the course of</p> <p>17 construction that some of the RISC forms were not being</p> <p>18 submitted; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Right. And during the course of the works, Mr Leung,</p> <p>21 what did you do about the lack of submission of RISC</p> <p>22 forms?</p> <p>23 A. I would remind my engineers to submit the RISC forms for</p> <p>24 where the inspections had already been conducted.</p> <p>25 Q. And they didn't follow your instructions, did they,</p> | <p>1 a number of them, but you never checked on how many. Is</p> <p>2 that right?</p> <p>3 A. Yes, that's correct.</p> <p>4 CHAIRMAN: So did you not sort of sit with each of them and</p> <p>5 say, "Right, how many RISC forms are you behind? Okay,</p> <p>6 let's, you know, get together in three days' time or</p> <p>7 something and we can tick them all off and make sure</p> <p>8 they are all done", or something like that? I'm just</p> <p>9 thinking of something a little bit more methodical.</p> <p>10 A. I did not do that, because at that time we had more</p> <p>11 important work to do. That's why I didn't really pay</p> <p>12 much attention to the submission of RISC forms.</p> <p>13 CHAIRMAN: And, in your statement, you speak about what</p> <p>14 appears to be a habit on the part of the engineers that</p> <p>15 because of the pressure of work, they would often get</p> <p>16 the MTRCL's okay to conduct a formal inspection,</p> <p>17 a hold-point inspection, on the basis that the RISC form</p> <p>18 would be supplied later. Is that the case? It became</p> <p>19 quite common to do that?</p> <p>20 A. Right.</p> <p>21 CHAIRMAN: And so the immediate concern for you and your</p> <p>22 engineers was to keep the work going, to make sure that</p> <p>23 the inspections took place without delay, and the</p> <p>24 paperwork would catch up later?</p> <p>25 A. Right.</p> |
| Page 14 | Page 16 |
| <p>1 Mr Leung? Because we know -- we can look at the table</p> <p>2 in a moment -- we know that there are many, many RISC</p> <p>3 forms on the HHS that simply were never submitted at</p> <p>4 all.</p> <p>5 A. After I had a talk with my engineers, I did see that</p> <p>6 they submitted some forms, but I wouldn't know whether</p> <p>7 the forms were sufficient, but I did see that they had</p> <p>8 made some submissions after I reminded them.</p> <p>9 Q. Did you regard the non-submission of the RISC forms as</p> <p>10 a serious matter?</p> <p>11 A. No, because at each hold point we had the MTRC's</p> <p>12 inspectors' approval and agreement before we continued.</p> <p>13 Q. Okay. And you saw that as more important than filling</p> <p>14 out the paperwork; is that what it comes to, Mr Leung?</p> <p>15 A. I don't quite understand the question. Could you ask</p> <p>16 the question again?</p> <p>17 Q. Sure. You regarded it as more important that the MTR</p> <p>18 inspectors inspected the works and gave the go-ahead for</p> <p>19 the next activity, rather than filling out the RISC</p> <p>20 forms?</p> <p>21 A. Yes.</p> <p>22 CHAIRMAN: Sorry, could I just ask a couple of questions</p> <p>23 briefly. You said that you would speak to your people</p> <p>24 about the failure to submit or, rather, to complete and</p> <p>25 then submit RISC forms. You saw that they submitted</p> | <p>1 CHAIRMAN: Okay. Did you have any particular system for</p> <p>2 ensuring that the paperwork did catch up later, or was</p> <p>3 it really a question of just dealing with it as and when</p> <p>4 somebody raised the issue?</p> <p>5 A. Our engineers were aware of how many RISC forms had to</p> <p>6 be submitted. Perhaps they were too busy afterwards and</p> <p>7 they have missed some.</p> <p>8 CHAIRMAN: All right. In fact, I think you yourself said --</p> <p>9 this is not a criticism, I hasten to add -- but you</p> <p>10 yourself said you had one RISC form which you were busy</p> <p>11 and you had forgotten about?</p> <p>12 A. Right.</p> <p>13 CHAIRMAN: Thank you. Sorry.</p> <p>14 MR PENNICOTT: Not at all, sir. Thank you very much.</p> <p>15 Just to take up the Chairman's last point,</p> <p>16 Mr Leung -- if we can take up the table, the HHS summary</p> <p>17 table, at CC9/5642. If we go to CC5651, we are in the</p> <p>18 table, or part of the table, that deals with the</p> <p>19 accommodation blocks; do you see that, Mr Leung?</p> <p>20 A. Yes.</p> <p>21 Q. And your name appears three times on this particular</p> <p>22 sheet, at items 31 twice and down at 37; do you see</p> <p>23 that?</p> <p>24 A. Yes.</p> <p>25 Q. And in relation to those items, you are described as the</p> |

| Page 17 | Page 19 |
|---|--|
| <p>1 responsible engineer?</p> <p>2 A. Yes.</p> <p>3 Q. I imagine that the one RISC form that you didn't submit</p> <p>4 or issue is the one at number 31, the second item at 31;</p> <p>5 is that right?</p> <p>6 A. Yes.</p> <p>7 Q. I've looked at the other two RISC forms, Mr Leung, for</p> <p>8 which you are described as the responsible engineer.</p> <p>9 That is numbers 8579 and 8306 and in fact your name does</p> <p>10 not appear on either of them. Were you aware of that?</p> <p>11 A. I was aware of that.</p> <p>12 Q. They were filled in by somebody called Yvonne Lai; is</p> <p>13 that right? Have I got the name right?</p> <p>14 A. Yes.</p> <p>15 Q. She was one of your colleagues?</p> <p>16 A. Right.</p> <p>17 Q. What was her position?</p> <p>18 A. Engineer.</p> <p>19 Q. Okay. So why is it that on here you're described as the</p> <p>20 responsible engineer for those matters or for those</p> <p>21 items?</p> <p>22 A. Because the form was issued by Yvonne, but in the INCITE</p> <p>23 system the responsible engineer was me, because I think</p> <p>24 Jeff Lii was on leave or he wasn't in the office for</p> <p>25 whatever reason. That's why my name was put there. But</p> | <p>1 COMMISSIONER HANSFORD: Right. Okay. Thank you.</p> <p>2 MR PENNICOTT: Sir, would you like to look at one of the</p> <p>3 forms?</p> <p>4 COMMISSIONER HANSFORD: No, that's fine.</p> <p>5 MR PENNICOTT: All right.</p> <p>6 Lastly from me, Mr Leung, can I just ask you to look</p> <p>7 at paragraph 26 of your witness statement. That's at</p> <p>8 page 3834, CC3834. This is under the general heading,</p> <p>9 "Testing of rebar and couplers", and in paragraph 26,</p> <p>10 you say:</p> <p>11 "During the period of construction, I understood</p> <p>12 that all of the tests for the batches of rebar ordered</p> <p>13 by my team had been completed and the results were</p> <p>14 satisfactory. I have recently learned that some batches</p> <p>15 of rebar ordered by a member of my team (WC Lam) were</p> <p>16 not tested after arriving on site."</p> <p>17 So, pausing there -- you say "some batches" -- have</p> <p>18 you identified or been able to identify, Mr Leung, how</p> <p>19 many batches?</p> <p>20 A. I wasn't clear about the number of batches.</p> <p>21 Q. Right. Are we talking about batches of rebar used in</p> <p>22 the HHS area?</p> <p>23 A. If it's ordered by WC Lam, I think so.</p> <p>24 Q. Right. When you say you have "recently learned that</p> <p>25 some batches of rebar ... were not tested", who has</p> |
| Page 18 | Page 20 |
| <p>1 on the RISC form, responsible engineer's name would not</p> <p>2 appear on them.</p> <p>3 Q. I follow. Thank you very much.</p> <p>4 Sir, I'm not going to those two RISC forms, but I'll</p> <p>5 just, for the purposes of the transcript, since I've</p> <p>6 mentioned them, just tell everybody where they are. The</p> <p>7 first one, 8579, is in CC9 at page 5657.10244, and the</p> <p>8 second one, 8306, is at CC9/5657.10674. But as I say,</p> <p>9 I'm not going to them.</p> <p>10 CHAIRMAN: Okay.</p> <p>11 COMMISSIONER HANSFORD: Sorry, just so that I can understand</p> <p>12 that, Mr Leung, what you've just told us, do I take it</p> <p>13 that Yvonne -- sorry, what was her surname?</p> <p>14 MR PENNICOTT: Yvonne Lai, L-A-I.</p> <p>15 COMMISSIONER HANSFORD: Yvonne Lai was not qualified as</p> <p>16 a responsible engineer in the context of these forms, is</p> <p>17 that the reason why your name was there?</p> <p>18 A. Yvonne Lai was mainly responsible for the support team.</p> <p>19 She was inputting information into forms and paperwork,</p> <p>20 ordering supplies in the office. She wasn't really</p> <p>21 familiar with the situation at the site, that's why my</p> <p>22 name was put instead.</p> <p>23 COMMISSIONER HANSFORD: Right. But who carried out the</p> <p>24 inspection? Was it you or was it Yvonne?</p> <p>25 A. I think it was me.</p> | <p>1 informed you of that, Mr Leung?</p> <p>2 A. It was the QA department of our company.</p> <p>3 Q. Right. But having been informed of that by the QA</p> <p>4 department, you haven't followed up and tried to</p> <p>5 investigate and establish the number of batches that</p> <p>6 were not tested; is that right?</p> <p>7 A. I did not count the number of batches. I was shown</p> <p>8 a table of the batches that were not tested, but</p> <p>9 I cannot recall how many batches there were.</p> <p>10 MR PENNICOTT: Okay. It may be that we will be able to</p> <p>11 trace that table, but okay. Thank you very much,</p> <p>12 Mr Leung.</p> <p>13 Sir, I have no further questions at this stage.</p> <p>14 MR TSOI: We have no questions for Mr Leung.</p> <p>15 MR BOULDING: No questions, sir. Thank you.</p> <p>16 Cross-examination by MS PANG</p> <p>17 MS PANG: Good morning, Mr Leung.</p> <p>18 A. Good morning.</p> <p>19 Q. I represent the government and I have a couple of</p> <p>20 questions for you.</p> <p>21 Can I start by asking you some questions about</p> <p>22 paragraph 14 of your witness statement. If we can go to</p> <p>23 page CC3831, can I ask you to look at subparagraph (e).</p> <p>24 By the way, just to put things in context, in this</p> <p>25 particular paragraph, I think you describe the</p> |

| Page 21 | Page 23 |
|---|--|
| <p>1 procedures for the hold-point inspection, so 2 subparagraph (e) is part of the hold-point inspection, 3 and you describe at paragraph (e): 4 "The practice was to arrange for rebar fixing and 5 pre-pour work to be completed simultaneously to reduce 6 delay. If that happened, the formal inspection for the 7 pre-pour check could proceed shortly after the formal 8 inspection for the rebar fixing ..." 9 I'm just wondering if you can elaborate on this 10 paragraph, because I'm wondering how could the rebar 11 fixing work and pre-pour work be -- what does it mean by 12 saying that these two types of work would be completed 13 simultaneously, can you explain that? 14 A. Usually, for the inspection of rebars, it would be 15 engineers of MTRC who are responsible for that, and for 16 the other type of work, it would be the inspectors of 17 MTRCL. There might be some minor defects that had to be 18 remedied. Perhaps just before the pre-pour checks, they 19 would be completed. So these two types of work might 20 take place at the same time at the site. 21 CHAIRMAN: Sorry, I need a little bit of help there. Thank 22 you. 23 My understanding is that you had the rebar fixing 24 which was completed and then you had a hold-point 25 inspection, and then after that, when the hold-point</p> | <p>1 Please note that the rebar inspection was rejected 2 this pm for the remaining footing at VRV unit, due to 3 incomplete fixing of the coupler, refer to the attached 4 photos. More than half of the coupler at the B1 rebar 5 were not properly fixed. Your engineer did not rectify 6 the defects and decided to cast concrete anyway. It is 7 also note that general cleaning inspection was not 8 arranged with our IOW before pouring concrete. This is 9 unacceptable." 10 So this is the content of the email. 11 Can I just confirm, the general cleaning inspection, 12 that is actually the pre-pour check; is that right? 13 A. Yes. 14 Q. So, according to this email, the rebar fixing check and 15 the pre-pour check were both not completed before 16 concrete was poured; is that correct? 17 A. The inspection was conducted and it was done by 18 Jason Kwok. It's just that there were defects 19 afterwards that he wanted us to clear up, and my 20 understanding is we didn't clear up the defects. 21 Q. At that time, were you aware of this incident? 22 A. At that point, I was on vacation, and I only returned to 23 work on either 2 or 3 July when I saw the email. 24 Q. Right. When you became aware of the incident, what was 25 your reaction? Were you surprised?</p> |
| Page 22 | Page 24 |
| <p>1 inspection was successfully done, you would then have 2 formwork that needed to be done and you would also have 3 pre-pour work that needed to be done, which would 4 consist of cleaning out the debris and things like that 5 from the rebar area. Is that right? And if so, are you 6 saying that these jobs were then all done together? 7 A. In the HHS area, we have the track slab and a trough 8 area. The track slab is a large area and there are two 9 walls on the side. So, under those circumstances, the 10 rebar and the cleaning work can be done together. 11 CHAIRMAN: All right. Thank you. 12 MS PANG: That clarifies my question. 13 In that case, I want to move on to a different 14 topic. Can I ask the Secretariat to bring up BB5789. 15 Mr Leung, you should now have a copy of an email 16 addressed to you in front of you. Can you see on the 17 top of the email, "To: Ronald Leung"; is that you? 18 A. Correct. 19 Q. And this is an email sent to you by a construction 20 engineer of MTR called Jason Kwok. Do you know him? 21 A. Yes, I know him. 22 Q. Let's take a look at the contents of the email. Just 23 for the record, the date of this email is 30 June 2017. 24 It says here: 25 "Dear Ronald,</p> | <p>1 A. I did contact my engineers and ask for their 2 explanation. 3 Q. And from the record, the engineer responsible for this 4 was WC Lam; is that correct? 5 A. Yes, correct. 6 Q. So you spoke to him; right? 7 A. Yes, correct. 8 Q. And what did he tell you about the incident? 9 A. He told me that after inspection with Jason, there was 10 this comment, and he had asked our responsible foreman 11 and the rebar contractors, he had asked them to clear up 12 the defects, and he said there might have been some 13 miscommunication and they did not do the cleaning-up 14 work and just poured the concrete. So that was the 15 explanation given to me. 16 Q. So his explanation to you was there was a communication 17 error, essentially; is that correct? 18 A. Yes, correct. 19 Q. And did you accept this explanation? 20 A. I accepted the explanation. 21 Q. But we know from the email that not only was the rebar 22 fixing work not rectified; the pre-pour check was also 23 not conducted. Now, given that both the rebar fixing 24 work and the pre-pour check was not completed, do you 25 still find the explanation acceptable?</p> |

| Page 25 | Page 27 |
|---|--|
| <p>1 A. That was the only explanation offered.</p> <p>2 Q. Perhaps we can take a look at the photos attached to</p> <p>3 this email. That would probably give us a better idea</p> <p>4 of the situation. Can we turn to the next page, 5790.</p> <p>5 CHAIRMAN: Sorry, again I'm interrupting; my apologies. You</p> <p>6 spoke to the engineer, and I think you said -- and I'm</p> <p>7 open to correction -- that he explained to you that in</p> <p>8 fact the rebar fixers had then corrected any problems.</p> <p>9 Is that right?</p> <p>10 A. No. He told me that he had communicated to the foreman</p> <p>11 and instructed the foreman to communicate with the rebar</p> <p>12 workers so there was some communication error at this</p> <p>13 stage. So our on-site foreman did not contact the rebar</p> <p>14 workers; they did not remedy the situation and just</p> <p>15 poured the concrete.</p> <p>16 CHAIRMAN: All right. So what you had was, as I understand</p> <p>17 it, you had over 50 per cent, however many rebars that</p> <p>18 is -- I don't know -- of these rebars were not fully</p> <p>19 engaged with the couplers, nor had there been any</p> <p>20 cleaning of the area to make sure that there was no</p> <p>21 rubbish lying around that might create vacuums in the</p> <p>22 concrete later, et cetera. All of this was raised by</p> <p>23 Jason Kwok of MTR, but presumably not on the basis of</p> <p>24 a written RISC form?</p> <p>25 MS PANG: Mr Chairman, I'm actually going to take this</p> | <p>1 A. Correct, nothing.</p> <p>2 Q. Mr Leung, are you aware or do you recall that at or</p> <p>3 about the time of the incident, that is late June 2017</p> <p>4 or early July, MTRC actually -- a RISC form was actually</p> <p>5 issued and MTRC actually specified their rejection on</p> <p>6 the RISC form; do you recall that?</p> <p>7 Or perhaps we can take a look at the RISC form.</p> <p>8 That might be easier. BB5796. Sorry, we should</p> <p>9 probably start at 5794.</p> <p>10 We see that the date of this RISC form is actually</p> <p>11 30 June 2017, and item (2), the work to be inspected,</p> <p>12 rebar fixing of footing at VRV room; do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And under "Part B", we see the name of Jason Kwok; do</p> <p>15 you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And under item number (6), "Notes", it was stated that</p> <p>18 there was incomplete fixing of coupler; do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. If we move down to "Part C", "Permission to carry out</p> <p>21 the proposed work outlined in (4) above is not given";</p> <p>22 do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. So this RISC form recorded that MTRC did not give</p> <p>25 approval to proceed with the works; is that correct?</p> |
| Page 26 | Page 28 |
| <p>1 witness to the written RISC form.</p> <p>2 CHAIRMAN: Are you? Good. Thank you very much. I just</p> <p>3 wanted to understand.</p> <p>4 And you are saying that because of</p> <p>5 a miscommunication -- we will leave aside the RISC form</p> <p>6 itself -- the concrete was just poured?</p> <p>7 A. Yes.</p> <p>8 CHAIRMAN: And what did you do?</p> <p>9 A. As I said just now, I was on vacation during that time,</p> <p>10 and when I returned to work, I received the email, and</p> <p>11 I had expected MTRC would issue an NCR report, and then</p> <p>12 I might have follow-up work to do. But we didn't</p> <p>13 receive the NCR. Then I was busy with other affairs and</p> <p>14 I didn't follow up on this.</p> <p>15 CHAIRMAN: All right. Thank you.</p> <p>16 Sorry, my apologies for holding you up.</p> <p>17 MS PANG: No problem at all.</p> <p>18 Mr Leung, you just mentioned that you did not</p> <p>19 receive an NCR from the MTR. Do I understand you</p> <p>20 correctly, there was no NCR?</p> <p>21 A. There wasn't.</p> <p>22 Q. So presumably no rectification work was carried out</p> <p>23 because there was no NCR?</p> <p>24 A. That is correct. That is my understanding.</p> <p>25 Q. So, basically, nothing was done about this?</p> | <p>1 A. Correct.</p> <p>2 Q. Let's take a look at 5796. This is the RISC form for</p> <p>3 the pre-pour check. So again we see that the date is</p> <p>4 30 June 2017, and the work to be inspected is "Check</p> <p>5 cleanliness and formwork of footing at VRV room". So</p> <p>6 this is the pre-pour check; correct?</p> <p>7 A. I see it.</p> <p>8 Q. And under "Notes":</p> <p>9 "No invitation for general condition inspection of</p> <p>10 formwork of footing (rejected)."</p> <p>11 And under that, we also see a couple of handwritten</p> <p>12 notes:</p> <p>13 "Leighton please review your ITP system and brief to</p> <p>14 your front staff, it is totally unacceptable, and please</p> <p>15 tell me how to prevent the problem occur again."</p> <p>16 Do you see that?</p> <p>17 A. I see it.</p> <p>18 Q. At that time, did you receive a copy or did you have</p> <p>19 a look at a copy of these two RISC forms?</p> <p>20 A. No, I did not. It was not sent to me directly.</p> <p>21 Q. So who would have received a copy of the RISC forms?</p> <p>22 A. These two would have been returned to us through the</p> <p>23 system, and the first people to receive it would be the</p> <p>24 QA department.</p> <p>25 Q. Am I correct to understand that no one from the QA</p> |

| | | | |
|---------|---|---------|--|
| Page 29 | 1 department has asked you to follow up with this? 2 A. Yes. 3 Q. So, as far as you are aware, there was no review of 4 Leighton's ITP system as requested by MTR; is that 5 right? 6 A. Right. 7 CHAIRMAN: Sorry, again, "ITP"? I'm not good with initials. 8 MS PANG: Inspection and test plan. 9 CHAIRMAN: Thank you. 10 MS PANG: And so far as you are aware, you did not get back 11 to MTR on any proposal on how to prevent the same 12 problem from happening again? 13 A. No, I did not. 14 Q. Mr Leung, just only one last follow-up question I would 15 like to ask you. It's concerning the problem of the 16 non-issuing of -- non-submission of RISC forms. 17 You recall that during your exchange with my learned 18 friend Mr Pennicott, you agreed that it was your 19 responsibility to ensure that your team issues RISC 20 forms on time, do you recall that? 21 A. Yes. 22 Q. And you also told us that you were aware of the issue of 23 non-submission of RISC forms during the construction of 24 the works; do you recall that? 25 A. Right. Yes. | Page 31 | 1 out the individual on-site inspection." 2 Do you see that? 3 A. Yes. 4 Q. So, in essence, this is a complaint from MTRC to 5 Leighton of the problem of non-submission of RISC forms; 6 right? 7 A. Right. 8 Q. Were you aware of this complaint at that time, at the 9 time of the email? 10 A. No. 11 Q. So you have no recollection at all of having received 12 this email? 13 A. Not really, because I received a lot of emails every 14 day. I might have overlooked it. 15 MS PANG: Thank you, Mr Leung. I have no further questions. 16 MR LAU: No questions. 17 Questioning by THE TRIBUNAL 18 COMMISSIONER HANSFORD: I have one question. Mr Leung, can 19 we have a look at paragraph 24 of your witness 20 statement. In paragraph 24, you are referring to 21 temporary works inspections and permit to load before 22 concreting. Is that correct? 23 A. Right. 24 COMMISSIONER HANSFORD: And you say: 25 "These TW4 forms [that's the permit to load forms] |
| Page 30 | 1 Q. And your evidence was that you did not consider this 2 a serious problem because the focus at that time was to 3 keep the work going. Is that right? 4 A. Right. 5 Q. I'd just like to ask you to take a look at an email, at 6 CC6208. The email that I would like you to look at is 7 actually at the bottom of this page. 8 We can see that this is an email from Kenneth Kong 9 of MTR, and the date is 24 March 2017. On the second 10 line under "Cc", do we see there your email address? 11 A. Yes. 12 Q. If you turn over the page, you can see the contents of 13 that email. I don't propose to go into details. Do you 14 have any recollection of receiving this email? 15 A. Not really. 16 Q. Right. In that case, then perhaps we should take a look 17 at the first paragraph of this email: 18 "It is very disappointed for your frontline 19 engineers/agents without submit the request for 20 inspection form to our inspectors/construction engineers 21 I/II for any black and white notice of works through the 22 RISF for a certain months. This cases were mostly 23 happened at SAT, NAT and HHS respectively. The 24 contractor should adequate notice MTR through the RISF 25 to our construction engineers I/II/inspectors to carry | Page 32 | 1 would be signed and issued by a temporary works 2 coordinator ..." 3 Yes? 4 A. Right. 5 COMMISSIONER HANSFORD: But then in the final sentence, you 6 say: 7 "These TW4 forms provide further evidence that the 8 engineers in my team were supervising and inspecting the 9 works." 10 Was the temporary works coordinator one of the 11 engineers in your team? 12 A. No. It's a separate individual from the design and 13 engineering department, not under our construction team. 14 COMMISSIONER HANSFORD: So how do these TW4 forms provide 15 further evidence that the engineers in your team were 16 supervising and inspecting the works? I don't 17 understand what you mean by that sentence. 18 A. It was our engineers and TWC that conducted the 19 checking. If there was any need to change anything or 20 reinforce anything at the site, then they would 21 communicate directly with our engineers, who would then 22 tell our foremen how to rectify the situation before the 23 TW4 form was signed. 24 COMMISSIONER HANSFORD: Thank you. So if the TW4 form was 25 not signed, would it be possible to pour concrete? |

| Page 33 | Page 35 |
|--|---|
| <p>1 A. As far as I understand, no. 2 COMMISSIONER HANSFORD: Whereas if a RISC form is not 3 signed, it is possible to pour concrete; is that 4 correct? 5 A. The main point was to have MTR inspectors inspect and 6 approve them, and the RISC form could be submitted 7 later. 8 CHAIRMAN: I don't think that answers the question, really. 9 COMMISSIONER HANSFORD: Well, it seems to me that the TW4 10 forms were treated very seriously because, without them, 11 concrete could not be poured. Is that correct? 12 A. Right. 13 COMMISSIONER HANSFORD: But that's not the case with RISC 14 forms; is that correct? 15 A. To be correct, for our inspections, we did it mainly via 16 WhatsApp group. For TW4 form, once it was signed and 17 approved, we would take a picture of it and send it to 18 the group. MTRC inspectors would see the form, and we 19 would confirm that they have approved the inspections, 20 then there would be concrete pouring. 21 COMMISSIONER HANSFORD: Right. I understand. Thank you. 22 MR SHIEH: No re-examination. 23 CHAIRMAN: Thank you very much indeed. 24 Mr Leung, thank you very much. Your evidence is now 25 completed. Thank you for your assistance.</p> | <p>1 statement; do you see that? 2 A. Yes. 3 Q. If you turn to page 3827, that is your signature on that 4 page? 5 A. Yes. 6 Q. Right. Then you made a further witness statement, in 7 bundle CC10, at page 6492. That is your second witness 8 statement; do you see that? 9 A. Yes. 10 Q. If you turn to 6493, we can see your signature there? 11 A. Yes. 12 Q. Do you put forward the content of these two witness 13 statements as your evidence in this Commission of 14 Inquiry, by confirming the truth of their contents? 15 A. Yes. 16 Q. I am going to show you two corporate charts which 17 hopefully would help us in putting your position in the 18 organisation structure. 19 First of all, we would look at the old bundles in 20 the Original Inquiry, bundle C7, page 5531. If you look 21 at below "(Senior) site agent" for HHS, "Marco Chan" -- 22 do you see "Marco Chan"? It is about 4 o'clock to the 23 "MTRC" blue box. If you look down to the right, you can 24 see "Senior Engineer Alan Yeung"; you can see your name 25 there?</p> |
| Page 34 | Page 36 |
| <p>1 WITNESS: Thank you. 2 (The witness was released) 3 MR PENNICOTT: Sir, can I just make one point to try and tie 4 up the point that was put by Ms Pang to the witness. 5 I am grateful to Ms Pang for drawing our attention to 6 the email of 30 June and the photographs that were 7 attached. 8 If one looks at the sheets we have, one can find it 9 at item 64, and it's quite interesting that it's 10 actually the penultimate pour on the HHS accommodation 11 blocks, right at the end. I think there was one pour 12 that followed it. It's quite interesting just to tie 13 these things together sometimes. It wasn't sort of out 14 of the blue but right at the end. 15 MR SHIEH: The next is a Leighton witness, Alan Yeung. 16 MR YEUNG KA LUN, ALAN (affirmed in Cantonese) 17 (All answers given via simultaneous interpreter 18 except where otherwise specified) 19 Examination-in-chief by MR SHIEH 20 MR SHIEH: Good morning, Mr Yeung. Welcome to the 21 Commission of Inquiry. 22 For the purpose of this Inquiry, you have made two 23 witness statements. Can I just take you to them one by 24 one. First of all, can you look at bundle CC6 at 25 page 3818. You can see this is your first witness</p> | <p>1 A. Yes. 2 Q. And if you look at the top left-hand corner of this 3 diagram, it shows the position as of January 2015; do 4 you see that? 5 A. Yes. 6 Q. If I can ask you to turn to page 5537. This shows the 7 position as of September 2016 on the top left-hand 8 corner; do you see that? 9 A. Yes. 10 Q. Again, if you look at the blue "MTRC" box, around 11 4 o'clock to the blue "MTRC" box, under "Area A/SAT", if 12 we look down, we can see your name under Andy Chan; can 13 you find that? 14 A. Yes, I see it. 15 Q. Do these two charts accurately reflect your position in 16 the organisation structure at the relevant time? 17 A. Yes. 18 Q. Thank you. Can you remain seated and answer questions 19 which may be put to you by Mr Pennicott for the 20 Commission, in front of me, and other lawyers, as well 21 as the Commissioner and Mr Chairman, following which 22 I may have some follow-up questions for you. Do you 23 understand? 24 A. No problem. 25 MR SHIEH: Thank you.</p> |

| Page 37 | Page 39 |
|--|--|
| <p>1 Examination by MR PENNICOTT 2 MR PENNICOTT: Mr Yeung, good morning. As Mr Shieh has 3 indicated, my name is Ian Pennicott, I'm one of the 4 counsel for the Commission, and I'm going to ask you 5 a few questions. Thank you very much for coming along 6 to give evidence to the Commission this morning. 7 As usual, let's just get your -- the work 8 responsibilities that you did clear first. Now, my 9 understanding is that from September 2014 to January 10 2016, Mr Yeung, you were a senior engineer deployed to 11 the HHS area; is that right? 12 A. Yes, that's correct. 13 Q. And in particular, as I understand it, deployed to be 14 responsible for the track slab areas; is that right? 15 A. Yes. 16 Q. Then, as we've just seen on that chart, the second chart 17 that Mr Shieh took us to, in January 2016 to January 18 2017, you transferred, effectively, to the -- or became 19 responsible for the SAT NSL level; is that right? 20 A. Yes, correct. 21 Q. So we again have to look at both the HHS table and the 22 SAT table so far as it relates to the NSL, and I think 23 it's the first time we've looked at the SAT NSL 24 together, but let's start with the HHS because that's 25 chronologically first.</p> | <p>1 Q. And what sort of impression did you form of Ah Chun? 2 A. He's hard-working. 3 Q. Right. That will do. 4 Now, Mr Yeung, as I understand it, in your role as 5 senior engineer, you carried out, so far as the rebar is 6 concerned, both informal and formal inspections of the 7 works, the rebar works; is that correct? 8 A. Yes, that's correct. 9 Q. And perhaps to be a little bit more specific, was it the 10 case that you would carry out an informal inspection in 11 a particular area and you would also be responsible for 12 carrying out the formal inspection in the same area? 13 A. Yes, that's correct. 14 Q. Could I ask you, please, to look at paragraph 16(c) of 15 your witness statement. That is under the heading 16 "Formal inspections". You say -- that's at 3821: 17 "Before or around the time of a formal inspection, 18 Leighton's engineer would issue a request for inspection 19 and survey check ... form to MTR and would let MTR's 20 engineer/IOW know the likely time of the inspection". 21 Then at paragraph 17(a) of your witness statement on 22 the next page, you say: 23 "There were in fact two formal inspections of the 24 rebar fixing works. The first was undertaken after the 25 sub-contractor had installed the bottom layer of rebar</p> |
| Page 38 | Page 40 |
| <p>1 Before we do that, can I just ask you this, 2 Mr Yeung. In paragraph 7 -- it's becoming rather 3 repetitive -- but you say in paragraph 7 of your first 4 witness statement at page 3819 that the sub-contractor 5 responsible for rebar fixing was Wing & Kwong. 6 Just pausing there, your main point of contact, 7 I imagine, was Ah Chun; is that right? 8 A. Yes. 9 Q. And how often did you see him during the course of 10 a working week, Mr Yeung? 11 A. Mostly every day or two, we would see once. 12 Q. And would you have regular conversations with him? 13 A. Yes, correct. 14 Q. And if he had any problems or difficulties or issues 15 with the works, would he raise them with you? 16 A. He would. He would do so. 17 Q. Did that happen very often? 18 A. It wasn't very frequent, but every once in a while he'd 19 ask. 20 Q. Okay. And presumably you would, if you were able, you 21 would resolve any problem with him, or if there was 22 a problem, you would -- if it was a more serious 23 problem, you would refer it to your superior; is that 24 right? 25 A. Yes, that's correct.</p> | <p>1 and, the second inspection was conducted after the 2 installation of the top layer of rebar". 3 Mr Yeung, so far as that last piece of evidence is 4 concerned, would there be one RISC form that covered 5 both the bottom and the top rebar, or two separate RISC 6 forms? 7 A. Well, there is no specific rule or guideline. Now, my 8 personal habit, I would have one RISC form submitted to 9 cover the bottom and the top layer of rebar, and I would 10 coordinate these with the MTRC IOWs and this would be 11 done before the second layer and we would have the RISC 12 form submitted. 13 Q. Right. So one RISC form covering both the bottom and 14 top layer was your practice? 15 A. Yes. 16 Q. Can I ask you, please, to look at paragraph 21 of your 17 witness statement. 18 Mr Yeung, this, I understand and appreciate, is 19 a paragraph that you have corrected in your second 20 witness statement. Do you follow? 21 A. Yes. 22 Q. Right. You are dealing there with the table that we're 23 familiar with in relation to the HHS, which you say you 24 have not confirmed or checked the accuracy of. Now, 25 that was what you said back when you signed your witness</p> |

| Page 41 | Page 43 |
|---|--|
| <p>1 statement on 17 May. Would I be right in thinking that</p> <p>2 you have gone back and at least looked at that table,</p> <p>3 even if you haven't fully checked and confirmed its</p> <p>4 accuracy?</p> <p>5 A. Because, at the time, the lawyers told me I needed to</p> <p>6 sign the papers in one day, and I said I wouldn't sign</p> <p>7 because I couldn't confirm the numbers. At that time,</p> <p>8 I said I needed to include this statement saying that</p> <p>9 I did not confirm the figures, because if you require me</p> <p>10 to check from top to bottom, it is a lengthy process.</p> <p>11 Q. All right. But you have, in your second witness</p> <p>12 statement, revised some of the numbers that we see in</p> <p>13 paragraph 21. Let me just now read it out with the</p> <p>14 corrections. You now say:</p> <p>15 "However, according to this table [which we are</p> <p>16 going to look at in a moment], it shows that I submitted</p> <p>17 most of the RISC forms for the formal inspections that</p> <p>18 I was responsible for in the HHS, with the exception</p> <p>19 that I did not submit forms for [now it reads 27 out of</p> <p>20 the 66] relevant formal inspections in that area. The</p> <p>21 details are as follows:</p> <p>22 (a) I did not submit a RISC form for [12 out of the</p> <p>23 40] rebar fixing inspections ..."</p> <p>24 I think that's right now, isn't it, Mr Yeung?</p> <p>25 A. The figure was submitted by the lawyer. He gave me the</p> | <p>1 last ten or so entries. Do you see that, Mr Yeung?</p> <p>2 A. Yes.</p> <p>3 Q. Right. The one RISC form I just wanted to look at</p> <p>4 briefly is 6122. I think the reference is</p> <p>5 CC9/5657.8343.</p> <p>6 Mr Yeung, can you -- first of all, we can see that</p> <p>7 that's RISC form 6122. It has a date but no signature.</p> <p>8 The date is 11 February 2015; do you see that?</p> <p>9 A. I can see the form.</p> <p>10 Q. Yes. As I say, there's no signature on here, Mr Yeung.</p> <p>11 If we scroll down, the rest of it is blank, so far as</p> <p>12 one can see, apart from the standard wording that</p> <p>13 appears on the form itself.</p> <p>14 Do you have any recollection, Mr Yeung, as to what</p> <p>15 would have happened to this form and why there are</p> <p>16 simply no details set out on it?</p> <p>17 A. I have no recollection about this form. I see the</p> <p>18 location of work, and the work involved, I was aware of</p> <p>19 it. But as to when I issued this RISC form, I have no</p> <p>20 recollection, and whether it was issued by me, I have no</p> <p>21 recollection either.</p> <p>22 Q. All right.</p> <p>23 Let's then just briefly go to the SAT NSL area, for</p> <p>24 which purpose we need -- and we know that you started</p> <p>25 working there in January 2016. And if we go to the</p> |
| Page 42 | Page 44 |
| <p>1 figure and I recall that was roughly the figure.</p> <p>2 Q. Okay. And if we look at the table -- it's at CC9/5642</p> <p>3 and we will pick up your name, Mr Yeung -- principally,</p> <p>4 it's at 5647. Do you see the column "Responsible</p> <p>5 engineer", Mr Yeung?</p> <p>6 A. Yes.</p> <p>7 Q. And your name appears on one other sheet of this. I'm</p> <p>8 not going to go to it, but essentially what I think has</p> <p>9 happened is you've been identified as the responsible</p> <p>10 engineer in various areas, and we can see that there are</p> <p>11 quite a lot of areas where you have certainly issued the</p> <p>12 RISC form and a number of areas where you haven't, and</p> <p>13 the numbers of 12 out of 40 comes from just a check of</p> <p>14 this column, as I understand it. Is that right,</p> <p>15 Mr Yeung?</p> <p>16 A. Well, back to what I said, I did not carefully check</p> <p>17 this table because it was a very short time. I was only</p> <p>18 given one day to check everything, and I had other</p> <p>19 things to do.</p> <p>20 Q. Right. I'm just seeing if I can shortcircuit this.</p> <p>21 Yes, Mr Yeung. I just want to look at one RISC</p> <p>22 form. In fact, you will need to go to page 5649 in this</p> <p>23 table, so go on a couple of pages, please.</p> <p>24 You will see, in the "Responsible engineer" column,</p> <p>25 your name appearing towards the foot of the page, in the</p> | <p>1 equivalent table -- it's at CC4397, in CC8 -- the SAT</p> <p>2 NSL part of the table is at the bottom of the page; do</p> <p>3 you see that, Mr Yeung? And it continues over to the</p> <p>4 second sheet; do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. It appears from this table, Mr Yeung, that you had</p> <p>7 a very high success rate in issuing the RISC forms</p> <p>8 because, as far as I can tell, so far as the rebar is</p> <p>9 concerned, it's just the four at the end that are</p> <p>10 missing. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Right. The four missing all have dates on 20 or</p> <p>13 21 June, do you see that, 2016?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall, thinking back, Mr Yeung, that there was</p> <p>16 a particular problem on those days, those two days? It</p> <p>17 just seems odd that these four RISC forms, two days,</p> <p>18 didn't get issued. Was there a particular problem that</p> <p>19 you recall?</p> <p>20 A. I don't have much recollection.</p> <p>21 Q. Okay. But, in any event, it appears, although there</p> <p>22 are -- we've detected a couple of similar blank forms</p> <p>23 similar to the HHS one we've just looked at -- you</p> <p>24 were -- you had a very good rate of issuing the RISC</p> <p>25 forms for the SAT area; is that right? And you didn't</p> |

| Page 45 | Page 47 |
|--|---|
| <p>1 encounter any difficulties in issuing those RISC forms; 2 is that correct? 3 A. I did not encounter any difficulties, not really, but if 4 there were, well, it was probably because I forgot. 5 MR PENNICOTT: Okay. 6 Then can I please just ask you -- sir, I see that 7 it's 11.38. I have a couple of more points to make -- 8 CHAIRMAN: Yes, certainly. 9 MR PENNICOTT: -- so perhaps we can break for 15 minutes. 10 CHAIRMAN: Yes. 11 We are going to have the morning break now for 12 15 minutes. You are still giving your evidence, 13 Mr Yeung, and while you are giving evidence, you are not 14 entitled to discuss your evidence with anybody else. Do 15 you understand? 16 WITNESS: Yes. 17 CHAIRMAN: Good. 15 minutes. 18 (11.39 am) 19 (A short adjournment) 20 (11.58 am) 21 MR PENNICOTT: Thank you, sir. 22 Mr Yeung, I've decided not to go to any particular 23 specific RISC forms with you, but can I just ask you 24 this. Can you go to paragraph 23(a) of your witness 25 statement at CC3824. You say there:</p> | <p>1 through a WhatsApp group; is that right? 2 A. By phone. 3 Q. I see. All right. 4 COMMISSIONER HANSFORD: I suppose the reason for using 5 a phone rather than a WhatsApp group is that if you go 6 into the WhatsApp group, the message goes to everybody, 7 whereas by phone it just goes to a single person. Is 8 that the reason you contacted them by phone? 9 A. No. Well, it's my practice to do it by phone because 10 it's quicker to contact that person. 11 COMMISSIONER HANSFORD: Okay. Thank you. 12 MR PENNICOTT: All right. 13 Now, Mr Yeung, I appreciate that you had moved from 14 the HHS to the SAT area in early 2017, but can I ask you 15 this. At any time after early 2017, did Mr Ronald Leung 16 speak to you about submitting outstanding RISC forms; do 17 you recall? 18 A. I wasn't on Ronald Leung's team and he would not say 19 that to me. 20 Q. And did anybody else speak to you about submitting 21 outstanding RISC forms, either in relation to the HHS or 22 the few, the very few, that were missing on the SAT NSL 23 area? 24 A. No. 25 Q. Okay.</p> |
| Page 46 | Page 48 |
| <p>1 "For those formal inspections where I did not issue 2 a RISC form, I confirm that: 3 (a) MTRC's engineer (for rebar fixing inspections) 4 or IOW (for pre-pour check inspections) was contacted at 5 or shortly before each 'hold point' and requested to 6 attend a formal inspection". 7 Focusing, first of all, on the HHS, Mr Yeung, was 8 that contact by telephone? 9 A. I would call the inspector to inspect, but I did not 10 record that with WhatsApp. 11 Q. Right. That was my second question. So far as the SAT 12 is concerned -- so we are now at the SAT, moving on from 13 the HHS -- was that by telephone or by WhatsApp, or 14 perhaps it differed from situation to situation? 15 A. I would use telephone to call them to ask them for the 16 inspection. I personally would not record it on 17 WhatsApp. 18 Q. Okay. So you weren't on one of the WhatsApp groups; is 19 that right? 20 A. There was a WhatsApp group, but my practice was not to 21 make a record in the WhatsApp group about whether the 22 inspection passed or not. 23 Q. No. I understand about that. But in terms of 24 contacting the MTR to carry out the inspection in the 25 first place, that was either done by telephone or</p> | <p>1 Do you recall a gentleman by the name of Victor Tung 2 from MTR? 3 A. Yes. 4 Q. I wonder if you could be shown, please, BB14/9429. 5 A. Yes, I see it. 6 Q. Mr Tung has told us that he set up, I think, a number of 7 WhatsApp groups for the purposes of, amongst other 8 things, setting up formal inspections of the rebar and 9 pre-pour checks. 10 This is -- I'm not sure of the date, but is the 11 "Alan" -- we see the name "Alan" there -- is that likely 12 to be you, Mr Yeung? 13 A. Yes, it's me. 14 Q. Right. So would this have been in relation to the SAT 15 NSL area or the HHS? 16 A. This is HHS. 17 Q. All right. 18 Sir, can I just have one moment? 19 I just wanted to check this, Mr Yeung, but this is, 20 as I understand it, a message from Victor Tung to you 21 but actually it's nothing to do with rebar, it's all to 22 do with soil samples; is that right? 23 A. Right. It's about the soil samples. 24 MR PENNICOTT: Okay. 25 Thank you, Mr Yeung. I have no further questions.</p> |

| Page 49 | Page 51 |
|--|--|
| <p>1 MR TSOI: I have no questions. 2 MR BOULDING: No questions. Thank you, sir. 3 MR CHOW: Mr Chairman, I have a few questions for Mr Yeung. 4 CHAIRMAN: Yes. 5 Cross-examination by MR CHOW 6 MR CHOW: Good morning, Mr Yeung. I represent the 7 government and there are two to three areas that I would 8 like to explore with you. 9 The first area relates to the installation of 10 couplers. Can I ask, have you attended any training or 11 briefing session given by BOSA, as to how to properly 12 install BOSA's couplers? 13 A. No, I did not attend any BOSA seminars. 14 Q. At paragraphs 15 and 17 of your first witness statement, 15 you mention about a few threads exposed; do you recall 16 that? And I would like to know, to your knowledge, at 17 that point, how many threads were showing, that you 18 would regard it as acceptable during your inspection? 19 A. Under normal practice, they all have to be screwed in, 20 but if that's not possible then, well, exposure of two 21 or three threads would be all right. 22 Q. Two to three threads exposed; right? 23 A. Yes. 24 Q. I would like to -- we know that Leighton has replaced 25 a number of lapped bars by couplers for the purpose of</p> | <p>1 hold-point inspection, how many per cent approximately 2 of those couplers' assembly have you inspected? 3 A. Me personally, I don't think I can put a percentage 4 point on it, but if you really ask for one, I would say 5 half. 6 Q. So, other than yourself, were there any other engineers 7 or inspectors who carried out the remaining portion of 8 those couplers' assemblies? 9 A. Yes. 10 Q. Can you briefly describe to us, when you carried out 11 inspection for those assemblies, what did you look for; 12 what have you checked exactly? 13 A. If it's just couplers themselves -- is that right? 14 Q. Yes, the splicing assembly. 15 A. I would check to see if it's fully screwed in and 16 properly screwed in. 17 Q. So am I right in thinking that, based on your earlier 18 answer, insofar as the exposed threads did not exceed 19 three threads, you would have considered as a proper 20 installation and accepted those couplers' assembly; 21 right? 22 A. As I said in my statement, it's impossible to make sure 23 that all of them were fully screwed in. At the site, 24 I have seen a small number of the couplers with just two 25 or three threads showing and I thought that it would be</p> |
| Page 50 | Page 52 |
| <p>1 providing vehicular access within the construction site; 2 is that right? 3 A. (Nodded head). 4 Q. I would like you to focus on those additional couplers 5 that Leighton used to replace the lapped bars. Perhaps 6 I should start by asking whether you have, during your 7 rebar fixing inspection, have you inspected each and 8 every of those additional couplers used by Leighton? 9 A. For engineers, it was impossible to check all of them, 10 because we had a lot of duties. As far as possible, we 11 would take time out to do that. 12 Q. From your recollection, approximately how many per cent 13 of those couplers have you inspected? 14 A. About half. 15 CHAIRMAN: Sorry, Mr Chow, inspected in what context? 16 Inspected as a unit, standing on its own somewhere, or 17 do you mean as a coupled unit with the rebar into it? 18 MR CHOW: Yes. Perhaps I can clarify. 19 CHAIRMAN: Sorry. 20 MR CHOW: Just to make sure that, Mr Yeung, you have not 21 misunderstood my question, when I asked you how 22 many per cent approximately of those couplers that you 23 have inspected, actually I was referring to -- as 24 a splicing assembly, after rebar, threaded rebar, were 25 screwed into those couplers, when you carry out your</p> | <p>1 in order. 2 Q. For those couplers' assembly that you have inspected, 3 can you confirm that there exists no documentary record 4 of your inspection? 5 A. As far as documents were concerned in relation to rebar 6 connection, our rebar inspections covered couplers' 7 installation, because if the inspectors did not sign the 8 form, why -- on what basis would it be done? 9 I believe that there was no RISC form on couplers, 10 as far as I'm concerned. 11 Q. I would like to move on to another subject. Earlier, 12 you mentioned that when you worked at the SAT area, you 13 did not have real difficulty in issuing RISC form before 14 the hold-point inspections and, occasionally, if you did 15 miss one or two, you simply forgot to do so. Do you 16 recall that part of your evidence? 17 A. I recall that. 18 Q. I would like to ask you that in those rare occasions 19 where you forgot to issue a RISC form, was there any 20 complaint from MTRC for such failure? 21 A. I did not receive such complaints. 22 Q. So, on those rare occasions, you simply phoned up MTRC's 23 inspectors or engineers and then they would come and do 24 the hold-point inspection with you, without any 25 complaint; correct?</p> |

| Page 53 | Page 55 |
|--|---|
| <p>1 A. Correct.</p> <p>2 Q. After that, they also did not chase for the production</p> <p>3 of the RISC form just to cover the earlier hold-point</p> <p>4 inspection that had been carried out; correct?</p> <p>5 A. I had no recollection of them chasing for those RISC</p> <p>6 forms.</p> <p>7 Q. I would like to move on to the last topic that I intend</p> <p>8 to discuss with you. That's in relation to the rebar</p> <p>9 testing.</p> <p>10 In paragraphs 27 and 28 of your statement, under --</p> <p>11 in paragraph 27, you set out the standard steps and</p> <p>12 procedure for arranging material testing; do you see</p> <p>13 that?</p> <p>14 A. I see it.</p> <p>15 Q. In paragraph 28, you mention, you say:</p> <p>16 "I was diligent in arranging for the testing of</p> <p>17 rebar that I ordered for the HHS and SAT NSL area.</p> <p>18 I have been informed that I forgot to test two batches</p> <p>19 of rebar of five different lengths for the SAT NSL</p> <p>20 area."</p> <p>21 Now, my understanding is that the rebars were</p> <p>22 supplied in bars of either 12 metres length or 15 metres</p> <p>23 length, and usually it's 12 metres in length. Is that</p> <p>24 correct?</p> <p>25 A. That is correct.</p> | <p>1 not been tested, can you recall whether you have</p> <p>2 informed MTR's inspector of works when the two batches</p> <p>3 of reinforcement arrived at site?</p> <p>4 A. I have no recollection of this incident.</p> <p>5 Q. So am I right in saying that if you had informed MTRC's</p> <p>6 inspectors, they would at least come and sample it and</p> <p>7 you would not have overlooked that, is that a fair</p> <p>8 guess?</p> <p>9 A. I cannot rule out that they might have forgotten about</p> <p>10 it themselves.</p> <p>11 Q. Now, according to Mr Holden's evidence, we understand</p> <p>12 that there was a colour code system used on site to</p> <p>13 differentiate the successfully tested rebars from those</p> <p>14 rebars that have not been tested. Is that in line with</p> <p>15 your recollection as to the system adopted on site?</p> <p>16 A. At the time, I did not notice that.</p> <p>17 Q. All right. So are you saying that, at that time, you</p> <p>18 actually could not differentiate -- when you, for</p> <p>19 example, walk around the site and look at the</p> <p>20 reinforcing bar, you cannot tell whether that particular</p> <p>21 batch of reinforcing bars has been successfully tested</p> <p>22 or not?</p> <p>23 A. If the rebar was tested, I would know, but if it was</p> <p>24 taken from another area, then I wouldn't be able to</p> <p>25 differentiate.</p> |
| Page 54 | Page 56 |
| <p>1 Q. 15 metres length of rebar is considered to be an extra</p> <p>2 long and you need to place special order for those kind</p> <p>3 of rebar; is that correct?</p> <p>4 A. In my recollection, I had not placed orders for</p> <p>5 15 metres. I had usually placed orders for 12 metre</p> <p>6 bars.</p> <p>7 Q. I don't quite understand. When you say "two batches of</p> <p>8 rebar of five different lengths", what do you mean?</p> <p>9 Would you be actually trying to say five different</p> <p>10 diameters of bar?</p> <p>11 A. The way I read it, the SAT and NSL areas, there were</p> <p>12 five orders, and why it's written as different lengths,</p> <p>13 I'm not sure why it was written that way, but my</p> <p>14 explanation would be there were five different batches.</p> <p>15 Q. Okay.</p> <p>16 A. It's not about the length.</p> <p>17 Q. I see. Thank you very much.</p> <p>18 For those two batches of rebars that you failed to</p> <p>19 arrange for material testing -- now, based on the</p> <p>20 procedure that you explained to us, when the rebars were</p> <p>21 delivered to site, you would inform MTR's inspector of</p> <p>22 works. Do you see, under paragraph 27(a), this is the</p> <p>23 first step you would take; do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. So, in relation to the two batches of rebar that have</p> | <p>1 Q. So, according to you, it was quite possible for the</p> <p>2 steel fixers to use bars that have not been tested?</p> <p>3 A. Typically, that won't happen, but I cannot rule out the</p> <p>4 possibility.</p> <p>5 Q. Now, earlier, you said you -- if the bar is within your</p> <p>6 own area, you can actually tell whether those bars have</p> <p>7 been tested. Now, if there is no colour code system as</p> <p>8 described by Mr Holden, how could you do that? How can</p> <p>9 you differentiate bars, the tested bars from bars which</p> <p>10 have not been tested?</p> <p>11 MR SHIEH: I'm sorry, I don't quite understand the question.</p> <p>12 The question is, "If there is no colour code system as</p> <p>13 described by Mr Holden". Is my learned friend</p> <p>14 suggesting that, as a matter of fact, what Mr Holden</p> <p>15 described to be the colour code system did not exist,</p> <p>16 or ...?</p> <p>17 Him not paying attention is different from the</p> <p>18 system not existing.</p> <p>19 CHAIRMAN: Yes, perhaps you can clarify. Thank you very</p> <p>20 much.</p> <p>21 MR CHOW: Thank you.</p> <p>22 Mr Yeung, earlier you said you did not pay attention</p> <p>23 to the colour code system apparently adopted on site to</p> <p>24 differentiate those rebars which have been tested from</p> <p>25 other rebars which have not been tested. Can you tell</p> |

| Page 57 | Page 59 |
|---|---|
| <p>1 us whether, as a matter of fact, do you know or do you 2 not know whether there was such a colour code system 3 on site? 4 A. I have heard of, but I did not follow up on this. If my 5 batch of rebar was tested, I wouldn't pay particular 6 attention to it personally. 7 Q. I see. During the time when you worked on site, have 8 you ever seen the rebar being painted in different 9 colours? 10 A. I have seen that. 11 Q. At that time, were you aware of the difference between 12 the different colours used on reinforcing bars, what it 13 represents? 14 A. I wouldn't attach too much meaning to it, because people 15 might spray-paint it for different reasons. 16 Q. Right. In that case, I have to go back to my earlier 17 question to you. For those bars that you ordered 18 yourself, used in the areas that you were responsible 19 for, as you were not aware of the meaning of different 20 colours being used for the reinforcing bar, how could 21 you tell whether a particular piece of rebar has been 22 tested or not? 23 A. I said just now, I would not rule out that the 24 contractor might have taken rebar from other areas. 25 That, I cannot clarify.</p> | <p>1 Q. Can I show you some organisation charts so that we can 2 put you in the appropriate place in the structure. 3 First of all, C7, at page 5539. That is the chart, if 4 you see the top left-hand corner, as of 15 March 2017. 5 If you look at the dark blue "MTRC" box on top, and if 6 you look at around 4 o'clock, right under "Joe Tam", in 7 the middle, "Area A/SAT + HKC NSL", you can see 8 "Graduate Engineer (II) Raymond Tsoi"; that's yourself? 9 A. Yes. 10 Q. Does it accurately present or reflect your position in 11 the organisation at the time? 12 A. There is a mistake. I and Ritter at that time were 13 separate, responsible for different areas. 14 Q. Right. Okay. So which area were you responsible for at 15 that time? 16 A. I was responsible for SAT. Ritter was responsible for 17 area A and HKC. 18 Q. So what you are saying is that even though you and 19 Ritter were both grouped under "Area A/SAT + HKC NSL", 20 there should be a finer division and you were really 21 responsible for SAT? 22 A. Right. 23 Q. Then can you look at CC2, page 526. 24 If you look at the top left-hand copper, this is as 25 of 31 May 2017; do you see that?</p> |
| Page 58 | Page 60 |
| <p>1 MR CHOW: I have no more questions for you. Thank you very 2 much, Mr Yeung. 3 MR LAU: No questions. 4 MR SHIEH: I have no re-examination. 5 CHAIRMAN: Thank you very much. 6 Mr Yeung, thank you very much. Your evidence is 7 completed. You are free to go now. Thank you. 8 (The witness was released) 9 MR SHIEH: The next witness is Mr Raymond Tsoi. 10 MR TSOI KA CHUN, RAYMOND (affirmed in Cantonese) 11 (All answers given via simultaneous interpreter 12 except where otherwise specified) 13 Examination-in-chief by MR SHIEH 14 MR SHIEH: Good morning, Mr Tsoi. Welcome to assist the 15 Commission of Inquiry. 16 You have made one witness statement for the purpose 17 of this Commission. Can you look at CC6, page 3790. 18 You can see this is your witness statement? 19 A. Yes. 20 Q. Can you turn to page 3798. That is your signature? 21 A. Yes. 22 Q. Do you put forward and confirm the content of this 23 witness statement as your evidence in this Commission of 24 Inquiry? 25 A. Yes, I confirm that.</p> | <p>1 A. Yes. 2 Q. Again, looking at the top dark blue "MTRC" box, around 3 5 o'clock to that, you can see under "West 4 (NAT/GLJ/HWP)", "Gridline J", we can see your name 5 there? 6 A. Yes. 7 Q. That one accurately represents your position as of May 8 2017? 9 A. Yes. 10 MR SHIEH: Thank you. Other lawyers in this room, starting 11 with Mr Pennicott for the Commission in front of me, and 12 counsel for the other parties, may have some questions 13 for you. Mr Chairman and Mr Commissioner may also ask 14 you questions, and then I may ask you questions by way 15 of follow up, so please remain seated. 16 Examination by MR PENNICOTT 17 MR PENNICOTT: Mr Tsoi, good morning. As Mr Shieh has 18 indicated, my name is Ian Pennicott, I'm one of the 19 counsel for the Commission; I've got a few questions for 20 you. Thank you very much for coming along to give 21 evidence to the Commission today. 22 I just want to try to make sure I've understood -- 23 although we've looked at the organisation charts, it 24 seems to me that it only tells us a rather partial 25 description of your involvement.</p> |

| Page 61 | Page 63 |
|---|---|
| <p>1 Now, you started with Leighton in 2013, as 2 I understand it, as a graduate engineer; is that right? 3 A. Yes. 4 Q. You tell us that in October 2015 to September 2016, so 5 a period of one year, you were seconded to a consulting 6 engineering firm called SMEC; is that correct? 7 A. Yes. 8 Q. Between 2013 and October 2015, were you working on the 9 SCL project? 10 A. Yes. 11 Q. In what capacity were you working on the SCL project 12 between 2013 and October 2015? 13 A. At that time, I was a graduate engineer in 1112. 14 Q. And which areas were you working in during that period? 15 A. NAT. 16 Q. What were your responsibilities in the NAT during that 17 period? 18 A. At that time, that was 2013, the project just started; 19 we were working on the advanced work, site formation and 20 utility diversion. And then we started on construction 21 work of the bridge along Cheong Wan Road. Shortly 22 afterwards, I was seconded. 23 Q. Okay. I think with that helpful explanation, we can 24 conclude that during that period, you were not carrying 25 out any responsibilities with which this Commission is</p> | <p>1 Q. Right. But am I right in thinking that by around about 2 March 2017, the civil works -- the rebar, the concreting 3 works -- in the SAT EWL area had essentially finished? 4 A. Right. 5 Q. We'll pick that up in a moment when we look at the SAT 6 summary table. All right. 7 When you commenced working in the SAT EWL area in 8 November 2016, were you given any instructions 9 concerning the issuing of RISC forms? 10 A. No. 11 Q. When you commenced working in the SAT EWL area in 12 November 2016, did you know what a RISC form was? 13 A. Yes. 14 Q. And did you know the purpose of the RISC form, Mr Tsoi? 15 A. Yes. 16 Q. What was your understanding as to the purpose of the 17 RISC form back in November 2016? 18 A. As far as my understanding, the RISC form was to invite 19 MTR to conduct inspections at hold points. If the 20 inspection passed, then it would be signed and returned 21 to us for record purpose. 22 Q. Okay. Good. 23 Mr Tsoi, without wishing to sound overly critical, 24 would you accept that your record in submitting the RISC 25 forms in the five-month period November 2016 to March</p> |
| Page 62 | Page 64 |
| <p>1 currently concerned? 2 A. I agree. 3 Q. Now, when you returned from your secondment to SMEC, 4 that is in November 2016, I understand that you worked 5 for a five-month period, that is from November 2016 to 6 March 2017, in the SAT EWL area; is that correct? 7 A. I agree. 8 Q. Okay. Then, in around about April of 2017, as we can 9 see on the chart that has helpfully been left up on the 10 screen, you then transferred to an area called "West 11 (NAT/GLJ/HWP)"; do you see that? 12 A. Yes. 13 Q. Can you confirm again that once we have reached that 14 stage, that is April/May 2017, again you were in an area 15 that doesn't concern the matters with which this 16 Commission is concerned? 17 A. Well, may I supplement about this? 18 Q. Please do, yes. 19 A. At that time, for HWP, that was an area under SAT. At 20 that time, SAT of EWL was handed over to MTR for track 21 laying, so -- and the area was divided into west and 22 east. It's difficult for us to go past the track, 23 that's why the area was divided into west and east. At 24 that time, I was still responsible for works under SAT 25 EWL.</p> | <p>1 2017 was poor? 2 A. Right. 3 Q. If we can look at, please, the SAT summary table at 4 CC8/4397, we can see that your name appears as the 5 responsible engineer 12 times; do you see that? 6 A. Yes, I see it. 7 Q. You appear to have managed to issue three RISC forms, 8 and I'm focusing on the rebar RISC forms, Mr Tsoi, 9 rather than the pre-pour forms, although I think the 10 statistics are the same. Do you see on 28 November, 6 11 December and 10 December, you issued three RISC forms in 12 relation to three different areas; do you see that? 13 A. Yes. 14 Q. And then, for the remainder of your time on site, the 15 rest of December through to -- you say March, but 16 I think the last one here is -- the last pour is in fact 17 23 February 2017 -- sorry, 27 February 2017 -- no RISC 18 forms were issued? 19 A. Correct. 20 Q. Why was that, Mr Tsoi? 21 A. Well, actually, at that time, I was very busy. After my 22 secondment, I was -- three engineers had left the job 23 and I was doing the work of three people and I was 24 overwhelmed. 25 Q. Who was your superior? Who was your boss at that time,</p> |

| Page 65 | Page 67 |
|---|--|
| <p>1 between November 2016 and March 2017, Mr Tsoi; do you 2 recall? 3 A. Andy Chan. 4 Q. Did you complain to Mr Chan that you were overworked and 5 doing the job of a number of people? 6 A. We would have these discussions. 7 Q. And what was the result of those discussions? 8 A. I cannot recall exactly, but the gist of it was there 9 was nothing that could be done about it and we had to 10 continue with the work. 11 Q. Right. Continue with the work without issuing RISC 12 forms; is that right? 13 A. I cannot recall exactly what was said. 14 Q. Well, were you satisfied with the outcome of your 15 discussions with Mr Chan? 16 A. I recall at the time the feeling was we could see the 17 adjacent areas and my superiors were just as busy. 18 I wasn't the only person suffering. So, after the 19 complaint, there was nothing that could be done, so ... 20 Q. All right. Could I just ask you, please, to look with 21 me at one RISC form, because I don't understand, I'm not 22 entirely sure what has happened. 23 If you look at this sheet, do you see number (6) 24 down the left-hand side? 25 A. Yes.</p> | <p>1 Q. So, on any view, this was a late submission, Mr Tsoi; do 2 you agree? 3 A. Yes. 4 Q. Then if we scroll down -- again, I don't know whether 5 you can help us -- we see, so far as the MTR is 6 concerned, that the inspection appears to have been 7 carried out by somebody called Kappa Kang. Do you see 8 that, Mr Tsoi? 9 A. Yes. 10 Q. Do you remember her? 11 A. Yes. 12 Q. And in terms of the various rebar inspections that you 13 carried out, would it be Ms Kang who carried them out 14 with you, so far as the MTR is concerned? 15 A. Yes. 16 Q. Did Mr Chris Chan ever carry out any inspections of the 17 rebar, formal inspections of the rebar with you, 18 Mr Tsoi? 19 A. If it was the EWL structure, then no. 20 Q. Right. It was always Ms Kang, was it? 21 A. Yes, for the EWL structure. 22 Q. All right. You had no involvement on the NSL structure; 23 is that right? 24 A. No. 25 Q. Okay. Well, we can see -- we can ask her in due</p> |
| Page 66 | Page 68 |
| <p>1 Q. And we see, in the "Pour date" column, 15 November 2016; 2 do you see that? 3 A. Yes. 4 Q. If we then go to the date of inspection of the rebar 5 fixing, it's 6 December, about three weeks after the 6 concrete pour; do you see that? 7 A. Yes. 8 Q. So something seems to be wrong, and we'll see what 9 happened, I hope, or perhaps. Can we look at RISC form 10 11806, which is at BB13/9219.133. 11 And so, complication after complication. Now, do 12 you see this is 11806? 13 A. Yes. 14 Q. Signed by you and apparently dated 22 November 2016; do 15 you see that? 16 A. Could you repeat the question? Sorry. 17 Q. It's signed by you, is that right, in part A? 18 A. Yes. 19 Q. And it has a date next to your signature of 22 November 20 2016? 21 A. Yes. 22 Q. And you were asking for, by this RISC form, 23 an inspection or a survey to take place eight days 24 earlier, on 14 November; do you see that? 25 A. Yes.</p> | <p>1 course -- but she's written apparently "6 December" 2 there, and that's presumably why "6 December" appears on 3 the sheet, and somebody has put a red circle around that 4 date and a stamp of 14 November 2016 and a question mark 5 above that. I assume you know nothing about what's in 6 red on this sheet, Mr Tsoi; is that right? You simply 7 don't know who's put that there? 8 A. Correct. I don't know. 9 Q. Okay. 10 Then if we scroll down, you have signed this off, 11 this sheet off, Mr Tsoi; is that right? 12 A. Yes. 13 Q. And is that the -- what's the date on that? 2 February, 14 is it, 2017; is that right? 15 A. Yes. 16 Q. So two months after the inspection apparently took 17 place; is that correct? 18 A. Yes. 19 MR PENNICOTT: Okay. Thank you, Mr Tsoi. I have no further 20 questions. 21 MR TSOI: No questions. 22 MR BOULDING: No questions. Thank you, sir. 23 Cross-examination by MS PANG 24 MS PANG: Mr Tsoi, I only wish to discuss two paragraphs in 25 your witness statement with you, so can I start by</p> |

| Page 69 | Page 71 |
|--|--|
| <p>1 taking you to paragraph 15 on CC3792.</p> <p>2 You will be able to see from the first sentence that</p> <p>3 what you are describing in this particular paragraph is</p> <p>4 the formal joint inspection between MTR and Leighton.</p> <p>5 So can I ask you to turn over the page and I'd like to</p> <p>6 focus on subparagraph (g):</p> <p>7 "It was standard practice for the MTRC's</p> <p>8 construction engineer/inspector of works to verbally</p> <p>9 approve the inspected works and authorise Leighton to</p> <p>10 proceed immediately after the formal joint inspections.</p> <p>11 The only exception would be if MTRCL required</p> <p>12 rectification work. If the defect was minor, Leighton</p> <p>13 would ensure that such remedial work was completed</p> <p>14 immediately by the sub-contractor during the joint</p> <p>15 inspection."</p> <p>16 Pausing here, in order for the works to be rectified</p> <p>17 immediately, you would need to have the sub-contractor</p> <p>18 on site stand by while the hold-point inspection was</p> <p>19 being carried out. Is my understanding correct?</p> <p>20 A. Correct.</p> <p>21 Q. Are the sub-contractors always present for a hold-point</p> <p>22 inspection, as far as you are concerned?</p> <p>23 A. Not necessarily.</p> <p>24 Q. So who would decide whether they need to be there when</p> <p>25 the hold-point inspection was carried out?</p> | <p>1 sub-contractor, "How it's going, how's the work</p> <p>2 progressing"?</p> <p>3 A. Well, if it was simple, minor defects, then the</p> <p>4 sub-contractor might inform Leighton, or Leighton's</p> <p>5 foreman, or they could follow up with the IOW</p> <p>6 themselves, and when they have a verbal approval, then</p> <p>7 we could pour concrete. If it was a complex issue, hard</p> <p>8 to resolve, if the rebar fixing details were</p> <p>9 problematic, then I would have to personally take a look</p> <p>10 and communicate with the contractor on how to resolve</p> <p>11 it.</p> <p>12 Q. When you say that the sub-contractor might inform</p> <p>13 Leighton or the IOW, does the IOW refer to personnel</p> <p>14 from MTR, so the sub-contractor might also directly</p> <p>15 contact personnel from MTR; is my understanding correct?</p> <p>16 A. Usually, it's done through us to contact inspectors of</p> <p>17 the MTR, but I don't rule out the possibility that when</p> <p>18 they meet in private, that they would communicate about</p> <p>19 that. I don't rule out that possibility but usually</p> <p>20 it's done through us.</p> <p>21 Q. Right. So where there's a situation where time is</p> <p>22 needed for rectification work, would the MTRC inspector</p> <p>23 follow up with you on the progress of the rectification</p> <p>24 work?</p> <p>25 A. Yes.</p> |
| Page 70 | Page 72 |
| <p>1 A. If the bay area was -- if it was urgent, I would require</p> <p>2 them to be present, because if the engineers had any</p> <p>3 comment, they could follow up. If the bay was not that</p> <p>4 urgent, when the IOW or engineers had identified the</p> <p>5 defects, we could notify the sub-contractors to follow</p> <p>6 up, and it could take half a day or a full day to follow</p> <p>7 up.</p> <p>8 Q. Right. I see.</p> <p>9 If we can then continue with that paragraph:</p> <p>10 "If more time was required to complete the</p> <p>11 rectification work, Leighton's staff would check the</p> <p>12 work later before arranging a further inspection with</p> <p>13 MTR."</p> <p>14 So that's the situation that you've just</p> <p>15 described: if more time is needed, then you would ask</p> <p>16 the contractor to come back, carry out the rectification</p> <p>17 works; correct?</p> <p>18 A. Yes.</p> <p>19 Q. So who would inform the engineer, ie you, when the</p> <p>20 rectification work is completed? Would that be</p> <p>21 Leighton's foreman?</p> <p>22 A. It would be the sub-contractor or Leighton's foreman.</p> <p>23 Q. In case where rectification work is needed to be carried</p> <p>24 out, would you follow up with the rectification work?</p> <p>25 For example, would you check with the foreman or</p> | <p>1 Q. Thank you. I would like to move on to the next topic.</p> <p>2 Can I ask you to turn to 3797. At paragraph 24, you</p> <p>3 describe the procedure for testing of rebar.</p> <p>4 First of all, I would like to see if you are aware</p> <p>5 of a so-called spray-paint system that is adopted</p> <p>6 on site. And according to the evidence that we've heard</p> <p>7 from Leighton witnesses, a particular colour, for</p> <p>8 example white, would be sprayed on rebars that are going</p> <p>9 to be tested, and when the test has been passed,</p> <p>10 a different colour would be used. That's what we have</p> <p>11 heard. Are you aware of such a practice on site?</p> <p>12 A. Yes.</p> <p>13 Q. Can you tell us what colour would be used for rebars</p> <p>14 which have not passed the test?</p> <p>15 CHAIRMAN: Sorry, could I just clarify that? "Not passed</p> <p>16 the test" can mean two things.</p> <p>17 MS PANG: Yes, before the test was completed.</p> <p>18 CHAIRMAN: It can mean it's before the test, or it can mean</p> <p>19 it took the test and got below 50 per cent.</p> <p>20 MS PANG: Yes, I meant before completing the test.</p> <p>21 CHAIRMAN: All right.</p> <p>22 MS PANG: Perhaps I will ask the question again.</p> <p>23 Can you tell us what colour would be used for rebars</p> <p>24 before the test has been completed?</p> <p>25 A. I can't really recall, but I seem to remember that it's</p> |

| | |
|--|--|
| Page 73 | Page 75 |
| <p>1 white. I can't really remember.</p> <p>2 Q. What colour would be used for rebars that have passed</p> <p>3 the test? Do you recall?</p> <p>4 A. I can't remember.</p> <p>5 Q. Generally speaking, would you say it is obvious or would</p> <p>6 it be easy to distinguish rebars which have completed</p> <p>7 the test and rebars which have not yet completed the</p> <p>8 test?</p> <p>9 A. (Chinese spoken).</p> <p>10 INTERPRETER: Sorry, the answer is not clear, whether it is</p> <p>11 "obvious" or "not obvious".</p> <p>12 MS PANG: I think he said "obvious".</p> <p>13 A. Yes.</p> <p>14 COMMISSIONER HANSFORD: Perhaps we can have the question</p> <p>15 again with an answer again, and then we know.</p> <p>16 MS PANG: Mr Tsoi, I have to ask the question again for the</p> <p>17 purpose of having a clear record. Would you say it is</p> <p>18 obvious to distinguish rebars which have completed the</p> <p>19 test and rebars which have not yet completed the test?</p> <p>20 A. Yes.</p> <p>21 Q. And would it be obvious to everyone on site who could</p> <p>22 see the rebar, including the sub-contractor themselves</p> <p>23 and also the inspectors?</p> <p>24 A. Yes.</p> <p>25 Q. So if a sub-contractor is using rebars which have not</p> | <p>1 kept on any particular part of the site?</p> <p>2 A. Usually, they would be put near the yard, for the</p> <p>3 convenience of them to have access to it when they</p> <p>4 actually conduct the work.</p> <p>5 CHAIRMAN: You mean when they conduct the testing work, or</p> <p>6 do you mean when they are going to actually install them</p> <p>7 in -- you see, what I'm trying to understand is this.</p> <p>8 You've got rebars coming in and you've got rebars that</p> <p>9 have already passed tests. Are they kept separate?</p> <p>10 Question number one.</p> <p>11 A. Yes, they would be kept separately, but the distance may</p> <p>12 be just this corner from my corner. Say these are</p> <p>13 tested ones and ready for use.</p> <p>14 CHAIRMAN: Okay, so some new guy from the rebar fixers may</p> <p>15 come along with another new guy from the rebar fixers.</p> <p>16 What's to stop them picking up rebars from the</p> <p>17 as-yet-untested bundle?</p> <p>18 A. Apart from the colour coding system, sometimes we would</p> <p>19 put tags indicating "not yet tested" to show people.</p> <p>20 But if someone meant to take those for use and it just</p> <p>21 so happened there was no supervision, that could happen.</p> <p>22 CHAIRMAN: I appreciate that. So now we know that once</p> <p>23 a batch has been tested and found okay, are each and</p> <p>24 every single rebar in that batch then given a quick</p> <p>25 squirt with a spray can of paint?</p> |
| Page 74 | Page 76 |
| <p>1 yet completed the test, presumably it would have been</p> <p>2 obvious to the inspectors who would observe their work;</p> <p>3 am I correct?</p> <p>4 A. I can tell when they are just left there waiting to be</p> <p>5 used. If they have been put to use for fixing or if it</p> <p>6 was about to have concrete poured, then it would not be</p> <p>7 distinguishable. I would like to make that clear.</p> <p>8 CHAIRMAN: Sorry, let me just try to understand. Rebars</p> <p>9 arrive on site. You've ordered a whole batch; okay?</p> <p>10 They are checked under the auspices of the MTRCL; is</p> <p>11 that correct? You don't do the checking of them; it's</p> <p>12 done by MTR?</p> <p>13 A. Check for what?</p> <p>14 CHAIRMAN: Okay. Checked that they are up to standard and</p> <p>15 can be used. Don't they take some samples and check</p> <p>16 them?</p> <p>17 A. The practice usually was that after delivery of the</p> <p>18 rebar, we would ask MTR inspectors to choose samples</p> <p>19 with us. At the same time, we would present mill</p> <p>20 certificate and delivery note. I don't believe that in</p> <p>21 that situation, we would not know about the quality of</p> <p>22 the rebars, but after the selection of samples and</p> <p>23 testing, then we would know whether the batch are up to</p> <p>24 standard.</p> <p>25 CHAIRMAN: Right. Then, before they are tested, are they</p> | <p>1 A. No. No.</p> <p>2 CHAIRMAN: Okay. Is one of them given a quick squirt with</p> <p>3 a spray can of paint or with a paintbrush?</p> <p>4 A. Most of them would have paint sprayed but not on every</p> <p>5 one.</p> <p>6 CHAIRMAN: All right. And it would just be a patch of</p> <p>7 paint, would it, at one end of the rebar? I mean,</p> <p>8 I can't imagine painting the whole rebar; you don't need</p> <p>9 to do that.</p> <p>10 A. Not the entire rebar, just a patch.</p> <p>11 CHAIRMAN: All right. And so you could tell then that</p> <p>12 rebars had been tested and were okay for use, firstly by</p> <p>13 where they were positioned, physically positioned, and</p> <p>14 secondly by the fact, by looking at the bundle of them,</p> <p>15 a lot of them would have paint sprayed on them?</p> <p>16 A. Right.</p> <p>17 CHAIRMAN: And that colour might change, but it didn't</p> <p>18 matter if they had paint sprayed on them?</p> <p>19 A. As far as I know, there would be a different colour for</p> <p>20 those that have not yet been tested. Failed ones,</p> <p>21 a different colour; passed ones, a different one.</p> <p>22 CHAIRMAN: All right. You just don't remember the exact</p> <p>23 colour? There's no reason why you should.</p> <p>24 A. Right.</p> <p>25 CHAIRMAN: Thank you.</p> |

| Page 77 | Page 79 |
|---|--|
| <p>1 MS PANG: I just have one follow-up question. Are you aware 2 if the sub-contractors are also familiar with the 3 spray-paint system that you have just described? 4 A. Yes, they do. 5 MS PANG: Thank you. Thank you very much, Mr Tsoi. I have 6 no further questions. 7 MR LAU: No questions. 8 MR SHIEH: No re-examination. 9 CHAIRMAN: Good, Mr Tsoi. Thank you very much indeed. Your 10 evidence is now complete and you can go. Thank you. 11 (The witness was released) 12 CHAIRMAN: Sorry, we've kept this on a little bit longer. 13 It's 1.10 now. 14 MR PENNICOTT: Sir, I was rather hoping we would complete 15 Mr Tsoi, because I think that's the end of -- unless 16 Mr Shieh has some other witness I don't know about, 17 that's the conclusion of the Leighton witnesses. 18 CHAIRMAN: Excellent. 19 MR PENNICOTT: We will be switching to the MTRC this 20 afternoon. We've obviously already had 21 Mr Sebastian Kong, but I think the first witness is 22 Mr Michael Fu. 23 MR BOULDING: That's correct. 24 CHAIRMAN: Good, so 2.30? 25 MR PENNICOTT: 2.30, sir, yes, thank you.</p> | <p>1 your statement. Is that the first page of your 2 statement, Mr Fu? 3 A. Correct. 4 Q. Then if you would be kind enough, please, to go on to 5 BB84, do we there see your signature under the date of 6 3 May 2019? 7 A. Yes. 8 Q. Now, I know that there's been a corrigendum, 9 a correction, to this statement, and I wonder if we can 10 pick that up. That's bundle BB1 at page 84.1. 11 A. I can see that. 12 Q. If you would just like to scroll down there, my 13 understanding is that you want to replace 14 paragraphs 15(e)(i) to (iii) inclusive in the statement 15 we've just looked at, that's page BB73, with the text 16 that we see here. Is that correct? 17 A. Correct. 18 Q. Now, subject to that correction, do I understand that 19 the facts and matters set out in this witness statement 20 are true to the best of your knowledge and belief? 21 A. Correct. 22 Q. I wonder if we can go back to page BB63 of the bundle, 23 and it's the first page of your statement. You tell us, 24 do you not, that you are the construction manager-SCL 25 civil of the Shatin to Central Link Project; correct?</p> |
| Page 78 | Page 80 |
| <p>1 CHAIRMAN: Good, thank you very much. 2.30. 2 (1.12 pm) 3 (The luncheon adjournment) 4 (2.34 pm) 5 MR BOULDING: Good afternoon, sir. Good afternoon, 6 Professor. 7 As foreshadowed just before the lunch break, I'm now 8 going to call MTR's second witness, Mr Fu Yin Chit, 9 otherwise known as Michael Fu. 10 Good afternoon, Mr Fu. 11 WITNESS: (In English) Good afternoon. 12 MR FU YIN CHIT, MICHAEL (affirmed in Cantonese) 13 (All answers given via simultaneous interpreter 14 except where otherwise specified) 15 Examination-in-chief by MR BOULDING 16 MR BOULDING: I understand you are going to give your 17 evidence in Cantonese; is that correct? 18 A. (In English) Yes. 19 Q. So I have my headphones on. 20 It is right, isn't it, that you have provided two 21 witness statements for the assistance of the learned 22 Commissioners in this Commission of Inquiry? 23 A. Correct. 24 Q. I wonder if I can go to the first of the statements, and 25 I hope if we go to BB63, we will find the first page of</p> | <p>1 A. Correct. 2 Q. Then in paragraph 2, you give us a potted history of 3 what you've been doing, do you not, since you joined MTR 4 way back in June 1994; is that correct? 5 A. Correct. 6 Q. So, very roughly, I see, do I not, that you've worked 7 for MTR for, what, something like 25 years? 8 A. Correct. 9 Q. Then if we scroll down and look at paragraph 2(g), for 10 present purposes, do we see that in March 2012, you were 11 assigned to contract 1111 of the SCL project as 12 construction manager-SCL civil, and then: 13 "From 30 May 2016 to this date, I have been the 14 construction manager-SCL civil on [both] contracts 1111 15 and 1112." 16 Is that correct? 17 A. Correct. 18 Q. I'm going to see where you are in the organisation chart 19 in a moment, but first of all I'd like to take you to 20 your supplemental witness statement, and I hope we find 21 that at page BB5213. There do we see, Mr Fu, the first 22 page of your supplemental witness statement? 23 A. Yes, I see that. 24 Q. Splendid. If we could go on to page BB5226 -- 25 excellent -- do we there see your signature under the</p> |

| Page 81 | Page 83 |
|--|---|
| <p>1 date of 17 May 2019?</p> <p>2 A. Correct.</p> <p>3 Q. But again I'm right in thinking that there is</p> <p>4 a correction you'd like to make to that statement, and</p> <p>5 I think we find that, do we not, at page BB5226.1?</p> <p>6 A. I can see that.</p> <p>7 Q. If we look at that, in short, you are replacing part of</p> <p>8 paragraph 10, are you not, in your supplemental</p> <p>9 statement with the wording which starts about a third of</p> <p>10 the way down that box. Is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. Again, subject to that correction, are you in a position</p> <p>13 to confirm that the contents of your supplemental</p> <p>14 statement are true to the best of your knowledge and</p> <p>15 belief?</p> <p>16 A. Correct.</p> <p>17 Q. Finally, could I ask you to look at a document which is</p> <p>18 at B2, page 582.</p> <p>19 There do we see the SCL project management</p> <p>20 organisation chart as of 16 January 2017, the top</p> <p>21 left-hand corner?</p> <p>22 A. I see that.</p> <p>23 Q. And there do we see that you are in effect at the very</p> <p>24 top of the tree there, next to a picture of your</p> <p>25 secretary, a Ms Wong; correct?</p> | <p>1 the SAT pour summary that we see at page 5226.2. And</p> <p>2 we've just got, as I see it, Mr Fu -- you've helpfully</p> <p>3 put in red the amendments, and I think there are -- I've</p> <p>4 only spotted about four of them; is that right? That is</p> <p>5 at the dates --</p> <p>6 A. Correct.</p> <p>7 Q. -- the commencement of rebar at 16a and 16b and the</p> <p>8 dates for the commencement and completion of rebar at</p> <p>9 number 24; is that right?</p> <p>10 A. That's correct.</p> <p>11 Q. Then also you have made some very minor</p> <p>12 alterations/additions to the NAT pour summary which we</p> <p>13 find at 5226.3, and we find those at the box numbered 9</p> <p>14 in the "completion of rebar" column, and also it's</p> <p>15 number 30, the commencement of rebar, and at number 42,</p> <p>16 the completion of rebar.</p> <p>17 As I understand it, Mr Fu, those are the extent of</p> <p>18 the corrections?</p> <p>19 A. Correct.</p> <p>20 Q. Thank you very much.</p> <p>21 Now, as we've seen, you, since May 2016, have been</p> <p>22 the construction manager on both contracts 1111 and</p> <p>23 1112; that's correct?</p> <p>24 A. Correct.</p> <p>25 Q. So far as the contract 1111 is concerned, we know that</p> |
| Page 82 | Page 84 |
| <p>1 A. Yes, correct.</p> <p>2 Q. What's going to happen now, Mr Fu, is that you are going</p> <p>3 to be asked questions first of all by counsel for the</p> <p>4 Commission, in all probability Mr Ian Pennicott, and</p> <p>5 then various other lawyers in the room can ask you</p> <p>6 questions. The learned Commissioners can ask you</p> <p>7 questions at any time. And then depending upon what you</p> <p>8 say or don't say, it may well be the case that I'll ask</p> <p>9 you a few questions at the end of the process. Do you</p> <p>10 understand that?</p> <p>11 A. I understand that.</p> <p>12 MR BOULDING: Please sit there.</p> <p>13 WITNESS: (In English) Thank you.</p> <p>14 Examination by MR PENNICOTT</p> <p>15 MR PENNICOTT: Mr Fu, good afternoon.</p> <p>16 A. (In English) Good afternoon.</p> <p>17 Q. And thank you very much for coming along to give</p> <p>18 evidence to the Commission. As Mr Boulding has said, my</p> <p>19 name is Ian Pennicott, I think you know that already,</p> <p>20 and I get to ask you some questions first.</p> <p>21 Can I just start by asking you to go to the</p> <p>22 corrigendum to your second witness statement. So, as</p> <p>23 we've seen, that's at BB5226.1. As I understand it,</p> <p>24 Mr Fu, the effect of the corrigendum that's set out</p> <p>25 there is to amend, albeit in only a few minor respects,</p> | <p>1 the Gammon-Kaden Joint Venture, on their side of the</p> <p>2 stitch joints, which we'll be discussing a little bit</p> <p>3 later, used Lenton couplers which had tapered threads.</p> <p>4 We now know that; yes?</p> <p>5 A. That's correct.</p> <p>6 Q. Do you recall, Mr Fu, whether Lenton had a rebar yard on</p> <p>7 the site -- sorry, on the 1111 site; do you recall that,</p> <p>8 whether they did?</p> <p>9 A. Yes, 1111.</p> <p>10 Q. Right. And Lenton, like BOSA on the 1112 site, had</p> <p>11 their own rebar yard on the 1111 site; is that correct?</p> <p>12 A. No. There was none.</p> <p>13 Q. Right. So there was no actual Lenton rebar yard on the</p> <p>14 1111 contract site?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. So Gammon presumably would have had to, as it</p> <p>17 were, get the Lenton rebar from wherever the Lenton</p> <p>18 rebar yard was in Hong Kong; is that right? It's</p> <p>19 obviously somewhere up in the New Territories, perhaps;</p> <p>20 is that right?</p> <p>21 A. That is correct. That is from Yuen Long.</p> <p>22 Q. Right. Okay. Understood.</p> <p>23 Mr Fu, now the second general question. At some</p> <p>24 point, so far as the 1112 contract is concerned,</p> <p>25 I believe you became the engineer's representative; is</p> |

| Page 85 | Page 87 |
|--|--|
| <p>1 that correct?</p> <p>2 A. Correct.</p> <p>3 Q. Can you recall when that was?</p> <p>4 A. When I discharged my work as construction manager for</p> <p>5 1112, it was on 30 June 2015.</p> <p>6 Q. Do you mean 2016?</p> <p>7 A. 30 May 2016, I started to be the engineer's</p> <p>8 representative.</p> <p>9 Q. Yes, on the 1112 contract?</p> <p>10 A. (In English) On the 1112 contract, yes.</p> <p>11 Q. Sorry, it came through as "2015". I'm just correcting</p> <p>12 it.</p> <p>13 So it was at the same time as you became</p> <p>14 construction manager, you became the engineer's</p> <p>15 representative?</p> <p>16 A. Correct.</p> <p>17 Q. Thank you.</p> <p>18 In paragraph 7 of your witness statement, Mr Fu, you</p> <p>19 tell us in the first sentence what the NAT consists of,</p> <p>20 and then in the next sentence you say this:</p> <p>21 "I refer to the brief description and dates of the</p> <p>22 construction at the three stitch joints and the shunt</p> <p>23 neck stated in the 2nd stitch joints report and the 2nd</p> <p>24 shunt neck report, which were prepared by reference to</p> <p>25 the site diaries and photographs available at the time."</p> | <p>1 Mr Fu, first of all, can you tell me who actually</p> <p>2 prepared this report?</p> <p>3 A. It was me. It was me.</p> <p>4 Q. I rather thought that might be the case. Good. That's</p> <p>5 good news.</p> <p>6 Can I please ask you to go to page 168. You've got</p> <p>7 a heading there, "Identification of defects". In</p> <p>8 paragraphs 2.1 through to 2.5, you describe in this</p> <p>9 report the investigation that took place in order to</p> <p>10 identify the defects. Do you recall all of that, Mr Fu?</p> <p>11 A. Yes, I remember.</p> <p>12 Q. I'm not going to read all that out to you, but what</p> <p>13 I would like to do is refer you to paragraph 2.6, where</p> <p>14 you say:</p> <p>15 "MTR considered that the lack of proper rebars</p> <p>16 connection at these three stitch joint locations was due</p> <p>17 to defective workmanship. MTR has raised non-conformity</p> <p>18 records to the contractor, and required the contractor</p> <p>19 to propose remedial proposals as soon as possible. The</p> <p>20 contractor started planning of the remedial proposals</p> <p>21 for these three stitch joints while at the same time</p> <p>22 preparing the advanced site works."</p> <p>23 Then over the page at 169, you set out the remedial</p> <p>24 proposals, and then at page 171 you have a heading,</p> <p>25 "Movement of tunnel structures and adjacent ground</p> |
| Page 86 | Page 88 |
| <p>1 I would like to look with you, Mr Fu, certainly to</p> <p>2 start with, at the stitch joints report, which we will</p> <p>3 find in BB1, page 162.</p> <p>4 There should be, at that page, a letter dated</p> <p>5 27 March 2018 from Mr Aidan Rooney, the general</p> <p>6 manager-SCL civil for the NSL, to Mr Chan, Principal</p> <p>7 Government Engineer in the RDO. Do you see that?</p> <p>8 A. I see that, yes. This is correct.</p> <p>9 Q. And it's captioned, "Report of defective works</p> <p>10 identified at tunnel stitch joints"; do you see that?</p> <p>11 A. Yes, I see that.</p> <p>12 Q. Then if we go over the page to page 163, we see that the</p> <p>13 letter, and I assume the report, was copied to a number</p> <p>14 of people, the names of which -- most names of which are</p> <p>15 familiar, but including yourself; yes?</p> <p>16 A. That's correct.</p> <p>17 Q. And at page 164 we see, as a matter of formality,</p> <p>18 a certification of preparation of plans or documents,</p> <p>19 but in this case it's a report, signed by Jason Wong,</p> <p>20 and I see that you've initialled this document in the</p> <p>21 bottom left-hand corner; do you see that, Mr Fu?</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Then if we go over the page to 165, we again see</p> <p>24 Mr Jason Wong's signature, and then at 166 the report</p> <p>25 commences.</p> | <p>1 before remedial works". Then at 173, a heading,</p> <p>2 "Movement of tunnel structure due to remedial works".</p> <p>3 And then at 174, a heading, "Remedial proposal and</p> <p>4 works". Then the heading at 175, "Other connection</p> <p>5 joints". So that's how it breaks down.</p> <p>6 Mr Fu, am I right in saying that nowhere in this</p> <p>7 report sent to the government do you deal with or</p> <p>8 consider the question of the formal hold-point</p> <p>9 inspections?</p> <p>10 A. That is correct. This report mentions nothing of that</p> <p>11 matter.</p> <p>12 Q. When you wrote this report, I assume you must have known</p> <p>13 that when the original stitch joints were constructed,</p> <p>14 they would have been subjected to certain hold points.</p> <p>15 Is that right?</p> <p>16 A. Correct.</p> <p>17 Q. In relation to the rebar, to the base, the walls, and so</p> <p>18 far as the NSL is concerned, the NSL joints are</p> <p>19 concerned, the roof; yes?</p> <p>20 A. Correct.</p> <p>21 Q. And at those hold points the rebar would have been</p> <p>22 inspected by representatives of Leighton and engineers</p> <p>23 from the MTR; is that right?</p> <p>24 A. Correct.</p> <p>25 Q. So why is it that this report does not address the</p> |

| Page 89 | Page 91 |
|---|--|
| <p>1 question of the hold point and the formal inspections 2 that must have taken place, or you must have assumed to 3 take place? 4 A. When I wrote the report, it was around February 2018. 5 At that time, we just saw the problem arising. In 6 mid-March, I submitted the report to the Highways 7 Department, followed by a formal report which we saw 8 just now with a covering letter by Aidan Rooney. When 9 I wrote the report, we mainly dealt with the main 10 findings, the defective workmanship, and what measures 11 or arrangements we had, including requiring the 12 contractor to come up with a remedial proposal, and also 13 our considerations at that time. Our considerations at 14 that time cover the following aspects: when the remedial 15 proposals should be ready, and also, because of this 16 defective stitch joint, whether we observed any undue 17 settlement. 18 That is why, at that time, this report was for 19 reporting to the Highways Department our findings and 20 our remedial proposals. At that time, we did not 21 explore into the response question. 22 Q. At the time that you were investigating the cause of the 23 defects and writing this report, Mr Fu, did you ever ask 24 yourself the question how these defects were not spotted 25 by Leighton and more importantly MTR when the formal</p> | <p>1 original stitch joints? 2 A. We did not have a formal internal investigation, nor was 3 there any written record. What I said just a moment ago 4 was some informal information gathering from some 5 colleagues, to try to understand what happened. It was 6 not a formal investigation. 7 Q. All right. I think you said that the construction 8 engineer I, if I can call him that, was Mr Chris Chan? 9 A. Right. 10 Q. You said he had left, and indeed I think -- 11 A. Right. 12 Q. -- he left in December 2017. So you're right, he's 13 probably left -- 14 A. Right. 15 Q. -- by the time you carried out these investigations. 16 However, the construction engineer number II, she was 17 still with the MTR at the time; yes? 18 A. Yes. 19 Q. So did you speak to her about all of this? 20 A. Yes. 21 Q. All right. Is there any record of what she said to you 22 at the time, Mr Fu? 23 A. No. 24 Q. Were you involved yourself in carrying out the 25 discussion, or perhaps it was more formal, an interview</p> |
| Page 90 | Page 92 |
| <p>1 inspections took place? 2 A. Yes, I did. At the time I wrote this report, we also 3 enquired and tried to understand whether the inspections 4 took place. Therefore, in March, at the same time we 5 wrote the report, we also started to gather information. 6 Some colleagues worked with us to look at the RISC 7 register, to see how many RISC forms were there and to 8 understand how many inspections took place. Eventually, 9 we saw that there were no complete records for certain 10 works. 11 Q. In about February/March 2017, Mr Fu -- let me put the 12 point rather more bluntly -- did MTR carry out 13 an internal investigation of the performance of its own 14 staff in inspecting the rebar at the stitch joints? 15 A. At that time, we asked the colleagues who were involved. 16 For this stitch joint, we had one in the NAT, we had 17 a senior engineer and an engineer I, another engineer 18 II. The senior engineer and the engineer I had left at 19 that time and we could only get an engineer II and some 20 other inspectors. After asking the colleagues about the 21 inspection, how the inspection was done, we did not get 22 the material, the information we would like to have. 23 Q. Is there any written record of any internal 24 investigation that the MTR carried out into the 25 performance of its own staff in the inspection of the</p> | <p>1 with the construction engineer number II? 2 A. There was some informal discussion. 3 Q. Were you a party to those discussions, Mr Fu? 4 A. I cannot recall very clearly whether I took part or not. 5 Q. Right. Did you receive any report of what the 6 construction engineer number II had said when asked 7 about the formal inspections of the stitch joints? 8 A. No. 9 Q. So, just to put this point away, Mr Fu -- we know from 10 the earlier part of this Inquiry that when a problem -- 11 in fact then it was the cutting of threaded rebar -- 12 arose, Mr Carl Wu was asked to carry out an internal 13 investigation and he produced a written report. Perhaps 14 you remember that? 15 A. I can remember that. 16 Q. Right. So there was no similar type of investigation on 17 this occasion; is that right? 18 A. No. 19 Q. Right. The other report that you referred to in the 20 paragraph of your witness statement I took you to 21 a moment ago was the report in relation to the shunt 22 neck joint. We can find that report at DD1/38.61. 23 This report, Mr Fu, was submitted a little bit later 24 in the year, last year, 30 October 2018. 25 If we scroll down, please -- a bit further, please.</p> |

| Page 93 | Page 95 |
|--|--|
| <p>1 This time, this was sent by Mr Nelson Yeung, project 2 manager-SCL civil. 3 If we scroll up again, please, it's captioned, 4 "Shunt tunnel incident report and remedial proposal", 5 and if we go over the page, please, and scroll down, you 6 see it's dated 26 October. Then over the page, 7 please -- pausing there -- Mr Fu, who prepared this 8 report? 9 A. It was me. 10 Q. And again, Mr Fu, it makes no reference to hold-point 11 inspections or what may have happened on the hold-point 12 inspections, and presumably you're -- the reason for 13 that is your answers are the same as what I've just been 14 asking you about in relation to the earlier report? 15 A. Correct. 16 Q. All right. We can put that away. We don't need to go 17 through all of that. 18 Mr Fu, in paragraph 12 of your first witness 19 statement, BB69. You make reference there to the 20 Interface Requirements Specification. Do you see that? 21 A. Yes. 22 Q. That's appendix Z2 to the Particular Specification in 23 the 1112 contract; do you recall? 24 A. Yes. 25 Q. And I imagine you can confirm that there's a very</p> | <p>1 possible occasion, arrange interfacing meetings so that 2 the two contractors could understand the details from 3 each other, or they could raise questions, if any. The 4 interfacing meetings were participated by the two 5 contractors as well as the two MTR teams. We had 6 records of these interface meetings, recording what had 7 been discussed. 8 Q. Yes, and I assume that these are -- the minutes of those 9 meetings are something that you would have had access 10 to; is that right? 11 A. Yes, I could access those. 12 Q. Right. How could you access those, Mr Fu? First of 13 all, let's take it in stages, you must have been aware 14 of them in your capacity as the 1111 construction 15 manager up to May 2016; yes? 16 A. I was all the time the construction manager of 17 contract 1111, up to this time. 18 Q. Yes, I appreciate that. And so we know that the 19 interface meetings started at the end of 2014 and ran 20 right through to the beginning of January 2017. That's 21 the period of time over which -- 22 A. That's correct. 23 Q. So you had no direct involvement with the 1112 contract 24 until May 2016. So, for a good period of the time, you 25 would have had access to those minutes of meeting in</p> |
| Page 94 | Page 96 |
| <p>1 similar, if not identical, appendix in the 1111 contract 2 as well? 3 A. That's correct. 4 Q. We may be able to do this without looking at the 5 document, Mr Fu. Let's just see. 6 The document, the appendix, identifies the primary 7 interface, interfaces, that are anticipated to arise; is 8 that right? 9 A. Correct. 10 Q. It sets out the two contractors' respective 11 responsibilities and obligations in relation to the 12 interface matters. Is that right? 13 A. Yes. 14 Q. Do you agree with this, that it requires the contractors 15 to coordinate and, although I don't think the word 16 expressly appears, to cooperate with each other in 17 relation to the interface matters? 18 A. Yes. 19 Q. In relation to all of that, Mr Fu, do you -- from the 20 MTR's perspective, how did you view the MTR's role in 21 those interface matters? 22 A. For the interface-related issues, two contractors were 23 involved, and on the part of MTR we have two teams 24 responsible for the two works, 1111 and 1112 25 respectively. What we had to do was to, at the earliest</p> | <p>1 your capacity as the 1111 construction manager? 2 A. I had access. I could see the records under the ePMS, 3 but these were day-to-day frontline communication 4 information. So I did not, as a matter of fact, read 5 those records. 6 Q. Right. But you can confirm that they were, so far as 7 MTR is concerned, put on the ePMS system; they were 8 there, if anybody wanted to look at them? 9 A. I'm not sure. 10 Q. All right. 11 A. I'm not sure. 12 Q. We will be speaking to some MTR witnesses who were at 13 the interface meetings, so I'll follow that up by asking 14 them some more questions about what happened to the 15 minutes so far as MTR are concerned. 16 In paragraph 14 of your witness statement, Mr Fu, 17 you make reference to the 1112 NAT method statement, and 18 you also list out the relevant details, specifications 19 and working drawings primarily relevant to the three 20 stitch joints. Do you see that? 21 A. Yes, I see that. 22 Q. We know that there was a general method statement for 23 the NAT, and there is no specific method statement for 24 any of the stitch joints themselves; you're aware of 25 that, Mr Fu?</p> |

| Page 97 | Page 99 |
|---|--|
| <p>1 A. That is correct.</p> <p>2 Q. Do you agree with Mr Holden from Leighton that looking</p> <p>3 back, with the benefit of hindsight, a specific method</p> <p>4 statement for the stitch joints themselves may have been</p> <p>5 helpful and beneficial?</p> <p>6 A. I agree. I feel that a supplemental method statement</p> <p>7 would be very helpful.</p> <p>8 Q. Right.</p> <p>9 Paragraph 15 of your witness statement, Mr Fu, sets</p> <p>10 out in some detail the procedures involved in the</p> <p>11 construction of the 1111/1112 NSL stitch joint. And in</p> <p>12 subparagraph (c) on page 72, you make reference to and</p> <p>13 indeed set out the note on drawing 101, if I can use</p> <p>14 that for short, which requires the stitch joint to be</p> <p>15 cast as late as possible in the construction sequence,</p> <p>16 and so forth, the words we are now familiar with. Do</p> <p>17 you see that, Mr Fu?</p> <p>18 A. Yes, I see that.</p> <p>19 Q. At (e) on the top of page 73 of your witness statement,</p> <p>20 you say -- you use these words:</p> <p>21 "After the differential movements of the two</p> <p>22 structures were stabilised ..."</p> <p>23 Then I appreciate you have amended the rest of this</p> <p>24 paragraph in your corrigendum?</p> <p>25 A. That's correct.</p> | <p>1 A. The contractor could submit it to our colleagues who</p> <p>2 were responsible for surveying or to our relevant</p> <p>3 construction engineers.</p> <p>4 Q. All right. And really let's just cut through this.</p> <p>5 Mr Fu, who is responsible for determining that the</p> <p>6 differential movements of the two structures had</p> <p>7 sufficiently stabilised to enable the stitch joints to</p> <p>8 be constructed?</p> <p>9 A. I believe our frontline colleagues would have very</p> <p>10 constant communication, and they would discuss the works</p> <p>11 progress, the works conditions, and whether there were</p> <p>12 anything abnormal that was spotted. I believe frontline</p> <p>13 colleagues would discuss when the stitch joints should</p> <p>14 be built.</p> <p>15 Q. When you say "would have very constant communication",</p> <p>16 "colleagues would discuss", do you mean with Leighton?</p> <p>17 A. Yes, with Leighton.</p> <p>18 Q. I understand.</p> <p>19 A. When I meant was -- I meant the frontline staff of MTR</p> <p>20 and Leighton.</p> <p>21 Q. Yes, understood. All right.</p> <p>22 So, effectively, through that discussion process,</p> <p>23 the monitoring first and then the discussion process,</p> <p>24 effectively a joint decision would be made that they can</p> <p>25 go ahead and construct the stitch joints?</p> |
| Page 98 | Page 100 |
| <p>1 Q. "After the differential movements of the two structures</p> <p>2 were stabilised", Mr Fu, that suggests to me that the</p> <p>3 differential settlements of those two structures were</p> <p>4 being monitored. Is that right?</p> <p>5 A. Yes, correct.</p> <p>6 Q. Let's start with the GKJV side structure. Who was</p> <p>7 carrying out the monitoring of the GKJV structure?</p> <p>8 A. It's the contractor.</p> <p>9 Q. And so that would be the GKJV, and no doubt similarly on</p> <p>10 the Leighton side they would be responsible for</p> <p>11 monitoring the differential movement of their own</p> <p>12 structure; is that right?</p> <p>13 A. Theoretically, yes, and in the interfacing schedule,</p> <p>14 Leighton could monitor the GKJV structures.</p> <p>15 Q. Okay. They had access through --</p> <p>16 A. (In English) They have access.</p> <p>17 Q. Through the interfacing arrangements, they had access to</p> <p>18 the GKJV monitoring on the other side of the joint?</p> <p>19 A. That is correct.</p> <p>20 Q. And did the MTRC play any role in the monitoring of</p> <p>21 those two structures?</p> <p>22 A. The contractor should submit monitoring data at regular</p> <p>23 intervals to MTR.</p> <p>24 Q. And to whom would they submit those details or that</p> <p>25 data?</p> | <p>1 A. Well, certainly, we will have to satisfy the</p> <p>2 requirements according to the drawings. When the stitch</p> <p>3 joints could be built and when -- and, that is, we</p> <p>4 should do backfilling first and we would have to satisfy</p> <p>5 all these requirements.</p> <p>6 Q. Yes. Understood. And there was no question here of</p> <p>7 having to go to government to commence the stitch</p> <p>8 joints; it was really a decision between Leighton and</p> <p>9 MTR?</p> <p>10 A. That's correct.</p> <p>11 COMMISSIONER HANSFORD: Just before we leave that point</p> <p>12 Mr Fu, what criteria would your colleagues use for</p> <p>13 determining that the stitch joint could then go ahead?</p> <p>14 A. We have the stitch joint at EWL and also a stitch joint</p> <p>15 at NSL. First, I will talk about the EWL. Since it is</p> <p>16 a tunnel trough structure, it is on ground bearing, it</p> <p>17 did not have backfilling, it did not have ELS water</p> <p>18 discharge. In other words, when the main tunnel</p> <p>19 structures on the two sides were completed, there would</p> <p>20 not be any external additional loading on the EWL Tunnel</p> <p>21 structure.</p> <p>22 So when the main tunnel structures on the two sides</p> <p>23 were completed, the stitch joint could be started.</p> <p>24 As for NSL Tunnel structure, since it is below</p> <p>25 ground level, it has ELS and water discharge. ELS is</p> |

| Page 101 | Page 103 |
|---|---|
| <p>1 excavation and lateral support. When Leighton has 2 completed the NSL Tunnel structure, it had to do 3 backfilling up till a level, and then it could build the 4 EWL Tunnel above it.</p> <p>5 In the series of backfilling and EWL Tunnel 6 structure, when all these were completed, all the 7 additional loading would have been in place. In the 8 process of backfilling, water discharge would be 9 stopped. In other words, there would be no water 10 discharge issue. When the tunnel structure on the two 11 sides were completed, our contractor and our frontline 12 staff would understand there would be one requirement, 13 that the stitch joint should be constructed as late as 14 possible. So, when the NSL Tunnel structure was 15 completed, we waited for over half a year, so the 16 frontline staff could see that it had stabilised. Then 17 they would think that the stitch joint could be 18 constructed.</p> <p>19 This was what happened.</p> <p>20 COMMISSIONER HANSFORD: Thank you.</p> <p>21 MR PENNICOTT: Mr Fu, just one point to perhaps tidy up on 22 the transcript. You mentioned a couple of times "ERS". 23 I think you meant to say "ELS"? 24 A. Sorry, ELS. 25 Q. Which is excavation and lateral support?</p> | <p>1 discovered, there would be site inspectors on site, and 2 I would directly think that they should raise the 3 problem there and then. They should ask the site 4 inspector there and then that there was this problem. 5 And of course, at our level, we think that since there 6 were interface meetings, Leighton should know about 7 this.</p> <p>8 At the frontline level, we had foremen and other 9 workers. If they had doubts, I think they -- it's not 10 surprising that they might have doubts. They could seek 11 advice from Leighton staff or ask MTR direct.</p> <p>12 Q. Yes. It's just that it struck me, Mr Fu -- maybe I'm 13 wrong -- that this really was a sub-contractor/main 14 contractor problem which had to be resolved; there was 15 actually no need to refer it to the MTR. But do you 16 agree or disagree with that? I know they could have 17 contacted MTR, of course, but they didn't really need 18 to, did they? 19 A. Yes. Strictly speaking, there would be no need. 20 Q. All right. 21 Mr Fu, at paragraph 33 of your first witness 22 statement, that's at page BB81, you say: 23 "On 20 July 2018, MTR issued a letter to Leighton 24 asking for all details in relation to the defective 25 stitch joints."</p> |
| Page 102 | Page 104 |
| <p>1 A. Correct. 2 Q. All right. Now I'm moving on from that point. Can 3 I take you, please, to paragraph 28 of your witness 4 statement. That's at BB8, where you make reference to 5 the interface meetings that we touched on a short while 6 ago, Mr Fu, so I'm not going back to that.</p> <p>7 Then in paragraph 29, you discuss what you then call 8 the mismatch problem. You introduce the mismatch 9 problem. Do you see that in paragraph 29? 10 A. Yes, I see that. 11 Q. Then you say in paragraph 30: 12 "Even if it were the case that Leighton and/or its 13 sub-contractor were unable to screw the rebars into the 14 couplers given that the wrong materials had been 15 ordered, one would have expected that Leighton and/or 16 its sub-contractors would immediately halt the stitch 17 joints/construction joint works, raise the 'mismatch' 18 problem with MTRCL, and seek to resolve it by placing 19 an order for the right kind of materials." 20 Can you just explain why you think that that 21 mismatch problem ought to have been raised with the MTR? 22 A. First, there were interface meetings, and I believe the 23 relevant Leighton staff were aware that GKJV were using 24 Lenton couplers. They knew about the arrangement. At 25 the site, when works were done and if problems were</p> | <p>1 Then you say: 2 "On 27 July 2018, by another letter, MTR requested 3 Leighton to provide information relevant to, amongst 4 other things, the defects at the three stitch joints, 5 including in particular ..." 6 Then you set out the various matters that were 7 requested. 8 If you go over the page, to save me reading it all 9 out, that includes, you will see in the third line from 10 the top, "all RISC forms"; do you see that? 11 A. Yes, I can see that. 12 Q. Right. Now, we touched on this earlier, Mr Fu. First 13 of all, specifically in relation to the stitch joints. 14 As I understand it from your answers earlier, you 15 first became aware that there were no RISC forms in 16 relation to the -- specifically in relation to the 17 stitch joints when you were carrying out your 18 investigations in February-March 2018. Have I got that 19 right? 20 A. Correct. 21 Q. Now, Mr Fu, we know that there's a rather broader 22 problem about the RISC forms. That is, not only are 23 there no RISC forms in relation to the original stitch 24 joints, but there are no RISC forms in relation to many 25 other rebar inspections and pre-pour concrete</p> |

| Page 105 | Page 107 |
|---|--|
| <p>1 inspections. You are aware of that now, obviously? 2 A. Yes. 3 Q. When did you personally become aware of the broader 4 problem, if I put it that way, Mr Fu? 5 A. It was when we investigated into this stitch joint 6 matter. We started to check all the records, and we 7 found out that there was no record for the stitch 8 joints. And, at the same time, we tried to find other 9 records for the NAT, the tunnel structure, and any 10 inspection records, and we discovered that we had this 11 problem at the time. 12 Q. Okay. Mr Fu, when you took up your post as construction 13 manager for the 1112 contract in May 2016, as 14 I understand it, you took over from Mr Kit Chan; is that 15 right? 16 A. Correct. 17 Q. But when you took over from Mr Chan, did he not brief 18 you at the time on the problem that had arisen regarding 19 the lack of RISC forms? 20 A. I have no such recollection. 21 Q. So throughout the period May 2016 to February-March 22 2018, so a period of some -- in excess of one and a half 23 years, you were unaware of the problem of the lack of 24 RISC forms; is that the position, Mr Fu? 25 A. That's correct. I didn't know.</p> | <p>1 email we've looked at a number of times now. It's at 2 CC10/6208. If we can scroll down, please. This is 3 an email -- I don't know if you've seen it more 4 recently, Mr Fu. It wasn't sent to you at the time so 5 far as one can tell. It was from an MTR senior IOW, 6 I think, Mr Kong, to Mr Rawsthorne, and it's 7 complaining, in March 2017, about the lack of RISC 8 forms. 9 Again, this was not specifically brought to your 10 attention at that time? 11 A. No. 12 Q. All right. 13 COMMISSIONER HANSFORD: Can I just ask, Mr Fu, while that's 14 on the screen: do you find it surprising that the senior 15 inspector of works would write to Ian Rawsthorne and 16 also copy -- did I see -- Anthony Zervaas, yes, and also 17 copy Anthony Zervaas but not copy it to you? Is that 18 rather surprising or does that not surprise you? 19 A. Well, I look at it now, I would say it's surprising. It 20 could be that Kenneth Kong would report to Joe Tsang, 21 senior construction engineer. That's his reporting 22 line. And Kenneth Kong should have provided me with 23 a cc copy so that I can be alerted to this. I would say 24 I'm surprised now. 25 COMMISSIONER HANSFORD: Because isn't it the case, Mr Fu,</p> |
| Page 106 | Page 108 |
| <p>1 Q. Okay. 2 You now know, I think, Mr Fu, that a number of MTR's 3 staff were well aware of the RISC form problem 4 throughout the period 2016-2017; you know that now? 5 A. I now know. 6 Q. And none of them brought this problem to your attention; 7 is that right? 8 A. That's correct, none. 9 Q. Looking back, Mr Fu, do you think, knowing what you know 10 now about the lack of RISC forms, that this is something 11 that ought to have been brought to your attention? 12 A. Looking back, with hindsight, they should have reported 13 this to me. In our regular meetings or during other 14 occasions when we had discussions, my colleagues would 15 have lots of opportunities to alert me to the lack of 16 RISC forms submitted by Leighton. And all the time, to 17 the investigation and RISC, but on stitch joints, no one 18 mentioned anything of that nature to me. 19 Q. Right. Because again, looking back, Mr Fu, again with 20 the benefit of hindsight, the problem was such, could 21 I suggest to you, that it merited a discussion at the 22 highest level of management between MTR and Leighton; do 23 you agree with that? 24 A. Yes. 25 Q. Could I ask you, please, to look at or be shown the</p> | <p>1 that within MTR and Leighton, communication would 2 normally go to the counterparts, so if someone within 3 MTR was communicating to Leighton at project director 4 level, then you would expect to know about that; is that 5 not the case? 6 A. Yes, I agree. I should have received a cc copy. 7 I should have been informed. Otherwise, Anthony Zervaas 8 might ask me questions about what had happened and 9 I would draw a blank. So I would agree that 10 Kenneth Kong should have provided me with a cc copy, so 11 that at the high-level dialogue with Anthony Zervaas or 12 with Ian Rawsthorne, I would be able to understand what 13 this was about and to seek rectification. So I am 14 surprised now that I received no cc copy. 15 COMMISSIONER HANSFORD: Thank you. 16 MR PENNICOTT: Sir, I see it's near 3.45. So maybe break 17 for ten minutes? 18 CHAIRMAN: Yes, certainly. 19 Mr Fu, we are going to break just for ten minutes. 20 WITNESS: (In English) Yes. 21 CHAIRMAN: I think you know that when you are giving 22 evidence, you're not entitled to discuss it with anybody 23 during these sorts of breaks. Do you understand? 24 WITNESS: (In English) I understand. 25 CHAIRMAN: Thank you. Ten minutes.</p> |

| Page 109 | Page 111 |
|--|---|
| <p>1 (3.45 pm) 2 (A short adjournment) 3 (4.04 pm) 4 CHAIRMAN: Yes. 5 MR PENNICOTT: Thank you, sir. 6 Mr Fu, I'll continue. Can we pick things up, 7 please, at paragraph 19 of your second witness 8 statement, which is at BB5223. 9 In paragraph 19, you refer to the investigation that 10 your team carried out in February and March 2018, which 11 we've discussed already. 12 Then could I ask you, please, to go down to 13 paragraph 21. You say: 14 "In the circumstances, on 17 April 2018, as the 15 engineer's representative I issued on behalf of MTR to 16 Leighton 69 NCRs ... and 31 NCRs ... for the said 17 non-conformances in relation to NAT and SAT 18 respectively." 19 And on 26 June MTRC sent to Highways its NCR record. 20 Could we have a look at that, please. It's at DD1/335. 21 Can we scroll up, please. 26 June from TM Lee, 22 enclosing I think the NCR record for a series of 23 contracts -- we are obviously only interested in 1112 -- 24 and if we can look at the enclosure, please -- 25 CHAIRMAN: Sorry, can we just go up, please. I missed the</p> | <p>1 I've forgotten but if we go to the end of the letter 2 we'll find out. Keep going. Thanks. Nearly there. 3 Yes, Mr Leung, Jonathan Leung. 4 Did you see his response? Did you see this response 5 at the time, Mr Fu? 6 A. I was not aware of this at that time. I did see this 7 afterwards. 8 Q. Right. At page 361, if we go back to that, please, you 9 will see at the last paragraph on the page -- just blow 10 that up slightly, please; thank you -- Mr Leung refers 11 to the NCR records and says: 12 "... I should be grateful if you would provide us 13 with a statistical analysis of the records for each 14 contract on the different level of severity of the 15 non-conformities issued which may have impact on the 16 programme, cost, structural integrity and/or system 17 reliability." 18 Then it says this: 19 "The severity should be subclassified, at least, 20 into three levels, say, high, medium and low." 21 Do you see that? 22 A. Yes, I can see that. 23 Q. Before we see MTR's reply to that, in paragraph 24 of 24 your witness statement, you make reference to the fact 25 that on 10 July, you issued a further 47 NCRs and nine</p> |
| Page 110 | Page 112 |
| <p>1 first paragraph. 2 MR PENNICOTT: I'm sorry. 3 CHAIRMAN: No, it's my fault entirely. 4 MR PENNICOTT: So, Mr Fu, first of all, were you aware of 5 this letter and this submission to Highways? 6 A. No, not really. It was not a letter prepared by me. 7 Q. Okay. But we can see what's happening is a blanket 8 submission is being made of NCR records for a whole host 9 of contracts? 10 A. Correct. 11 Q. Including 1112? 12 A. Correct. 13 Q. And if we go to page 347, please. I think we can see, 14 starting on this page at about halfway down from where 15 it is at the moment, pick it up -- let's use the column 16 in bold in the middle, "97", do you see that, "Missing 17 RISC form for NAT EWL bay 1 base slab"; do you see that? 18 A. Yes. 19 Q. So this submission is including all of the NCRs that you 20 issued to Leighton in April; do you see that? 21 A. That's correct. 22 Q. Then the government replied on 29 June at DD1/358. It 23 goes to Mr TM Lee. It's captioned, "Records of 24 non-conformance report under MTR Corporation's 25 project ...", that's PIMS, and the writer whose name</p> | <p>1 NCRs in relation to RISC form non-conformance in 2 relation to the NAT and the SAT respectively; do you see 3 that, Mr Fu? 4 A. Yes. 5 Q. Then if we could go, please, to DD1/376. The next page, 6 please. This is MTR's reply to the Highways letter that 7 we looked at just a moment ago. 8 Again, Mr Fu, were you involved in this 9 correspondence? Did you see this letter at the time? 10 A. No, not at the time. 11 Q. Okay. We can see from page 379 that it enclosed an NCR 12 management protocol. Do you see that? 13 A. (Nodded head). 14 Q. Were you involved in the preparation of this protocol? 15 A. No. 16 Q. Okay. 17 And we can see that -- sorry, start again. Do you 18 know who was involved in the preparation of this 19 protocol? 20 A. I believe it should be Mr Carl Wu. 21 Q. Right. Okay. 22 And it appears that if one looks at this, the 23 categorisation of non-conformance is to be carried out 24 by the senior construction engineer or -- is that the 25 construction manager, into high, medium and low; do you</p> |

| Page 113 | Page 115 |
|--|--|
| <p>1 see that?</p> <p>2 A. Yes, I can see that.</p> <p>3 Q. Right. Was this protocol brought to your attention</p> <p>4 subsequently, that is after 17 July when it was sent to</p> <p>5 the government?</p> <p>6 A. I remember Mr Carl Wu sent an email to the relevant</p> <p>7 construction managers that we need to follow one of the</p> <p>8 particular categorisation when we issue NCR and that's</p> <p>9 after this was prepared.</p> <p>10 Q. Right. But you, as I understand -- your evidence is</p> <p>11 that you had no input into this categorisation of the</p> <p>12 formulation of this document; is that right?</p> <p>13 A. I did not have a part in this.</p> <p>14 Q. Okay. If we can just go to page 383, please. And one</p> <p>15 has to remember one's colours. If we could scroll down</p> <p>16 a bit further, please. That will do. That's fine.</p> <p>17 Stop there.</p> <p>18 With regard to the missing RISC forms, you can see</p> <p>19 a whole list of them there, these are some of the ones</p> <p>20 that you had already sent on 17 April, they are all</p> <p>21 categorised as low; do you see that, Mr Fu?</p> <p>22 A. I see that.</p> <p>23 Q. So do you know who was responsible for categorising the</p> <p>24 missing RISC forms as low, low severity?</p> <p>25 A. When we issued NCRs to Leighton, we did not give any</p> | <p>1 On 26 July, the MTR wrote again to Highways,</p> <p>2 submitting for reference an "NCR register containing 168</p> <p>3 numbers of works related NCR that are 'open' as at</p> <p>4 25 July ... none of them poses a safety hazard."</p> <p>5 Again, Mr Fu, did you have anything -- any knowledge</p> <p>6 of this letter at the time?</p> <p>7 A. I didn't.</p> <p>8 Q. Right. Then if we could go, please, to the next page,</p> <p>9 and again, please, to pick up the appendix. Right.</p> <p>10 If we could just scroll down, please, slowly --</p> <p>11 scroll down right to the end but slowly, and again;</p> <p>12 right, stop there -- the point here is, Mr Fu, that all</p> <p>13 the NCRs for the RISC forms that were on the previous</p> <p>14 submissions have been taken out of this submission.</p> <p>15 Have you any idea why that would be the case?</p> <p>16 A. I don't know why.</p> <p>17 Q. Okay. And there were -- to try to cut this a little bit</p> <p>18 shorter, Mr Fu -- a number of other subsequent</p> <p>19 submissions to government where the RISC form NCRs were</p> <p>20 not included, and they only resumed being included in</p> <p>21 February of this year, 2019. Were you aware of that?</p> <p>22 A. I was not aware of that.</p> <p>23 Q. So you probably don't know why it was that there was</p> <p>24 a resumption of including them in the submissions to</p> <p>25 government; you simply don't know?</p> |
| Page 114 | Page 116 |
| <p>1 categorisation. The categorisation was done purely to</p> <p>2 respond to Mr Jonathan Leung of the Highways Department.</p> <p>3 We were responding to the request in his letter. And</p> <p>4 I roughly remember -- I roughly remember that Mr Carl Wu</p> <p>5 seemed to have talked to us roughly about this, that</p> <p>6 what should be categorised as high-risk or medium-risk</p> <p>7 and the rest should be classified low-risk, something</p> <p>8 like that.</p> <p>9 Q. Right. I appreciate we are not talking about</p> <p>10 categorisation so far as Leighton is concerned, but this</p> <p>11 is a document that is being presented to the government,</p> <p>12 and MTR, whoever it is in the organisation, has</p> <p>13 categorised the missing RISC forms as low, not high or</p> <p>14 medium, but low. And you think Mr Carl Wu may have been</p> <p>15 involved in that decision; is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. Do you agree with that categorisation, Mr Fu?</p> <p>18 A. There is a table telling us what should be classified</p> <p>19 high, medium or low. The NCR is an administrative NCR,</p> <p>20 saying that Leighton did not submit RISC forms, and they</p> <p>21 were not categorised as concerning public safety or</p> <p>22 imminent safety problems. Therefore, I agree that these</p> <p>23 NCRs relating to missing RISC forms should be</p> <p>24 categorised as low. I agree with that.</p> <p>25 Q. All right. Could we look at DD4/2006, please.</p> | <p>1 A. I don't know because the letters were not written by me.</p> <p>2 Q. All right.</p> <p>3 COMMISSIONER HANSFORD: Can I ask --</p> <p>4 A. (In English) Yes.</p> <p>5 COMMISSIONER HANSFORD: -- Mr Fu, these submissions to</p> <p>6 government that were made by Mr TM Lee, with preparation</p> <p>7 from Mr Carl Wu, do you find it surprising that you were</p> <p>8 not consulted, given that this was your project and you</p> <p>9 were construction manager? Is that surprising, that you</p> <p>10 weren't consulted?</p> <p>11 A. I did not find it surprising because my understanding</p> <p>12 was that for every contract, every construction manager,</p> <p>13 every construction team, we had to submit updated</p> <p>14 information every week to Mr Carl Wu and his team.</p> <p>15 After collating the information, they would update the</p> <p>16 table for submission and reporting to RDO.</p> <p>17 As for a period within it which we did not include</p> <p>18 NCRs for missing RISC forms and then this was resumed at</p> <p>19 a certain time -- well, I was not aware of this. I had</p> <p>20 no knowledge about that.</p> <p>21 MR PENNICOTT: All right. Mr Fu, in the light of that</p> <p>22 answer, there were a few other questions I wanted to ask</p> <p>23 but I'll leave it.</p> <p>24 Let me just ask this general question, Mr Fu, which</p> <p>25 is where I was going to end up. The whole problem of</p> |

| Page 117 | Page 119 |
|---|--|
| <p>1 missing RISC forms that we've been discussing, Mr Fu, 2 was it regarded a problem by the MTR, as a serious 3 matter? 4 A. As the construction manager, I would think that it was 5 a problem, that it should be called a serious matter, 6 because when the contractor did not provide RISC forms, 7 it would represent that we did not have a written record 8 recording whether the works had been inspected, and 9 whether the test was passed or was that the inspection 10 was not passed and so remedial work would be necessary. 11 The RISC form would be a formal written record. So 12 I would think and I would agree that it would be 13 a problem. 14 Q. All right. 15 Mr Fu, have you been involved in any internal 16 discussions at MTR or in discussions between MTR and 17 certain appointed consultants about reviewing the RISC 18 form process? 19 A. I didn't. 20 Q. Okay. 21 A separate topic, Mr Fu. In paragraphs 25 and 26 of 22 your first witness statement -- that's at pages 78 and 23 79 -- you deal there with the quality control system for 24 the use of materials, including rebars and couplers. Do 25 you see that, Mr Fu?</p> | <p>1 contractors had tested the quality of the materials? 2 A. In the contract, MTR had put in material and workmanship 3 specification and the contractor would be required to 4 comply with the quality requirements. When we designed 5 the submission to the government, in the consultation 6 submission, the government also imposed certain 7 requirements on materials. In terms of testing, we have 8 to do the testing in order to comply with the 9 requirements. 10 On the question of conducting the tests, under the 11 PIMS of MTR, our internal system, we have outlined the 12 arrangement for sampling and testing. 13 MR PENNICOTT: Mr Fu, I think the question is what, if 14 anything, did MTR do to ensure compliance with the 15 testing requirements? 16 A. On the part of MTR, yes. When the contractor is going 17 to use the material, the contractor would have to give 18 us a material-related submission form and MTR would vet 19 the material before approval is given to the contractor 20 for the use of that material in the construction. If 21 MTR has given its approval, then the contractor would 22 need to conduct the required test, to comply with the 23 quality requirements. 24 Q. Okay. I appreciate the point, Mr Fu, that initially MTR 25 has to give approval or consent to Leighton, in this</p> |
| Page 118 | Page 120 |
| <p>1 A. I see that. 2 Q. And you mention that the rebar, in particular, should be 3 sampled, to be tested according to various specification 4 and other standards? 5 A. I see that. 6 Q. What is the MTR's role, so far as you are concerned, in 7 ensuring that the testing requirements were complied 8 with by Leighton? 9 A. Sorry, can you please repeat the question? 10 Q. Yes. What role, if any, did MTR play in ensuring that 11 the materials were properly tested by Leighton? 12 A. The MTR had to ensure works quality and to ensure that 13 the materials used by the contractor should satisfy the 14 quality requirements. 15 Q. We've heard -- sorry, sir. 16 CHAIRMAN: I appreciate -- you are probably continuing to 17 explore it, are you? 18 MR PENNICOTT: I've got a few more questions, but please. 19 CHAIRMAN: Sorry, I appreciate that MTR had to do that. My 20 understanding of the question was: did they play 21 a positive role in ensuring that? 22 A. Sorry, I didn't catch your question, Mr Chairman. 23 CHAIRMAN: Sorry. Did the MTR play a positive role, that 24 is, did they have any set routine or procedure in terms 25 of which they themselves could double-check that</p> | <p>1 case, to use a particular material, let's say 2 a particular type of rebar from a particular supplier; 3 yes? 4 A. Correct. 5 Q. What we're concerned with is the next stage, that those 6 materials, rebar, is ordered; it is delivered to the 7 site; and before it can be used, it has to be tested -- 8 A. That's correct. 9 Q. -- or Leighton have to make -- 10 A. That's correct. 11 Q. -- arrangements for it to be tested; yes? 12 A. That's correct. 13 Q. Is it your understanding that MTR plays any role in that 14 testing process, that is, once the materials have 15 arrived on site, and what do they do, does MTR do, to 16 ensure that Leighton complies with those testing 17 requirements? 18 A. Yes. When the material is sent to the site, Leighton 19 would inform the inspector, the relevant inspectors of 20 MTR, and the MTR inspector would act in accordance with 21 the sampling rate. Samples should be taken, and then, 22 after the sampling, the rebars would be sent to an MTR 23 laboratory for testing. In the course of sampling, 24 there would be the need to fill in a form, requesting 25 the testing of steel -- of rebars, and the MTR inspector</p> |

| Page 121 | Page 123 |
|--|--|
| <p>1 would have to confirm the use of the form based on 2 a number of considerations, and Leighton had to produce 3 a certificate, the delivery note, et cetera, for our 4 confirmation. 5 Whether the material is in line with the approval, 6 we will also check. For example, if we are talking 7 about couplers, we have approved the use of a particular 8 type or particular brand of couplers. If the contractor 9 uses any coupler, they can only use couplers approved by 10 MTR. MTR would take samples of rebars, and the rebars 11 will be sent to an MTR lab for testing, and MTR would 12 know the test results. 13 Q. Yes. Just please, Mr Fu, at the moment, don't go off 14 into questions of couplers. Just focus on the rebar for 15 the moment. 16 A. (In English) Okay. 17 Q. My understanding of the position, and I think in a sense 18 you've just confirmed it, is that MTR's inspectors are 19 involved in taking the samples that need to be tested, 20 of the rebar. Is that your understanding? 21 A. Correct. 22 MR BOULDING: Sir, I was just being asked if Mr Fu could 23 speak slightly slower for the benefit of the 24 translation. 25 A. (In English) Okay.</p> | <p>1 COMMISSIONER HANSFORD: Can I just ask, Mr Fu, what would 2 happen if Leighton does not inform MTR the rebar is 3 ready for sampling and testing? What would then happen? 4 A. If we were not told, we wouldn't know that the rebars, 5 that batch, have been sampled or tested. MTR inspectors 6 wouldn't know either. 7 COMMISSIONER HANSFORD: Sorry, your answer says, "If we were 8 not told, we wouldn't know that the rebars, that batch, 9 have been sampled or tested", but my question is 10 a little bit different. What if Leighton have not 11 informed MTR that material is available for sampling and 12 testing? What then happens? 13 A. If Leighton did not inform MTR that the rebars could be 14 sampled and tested, Leighton might have used the rebars 15 and carry out the structural work using rebars which had 16 not been tested. 17 COMMISSIONER HANSFORD: Right. 18 MR PENNICOTT: Okay. So, Mr Fu, to put perhaps 19 Prof Hansford's question around the other way, you would 20 not -- you would expect MTR's inspectors to get involved 21 in the sampling and testing process, if they were told 22 that the rebar had arrived on the site, but you would 23 not have expected MTR's inspectors to go patrolling the 24 site, looking for untested rebar? 25 A. Our inspectors are on the site every day. They would go</p> |
| Page 122 | Page 124 |
| <p>1 MR PENNICOTT: So what we've heard from the Leighton 2 witnesses, we think, is that so far as the rebar is 3 concerned, Mr Fu, it turns up in batches, different 4 diameters, T40, T32, T25, and there is a certain 5 sampling criteria. A particular bar has to be taken, 6 a metre length is cut out of it, and that's what's sent 7 away for testing. 8 As I understand it, and I think you agree but tell 9 me if you don't, MTR's inspectors are involved in that 10 sampling and testing process. Is that right? 11 A. That's correct. 12 Q. And you say MTR's laboratory -- that's the HOKLAS 13 laboratory, is that right, H-O-K-L-A-S for short? 14 A. That's also correct. 15 Q. Okay. The reason I'm asking you this, Mr Fu, is that we 16 have been told by Leighton that about 7 per cent or so 17 of the rebar that was used on this project, I mean this 18 contract, 1112, about 7 per cent of it apparently was 19 not tested as it should have been. 20 Assuming that to be right for the moment, can you 21 explain how that has sort of slipped past -- apparently 22 slipped past MTRC? 23 A. I think I'm not in a position to speculate why some 24 rebars were not tested. 25 Q. Right.</p> | <p>1 to every location, including the rebar yard. I believe, 2 if our inspectors see the arrival of a batch of rebars 3 put on the site, I believe they would ask; they would 4 ask the Leighton foreman or Leighton staff about the 5 provenance of the rebars and whether the rebars should 6 be tested. Our inspectors do the test every day on the 7 site -- they inspect the site, rather, our inspectors 8 inspect the site every day, so the chances are that they 9 will see the arrival of the rebar. 10 Whether the Leighton has got another arrangement and 11 put the rebars on some other locations, that, I cannot 12 speculate. 13 Q. All right. 14 CHAIRMAN: So, essentially, would it be correct then to say, 15 Mr Fu, that it's an arrangement of trust, backed up with 16 inspection? In other words, new materials come in, the 17 burden is on Leighton to tell the MTR, "We've got new 18 materials that require testing"; okay? That's where the 19 report should come from, but the MTR has its own 20 inspectors and if they see something which looks like 21 material that has not yet been put before them for 22 testing, they will make enquiries? 23 A. That is correct. 24 MR PENNICOTT: Sir, I'm moving on to something else, unless 25 you have any further questions on that particular topic?</p> |

| Page 125 | Page 127 |
|--|---|
| <p>1 CHAIRMAN: No. Thank you.</p> <p>2 MR PENNICOTT: Mr Fu, in paragraphs 14 and 15 of your second</p> <p>3 witness statement, that's at 5219, you are dealing with</p> <p>4 the question of deviations and in particular the change</p> <p>5 from lapped bars to couplers. Do you recall that?</p> <p>6 A. Yes. Yes, I can recall that.</p> <p>7 Q. And you say that you were unaware of that change in</p> <p>8 certain locations in the NAT area until around April</p> <p>9 2018. Is that right? I'm reading from the top of</p> <p>10 paragraph -- towards the top of paragraph 15 of your</p> <p>11 witness statement. Is that right?</p> <p>12 A. That's correct.</p> <p>13 Q. All right.</p> <p>14 In paragraph 17 of your witness statement, you refer</p> <p>15 to the use of couplers at two specific locations. One</p> <p>16 is something called the drencher tank, which I am</p> <p>17 passing over, and the other is in the VRV room. Do you</p> <p>18 see that, Mr Fu?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. And in relation to the VRV room, could we just, please,</p> <p>21 look at BB9/6328.</p> <p>22 COMMISSIONER HANSFORD: What does "VRV" stand for?</p> <p>23 MR PENNICOTT: I have no idea.</p> <p>24 A. I don't really know what VRV is. It is a building</p> <p>25 services equipment.</p> | <p>1 Then over the page -- and it goes on for a little</p> <p>2 while. We are not going to look at it.</p> <p>3 In your witness statement, Mr Fu, you say, in</p> <p>4 relation to this particular item:</p> <p>5 "As the investigation and follow-up action in this</p> <p>6 regard are still ongoing, I will update the Commission</p> <p>7 of Inquiry when more information is available."</p> <p>8 Would you like this opportunity to give us</p> <p>9 an update, if you are able?</p> <p>10 A. Right now, we are still doing the review.</p> <p>11 Q. Right. So you are not yet in a position to give us</p> <p>12 an update?</p> <p>13 A. No, not now.</p> <p>14 MR PENNICOTT: Right.</p> <p>15 Sir, I think I've finished. It's 5.51. It's</p> <p>16 a matter for you. I don't know if anyone else has any</p> <p>17 questions?</p> <p>18 CHAIRMAN: Let's just scout the land.</p> <p>19 MR TSOI: I have no questions.</p> <p>20 MR SHIEH: No questions.</p> <p>21 MR CHOW: Mr Chairman, I do have a few questions, and it's</p> <p>22 going to take more than ten minutes. So I'm in your</p> <p>23 hands. I can start now until a moment that is</p> <p>24 convenient.</p> <p>25 CHAIRMAN: No. I think we've done a fair day's work. We</p> |
| Page 126 | Page 128 |
| <p>1 COMMISSIONER HANSFORD: All right. We will just call it the</p> <p>2 VRV room.</p> <p>3 MR PENNICOTT: I undertake to find out the answer by</p> <p>4 tomorrow morning.</p> <p>5 THE COURT REPORTER: It's variable refrigerant volume.</p> <p>6 MR PENNICOTT: Thank you very much.</p> <p>7 COMMISSIONER HANSFORD: Okay. We are much wiser.</p> <p>8 MR PENNICOTT: And in relation to this VRV room -- the</p> <p>9 reason I'm asking you these questions is to see whether</p> <p>10 we can put this on one side for a moment -- for forever.</p> <p>11 You mention an email from Mr Holden of 15 March 2019.</p> <p>12 Is this the email that you are referring to, Mr Fu?</p> <p>13 A. Yes, I can see that. Yes.</p> <p>14 Q. It says -- it's from Mr Holden to Jacky Lee, and what</p> <p>15 Mr Holden says is:</p> <p>16 "Further to our discussion refer attached items</p> <p>17 related to the HHS phased opening close out for</p> <p>18 accommodation blocks package".</p> <p>19 And the first item is the "PWD226 design report</p> <p>20 justification of MJ", which I think is movement joint,</p> <p>21 "in VRV base slab"; do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. And attached to this email is a very lengthy report. If</p> <p>24 we can just go over the page, please:</p> <p>25 "Review of VRV base slab around construction joint".</p> | <p>1 finished late into the lunch hour in order to get</p> <p>2 a witness dealt with. There's your questions and then</p> <p>3 myself and the Commissioner may have other questions,</p> <p>4 plus re-examination.</p> <p>5 COMMISSIONER HANSFORD: I have one or two.</p> <p>6 CHAIRMAN: Yes. So I think it's easier that we finish now</p> <p>7 and then we have something reasonably substantial</p> <p>8 tomorrow morning.</p> <p>9 MR PENNICOTT: Yes.</p> <p>10 CHAIRMAN: Good. So we will adjourn until 10 am tomorrow</p> <p>11 morning.</p> <p>12 Mr Fu, sorry to bring you back, but hopefully we</p> <p>13 won't detain you more than an hour or so tomorrow,</p> <p>14 perhaps less than that.</p> <p>15 MR PENNICOTT: Sir, can I just mention one thing so that</p> <p>16 nobody is taken by surprise tomorrow. We will obviously</p> <p>17 deal with Mr Fu first thing in the morning. He will be</p> <p>18 followed by Mr Chris Chan, who will be followed by</p> <p>19 Mr Tony Tang, and it's at that point that I need to</p> <p>20 mention that the next witness would be Ms Kappa Kang.</p> <p>21 She has requested to have a specific time to give her</p> <p>22 evidence, so we have given her 10 o'clock on Wednesday</p> <p>23 morning.</p> <p>24 So if we manage to get through Mr Fu, Mr Chan and</p> <p>25 Mr Tang, then we may get to Mr Jacky Lee, I think, who</p> |

Page 129

1 is after Ms Kang. So I just make that point. It may be
2 that in fact it will all work out seamlessly and we will
3 reach Ms Kang on Wednesday morning, but the best laid
4 plans and all of that.
5 CHAIRMAN: Yes. It should be pointed out, I think, that
6 Ms Kang made a request for entirely proper pressing
7 personal reasons.
8 MR PENNICOTT: Absolutely, sir.
9 CHAIRMAN: And the tribunal has acceded to that request.
10 MR PENNICOTT: Indeed. That's right.
11 CHAIRMAN: It's not just simply somebody randomly deciding
12 they only want to be here at a particular time. The
13 request had substance.
14 MR PENNICOTT: Yes.
15 CHAIRMAN: Good. 10 o'clock tomorrow.
16 (4.55 pm)
17 (The hearing adjourned until 10.00 am the following day)
18
19
20
21
22
23
24
25

Page 130

| 1 | INDEX | PAGE |
|----|---|------|
| 2 | | |
| 3 | MR LEUNG CHI YUNG, RONALD (affirmed in Cantonese)1 | |
| 4 | Examination-in-chief by MR SHIEH1 | |
| 5 | Examination by MR PENNICOTT3 | |
| 6 | Cross-examination by MS PANG20 | |
| 7 | Questioning by THE TRIBUNAL31 | |
| 8 | (The witness was released)34 | |
| 9 | MR YEUNG KA LUN, ALAN (affirmed in Cantonese)34 | |
| 10 | Examination-in-chief by MR SHIEH34 | |
| 11 | Examination by MR PENNICOTT37 | |
| 12 | Cross-examination by MR CHOW49 | |
| 13 | (The witness was released)58 | |
| 14 | MR TSOI KA CHUN, RAYMOND (affirmed in Cantonese)58 | |
| 15 | Examination-in-chief by MR SHIEH58 | |
| 16 | Examination by MR PENNICOTT60 | |
| 17 | Cross-examination by MS PANG68 | |
| 18 | (The witness was released)77 | |
| 19 | MR FU YIN CHIT, MICHAEL (affirmed in Cantonese)78 | |
| 20 | Examination-in-chief by MR BOULDING78 | |
| 21 | Examination by MR PENNICOTT82 | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |