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<p>1 Tuesday, 11 June 2019</p> <p>2 (10.01 am)</p> <p>3 MR FU YIN CHIT, MICHAEL (on former affirmation in Cantonese)</p> <p>4 (All answers given via simultaneous interpreter</p> <p>5 except where otherwise specified)</p> <p>6 Cross-examination by MR CHOW</p> <p>7 MR CHOW: Good morning, Mr Chairman and Mr Commissioner.</p> <p>8 Good morning, Mr Fu.</p> <p>9 A. (In English) Good morning.</p> <p>10 Q. My name is Anthony Chow and I represent the government.</p> <p>11 I have a few questions for you.</p> <p>12 Mr Fu, can I ask you to look at the organisation</p> <p>13 chart that we have looked at yesterday, in bundle B2,</p> <p>14 page 582. Do you see that?</p> <p>15 A. I can see that.</p> <p>16 Q. What we see from this organisation chart is you are</p> <p>17 right at the very top of MTR's organisation on site;</p> <p>18 right?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. From your answers given to Mr Pennicott yesterday,</p> <p>21 I have got an impression, I may be wrong, that you have</p> <p>22 very little personal knowledge on various matters that</p> <p>23 are being investigated by the present Commission of</p> <p>24 Inquiry. For example, you have no knowledge of the lack</p> <p>25 of RISC forms at the time and you have no knowledge of</p>	<p>1 your engineers, to ensure that they fulfil their duties</p> <p>2 as defined in PIMS, the project integrated management</p> <p>3 system of MTRC; do you agree with me?</p> <p>4 A. I agree.</p> <p>5 Q. Are you familiar with the requirement of PIMS in</p> <p>6 relation to keeping of records?</p> <p>7 A. Basically, I know.</p> <p>8 Q. So you would agree with me, no doubt, that your</p> <p>9 inspectorate team, comprising engineers and inspectors</p> <p>10 of works, have to keep records of their inspection</p> <p>11 results?</p> <p>12 A. I agree.</p> <p>13 Q. And they also have to keep records of the as-built work</p> <p>14 on a continuous basis; do you agree with me?</p> <p>15 A. Yes.</p> <p>16 Q. Your other duty is to oversee the work of the</p> <p>17 contractor, to make sure that the works are being</p> <p>18 carried out in accordance with the terms of the</p> <p>19 contract; do you agree with me?</p> <p>20 A. That's correct.</p> <p>21 Q. With these answers, I would like to move on to the</p> <p>22 stitch joints. In paragraph 7 of your statement, you</p> <p>23 set out the time when the three original stitch joints</p> <p>24 were constructed. Do you see page BB65? Under</p> <p>25 subparagraphs (a), (b), (c) and (d), you set out the</p>
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<p>1 the deviation, that is to say, the changes of the lapped</p> <p>2 bars to coupler connections, that you have no knowledge.</p> <p>3 Do you recall that?</p> <p>4 A. That's correct.</p> <p>5 Q. Can I then ask what exactly is your duty and</p> <p>6 responsibility as a construction manager on site?</p> <p>7 A. As construction manager, I have a number of duties to</p> <p>8 discharge, including construction safety, construction</p> <p>9 progress, and day-to-day correspondence, as well as</p> <p>10 follow up on commercial matters and also to follow up on</p> <p>11 changes in design that might affect progress. So</p> <p>12 a number of things.</p> <p>13 Of course, we also have different teams to provide</p> <p>14 support and to take follow-up action. Under me, there</p> <p>15 are two senior construction engineers. They were</p> <p>16 delegated with power to monitor construction matters and</p> <p>17 relevant issues. When there are construction problems,</p> <p>18 we will deal with those at our regular weekly meetings</p> <p>19 and the engineers would raise those matters with me.</p> <p>20 As for missing RISC forms, at that time no one</p> <p>21 mentioned that, so I was not in the know.</p> <p>22 Q. Now, Mr Fu, from reading the organisation chart, is it</p> <p>23 not obvious that one of the duties is to supervise your</p> <p>24 subordinates, for example the engineering management or</p> <p>25 construction management team, your inspectors of works,</p>	<p>1 corresponding periods of the three stitch joints and the</p> <p>2 shunt neck joint, when they were built; do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. We can see from those dates that all these works were</p> <p>5 constructed at the time when you were the construction</p> <p>6 manager on site. Can you confirm that?</p> <p>7 A. I agree.</p> <p>8 Q. In paragraph 19 of your second statement, at page 5223,</p> <p>9 you say:</p> <p>10 "After the discovery of the defective connection</p> <p>11 issues at the three stitch joints and the 1111/1112</p> <p>12 shunt neck joint in February and March 2018, my team and</p> <p>13 I started to investigate why such issues were not</p> <p>14 discovered earlier. We therefore conducted a search for</p> <p>15 the relevant RISC forms in the RISC form register. This</p> <p>16 was when we realised that contrary to the ITPs and</p> <p>17 clause G12.4.3 of the General Specification, Leighton</p> <p>18 had failed to submit RISC forms in respect of 69</p> <p>19 hold-point inspections (for rebar fixing or the pre-pour</p> <p>20 check) for the construction works at the NAT."</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. From the way you made this statement, it sounds like you</p> <p>24 don't know whether hold-point inspection in relation to</p> <p>25 the original construction work of the stitch joints has</p>

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<p>1 actually been conducted by your inspectorate team. Is 2 that your evidence? 3 A. I didn't know. That's what I want to say. 4 Q. Now, since the discovery of this defective work in 5 February last year up to now, we are almost 15 months 6 from the time of discovery. Have you ever tried to at 7 least find out what went wrong with the inspection work, 8 or whether there were hold-point inspections taking 9 place? 10 A. I talked to the project engineer on the arrangement put 11 in place at that time. At that time, only Kappa was 12 working with MTR and she could not answer my questions 13 about hold-point inspections. Other project engineers, 14 as I said yesterday, had left at that point. Therefore, 15 I wouldn't check with them. 16 Q. Have you talked to Tony Tang then? He was the inspector 17 of works. Have you talked to him, trying to find out 18 what actually happened with the hold-point inspections? 19 A. Yes. 20 Q. What did he tell you? 21 A. Tony told me that the rebar hold-point inspection did 22 not fall within his scope of duty. Every day, he would 23 inspect at the site and other -- and he was responsible 24 for other hold-point inspections, including pre-pour 25 inspections, but he was not responsible for rebar</p>	<p>1 Q. Now, have you got a chance to look at the photos 2 attached to the NCRs? The three NCRs regarding the 3 defective stitch joints, can you recall there are at 4 least three NCRs issued in relation to the defective 5 stitch joints? Do you recall those NCRs? 6 A. I can recall those. 7 Q. Right. Have you got a chance to look at the photos 8 attached to those NCRs, showing the defective steel 9 fixing work? 10 A. Yes, I did look at those photos. 11 Q. Right. Now, the nature and the seriousness of the 12 defects that we see from the photos, would you consider 13 such defects as an obvious or a clear separation of 14 connection? 15 A. Well, yes. We can see now that there is clear 16 separation. 17 Q. Right. So, as a construction manager in charge of your 18 whole team, your whole engineering team carrying out 19 inspection, I would imagine that the first question that 20 you would ask is who carried out the hold-point 21 inspection at that time. Have you asked yourself this 22 question? 23 A. I did. 24 Q. When you talked to Jacky Lee -- sorry, Tony Tang, you 25 knew he was responsible for the pre-pour checks for most</p>
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<p>1 inspection. 2 Q. Do you accept that for pre-pour check, one has to look 3 at the reinforcement as well? 4 A. The pre-pour check usually enable you to see how the 5 rebars were fixed, but it was not a detailed check, and 6 the check would not cover every detail. Therefore, the 7 pre-pour check, at that time, might not enable one to 8 find out any defect. 9 Q. So your evidence is, for the purpose of pre-pour 10 inspection, your inspector does not have to look at the 11 steel fixing work; is that your evidence? 12 A. No. The inspector would look at the outward appearance 13 of the reinforcement as a whole, but there would be no 14 need to conduct a detailed check. 15 Q. The stitch joints in question, according to the 16 evidence, are only around 2 metres long. In other 17 words, the distance between the two sets of couplers 18 were around 2 metres apart. Do you agree with me? 19 A. I agree. 20 Q. And for someone who carries out inspection, even for 21 pre-pour check, can hardly miss the couplers connection, 22 do you agree? Because they are so close to each other? 23 A. If the threaded bar is obviously not connected to the 24 coupler, if it is a clear separation, then I think 25 anyone would be able to see that.</p>	<p>1 of the works of the original stitch joints; you were 2 aware of that at that stage, right? 3 A. Yes. 4 Q. I would imagine that during the time of construction, as 5 construction manager, you would know who was responsible 6 for the hold-point inspection. Isn't that the case? 7 A. Basically, I knew. 8 Q. Have you asked Tony Tang who carried out the hold-point 9 inspection for the steel fixing works? 10 A. I did. 11 Q. What did he say? 12 A. He said it was the engineers. 13 Q. Did he mention names? 14 A. I can't recall clearly, but when he said engineers, 15 there should be only two, either Chris Chan or Kappa. 16 Q. Then what did you do, having got the information from 17 Tony Tang? 18 A. As I said, I asked Kappa about it, but Kappa could not 19 tell me whether there were any rebar hold-point 20 inspections at the stitch joints, and then Chris Chan 21 already left, so I could not ask for information from 22 Chris Chan. 23 Q. How about the senior construction engineer to whom Chris 24 Chan or Kappa Kang reported; have you checked with them? 25 A. He's called Joe Tsang. Joe Tsang also left.</p>

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<p>1 Q. Have you checked whether they have kept records of their 2 inspection results, as required under the PIMS? Have 3 you checked that? 4 A. I did. 5 Q. Right. So what was your finding? 6 A. I couldn't find any RISC forms. 7 Q. Okay. 8 Now, yesterday, you mentioned to the Commission that 9 there was no formal investigation carried out; there 10 were just informal questioning or discussion with the 11 relevant personnel. Do you recall that? 12 A. I can recall that. 13 Q. So can you explain -- well, do you agree with me, 14 defects like that, the issue of the defective stitch 15 joints, was a serious matter as far as MTR is concerned? 16 A. I agree. 17 Q. And partly because it would cause delay to the project; 18 right? 19 A. Not necessarily. 20 Q. Okay. And more importantly, it shows that perhaps the 21 inspection system under PIMS did not work? 22 A. That may be possible. 23 Q. So, as a learning organisation that MTR has repeatedly 24 claimed itself to be, do you agree with me that in order 25 to learn from one's own mistakes, one has to identify</p>	<p>1 Q. So are you aware of any separate team being requested by 2 the senior management of MTRC to carry out a formal 3 investigation into this issue? 4 A. From what I know, there is not such a separate team. 5 CHAIRMAN: Mr Fu, looking back now, without apportioning 6 blame or anything like that, you would agree that in 7 respect of the stitch joints, there was a failure of 8 supervision by MTR? 9 A. I would say that there were a few critical procedures 10 where the contractor or ourselves did not attend to 11 seriously, and I mean the RISC form inspections. We had 12 record that the inspections were done. 13 CHAIRMAN: I'm sorry, I might need a little help with that. 14 My apologies. "There were a few critical procedures 15 where the contractor or [yourselves] did not attend to 16 seriously" -- doesn't that really mean that there are 17 a number of important procedures which people failed to 18 carry out to the required standard? 19 A. That is what I meant. 20 CHAIRMAN: And those people would have included members of 21 your staff? 22 A. I'd like to make clear one point. There would be no way 23 for me to know from Kappa, that is my construction 24 engineer, whether she conducted the hold-point 25 inspections. The contractor did not provide any RISC</p>
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<p>1 where it went wrong, in order to deal with it? 2 A. I agree. 3 Q. Then can you explain why no formal investigation was 4 carried out by MTRC to get to the bottom of the truth of 5 the facts? 6 A. I can only say that if it is a formal investigation, 7 generally it must be my senior or my supervisor who 8 should trigger the investigation. Perhaps there would 9 be other personnel or colleagues from other teams who 10 should be involved in that investigation. 11 Q. So are you saying that you have never been requested by 12 your superior to carry out a formal investigation into 13 the performance of your inspectorate team? 14 A. What you said is correct. 15 Q. Are you aware of the fact that over the past one year, 16 the government has repeatedly requested MTRC to provide 17 explanation as to why defects of this nature could have 18 passed the hold-point inspection? Are you aware of the 19 request of the government? 20 A. I knew that the government asked questions. 21 Q. But despite that, no one asked you to carry out a formal 22 investigation, to find out the answer; is that your 23 evidence? 24 A. With regard to formal investigations, it generally is 25 not done by me. It should be done by a separate team.</p>	<p>1 form records on the hold points, but as to whether we 2 conducted our own inspections, I could not provide 3 an answer on this one. 4 If our colleagues conducted the hold-point 5 inspections -- and that is if they did it -- then we 6 would have done what we were required under PIMS. But 7 if we had not done any hold-point inspections, then it 8 would mean that we did not follow PIMS. 9 CHAIRMAN: All right. Sorry, again I'm going to need a bit 10 of help. My understanding of the RISC forms is that 11 it's a duet; okay? There's one party dancing with 12 another party, arm in arm; okay? In other words, the 13 contractor has to fill out the RISC form to initiate the 14 procedure. The RISC form is then received by MTR and 15 the inspections take place, and MTR fills out its part 16 of the RISC form and both parties end up with the 17 required copies? 18 A. That is correct. 19 CHAIRMAN: So, in other words, if there had have been proper 20 compliance with the RISC form procedures, then your 21 staff would have been able to go to copies of the RISC 22 forms, the ones that should be left with them, and say, 23 "Here they are", and they indicate and prove that there 24 were hold-point inspections? 25 A. That's correct.</p>

Page 13	1 CHAIRMAN: Okay. But they weren't able to do that? 2 A. Correct. 3 CHAIRMAN: And the reason for that appears to be because the 4 RISC form procedure, in respect of this particular 5 contract at least, appears to have fallen into disuse? 6 A. Correct. 7 CHAIRMAN: And when I say "disuse", I mean in the sense of 8 instead of it becoming -- sorry, instead of it being the 9 methodology by which inspections are actually requested, 10 it became not the leader but the follower. Requests for 11 inspections were made over the telephone or orally, and 12 the RISC forms were filled out later. They followed the 13 process and did not lead it. Would that be correct, in 14 this particular contract? 15 A. That is correct. 16 CHAIRMAN: So, again without any blame, but if there was to 17 be culpability, it was joint culpability? It was the 18 culpability of Leighton in not following the procedure 19 correctly, and with respect, it was the culpability of 20 the MTR in allowing that to happen, even though they had 21 a supervisory role, and playing along with it? 22 A. I agree. Correct. 23 MR CHOW: Mr Fu, I note that after 15 months, MTRC is still 24 unsure as to whether hold-point inspection has been 25 carried out in relation to those defective works. Just	Page 15
Page 14	1 assume for the moment that no hold-point inspections 2 have been carried out by MTRC's inspectors in relation 3 to those defective works. We see from evidence that 4 there were site diaries, and we have also seen site 5 diary recording concreting of the stitch joints. Are 6 you aware of that? 7 A. I know about that. 8 Q. So assuming that no hold-point inspection was conducted 9 by your inspector, do you agree with me that they would 10 have to overlook the site diary not to spot that at the 11 time; right? 12 A. Could you please repeat your question? 13 Q. Now, we can -- I would expect that MTR prepared the site 14 diaries at the time; is that right? 15 A. That's correct. 16 Q. We have seen site diaries recording concreting of the 17 stitch joints. Are you aware of that? 18 A. I know. 19 Q. So if MTRC's inspector has never been asked to conduct 20 hold-point inspections for the defective stitch joint 21 work, at the time when MTR prepared the site diary, 22 putting in the entries regarding concreting of the 23 stitch joint, your staff should have spotted that, well, 24 no hold-point inspection has been carried out; how come 25 they managed to concrete the stitch joint?	Page 16

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<p>1 isn't it, that one has, that you've got people on site 2 who do the inspections. If they are available, they 3 will tell you that they would never have purposefully 4 overlooked a hold-point inspection; they knew the 5 importance of them. But if, for example, Mr Fu comes 6 along a year later and doesn't have the requisite 7 records, he wasn't there on each inspection, so he can't 8 confirm, he can't say one way or the other. 9 MR PENNICOTT: Correct. 10 CHAIRMAN: That's the conundrum that everybody has found 11 themselves in and one of the reasons why we are sitting 12 here. 13 MR PENNICOTT: Yes, sir. Quite. 14 MR CHOW: I do appreciate the suggestion made by 15 Mr Pennicott. Actually, I think I've got what I need 16 for the present purposes. I will move on to another 17 topic. 18 Mr Fu, regarding the differential settlement of the 19 two structures on each side of the stitch joint -- 20 yesterday, you have been asked by Mr Pennicott in 21 relation to this particular matter, and when you were 22 asked as to how did Leightons know the time has come for 23 them to construct the stitch joint, and you explained 24 that this is something to be left to the frontline 25 engineers to discuss with Leighton and to decide. Do</p>	<p>1 Q. So the question relates to the criteria adopted in 2 deciding whether the relative movement has stabilised. 3 A. I believe my frontline staff, they spent a lot of time 4 on the site. Through visual inspection, they could see 5 whether there was any obvious differential settlement of 6 the two structures, and they could look at the 7 peripheral settlement monitoring, which would provide 8 good reference information. 9 Q. Visual inspection? Wow. 10 Now, Mr Holden -- do you know Mr Holden of Leighton? 11 A. Yes. 12 Q. He told the Commission that there was no quantifiable 13 certain amount of millimetre movement over a period of 14 time which could be expected, as indicated in the 15 contract, for them to decide when is the time 16 appropriate to proceed with the stitch joint 17 construction. Do you confirm that there is no objective 18 criteria in terms of the amount of relative movement? 19 A. I can remember that. 20 Q. Do you agree? 21 A. I remember that and I agree. 22 Q. So, according to your evidence, this is something to be 23 left to your frontline inspectors to decide? 24 A. Yes. 25 Q. Now, in paragraph 22 of your first statement, page 77,</p>
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<p>1 you recall that part of your evidence? 2 A. I remember that. 3 Q. From my recollection, Prof Hansford asked you a question 4 specifically as to the criteria that was used in 5 deciding whether time has arrived and it is appropriate 6 to proceed with the stitch joint. Do you recall that? 7 A. I remember that. 8 Q. And it was in answer to this particular question that 9 you started to talk about decisions being made by 10 frontline staff; correct? 11 A. Yes. 12 Q. But you yourself, do you know what exactly the criteria 13 being adopted by your frontline staff in deciding as to 14 the timing for the construction of the stitch joint? 15 A. I know those are on the drawings. 16 Q. On the drawings? 17 A. There's a note on the drawings, saying that the stitch 18 joint should be constructed as late as possible, and 19 also it should be after the water recharge and the 20 backfilling. 21 Q. But my understanding of Prof Hansford's question is what 22 criteria that your frontline staff used in deciding 23 whether the differential or the movement has stabilised, 24 because this is one of the requirements in the contract. 25 A. Yes.</p>	<p>1 you say: 2 "As the project manager of the SCL project, MTRC was 3 responsible for managing the construction of the three 4 stitch joints and the 1111/1112 shunt neck joint." 5 Am I right in understanding that you, at some point, 6 were also the construction manager of contract 1111? 7 I believe that is what you -- 8 A. I was. 9 Q. So you were familiar with, for example, the brand of 10 couplers used by the Gammon-Kaden Joint Venture under 11 contract 1111; right? 12 A. Yes, that's correct. 13 Q. So, at the time of the construction of the three stitch 14 joints, you were aware that attention has to be paid to 15 the type of couplers used by Gammon on the contract 1111 16 side? Because at that stage you were also the 17 construction manager of contract 1112. 18 A. That's correct. 19 Q. Have you brought this to the attention of any of your 20 team members? 21 A. I did not mention this in particular. I knew that there 22 were interfacing meetings and my team were also 23 participating in those meetings. They should know the 24 details. 25 Q. Right. Can I ask you to take a look at the interface</p>

<p style="text-align: right;">Page 21</p> <p>1 requirement: bundle BB1, page 425, please. This is part 2 of table 2.1.1, item 1.7. 3 Under the three columns, different columns, under 4 the column "By 1111 contractor", we see that it 5 mentioned about joint inspections, do you see that, of, 6 among other things, couplers and protection measures to 7 couplers provided at the interface work; do you see 8 that? 9 A. I see that. 10 Q. And under the column for contractor 1112, we have 11 similar requirements: 12 "... attendance to 1111 contractor for joint 13 inspection of the ... couplers and protection measures 14 to couplers provided at the interface work." 15 And under the right column, "Purpose of interface", 16 we see that the corresponding entry for item 1.7 is: 17 "To confirm as-built ... couplers and protection 18 measures to couplers are properly provided." 19 Do you see that? 20 A. I see that. 21 Q. Regarding the joint inspection -- now, being the project 22 manager, you would ensure that the interface work would 23 be carried out smoothly between the two neighbouring 24 contractors, wouldn't you? 25 A. That's correct.</p>	<p style="text-align: right;">Page 23</p> <p>1 COMMISSIONER HANSFORD: Did MTR attend such an inspection? 2 A. My understanding is that MTR inspectors took part in 3 these inspections. 4 COMMISSIONER HANSFORD: Would that be recorded somewhere? 5 A. I'm not sure about this. Perhaps after the inspection, 6 if there were matters to be followed up, then perhaps 7 the requests would be made through emails or records 8 would be made through emails. But I have no knowledge 9 about this. 10 COMMISSIONER HANSFORD: Right. I don't think we've found 11 any evidence of a joint inspection, but perhaps one of 12 the witnesses will be able to point us to that. We'll 13 see. Thank you. 14 A. (In English) Okay. 15 MR CHOW: Mr Fu, I would like to move on to testing of 16 rebars. 17 COMMISSIONER HANSFORD: We seem to have got the translation 18 on the wrong channel now. Okay, I'm sure it's 19 corrected. 20 MR CHOW: Mr Fu, yesterday, in answer to Mr Pennicott's 21 question regarding rebar testing on site, you said -- at 22 one point you said, basically, if Leighton does not 23 inform MTRC of the arrival of the rebars, there is no 24 way that MTRC would know and ask for or sample the rebar 25 for testing. Do you recall that part of your evidence?</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Do you know whether the joint inspection for the 2 couplers was actually carried out between Leighton on 3 the one part and Gammon-Kaden JV on the other part? 4 A. I don't have that information. 5 Q. Do you have -- does MTR have any record of the joint 6 inspection? 7 A. I'm not sure. 8 COMMISSIONER HANSFORD: Sorry, while we are on that point, 9 can I just ask -- because you told us yesterday, Mr Fu, 10 that it was MTR's role to arrange the joint interface 11 meetings between the two contractors. Is that correct? 12 A. That's correct. 13 COMMISSIONER HANSFORD: Was it also MTR's role to arrange 14 the joint inspection, as this interface item 1.7 that 15 Mr Chow's just shown you, was it MTR's role to arrange 16 this joint inspection between the two contractors? 17 A. I believe it was a joint effort involving the 18 contractors. Why I say that: because it depends on the 19 works progress on the periphery and whether there were 20 roads or accesses allowing us to access the location of 21 the couplers. So different parties would work together 22 to arrange or confirm a time suitable for doing the 23 inspection. 24 COMMISSIONER HANSFORD: Would MTR attend such inspection? 25 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 CHAIRMAN: I don't think he said that, in fact. I think 2 what he said was that it was a trust relationship in the 3 sense that they expected Leighton to inform them of the 4 arrival of new batches of material that required 5 testing, and obviously, if they didn't inform them, 6 there was a risk that they would not know about the 7 arrival of the new material, but they had their own 8 inspectors constantly on site and those inspectors knew 9 where the materials were kept, and if they had seen 10 things, they would have taken action themselves. 11 MR CHOW: Yes. 12 CHAIRMAN: Sorry, I'm being -- 13 MR CHOW: That's the evidence. I'm going to get to that. 14 CHAIRMAN: All right. It's just that your initial question 15 seemed to be somewhat curtailed. 16 MR CHOW: Mr Fu, we have seen site diaries which record the 17 labour return, the number of workers deployed by 18 Leighton at various locations for various parts of the 19 works. Would there not be a similar reporting from 20 Leighton in terms of -- in relation to the materials 21 that they delivered to site? 22 A. I'm not sure. 23 Q. If I can ask you to go quickly to bundle C, page 2069. 24 This is part of the General Specification. 25 Clause 4.16.2 -- now, I'm not sure this is the relevant</p>

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<p>1 provision, but I just want you to take a look to tell us 2 whether this will help -- under this provision, it 3 requires Leighton to "maintain the permanent works plant 4 and material control schedule and report upon the status 5 of each item as part of the monthly reporting. From 6 this base data the contractor [that is Leighton] shall 7 prepare an exception report detailing all components 8 which are in delay. The exception report shall detail 9 the reasons for the delay and indicate what action the 10 contractor is taking to recover the lost time." 11 Would this be the relevant provision under which 12 Leighton has to inform MTRC as to the status of the 13 delivery of the reinforcing bars? 14 A. I'd like to look at the first half of this clause to see 15 what heading it is under. 16 Q. Yes, we can go back one page to page 2068. 17 A. Yes, I see that. 18 Q. It's about permanent works material control. 19 A. Yes, it's correct. 20 Q. So would this be a relevant requirement under the 21 contract for Leighton to inform MTRC as to the delivery 22 of the reinforcing bars for the works? 23 A. That is correct. 24 Q. So this would be the sort of information that MTRC can 25 have to ensure that all the reinforcing bars delivered</p>	<p>1 Just to help the Commission to appreciate how much 2 is 4,000 tonnes -- now, we see in the streets sometimes 3 a crane lorry delivering reinforcement, and can you tell 4 us -- do you have an idea of how much it weighs, for one 5 crane lorry's load of reinforcement? Would it be around 6 30 tonnes, around that figure? 7 A. I can't give any accurate figure, but my understanding 8 is that in one trip, there may be one, two or three 9 batches of rebars delivered to site, and usually that 10 would be about 30 to 50 tonnes of rebar. 11 Q. Assuming one lorry load of reinforcement weighs 12 40 tonnes, so 4,000 tonnes is about 100 lorry loads of 13 reinforcement which have not been tested; correct? 14 A. If that is the mathematics you use, then yes, we can 15 understand it that way. 16 Q. Now, do we have -- or does MTR have any record of where 17 a particular batch of reinforcement were used in 18 a particular part of the works? Is there any way that 19 we can trace where these untested bars have been used in 20 the works? 21 A. Well, there will be no such information, because the 22 contractor orders the rebars, and usually they are of 23 typical diameters, and rebars of typical diameters can 24 be used at different places. Therefore, when the 25 contractor places the order, he may want these rebars to</p>
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<p>1 to site are sampled and tested, would it? 2 A. I'd like to add to this arrangement. 3 Q. Yes, please. 4 A. At the frontline, when rebars are sent to the site, 5 Leighton frontline staff and our frontline staff would 6 be the first one to know that the rebars have been sent 7 to site, that they should be sampled and tested. This 8 clause, G4 point -- sorry, was it 2? G4.16.2, the 9 clause that I looked at. 10 Q. 4.16.2. 11 A. G4.16.2, the contractor should provide the relevant 12 information as part of the monthly reporting, but 13 usually this will experience some delay. 14 Q. Are there any steps and procedures under PIMS to ensure 15 that untested reinforcing bars could not be used by the 16 contractor in the works? 17 A. There are relevant provisions saying that all rebars 18 should satisfy the testing requirement. I am not sure 19 whether there was any other provision saying that 20 untested rebars should not be used. I'm not sure about 21 that kind of provision. 22 Q. Mr Karl Speed of Leighton told us that about 7 per cent 23 of the reinforcement used on site have not been tested, 24 and he provided a figure of about 4,000 tonnes of 25 reinforcement.</p>	<p>1 be used at a certain location, but then it can be used 2 for different purposes on the same location. That is 3 quite possible. 4 Q. Okay. Thank you. I would like to move on to another 5 topic then. Can I ask you to look at a document at 6 bundle DD2, page 419. This is a response made by MTRC 7 to the Chief Engineer of the Railway Development Office 8 of the Highways Department, on 6 August 2018, in 9 relation to, among other things, the defective stitch 10 joints, and attached to this covering letter is a table 11 setting out MTRC's responses to various questions raised 12 by the Buildings Department. 13 Can I ask you to quickly flip through the pages and 14 tell us whether you were in any way involved in the 15 preparation of this document? 16 A. I didn't prepare this document. 17 Q. Have you been consulted before for the purpose of 18 preparing this document? 19 A. I believe -- I knew that were a number of BD queries to 20 which we would have to respond. In the first part of 21 this document, the information was provided by 22 Mr Carl Wu for the purpose of providing the response. 23 As for the construction records, I believe at that time 24 reference was made to the relevant information we 25 gathered in respect of the construction records. So, to</p>

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<p>1 a certain extent, we were involved in preparing the 2 information.</p> <p>3 Q. I am interested in the answer to question D9 at 4 page 423. Under question 9, the Buildings Department 5 asked for:</p> <p>6 "Findings and photo record of site inspection 7 carried out by the MTRC in March 2018 to record the 8 conditions of exposed rebars after the breaking and 9 removal of three defective stitch joints including the 10 numbers and locations of unconnected/defective couplers 11 observed should be provided. Name and details of 12 sub-contractors involved in the open-up works should be 13 provided."</p> <p>14 Now, the response -- can you take a look at the 15 response and tell us whether you have been consulted 16 before giving this response?</p> <p>17 The response given here says:</p> <p>18 "Leighton had mobilised mechanical breakers to NSL 19 Tunnels and commenced breaking work on 12 February 2018. 20 During the breaking process for the defective stitch 21 joints, all rebars were torn down together with the 22 broken concrete debris. Site personnel including MTRCL 23 inspectors were prohibited by Leighton staff from 24 entering the breaking zone for inspection purposes due 25 to safety requirements. Therefore, the quantity and</p>	<p>1 inspector to go in and check. Do you have any response 2 to this?</p> <p>3 A. In this removal of defective stitch joints, they used 4 mechanical breakers, very big ones. When they took down 5 the concrete, both rebar and concrete were taken down, 6 so it was not very stable as a working environment. In 7 respect of the wall and the roof, under the safety 8 guidelines, if heavy machine is present or when 9 a breaking-up process is going on, the contractor would 10 have to look at the construction safety first. So 11 Leighton has this procedure called fatal zone so they 12 would fence off the breaking-up zone and all non-workers 13 would be prohibited from entering the fatal zone. This 14 is to reduce the safety risk.</p> <p>15 So our engineers or our inspectors are prohibited 16 from entering the work or the fatal zone by Leighton, 17 and even if what Mr Jon Kitching has suggested could be 18 done, it would not be desirable. That is, they could 19 pause and then allow us to enter, because the concrete 20 would be unstable, and it could fall off any time and 21 affect the safety of anyone within the fatal zone.</p> <p>22 So, under Leighton's safety procedure, no one should 23 be allowed to get into the fatal zone. So I stick to 24 this statement here, that is to say, Leighton prohibited 25 the entry of my people.</p>
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<p>1 locations of any unconnected rebars could not be checked 2 and recorded by MTRCL inspectors."</p> <p>3 Are you aware of what it says here, that is to say, 4 Leighton prohibited your inspectors from carrying out 5 inspections of the defective -- yes?</p> <p>6 A. I knew. I was involved in drafting this particular 7 paragraph.</p> <p>8 Q. I asked the same question -- actually, I showed the very 9 same pages of these records to Mr Kitching, and he 10 denied, saying that it is untrue. Do you have anything 11 to say about that? Do you maintain your position that 12 this is what happened?</p> <p>13 CHAIRMAN: Sorry, Mr Kitching said what was untrue? Please 14 remind me. That Leighton said you can't --</p> <p>15 MR CHOW: That's right. He said Leighton could have 16 suspended or stopped the works for one hour or two hours 17 to allow MTRC inspectors to go in and inspect the 18 defective work.</p> <p>19 MR PENNICOTT: That's right.</p> <p>20 CHAIRMAN: Good. Thank you.</p> <p>21 A. What's your question again?</p> <p>22 MR CHOW: Leighton denies what MTR says in this paragraph, 23 saying that it never happened, because they said if MTRC 24 had asked for inspecting the defective works, they could 25 have stopped the work for a while to allow your</p>	<p>1 Q. Earlier, you mentioned to us that one of your duties is 2 to ensure safety on site; do you recall that?</p> <p>3 A. Yes, that's correct.</p> <p>4 Q. So, in this particular instance, you were not concerned 5 with safety to carry out the removal works within the 6 fatal zone; right?</p> <p>7 A. For those involved in the breaking process, they have 8 a broke machine, a machine, a big machine, there's an 9 operator sitting in the location of the breaker. They 10 have a sort of drill that can be extended to break the 11 surface. So the worker is not in the vicinity of the 12 surface that was to be broken and they have a cover. 13 The so-called operation cabin is a cover. This would 14 fulfil the safety requirement.</p> <p>15 Q. All right. Can I --</p> <p>16 A. And furthermore, this device can be remotely controlled. 17 So the operator can step back away from the fatal zone.</p> <p>18 Q. All right. Can I move on to another topic. 19 Paragraph 14 of your second statement, please. About 20 deviation, the change of lapped bars to couplers 21 connection. In paragraph 14, you say: 22 "As far as I can recall, I had not heard of any of 23 the deviations mentioned in the NAT letter, the SAT 24 letter and/or the HHS letter, and I never approved of 25 such deviations at the time of the construction of the</p>

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<p>1 NAT, the SAT and the HHS. While I conducted site walks 2 every week, my focus was on safety and progress of the 3 construction work, and I was not aware of any such 4 change." 5 Turn over the page. In paragraph 15, you go on to 6 say: 7 "I only became aware of the change to the use of 8 couplers instead of lapped bars at certain hold-point 9 inspections in the NAT in around April 2018, when 10 MTRCL's construction management team began to review the 11 available site records for the purpose of ascertaining 12 the as-built condition of the NAT. The deviations at 13 the HHS and the SAT came to my attention at an even 14 later stage -- respectively in around December 2018 15 (when one of my colleagues, I cannot remember who, 16 informed me that he or she found out that couplers were 17 also used in the HHS) and on 26 January 2019 (when 18 Mr William Holden of Leighton informed me by an email 19 sent ... that couplers were used in wall W4 of the EWL 20 at the SAT)." 21 Do you see that? 22 A. I see that. 23 Q. When we read these two paragraphs, the message that we 24 have got is that not only you who were not aware of the 25 deviation, even your construction management team were</p>	<p>1 was going to carry out the work. It would take about 2 one day. Are you aware of this practice? 3 A. Whether it would take a day, I cannot really answer, but 4 I know, after Leighton has given us a RISC form, then 5 through our administrative assistant we would have to 6 register the form. If there's a backlog with the AA, 7 then the time would be needed to have the form 8 registered and then the matter be referred to the senior 9 inspector of works. I cannot really tell now how long 10 it would take. 11 Q. I take it that you were not aware of the time required 12 to get a RISC form from your administrative assistant 13 down to the engineer who was going to carry out the 14 inspection; right? 15 A. That's correct. 16 Q. Now, with your experience, we know that the system of 17 RISC form, all that Leighton could do at the time is to 18 project a time of completion of its work, perhaps on the 19 next day or -- it's just a projection. When they put 20 down a time for inspection, it's just a projection on 21 the part of Leighton; correct? 22 A. That's correct. 23 Q. So if it did take one day to get the form to run within 24 MTRC's organisation down to the person who carried out 25 the inspection, would you accept that it would be rather</p>
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<p>1 not aware of the deviation as well. Is that the 2 position? 3 A. I wanted to say I didn't know. Whether my team knew, 4 you will have to ask them. 5 Q. And before today, have you asked your construction 6 management team to see whether they were aware of the 7 changes and whether they have approved of the changes? 8 A. I did ask Ben Chan, who was responsible for HHS 9 management team. He's a construction engineer. And Ben 10 Chan was the only one who is still working as our 11 construction engineer, who was working for us. 12 Of course, he has left. He told me previously that he 13 knew. Other colleagues have all left, therefore 14 I cannot verify whether they knew or not. 15 Q. Did he tell you whether he actually approved of the 16 change? 17 A. Ben Chan didn't tell me whether he gave the approval or 18 not. He just said he knew. 19 Q. Now I'm getting close to the end of my questioning. 20 I would like to go back to this issue of RISC forms. 21 Now, one of your team members set out in his statement, 22 Tony Tang, that actually, under the PIMS system, under 23 the RISC form system, it would take almost one day for 24 the RISC form received from Leighton to get from MTR's 25 administrative assistant down to the actual engineer who</p>	<p>1 difficult for Leighton to comply with the projected 2 completion time 24 hours before? With your experience, 3 do you accept that, that it will pose a problem for 4 Leighton? 5 A. I don't think it would be really difficult for them to 6 project the time. If you project what will be done 7 tomorrow today, then usually the frontline staff can do 8 it, and they can project actually at what time of the 9 day. 10 Q. All right. Then I will move on to my last topic. 11 Yesterday, Mr Ronald Leung gave evidence, Ronald Leung 12 from Leighton, in relation to a non-compliance in the 13 footing works of the VRV unit. 14 Can I ask you to go to bundle BB8, page 5789. Can 15 I ask you to quickly read through this email, please. 16 A. Okay. 17 Q. Now, in this email, what is recorded is that without the 18 approval of MTRC, Leighton proceeds to concrete the 19 footing, and at the time of the concreting, about half 20 of the couplers at the B1 -- "B1" stands for the first 21 layer of the bottom of the rebar; right? 22 This is the convention used in the drawings; agree? 23 "B1" represents the bottom, first layer of the rebar; 24 right? 25 A. Well, it's the bottom-most layer.</p>

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<p>1 Q. "... were not properly fixed. Your engineer did not 2 rectify the defects and decided to cast concrete anyway. 3 It is also note that general cleaning inspection was not 4 arranged with our inspector of works before pouring 5 concrete. This is unacceptable." 6 Then your staff asked for following-up actions to be 7 taken and asked for Leighton to advise the remedial 8 actions. Do you see that? 9 A. I see that. 10 Q. This incident happened at the time when you were the 11 construction manager; correct? 12 A. That's correct. 13 Q. June 2017. Yes. Were you informed at the time of this 14 non-compliance? 15 A. No one told me about that at that time. 16 Q. According to Mr Ronald Leung, he expected an NCR be 17 issued so that Leighton can proceed with the 18 rectification work, and we were also told that no NCR 19 was issued by them in relation to this non-compliance. 20 Are you aware of that or you have no personal knowledge 21 of it? 22 A. Well, I looked up the records and I know that there was 23 no NCR report issued about this. 24 Q. This email was issued by Jason Kwok and was copied to, 25 among various persons, Victor Tung, one of your</p>	<p>1 some time; correct? 2 A. Well, I believe he knew about it because this was copied 3 to him. 4 MR CHOW: Thank you very much, Mr Fu. I have no more 5 questions for you. 6 COMMISSIONER HANSFORD: I have a couple of questions. 7 MR BOULDING: Please go ahead, Professor. 8 COMMISSIONER HANSFORD: Would now be a good time? 9 MR BOULDING: Yes. 10 Questioning by THE TRIBUNAL 11 COMMISSIONER HANSFORD: Okay. The first question I've 12 got -- so, Mr Fu, we've seen the stitch joint reports 13 that you produced, and Mr Pennicott took you to them 14 yesterday. When the water seepage and cracking was 15 investigated, was the waterproofing also investigated, 16 do you know? 17 A. Well, no, not at that time. There were two parts of 18 waterproofing. One part was outside the structural 19 wall, and there was no way we could open it up to do 20 investigation. And the other part of waterproofing was 21 on the two sides of the stitch joint and the 22 waterproofing would include hydrophilic strips and 23 waterstops, PVC waterstops, and these could be seen only 24 by breaking up or removal of the defective concrete and 25 rebar at the stitch joint.</p>
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<p>1 inspectors; right? 2 A. Correct. 3 Q. If someone has to follow up on this matter, who would 4 this person be in your organisation? 5 A. I would think it should be Ben Chan, who is our 6 construction engineer. If he knew about this, he would 7 inform me and he would draft an NCR for me to issue to 8 Leighton. 9 Q. Okay. Now, the works mentioned here is the footing of 10 the VRV unit. Am I right in thinking that, as of today, 11 certain structure was built on top of the footing 12 already; correct? 13 A. My understanding is that the footing occupied a small 14 area. It was a concrete slab of a very thin thickness 15 and there would be no structure to be built upon it. 16 Q. I see. 17 A. On top of the footing, there would be some equipment to 18 be placed. 19 Q. Okay. So I assume that MTRC, having now known about 20 this problem, would take some action in relation to 21 this; right? 22 A. That's correct. 23 Q. But if I am correct, this email was disclosed by MTRC in 24 one of their witness statements; correct? By 25 Victor Tung. So Victor Tung was aware of that for quite</p>	<p>1 Therefore, at that time, with regard to initial 2 inspection, we only looked at the concrete on the 3 surface that was broken up to see how rebars were 4 connected. 5 COMMISSIONER HANSFORD: So was it assumed that the 6 waterproofing was still effective? 7 A. We do not have any assumption. We did not have any 8 assumption, because our investigation was about the 9 connection between rebars and couplers. 10 COMMISSIONER HANSFORD: I thought the investigation was 11 about water seepage and cracking? 12 A. In our first NCR with regard to water seepage, we 13 mentioned the water seepage problem. But there could be 14 different causes of water seepage. It could be 15 defective concrete pouring and there were cracks within 16 the concrete structure, so there were water paths which 17 allowed water to seep in. 18 It might not necessarily be defective waterproofing 19 work, so it could also be due to the concrete pouring 20 process which was defective, and that would give rise to 21 cracks so that there was water seepage as a result. 22 COMMISSIONER HANSFORD: Okay. I'll leave that. Thank you. 23 MR PENNICOTT: Sir, before you do, can I just point out that 24 at the very first line of the answer to your first 25 question, Mr Fu said, "No, not at that time." That</p>

<p style="text-align: right;">Page 41</p> <p>1 might just be worth a follow-up question.</p> <p>2 COMMISSIONER HANSFORD: Okay. Thank you, Mr Pennicott</p> <p>3 So waterproofing was not investigated at that time.</p> <p>4 Was it investigated at a different time?</p> <p>5 A. After the contractor had removed the defective stitch</p> <p>6 joint structure, we did investigate the Omega seal. The</p> <p>7 Omega seal was part of the waterproofing installation</p> <p>8 and we saw there was the Omega seal. If the</p> <p>9 waterproofing was outside the structural wall, as</p> <p>10 I said, there was no way we could investigate that.</p> <p>11 As for the PVC waterstop, we saw that it was there.</p> <p>12 But then, afterwards, I knew from William Holden that</p> <p>13 there was a void in the roof when concrete was poured,</p> <p>14 and the PVC waterstop could not be effective in sealing</p> <p>15 up the water path, so there was water seepage, and it</p> <p>16 was only afterwards, when the concrete was broken up,</p> <p>17 that that was observed.</p> <p>18 COMMISSIONER HANSFORD: Yes. Okay. Thank you.</p> <p>19 I have one further question. Mr Fu, have you read</p> <p>20 Mr Chris Chan's witness statement?</p> <p>21 A. I did.</p> <p>22 COMMISSIONER HANSFORD: You have. In Mr Chris Chan's</p> <p>23 witness statement, perhaps we should just have a quick</p> <p>24 look at his paragraph 20. I just wanted to get your</p> <p>25 reaction to it.</p>	<p style="text-align: right;">Page 43</p> <p>1 COMMISSIONER HANSFORD: Okay. We will be seeing Mr Chris</p> <p>2 Chan later so I'm sure we'll explore that with him.</p> <p>3 Thank you very much.</p> <p>4 MR BOULDING: Sir, I see the time. I've got about five</p> <p>5 minutes or so. Do you want me to continue?</p> <p>6 CHAIRMAN: We might as well, and then we can let Mr Fu go</p> <p>7 about his business.</p> <p>8 MR BOULDING: So be it.</p> <p>9 Re-examination by MR BOULDING</p> <p>10 MR BOULDING: Good morning, Mr Fu. I'd like to ask you</p> <p>11 a couple of questions about two matters. First of all,</p> <p>12 I wonder if you can be reminded of paragraph 14 of your</p> <p>13 first witness statement, which is at BB70.</p> <p>14 Do you recall yesterday being asked by my learned</p> <p>15 friend Mr Pennicott about the method statements for</p> <p>16 contract 1112?</p> <p>17 A. I can recall that.</p> <p>18 Q. And it was suggested to you -- and page 97 of the</p> <p>19 transcript for yesterday records that you agreed -- that</p> <p>20 there was no method statement for the stitch joints. Do</p> <p>21 you remember giving my learned friend that answer?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall telling Mr Pennicott that notwithstanding</p> <p>24 that fact, you thought it would be helpful and</p> <p>25 beneficial to have method statements for the stitch</p>
<p style="text-align: right;">Page 42</p> <p>1 Paragraph 20 is page BB115. In the first sentence</p> <p>2 of paragraph 20, Mr Chris Chan says -- he's talking</p> <p>3 about the RISC forms in the previous paragraph and the</p> <p>4 inspections, and he says:</p> <p>5 "To this extent, there was more of a partnering</p> <p>6 relationship, rather than an employer-contractor</p> <p>7 relationship between MTRCL and Leighton."</p> <p>8 Do you agree with what Mr Chris Chan says here, that</p> <p>9 it was more of a partnering relationship rather than</p> <p>10 an employer-contractor relationship? Do you agree?</p> <p>11 A. I don't agree totally. I think there was still</p> <p>12 an employer-contractor relationship. This was</p> <p>13 maintained. We were responsible for project management</p> <p>14 and we did our best to help the contractor overcome</p> <p>15 different difficulties. Whether they were about the</p> <p>16 works or programming or interface with other</p> <p>17 contractors, we would try our very best to help the</p> <p>18 contractor overcome these difficulties. That was the</p> <p>19 partnering approach that we had adopted all the time,</p> <p>20 and we did that for different projects. Starting from</p> <p>21 the Airport Express, we had used this partnering</p> <p>22 approach. We worked together with the contractor.</p> <p>23 But then the employer-contractor relationship was</p> <p>24 maintained throughout the time, and it was not replaced</p> <p>25 by the partnering approach.</p>	<p style="text-align: right;">Page 44</p> <p>1 joints; do you remember giving that answer?</p> <p>2 A. Yes. I also said there was a supplementary or</p> <p>3 supplemental -- that if there was a supplemental method</p> <p>4 statement, that would be helpful.</p> <p>5 Q. Yes. Would you like to explain to the learned</p> <p>6 Commissioners why you told Mr Pennicott that it would</p> <p>7 have been helpful and beneficial to have a method</p> <p>8 statement for the stitch joints? Why do you say that?</p> <p>9 A. For the stitch joints of NSL, there would be some change</p> <p>10 to the specs vis-a-vis other NSL works, NSL main tunnel</p> <p>11 works. Especially in respect of concrete pouring at the</p> <p>12 top of the stitch joint, we had to use concrete pumps to</p> <p>13 pump concrete upwards to the top of the stitch joint.</p> <p>14 That was a different method that we had to use.</p> <p>15 And for NAT construction method, nothing was</p> <p>16 mentioned about this.</p> <p>17 Q. So why, in those circumstances, do you say it would have</p> <p>18 been beneficial to have a method statement for the</p> <p>19 stitch joints, Mr Fu?</p> <p>20 A. There would be benefits. Our engineers, our inspectors,</p> <p>21 would then be able to comment on the method adopted and</p> <p>22 to understand the methods used. That would ensure</p> <p>23 quality of works which would conform to the standards.</p> <p>24 Q. I see. And if there were to be a method statement, do</p> <p>25 you know who would have prepared it?</p>

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<p>1 A. It would be Leighton. 2 Q. I see. Do you know if there was a method statement for 3 the stitch joint remedial works? 4 A. Yes. 5 Q. Just to look at a document, could we go to BB7, at 6 page 4719. 7 There, do we see an example of the method statement 8 for the stitch joint reconstruction? 9 A. I see that. 10 Q. Do you know why there was a method statement for the 11 stitch joint remedial works, Mr Fu? 12 A. In respect of this question of defective workmanship of 13 the stitch joints, after reporting to the RDO, we 14 maintained close communication with representatives of 15 the Buildings Department and Highways Department. We 16 looked into the remedial proposals. And during that 17 process, Leighton prepared this method statement, and 18 our design people and our -- Atkins, our consultant, DDC 19 consultant, Atkins, also helped us in looking into the 20 remedial proposal, and within this proposal there's 21 a method statement as part of the remedial proposal. 22 Whether it was because of the request from the BD or 23 the Buildings Department or the Highways Department or 24 Leighton took the initiative to prepare one, I have no 25 way to tell.</p>	<p>1 Q. Specifically, if you could be taken to page 423 of the 2 document, do we there see the government's query number 3 9 in the left-hand column, and MTR's response to that 4 query in the right-hand column? 5 A. I can remember that. 6 Q. If we could just scroll down a bit so we can remind 7 ourselves of what MTR said. 8 Do you remember being asked by Mr Chow about that 9 part of the answer which states: 10 "Site personnel including MTRCL inspectors were 11 prohibited by Leighton staff from entering the breaking 12 zone for inspection purposes due to safety 13 requirements." 14 Do you remember being asked by my learned friend 15 Mr Chow about that? 16 A. I remember that. 17 Q. Do you remember it being suggested to you that 18 Mr Kitching of Leighton, who gave evidence last week, 19 disagreed with that statement? Do you remember that? 20 A. I remember that. 21 Q. The transcript records that you say that you stick to 22 your statement. Do you remember giving that answer to 23 Mr Chow? 24 A. That's correct. I maintain that position. 25 Q. I wonder if we can have a look at a document together.</p>
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<p>1 Q. So far as you are concerned, were the remedial works to 2 the stitch joints carried out in accordance with this 3 method statement? 4 A. That's correct. 5 Q. And would you give the same answer in relation to the 6 method statements relating to the other two stitch 7 joints? 8 A. For the two other stitch joints, the works were 9 completed in accordance with the method statement. 10 Q. Am I right in thinking that there was also a quality 11 supervision plan, abbreviated to QSP, for the stitch 12 joint remedial works? 13 A. That's correct. 14 Q. Finally on this topic, am I correct in thinking that 15 there were log book records in relation to the remedial 16 works for all the stitch joints? 17 A. For the new -- you mean for the new stitch joints? 18 Q. Yes. 19 A. Yes. 20 Q. Thank you. Now, I'd like to move on to my last topic, 21 and it's a matter that Mr Chow asked you about today. 22 It's document DD2 at page 419. 23 Do you remember discussing the contents of this 24 document with Mr Chow earlier this morning? 25 A. I can remember that.</p>	<p>1 Could you go to CC1914. 2 Now, here, we've got a contractor's submission form 3 from Mr Kitching to Mr Fu. That's you. Do you remember 4 receiving this document, Mr Fu? 5 A. Sort of. I remember that. 6 Q. And do we see that the document is entitled, "NAT -- 7 task method statement for NSL stitch joints 8 reconstruction"? 9 A. I see that. 10 Q. If we can scroll down, please, and go to page 1930. Do 11 we there see a construction risk assessment, Mr Fu? 12 A. I see that. 13 Q. If you look at item 3, do you see the reference to 14 "mechanical breaking"? 15 A. I see that. 16 Q. If we look at the next column, and if we can just get 17 the heading to see what we are talking about -- do we 18 see that the risks are there set out: falling objects, 19 dust and noise? 20 A. I see that. 21 Q. Then on the right-hand side, do we see a "Mitigation" 22 column? 23 A. I see that. 24 Q. And looking down at the mitigating measures, do we see 25 that the first mitigating measure is "Barricade the area</p>

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<p>1 with signage"; do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. Do you have a view as to whether that barricading would</p> <p>4 be largely to affect MTR's personnel's ability to gain</p> <p>5 access?</p> <p>6 A. Yes.</p> <p>7 MR BOULDING: Thank you, Mr Fu. I have no further</p> <p>8 questions.</p> <p>9 Professor, sir, I don't know whether you have, or</p> <p>10 whether he can now be released?</p> <p>11 CHAIRMAN: No, nothing arising.</p> <p>12 Thank you very much, Mr Fu. We've kept you a little</p> <p>13 longer this morning without a break, but thank you for</p> <p>14 your assistance. Your evidence is now complete.</p> <p>15 WITNESS: (In English) Thank you, Mr Chairman. Thank you,</p> <p>16 Professor.</p> <p>17 (The witness was released)</p> <p>18 CHAIRMAN: Who comes next?</p> <p>19 MR BOULDING: Mr Chris Chan.</p> <p>20 CHAIRMAN: Chris Chan. 15 minutes or 10 minutes?</p> <p>21 MR PENNICOTT: 15 minutes.</p> <p>22 CHAIRMAN: 15 minutes. Thank you.</p> <p>23 (11.45 am)</p> <p>24 (A short adjournment)</p> <p>25 (12.04 pm)</p>	<p>1 did throughout the course of your employment there.</p> <p>2 That's correct, is it not?</p> <p>3 A. Correct.</p> <p>4 Q. Then if I can take you, please, to your supplemental</p> <p>5 witness statement. We'll find the first page at</p> <p>6 bundle BB8/5236.</p> <p>7 A. Yes.</p> <p>8 Q. And there do we see the first page of your supplemental</p> <p>9 statement, Mr Chan?</p> <p>10 A. Yes.</p> <p>11 Q. Then if we can go on, please, to the signature page,</p> <p>12 which I trust we'll find at page 5239. Is that your</p> <p>13 signature above the date of 16 May, Mr Chan?</p> <p>14 A. Yes.</p> <p>15 Q. Are the contents of both of those statements true to the</p> <p>16 best of your knowledge and belief?</p> <p>17 A. Yes.</p> <p>18 Q. And is that the evidence that you would like to put</p> <p>19 before the learned Commissioners to assist them in this</p> <p>20 Inquiry?</p> <p>21 A. Yes.</p> <p>22 Q. I just have one further question for you. I'd like you</p> <p>23 to look at an organisation chart which we can find at</p> <p>24 B2/582.</p> <p>25 There, do we see an MTRC organisation chart for the</p>
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<p>1 MR BOULDING: May it please you, sir, may it please you,</p> <p>2 Professor, I am now calling MTR's third witness,</p> <p>3 Mr Chris Chan Chun Wai.</p> <p>4 Mr Chan, I understand you are giving your evidence</p> <p>5 in Cantonese so I will put my headphones on.</p> <p>6 MR CHAN CHUN WAI, CHRIS (affirmed in Cantonese)</p> <p>7 (All answers given via simultaneous interpreter</p> <p>8 except where otherwise specified)</p> <p>9 Examination-in-chief by MR BOULDING</p> <p>10 MR BOULDING: Thank you, Mr Chan.</p> <p>11 We know that you have provided two statements for</p> <p>12 the learned Commissioners' assistance in this Inquiry.</p> <p>13 Perhaps we can look at the first one, which starts at</p> <p>14 page BB1/106.</p> <p>15 There, do we see the first page of your first</p> <p>16 statement, Mr Chan?</p> <p>17 A. Yes.</p> <p>18 Q. If you could be taken to page BB1/120, do we there see</p> <p>19 your signature above the date of 2 May 2019; correct?</p> <p>20 A. Correct.</p> <p>21 Q. If we could go back, please, temporarily, to page 106,</p> <p>22 and if we can scroll down, we can see, can we not, that</p> <p>23 you left the MTR Corporation in December 2017, but that</p> <p>24 you were first involved in contract 1112 in May 2014 as</p> <p>25 a construction engineer, and then we can see what you</p>	<p>1 SCL as of 16 January 2017, that's the top left-hand</p> <p>2 corner; do you see that?</p> <p>3 A. Yes, I see that.</p> <p>4 Q. Then if we look at the far left-hand column, three</p> <p>5 photographs, do we see that you are the bottom</p> <p>6 photograph of the three people we can see there? Is</p> <p>7 that you, Mr Chan?</p> <p>8 A. That's correct. It's me.</p> <p>9 Q. Do I understand that you have Ben Chan immediately above</p> <p>10 you, and presumably you report to him?</p> <p>11 A. No. I reported to Joe Tsang.</p> <p>12 MR BOULDING: I see.</p> <p>13 Now, what's going to happen now, Mr Chan, is that</p> <p>14 you'll be asked questions, first of all I suspect by</p> <p>15 Mr Ian Pennicott, counsel for the Inquiry. Then various</p> <p>16 other lawyers in the room get the opportunity to ask you</p> <p>17 questions. The learned Commissioners can ask you</p> <p>18 questions at any time they feel like it. Then it may</p> <p>19 well be that I'll ask you a few questions at the end.</p> <p>20 So listen carefully and please stay seated.</p> <p>21 Examination by MR PENNICOTT</p> <p>22 MR PENNICOTT: Good morning, Mr Chan.</p> <p>23 A. (Chinese spoken).</p> <p>24 Q. As Mr Boulding has just indicated, my name is Ian</p> <p>25 Pennicott, I'm one of the counsel to the Commission, and</p>

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<p>1 I'm going to ask you some questions first.</p> <p>2 First of all, thank you very much for coming along</p> <p>3 to give evidence to the Commission. I appreciate, as</p> <p>4 we've just seen, you are no longer working for the MTR.</p> <p>5 Indeed you left them some 18 months or so ago.</p> <p>6 Mr Chan, I appreciate fully that you set out your</p> <p>7 responsibilities from time to time on contract 1112 in</p> <p>8 your witness statement, but I'm just going to run</p> <p>9 through them with you very quickly, so that -- for the</p> <p>10 benefit, if nothing else, for those who are outside and</p> <p>11 have perhaps not had an opportunity yet of reading your</p> <p>12 witness statement, and then we'll get on to some</p> <p>13 substantive questions.</p> <p>14 So, Mr Chan, it goes like this, as I understand it.</p> <p>15 From May 2014 to November 2014, you were the ConE II, if</p> <p>16 I can put it that way, in the HHS area; is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. Then in November/December 2014, you were promoted to</p> <p>19 ConE I, and you then started working in the NAT area,</p> <p>20 including the NFA?</p> <p>21 A. That's correct.</p> <p>22 Q. In mid-2015, your scope of responsibilities expanded to</p> <p>23 include the SAT?</p> <p>24 A. Correct. To be exact, it's to the EWL of SAT, South</p> <p>25 Approach Tunnels.</p>	<p>1 Q. Right. What about contact, direct contact with</p> <p>2 Michael Fu, would it be the same?</p> <p>3 A. Similar. Similar.</p> <p>4 Q. Similar, yes, because, as we can see from the</p> <p>5 organisation chart, which is helpfully still on the</p> <p>6 screen, and as you indicated to Mr Boulding, the person</p> <p>7 you ordinarily would report to is Joe Tsang; is that</p> <p>8 right?</p> <p>9 A. That's correct.</p> <p>10 Q. Right. But at times, as I understand it, you would</p> <p>11 report directly to the construction manager, whether it</p> <p>12 be Mr Kit Chan or whether it was Michael Fu?</p> <p>13 A. Sometimes, yes.</p> <p>14 Q. Okay. Can you tell us what would prompt you to, as it</p> <p>15 were, speak to the construction manager, as it were,</p> <p>16 direct, rather than Joe Tsang? Were there particular</p> <p>17 incidents, particular problems, or how did that happen?</p> <p>18 A. Sometimes, after reporting to Joe Tsang, he would say</p> <p>19 that Michael should know about it as well, so he would</p> <p>20 ask me to directly tell Michael Fu what happened and it</p> <p>21 might be something which was important, like safety or</p> <p>22 operation risks. Say if there was a risk matter with</p> <p>23 the operation line, Michael Fu might have to know about</p> <p>24 it. And sometimes Joe Tsang might not be in the office;</p> <p>25 I would directly talk to Michael Fu.</p>
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<p>1 Q. The EWL, indeed, of the SAT.</p> <p>2 So from mid-2015 onwards, up to your departure in</p> <p>3 December 2017, you were the ConE I for both the SAT, the</p> <p>4 NAT, including the NFA, as we can see on the</p> <p>5 organisation chart that Mr Boulding has taken us to; is</p> <p>6 that right?</p> <p>7 A. Yes, that's correct.</p> <p>8 Q. Right. You tell us that from about mid-2015 onwards,</p> <p>9 when you had the responsibilities for the SAT and the</p> <p>10 NAT, that approximately -- you say you spent 60 to</p> <p>11 70 per cent of your time on the NAT area, and 30 to</p> <p>12 40 per cent on the SAT area; is that right?</p> <p>13 A. That's correct.</p> <p>14 Q. From early 2015 to mid-2016, I understand that the</p> <p>15 construction manager was Mr Kit Chan; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. And from mid-2016 onwards -- he says 30 May 2016</p> <p>18 onwards -- the construction manager was Mr Michael Fu</p> <p>19 from whom we have just heard; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Did you have much day-to-day contact, first of all, with</p> <p>22 Mr Chan, Mr Kit Chan?</p> <p>23 A. Yes, there was some contact. Sometimes, after</p> <p>24 I reported to Joe Tsang, I would also report to</p> <p>25 Kit Chan.</p>	<p>1 Q. Right. So there may be times, if Mr Tsang wasn't</p> <p>2 around, you would go straight to Mr Chan or to Mr Fu</p> <p>3 with any issues that you had?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. All right. And as I understand it from the organisation</p> <p>6 chart, Mr Joe Tsang was the senior construction engineer</p> <p>7 for the same areas that you were responsible for,</p> <p>8 together with the HHS and the "Ent E", whatever that is?</p> <p>9 A. Let me clarify. Mr Joe Tsang's scope of responsibility</p> <p>10 included my scope of responsibility and also Ben Chan's</p> <p>11 HHS scope and also Wing Chen's modification to concourse</p> <p>12 scope of responsibility. So the three construction</p> <p>13 engineers were under Joe Tsang.</p> <p>14 Q. Okay. We can see from the organisation chart that to</p> <p>15 the right of your photograph is the ConE II; do you see</p> <p>16 that?</p> <p>17 A. Yes, I see that.</p> <p>18 Q. And the ConE II there, that's Kappa Kang, was</p> <p>19 responsible for the same areas as you, as I understand</p> <p>20 it; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And throughout the period from mid-2015 all the way</p> <p>23 through to December 2017, when you left MTR, was</p> <p>24 Kappa Kang the ConE II throughout the entirety of that</p> <p>25 period?</p>

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<p>1 A. During that period, she worked in the same area as 2 I did, and during some time she was ConE III and then 3 ConE II. I don't remember at what time her title was 4 changed, but I and she worked in the same team. 5 Q. All right. 6 COMMISSIONER HANSFORD: Can I just ask at this point, 7 Mr Chan, is a ConE II effectively an assistant to 8 a ConE I? Is that how it works? 9 A. Organisation-wise, ConE II could be said to be under 10 ConE I. So sometimes I would be arranging the work. 11 COMMISSIONER HANSFORD: Yes. I think that's what I meant by 12 "an assistant to", but maybe "under" is the better way 13 of describing it. Okay. Thank you. 14 MR PENNICOTT: All right. Mr Chan, just to make sure that 15 I've got this clear -- in an answer that you gave me 16 just now, so far as the SAT was concerned, it was the 17 EWL area that you were responsible for. Am I right in 18 thinking you had no responsibility for the SAT NSL area; 19 is that correct? 20 A. Well, with regard to that part -- well, the underground 21 connection work of NSL was under James Ho. So it was 22 not part of my scope of responsibility, that is NSL. 23 Q. Yes, and I think it would have been Nick Tse and 24 CK Cheung who were the ConE I and the ConE II for the 25 SAT NSL area; is that right?</p>	<p>1 Could we look at Z1.8, please, which is -- there we 2 are. It's on page 422. You can look at it in hard copy 3 or on the screen, Mr Chan, as you wish. 4 It says this: 5 "The Contractors [that's Leighton and GKJV] shall 6 review and finalise their respective Works and how the 7 interface will be managed prior to submission of the 8 details for Approval. Any anomalies in respect of the 9 content of the Physical Interface Schedule shall be 10 reported to the Engineer two months before the 11 commencement of the interface works." 12 It's really the first sentence of that I wanted just 13 to ask you a few questions about, Mr Chan. Can we just 14 focus on the stitch joints. The stitch joints were 15 permanent works; you agree with that? 16 A. Yes, I agree. 17 Q. And designed by MTRC, basic design by MTRC, or Atkins on 18 behalf of MTRC; do you agree with that? 19 A. I agree. 20 Q. The design was provided in a series of working drawings; 21 do you agree? 22 A. I agree. 23 Q. Right. Just for the transcript -- we don't need to go 24 there -- BB1/433 to 438. 25 Mr Chan, I don't know whether you remember, but in</p>
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<p>1 A. I was not sure how division of labour was done in James 2 Ho's team. I know that it was some engineers under 3 James Ho, and if there was anything with regard to this 4 part, I would ask James Ho who under him was 5 responsible. 6 MR PENNICOTT: Okay. It's not for you, Mr Chan -- sir, 7 I can tell you that there are certain RISC forms in the 8 SAT NSL area that are signed either by Mr Nick Tse or by 9 Mr CK Cheung. So that's why I was just -- 10 COMMISSIONER HANSFORD: That would be consistent. 11 MR PENNICOTT: Consistent with the point, yes. 12 Mr Chan, in paragraphs 11 and 12 of your first 13 witness statement -- that's at BB109 -- and in paragraph 14 12, you deal with what we know as the interface 15 meetings. Do you see that? 16 A. I see that. 17 Q. I'm going to ask you a few questions about those 18 interface meetings in a moment, but before we do that, 19 can I ask you, please, to look at BB1/420, which is the 20 Interface Requirements Specification to the contract 21 between MTR and Leighton. 22 A. Yes. 23 Q. Is this a document you're familiar with, Mr Chan? 24 A. Well, I read that at that time. 25 Q. Right. That's a good start.</p>	<p>1 May of 2016, Leighton raised an RFI, a request for 2 information, 1510, with MTR. Do you recall that? 3 A. Yes, I do. 4 Q. If we can go to that RFI, please, at CC6/3333. This is 5 the front sheet of the RFI, and if we can scroll down, 6 please -- we are not going to go through it all, as 7 we've been through it a number of times already -- but 8 you will recall the questions or the matters that were 9 being raised and the details that were being sought by 10 Leighton? 11 A. Well, I remember them when I see it. 12 Q. Right. Understood. 13 And MTR's response to this request is at 3341. As 14 I understand it, although it was sent by Kappa Kang, you 15 tell us, I think, Mr Chan, that you drafted this 16 response; is that right? 17 A. Well, I read the email at that time and I remember I did 18 draft the reply, but I also consulted the DM team in 19 order to confirm whether my view and the DM team's view 20 was consistent. I got their consent before Kappa issued 21 the DAmS to Leighton. 22 Q. I see. 23 Could we look, please, at CC6/3345. As I understand 24 it, this is one of the DAmS drawings that was sent with 25 the response; is that right, Mr Chan?</p>

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<p>1 A. I'm not sure whether this drawing was issued together 2 with the RFI, because it was under DAmS 390. It might 3 have been issued separately. I remember the response 4 referred to 390, but it might not have been issued at 5 the same time to Leighton. 6 Q. Okay. Could we go back two pages to 3343, please. 7 Perhaps go back one more page to 3342. Yes, that's 8 right. 9 Now, do you see this document here, Mr Chan, it's 10 headed "DAmS" and we'll call it "390" for short; do you 11 see that at the top? 12 A. Yes, I see that. 13 Q. It's got a date of 19 April 2016; do you see that? 14 A. I see that. 15 Q. Right. If we then go over the page, the drawing 16 amendment sheet -- this, as I understand it, is 17 something that is generated by the DM team, the design 18 management team; is that correct? 19 A. Correct. 20 Q. And so am I right in thinking that 390, that is the 21 amendment, the various amendments to the stitch joint 22 drawings, was in fact carried out in April, a month or 23 so before Leighton's request was received; is that your 24 understanding? 25 A. Should be.</p>	<p>1 A. That's correct. 2 Q. All right. Now, once that answer had been supplied to 3 Leighton -- with, we think, some of the drawings, but 4 don't worry about that -- as I understand it, MTR did 5 not expect to receive any further submissions from 6 Leighton for MTR's approval. Is that right? 7 A. I don't quite understand the question. Please repeat 8 it? 9 Q. Of course. Once the RFI had been answered and DAmS 390 10 had been given to Leighton, my understanding is that 11 Leighton were then simply expected to get on and build 12 the stitch joint in accordance with what was shown on 13 DAmS 390. Is that right? 14 A. That would be the case. After the reply to the RFI was 15 given, if there are no further questions, we would 16 expect that work would continue. 17 Q. Yes. That's why, going back, please, to BB1/420 and 18 422, when it says, "The Contractors shall review and 19 finalise their respective Works and how the interface 20 will be managed prior to submission of the details for 21 Approval", that didn't apply, as I understand it, to 22 this stitch joint. You weren't expecting to receive 23 anything from Leightons for approval once DAmS 390 had 24 been issued? 25 A. I don't quite understand this question. Are you saying</p>
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<p>1 Q. Right. So if you can remember -- if you can't, just say 2 so -- were you anticipating, was the MTR anticipating 3 receiving this request for information from Leightons 4 and hence, that as it were, foreshadowed that request by 5 getting on with preparing DAmS 390? 6 A. Sorry, I don't quite get the question. Can you please 7 repeat it? 8 Q. Yes, I can, of course. 9 It appears to me, just looking at the documentation, 10 that the design management team were preparing DAmS 390 11 in April. 12 A. Yes. 13 Q. So I was just asking the question as to whether you were 14 anticipating, MTRC was anticipating receiving a request 15 for information, and so they were getting on to prepare, 16 essentially, the answer. 17 A. In relation to the preparation of DAmS 390, I would say 18 that I did not participate in that. It was prepared by 19 the design team. I believe there was no direct 20 correlation between the RFI from Leighton and the 21 preparation of this DAmS. 22 Q. All right. But in any event, as you've explained to us 23 helpfully, once you've received the RFI, you liaised 24 with the design management team and provided the answer 25 within a few days?</p>	<p>1 that did we expect that Leighton would raise further 2 queries about the RFI? 3 Could you please repeat your question? I don't 4 quite understand the question. 5 Q. It's simply this, Mr Chan, that this provision may be 6 suggesting that Leighton is required to submit details 7 to MTR for approval. As I understand it, so far as the 8 stitch joints are concerned, there was nothing that 9 Leighton needed to do in terms of submitting anything to 10 MTR for approval? 11 A. Let me put it this way. The design was provided by 12 MTRC. As for material and construction method, 13 construction matters would have to be prepared by 14 Leighton. We answer questions in RFI related to design. 15 Q. All right. Then could we go on just to look at Z3.1, 16 please. If we look at that provision, it says: 17 "The 1111 Contractor and 1112 Contractor shall 18 exchange and update design information through the 19 Engineer." 20 And that essentially, Mr Chan, explains the RFI. 21 I mean, Leighton are asking through you, through the 22 MTR, for details of, at least in part, what Gammon have 23 built or are to construct? 24 A. At that time, I was responsible for working drawings 25 under contract 1112. As for drawings for contract 1111,</p>

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<p>1 we had the same team, the same design team for</p> <p>2 contract 1111 and contract 1112. I consulted my design</p> <p>3 team. As regards the accuracy of the drawings, the</p> <p>4 design coordination was usually done through the design</p> <p>5 team.</p> <p>6 Q. All right. And all of this made sense, Mr Chan, because</p> <p>7 MTR, as the project managers, need to monitor and</p> <p>8 understand what is happening at the interface points so</p> <p>9 that they, the MTR, can comment on what is essentially</p> <p>10 passing between Gammon and Leighton. You need to keep</p> <p>11 some control and knowledge of what is going on between</p> <p>12 Gammon and Leighton, and that's why any questions have</p> <p>13 to go through the MTR?</p> <p>14 A. Yes.</p> <p>15 Q. And you have usefully and helpfully explained the</p> <p>16 position. When it says "through the Engineer", if it's</p> <p>17 a pure design matter, it would go through the design</p> <p>18 management team at the MTR; yes?</p> <p>19 A. If it's about permanent design works, it would be the</p> <p>20 MTR design team which would look at the design of the</p> <p>21 two sides to see if they are consistent, and then they</p> <p>22 would issue the accurate drawings to the different</p> <p>23 contractors. If there's an issue about material or</p> <p>24 construction method or some temporary supporting</p> <p>25 structures, then these would be left to the contractors</p>	<p>1 Q. Yes. We'll look at it in a moment, Mr Chan, but the</p> <p>2 first meeting you attended was in November 2014, I think</p> <p>3 when you got the promotion to ConE I?</p> <p>4 A. Correct.</p> <p>5 Q. I told a fib. Can we just look at item 1.7 in this</p> <p>6 document before I move on. Sorry, we need the table,</p> <p>7 which I think is a few pages on. That's it, yes. Thank</p> <p>8 you.</p> <p>9 I just want to ask you a couple of questions,</p> <p>10 specifically again in relation to the stitch joints, and</p> <p>11 by reference to what we read here at 1.7, Mr Chan.</p> <p>12 First of all, it appears to provide, this provision,</p> <p>13 that once the 1111 contract works had been completed,</p> <p>14 a joint inspection of the 1111 side of the joint would</p> <p>15 take place. Do you agree?</p> <p>16 A. I agree.</p> <p>17 Q. Do you know, Mr Chan, whether the inspection of the 1111</p> <p>18 side of the joint was in fact jointly inspected?</p> <p>19 A. On the 1111 side of the NSL, I think we were talking</p> <p>20 about the first half of 2015. I can't remember exactly.</p> <p>21 I can recall I went to the side of 1111, but then it was</p> <p>22 several years ago and I can't recall the details.</p> <p>23 I seem to remember we asked the Leighton people to</p> <p>24 go with us.</p> <p>25 Q. Right. Because the only place that there really needed</p>
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<p>1 concerned for the exchange of information.</p> <p>2 Q. Right. Then just lastly on this particular document,</p> <p>3 can I ask you to look at Z3.2. It says there:</p> <p>4 "The Contractors shall meet together with the</p> <p>5 Engineer on a minimum of a fortnightly basis, to agree</p> <p>6 the sequence and programme of the temporary works."</p> <p>7 Mr Chan, we know about the interface meetings which</p> <p>8 took place, at least for a period, on about a monthly</p> <p>9 basis and then rather more spread out. Is that</p> <p>10 provision referring to another set of meetings, or do</p> <p>11 you not know?</p> <p>12 A. This provision is about the interface meetings that you</p> <p>13 have talked about.</p> <p>14 Q. Right. You are not aware of any other set of meetings</p> <p>15 that took place in addition to the interface meetings?</p> <p>16 A. I think this is the only regular meeting we are talking</p> <p>17 about.</p> <p>18 Q. Right.</p> <p>19 Was it the MTR that, as it were, set up -- I know it</p> <p>20 was slightly before; no, I think it was not before your</p> <p>21 time -- was it the MTR that set up the interface</p> <p>22 meetings in the first place?</p> <p>23 A. When I took over the NAT, there was already a regular</p> <p>24 interface meeting arrangement. I just followed the</p> <p>25 approach, and there was a meeting once a month.</p>	<p>1 to be a joint inspection, that is between Leighton, MTR</p> <p>2 and I assume Gammon as well, was on the 1111 side of the</p> <p>3 joint?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. Simply because Gammon weren't in the slightest bit</p> <p>6 interested in what was happening on the Leighton side of</p> <p>7 the joint, because it was Leighton who had to build the</p> <p>8 stitch joint?</p> <p>9 A. Correct.</p> <p>10 Q. And there was a significant gap in time, as we</p> <p>11 understand it, between the completion of Gammon's</p> <p>12 work/structure and the construction of the stitch joint?</p> <p>13 A. That's correct.</p> <p>14 Q. And the reason that the joint inspection was required</p> <p>15 was because, over that period of time, as I understand</p> <p>16 it, it was Leighton's obligation to maintain the</p> <p>17 waterproofing system, the couplers, and take protective</p> <p>18 measures at the interface area?</p> <p>19 A. Yes. Well, the Leighton side had to do the connection</p> <p>20 afterwards, so it should be given the opportunity to</p> <p>21 look at the 1111 side to see if there was any problem.</p> <p>22 Q. Right. And the point being, if you look at the "1112</p> <p>23 contractor" column, there was to be an inspection of the</p> <p>24 1111 side of the joint, as we've discussed, because</p> <p>25 Leighton -- see the second sentence -- had to "accept</p>

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<p>1 and [then] maintain the waterproofing system, couplers 2 and protection measures to couplers provided at the 3 interface work", until they were ready to build the 4 stitch joints? 5 A. That's right. 6 Q. As I understand it, your recollection is that there -- 7 although I accept, as you have indicated, it was a few 8 years ago, you think such a joint inspection probably 9 did take place? 10 A. I sort of remember that it took place. 11 Q. Right. And we haven't managed to find any record of 12 that meeting, of that joint inspection, Mr Chan. Are 13 you aware of perhaps any record of such an inspection? 14 A. I left in 2017. I did not keep records myself. For me, 15 I did not have emails or other records with me. 16 Q. All right. And presumably there would have had to be at 17 least two but probably three inspections: one at the NSL 18 interface joint, one at the EWL interface joint, and 19 possibly one at the shunt neck joint? 20 A. What I can recall is -- well, I went to the cofferdams 21 of NSL on the 1111 side. I have some impression about 22 that. But as for EWL, since it was done at ground 23 level, personally, I don't really remember whether we 24 had a joint inspection at the EWL level. But it was 25 easy to access that part. 1111 and 1112 are just next</p>	<p>1 Q. And certainly so far as Leighton is concerned, the 2 evidence appears to be that they would send a draft of 3 the minutes to MTR, presumably to you; is that right? 4 A. Yes. 5 Q. And you would comment or approve the minutes 6 accordingly? 7 A. Yes. I would make comments, and then I would reply to 8 Leighton first, then Leighton would send it out through 9 email to all related interface contractors, and then 10 other people would be able to comment. 11 Q. All right. As far as MTR is concerned, when those 12 minutes were finalised, where would they be kept? 13 A. Well, at the beginning, it would be sent out by email to 14 all interface contractors. If they had no comments, 15 then at the next meeting, the email would be used for 16 that next meeting. But then, to be correct, the minutes 17 should be for the individual contractors to submit 18 a contractor's submission form, and this would be 19 uploaded to the ePMS. Then, in the interim period 20 between meetings, I don't remember at which meeting, but 21 I said at a meeting that every time the contractor who 22 drafted the minutes should prepare the CSF on the final 23 version of the minutes. But I am not sure what was done 24 eventually. 25 Q. Right. I think perhaps the short answer to my question</p>
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<p>1 to each other, so we could have been able to see the 2 condition on the 1111 side. 3 Q. Yes, I see. I follow. 4 Now, returning to the question of the interface 5 meetings, Mr Chan. What was the purpose of the MTR 6 attending those meetings? 7 A. The interface meetings were to make sure that 8 contractors should be able to exchange enough materials 9 and information for their own works. This would include 10 materials and monitoring and design, and the excavation 11 stage, whether each side had to give regard to different 12 factors of the other side. We had to make sure that the 13 two contractors would be able to exchange enough 14 information. 15 Q. Right. So essentially the MTR was attending those 16 meetings to play a monitoring role, to essentially 17 manage the two contractors, to ensure that there was 18 a proper and clear flow of information between the 19 contractors, and presumably to resolve any difficulties 20 that might have arisen? 21 A. That's correct. 22 Q. And we've heard from other witnesses that the minutes of 23 the meetings were prepared alternatively -- 24 alternately -- by Leighton and Gammon? 25 A. Yes. Yes.</p>	<p>1 is when ultimately the minutes were finalised, everybody 2 had agreed them, so far as MTR is concerned, they would 3 be uploaded to the ePMS system? 4 A. Correct. 5 Q. And who had access to that system, Mr Chan? 6 A. If a document is on ePMS, then all colleagues would be 7 able to access it. 8 Q. When you say "all colleagues", do you mean from 9 presumably the very top of the MTR organisation to 10 where? You could obviously access it. 11 A. I am not sure, but we engineers certainly would be able 12 to look up the document, we would be able to open the 13 document, and for inspectors, I would think senior 14 inspectors would be able to access it, but I am not sure 15 whether IOWs would be able to access it. I'm not sure 16 about whether other works supervisors would have access 17 to the document. 18 Q. Could we please look at CC2/750. 19 Mr Chan, from our review of these minutes -- this is 20 the interface meeting, I should have said, for 21 8 November 2014 -- from our review, this is the first 22 meeting that you attended, the first interface meeting 23 you attended? 24 A. Correct. 25 Q. If we could then go to CC2/756, this is the next</p>

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1 meeting, number 8, on 5 December.
2 If we could look at -- scroll down, please, and look
3 at -- keep going. Pause there, thank you -- 8.4.2, it
4 says there that Gammon "tabled three proposed material
5 submissions which would be used in the structure at the
6 interfaced location for 1112 reference during meeting
7 no. 7."
8 The second item there is "mechanical splicing
9 system", a resubmission, and:
10 "LCAL stated that they have no comment on those
11 submissions and will check with their supplier regarding
12 compatibility in later stage."
13 Mr Chan, that, as I say, is meeting number 8, in
14 December 2014.
15 If we then look at meeting number 18, CC839. And
16 that was a year later, on 18 December 2015. If we could
17 scroll down, please -- pause there, thank you -- and I'm
18 right in thinking, and I think you may point this out in
19 your witness statement, Mr Chan, that the minute that
20 we've looked at in relation to these interface materials
21 remained the same over the course of a year, at about
22 nine or ten minutes. Do you see that?
23 A. I see that.
24 Q. Is it the case that at none of those meetings, this
25 particular item, the interface materials and the

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1 mechanical splicing system in particular, they were
2 never discussed during the course of those meetings, but
3 simply the minutes just remained the same and were
4 carried over from meeting to meeting?
5 A. During the meetings, questions would be put to the
6 contractors as regards whether they would like to give
7 any update or they would reply to anything mentioned at
8 the previous meeting. I believe on this very topic, on
9 many meetings, Leighton and Gammon said that they had
10 nothing to update this. Therefore, it was kept for the
11 convenience of the following meeting, so that people in
12 that meeting would be reminded of this topic.
13 Q. Yes. That's rather what I thought.
14 Then if you look at this document that's on the
15 screen at the moment, there's a column headed "When", do
16 you see that, but it is blank, apart from perhaps
17 a little dash against the third bullet point. But in
18 the "Action" column, it says "LCAL [Leighton]/MTRC1112".
19 Mr Chan, was there any particular action that was
20 required from MTRC in relation to this interface
21 materials item that you can recall?
22 A. In terms of materials, our role or MTRC's role was to
23 ensure that Leighton would get information from 1111.
24 As for the procurement of materials or the source of the
25 materials, it was something Leighton would be

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1 responsible for. On our part were the records. It says
2 that we have passed the information to Leighton and
3 Leighton should be responsible for procurement. That's
4 what it means here.
5 Q. All right. You will see the sentence that we read out
6 earlier:
7 "Leighton will check with their supplier regarding
8 compatibility in later stage."
9 Do you ever recall asking Leighton when they were
10 proposing to check with their supplier about
11 compatibility?
12 A. I cannot recall the dialogue at the meeting. I just
13 remember that Leighton said they would deal with this
14 issue.
15 Q. From meeting number 9, if we go back --
16 CHAIRMAN: Sorry, I'm just wondering how we are looking.
17 MR PENNICOTT: Sorry, sir. I didn't realise it was so late.
18 CHAIRMAN: No, that's all right. You finish when you are
19 ready to finish.
20 MR PENNICOTT: Sorry, can I just finish this? It will take
21 about three or four minutes, I think.
22 CHAIRMAN: Of course, yes.
23 MR PENNICOTT: From meeting number 9 -- that's CC2/772 -- we
24 see that your construction engineer II, ConE II, also
25 attended with you, Mr Chan. Do you see that? I'm

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1 sorry, it's --
2 A. I know that. I see that.
3 Q. And I think she attended most but not quite all of the
4 subsequent meetings. Can you say why was it that
5 ConE II also attended these minutes? Was there any
6 particular reason for that?
7 A. Kappa and I were responsible for the same areas. So
8 some information that I needed to know, she would also
9 need to know, and for this issue, it was thought best to
10 have one more colleague there to follow up relevant
11 matters, and we can share views on certain issues. So
12 for this meeting, I would say that both ConE I and
13 ConE II would need to participate.
14 Q. Okay. And the last meeting was held on 6 January 2017.
15 Unfortunately, it's in another bundle: BB3/1791.
16 At this last interface meeting, you and Kappa Kang
17 were present, Mr Chan, as we can see. Can I ask you
18 this: did MTR determine that there were to be no further
19 meetings, interface meetings, after this meeting?
20 A. At that time, the interface meetings lasted for quite
21 some time, quite a long time. At that very stage, fewer
22 and fewer things required coordination. So before this
23 January 2017 meeting, meetings were held at a less -- at
24 longer intervals. It was near the completion stage so
25 there were fewer issues for coordination. So it was

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<p>1 not -- the meetings were held at longer intervals at the 2 later stage. 3 Q. Right. So I think the short answer, again, to my 4 question is that yes, MTR brought these meetings to 5 a close and decided there would be no more? 6 A. We could afford to have fewer regular meetings, but for 7 ad hoc issues, we could use other workshops for 8 discussion. That's outside the regular meetings. 9 Q. Right. If we could just go to -- scroll down to the 10 minutes and find the usual one -- that's it, there it 11 is. We still have similar -- we know the wording has 12 changed slightly, but we still have those words at the 13 bottom: 14 "Leighton will check with their supplier regarding 15 compatibility in later stage." 16 And so this was the last meeting, Mr Chan, and so it 17 wasn't thought appropriate to check that all these 18 matters had been closed out at this stage? 19 A. The purpose of that meeting was to ask the two 20 contractors to exchange information on materials. So, 21 up to this meeting -- well, we have received some 22 update, UPVC/DI pipes, they would like to know the -- or 23 to exchange information on the materials that would be 24 used. It was not really about the site work status. 25 MR PENNICOTT: All right.</p>	<p>1 with the difference between the Lenton and the BOSA 2 couplers, and you helpfully include some photographs; do 3 you see that? 4 A. Yes. 5 Q. And you mention the difference between the threads of 6 both the couplers and the rebar; do you recall? 7 A. Yes. 8 Q. Can I ask you this: back in 2015 and 2016, when you were 9 attending the various interface meetings, some of which 10 we've looked at, were you aware of the difference of the 11 threads in the two types of couplers at that time? 12 A. I wasn't clear about that at that time. 13 Q. When did you become aware of the difference? 14 A. During the investigation period, when I looked up the 15 couplers and the suppliers, I discovered that they were 16 incompatible. 17 Q. I'm sorry, when you say, "During the investigation 18 period", which period are you referring to? 19 A. I think it was after my departure from the company. 20 From the media I became aware of that, and I also looked 21 up some of the relevant information and I realised that 22 the Lenton couplers were at an angle; the BOSA one is 23 flat. 24 At that time, in the interface meetings, I knew 25 that, well, Lenton and BOSA ones were not compatible,</p>
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<p>1 Sir, that would be a convenient moment. 2 CHAIRMAN: Good. What time would you -- 3 MR PENNICOTT: 2.30, sir. 4 CHAIRMAN: Absolutely. 5 Thank you very much. We haven't finished with your 6 evidence yet, unfortunately. We are now breaking for 7 the lunch adjournment until 2.30. You are reminded 8 that, as with all witnesses, when you are giving your 9 evidence, you are not entitled to discuss it with 10 anybody else. Okay? 11 WITNESS: (Nodded head). 12 CHAIRMAN: Good. Thank you very much. 13 WITNESS: (In English) Okay. 14 CHAIRMAN: 2.30. 15 (1.13 pm) 16 (The luncheon adjournment) 17 (2.41 pm) 18 MR PENNICOTT: Thank you, sir. 19 Mr Chan, good afternoon. 20 A. (In English) Yes. Good afternoon. 21 CHAIRMAN: Can I just mention, we are starting a bit late 22 but I think you are all aware there was a good reason 23 for that. 24 MR PENNICOTT: Mr Chan, in paragraphs 13 to 16 of your first 25 witness statement -- that's BB111 to 113 -- you deal</p>	<p>1 but as to the exact shape, it was only afterwards, in 2 the investigation, that I came to know about the 3 details. 4 Q. So you say that at the time of the interface meetings, 5 you knew that the Lenton and BOSA ones were not 6 compatible. In what sense did you understand them at 7 that time to be not compatible? 8 A. Lenton couplers should be used with Lenton threaded bar 9 for connections, or perhaps threaded bars that are 10 confirmed by their suppliers that they could be 11 connected with Lenton couplers for proper connections. 12 Q. Would it be better to say, Mr Chan, that at the time, 13 back in 2015-2016, you knew there were Lenton couplers 14 and BOSA couplers, Lenton threaded bar, BOSA threaded 15 bar, and you perhaps suspected them to be incompatible, 16 but you didn't actually know they were incompatible, 17 that they were not compatible; is that right? 18 A. Let me put it this way. At that time, for GKJV 1111, it 19 was made very clear that the couplers they used were 20 Lenton ones. At that time, in the interface meeting, 21 well, 1112 used BOSA in a lot of their areas, most of 22 their areas. However, they did not respond as to what 23 kind of threaded bars would be used at the connection 24 locations. BOSA ones were used in the majority of areas 25 in 1112, but Leighton did not confirm as to what</p>

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<p>1 material would be used at the connections. They said 2 they would go back to review and check the 3 compatibility. 4 Q. I'm sorry, Mr Chan, to press you, but I need to just 5 understand part of your answer. Back in 2015-2016, we 6 know that Lenton couplers -- it was made clear that 7 Lenton couplers were being used by the GKJV. You knew 8 that BOSA couplers were being used by Leighton on the 9 majority of the areas in 1112. Did you or did you not 10 know that the two types of couplers and the rebar were 11 incompatible? 12 A. At that time, BOSA -- can you please ask again? 13 I didn't really understand. 14 Q. Yes. Back in 2015-2016, did you know that BOSA threaded 15 rebar was incompatible with a Lenton coupler? Let's try 16 that one. 17 A. (In English) Okay. 18 A. Yes, I knew that they were incompatible. 19 Q. How did you know that at that time, Mr Chan? 20 A. Because for different brands of couplers, the threading 21 technology used was different. That's why their 22 couplers might not be able to fit with other brands, 23 unless the supplier could confirm that another brand can 24 be compatible with their couplers, so under normal 25 circumstances they are not compatible.</p>	<p>1 compatibility? 2 A. Right. 3 CHAIRMAN: And so you, as an MTR representative, didn't have 4 any obligation yourself to check this out? 5 A. Well, there was an obligation on us to make sure that on 6 the issue of brands to use, the two contractors would 7 talk about it. 8 CHAIRMAN: All right. And that, you achieved at these 9 meetings, when Leighton said that they would confirm the 10 situation? 11 A. Right. 12 CHAIRMAN: Thank you very much. 13 MR PENNICOTT: Thank you, sir. 14 Moving on, Mr Chan, to the topic of RISC forms. 15 Could I ask you, please, to look at paragraph 18 of your 16 first witness statement, at BB115. 17 The first subtopic I want to ask you a few questions 18 about, Mr Chan, is the MTR RISC register; okay? You say 19 in paragraph 18: 20 "Whenever Leighton reached a hold point, they should 21 submit a RISC form to the administrative assistants of 22 MTR, one of whom was Audrey Fung." 23 Do you see that? 24 A. Yes. 25 Q. My understanding is that when Ms Fung received from</p>
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<p>1 Q. All right. So far as one can tell, looking at the 2 minutes, the minutes of the interface meetings, there 3 was no discussion about the nature of the potential 4 incompatibility; is that right? 5 A. With regard to this, at that time there was a concern. 6 The conclusion at that time or the action we agreed upon 7 was for Leighton to go back to check, because it would 8 be Leighton who would arrange for materials. At that 9 time, we had doubts, so Leighton would take action. 10 Q. All right. 11 CHAIRMAN: Sorry, just so that I understand it as well -- so 12 your understanding at these meetings was that there was 13 a general understanding that the Lenton couplers may not 14 be compatible with the BOSA couplers, and in the light 15 of that understanding, the Leighton representatives said 16 on more than one occasion that they would check it out? 17 A. Sorry, I don't really understand. Could you please 18 repeat? 19 CHAIRMAN: My apologies. Your understanding at these 20 meetings was that everybody there who had knowledge of 21 the matter understood that the Lenton and BOSA couplers 22 may not be compatible? 23 A. Right. 24 CHAIRMAN: And, in the light of that, it was agreed that the 25 Leighton representatives would check on the issue of</p>	<p>1 Leighton a RISC form, she would fill in the basic 2 details into the MTR RISC register, is that your 3 understanding? 4 A. Yes. 5 Q. Having done so, she would pass the RISC form to the 6 senior inspector of works of the MTR, and that would be, 7 on most occasions, Mr Kobe Wong; do you agree? 8 A. At that time, the SIOW, senior IOW, were a number of 9 them. It was Pedro So at an earlier stage, later it's 10 Kenneth Kong, then maybe Albert Wan. For these RISC 11 forms, Audrey Fung should have passed them on to these 12 senior inspectors first, and then on to two senior 13 inspector II, namely Kobe and Victor Tung. They were 14 responsible for different areas. 15 Q. Yes. And once the senior inspectors of works had 16 received the RISC forms, they would allocate the RISC 17 form to the appropriate person, who, so far as we're 18 concerned in this Inquiry, was either an engineer, 19 normally, for inspecting the rebar, or an IOW for 20 a pre-pour concrete check? 21 A. My understanding is that when the RISC forms reached the 22 hands of the right inspectors, if it is a rebar 23 inspection, if it involved an engineer, the inspector 24 would, after the inspection, hand the form for the 25 engineer to sign, and the inspector might then continue</p>

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<p>1 with the distribution and circulation of the RISC form, 2 and then the procedure would go on. 3 Q. Well, once the inspection had been done by the engineer 4 or the IOW, the necessary details would be filled in on 5 the form -- the date, the fact that approval had been 6 given, it would be signed -- 7 A. Yes. 8 Q. -- and then, as I understand it, it would be passed back 9 to Leighton? 10 A. Right. 11 Q. But, just focusing on the RISC register for the moment, 12 my understanding is, from reading the witness statement 13 of Tony Tang, is that the engineer or the IOW who had 14 carried out the check or the inspection, and who had 15 signed the RISC form, would also be responsible for 16 completing the details in the RISC register. Is that 17 right? 18 A. Sorry, I missed some of it. Can you please repeat your 19 question? 20 Q. Yes. 21 A. (In English) Sorry. 22 Q. My understanding, Mr Chan, is that so far as the RISC 23 register is concerned, the engineer or the IOW who had 24 carried out the inspection would be responsible for 25 completing the RISC register. Is that your</p>	<p>1 inspection ..." 2 And so, here, the initials "LWW" for the second one. 3 "... outcome of the inspection ..." 4 And I assume "P" means pass; is that right? 5 A. Yes. 6 Q. "Action required" -- sorry, I'm reading Mr Tang's 7 statement: 8 "... whether re-inspection was required ..." 9 So re-inspection, "N", "no" presumably. 10 And lastly whether the RISC form had been closed 11 out, and "Y" equals "yes". 12 So what he was saying, and obviously they would put 13 in any remarks on the right-hand side if appropriate -- 14 what he's saying is that the IOW and the ConE would be 15 responsible for filling in those columns, and you either 16 agree with him or you don't know, or disagree? 17 A. I don't agree, because from my understanding -- I have 18 never seen this form myself. My understanding is that 19 it is the AA, administrative assistant, or IOW who would 20 be filling in this form. I'm not sure exactly whether 21 it was IOW. But I haven't seen this register myself. 22 Q. You've never seen -- this is the first time you've ever 23 seen this register, is it? 24 A. Yes, I've never seen it before. 25 Q. All right. We can obviously speak to Mr Tang about that</p>
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<p>1 understanding? 2 A. I'm not very clear about that. 3 Q. Right. Well, did you personally ever complete part of 4 the RISC register yourself? 5 A. Well, the register, I don't think I ever filled in the 6 register myself. 7 Q. All right. Can we just put up on the screen, please, 8 a page in the RISC register. It's BB13/8815.1, I think. 9 If we can just take the very first item -- let's not 10 do that. Oh, yes, we can. 11 Let's take the second item, so number 2. My 12 understanding about this, Mr Chan, is that Ms Fung, or 13 perhaps her predecessor as far as this one is concerned, 14 would fill in the columns for RISC form number, the date 15 submitted and received, the time received, the section 16 of work, and then the activity requested for inspection. 17 So she would fill in all those details. Is that your -- 18 A. Yes. 19 Q. You agree? 20 A. Yes. 21 Q. Then scroll across, please. 22 What Mr Tang says, in paragraph 15(7) of his witness 23 statement, is this: 24 "The IOW/ConE would update the RISC form register 25 recording: (i) who conducted the relevant</p>	<p>1 further if necessary. 2 Now back to your witness statement, at paragraph 19. 3 That's BB115. You say there: 4 "However, on this project Leighton was often behind 5 in terms of their paperwork, with the consequence that 6 RISC forms were not always made available by Leighton at 7 the time the inspections were conducted. The ConEs/IOWs 8 would receive phone calls from their opposite number in 9 Leighton (before RISC forms were submitted), and the 10 ConEs/IOWs would conduct the relevant inspection and, if 11 appropriate, give the relevant permission to proceed. 12 In order not to hold up the works which were becoming 13 time critical and on the promise of Leighton to provide 14 the RISC forms later, we would inspect and give 15 permission to proceed, if appropriate." 16 Then you say this: 17 "To this extent ..." 18 And I think you are talking about the RISC forms and 19 the way in which it was dealt with: 20 "... there was more of a partnering relationship, 21 rather than an employer-contractor relationship between 22 MTRC and Leighton." 23 Now, what do you mean by that, Mr Chan, that last 24 sentence? 25 A. Well, these paragraphs about the way in which the RISC</p>

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<p>1 forms are dealt with, during the construction stage, we 2 observed that there were slippage with regard to the 3 submission of the RISC forms. In order not to hold up 4 the project, we tried to help with the matter, and 5 without affecting or compromising quality and safety, we 6 hoped -- or we allowed the paperwork to be submitted 7 later.</p> <p>8 So what this means is that instead of a strict 9 employer-contractor relationship whereby all the 10 procedures will have to be followed 100 per cent, we 11 allowed certain latitude for the contractors.</p> <p>12 So my view is that it was more like a partnering 13 relationship. We hoped that this would help the 14 contractor to get on with his work.</p> <p>15 Q. If you think back to this morning, Mr Chan, and the 16 organisation chart that we were looking at at the outset 17 of your evidence -- did Mr Joe Tsang know about this 18 latitude and this partnering relationship?</p> <p>19 A. I think he does. I think he does.</p> <p>20 Q. Back in the period before May 2016, did Mr Kit Chan know 21 about this arrangement?</p> <p>22 A. I think he was aware of that also.</p> <p>23 Q. Post-May 2016, when Mr Michael Fu became the 24 construction manager, do you know whether he was aware 25 of this arrangement?</p>	<p>1 of these locations, I did not observe any substandard 2 works at the locations where the three stitch joints and 3 the ... shunt neck joint were located."</p> <p>4 Then you say this:</p> <p>5 "I note from the ... stitch joints report and 6 the ... shunt neck report of MTR that couplers were 7 either not installed at all or not installed properly."</p> <p>8 Mr Chan, I don't understand that. I've looked at 9 both of those reports. There are certainly observations 10 that there were unconnected couplers and not properly 11 connected couplers, but I did not see any reference to 12 couplers not being installed at all. So have 13 I misunderstood the situation or have you misunderstood 14 the situation?</p> <p>15 A. Well, during the site walks -- I did this on a regular 16 basis, at least twice a week -- I did not or I wasn't 17 invited to the hold-point inspection for the three 18 stitch joints. What I mean here is that during my site 19 walks, mainly I would look at what was going on at the 20 site and I would try to find out very quickly about the 21 progress, the resources and the programme, and so on.</p> <p>22 During the site walks, I did not see any particular 23 problems with the connection of the couplers. The 24 stitch joints were pretty small. During the rebar 25 fixing, the time taken wasn't very long. And I didn't</p>
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<p>1 A. I'm not sure whether he was aware of it or not.</p> <p>2 CHAIRMAN: Sorry, could I ask, are you talking about 3 an arrangement that was actually defined, or are you 4 talking about a state of affairs that was allowed to 5 develop?</p> <p>6 A. Well, at that time, we knew that it wasn't desirable, 7 and in some cases we received some reports from the IOWs 8 that the RISC forms were still outstanding. Verbally, 9 I talked with Leighton and asked them to make up for the 10 outstanding RISC forms. Maybe they were having a very 11 heavy burden, and I'm not sure, I don't know much about 12 the way they made up for the outstanding forms. I know 13 that the RISC forms were outstanding but I don't have 14 the precise number, as to what percentage of RISC forms 15 were still outstanding.</p> <p>16 Q. We'll look at that in a moment, Mr Chan. But before we 17 do, can I just ask you, please, to look at paragraph 22 18 of your witness statement. Sorry, in paragraph 21, you 19 refer to your regular site walks that you took. Then in 20 paragraph 22, you say:</p> <p>21 "With regard to the locations where the three stitch 22 joints and the ... shunt neck joint were located, during 23 my regular site walks I would cover those areas and if 24 I observed workers, for example, not installing the 25 couplers I would object to that. During my site walks</p>	<p>1 quite remember any time when there were rebar fixers 2 working there.</p> <p>3 Q. Mr Chan, I was asking what I thought was a relatively 4 specific question about the conclusion or observation 5 you have made about the two reports that you refer to in 6 paragraph 22.</p> <p>7 You have said, in relation to those two reports, 8 it's said that they say "couplers were either not 9 installed at all or not installed properly". I'm 10 suggesting to you that if you read those reports 11 properly, there's no such reference, but there are 12 plenty of references to the rebar not being installed at 13 all or not being installed properly.</p> <p>14 Do you understand the difference?</p> <p>15 A. I'm sorry, I don't think I get exactly what you are 16 trying to get at. Would you please repeat the question?</p> <p>17 Q. I'll do it one last time, Mr Chan. You have said that 18 you've looked, apparently, at the two stitch joint 19 reports and the shunt neck report, and you have 20 concluded that they say that couplers were either not 21 installed at all or not installed properly.</p> <p>22 All I'm suggesting to you, Mr Chan, is that that is 23 wrong. What they do say is that the rebar was not 24 connected, or was not connected properly?</p> <p>25 A. My memory from the site walk is that I did not see any</p>

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<p>1 instances where the couplers were not installed or were 2 not properly installed. I don't think I saw that during 3 the site walk. 4 Q. All right. Now, in paragraph 24 of your witness 5 statement, you say this: 6 "rebar fixing was a relatively simple and 7 straightforward matter for inspection. I initially 8 conducted some inspections of the rebar fixing, but 9 I became more occupied with other more pressing issues." 10 So, first question, Mr Chan: what more pressing 11 issues arose which took you away from doing the rebar 12 fixing? Sorry, inspecting the rebar. 13 A. Right. 14 Q. So what more pressing issues arose that took you away 15 from inspecting the rebar? 16 A. Our work covered many different types. For example, 17 different contract interfacing, that was the beginning 18 of 2017, there were some utilities that needed some 19 work. It involved a number of contracts and 20 coordination. If we could not make sure that the timing 21 is right, then we would not be able to meet key dates. 22 It would then affect the progress of the entire project. 23 There might be, for example, in January 2017, that 24 was the handover of a works area to another party. 25 There was some outstanding work we had to follow up on</p>	<p>1 engineers, would be responsible for the inspection. In 2 circumstances where both of them are otherwise engaged 3 in meetings and if it was urgent, maybe IOW would take 4 it up. It happened. 5 At that time, it occurred to me that for rebar 6 inspections, it would be best for one same person to be 7 responsible for that, to avoid communication problems. 8 Say, for example, he thought I have done the inspection 9 and I thought he has done it. So, under normal 10 circumstances, I would ask ConE II to conduct hold-point 11 inspections. For pre-pour checking, it's done by 12 inspector of works. 13 Q. All right. As you mentioned a moment ago, Mr Chan, and 14 as you say in paragraph 25 of your witness statement: 15 "I was never asked to inspect the three stitch 16 joints or the ... shunt neck joint. This was because 17 I expected that Leighton would have contacted MTR's IOWs 18 or ConE II to conduct the necessary inspection." 19 Pausing there, do you stand by that piece of 20 evidence, Mr Chan, that you did not -- you were never 21 asked to and you did not inspect the original 22 construction of the stitch joints and carry out the 23 inspections of the rebar? 24 A. Right. 25 Q. Do you recall a man, an engineer who works for Leighton,</p>
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<p>1 the progress of the site. We had to keep a close eye on 2 it, to make sure that key dates would not be missed 3 anymore. 4 On top of that, there was some other interface, 5 building services, track works, overhead line, NSL, EWL 6 and SAT. There was also diversion for utility 7 companies. I was the coordinator. If I could not do my 8 work, it would affect the next designated contractor's 9 access. There would be implication on money and time. 10 That's why I will spend more effort onto these issues. 11 I would pass over my routine inspectors for someone 12 else. 13 Q. Right. That's what you say in the next sentence. You 14 say: 15 "I therefore delegated the inspection of the rebar 16 fixing to the IOWs working in my team and as well as the 17 ConE II." 18 Now, pausing there, my understanding of the position 19 to date, Mr Chan, is that the engineers, the ConE I or 20 the ConE II, would be responsible for inspecting the 21 rebar and the couplers, and the IOWs would be primarily 22 responsible for doing the pre-pour checks, and that was 23 the division of responsibility. Is that correct? 24 A. First, rebar inspection. As far as I understand, the 25 ideal situation was that ConE I or ConE II, the</p>	<p>1 called Henry Lai? 2 A. Yes. 3 Q. How often would you speak to him, Mr Chan? 4 A. At that time, for work, nearly every day. 5 Q. Would that be face-to-face or by telephone, or 6 a combination of both? 7 A. Both. 8 Q. What impression did you form of Mr Henry Lai, Mr Chan? 9 A. No special impression. He's a site engineer. 10 Q. Right. Have you had the opportunity of reading Mr Henry 11 Lai's first witness statement? 12 A. Yes. 13 Q. You will therefore know that in paragraph 35 of that 14 witness statement -- CC1/95; please can we put it up on 15 the screen -- he says this: 16 "I was the Leighton engineer responsible for 17 conducting the rebar fixing check with the MTR's 18 construction engineer for the three stitch joints and 19 the shunt neck joint. I confirm that I conducted those 20 checks with MTR's construction engineer (Chris Chan) and 21 no issues regarding the rebar and couplers and their 22 connections were discovered at the time." 23 Mr Chan, Mr Henry Lai was asked a number of 24 questions about that particular paragraph when he gave 25 evidence to the Commission either last week or the week</p>

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<p>1 before, and he was adamant, on a number of occasions, 2 that what he says in that paragraph 35 was correct. 3 What do you say to that? 4 A. I am surprised about this point. I myself did not 5 conduct any hold-point inspection at the stitch joint 6 with him. That's very clear. However, as to why he 7 would make such a statement, it is utterly unacceptable 8 to me. It has never happened. 9 MR BOULDING: Sir, I hesitate to intervene, but my learned 10 friend put this question to the witness on the basis 11 that Mr Lai was adamant -- adamant -- that this was the 12 man who inspected. I'm surprised he did that, because 13 when he questioned Mr Lai about the shunt neck joint, 14 Mr Lai initially said he was unsure who inspected it 15 with him, and it was only when my learned friend took 16 Mr Lai, I think it was to paragraph 35 or 36 of his 17 statement, that he said, "Oh, I now remember". Hardly 18 adamant, in my submission. 19 MR PENNICOTT: Sorry, that was in respect of the shunt neck 20 joint I think specifically, and if that's right, 21 I accept the observations that are made in relation to 22 the shunt neck joint. 23 Now, Mr Chan, what makes you so sure that you did 24 not carry out the rebar fixing checks at either the 25 three stitch joints or the shunt neck joint?</p>	<p>1 be inspectors doing simple rebar inspections. So 2 I can't rule out the possibility. 3 Q. All right. Are you able to say or express a view as to 4 who is more likely to have carried out those rebar 5 inspections? 6 A. I think it was more likely Kappa who did it. 7 Q. Could we look at the NAT pour summary, please, at 8 BB9/6363. I appreciate that this page has been slightly 9 superseded by Mr Fu's amendments, but if we can just use 10 this document for now. 11 Could we scroll down to the bottom of the page, 12 please. Could I ask you please, Mr Chan, to look first 13 of all at number 45 on the left-hand side. Do you see 14 that? 45, "Shunt neck -- bay 3 -- track slab"; do you 15 see that? 16 A. Yes. Yes. 17 Q. And we see that the rebar in that particular area 18 started and finished on 4 January 2017; do you see that? 19 A. Yes. 20 Q. And the concrete was poured the next day, on 5 January 21 2017; do you see that? 22 A. Yes, I do. 23 Q. And so all the rebar and the concrete pour takes place 24 within two days? 25 A. Yes.</p>
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<p>1 A. Because for conducting these inspections, we had to 2 follow a certain procedure. Say, for example, at the 3 stitch joint, we had to measure lead bar spacing size, 4 whether there were any waterstop at the ends of these 5 stitch joints, construction joints. If these were done 6 at an early stage, I would remember. But I have no such 7 recollection. 8 At the start of NSL, we had done some inspections 9 with Kappa, which is the first one or two. For rebar 10 inspection procedure, I have no recollection of doing 11 something like that. So my view is that I have not done 12 such inspections. 13 Q. Mr Chan, assuming you are right that you did not carry 14 out the inspections of the rebar at the three stitch 15 joints and the shunt neck joint, who are the other 16 candidates for having carried out those inspections? 17 A. I assume it would be Kappa or Tony. 18 Q. Who do you believe, Mr Chan, carried out the inspections 19 of the stitch joint rebar and the shunt neck rebar on 20 behalf of the MTR? 21 A. I believe it was Kappa or Tony. 22 Q. Why do you think it might be Tony? 23 A. Because there were certain situations when both 24 engineers had meetings. For simple bar fixing works -- 25 well, it might not be ideal, but inevitably there might</p>	<p>1 Q. Are you sure, Mr Chan, that the rebar fixing inspection 2 would have taken place, that it actually took place at 3 all? 4 A. I believe so, yes. 5 Q. All right. Then could I ask you, please, to look 6 slightly up the page at 58a. This is the EWL stitch 7 joint for the track slab. Rebar started on 22 January, 8 finished on the 24th, a couple of days later, and the 9 concrete was poured on the same day, 24 January; do you 10 see that, Mr Chan? 11 A. Yes, I do. 12 Q. Again, are you sure in your own mind, Mr Chan, that the 13 rebar fixing inspection in fact took place? 14 A. I believe that my colleagues did carry out the 15 inspection at that time. 16 CHAIRMAN: And what reason would you give for saying that? 17 A. Because at that time, when the NAT tunnel was being 18 built, the inspection was given to ConE II, and there 19 were no problems reported to me and things were ongoing 20 at the time and there were no problems coming back to 21 me. 22 So my understanding was that the process was 23 continuing. 24 MR PENNICOTT: Mr Chan, can I ask you, please, to -- you've 25 got a hard copy of this page, which is helpful; thank</p>

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<p>1 you -- if you look at the green shaded boxes towards the</p> <p>2 top of this page, Mr Chan, they identify -- and we are</p> <p>3 focusing on the "rebar fixing" columns; don't worry</p> <p>4 about the "Pre-pour checks", just focusing on the "rebar</p> <p>5 fixing" columns -- they indicate those pours where</p> <p>6 a RISC form was issued. Do you see that? And the RISC</p> <p>7 form numbers are given.</p> <p>8 A. Yes, I can see that.</p> <p>9 Q. There were nine of them in total. You can count them up</p> <p>10 if you want. But do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. In relation to eight of them, we know by looking at the</p> <p>13 RISC forms the ConE II, Kappa Kang, carried out the</p> <p>14 inspections?</p> <p>15 A. Yes.</p> <p>16 Q. And I assume that doesn't surprise you?</p> <p>17 A. Right.</p> <p>18 Q. There was one carried out by a YW Wan, W-A-N?</p> <p>19 A. The full name? Can you give me the full name? I can't</p> <p>20 remember the name.</p> <p>21 Q. I'm afraid I can't.</p> <p>22 A. (In English) Okay.</p> <p>23 Q. Never mind. It doesn't matter.</p> <p>24 And those nine RISC forms, the earliest was I think</p> <p>25 21 January 2016. That's the one against number 2. Do</p>	<p>1 Could I ask you, please, to be shown the SAT EWL</p> <p>2 summary table, at CC8/4397.</p> <p>3 The top half of the sheet, Mr Chan, deals with the</p> <p>4 SAT EWL; do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Whilst the position does not -- is certainly not as bad,</p> <p>7 apparently not as bad as the NAT that we've just been</p> <p>8 looking at, again there was a significant lack of RISC</p> <p>9 forms issued in relation to the SAT EWL. As I say, not</p> <p>10 anywhere near as bad as the NAT.</p> <p>11 Again, were you generally aware of the problem of</p> <p>12 lack of RISC forms on the SAT EWL area?</p> <p>13 A. Well, SAT, I knew that from time to time there was</p> <p>14 slippage with regard to RISC forms. As to the</p> <p>15 percentage, I didn't have any specific figures back in</p> <p>16 2016.</p> <p>17 MR PENNICOTT: Okay.</p> <p>18 Sir, I have no further questions, so perhaps this</p> <p>19 would be an appropriate time to take the ten minutes?</p> <p>20 CHAIRMAN: Yes, certainly. Ten minutes.</p> <p>21 (3.43 pm)</p> <p>22 (A short adjournment)</p> <p>23 (3.58 pm)</p> <p>24 MS LAU: Sir, we have no questions for this witness.</p> <p>25 CHAIRMAN: Thank you.</p>
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<p>1 you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And the latest was 22 July, that's numbers 3 and 4; do</p> <p>4 you see that?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And after July 2016, Mr Chan, ignoring on</p> <p>7 this sheet the remedial works on the stitch joint, not</p> <p>8 one single RISC form was issued in relation to the</p> <p>9 inspection of the rebar fixing in the NAT area. Were</p> <p>10 you -- I assume you must have been fully aware of that</p> <p>11 situation?</p> <p>12 A. I know that there were outstanding or missing RISC</p> <p>13 forms, but I don't know in 2016, at that time, there was</p> <p>14 none of them.</p> <p>15 Q. This is just the NAT area, Mr Chan. So you are saying</p> <p>16 that you were unaware, so far as the rebar fixing</p> <p>17 inspections were concerned, you were unaware that no</p> <p>18 RISC forms had been issued after July 2016? Is that</p> <p>19 your evidence?</p> <p>20 A. At that time, I wasn't aware of that. I wasn't aware</p> <p>21 that post-July 2016 there wasn't even one RISC form</p> <p>22 submitted. My understanding is that we didn't have</p> <p>23 a complete set of RISC forms, but I didn't know that</p> <p>24 there was not even one.</p> <p>25 Q. All right.</p>	<p>1 MR SHIEH: Mr Chairman and Mr Commissioner, as you will</p> <p>2 realise, there is a difference in evidence between Henry</p> <p>3 Lai of Leighton and Mr Chan --</p> <p>4 CHAIRMAN: Yes.</p> <p>5 MR SHIEH: -- concerning who on MTR's side conducted the</p> <p>6 requisite rebar fixing hold-point inspection. But the</p> <p>7 point has been very fairly put by Mr Pennicott in his</p> <p>8 examination of Mr Chan already, therefore on that basis</p> <p>9 Leighton has no questions. I wish to make that clear.</p> <p>10 That's not because we are going on strike prematurely.</p> <p>11 It's because we truly have no questions.</p> <p>12 CHAIRMAN: Thank you.</p> <p>13 MS PANG: Mr Chairman and Professor, I do have some</p> <p>14 questions.</p> <p>15 CHAIRMAN: Yes.</p> <p>16 Cross-examination by MS PANG</p> <p>17 MS PANG: Mr Chan, good afternoon.</p> <p>18 A. Good afternoon.</p> <p>19 Q. I represent the government and there are a couple of</p> <p>20 topics that I would like to discuss with you. I think</p> <p>21 I will start with the issue of the hold-point inspection</p> <p>22 at the shunt neck joint and also the stitch joints.</p> <p>23 Mr Chan, we now know that there are, if you agree</p> <p>24 with me, serious problems about the coupler connections</p> <p>25 at the stitch joints and also the shunt neck joint?</p>

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<p>1 A. (Nodded head).</p> <p>2 Q. According to evidence from I think Mr William Holden</p> <p>3 from Leighton, some of the couplers and rebars were not</p> <p>4 properly connected and some were not connected at all.</p> <p>5 Are you aware of that?</p> <p>6 A. At that time, I wasn't aware of that.</p> <p>7 Q. Are you aware of it now?</p> <p>8 A. After reading the information, I am aware of the</p> <p>9 problem, yes.</p> <p>10 Q. Have you had a chance to take a look at the photos</p> <p>11 attached to the NCR, I think two NCRs, regarding the</p> <p>12 stitch joints and also the shunt neck joint?</p> <p>13 A. Yes, I have some memory. I didn't go into detail.</p> <p>14 I did read that.</p> <p>15 Q. Right. I may not have to take you to the photos, but</p> <p>16 would you agree that from the photos that you have seen,</p> <p>17 from your impression, the defects at the stitch joints</p> <p>18 and also the shunt neck joint would be obvious from</p> <p>19 visual inspection?</p> <p>20 A. I am not quite sure.</p> <p>21 Q. We have heard from Mr Michael Fu this morning that if</p> <p>22 the rebar was not connected to the coupler, then anyone</p> <p>23 should be able to see that. Do you agree with his</p> <p>24 position on this?</p> <p>25 A. I think, if you look at that closely, you should be able</p>	<p>1 a decade or so experience behind him should be able to</p> <p>2 pick up the problem.</p> <p>3 Q. Right. But you have never been informed by either your</p> <p>4 ConE II or any of the IOWs of any such defects -- were</p> <p>5 you?</p> <p>6 A. Right. That's correct.</p> <p>7 Q. So is it fair to say that you don't actually know if any</p> <p>8 of your team members, ConE II or the IOWs, had in fact</p> <p>9 conducted hold-point inspections at the shunt neck joint</p> <p>10 and the stitch joints?</p> <p>11 A. I think at that time the hold-point inspection was</p> <p>12 carried out.</p> <p>13 Q. And what was the basis of that belief?</p> <p>14 A. Because, for the hold-point inspection, the inspection</p> <p>15 of the rebars, this has been ongoing and there were no</p> <p>16 particular problems, so I assume that that procedure was</p> <p>17 conducted, and there were no problems reported to me and</p> <p>18 I thought that there were no problems.</p> <p>19 Q. I see. So it's more of an assumption, but would you</p> <p>20 agree that you do not in fact know that any of your team</p> <p>21 members have conducted the hold-point inspections at the</p> <p>22 shunt neck joint and the stitch joints?</p> <p>23 A. Well, this was ongoing. I did not repeat the work once</p> <p>24 again, one more time, because I had my tasks to fulfil,</p> <p>25 and we had our respective tasks to perform. I didn't</p>
<p>Page 106</p> <p>1 to see it, yes.</p> <p>2 Q. Then let me ask you this. If you had conducted</p> <p>3 hold-point inspections on the shunt neck joint and the</p> <p>4 stitch joints, do you think you would have been able to</p> <p>5 spot the defects?</p> <p>6 A. If I did the inspection, I suppose I would be able to</p> <p>7 find out about it, if I did do the inspection, that is.</p> <p>8 Q. Right. But obviously you have no recollection of seeing</p> <p>9 such defects at all?</p> <p>10 A. My recollection is that I didn't go to the hold-point</p> <p>11 inspection.</p> <p>12 Q. Right. And if it was your ConE II, Ms Kappa Kang, who</p> <p>13 conducted the inspection, would you expect that she</p> <p>14 would be able to spot the defects as well?</p> <p>15 A. I think, if she examined this closely, she should be</p> <p>16 able to see it.</p> <p>17 Q. And the same with the IOWs; you would also expect them</p> <p>18 to be able to spot the defects, had they conducted the</p> <p>19 hold-point inspections?</p> <p>20 A. You mean the hold-point inspection for the rebar or</p> <p>21 pre-pour?</p> <p>22 Q. I'm talking about the rebar inspection for the stitch</p> <p>23 joints and the shunt neck joint.</p> <p>24 A. Yes, hold-point inspection for the rebars, I think it</p> <p>25 should have been spotted, because an inspector with</p>	<p>Page 108</p> <p>1 check it in particular and I didn't examine whether they</p> <p>2 did it. When there were no problems arising from that,</p> <p>3 I assumed that there were no problems, and that was how</p> <p>4 we dealt with our work.</p> <p>5 Q. Yes, Mr Chan, I understand your position, but my</p> <p>6 question was actually -- perhaps let me try it</p> <p>7 a different way.</p> <p>8 You cannot rule out the possibility that no one from</p> <p>9 your team has in fact conducted hold-point inspection at</p> <p>10 the areas that I mentioned, can you?</p> <p>11 A. Well, if you put it like that, I cannot rule out this</p> <p>12 possibility. You mention this possibility, it might</p> <p>13 have happened, although I don't have the information</p> <p>14 with me to verify this possibility.</p> <p>15 Q. All right. Thank you, Mr Chan.</p> <p>16 During your exchange with Mr Pennicott, you have</p> <p>17 mentioned that, ideally, the rebar inspection should be</p> <p>18 carried out by ConE II, but then sometimes, if none of</p> <p>19 the construction engineers are available, then the IOW</p> <p>20 would also have to conduct the rebar inspection. Do you</p> <p>21 recall that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Can I just confirm, when you refer to the IOW, are you</p> <p>24 referring specifically to Tony Tang only, or are there</p> <p>25 any other candidates who might also help to conduct the</p>

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<p>1 rebar inspections?</p> <p>2 A. For NAT, yes, it is mainly Tony, yes.</p> <p>3 Q. Is it possible to have a situation where Ms Kappa Kang</p> <p>4 thought Tony had conducted the inspection, but then in</p> <p>5 fact none of them conducted the inspection?</p> <p>6 A. Well, this is about the communication between the two</p> <p>7 individuals. I do not rule out this possibility.</p> <p>8 I don't have any information to prove whether this is</p> <p>9 correct or not, so I don't think I can confirm one way</p> <p>10 or the other.</p> <p>11 CHAIRMAN: Sorry, just let me interrupt a second. Outside</p> <p>12 of, or excluding the RISC forms, should there have been</p> <p>13 any record of the engineers or works inspectors who</p> <p>14 attended these hold-point inspections?</p> <p>15 A. Yes. They attended the hold-point inspection and they</p> <p>16 would take photos on their own. I think personally they</p> <p>17 may have this kind of photographic records.</p> <p>18 CHAIRMAN: All right. So the site diary doesn't include</p> <p>19 "Mr A, 4 pm, attending hold-point inspection bay 12" or</p> <p>20 anything like that?</p> <p>21 A. Personally, I wasn't involved in the signing off of the</p> <p>22 site diary, so I don't quite remember exactly the</p> <p>23 details of the site diary. My understanding is that it</p> <p>24 probably would record on a particular day how many</p> <p>25 workers were there, involved in what kind of work. I'm</p>	<p>1 months after the event, you might be able to go around</p> <p>2 and say, "Who attended this particular hold-point</p> <p>3 inspection?", and nobody would be able to remember</p> <p>4 because the RISC forms had not been submitted?</p> <p>5 A. Yes, that's a possibility. Yes.</p> <p>6 CHAIRMAN: And the possibility then leads to another</p> <p>7 possibility, which is if nobody from MTR has any memory</p> <p>8 of attending, and there are no paper records, then the</p> <p>9 question may be raised of whether in fact the inspection</p> <p>10 took place at all.</p> <p>11 A. Yes, there is this possibility. Yes.</p> <p>12 CHAIRMAN: And that therefore is the inherent danger in</p> <p>13 allowing a partnership arrangement to develop in terms</p> <p>14 of which you say, "Okay, we're all in this together, we</p> <p>15 appreciate you are busy; send us the RISC forms sometime</p> <p>16 later"?</p> <p>17 A. Well, at that time, we didn't expect them to submit the</p> <p>18 RISC forms so late. We thought that there would be</p> <p>19 a delay of a fortnight or so. We did not expect that</p> <p>20 they would not submit the RISC forms 100 per cent.</p> <p>21 Leighton was late with the RISC forms. We didn't</p> <p>22 expect them to be so late. So we didn't expect the</p> <p>23 result to be like that.</p> <p>24 CHAIRMAN: You see, I recall, and I'm open to correction,</p> <p>25 that there's some evidence we heard a few days ago where</p>
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<p>1 not sure whether there is any record about the</p> <p>2 inspection that was carried out. I don't think this</p> <p>3 would go into the site diary, that is about the</p> <p>4 inspection on site.</p> <p>5 CHAIRMAN: All right. So just for my own benefit then, as</p> <p>6 I understand the matter, according to your knowledge, it</p> <p>7 is that the record of attendance of an MTR employee at</p> <p>8 a hold-point inspection would be contained in the RISC</p> <p>9 form?</p> <p>10 A. Yes. Officially, yes.</p> <p>11 CHAIRMAN: And, failing that, it may be contained indirectly</p> <p>12 in other evidence collected at the inspection by the</p> <p>13 employee himself or herself, photographs, notes or</p> <p>14 something like that?</p> <p>15 A. Yes, I presume so.</p> <p>16 CHAIRMAN: And failing those two things, then there would be</p> <p>17 no actual record?</p> <p>18 A. I can't think of any other way to record this. I can't</p> <p>19 think of any other mechanism to record that, other than</p> <p>20 those two.</p> <p>21 CHAIRMAN: You see, what I suppose is potentially troubling</p> <p>22 is that if the only record is the RISC form, and if</p> <p>23 a habit developed in terms of which RISC forms were</p> <p>24 received late or not at all, you could well have</p> <p>25 a situation where, without any bad faith intended, six</p>	<p>1 somebody handed in a whole lot of arrears of RISC forms.</p> <p>2 I think some of them were four months in arrears.</p> <p>3 Now, what I could imagine, in the office of the MTR,</p> <p>4 is somebody sort of saying, "Look, I've just got 32 RISC</p> <p>5 forms have come in now, they all go back to late last</p> <p>6 year. Do you remember who actually attended any of</p> <p>7 these things?" And people are trying to remember</p> <p>8 whether they were the ones who attended or not.</p> <p>9 A. I wasn't really aware of the evidence given by previous</p> <p>10 witnesses.</p> <p>11 CHAIRMAN: No, I appreciate that. I think that's not so</p> <p>12 much a question. It's a slightly rambling comment by</p> <p>13 me, that's all.</p> <p>14 A. (In English) Sorry.</p> <p>15 CHAIRMAN: I'm just trying to understand the kind of dangers</p> <p>16 that one can run into when a sort of buddy-buddy</p> <p>17 relationship arises between the operational people and</p> <p>18 the inspection people on a major project. But that's</p> <p>19 just rambling comments. Thank you.</p> <p>20 COMMISSIONER HANSFORD: And of course people leave the</p> <p>21 project.</p> <p>22 CHAIRMAN: Yes, and people leave and, as you say, they are</p> <p>23 not there to ask four or five months later.</p> <p>24 MS PANG: I'm grateful for that, Mr Chairman, and actually</p> <p>25 that's precisely what I'm trying to get at, but much</p>

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<p>1 more effectively put by Mr Chairman.</p> <p>2 CHAIRMAN: Well, no, I'm just not constrained by having to</p> <p>3 put questions in any particular way. So I'm sorry if</p> <p>4 I've messed up your pathway. Sorry.</p> <p>5 MS PANG: Not at all. I'm grateful for that.</p> <p>6 Perhaps just to follow up on this particular issue</p> <p>7 about records, can I ask the Secretariat to turn up</p> <p>8 Ms Kappa Kang's witness statement, at BB9465, at</p> <p>9 paragraph 11.</p> <p>10 Mr Chan, I would like to ask you to look at the last</p> <p>11 sentence on this page. Here, I think Ms Kang describes</p> <p>12 what she did after she conducted each hold-point</p> <p>13 inspection, so that might be relevant to the issue of</p> <p>14 records. So she said:</p> <p>15 "After I conducted a rebar fixing hold-point</p> <p>16 inspection, I would usually inform the ConE team or</p> <p>17 inspectors of works, or both, by way of a WhatsApp</p> <p>18 message, or orally in person or telephone call."</p> <p>19 Mr Chan, do you agree or does that accord with your</p> <p>20 recollection, that after hold-point inspection, that's</p> <p>21 what Ms Kang did?</p> <p>22 A. Sometimes, yes. Sometimes, yes. But I cannot remember</p> <p>23 exactly whether that was done every single time.</p> <p>24 Q. Right. We see from her witness statement that sometimes</p> <p>25 the so-called perhaps informal report would be by way of</p>	<p>1 Mr Chan, I would like to move on to another topic.</p> <p>2 You have mentioned earlier that you have daily contacts</p> <p>3 with Mr Henry Lai from Leighton. Do you recall that?</p> <p>4 A. Yes, I recall that.</p> <p>5 Q. Right. Are you aware that Mr Lai mentioned in his</p> <p>6 witness statement that he forgot to arrange 56 batches</p> <p>7 of rebars for testing? Are you aware of that?</p> <p>8 A. For material testing, I knew very little. At that time,</p> <p>9 I wasn't aware.</p> <p>10 Q. Did you become aware of this afterwards?</p> <p>11 A. In fact, it was in this investigation that I knew that</p> <p>12 there were some rebars that were not sent.</p> <p>13 Q. Mr Michael Fu told us this morning that if batches of</p> <p>14 rebars were delivered on site, then the frontline staff</p> <p>15 of both MTR and Leighton should be aware of the fact</p> <p>16 that rebars are delivered. According to your</p> <p>17 understanding, who would be responsible on the part of</p> <p>18 MTR to conduct -- or perhaps take samples for the</p> <p>19 purpose of testing the rebars?</p> <p>20 A. I think it was our inspector of works.</p> <p>21 Q. For the NAT area, do you know which inspector of works</p> <p>22 would be responsible for that?</p> <p>23 A. For NAT, it should be Tony who is responsible for taking</p> <p>24 samples.</p> <p>25 Q. Yesterday, we have also heard evidence from Leighton</p>
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<p>1 a message, but sometimes it would be made orally, by</p> <p>2 telephone call or in person. Do you see that's what she</p> <p>3 said in her witness statement?</p> <p>4 A. Yes, I can see that.</p> <p>5 Q. Can you recall if that is an accurate description of</p> <p>6 what happened? So sometimes she would send a text but</p> <p>7 sometimes she would only inform you by telephone call or</p> <p>8 in person?</p> <p>9 A. In this regard, I can't remember clearly. I can't</p> <p>10 remember in what way the report was made for each pour,</p> <p>11 on each occasion.</p> <p>12 Q. I understand your concern, Mr Chan, but all that I'm</p> <p>13 asking is whether you recall that sometimes she would</p> <p>14 report to you by message, but sometimes by way of</p> <p>15 telephone call. I'm not asking you to recall precisely</p> <p>16 which time by what means. I'm only asking, broadly, is</p> <p>17 it right to say that sometimes she would send you a text</p> <p>18 but sometimes she would report to you by just orally in</p> <p>19 person?</p> <p>20 A. Yes. Yes.</p> <p>21 Q. So, in other words, there wouldn't be a complete set of</p> <p>22 written records on each inspection conducted by Ms Kang;</p> <p>23 do you agree with me?</p> <p>24 A. Yes, I agree.</p> <p>25 Q. Thank you.</p>	<p>1 about measures taken to separate the tested and untested</p> <p>2 rebars. One of the measures that he mentioned is</p> <p>3 a spray-paint system. Are you aware or are you familiar</p> <p>4 with that?</p> <p>5 A. I was aware of this procedure but I did not follow up in</p> <p>6 detail or try to understand in detail the operation on</p> <p>7 the side of Leighton.</p> <p>8 Q. I see. So would you say this would mainly be the</p> <p>9 responsibility of the IOWs rather than the engineers?</p> <p>10 Is that your understanding?</p> <p>11 A. For site management, that is the role of the</p> <p>12 supervision. It should be the IOW.</p> <p>13 Q. Right. Just to follow up on the issue of the</p> <p>14 spray-paint system. Your previous answer to my question</p> <p>15 was you did not follow up in detail. Am I correct to</p> <p>16 understand that you were not very clear as to what</p> <p>17 colour represents what?</p> <p>18 A. I did not know which colour represented those that have</p> <p>19 been tested, but I knew there was a colour designated</p> <p>20 for those that have been tested with a pass.</p> <p>21 Q. So is it fair to say that when you were doing your</p> <p>22 routine inspection on site, assuming that a rebar fixer</p> <p>23 has used rebars which were not tested, you would not be</p> <p>24 able to spot that?</p> <p>25 A. Usually, for the colours of rebars, it would be on one</p>

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<p>1 end of the rebar with the paint sprayed on. I did not 2 usually go to the bar fixing yard to look at the rebars. 3 The role of the engineer is to conduct hold-point 4 inspections. And by that time, perhaps the colour 5 section has already been cut off or the colour has 6 already fallen off. It was difficult for engineers to 7 identify at the hold point whether the rebar has been 8 tested. 9 Q. So is the answer to my question yes, you would not be 10 able to discover if a rebar fixer has used an untested 11 rebar on site? Or you may or may not be able to 12 discover? 13 A. For the timing, during hold-point inspections -- well, 14 it would be the case that I would not be able to spot 15 it. 16 Q. What about your routine inspection, general site walks? 17 A. For general site walks, at the rebar fixing yard, if 18 I were to find out the colour used by the rebar fixers, 19 if I could find the colour, I might be able to tell. My 20 understanding is that our inspectors would conduct 21 routine inspections. 22 Q. Thank you, Mr Chan. Can I move on to a separate topic. 23 Do you recall that you have discussed the issue of 24 the deviation, the change from lapped bar to use of 25 couplers, in your second witness statement? Is that</p>	<p>1 allowed to occur and you assumed your seniors were aware 2 and that's it? 3 A. At that time, I remember the construction was going on. 4 We have to leave an access for the construction vehicles 5 to go in. And the senior management would assign the 6 location which we should reserve for access. But when 7 we talked with the contractors, they would tell us how 8 they would do it. I remember that they were talking 9 about using couplers to connect with the rebars. I did 10 not raise any objection. And as it turned out, that was 11 how it happened. 12 Q. Mr Chan, just now you mentioned that "the senior 13 management would assign the location which we should 14 reserve for access". Are you referring to the senior 15 management of Leighton or MTR? 16 A. I think both sides would come to a decision. The senior 17 management of Leighton and MTR would have meetings on 18 a regular basis. The message I got was that for the 19 benefit of the entire project, there should be some area 20 where the vehicles could go in, and they picked SAT and 21 NAT. 22 When we talked with the contractors, we discussed 23 how we could maintain the opening, and eventually we 24 could link up the rebars, that the contractors would 25 leave some couplers, and when the access was no longer</p>
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<p>1 right? 2 A. Yes, I remember that. 3 Q. At the time of the construction works, were you aware of 4 the change? 5 A. At that time, I knew. 6 Q. Mr Michael Fu, the construction manager, told us this 7 morning that he was not aware of the change. Does that 8 accord with your recollection, that he was not aware? 9 Or perhaps I should ask this way: you have never 10 informed Michael Fu of the change, did you? 11 A. Regarding the change, at the site, we would see a set of 12 couplers on the wall with no rebars sticking out. For 13 senior management, every week they would visit the site. 14 I did not particularly report it to them, but I remember 15 that when they went to the site, they should be able to 16 see an area of couplers. My understanding was that they 17 should have spotted that. 18 Q. Did you report this matter to Joe Tsang? 19 A. At that time, I assumed that he was aware of the change, 20 because he would do the site walk pretty regularly, so 21 I assumed that he would observe that as well, but 22 I don't remember I discussed that specifically. 23 Q. Right. Perhaps I will put my question more bluntly: who 24 from MTRC approved of the change? Is it yourself or is 25 it someone else, or is it the case that it was simply</p>	<p>1 needed, they would be able to link up the rebars with 2 the couplers. 3 I didn't anticipate any particular problems. There 4 was some change of a minor nature. Therefore, I didn't 5 object to the contractor going ahead like this. 6 Q. Mr Chan, I'm just trying to make sure I understand your 7 evidence correctly. So am I right in understanding that 8 this is a -- the change from lapped bars to couplers is 9 a joint decision between the management of the MTRC and 10 Leighton? Is that what you are saying? 11 A. Yes, there was a consensus and that was an acceptable 12 way forward. 13 Q. Thank you. I now move on to the last topic that I would 14 like to discuss with you. That's the missing RISC 15 forms. 16 Can I ask you to take a look at paragraph 20 of your 17 witness statement, at BB115. The last sentence of 18 paragraph 20: 19 "What was lacking was the submission of the RISC 20 forms as a result of Leighton's omission/failure to 21 submit the same, but in the event that we had insisted 22 on receiving such forms before the inspections took 23 place the reality is that the works would have taken far 24 longer to complete than would otherwise have been the 25 case."</p>

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<p>1 I would like to see whether we can be more precise 2 in the reason for -- in the reason why you think the 3 works would have taken far longer. Can you elaborate or 4 can you explain to us why you think to insist on the 5 RISC form procedure would significantly slow down the 6 works? 7 A. Well, at that time, for the entire project, it was 8 really time-critical. If we followed all the 9 procedures -- 24 hours before the inspection they had to 10 submit the RISC form, and then the inspection would go 11 ahead and we sign off on the form, and then we move on 12 to the next step -- my observation was that Leighton 13 would not be able to cope. So I figured that if we 14 insist on the procedures 100 per cent, then the progress 15 would be slowed down. 16 It would not affect Leighton alone. There would be 17 a knock-on effect. We have to deal with the track work, 18 the trackside facilities and all the building services. 19 So it is not Leighton who will be suffering alone. 20 There will be a knock-on effect as a result. 21 Q. You have mentioned that there's a requirement that RISC 22 form must be submitted 24 hours before the inspection. 23 Where does this requirement come from, or do you know 24 what's the reason behind the 24 hours in advance 25 requirement?</p>	<p>1 that. 2 CHAIRMAN: No, I'm just trying to understand the 3 difficulties. I mean, were you getting perhaps three or 4 four requests for hold-point inspections a day, or were 5 you getting two dozen, three dozen? The numbers weren't 6 that great, were they? 7 A. Well, I don't think I have the precise information with 8 me, because the RISC form circulation from AA to the 9 IOWs and some -- thereafter, they would go to the 10 engineers, so we will not have each and every RISC form 11 in our hands. I don't think I can tell you exactly how 12 many forms we would be dealing with a day. The 13 inspectors would be more familiar with that. 14 CHAIRMAN: All right. Let's leave the forms out entirely. 15 Let's say the whole thing is done just by oral 16 communication. Looking back, how many requests were -- 17 how many hold-point inspections a day, on average, do 18 you think were carried out? 19 A. Well, it all depends -- it depends. The number 20 fluctuates. For the concrete pouring, we may do this 21 every single day, but for other procedures, we may not 22 get one for a fortnight. So it depends on the kind of 23 work we are talking about. It would be hard for me to 24 give you an exact number -- (Chinese spoken) -- 25 CHAIRMAN: Let me put it this way, otherwise we will dance</p>
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<p>1 A. My understanding is that the 24-hour rule is part of the 2 contract specification, although I don't quite remember 3 which clause it is lifted from. This is the general 4 practice of the trade. We need time for the supervisors 5 to arrange for the necessary manpower and to put 6 together the paperwork for the purposes of the 7 inspection. 8 So my understanding is that the 24-hour is a common 9 requirement. 10 CHAIRMAN: Sorry, again, just for my own benefit -- I accept 11 fully that a wodge of papers being carried around 12 a building site, underground, with bits and pieces to be 13 filled in, like an income tax return, is uncomfortable 14 and not very efficient. I accept that; okay? 15 But leaving that aside for one moment, if you get in 16 a RISC form requesting an inspection, and you get it 17 24 hours ahead of time -- how many, firstly, of these 18 RISC forms would you expect to get in a day? 19 A. Chairman, I'm not with you. How many forms do I expect 20 in a day? 21 CHAIRMAN: Well, okay, how many lots of notice do you expect 22 to get in a day, asking for inspections, hold-point 23 inspections, the following day? 24 A. Well, in my experience, with regard to 1112 and also my 25 observation was that Leighton would not be able to do</p>	<p>1 around for a long time. It doesn't seem to me that the 2 number of hold-point inspections were at any time so 3 great that they would have overwhelmed your construction 4 engineering complement and your inspector of works 5 complement. Would that be right? 6 A. Well, I would agree with that. It should be manageable, 7 yes. 8 CHAIRMAN: So what's puzzling in a way is despite its 9 antiquity and despite the fact that it's not a very 10 efficient way of proceeding, the actual RISC forms 11 themselves -- I mean, I'm wondering why they would have 12 slowed everything down so much. I mean, basically, 13 a lady or a gentleman has to receive it at the MTR, fill 14 in a few details, pass it to somebody else who then 15 says, "Fine, tomorrow morning", or "tomorrow afternoon", 16 passes it on. There's not a great deal of documentation 17 that has to be prepared; would you agree? 18 A. I would agree with you there, yes. 19 CHAIRMAN: Because if there was such a lot of documentation, 20 we wouldn't have the problem, because even though the 21 RISC forms are missing, we would be sitting with sheaths 22 of paper that prove it anyway. Do you see what I mean? 23 So nobody was filling out volumes of paper here, and I'm 24 just wondering why it is that that even though the RISC 25 forms were perhaps a bit outdated and even though there</p>

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<p>1 are more efficient ways today of dealing with matters, 2 it should have been seen as somehow or rather a major 3 obstacle to getting ahead with the work. It puzzles me. 4 A. Well, let me put it this way. At that time, my 5 observation was that on the part of Leighton, they 6 didn't accord a high priority or high enough priority to 7 the RISC forms. We got rung up and we would turn up for 8 the inspection, and the site work would continue and 9 there were no problems. Under these circumstances, 10 maybe they would tend to accord a lower priority to the 11 RISC form submission. 12 CHAIRMAN: Okay. All right. That's different, you see. 13 That's very different. Because there's a difference 14 between, "If we have to do the RISC forms, we are not 15 going to be able to get the work done", and saying, "The 16 RISC forms are actually an inconvenience; they're 17 bothersome, and so we'll do them at some other time when 18 things aren't quite as busy". Do you see the point? 19 And it seems to me that you are accepting that perhaps 20 the RISC forms were not a major obstacle to getting 21 ahead with the work so much as just bothersome, 22 an irritant that people would rather deal with at some 23 other time. Would that be correct? 24 A. Regarding the RISC forms, I would think that it would 25 only allow a short delay. It didn't mean that it did</p>	<p>1 AA ..." 2 I think it refers to administrative assistant, 3 right, AA; is that your understanding? 4 If you can flip to page 124, I think the word "AA" 5 is defined in the first subparagraph. Are you on 6 page 124, Mr Chan? 7 A. Yes. 8 Q. So "AA" refers to the administrative assistant of MTRCL; 9 can you see that? 10 A. Yes. 11 Q. Back to paragraph 20: 12 "A RISC form would also not be available to me at 13 the time of inspection if Leighton only sent it to the 14 AA a few hours before the inspection. As described at 15 paragraph 15 above, before I received a RISC form it 16 would first need to be processed by the AA and the SIOW. 17 This process would usually take up ... a day." 18 Does that accord with your understanding of what 19 happens with the RISC form, Mr Chan? 20 A. Yes. 21 CHAIRMAN: Sorry, why would it take a day? I mean, 22 I appreciate these people have other things to do and 23 I'm not trying to be condescending in any way, but if 24 they are important milestones in the actual bricks and 25 mortar of building the place, but they have to be dealt</p>
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<p>1 not have to be done, because it is important for record 2 purpose. 3 My understanding was that I did not really know -- 4 well, what I did not know at that time was why the delay 5 would be as long as several months, half a year or 6 a year. I did not expect that the delay will be so 7 serious. That's it. 8 CHAIRMAN: Okay. 9 MS PANG: Mr Chan, is Leighton's site office located in the 10 same building as MTRC's site office? 11 A. Yes. 12 Q. So same building but different floors? 13 A. Same floor. Leighton's on one side, the MTR is on the 14 other side. 15 Q. I see. So it should have been pretty easy to get the 16 RISC forms from MTR to Leighton or Leighton to MTR; 17 would you agree? 18 A. I agree. 19 Q. To complete picture, can I ask you to take a look at 20 Mr Tony Tang's witness statement, at BB125. At 21 paragraph 20, he provided an explanation as to why the 22 RISC form would need to be submitted in advance. So see 23 if you agree with what he describes here: 24 "A RISC form would also not be available to me at 25 the time of inspection if Leighton only sent it to the</p>	<p>1 with, I just wonder why it would take a full day. 2 Is there any reason for that? 3 A. Well, when I was reading this paragraph, I did not 4 digest it. It says "several hours before the 5 inspection", but if you are talking about several hours, 6 by the time the AA received it, it had to be input into 7 the register. The form would have to be forwarded to 8 SIOW. Perhaps the SIOW would be at the site and not at 9 his desk. And then, after SIOW has processed it, they 10 would be distributed to respective inspectors. Perhaps 11 a few hours would not be enough to do all that; it would 12 take half a day for that to be done. That's my 13 understanding. 14 MS PANG: Thank you very much, Mr Chan. I have no further 15 questions. 16 MR SHIEH: Mr Chairman and Mr Commissioner, in view of some 17 of the answers given by this witness, the answers to 18 some of the questions put by Ms Pang, I wonder whether 19 I could be given the permission to ask a few questions 20 before Mr Boulding commences his re-examination? 21 CHAIRMAN: Mr Boulding? 22 MR BOULDING: If it helps you, sir, I'm happy for my learned 23 friend to ask a few questions. That's our attitude. 24 CHAIRMAN: Certainly. Thank you. 25 Cross-examination by MR SHIEH</p>

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<p>1 MR SHIEH: Now, Mr Chan, I represent Leighton. I wish to 2 ask you a few questions concerning your evidence of what 3 you've called "delegation" in your witness statement. 4 Can I ask you to look at your witness statement, 5 BB1/116, paragraph 24. You refer to this point on your 6 delegating the inspection to the IOWs as well as 7 ConE II; do you see that? 8 My question is, in the time frame that we are 9 concerned with in this case, that is the shunt neck 10 joint, the rebars were fixed in early January 2017, do 11 you have any recollection as to when you began this 12 delegation? 13 A. I think it was the start of the bar fixing and concrete 14 pour of NSL. That would be 2016, at the beginning of 15 2016. 16 Q. The reason for delegation was because you were occupied 17 with other matters, according to you; yes? 18 A. It should be put this way. There should be a division 19 of labour. I would focus on DC interface, liaison with 20 external parties, technical problems of engineering, as 21 well as to avoid misunderstanding in communications; it 22 would be better to have one same person instead of two 23 to be responsible for that. 24 Q. Did you communicate your delegation to Kappa -- did you 25 communicate with Kappa Kang about this delegation? In</p>	<p>1 I have delegated to Kappa. 2 Q. And in relation to this delegation, you have not spoken 3 to the inspector of works about the delegation? You 4 have only spoken to Kappa; correct? 5 A. I did. Sometimes, they would ask us who would conduct 6 the inspection. I would say that Kappa would do it. 7 Yes, I did. 8 Q. I see. From your perspective, you have spoken to Kappa 9 that she would be doing the rebar checking hold-point 10 checks, and you've also told the inspector of works that 11 it would be Kappa who would be doing it? 12 A. Right. 13 Q. But have you ever told Leighton, Henry Lai, that it 14 would be Kappa from a certain point onward and they 15 should contact Kappa instead of ask you for the 16 hold-point checks for rebar fixing? 17 A. I remember that sometimes I would receive from Henry Lai 18 or different site agent engineers enquiries about who 19 would conduct the rebar inspection with them. I would 20 answer them in this way: "Talk to Kappa." So I assume 21 that after answering Kappa, they would contact Kappa for 22 hold-point inspections. 23 Q. But you never put it to Leighton, "Stop bothering me, 24 because from today, 3rd of whatever month onwards, you 25 should only look for Kappa to do hold-point checks"?</p>
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<p>1 other words, did you ever say to Kappa Kang, "I now 2 delegate to you all the tasks of rebar fixing hold-point 3 connection"? 4 A. I told her that she would have to go out to inspect 5 rebar fixing. 6 Q. Did you say that from then onwards, you wouldn't be 7 doing it and it would be Kappa Kang exclusively? Did 8 you tell her? 9 A. In relation to this, at that time, I did not put it in 10 such words, because people might be out of town, might 11 be on leave. So if you said exclusively, well, there is 12 a chance that I would be doing it. 13 Q. I see. So despite this delegation that you mentioned in 14 your witness statement, it remained the case that you 15 yourself have done some rebar checking hold-point 16 connections during the construction of the NAT, NSL and 17 EWL links? 18 A. At the very early stage, there was a small number, but 19 not on the structure of the tunnel. Apart from the 20 tunnels, on NAT there was also some box culvert, some 21 track slab on the North Fan Area. I recall that there 22 were one or two pours. Well, there weren't many of us. 23 Sometimes we had to do the work. For NAT, I remember 24 that at the early stage, for the first pour or two, for 25 the NSL, yes, I had done some inspections. The rest</p>	<p>1 You never did that? 2 A. I think there is no need to say that she would be doing 3 it 100 per cent. As I said, she might be on leave or 4 she might be tied up somewhere. So I did not tell 5 Leighton 100 per cent that I would not do things like 6 that. I did not say that to them because there would be 7 times when I really had to go to the site to do it and 8 I would. 9 Q. So it remained possible that Leighton would still 10 contact you in relation to rebar fixing hold-point 11 inspections? 12 A. There is such a possibility, that they may approach me. 13 Most of the time, I would ask them to contact Kappa. 14 Q. Right. Thank you. I have to put it to you that you 15 have an incentive or a reason to deny having conducted 16 the rebar connection hold-point check for the stitch 17 joint and the shunt neck joint, and that incentive was 18 that you have since learned that there had been 19 defective connections on those locations and you wish to 20 distance yourself. Do you accept that? 21 A. For the hold-point inspection, I would have some 22 recollection. For the hold-point inspection, we have to 23 go through a whole series of procedures. I would say 24 the same to Leighton. If I carry out the hold-point 25 inspection, I would look at the bar size, the bar</p>

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<p>1 spacing, the lapped bar distance and the starter bar for 2 the next person, and we need to have the presence of 3 Wing & Kwong. Now, if I have to carry out such 4 an inspection, I would remember what I did, and my 5 practice is that if I spot any particular problems, 6 I would ask the IOW to follow up. 7 So my recollection is that nothing like that 8 happened, as far as I am concerned. So my understanding 9 is that for the inspection of the stitch joint, I wasn't 10 involved. 11 Q. I was told that something might have gone amiss in the 12 interpretation, so perhaps I can put the question again. 13 I am suggesting to you that you did conduct the 14 rebar connection hold-point inspections for the stitch 15 joint and the shunt neck joint, and you are denying it 16 now because you realised that there were defects in 17 those joints and you are trying to distance yourself. 18 Do you accept that? 19 A. I am not with you. Can you say that again? 20 Q. You now realise that there were defects in the stitch 21 joint rebar connections and the shunt neck joint rebar 22 connections, and therefore you want to distance yourself 23 from the inspection of those joints and that is why you 24 are denying having done the rebar connection hold-point 25 inspections for those joints.</p>	<p>1 couplers in the South Approach Tunnel and the North 2 Approach Tunnel to gain access. Do you remember 3 discussing that with Ms Pang? 4 A. I remember that. 5 Q. And it was put to you that you ought to have objected to 6 the use of couplers, and the transcript records you as 7 saying, "No, I didn't object because it was a change of 8 a minor nature." Do you remember giving Ms Pang that 9 answer? 10 A. Yes, I do. 11 Q. Can you explain to the learned Commissioners why you 12 regarded it as being a change of a minor nature? 13 A. Because when it comes to site construction, we may have 14 to decide leaving some opening or some temporary access 15 in the course of construction. And when we build 16 a wall, we can only connect with the couplers, because 17 the area is rather narrow. So lapped bars and couplers, 18 they are the same technically. So my understanding is 19 that we only need to keep a record. At the end of the 20 day, we file this with the BD, with regard to the final 21 amendment, and we submit a report to the BD, and then we 22 complete the procedure. 23 As I said, the two are interchangeable, so my view 24 was that it was of a minor nature. So we could make the 25 submission to the BD at a later stage. That's my</p>
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<p>1 A. I dispute that, because I work on the basis of my 2 recollection in answer to your question. I disagree 3 with you on that one. 4 Q. And even irrespective of the incentive that I have just 5 mentioned, I suggest to you that your recollection could 6 be faulty and that you cannot exclude the possibility 7 that you had indeed inspected those joints for 8 hold-point checks. 9 A. If my recollection is clear, I would answer according to 10 my recollection. I would answer in accordance with the 11 fact that I didn't do the inspections. So I would say 12 to you that I didn't do it. 13 It's not because of the state of the connection that 14 I try to deny that. I don't think I can subscribe to 15 this assertion. 16 MR SHIEH: Thank you very much. I have no further 17 questions. 18 MR BOULDING: Sir, I see the time, but I don't anticipate 19 being very long, and you may well want to finish this 20 witness. 21 CHAIRMAN: Yes, please. 22 Re-examination by MR BOULDING 23 MR BOULDING: Mr Chan, I only have one matter I'd like to 24 ask you about, and it arose out of Ms Pang's discussions 25 with you concerning the change from lapped bars to</p>	<p>1 understanding. 2 Q. Problems of the kind you describe, the need to leave 3 some form of temporary access in the course of 4 construction -- in your experience, is that a problem 5 which commonly occurs? 6 A. Well, normally, yes, we have this kind of problem. Now, 7 with regard to a railway project, a railway project 8 is -- the railway is a confined area and, as we carry on 9 building, the space would be getting more and more 10 limited. So we have to leave some space for the service 11 vehicles to convey the E&M equipment and track equipment 12 and also materials for the fitting-out into the site. 13 So in this kind of project, it is quite inevitable 14 that we need this kind of access. My understanding is 15 that there is a necessity for that. It is also a common 16 occurrence. 17 Q. And, in your experience, how in practice are problems 18 like this, the need to create access or retain access, 19 how are they dealt with in practice? How are they 20 resolved? 21 A. Well, normally, if it is more spacious, we would set 22 aside one side of a wall. We don't concrete that; we 23 allow some lap length, and in future we can have the lap 24 length, the lapped bar, and then put in the concrete. 25 But in NAT, it is rather narrow. We don't have enough</p>

Page 137	<p>1 space for us to leave a lapped bar. So the only thing</p> <p>2 we could do was to resort to couplers instead of</p> <p>3 a lapped bar, and provide a temporary access for the</p> <p>4 vehicles.</p> <p>5 Q. Let me ask you this. So far as you are concerned, did</p> <p>6 the change involve any change to the rebar diameters</p> <p>7 that were used?</p> <p>8 A. My understanding is that the diameter has to be</p> <p>9 consistent with the drawings.</p> <p>10 Q. And did the diameters of the rebar change as a result of</p> <p>11 the change, as a result of the change from lapped bars</p> <p>12 to couplers?</p> <p>13 A. Well, as a result of the change from lapped bar to</p> <p>14 couplers, the diameters remained the same, and the</p> <p>15 lapped bar diameter remains the same, so there would not</p> <p>16 be any compromise on the structure. So the structural</p> <p>17 integrity would be the same.</p> <p>18 Q. Did the change necessitate any change in the spacing of</p> <p>19 the rebars?</p> <p>20 A. Well, for the spacing of the lapped bars, there is no</p> <p>21 need for change. We cannot allow this to change, if</p> <p>22 anything. The couplers, the diameter would be larger</p> <p>23 than the original rebars, but normally, for the rebars,</p> <p>24 it is 150, in terms of spacing. It would be enough for</p> <p>25 the couplers. So we have to keep the spacing there.</p>	Page 139	<p>1 preoccupied with other work, and according to the</p> <p>2 record, Leighton would be dealing with that, so</p> <p>3 I focused my energy on the area that I had to deal with.</p> <p>4 So I did not look at this in detail.</p> <p>5 COMMISSIONER HANSFORD: Okay. Thank you.</p> <p>6 MR BOULDING: Thank you, Mr Chan.</p> <p>7 CHAIRMAN: Good. Thank you very much indeed. Your evidence</p> <p>8 is now completed so you can go. There's no need to</p> <p>9 return tomorrow. Thank you for all your assistance.</p> <p>10 WITNESS: (In English) Okay. Thank you very much.</p> <p>11 (The witness was released)</p> <p>12 CHAIRMAN: Good. Mr Pennicott, tomorrow morning?</p> <p>13 MR PENNICOTT: Yes, we have Ms Kappa Kang at 10 o'clock.</p> <p>14 CHAIRMAN: 10 o'clock?</p> <p>15 MR PENNICOTT: Yes.</p> <p>16 CHAIRMAN: Good. Adjourn until tomorrow morning, 10 am.</p> <p>17 Thank you.</p> <p>18 (5.15 pm)</p> <p>19 (The hearing adjourned until 10.00 am the following day)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 138	<p>1 Q. I see. And you've referred to the couplers. Were the</p> <p>2 couplers that were used in the change the same as the</p> <p>3 couplers which were used elsewhere on this project?</p> <p>4 A. My understanding -- or at that time, I didn't look into</p> <p>5 that in detail, what brand they use, but I assume that</p> <p>6 they would use the same brand as they have been using,</p> <p>7 that is BOSA.</p> <p>8 MR BOULDING: Thank you very much, Mr Chan. I have no</p> <p>9 further questions.</p> <p>10 Sir and Professor, I don't know whether you have</p> <p>11 any?</p> <p>12 COMMISSIONER HANSFORD: I just have one matter that's</p> <p>13 puzzling me a little bit.</p> <p>14 So, Mr Chan, you told us that from the interface</p> <p>15 meetings -- if I go back to the interface meetings that</p> <p>16 you attended -- you were aware that there may have been</p> <p>17 a compatibility issue in the reinforcement. You told us</p> <p>18 that; yes?</p> <p>19 A. Yes, yes, I did.</p> <p>20 COMMISSIONER HANSFORD: So were you not curious to see how</p> <p>21 that possible incompatibility had been resolved on site?</p> <p>22 When it was built on site, were you not curious to go</p> <p>23 have a look?</p> <p>24 A. Well, at that time, I was not aware -- it didn't occur</p> <p>25 to me to find out about it, because at that time I was</p>	Page 140	<p>1 INDEX</p> <p>2 PAGE</p> <p>2</p> <p>3 MR FU YIN CHIT, MICHAEL (on former affirmation in1</p> <p>4 Cantonese)</p> <p>4 Cross-examination by MR CHOW1</p> <p>5 Questioning by THE TRIBUNAL39</p> <p>6 Re-examination by MR BOULDING43</p> <p>7 (The witness was released)49</p> <p>8</p> <p>9 MR CHAN CHUN WAI, CHRIS (affirmed in Cantonese)50</p> <p>9 Examination-in-chief by MR BOULDING50</p> <p>10 Examination by MR PENNICOTT52</p> <p>11 Cross-examination by MS PANG104</p> <p>12 Cross-examination by MR SHIEH128</p> <p>13 Re-examination by MR BOULDING134</p> <p>14 (The witness was released)139</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>