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<p>1 Thursday, 13 June 2019 2 (10.02 am) 3 MR BOULDING: Good morning, sir. Good morning, Professor. 4 My next witness from MTR is Mr Victor Tung. 5 Good morning, Mr Tung. 6 WITNESS: (In English) Good morning. 7 MR TUNG HIU YEUNG, VICTOR (affirmed in Cantonese) 8 (All answers given via simultaneous interpreter 9 except where otherwise specified) 10 MR BOULDING: Good morning, Mr Tung. 11 A. Good morning. 12 Q. You are going to give your evidence in Cantonese, as 13 I understand it, so I'm putting my headphones on. 14 A. (In English) Yes. 15 Q. It's correct, is it not, that you have produced two 16 witness statements for the assistance of the learned 17 Commissioners in this Inquiry? 18 A. Yes. 19 Q. I wonder if we could look at the first one, please. 20 Page BB8/5248. 21 A. Yes. 22 Q. And there we see the first page of your first statement, 23 Mr Tung? 24 A. Yes. 25 Q. Could we go on, please, to the signature page, which</p>	<p>1 we see your photograph, I think it's the fourth 2 photograph down. Is that you? 3 A. Yes. Yes. 4 Q. Splendid. Then to see, if at all, how things moved on 5 by August of that year, could we go to B2/578, please. 6 And here, in the top left-hand column, do we see the 7 date of 16 August 2016? 8 A. Yes. 9 Q. If you look at -- can you see Michael Fu at the very top 10 of the tree? 11 A. Yes. 12 Q. And if we go down, immediately below Michael Fu, we can 13 see a Kenneth Kong, and then there's a picture of you 14 but with the name "Victor Tang" next to it. Is that in 15 fact you, Mr Tung? 16 A. Yes, that's a typo. It should be "Tung", yes. 17 Q. Right. Thank you very much. 18 I just want to ask you, with the Commissioners' 19 leave, one or two questions about a matter arising 20 during the course of the evidence. 21 I wonder if we could go back to your first witness 22 statement, please, page 5256. And there do you see, 23 Mr Tung, paragraph 35 of your witness statement? 24 A. Yes. 25 Q. It's correct, is it not, that here you deal with the</p>
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<p>1 I hope we will find at page 5260. 2 Is that your signature, above the date of 15 May 3 2019? 4 A. Correct. 5 Q. We are now going to go to your supplemental witness 6 statement which I trust we will find in 7 bundle BB14/9497.1. 8 A. Yes. 9 Q. There do we see the first page of your second witness 10 statement, Mr Tung? 11 A. Yes, correct. 12 Q. Then if we could go on, please, in the bundle to 9497.4, 13 and there do we see your signature, above the date of 14 6 June 2019? 15 A. Correct. 16 Q. Are the contents of those statements true to the best of 17 your knowledge and belief? 18 A. Yes. 19 Q. Now, I'd like to place you in the MTR organisation, and 20 for that purpose perhaps we can go first to 21 bundle B2/566. 22 Do you see, Mr Tung, that we are looking here at the 23 MTR organisation chart as of 15 January 2015; correct? 24 A. Yes. 25 Q. If we look at one column in from the left-hand side, do</p>	<p>1 incident you refer to in the VRV room? 2 A. Yes. 3 Q. And here you tell us that: 4 "On 30 June 2017, we were asked to carry out 5 a hold-point inspection of rebar fixing works at the VRV 6 room. We discovered that there was incomplete fixing of 7 couplers and rejected the works accordingly." 8 Is that what you did, Mr Tung? 9 A. Yes. 10 Q. Then looking at paragraph (2): 11 "However, Leighton decided to proceed to cast 12 concrete despite the rejection of the rebar fixing works 13 and before requesting MTR to carry out a pre-pour 14 check." 15 As I understand it, that's something that Leighton 16 should not have done; is that right? 17 A. Yes, that's right. 18 Q. Then in paragraph 3 you deal, do you not, with an email 19 of complaint from your colleague, Jason Kwok, to 20 Leighton's Ronald Leung, and I understand that you were 21 copied in on that email. Is that right? 22 A. Yes. Correct. 23 Q. Then I think finally, so far as the incident is 24 concerned, in subparagraph (4) on page B5257, you refer 25 to the fact that you warned Leighton not to do such</p>

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<p>1 a thing again. Is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Now, do I understand that you've been following the</p> <p>4 evidence of the Commission of Inquiry insofar as it</p> <p>5 relates to this VRV incident?</p> <p>6 A. Yes. Correct.</p> <p>7 Q. I wonder if we could look at the transcript for Day 10</p> <p>8 of the hearing, and when we are there go to page 126.</p> <p>9 Splendid. I'd like to pick it up at line 7.</p> <p>10 Do I understand it that you've had the opportunity</p> <p>11 to read this part of the transcript, Mr Tung?</p> <p>12 A. Yes.</p> <p>13 Q. I pick it up at line 6 or line 8. Mr Pennicott is</p> <p>14 questioning Mr Fu and he says:</p> <p>15 "And in relation to this VRV room -- the reason I'm</p> <p>16 asking you these questions is to see whether we can put</p> <p>17 this on one side for a moment -- for forever. You</p> <p>18 mention an email from Mr Holden of 15 March 2019. Is</p> <p>19 this the email that you are referring to, Mr Fu?</p> <p>20 Answer: Yes, I can see that. Yes.</p> <p>21 Question: It says -- it's from Mr Holden to Jacky</p> <p>22 Lee, and what Mr Holden says is:</p> <p>23 'Further to our discussion refer attached items</p> <p>24 related to the HHS phased opening close out for</p> <p>25 accommodation blocks package'.</p>	<p>1 learned Commissioners that you had an opportunity to</p> <p>2 read before giving your evidence?</p> <p>3 A. Yes.</p> <p>4 Q. We can see what it says:</p> <p>5 "Further to our discussion refer attached items</p> <p>6 related to the HHS phased opening close out for</p> <p>7 accommodation blocks package:</p> <p>8 -- PWD226 design report justification of MJ in VRV</p> <p>9 base slab."</p> <p>10 Then if we could go on to BB6330, and do we see</p> <p>11 there, Mr Tung, the first page of a report produced by</p> <p>12 the Leighton engineering and design group entitled,</p> <p>13 "Review of VRV base slab around construction joint"?</p> <p>14 A. Yes.</p> <p>15 Q. Have you had an opportunity to consider the contents of</p> <p>16 that document?</p> <p>17 A. Sorry, can you repeat the question?</p> <p>18 Q. Have you had an opportunity to consider the contents of</p> <p>19 the document which starts at page 6330?</p> <p>20 A. Consider? Sorry, I still don't get it. What do you</p> <p>21 mean by "consider"? Do you mean whether I have read it?</p> <p>22 Q. Yes, the word "read" will do. Have you had</p> <p>23 an opportunity to read it?</p> <p>24 A. Yes.</p> <p>25 Q. Good. Having read this document, Mr Tung, does the</p>
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<p>1 And the first item is the 'PWD226 design report</p> <p>2 justification of MJ', which I think is movement joint,</p> <p>3 'in VRV base slab'; do you see that?</p> <p>4 Answer: I see that.</p> <p>5 Question: And attached to this email is a very</p> <p>6 lengthy report. If we can just go over the page,</p> <p>7 please:</p> <p>8 'Review of VRV base slab around construction joint.'</p> <p>9 Then over the page -- and it goes on for a little</p> <p>10 while. We are not going to look at it.</p> <p>11 In your witness statement, Mr Fu, you say, in</p> <p>12 relation to this particular item:</p> <p>13 'As the investigation and follow-up action in this</p> <p>14 regard are still ongoing, I will update the Commission</p> <p>15 of Inquiry when more information is available.'</p> <p>16 Would you like this opportunity to give us</p> <p>17 an update, if you are able?</p> <p>18 Answer: Right now, we are still doing the review."</p> <p>19 Do you remember reading that evidence from Mr Fu?</p> <p>20 A. Yes, I read it.</p> <p>21 Q. Have you had an opportunity to look at what Mr Fu was</p> <p>22 referring to as being reviewed?</p> <p>23 A. Now, before I came to give evidence, I read that email.</p> <p>24 Q. I see. I wonder if I could turn that up, perhaps.</p> <p>25 BB6328. Is this the email that you just told the</p>	<p>1 document concern the structural integrity of the area in</p> <p>2 the VRV room in which the incomplete fixing of the</p> <p>3 coupler incident to which you refer in paragraph 35 of</p> <p>4 your statement occurred?</p> <p>5 A. Looking at the report, referring to the Leighton report,</p> <p>6 the impact is not large, but it's still under review.</p> <p>7 Q. I see. Just to pick up the report because I don't think</p> <p>8 we've looked at it certainly in any detail before --</p> <p>9 perhaps you could go to BB6332. There do you see</p> <p>10 paragraph 1.2, "Purpose and overview of temporary</p> <p>11 works"?</p> <p>12 Have you read this paragraph, Mr Tung?</p> <p>13 A. Yes.</p> <p>14 Q. We can see, can we not, that it states:</p> <p>15 "This design report focuses on a VRV base slab at</p> <p>16 grade A-J between grid A-8 to A-9. The slab is</p> <p>17 a 500 millimetres thick on-grade slab with several local</p> <p>18 300 millimetre thick concrete plinths slab on it for</p> <p>19 resting several AHU units and cast with a construction</p> <p>20 joint between a main bay and an end bay."</p> <p>21 Then there's a reference to figure 1 below.</p> <p>22 "This design is prepared to review condition of the</p> <p>23 slab given a concern on rebar connectivity at the</p> <p>24 construction joint."</p> <p>25 Then if we look over the page, 6333, do you see</p>

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<p>1 there paragraph 2.4, "Design approach"?</p> <p>2 A. Yes, I see it.</p> <p>3 Q. And again is this a paragraph you've had an opportunity</p> <p>4 to read, Mr Tung?</p> <p>5 A. Yes.</p> <p>6 Q. I don't want to read it all but do we see that in the</p> <p>7 first paragraph it says:</p> <p>8 "Checking of the slab will be carried out by</p> <p>9 reviewing the resulted load effect. The slab will be</p> <p>10 conservatively assumed as two individual slabs at both</p> <p>11 sides of the construction joint assuming no rebar</p> <p>12 continuity across the construction joint for</p> <p>13 simplification."</p> <p>14 And then finally 2.5, the conclusion, again do</p> <p>15 I understand that you've had an opportunity to read</p> <p>16 that?</p> <p>17 A. Yes.</p> <p>18 Q. And it says:</p> <p>19 "Based on the review to the slab condition in</p> <p>20 section 3.1 and 3.2, it can be concluded that effect of</p> <p>21 construction joint condition to the VRV base slab is</p> <p>22 minimum."</p> <p>23 So we can see there, can we not, what Leighton</p> <p>24 invite the reader to conclude; is that right?</p> <p>25 A. According to this conclusion, they are describing it</p>	<p>1 Q. From your witness statement, I understand that your</p> <p>2 involvement in contract 1112 was between January 2015</p> <p>3 and December 2018; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. If we go to B2/566. My learned friend Mr Boulding has</p> <p>6 just taken you there. We see your name is the fourth on</p> <p>7 the second column. Do you see your name, the second</p> <p>8 column from the left, the fourth is you; right?</p> <p>9 A. Yes.</p> <p>10 Q. As we can see from this chart, you were responsible for</p> <p>11 HHS; correct?</p> <p>12 A. Correct.</p> <p>13 Q. Then now if we can go to B2/598, we again can see you</p> <p>14 below James Ho; right? It's slightly -- if you see,</p> <p>15 slightly on the right-hand side, you see your name</p> <p>16 there, just below James Ho?</p> <p>17 A. Yes. Yes, I see it.</p> <p>18 Q. By that time, your responsibilities extended to HUH,</p> <p>19 HHS, SAT, NAT and Con; "Con" means concourse, right?</p> <p>20 A. Well, to be accurate, it was the whole site.</p> <p>21 Q. By that time, we can see -- pick up the date from the</p> <p>22 top of the chart, which is 31 July 2018; correct?</p> <p>23 A. Correct. I see it.</p> <p>24 Q. As I understand from your witness statement, let's leave</p> <p>25 aside the concourse and HUH, which is the Hung Hom</p>
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<p>1 correctly, but it's still under review. It's not</p> <p>2 approved.</p> <p>3 Q. And you say it's under review. Do I understand that</p> <p>4 it's under review by MTR to see whether or not that</p> <p>5 conclusion is in fact justified? Is that the purpose of</p> <p>6 the review?</p> <p>7 A. Yes, that's correct.</p> <p>8 Q. Thank you very much, Mr Tung. I have no further</p> <p>9 questions for you, but I understand that Mr Calvin</p> <p>10 Cheuk, who is one of the counsel for the Commission, is</p> <p>11 going to ask you some questions first. Then various</p> <p>12 other lawyers in the room will ask you questions. The</p> <p>13 learned Commissioners can ask you questions at any time</p> <p>14 they like. Then, depending on what you say, it may well</p> <p>15 be that I'll ask you one or two questions at the end.</p> <p>16 Do you understand?</p> <p>17 A. I understand.</p> <p>18 MR BOULDING: Please listen carefully.</p> <p>19 WITNESS: (In English) Thank you. Okay.</p> <p>20 Examination by MR CHEUK</p> <p>21 MR CHEUK: Good morning, Mr Tung. I act for the Commission.</p> <p>22 A. (In English) Yes.</p> <p>23 Q. Thank you for coming here to give evidence. I just have</p> <p>24 a few questions for you today.</p> <p>25 A. Okay.</p>	<p>1 Extension Station. Your focus was mainly in respect of</p> <p>2 HHS and SAT; correct?</p> <p>3 A. Correct.</p> <p>4 Q. And your involvement with NAT was more limited; correct?</p> <p>5 A. Correct.</p> <p>6 Q. Now, if I may just take you to paragraph 20 of your</p> <p>7 witness statement, 5252 of BB8.</p> <p>8 Here you say:</p> <p>9 "At the time when I became involved in SCL</p> <p>10 contract 1112 in January 2015, there was a persistent</p> <p>11 problem with Leighton's late or outstanding submissions</p> <p>12 of RISC forms."</p> <p>13 Do you see that?</p> <p>14 A. I see it.</p> <p>15 Q. And now if we go to paragraph 37. That's at page 5257.</p> <p>16 You also say:</p> <p>17 "Had we insisted on proper submission of RISC forms</p> <p>18 by Leighton strictly before each and every hold-point</p> <p>19 inspection was allowed to take place, site progress</p> <p>20 would have been seriously affected."</p> <p>21 Do you see that?</p> <p>22 A. Yes. Yes.</p> <p>23 Q. I would like to ask you some questions in this regard;</p> <p>24 okay?</p> <p>25 A. (In English) Okay.</p>

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<p>1 Q. Now if we go to CC8/4397. You can take it from me that 2 this is a chart of the SAT summary table prepared by 3 Leighton; okay? 4 And if we go to, for example, the first item, first 5 row, "SAT bay 1"; okay? And if we look at the date, the 6 start date of fixing rebar, that's in the middle, we can 7 see the date is 23 January 2016. Do you see that? 8 A. Yes, I see it. 9 Q. And the end date of rebar fixing is 27 January 2016; do 10 you see that? 11 A. Yes, I see it. 12 Q. Mr Tung, you have experience of filling in a RISC form 13 by yourself; right? 14 A. Yes. 15 Q. Can I ask you, can you give us an estimate, say for 16 a Leighton engineer to generate a RISC form, and then 17 the RISC form passes to the administrative assistant of 18 MTRC, and then ultimately passes to the hands of MTRC's 19 engineer or IOW to carry out an inspection -- what sort 20 of time would you say it takes? 21 A. It would take more than a day, according to my estimate. 22 Q. Let's say -- I'm not talking about up to the whole 23 closing out of the RISC form; okay? I'm talking about 24 from the time of printing out the RISC form by Leighton 25 and then pass it to administrative assistant and then</p>	<p>1 to the senior inspector, and then they would dump it in 2 the tray. 3 So my impression is that even if they were to submit 4 it on time, it was very rare to receive it within ten 5 minutes. 6 Q. Fully understood. That's very helpful, Mr Tung. 7 So let's say that period takes about one day or 8 might be slightly more than one day. I just wonder, 9 according to your experience, is it possible that the 10 relevant Leighton engineer could have anticipated, for 11 example, in relation to the bay 1 area I just took you 12 to -- could have anticipated one day before the relevant 13 hold-point inspection and therefore submitted the RISC 14 form one day beforehand? Would that be possible? 15 A. Yes. 16 Q. And if we look back to the screen, for example, looking 17 at SAT bay 1, the commencement date was on the 23rd and 18 the completion date was on the 27th. You see that; 19 right? 20 A. Yes, I see it. 21 Q. If that relevant Leighton engineer submitted the form, 22 for example, on the 26th or even on the evening of the 23 25th, anticipating that the rebar fixing will be 24 completed on the 27th. Then, by the time the rebar 25 fixing is completed, then everybody can carry out the</p>
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<p>1 would pass it to the senior IOW and then would pass to 2 the relevant engineers or IOWs to carry out the 3 hold-point inspection. We are just talking of this 4 period first. According to your estimate, is that about 5 one day, or how long would you say? 6 A. It is one day, but according to my understanding, first 7 of all, the Leighton engineers, they have to find a form 8 from their computer, they print it out and attach 9 drawings and they have to sign it. Then they submit it 10 to their QA department for registering, and the QA/QC, 11 after it's registered, it is sent over to the 12 administrative assistant, and the administrative 13 assistant will input it into the register, and then it 14 would be signed and confirmed -- the receipt date will 15 be signed and confirmed. And I recall that Kobe Wong 16 was the person, he -- there was a line in part B when he 17 would sign when it was received, and then behind him 18 there was a tray. 19 When I first joined 1112, the tray would have -- the 20 inspector on duty, he would put all the forms there, and 21 when we have time we would collect the forms, and the 22 whole procedure, after it was printed out, Leighton 23 would take half a day, and then it would be sent over to 24 the AA, and the AA would just register, and then it 25 might be a couple of hours later before it was forwarded</p>	<p>1 hold-point inspection, without any significant or 2 substantial delay. Is that correct? 3 A. Yes, it should be possible, if they have sufficient 4 staff. 5 Q. And this actually seems to me, correct me if I am wrong, 6 it's not just -- it's a matter of planning ahead; would 7 you agree? 8 A. Can you repeat your question? 9 Q. What it takes is that the relevant engineer should plan 10 slightly ahead, so that he can submit the form slightly 11 ahead, so that there would be no delay; would you agree? 12 A. Yes, this I agree. 13 Q. And if we look at this table, if we go to the very 14 bottom of this table, we can see there are about 15 40 pours in total? 16 A. I think for this table the bottom part is the tunnel, 17 NSL. 18 Q. Yes. Yes. 19 A. And the upper part is EWL. 20 Q. I'm talking about in total of the SAT area. 21 A. (In English) Okay. 22 Q. The upper part is EWL, the lower part is NSL, but they 23 all belong to the SAT area. But I'm just drawing your 24 attention to the total pours was about 40 pours; okay? 25 You can also take it from me -- I checked the</p>

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<p>1 dates -- these pours basically range from 26 November 2 2015, that is at pour number 4, if we can go back up 3 a bit -- we can see that's the earliest pour in this 4 sheet -- and if we go down to pour number 20b, the 5 latest, the last pour, was 27 February 2017. 6 So I did a rough calculation: the whole period was 7 about 15 months. That's more or less -- 8 A. From 1 to 24 -- well, because I was involved in the 9 monitoring, but from 25 to 46, that's not under my 10 charge so I cannot confirm the number, therefore. 11 Q. Yes, certainly I'm not asking you to confirm. You can 12 take it from me these are the assumption of dates we are 13 working at. 14 A. Yes, understood. 15 Q. What I am driving at, we are talking about around 16 40 pours over 15 months, which is about two to three 17 pours per month. Would you consider it is onerous for, 18 for example, an engineer in Leighton to do that planning 19 one day or two days ahead, so as to prevent any delay to 20 carry out the hold-point inspection? 21 A. I don't know how to answer that question, because -- 22 now, for every engineer, is he or she just in charge of 23 the concrete pours? Maybe, for this base slab, there 24 are ELS and other issues that they have to follow up on, 25 so do they have enough time to prepare the form? Well,</p>	<p>1 Can I ask you, apart from raising the issue or 2 complaint with Leighton, did you or your colleagues at 3 MTRC do anything else, asking or forcing Leighton to 4 comply with the RISC forms? 5 A. As far as I am aware, Kenneth Kong issued emails, also 6 CK Cheung. It was in about mid-2015. They issued 7 emails. Yes, I think it was CK Cheung. 8 Q. Yes, we've seen those complaints several times, but what 9 I'm asking is, apart from complaint, any substantive 10 action such as holding up the inspection and tell 11 Leighton, "I will not allow this to happen again unless 12 you comply with the RISC form procedure""? Was that 13 sort of substantive action ever taken by MTRC? 14 A. Well, that I couldn't recall exactly. 15 Q. But you yourself certainly didn't say anything like that 16 to Leighton; right? 17 A. I did, actually, for a period, but it was a very short 18 period. They would WhatsApp the inspection form, copied 19 to me. But it was for a very short period, because at 20 the end, it was still late submission. 21 Q. But you have not actually refused to carry out 22 a hold-point inspection because of no RISC form? 23 A. Could you repeat your question? 24 Q. You have not refused to carry out a hold-point 25 inspection because of the lack of RISC form; is that</p>
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<p>1 I can't really speak for them. 2 CHAIRMAN: I think what's being suggested is that you can't 3 come to a conclusion unless you look at their overall 4 work responsibilities. 5 MR CHEUK: I understand. 6 And of course, if we say there is -- and in your 7 view, as I understand, that will -- let me start again. 8 If their overwork -- workload allowed them to do the 9 planning ahead, which I just suggested to you, then you 10 would agree there should not be any substantial delay by 11 the compliance of this RISC form procedure; would you 12 agree with me? 13 A. Can you please repeat your question? 14 Q. If the resources or if the workload of that particular 15 Leighton engineer would allow him to do the planning 16 ahead which I have just suggested to you, then the 17 compliance of the RISC form procedure should not cause 18 any substantial delay to the project; would you agree? 19 A. Yes, I agree. 20 Q. Now, when going back to your statement, at page 5257, 21 paragraph 37 -- you say here: 22 "Had we insisted on proper submission of RISC forms 23 by Leighton strictly before each and every hold-point 24 inspection was allowed to take place, site progress 25 would have been seriously affected."</p>	<p>1 right? 2 A. No, I did not do so. 3 Q. And you described an example in your witness statement. 4 If we go to BB14/9437. Do you recall this? It's your 5 WhatsApp? 6 A. Yes, I remember it very well. 7 Q. What this WhatsApp is about is there was one time that 8 Leighton's engineer sent you four months' RISC forms in 9 one go; correct? 10 A. Yes, correct. 11 Q. That's why you gave him that angry emoji; right? 12 A. Yes. They gave me a whole batch of forms and it took me 13 a long time to find the records to match the forms. 14 Q. Yes. After receiving these four months' RISC forms in 15 one go, what substantive action did you take in respect 16 of that? 17 A. Well, I just pursued them to submit the forms. 18 Q. Now, let's move on to a slightly different topic. 19 BB14 -- back to your witness statement, your 20 supplemental witness statement -- 9497.2, paragraph 4. 21 I understand that here you explain an example how you 22 can fill in a RISC form despite its late submission; 23 correct? 24 A. Yes. 25 Q. If we go to 9497.6, that's the relevant Leighton RISC</p>

Page 21	1 form. 2 A. Yes. 3 Q. We see that this is a pre-pour check at HHS; correct? 4 A. Yes, correct. 5 COMMISSIONER HANSFORD: It's on the screen. 6 MR CHEUK: It's on the screen, the first part A, the first 7 item and the second item. 8 We also see that the hold-point inspection was 9 carried out on 8 April. If we go down a bit, that 10 describes the hold-point inspection's date and time, 11 8 April, at 1530; right? 12 A. Yes, that's correct. 13 Q. And that was by you; we see your name there? 14 A. Yes. 15 Q. But you only completed this part of the form on 27 April 16 2016; correct? 17 A. Because I only received it on 27 April 2016. 18 Q. I'm certainly not putting blame on you; I'm just trying 19 to locate the exact date. 20 A. But the inspection date, it was on 8 April. 21 Q. Yes, we understood that. 22 A. (In English) Okay. 23 Q. Then you explain in your witness statement the reason 24 why you can correctly fill in this form retrospectively 25 was relying on your WhatsApp messages and photos; right?	Page 23	1 COMMISSIONER HANSFORD: Sorry, I don't quite understand. So 2 you had this big batch, like four months' worth, and 3 then it took you two weeks, at the end of the day, the 4 end of each day, two weeks to complete; is that what you 5 are telling me? 6 A. Well, actually, every day when I do the site walk, after 7 I return to the office, by 5 o'clock, I use the 8 remainder of my time and I use my WhatsApp phone 9 function and I go through all this information. 10 So why I was so angry on that occasion, because they 11 gave me four months' worth of documents, I had to use 12 a lot of my personal time to do this work. 13 COMMISSIONER HANSFORD: I understand. 14 MR CHEUK: That's very conscientious of you, but I just 15 wonder, do you know, would your other colleagues, like 16 you, have the same level of diligence and carry out such 17 exercise just like you when they receive a late 18 submission? 19 A. Well, I cannot speak on my colleagues' behalf. 20 I wouldn't know anyway. 21 Q. Let's move on to a slightly different topic. If we go 22 back to your witness statement, paragraph 35, 5256. 23 This is a paragraph my learned friend Mr Boulding took 24 you to at the start of your evidence; do you recall? 25 A. Yes, I recall.
Page 22	1 A. Correct. 2 Q. I do not intend to go into all those photos and WhatsApp 3 messages, but can I ask you this. Are you saying that 4 you were able to carry out this exercise, tracing 5 exercise, and did carry out this exercise, in relation 6 to each and every late submission? 7 A. Yes. 8 Q. So you are saying that -- for example, if we go back to 9 BB14/9437, and we go to 9438, the next page, we see the 10 physical forms that you received in that one go. So, 11 after four months, you were able to trace everything and 12 filling out back all the information to that stack of 13 RISC forms; is that your evidence? 14 A. Yes. 15 Q. And you are still confident they are all correct; is 16 that right? 17 A. Yes. 18 COMMISSIONER HANSFORD: Mr Tung, can I ask, how long did 19 that exercise take? How long did it take to go through 20 that big batch of RISC forms and complete -- 21 A. Actually, usually -- it's almost at the end of the day 22 when I do a site walk, when I do two hours of site walk. 23 It would take me two to three weeks. Because sometimes 24 my phone would hang because I'm going through too many 25 documents.	Page 24	1 Q. It's about an incident at the VRV room; right? 2 A. Yes. 3 Q. Can you help us, if we go to CC9/5254 -- can you help us 4 to pinpoint the location of this incident? Where did it 5 happen? Can you use a gridline? 6 A. J and -- this location (indicating). 7 Q. So J1, gridline J1? 8 A. (Chinese spoken). 9 If you look at A to J gridline, it should be at the 10 bottom, not the one on top. That is a different 11 gridline. 12 Q. So essentially we are looking at the yellow box at the 13 top left-hand corner? 14 A. It's between J7 and 8. Between 7 and 9. 15 Q. Thank you. That's helpful. 16 COMMISSIONER HANSFORD: It's that isolated yellow box in the 17 top left of this, Mr Cheuk? It's that isolated yellow 18 box in the top left of this diagram, Mr Cheuk? 19 MR CHEUK: That's what I understood. 20 He's been given a new gadget now. 21 COMMISSIONER HANSFORD: A new toy. 22 A. (Using magnifying device) (In English) Here. Here. 23 It's okay? 24 MR CHEUK: Thank you. That's very helpful. 25 If we go back to the email which records this

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<p>1 incident, BB8/5789.</p> <p>2 A. I see it.</p> <p>3 Q. This is an email from Jason Kwok to Ronald Leung.</p> <p>4 Jason Kwok is MTR and Ronald Leung is Leighton; right?</p> <p>5 A. Correct.</p> <p>6 Q. You were copied in. We see your name in the middle, cc</p> <p>7 Victor Tung; correct?</p> <p>8 A. Yes.</p> <p>9 Q. The email says:</p> <p>10 "Dear Ronald,</p> <p>11 Please note that the rebar inspection was rejected</p> <p>12 this pm for the remaining footing at VRV unit, due to</p> <p>13 incomplete fixing of the coupler, refer to the attached</p> <p>14 photos. More than half of the coupler at the B1 rebar</p> <p>15 were not properly fixed. Your engineer did not rectify</p> <p>16 the defects and decided to cast concrete anyway. It is</p> <p>17 also note that general cleaning inspection was not</p> <p>18 arranged with our IOW before pouring concrete. This is</p> <p>19 unacceptable."</p> <p>20 Just to confirm, it says, "Your engineer did not</p> <p>21 rectify the defects and decided to cast concrete</p> <p>22 anyway." Leighton did not just decide to cast concrete</p> <p>23 anyway but actually poured concrete successfully before</p> <p>24 MTRC's discovery. Is that correct?</p> <p>25 A. They were in the process of pouring concrete.</p>	<p>1 A. This is obvious. You can see it at first glance.</p> <p>2 (Using magnifying device) Very obvious. We have two</p> <p>3 threaded sections exposed.</p> <p>4 Q. Thank you.</p> <p>5 Then, this morning, my learned friend Mr Boulding</p> <p>6 took you to the report, an email and a report, which we</p> <p>7 can find at BB9/6328. If we can blow up a little bit</p> <p>8 this email. The first bullet point, Mr Tung, refers to</p> <p>9 the design report justification of MJ in VRV base slab.</p> <p>10 If we go to the next page, 6332 maybe, it talks</p> <p>11 about the purpose of this report:</p> <p>12 "This design report focuses on a VRV base slab at</p> <p>13 grid A to J between grid A-8 to A-9."</p> <p>14 Is this the exact location we are talking about in</p> <p>15 your witness statement?</p> <p>16 A. Yes.</p> <p>17 Q. And is this report compiled because of that incident?</p> <p>18 A. I think so.</p> <p>19 Q. If we go back to the RISC form itself, BB8/5796.</p> <p>20 Am I right in understanding that this RISC form is in</p> <p>21 relation to that incident that MTRC discovered?</p> <p>22 A. Yes.</p> <p>23 Q. If we go down a little bit, on the right-hand side it</p> <p>24 says:</p> <p>25 "Leighton please review your ITP system and brief to</p>
Page 26	Page 28
<p>1 Q. Was the pouring completed when MTRC discovered that?</p> <p>2 A. It was almost complete.</p> <p>3 Q. And therefore, when we look at the photos, the next</p> <p>4 page, these photos refer to the time of rebar inspection</p> <p>5 before the pouring of concrete; correct?</p> <p>6 A. Yes.</p> <p>7 Q. And in this photo, can you tell us where can we see the</p> <p>8 improper connection?</p> <p>9 Do you have the new gadget? That might help.</p> <p>10 A. Could you blow up the picture? Could you blow it up</p> <p>11 a little bit more? Move down. Go up. (Using</p> <p>12 magnifying device). Now, after magnifying the picture,</p> <p>13 I can identify this bar. It looks like we have some</p> <p>14 thread there.</p> <p>15 Q. Anything else you would like to point out? Would you</p> <p>16 like to go down a little bit?</p> <p>17 A. I can only see this one.</p> <p>18 Q. Can we --</p> <p>19 A. And then nothing else.</p> <p>20 Q. How about the next page? Anything here you wish to</p> <p>21 point out?</p> <p>22 A. I don't see anything here.</p> <p>23 Q. The next page?</p> <p>24 A. We can see concrete pouring in this picture.</p> <p>25 Q. The next page?</p>	<p>1 your front staff, it is totally unacceptable, and please</p> <p>2 tell me how to prevent the problem occur again."</p> <p>3 Is that your handwriting?</p> <p>4 A. Yes.</p> <p>5 Q. And we see your signature, right --</p> <p>6 A. (In English) Yes.</p> <p>7 Q. -- on there; right?</p> <p>8 A. Yes.</p> <p>9 Q. So, according to Ronald Leung, Leighton's engineer, he</p> <p>10 said there was no review of Leighton's ITP and he did</p> <p>11 not get back to you on any proposal on how to prevent</p> <p>12 the same problem from happening again. Is that correct?</p> <p>13 A. No, he never came back. Now, for this inspection form,</p> <p>14 after we signed it, we would give it to the Leighton's</p> <p>15 QA/QC department. Now, this handwriting here was for</p> <p>16 the QC manager really. The Leighton engineer certainly</p> <p>17 would not get to read it.</p> <p>18 Q. But yourself, you have never received any response in</p> <p>19 relation to your request here from him; right?</p> <p>20 A. Correct.</p> <p>21 COMMISSIONER HANSFORD: Sorry, Mr Tung, you were expecting</p> <p>22 a response from Leighton's QA department; is that</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 COMMISSIONER HANSFORD: Okay.</p>

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<p>1 MR CHEUK: And when you received no response, did you ask of 2 chase for a response? No? 3 A. I forgot about it. 4 Q. And was there any investigation carried out by MTRC how 5 this could have happened? 6 A. That I do not know. 7 Q. Would you agree that this was actually a very serious 8 problem, because Leighton disregarded the two very 9 important hold-point inspections with half of the 10 couplers improperly connected, and they almost 11 succeeded? 12 A. Yes, it's a very serious matter. 13 Q. Now that we don't have any review of the ITP system, now 14 that -- 15 CHAIRMAN: Sorry to interrupt. When you say "and they 16 almost succeeded" -- was it opened up? 17 MR CHEUK: I mean, "almost succeeded", was they almost -- as 18 they are uncaught. 19 CHAIRMAN: All right. But here they were caught but nothing 20 seemed to have happened. 21 COMMISSIONER HANSFORD: Well, there's the review. 22 CHAIRMAN: Okay. I'm with you, yes. 23 MR CHEUK: Of course it would be much worse if it's 24 completely uncaught. 25 CHAIRMAN: Yes.</p>	<p>1 it? Which do you mean? 2 A. Now, everything they do on site, we would know more or 3 less what they are doing. How should I put it? Now, if 4 they want to pour concrete, of course there would be 5 a concrete skip, we would see it. It's not possible to 6 make the concrete skip invisible. We know where there 7 is supposed to be a concrete pour and then we will go 8 and check and see if it's acceptable. Although the site 9 is huge but we are doing site walks all the time and 10 there was a form rejected. Why? Because during our 11 site inspection we found that the rebar inspection was 12 rejected, and then we haven't done the pre-pour 13 checking. So that's why -- or actually, if they wanted 14 to do something and then we wouldn't see it? No, that's 15 not easy to happen. Not during the day anyway. 16 COMMISSIONER HANSFORD: I understand. 17 MR CHEUK: Thank you. I think he's suggesting it's 18 impossible to get away. 19 COMMISSIONER HANSFORD: Yes. What you are telling us, 20 Mr Tung, is it's almost impossible for them to hide 21 these things? 22 A. Almost, yes. 23 COMMISSIONER HANSFORD: Yes. 24 A. I can't guarantee 100 per cent. 25 COMMISSIONER HANSFORD: But almost. Okay. Understood.</p>
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<p>1 MR CHEUK: From a layperson's perspective, how can he be 2 sure that the same problem had not happened elsewhere, 3 before the incident, and has not happened after this 4 incident? Can you tell us, from your perspective as 5 an MTRC IOW? 6 A. From our perspective, when we went on site walks every 7 day, approximately when there would be concrete pour, 8 when rebar fixing was done, we could see that every day 9 in our site walk. So every day on our site walk, that's 10 why this happened, it's exactly because our colleagues, 11 engineers -- now, I understand in the morning there was 12 this inspection, it was rejected and they were supposed 13 to do remedial works, but then in the afternoon already 14 they were pouring concrete. So during my site walks 15 it's actually difficult for this to happen, that is 16 somehow we just walked away and then they got some 17 concrete to start pouring. 18 So, if they wanted to get away with this, it's 19 almost impossible. 20 Q. I will move on to another -- 21 COMMISSIONER HANSFORD: Sorry, I don't understand that 22 answer. When you say, "If they wanted to get away with 23 this, it's almost impossible", do you mean it's almost 24 impossible for them to get away with it, or do you mean 25 it's almost impossible for you to spot it, to identify</p>	<p>1 MR CHEUK: Thank you, Mr Tung. Just a slightly different 2 topic. When you carry out a pre-pour hold-point 3 inspection, would you verify that the rebar inspection, 4 hold-point inspection, had already been completed every 5 time with an MTR engineer? 6 A. Yes, I would ask, but sometimes, when I did the pre-pour 7 checking, some of the inspections could be carried out 8 at the same time. That is for the rebar fixing and 9 pre-pour, it's possible that both were done together. 10 And then sometimes in our WhatsApp communication, 11 I would know that the engineer has accepted the 12 inspection; I would check. So normally speaking there 13 is communication on whether the inspection has been 14 accepted. 15 So it's like sometimes we see some minor problems 16 with the rebar, then I would check with the engineer. 17 Q. Let me put it another way. Would it be possible that 18 sometimes the rebar hold-point inspection was not 19 carried out and you were approached by a Leighton 20 engineer to carry out a pre-pour inspection, and you did 21 not know that the rebar inspection had not been carried 22 out? Would it be possible? 23 A. There's a slim chance of that. 24 Q. As I understand your evidence, because the translation 25 says "a slim chance of that", you are basically saying</p>

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<p>1 it's unlikely?</p> <p>2 A. To say it's not possible, it's hard to put it that way,</p> <p>3 but from my recollection, for HHS, I don't think I have</p> <p>4 heard that there were no rebar inspection. If that's</p> <p>5 the case, then we would know; we could see it.</p> <p>6 Q. Thank you.</p> <p>7 COMMISSIONER HANSFORD: Sorry, you say if that's the case,</p> <p>8 you would know, you could see it. What could you see?</p> <p>9 A. Because sometimes we would have communication with the</p> <p>10 engineer at the office, whether they have done rebar</p> <p>11 inspection or in the WhatsApp group they would have said</p> <p>12 that they have inspected the rebars, or in some cases</p> <p>13 there were defects that needed to be remedied, they</p> <p>14 would inform us to help with the follow-up.</p> <p>15 So, to a certain extent, there's no rebar inspection</p> <p>16 and concrete was poured or without rebar inspection and</p> <p>17 there's a pre-pour inspection, the chance of that</p> <p>18 happening is not high. Now, I can't say it won't happen</p> <p>19 but I don't think there are many such cases, and</p> <p>20 I wouldn't say that, you know, there are many such</p> <p>21 cases.</p> <p>22 COMMISSIONER HANSFORD: Understood.</p> <p>23 MR CHEUK: Now I move on to another, different topic. If we</p> <p>24 can go to DD8/10908. If I can ask you some questions</p> <p>25 about couplers.</p>	<p>1 personnel representing the competent person and the</p> <p>2 RGBC ... respectively should be recorded in</p> <p>3 an inspection log book. The date, time, items inspected</p> <p>4 and inspection results should be clearly recorded in the</p> <p>5 log book. The log book should be kept at the site</p> <p>6 office and, when required, produced to the Building</p> <p>7 Authority for inspection."</p> <p>8 These are, you can take it from me, some</p> <p>9 requirements imposed by the Buildings Department in</p> <p>10 relation to the use of couplers. But what I'm</p> <p>11 interested in is in relation to SAT and HHS, so far as</p> <p>12 you know, was there any similar procedure carried out by</p> <p>13 MTR and Leighton in respect of couplers, such as the</p> <p>14 appointment of a quality control supervisor, devise of</p> <p>15 an inspection checklist, maintaining a log book,</p> <p>16 et cetera?</p> <p>17 A. Well, specially assigning someone? I don't recall that.</p> <p>18 Q. Inspection checklist for couplers?</p> <p>19 A. No, I have not seen it either.</p> <p>20 Q. Log book, have you seen it?</p> <p>21 A. No.</p> <p>22 Q. Thank you.</p> <p>23 Now I move to the last topic, about testing of</p> <p>24 rebars. If we go to CC6, page 3818, paragraph 5. This</p> <p>25 is the witness statement of Alan Yeung, Leighton's</p>
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<p>1 Mr Tung, you can take it from me that this is the</p> <p>2 government's acceptance letter dated 25 February 2013</p> <p>3 for various areas, including SAT.</p> <p>4 I assume you have not read it?</p> <p>5 A. No, I have not read it.</p> <p>6 Q. Okay. But we will see if you can assist us, after you</p> <p>7 have a chance to read it.</p> <p>8 DD8/10940. If I may draw your attention to</p> <p>9 paragraph (b), what it says is here:</p> <p>10 "The competent person should assign a quality</p> <p>11 control supervisor to supervise the works, determine the</p> <p>12 necessary frequency of inspection by the quality control</p> <p>13 supervisor, which should not be less than once a week,</p> <p>14 and devise inspection checklists. The minimum</p> <p>15 qualifications and experience of the quality control</p> <p>16 supervisor is to be the same as the grade T3 TCP, as</p> <p>17 stipulated in the Code of Practice for Site Supervision</p> <p>18 2009."</p> <p>19 And also paragraph (c), that's in relation to RGBC,</p> <p>20 which is Leighton:</p> <p>21 "... should assign a quality control coordinator to</p> <p>22 provide full-time on site supervision of the works and</p> <p>23 devise inspection checklists."</p> <p>24 I won't read the remaining. Then paragraph (d):</p> <p>25 "The names and qualifications of the supervisory</p>	<p>1 senior engineer, working at SAT NSL area. If you look</p> <p>2 at paragraph 5, what he says is:</p> <p>3 "From January 2016 to January 2017, I worked on the</p> <p>4 South Approach Tunnel area at the North South Line level</p> <p>5 (ie the 'SAT NSL area')."</p> <p>6 So his working period and your working period at SAT</p> <p>7 actually overlap; is that correct?</p> <p>8 A. I don't understand the question.</p> <p>9 Q. Both of you were working at that SAT NSL area during</p> <p>10 January 2016 and January 2017?</p> <p>11 A. He was SAT NSL. He was working on tunnels.</p> <p>12 Q. So you don't recall you met him?</p> <p>13 A. Previously he was working at HHS and then he was</p> <p>14 deployed to NSL, not the EWL. It should be NSL level.</p> <p>15 Q. Did you work at the NSL level too?</p> <p>16 A. No.</p> <p>17 Q. I see.</p> <p>18 A. (In English) I always working in EWL.</p> <p>19 Q. I see.</p> <p>20 Let's try another Leighton witness. If we go to</p> <p>21 CC6/3829, paragraph 6. This is the witness statement of</p> <p>22 Ronald Leung.</p> <p>23 A. (In English) Yes.</p> <p>24 Q. Did you know him?</p> <p>25 A. (In English) Yes.</p>

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<p>1 A. I knew him. 2 Q. You worked together? 3 A. (In English) Yes. 4 Q. If you go to paragraph 6, he says he worked at HHS from 5 the end of May 2015 until he left the project in June 6 2018. 7 A. Right. 8 Q. Then if we go to paragraph 26, here he explains, second 9 sentence: 10 "I have recently learned that some batches of rebar 11 ordered by a member of my team (WC Lam) were not tested 12 after arriving on site." 13 Okay? Do you see that? 14 A. Yes, I see it. 15 Q. I will just ask you a few questions on this topic. If 16 we go back to paragraph 7 -- 17 A. Right. 18 Q. Here, can I just ask you this question. Is it correct 19 that when the rebars were delivered on site, then MTRC 20 will depend on Leightons to inform them about the 21 delivery of the rebars, and then will go to the site and 22 do the sampling for testing purpose; is that correct? 23 A. Correct. 24 Q. Mr Fu, in his previous evidence, told us that it is 25 an arrangement of trust, backed up by inspection.</p>	<p>1 Q. And did MTRC keep any record of the amounts of rebars 2 arrived on site? 3 A. Normally, when they do testing, they have a mills 4 certificate. There's a mills certificate indicating how 5 many tonnes of material and they will take it to the MTR 6 lab for testing. If there was a test. 7 Q. So actually MTRC has a record of the new test record 8 indicating how many tonnes of rebars have arrived 9 on site; correct? 10 A. Yes. 11 Q. I also assume MTRC has the record of how many tonnes of 12 rebars were actually tested; correct? 13 A. Yes. 14 Q. What is lacking here is a person monitoring whether the 15 proportion of the testing was correct and therefore will 16 be able to discover if there's any lack of testing; 17 correct? 18 A. If there are no records, I don't know whether they had 19 tested or not. If there are no records, I wouldn't know 20 whether they had tested it or not. 21 Q. You probably have misunderstood my question. I will put 22 it again. You have -- MTRC have the mill certificates 23 which will provide a record of how many tonnes of rebars 24 have arrived on site. You are with me so far? 25 A. You are correct.</p>
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<p>1 I just wonder, in such a procedure, if Leighton's 2 engineer fails to inform MTRC's IOW, like you, and 3 proceeds to use the untested rebars, is it right to say 4 that it will be difficult for an IOW to discover such 5 default? 6 A. There is a difficulty. 7 Q. You know they use different colour-coding system for the 8 rebars to signify whether it is tested or untested; 9 right? 10 A. In this site and other sites, each batch, they are 11 afraid they would be mixed up, so they were colour-coded 12 the ends of the bars. But I'm not responsible for the 13 rebar sampling on this site, so I was not aware. 14 Q. So, actually, you are not familiar with that system; is 15 that right? 16 A. For this site, yes. 17 Q. So you can't distinguish between the colour of a tested 18 and an untested rebar; is that right? 19 A. Yes. 20 Q. That's why -- can I ask you, when did you first come to 21 know that there were some rebars, for example in Ronald 22 Leung's working area, were not tested? 23 A. I'm only aware of it now. 24 Q. Now? 25 A. Yes.</p>	<p>1 Q. I also suggest to you that MTRC also has record of how 2 many tonnes of rebars were actually tested. And you 3 agree with me, do you? 4 A. Let me think this through. 5 How many tonnes were tested, it would rely on how 6 many tonnes were provided on the mill certificate, and 7 they would have a batch requirement. So normally they 8 would know how much was tested and they could refer that 9 to the tonnes of material they ordered. 10 So you want to know how many tonnes were tested in 11 total; right? 12 Q. Yes. I'm asking whether MTRC has a record of how many 13 tonnes of rebars were actually tested. 14 A. I don't know. 15 COMMISSIONER HANSFORD: Can I suggest there might be a bit 16 of confusion here, because my understanding is there are 17 two types of tests. There's the tests that happen at 18 the mill -- 19 A. (Chinese spoken). 20 COMMISSIONER HANSFORD: -- and there's the tests that happen 21 by sampling on site. Is that correct? There's two 22 tests? 23 A. Yes. 24 COMMISSIONER HANSFORD: So I'm confused as to which of those 25 two tests Mr Cheuk's questions referred to.</p>

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<p>1 MR CHEUK: It's my fault, Professor. 2 COMMISSIONER HANSFORD: I'm a bit confused on that. 3 MR CHEUK: Let me clarify. I'm referring -- Mr Tung, it's 4 my fault. Let me clarify the question again. 5 I'm referring to an independent HOKLAS test; okay? 6 And my question to you was: did MTRC keep any record of 7 how many tonnes of rebars were tested under the HOKLAS 8 test; do you know? 9 A. The MTR, it should have been done in the MTR lab. All 10 the samples, they will have the mill certificate and 11 other documents. So each time they take a sample, they 12 will have these records. And according to these 13 records, they can determine how many tonnes of material 14 were tested. 15 Q. Thank you. That's helpful. So if a person checks the 16 mill certificates and then checks how many tonnes of 17 rebars were tested at the HOKLAS lab, he should be able 18 to find out whether there is any missing rebars which 19 are not tested; right? Do I understand that correctly? 20 A. I can guess what you are asking. That should not be 21 correct, because when they do a test, it has to comply 22 with HOKLAS requirements, so there would be a record, 23 and you are now saying that whether there were some 24 rebars that were not tested and there was a record of 25 that. If I don't know how much rebar was delivered,</p>	<p>1 (11.29 am) 2 (A short adjournment) 3 (12.02 pm) 4 CHAIRMAN: Yes. 5 MR CHEUK: Chairman, Professor, I think I can deal with that 6 point in submission. I don't intend to press on. 7 I have no further questions for this witness. 8 CHAIRMAN: Thank you. 9 Cross-examination by MR TSOI 10 MR TSOI: Mr Tung, I appear for Wing & Kwong, the rebar 11 fixing sub-contractor in this case. I do have a few 12 questions for you. 13 Can I turn you back to paragraph 35 of your witness 14 statement, at BB5256. Here you set out the events on 15 30 June 2017 in relation to the VRV room. I just want 16 to take you through the chronology of events, so we are 17 clear as to what happened. All right? 18 A. (In English) Okay. 19 Q. As I understand it, what happened was a rebar fixing 20 check was in fact conducted for the VRV room, and the 21 person who conducted it was Mr Jason Kwok from MTR. Is 22 that right? 23 A. Correct. 24 Q. On the Leighton side, it was an engineer called Lam 25 Wai Chung?</p>
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<p>1 then I wouldn't have records. So, if I get the sample, 2 I will know that that batch had been delivered, but you 3 are saying if material was delivered and they don't 4 notify me, then I wouldn't be aware how much material 5 was missing. 6 CHAIRMAN: It's a little -- I mean, I see the logic, but 7 it's just -- I'm just wondering if this might be 8 an opportune moment for the morning adjournment? 9 MR CHEUK: Yes. Actually, I do not intend to press further 10 here. 11 CHAIRMAN: Right. 12 We will have a longer than normal adjournment of 13 20 minutes. That's because the technicians are having 14 a little problem with the simultaneous interpretation 15 mechanisms and they would like 20 minutes, please, just 16 five minutes longer than normal. 17 Mr Tung, you are giving your evidence at the moment, 18 and we are going to have a mid-morning adjournment now. 19 During the time when you are giving your evidence, 20 whether it's lunchtime or mid-morning adjournment 21 doesn't matter, whenever you are not in court, you are 22 not entitled to discuss your evidence with anybody. 23 Okay? 24 WITNESS: I understand. 25 CHAIRMAN: Good. Thank you very much.</p>	<p>1 A. Correct. 2 Q. After the inspection, Mr Jason Kwok then rejected the 3 rebar fixing check, so he did not pass the check? 4 A. Correct. 5 Q. That probably happened around 1.30, because we can see 6 from the RISC form that it was ready for inspection at 7 about 1.30. 8 Now, if you look at paragraph 35(2), the first 9 WhatsApp message received there is from Jason; that's 10 Jason Kwok, is it not? 11 A. Correct. 12 Q. And he says this: 13 "(Via interpreter) The cleaning doesn't seem to have 14 been completed." 15 That means the pre-pour check has not been 16 conducted; is that right? 17 A. Yes. 18 Q. Now, of course this is 3.43 in the afternoon. 19 A. Yes, it's on the WhatsApp. 20 Q. We know that Jason Kwok was the person who conducted the 21 rebar check and who rejected it. 22 A. Yes. 23 Q. Now, because he was the person who rejected the rebar 24 check, so when he went back for routine inspection, 25 let's say, and he saw the concreting, he would have</p>

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<p>1 known that, "Hold on, I rejected the rebar fixing check 2 here; why is it concreting?" Hence I think that's why 3 he sent out the WhatsApp to the group; is that right? 4 A. Correct. 5 Q. So in fact it was a happenstance that the person who 6 from MTR inspected and rejected the rebar check happened 7 to go back to the site and saw the concreting? 8 A. Well, actually, at 1.30 -- now, for the first 9 inspection, when it happened exactly, I don't know, but 10 during the first inspection, it was found that the 11 condition of the rebars and the couplers was not fine 12 and we should have informed them and we didn't accept 13 the inspection. We asked them to do the rectification 14 works, like using -- screwing things in, and so on. 15 Then after they have done the rectification, they should 16 have informed us to go for another inspection, but at 17 this point we can see that they did not inform us that 18 they have completed the rectification works and before 19 that they already poured the concrete. So that was what 20 happened. 21 So there was one inspection, they didn't pass the 22 inspection, we asked them to carry out the rectification 23 works, so they had the duty to do the rectification 24 works and then inform us for another inspection. 25 Q. Yes, that's right, and I think therefore Mr Jason Kwok</p>	<p>1 so it has to be someone from Leighton. 2 A. Well, to put it right, we would not contact with the 3 sub-contractor. We would usually liaise with the 4 contractor. So if we told the contractor that it's 5 accepted, then the contractor would then tell the 6 sub-contractor to do the works. 7 Q. Sorry, it's perhaps my fault. There's some confusion 8 there. I'm not talking about the rebar fixing 9 sub-contractor -- I'm sorry. 10 COMMISSIONER HANSFORD: Sorry, you are speaking over each 11 other. 12 MR TSOI: Sorry. 13 COMMISSIONER HANSFORD: That's fine. 14 MR TSOI: That's my fault. I'm not talking about the rebar 15 sub-contractor. I'm talking about the sub-contractor 16 that's responsible for the concreting. 17 A. Leighton asked them to do the pour. It should be 18 Leighton. 19 Q. In the usual situation, would it be a Leighton engineer 20 who has conducted the hold-point inspection to go tell 21 the concreting sub-contractor to do the concreting? 22 A. Yes. 23 Q. So, in this case, it is likely that Lam Wai Chung was 24 the person who told the concreting sub-contractor to go 25 forward with the concreting?</p>
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<p>1 was not in fact invited by Leighton to come back to the 2 site to inspect the works. It was just by happenstance 3 he went back to look at the site. 4 A. Yes. 5 Q. Now, if we read on to the lower WhatsApp exchanges, we 6 see a number but we don't have the name. It says: 7 "(Via interpreter) The cleaning is not yet 8 accepted." 9 Does that mean the pre-pour check has not been 10 accepted? 11 A. I think I checked with my subordinate, YK Ng. I asked 12 him what it meant by check cleaning. And actually it's 13 a typo, that is the second line, "the cleaning has not 14 yet been accepted". 15 Q. Right. If we read on from that to the message at 3.59, 16 that's Ryan, it says: 17 "(Via interpreter) Almost completed." 18 It means it's almost completed concreting; is that 19 right? 20 A. Yes. 21 Q. So, from this exchange so far, can I understand this to 22 be the situation: after Jason rejected -- sorry, after 23 Jason Kwok rejected the rebar check, someone in Leighton 24 must have told the concreting sub-contractor to do the 25 concreting; is that right? It can't be someone from MTR</p>	<p>1 A. Yes. 2 Q. But he was the one who did the rebar fixing check with 3 Jason Kwok, knowing that the rebar fixing check has been 4 rejected? 5 A. Yes. 6 Q. But yet you agree that it's likely he was the person who 7 then told the concreting sub-contractor to do the 8 concreting nonetheless? 9 A. Yes. 10 Q. So can I understand this correctly, that there is no 11 system in place that could stop a Leighton engineer from 12 instructing a concreting sub-contractor to do 13 concreting, notwithstanding there is no passed 14 inspection? 15 A. Can you repeat your question, please? 16 Q. There is no system in place that could stop a Leighton 17 engineer from instructing the concreting company to do 18 concreting work even if the hold point has not been 19 passed? 20 A. No, I don't think there's a system. 21 Q. If we move on to the lower WhatsApp messages, we see 22 a message from Jason at 4.02 in the afternoon; do you 23 see that? 24 A. Yes, I see it. 25 Q. And he says this:</p>

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<p>1 "(Via interpreter) That's because I saw them doing 2 the pour, that's why I used the F word." 3 I think, colloquially, what that means is -- 4 A. It's a swear word. 5 Q. So he was actually confronting the Leighton individuals; 6 is that right? 7 A. No, he's actually having exchanges with us. He just 8 walked back and then he saw the pour going on, and so 9 swore at them. 10 Q. Now, from this exchange, it looks like Jason and Ryan 11 from MTR was informing the chat group about the 12 concreting, when the concreting was happening? 13 A. Yes, correct. 14 Q. But it appears that they did not stop the concreting? 15 A. As you can see, they have almost completed the pour. 16 Q. Now, Jason then said this at 4.03: 17 "(Via interpreter) Please enter RISC as reject ..." 18 I think that means, "Please put in a RISC to be 19 rejected"? 20 A. Yes. Yes. 21 Q. And the next line, I think it means, "Even if you don't 22 put a RISC in, I will send an email out for record"? 23 A. Correct. 24 Q. So there Jason is asking a retrospective RISC form to be 25 filed with MTR so that he could reject the inspection?</p>	<p>1 not do the works haphazardly. 2 Q. Then we see your final one, the exchange which says, 3 "Rebar or general cleaning will have to be rejected"? 4 A. Yes, because Jason had rejected the rebar works. The 5 pre-pour general cleaning, my colleague had confirmed 6 that they had rejected that, and we have to have it on 7 the record that it's rejected. (Chinese spoken). 8 COMMISSIONER HANSFORD: Can I just understand, Mr Tung, 9 Jeff Lii didn't reply, did he? There's no reply from 10 Jeff Lii? 11 A. (In English) Yes. 12 COMMISSIONER HANSFORD: Is that correct? 13 A. Yes. 14 COMMISSIONER HANSFORD: So you don't know that he received 15 this or rather that he looked at this during this time 16 period, do you? 17 A. Allow me to elaborate a little bit. At that time, I was 18 on vacation on that day, but I always check my WhatsApp 19 and I could see this going on. That's why I asked my 20 colleagues on duty. Jason had raised a question and 21 I asked my colleague whether they had accepted the 22 general cleaning, and so on. So I might have made 23 a phone call in between and there are no records so we 24 can't indicate that. But we see from 4.03 to 4.44, 25 during that long period, there was -- there might have</p>
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<p>1 A. Yes, correct. 2 Q. The next entry is from you, I think, at 4.44 in the 3 afternoon. I think it's from you to Jeff. Is that 4 Jeff Lii of -- is that Jeff Lii or -- 5 A. Yes, correct. 6 Q. Jeff Lii is Leighton? 7 A. (In English) Yes. 8 A. Yes. The senior of Lam Wai Chung. 9 Q. So Jeff Lii would have seen this chat, because he's in 10 the chat group? 11 A. Yes. 12 Q. So Leighton has been informed that check has not been 13 completed, but they are concreting, but we don't see any 14 reply from Leighton there in this chat group, because 15 Jeff Lii is from Leighton? 16 A. How should I put it? If he doesn't respond, then we 17 can't see any response. 18 Q. Exactly. So assuming Jeff Lii saw this, he did not stop 19 the concreting either? 20 A. But at that point the pouring was complete. 21 Q. If we read on in the message, it says: 22 "Jeff (Chinese spoken)." 23 That is probably your reference to, "How can we 24 supervise Lam Wai Chung"; is that right? 25 A. He needs to supervise his subordinates that they should</p>	<p>1 been -- I might have made a phone call to complain, but 2 in the WhatsApp record it's not indicated. 3 COMMISSIONER HANSFORD: I understand. 4 MR TSOI: Right. If we can now look at Leighton's record of 5 the RISC form that you invited them to submit. If I can 6 firstly go to page CC5657.11962. 7 CHAIRMAN: Can I just ask, Mr Tsoi -- it's not a criticism 8 at all, just so that I can understand -- from your 9 perspective, you are approaching this why? 10 MR TSOI: Do you want me to say it in front of the witness? 11 I'm happy to. I don't mind. 12 CHAIRMAN: No, not at all. I'm quite happy for the witness 13 to go out. I'm being hesitant because it's an Inquiry, 14 it's not specific lines of investigation in adversarial 15 matters. But representing, as you do, the rebar fixers, 16 I just need to sort of click in -- if you tell me that 17 it will come together and I'll understand later, then 18 that's fine. 19 MR TSOI: Well, I can tell you now, just to ease your 20 concern. I don't mind the witness hears it. It happens 21 all the time in my courts. 22 Of course, as you would be aware, my theory is that 23 it is possible for a Leighton engineer to either inform 24 the inspector of works that rebar checking has been done 25 when in fact hasn't --</p>

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<p>1 CHAIRMAN: Yes, that's right. 2 MR TSOI: -- and then basically con the inspector of works 3 into doing the pre-pour check and allow the concrete to 4 be poured in that way. 5 CHAIRMAN: I see. 6 MR TSOI: The other alternative is of course what happened 7 here. 8 CHAIRMAN: I've got it. Yes. Thank you. Sorry, I was 9 little slow on the uptake. 10 MR TSOI: It's my fault. 11 CHAIRMAN: No, it wasn't at all. I've now got it. Thank 12 you. 13 MR TSOI: If we look at that file, the tabs on the left I'm 14 particularly interested in -- the tabs on the left, do 15 you see there are five entries of tabs on the screen, 16 the PDF, the first one is "64_Site Diary 20170630"; do 17 you see that? 18 A. Could you enlarge it? 19 Q. The tab on the left of the screen right now. 20 A. Yes, I see it. 21 Q. Two entries onwards, do you see the RISC form 12445, 22 it's recorded as, "Issued but not yet replied"? 23 A. I see it. 24 Q. This is Leighton's record. Although we know that's not 25 true because it was replied. Let's click into that.</p>	<p>1 a quadruplicate inspection form. That is what they 2 issued initially, with the descriptions. Because you 3 cannot sign on the computer, after it's printed they can 4 add the signature to it. 5 COMMISSIONER HANSFORD: I think that's what I was trying to 6 say, Mr Tung. So they are the same form but the 7 left-hand one has been completed and the right-hand one 8 is blank; is that right? 9 A. Correct. It's the same form. One is just issued. One 10 is the original. 11 COMMISSIONER HANSFORD: Right. 12 MR TSOI: Yes, but I think you get the point, Mr Tung, 13 because my point is if you just look at Leighton's 14 reference, you will find the right-hand form which says, 15 "Issued but not yet replied", and it's only when we look 16 at the MTR records that we find the filled-in form. 17 It's not your fault. You are MTR. 18 A. Could you repeat the question? 19 Q. The left-hand form is the one we found in the MTR files. 20 The right-hand form is the one we found in the Leighton 21 files, recorded as, "Issued but not yet replied". 22 A. If you look at it, that's a blank form. It's a blank 23 form. 24 Q. So it's not, "Issued but not yet replied"; it has been 25 issued and it has been replied, the one we see on the</p>
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<p>1 Can we also have on the screen at the same time the 2 filled-in RISC form, which we can find at BB5796. 3 That's the MTR version. If we put the two versions side 4 by side. 5 So on the right is the Leighton version and on the 6 left is the MTR version. 7 So, as I understand it, there's no unified system 8 for the RISC form, so Leighton will have its records of 9 the RISC form and MTR would have its records of the RISC 10 form; is that right? 11 A. Allow me to elaborate. On the right-hand side, that was 12 computer typed. My understanding is that it was run 13 through their computer, it was not signed. They have to 14 print it out, and at the signature line they have to 15 sign it off before about it's forwarded to QA/QC for 16 registering. And finally they will have the four-part 17 form on the left-hand side. 18 So they use their printer and create this 19 quadruplicate form. 20 COMMISSIONER HANSFORD: Sorry, just to understand that 21 Mr Tung, is what you are telling us the right-hand side 22 of this screen is the form before it's been completed? 23 A. This form, there is a number in the computer, and after 24 it's produced they will take this PDF and print it onto 25 the quadruplicate formal hard copy. They have</p>	<p>1 left? 2 A. Correct. The response is on the left. 3 Q. Perhaps a point for submission, but would you not agree 4 that if you just look at the Leighton records and find 5 that blank form, and it recorded as, "Issued but not yet 6 replied", you may be led into thinking it was issued but 7 not yet replied because it's blank? 8 A. If they are not a construction site worker, that's 9 a conclusion they might infer, because they're not 10 signed. But these records, they are urgent, there's no 11 time for the signature, and there's no time for them to 12 go to the QC department, so sometimes they will submit 13 these forms. So before the inspection sometimes we have 14 seen these kinds of forms. 15 Q. Can I just ask factually what would have happened. MTR 16 would have received the number 012445 RISC form from 17 Leighton, and we know that because you received it on 18 4 July, I think. 19 A. It was received on 4 July. 20 Q. When you received that form, had Mr Lam Wai Chung signed 21 in part A? 22 A. When we received the form, it was the form on the left, 23 and there was a signature. 24 Q. So in fact what you received from Leighton was a form 25 like the one we see on the right-hand side with Lam</p>

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<p>1 Wai Chung's signature?</p> <p>2 A. I received the form on the left, not on the right.</p> <p>3 Q. Okay. I think it's the same.</p> <p>4 But the signature signifies that he confirmed the</p> <p>5 works above are ready for pre-pour check. That can't be</p> <p>6 true, though, can it?</p> <p>7 A. My understanding, when he added his signature, the</p> <p>8 inspection time, it was just a guess, because they might</p> <p>9 not be able to arrange for the pre-pour and inspection</p> <p>10 at the time indicated. But it wouldn't defer by more</p> <p>11 than a few days. If they were -- they might be early or</p> <p>12 late.</p> <p>13 Q. Sure. But my question is slightly different, because we</p> <p>14 know Lam Wai Chung did the rebar fixing check with</p> <p>15 Jason Kwok, and he knew that the rebar fixing check has</p> <p>16 failed, so he can't certify that the same location is</p> <p>17 ready for pre-pour check, yet he signed the form for the</p> <p>18 pre-pour RISC.</p> <p>19 A. Could you repeat the question?</p> <p>20 Q. My question is this. Lam Wai Chung was the Leighton</p> <p>21 engineer who did the rebar fixing check with MTR's</p> <p>22 Jason Kwok, so Lam Wai Chung knew the rebar fixing check</p> <p>23 has failed. So he can't then possibly certify the same</p> <p>24 location is ready for pre-pour check, with the 445 form.</p> <p>25 A. According to the ITP, there are a few hold points and</p>	<p>1 and then I think you wrote, "Leighton please review your</p> <p>2 ITP system and brief to your front staff, it is totally</p> <p>3 unacceptable, and please tell me how to prevent the</p> <p>4 problem occur again."</p> <p>5 So you wrote a note and you commented on what</p> <p>6 happened for this particular RISC form?</p> <p>7 A. Yes, because this was a rather serious error. Normally,</p> <p>8 they should have done all that, they should be clear</p> <p>9 about the ITP requirements. They should know that say</p> <p>10 for rebar fixing, there's an inspection form that has to</p> <p>11 be agreed and then there's a pre-pour checking, and if</p> <p>12 it's okay and agreed, only then could they do the pour.</p> <p>13 But it seemed to me, at this point, that for the ITP</p> <p>14 system, that's a breakdown, or I don't know what you</p> <p>15 call it in English, but anyway, the ITP system was no</p> <p>16 longer serving its purpose and so they didn't have to</p> <p>17 accept the work. That's why I put it down like this.</p> <p>18 Now, after I signed the form, and if it states "not</p> <p>19 given", then the QA department should check what the</p> <p>20 problem was. That's why I wrote this comment there,</p> <p>21 because there's a need to follow up on why this</p> <p>22 happened.</p> <p>23 Q. I think you may have answered the question but I will</p> <p>24 try again. It's not your fault. It's mine.</p> <p>25 The Leighton engineer who is supposed to sign the</p>
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<p>1 there should be a few inspection forms. It's the same</p> <p>2 for rebar fixing and pre-pour checking. For each pour,</p> <p>3 whether it is accepted or rejected, they have to submit</p> <p>4 a form. That is what is required of the system. It</p> <p>5 doesn't mean, part 1 rebar fixing was rejected, then</p> <p>6 they don't need to submit the second item, the pre-pour.</p> <p>7 That is the spirit of the ITP. For each hold point,</p> <p>8 they have to submit a form. Whether it is rejected or</p> <p>9 accepted, whether it is passed or failed, they have to</p> <p>10 submit a form.</p> <p>11 Q. I'm trying to understand because of course what MTR</p> <p>12 wrote on the left-hand side, the MTR version of the</p> <p>13 form, it's quite clear what happened, but we have no</p> <p>14 information by Lam Wai Chung when he signed the 445</p> <p>15 pre-pour form. Do you see what I mean? A person</p> <p>16 reading the form would have thought he certified the</p> <p>17 location is ready for pre-pour check, when in fact it</p> <p>18 wasn't, because he added no notes like you did on the</p> <p>19 left-hand side.</p> <p>20 A. What notes did I add on the left? Could you ask the</p> <p>21 question again?</p> <p>22 Q. It's my fault.</p> <p>23 Do you see on the left-hand side we have notes from</p> <p>24 MTR, comments from MTR, "No invitation for general</p> <p>25 condition inspection of formwork of footing (rejected)",</p>	<p>1 RISC form, we see on the right-hand side, he never made</p> <p>2 any comments, he never noted that in fact rebar fixing</p> <p>3 check has been rejected and there was no pre-pour check.</p> <p>4 This is a RISC form which is supposed to certify it is</p> <p>5 ready for pre-pour check. Would you agree with that?</p> <p>6 A. Can you repeat your question? I didn't get it.</p> <p>7 Q. The Leighton engineer, Lam Wai Chung, he put his</p> <p>8 signature on the pre-pour check RISC form, the one we</p> <p>9 see on the right-hand side.</p> <p>10 A. Yes.</p> <p>11 Q. Right?</p> <p>12 A. Yes.</p> <p>13 Q. But he did not say anything about the substance of the</p> <p>14 RISC form, which is that location had no -- had not</p> <p>15 passed rebar fixing check and was not in fact ready for</p> <p>16 pre-pour check?</p> <p>17 A. Now, on whether he needed to indicate whether rebar</p> <p>18 fixing was passed or not -- well, I have not seen that</p> <p>19 being noted. Now, in ITP, this form is separate from</p> <p>20 the system. That is, in this case I am to check the</p> <p>21 rebar, the next case is to check the pre-pour. So is it</p> <p>22 necessary for him to write on the pre-pour RISC form</p> <p>23 that the rebar check failed? Well, I can't answer you.</p> <p>24 I don't know.</p> <p>25 COMMISSIONER HANSFORD: Sorry, Mr Tung, can I ask you</p>

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<p>1 a question?</p> <p>2 A. Yes, please.</p> <p>3 COMMISSIONER HANSFORD: If Mr Lam Wai Chung knew that the</p> <p>4 reinforcement check had failed, surely he should not</p> <p>5 have even submitted the pre-pour check RISC form? Isn't</p> <p>6 that correct? That's not correct?</p> <p>7 A. Well, he has the right to submit both forms at the same</p> <p>8 time. And then, if he has completed one, then he could</p> <p>9 start the next. That's my understanding.</p> <p>10 COMMISSIONER HANSFORD: Okay. I'll leave it there because</p> <p>11 I think this is going to be explained to me somehow.</p> <p>12 MR PENNICOTT: Sir --</p> <p>13 MR TSOI: I don't quarrel with the two forms, the one for</p> <p>14 the rebar fixing and the one for the pre-pour check, he</p> <p>15 can issue them. What I'm querying is the contents of</p> <p>16 the pre-pour RISC form, because it says, "I confirm that</p> <p>17 the works described above is ready for inspection", the</p> <p>18 pre-pour inspection.</p> <p>19 MR PENNICOTT: But all of this has got to be read in the</p> <p>20 context of the translation, which Mr Tsoi read out</p> <p>21 earlier, of the communication at 1603 on 17 June --</p> <p>22 30 June, because as we understand it, it's Mr Tung's</p> <p>23 position that he asked Leighton to issue the form so it</p> <p>24 could be rejected.</p> <p>25 COMMISSIONER HANSFORD: Right.</p>	<p>1 because if we go to page GG1231, it mentions the VRV</p> <p>2 room RISC report that we just looked at. And then it</p> <p>3 states the irregularities of the two forms. So the</p> <p>4 rebar fixing RISC form and also the pre-pour check form,</p> <p>5 if you would scroll on. So the first part is in</p> <p>6 relation to form 444 and the second part is in relation</p> <p>7 to form 445; do you see that?</p> <p>8 A. Yes, I see it.</p> <p>9 Q. At the irregularities are listed therein and the remark</p> <p>10 for the 444 form was:</p> <p>11 "Permission to carry out the proposed work not given</p> <p>12 because of incomplete fixing of couplers."</p> <p>13 So that's the rebar fixing RISC form, and for the</p> <p>14 pre-pour form, item 10, the remark was:</p> <p>15 "MTRCL remarked 'no invitation for general condition</p> <p>16 inspection and formwork of footing (rejected)'. MTRCL's</p> <p>17 permission to carry out the proposed work not given. No</p> <p>18 further accepted RISC as on 12 April 2019."</p> <p>19 Do you see that?</p> <p>20 A. Yes, I see it.</p> <p>21 Q. Right. And the items of irregularities have been</p> <p>22 listed. So, for the rebar fixing RISC form, it was A,</p> <p>23 D2 and E.</p> <p>24 CHAIRMAN: And those relate to --</p> <p>25 MR TSOI: I will come to that.</p>
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<p>1 MR PENNICOTT: That's how we understand it.</p> <p>2 COMMISSIONER HANSFORD: Thank you.</p> <p>3 CHAIRMAN: So Leighton just submitted a form and they didn't</p> <p>4 have to endorse it in any particular way because they</p> <p>5 thought it would be endorsed by a rejection?</p> <p>6 MR PENNICOTT: Of course. What you see on this form is the</p> <p>7 standard wording. That's not something that's been</p> <p>8 typed in.</p> <p>9 MR TSOI: With all respect to Mr Pennicott, that's not quite</p> <p>10 my point, because my point has always been if we look at</p> <p>11 Leighton's record, all we can see is the form on the</p> <p>12 right-hand side. That's the point.</p> <p>13 MR PENNICOTT: I don't see ... (unclear words).</p> <p>14 MR TSOI: Anyway, be that as it may, just to complete the</p> <p>15 picture -- perhaps the first time we lock horns,</p> <p>16 Mr Pennicott, but anyway -- perhaps to complete the</p> <p>17 picture, if I can now turn you to page GG1011.</p> <p>18 This is a report issued by the Highways Department</p> <p>19 called, "On-site record checking on RISC form in</p> <p>20 relation to construction of North Approach Tunnel, South</p> <p>21 Approach Tunnel and HHS"; do you see that? Can you see</p> <p>22 that? Is that on your screen?</p> <p>23 A. Me? Yes, yes, yes, I see.</p> <p>24 Q. This is a report which was issued, I think, on 23 May</p> <p>25 2019, and this report actually mentions this incident,</p>	<p>1 CHAIRMAN: Okay.</p> <p>2 MR TSOI: We now turn to page GG1022 -- or perhaps we can</p> <p>3 have the two pages together so we can look at the</p> <p>4 irregularity. So 1022 and page 1231. If we can have</p> <p>5 them either side by side or ... Right.</p> <p>6 So A is "MTRCL's received date of RISC form was</p> <p>7 later than MTRCL's inspection date". That's</p> <p>8 irregularity A.</p> <p>9 A. Yes.</p> <p>10 Q. Then D2, "Concrete pour date before MTRCL's endorsement</p> <p>11 date of 'rebar fixing' or 'pre-pour check' inspection".</p> <p>12 Then E is "Works rejected without proof of follow-up</p> <p>13 inspection".</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. So at least for the rebar fixing check we know that</p> <p>17 there was no further inspection around that time?</p> <p>18 A. Yes, for the time being, yes.</p> <p>19 Q. Now, for the pre-pour check RISC form, irregularities</p> <p>20 were B3, D2 and E, which is "MTR's inspection date was</p> <p>21 missing" --</p> <p>22 A. It's not that it was not filled in but rather because</p> <p>23 there was no inspection.</p> <p>24 Q. Exactly, that's what I want to ask. Exactly, Mr Tung.</p> <p>25 Then D2 is, "Concrete pour date before MTRCL's</p>

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<p>1 endorsement date of 'rebar fixing' or 'pre-pour check', 2 and E is of course "Works rejected without proof of 3 follow-up inspection". 4 So in fact what we know is, as you said, there was 5 in fact no pre-pour check at all? 6 A. Correct. 7 Q. Okay. So at least in that sense the report may not be 8 complete? 9 A. Yes, you could put it that way, but it's not that we did 10 not carry out the inspection but rather they did not 11 invite us to carry out the inspection. 12 MR TSOI: Thank you. That's all I want to ask. Thank you. 13 MR CHOW: Mr Chairman, I only have one question arising from 14 Mr Tung's answers given earlier. 15 CHAIRMAN: Yes. 16 Cross-examination by MR CHOW 17 MR CHOW: Good afternoon, Mr Tung. I represent the 18 government. I have one question for you, arising from 19 one of your answers given this morning. 20 Mr Tung, do you remember this morning at one point 21 you said sometimes -- this was at the time when you were 22 talking about the pre-pour check formal inspection -- 23 you said sometimes we see some minor problems with the 24 rebar, and then you said you would then check with the 25 engineer.</p>	<p>1 are responsible for looking at -- well, because humans 2 are prone to error, we have to see whether the engineers 3 have overlooked anything. There might be U-bars that 4 are missing, the lapping is insufficient. So there are 5 chances that things might have been overlooked and we 6 have to follow up on those. 7 So, based on our experience and knowledge, we have 8 to see whether things have been overlooked. If you just 9 limit yourself to rebar inspection, then that's not the 10 inspector's responsibility. They can help out to see 11 what has been missed. That would be my response. 12 Q. Just now, when you mentioned about looking at the 13 concrete cover -- do you recall that? 14 A. The cover -- so each slab, there's a cover, there's 15 a standard cover, about 50mm, and we will look at the 16 rebar profile. So if -- let's take a wall, for example. 17 There should be a 50mm cover on both sides. So, when we 18 look at the formwork, we have to see whether the rebars 19 are attached properly and whether we need to notify the 20 contractor to rectify any defects. So these are the 21 covers I'm talking about. 22 Q. So to ensure that after pouring concrete the 23 reinforcement inside the concrete will have sufficient 24 concrete cover, during your pre-pour check you will have 25 to look at the spacing between the reinforcement and the</p>
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<p>1 Do you recall that part of your evidence? 2 A. Yes. 3 Q. Can I ask you to go to bundle BB1, page 294, which is 4 part of the inspection and test plan. Now, under 5 item 5, for pre-pour check, within brackets it's also 6 stated "(reinforcement fixing, formwork, cleanliness 7 et cetera)"; can you see that? 8 A. Yes, I see it. 9 Q. Was it your understanding at the time that for 10 an inspector of works conducting pre-pour check, the 11 inspector of works has to look at the reinforcement as 12 well? 13 A. Which part of the reinforcement? Are you talking about 14 the formwork? 15 Q. No, that's not what I'm asking. We see, under item 5, 16 within brackets, it suggests that this is the scope of 17 works that you have to inspect during pre-pour check. 18 A. Yes, I understand. I see it. 19 Q. So am I right in thinking that under the requirement of 20 the inspection and test plan, during pre-pour check, the 21 inspector of works has to look at the reinforcement 22 fixing work as well? 23 A. If you are limiting to the rebar, when we do the 24 pre-pour inspection, we have to look at the formwork, 25 the cover, the waterproofing, the formwork, and we also</p>	<p>1 formwork; right? 2 A. Yes. 3 Q. So, inevitably, you will have to look at the 4 reinforcement as well, during pre-pour check; correct? 5 A. I will have to look at the rebar. So the engineers, 6 they look at the general arrangement, and it would 7 include the cement cover. So, when you look at the 8 slabs, they have some "sifu" bars with indication of 9 marks. So we do a visual inspection whether it is bent. 10 If it is bent, that might give -- it would lead to some 11 gaps, and we have to see whether it complies with our 12 specifications because sometimes the bars are bent into 13 a curve. 14 Q. For the level of checking of reinforcement during 15 pre-pour check, if the threaded bar has not been 16 properly or sufficiently screwed into the couplers, do 17 you think this sort of defect would have been spotted by 18 your inspector of works conducting pre-pour check 19 properly? 20 A. In the HHS site, I have also required Leighton to follow 21 up, because some walls, they might have some couplers. 22 We have to look at the CJ, the construction joint. They 23 might need to roughen the surface. There might be 24 hydrophilic strips that need to be added. 25 So, when we inspect, if we see couplers, we have to</p>

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<p>1 see whether it's fully threaded, and I will also conduct</p> <p>2 manual checks to see if it's threaded fully. If there</p> <p>3 are exposed threads, we will try to twist it in before</p> <p>4 giving approval.</p> <p>5 MR CHOW: Thank you very much. I have no more questions for</p> <p>6 you.</p> <p>7 MR LIU: No questions.</p> <p>8 MR SHIEH: No questions.</p> <p>9 Re-examination by MR BOULDING</p> <p>10 MR BOULDING: Mr Tung, I have just one matter that I'd like</p> <p>11 to ask you about. Do you remember discussing the matter</p> <p>12 of RISC forms with Mr Calvin Cheuk, who is counsel for</p> <p>13 the Commission of Inquiry?</p> <p>14 A. Could you be more specific?</p> <p>15 Q. Yes. Do you remember Mr Cheuk saying to you that you</p> <p>16 never refused to carry out hold-point inspections</p> <p>17 because of a lack of RISC forms? Do you remember him</p> <p>18 suggesting that to you?</p> <p>19 A. I recall that.</p> <p>20 Q. And the transcript records that you agreed; you agreed</p> <p>21 that you never refused to carry out hold-point</p> <p>22 inspections because of a lack of RISC forms.</p> <p>23 Let me ask you this. If you had refused to carry</p> <p>24 out hold-point inspections because of a lack of RISC</p> <p>25 forms, do you think that that refusal would have had any</p>	<p>1 Mr Tung?</p> <p>2 A. Because the work progress is very urgent. We try our</p> <p>3 best to accommodate. Now, I personally would have to do</p> <p>4 a lot of work to rectify the records before signing off.</p> <p>5 So, for me, the workload is even more.</p> <p>6 MR BOULDING: I see. Thank you, Mr Tung.</p> <p>7 Questioning by THE TRIBUNAL</p> <p>8 COMMISSIONER HANSFORD: At one point there, Mr Tung, you</p> <p>9 say, "The company might not accept that." Which</p> <p>10 company?</p> <p>11 Sorry, my question was, you said, "Well, the company</p> <p>12 might not accept that." Which company were you</p> <p>13 referring to?</p> <p>14 A. MTRCL.</p> <p>15 COMMISSIONER HANSFORD: So you are saying MTR might not</p> <p>16 accept that it would hamper the work flow? You are</p> <p>17 saying MTRC might not accept that; is that what you are</p> <p>18 telling us?</p> <p>19 A. Yes.</p> <p>20 COMMISSIONER HANSFORD: Right.</p> <p>21 MR BOULDING: Thank you for that clarification, Professor.</p> <p>22 That's very helpful.</p> <p>23 I have no further questions. I don't know whether</p> <p>24 you have, Commissioner or Professor, or whether there's</p> <p>25 anything outstanding for this witness?</p>
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<p>1 effect on the progress of the works?</p> <p>2 A. There would be an impact.</p> <p>3 Q. Can you explain to the learned Commissioners why there</p> <p>4 would be an impact -- firstly, why there would be</p> <p>5 an impact; and secondly, so far as you are concerned,</p> <p>6 what that impact would be? So, firstly, why would there</p> <p>7 be an impact, Mr Tung?</p> <p>8 A. It would affect the work progress, I feel.</p> <p>9 Q. Why do you say that, Mr Tung?</p> <p>10 A. If I don't receive a form and -- every day I receive</p> <p>11 ten-plus forms, including the rebar fixing or pre-pour</p> <p>12 checking, and each form would require full attention.</p> <p>13 It would take a lot of time before I receive it, and by</p> <p>14 the time I receive the form it might be the next day.</p> <p>15 And Leighton, when they print out a form, it has to</p> <p>16 go through their QA/QC department and then it goes</p> <p>17 through our administrative assistant, and then it goes</p> <p>18 through SI, and then we have to collect the form. It</p> <p>19 would be a day later.</p> <p>20 So, if we were to handle and wait for each form, it</p> <p>21 might hamper the work flow.</p> <p>22 Q. And was it acceptable at the time for the work flow to</p> <p>23 be hampered?</p> <p>24 A. Well, the company might not accept that.</p> <p>25 Q. I see. And why, in your opinion, is that the case,</p>	<p>1 CHAIRMAN: I just have one question.</p> <p>2 I appreciate what you have said, but if you are</p> <p>3 facing a problem like this, one where, as you have told</p> <p>4 us, there was a persistent lateness in submitting of the</p> <p>5 RISC forms, or indeed a failure entirely to submit them,</p> <p>6 and it was clearly causing a problem for you to keep the</p> <p>7 records straight, didn't you have regular meetings with</p> <p>8 people higher up in the company to whom you could report</p> <p>9 this difficulty; or did, as the Americans say, the buck</p> <p>10 stop with you?</p> <p>11 A. Now, in terms of records -- now, because in my record,</p> <p>12 I would be able to find what concrete was poured,</p> <p>13 because I started a WhatsApp group. So, from my point</p> <p>14 of view, I started a WhatsApp group because it's about</p> <p>15 the flow.</p> <p>16 CHAIRMAN: Sorry, my question, I suppose, forgive me, is</p> <p>17 a simple one: didn't you have meetings concerning work</p> <p>18 progress with people who were higher up in the company,</p> <p>19 higher up in MTRCL?</p> <p>20 A. Yes.</p> <p>21 CHAIRMAN: And if you were having these problems with the</p> <p>22 late submission of forms, wasn't it open to you to talk</p> <p>23 to somebody with higher authority, to say, "Look, we're</p> <p>24 really having problems, we just can't get forms out of</p> <p>25 Leighton", and then that person with higher authority</p>

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<p>1 can decide what should be done?</p> <p>2 A. Normally, yes.</p> <p>3 CHAIRMAN: Yes. And did you ever have meetings with people</p> <p>4 higher up in MTRCL, to say to them, "We've got this</p> <p>5 problem; what do we do? You know, without being</p> <p>6 facetious, you are the people who are paid more to make</p> <p>7 these bigger decisions and you have the responsibility,</p> <p>8 you have the broader oversight of, 'Is it worthwhile</p> <p>9 refusing to do an inspection once or twice, to make</p> <p>10 a point, or do we live with the problem'?" Do you see</p> <p>11 what I'm saying?</p> <p>12 A. I don't remember whether at meetings I informed my</p> <p>13 senior about this problem.</p> <p>14 CHAIRMAN: All right. Thank you very much.</p> <p>15 MR BOULDING: Thank you very much, Mr Tung.</p> <p>16 CHAIRMAN: Sorry, I think Mr Chow may have --</p> <p>17 MR CHOW: You have finished?</p> <p>18 MR BOULDING: Yes, I've finished with this witness.</p> <p>19 CHAIRMAN: Sorry, Mr Chow suddenly stood up. I thought he</p> <p>20 may have an extra question.</p> <p>21 MR CHOW: I just want to point out that I was informed that</p> <p>22 in one part of Mr Tung's answer to my question, which is</p> <p>23 rather important, it seems that there is some problem</p> <p>24 with the interpretation, and I would like to point this</p> <p>25 out.</p>	<p>1 for the luncheon adjournment as well.</p> <p>2 MR PENNICOTT: Yes.</p> <p>3 CHAIRMAN: Mr Tung, thank you very much. Your evidence is</p> <p>4 completed.</p> <p>5 WITNESS: (In English) Thank you.</p> <p>6 CHAIRMAN: You are free to go and have your lunch now, and</p> <p>7 talk to anybody you like about your evidence; all right?</p> <p>8 WITNESS: I don't have to come back this afternoon; right?</p> <p>9 CHAIRMAN: You do not, no. Thank you very much.</p> <p>10 (The witness was released)</p> <p>11 MR BOULDING: Sir, just before we break for lunch, can I ask</p> <p>12 Mr Pennicott a question through you?</p> <p>13 We have Dr Peter Ewen, our very last witness,</p> <p>14 standing by at the end of a telephone. It appears to me</p> <p>15 that we are probably not going to need him.</p> <p>16 I see Mr Pennicott nodding.</p> <p>17 MR PENNICOTT: Yes, I agree with that. It seems to me that</p> <p>18 we've got Mr Jacky Lee next, followed by Mr Cano Ngai,</p> <p>19 and then we've got Kit Chan. If we complete all three</p> <p>20 of those this afternoon, I'll be very pleased, but</p> <p>21 I think there's little prospect of getting to Dr Ewen.</p> <p>22 I just hope we get to Mr Chan.</p> <p>23 CHAIRMAN: In which case then, obviously we don't ... But</p> <p>24 tomorrow would be --</p> <p>25 MR PENNICOTT: Tomorrow morning, yes. I suspect that what's</p>
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<p>1 CHAIRMAN: All right.</p> <p>2 MR CHOW: That is from page 70, from line 4 to line 6, which</p> <p>3 is part of the answer given by Mr Tung to my question as</p> <p>4 to whether an inspector of works conducting pre-pour</p> <p>5 check would be able to spot the defects like the</p> <p>6 improper connection for the couplers.</p> <p>7 It is recorded in the transcript that his answer</p> <p>8 was:</p> <p>9 "So, when we inspect, if we see couplers, we have to</p> <p>10 see whether it's fully threaded, and I will also conduct</p> <p>11 manual checks to see if it's threaded fully."</p> <p>12 My understanding of Mr Tung's answer is rather</p> <p>13 whether it is fully screwed into:</p> <p>14 "... and I will also conduct manual checks to see if</p> <p>15 it's screwed fully", rather than "threaded fully".</p> <p>16 CHAIRMAN: Yes.</p> <p>17 A. Yes, that's correct. I will check whether there are</p> <p>18 threads exposed, and then I will manually try to screw,</p> <p>19 to see whether it's still moving. So it's not for me to</p> <p>20 help them screw it in properly. I just want to check</p> <p>21 whether it's securely fixed.</p> <p>22 MR CHOW: Right. I think that will be clear enough. Thank</p> <p>23 you.</p> <p>24 MR BOULDING: So I think that's probably it for Mr Tung.</p> <p>25 CHAIRMAN: Yes, I think so. Thank you. It's probably time</p>	<p>1 going to happen is we will --</p> <p>2 CHAIRMAN: Do you wish to start a bit earlier this afternoon</p> <p>3 in order to make up a little time?</p> <p>4 MR PENNICOTT: No, sir. Unfortunately, I was about to say</p> <p>5 I would quite like to finish 15 minutes earlier this</p> <p>6 evening because --</p> <p>7 CHAIRMAN: You can now have the meeting.</p> <p>8 MR PENNICOTT: -- the appointment I had last night was</p> <p>9 cancelled, for perhaps reasons which people might</p> <p>10 understand, since I had to get back to Central and there</p> <p>11 was no prospect of me getting there by 5.30 last night.</p> <p>12 CHAIRMAN: No.</p> <p>13 MR PENNICOTT: So that meeting has now been re-arranged for</p> <p>14 tonight at 5.30.</p> <p>15 So, yes, I think we should start at 2.15, if we may,</p> <p>16 and finish at maybe 4.50, something of that order.</p> <p>17 CHAIRMAN: Good.</p> <p>18 Thank you. 2.15.</p> <p>19 (1.08 pm)</p> <p>20 (The luncheon adjournment)</p> <p>21 (2.18 pm)</p> <p>22 MR BOULDING: Good afternoon, sir. Good afternoon,</p> <p>23 Professor.</p> <p>24 My next witness from MTR is Mr Jacky Lee.</p> <p>25 Good afternoon, Mr Lee.</p>

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<p>1 MR LEE CHIU YEE, JACKY (affirmed in Cantonese) 2 (All answers given via simultaneous interpreter 3 except where otherwise specified) 4 Examination-in-chief by MR BOULDING 5 Q. You are giving your evidence in Cantonese, as 6 I understand it? 7 A. (In English) Yes. 8 A. Yes. 9 Q. Thank you. Now, you've produced a witness statement for 10 the learned Commissioners' assistance in this Inquiry. 11 We can find that, I hope, at bundle BB1/92. 12 Do we there see, Mr Lee, the first page of your 13 witness statement? 14 A. Yes, correct. 15 Q. Could we scroll down, please, to page 105, where I trust 16 we'll find your signature. Yes. 17 There do we see your signature, Mr Lee, below the 18 date of 3 May 2019; correct? 19 A. Correct. 20 Q. Now, I understand that certain corrections are necessary 21 to that statement, and we'll find most of them in 22 bundle BB1, page 105.1 to 105.2. 23 There do we see, Mr Lee, a series of corrections to 24 your witness statement? 25 A. Yes.</p>	<p>1 Q. Now, I'd like to place you, if I may, in the MTR 2 organisation. We can do that by reference to a couple 3 of charts. 4 The first chart I hope we will find at bundle B2, 5 page 744. If we look at the general manager, Aidan 6 Rooney, and then go slightly to the right of that and 7 then go down vertically, do we see your name there, 8 Mr Lee, and you are designated as the senior 9 construction engineer-civil; is that you? 10 A. Correct. 11 Q. If we look at the bottom left-hand corner, do we see 12 that that was the position in January 2017? 13 A. Yes, correct. 14 Q. Can you just explain, by reference to this organisation 15 chart, what the reporting structure was so far as you 16 were concerned at that time? 17 A. At that time, I was dealing with the Gammon joint 18 venture, my superior was Michael Fu, construction 19 manager. 20 Q. Thank you. Now let's move on a little bit in time to 21 see how matters developed. 22 Could we please go to B593. 23 Thank you. Enlarge that a bit. 24 We are looking here, are we not, at the MTR 25 management organisation chart as at 9 April 2018; do you</p>
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<p>1 Q. I understand there's one more you'd like to make, so 2 perhaps we could go back to your first statement at 3 page BB96, and if we can look at paragraph 16, please. 4 There you say: 5 "Leighton was well aware at the material time of the 6 materials used by GKJV at the interfacing locations. 7 While I did not personally attend the contract 1111/1112 8 interface meetings ..." 9 And then you go on to say who you were briefed by. 10 I understand that you would like to correct that 11 second sentence. Is that right? 12 A. Yes. I would like to -- 13 Q. Sorry, I interrupted you. 14 A. (In English) Sorry. 15 A. I would like to make a correction. It reads, "I did not 16 attend the interface meetings since the 12th meeting." 17 That is for the eighth, ninth, tenth and 11th, 18 I attended those meetings. I just wanted to make that 19 clarification. 20 Q. Yes, that's perfectly proper, Mr Lee. 21 Subject to those corrections and that last 22 clarification, as you call it, are the contents of this 23 witness statement true to the best of your knowledge and 24 belief? 25 A. Yes.</p>	<p>1 see that? 2 A. I see that. 3 Q. Then under the heading in red, "Contract 1111", do we 4 see a little box with your photograph in it, Mr Lee? 5 A. Correct. 6 Q. Can you tell the Commissioners who you reported to at 7 that stage, please? 8 A. It's Mr Michael Fu again, construction manager. 9 Q. Thank you very much indeed. Now, Mr Lee, the way these 10 things operate from here on in is that you are going to 11 be asked questions first by counsel for the Commission 12 of Inquiry, probably Mr Pennicott, sitting just opposite 13 you. Then various lawyers in this room have the 14 opportunity to ask you questions. The learned 15 Commissioners can ask you questions at any time. Then 16 it may well be the case that I'll conclude the session 17 with you by asking you a few more questions. 18 Do you understand that? 19 A. Fully understood. 20 MR BOULDING: Thank you. Please wait there. 21 Examination by MR PENNICOTT 22 MR PENNICOTT: Mr Lee, good afternoon. 23 A. Good afternoon. 24 Q. As Mr Boulding has just indicated, my name is Ian 25 Pennicott, I'm one of the counsel to the Commission and</p>

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<p>1 I have a few questions for you, but first of all thank 2 you very much for coming along to give evidence to the 3 Commission this afternoon. 4 Mr Lee, from June 2013 right through to March 2018, 5 as I understand it, you worked as a senior construction 6 engineer on contract 1111, not on contract 1112? 7 A. Correct. 8 Q. So we are going to hear, quite usefully, I think, some 9 evidence coming from, as it were, the Gammon side of the 10 situation and not necessarily from the Leighton side. 11 However, that's subject to this point which 12 Mr Boulding has just alighted on. My understanding is 13 that in the period April 2018 to July 2018, you were 14 specifically tasked to manage the rectification of the 15 three stitch joints under contract 1112. Is that 16 correct? 17 A. Correct. 18 Q. Just to get a couple of things clear on those remedial 19 works -- we will deal with that first, if we may. When 20 you took up the task of managing the stitch joint 21 rectification work, my understanding -- which was in 22 April 2018 -- is that all of the demolition works of the 23 original stitch joints would have been completed. Is 24 that correct? 25 A. According to my understanding, the stitch joints at EWL</p>	<p>1 that the debris could be cleared very quickly. So I was 2 there to look at the marking-out process, to ensure 3 works could proceed expeditiously, and I was not given 4 an instruction to first of all look at the interface 5 conditions. 6 Q. Understood. All right. 7 Now, you say that the period of time in which you 8 managed the rectification works of the three stitch 9 joints was up until July 2018. Can I ask you, is it the 10 case that your responsibilities lasted all the way 11 through until, say, the middle of July, about 18 July, 12 when, as I understand it, all the rectification works 13 were completed? 14 A. Yes, until the last concrete pour and number 2 stitch 15 joint, until that was finished, yes. 16 Q. Yes. I ask you that because we have heard from 17 Mr Holden, one of -- the engineering manager, if I've 18 got that right, from Leighton, that in relation to the 19 stitch joint that you've just mentioned, that's joint 20 number 2, the internal stitch joint, there were some 21 problems and difficulties encountered in pouring the 22 concrete to the roof to that particular stitch joint. 23 Do you recall those difficulties, Mr Lee? 24 A. Yes. There was some difficulty. I believe what 25 Mr Holden was referring to was the first time they tried</p>
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<p>1 had been demolished. For NSL, there are two stitch 2 joints. The two stitch joints at NSL, the demolition 3 was in progress when I joined this team. 4 Q. All right. Did you have an opportunity of looking at 5 the demolition works that were going on, you say, when 6 you were first tasked with managing the remedial works? 7 Did you have an opportunity to see that demolition work? 8 A. When I went to the NSL to look at the two stitch joints 9 to assess the condition, the demolition was in progress. 10 So it was rather messy in terms of the construction 11 conditions. There were many concrete debris and the 12 rebars have been damaged. When I was there to look at 13 the stitch joint interface, it was difficult to me. It 14 was difficult for me to tell if there were any 15 irregularities. 16 Q. You anticipated my next question -- 17 A. (In English) Yes. 18 Q. -- or questions. You didn't actually see with your own 19 eyes any of the allegedly defective connections in the 20 original stitch joints? You didn't see any of that; is 21 that right? 22 A. I didn't pay particular attention to this. When I went 23 there to take a look, I was there to inspect, to 24 ascertain the site condition. The first priority for me 25 was to mark out the issues, because I wanted to ensure</p>	<p>1 to have a concrete pour at the roof slab, that was 2 unsuccessful, because the aggregate size and the RC of 3 the roof slab was rather congested and that held up the 4 whole thing and they aborted the operation halfway 5 through. 6 Myself and Mr Holden were there on site and looking 7 at what happened. I did talk to him about the abortion 8 of this operation. And between end of May, until we 9 have got rid of the aborted area, in July we had the 10 smaller aggregate mix to achieve the roof slab 11 construction. I believe you were talking about this 12 difficulty referred to by Mr Holden. 13 Q. That's entirely right, Mr Lee. Thank you for that. 14 That's very helpful. 15 Have you read Mr Holden's witness statement in 16 relation to this particular point in particular? 17 A. Yes, I have. Yes. 18 Q. I can show it to you, but from what you've just said, it 19 sounds to me as though you agree with what he says? 20 A. I do agree, yes. 21 Q. Thank you very much. That will save us going to it. 22 Good. 23 Just another small point, Mr Lee. In paragraph 32 24 of your witness statement, where you discuss various 25 inspections that took place during the carrying out of</p>

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<p>1 the rectification works, you mention in the last 2 sentence of paragraph 32 that a separate and independent 3 quality control team, who directly reported to Aidan 4 Rooney, which you were not a part of, was deployed to 5 conduct further inspections to ensure that all 6 rectification works were carried out to MTR's 7 satisfaction. 8 As I understand it, that team was led by Mr Cano 9 Ngai; is that right? 10 A. Correct. 11 Q. So you tell us elsewhere in your statement that you were 12 responsible for supervising a team comprising -- this is 13 paragraph 19 of your statement -- Ben Chan, Albert Wan, 14 Tony Tang, and, as I understand it, that group of people 15 were separate and independent from Mr Cano Ngai's team; 16 is that right? 17 A. Correct. 18 Q. So that suggests to me perhaps, would you agree, that 19 the MTR were doing perhaps what we say in English -- 20 I don't know how it translates into Cantonese -- a belt 21 and braces job? 22 A. I would rephrase it like this. It's not braces and 23 belt. I think it's a second surveillance check. It is 24 to supplement one another, to make sure that the 25 rectification work was going to be complete and</p>	<p>1 A. Absolutely correct. 2 MR PENNICOTT: Sir, I'm glad you asked that because it's 3 reminded me that there was one question I wanted to ask 4 about that sentence as well. 5 Mr Lee, if we can just look at the sentence that 6 Prof Hansford has referred to. You say: 7 "All on-site threading works for BOSA threaded bars 8 and Lenton threaded bars shall be undertaken by BOSA and 9 Erico ..." 10 And you have explained Erico. So were in fact the 11 threading works both for BOSA and Lenton couplers in 12 relation to the stitch joint rectification works -- were 13 they actually done on site, the threading works? 14 A. My understanding is that last year, BOSA didn't have 15 a fabrication yard on site, in 2018, last year. The 16 threading of the couplers were done in the plant of 17 BOSA, in accordance with the QAS requirements, and there 18 were supervisions there. 19 Q. Okay. So when you say "All on-site threading works" -- 20 I see. So both BOSA and Erico/Lenton were carrying out 21 the threading of -- the necessary threading of the rebar 22 at their rebar yards, probably in the New Territories; 23 I think we heard that Lentons was in Yuen Long? 24 A. Yes, indeed. Correct. 25 Q. Right.</p>
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<p>1 satisfactory, up to the required standard. 2 Q. All right. That's helpful. 3 Mr Lee, you -- I'm not going to go through it in 4 detail with you, but you helpfully set out -- I'm just 5 putting this on the transcript, really -- between 6 paragraphs 19 and 34 of your witness statement all 7 relevant detail relating to the method statements, the 8 quality supervision plans, the type of couplers that 9 were used, the site supervision plan, and the thread 10 preparation records, the coupler checklists, the hold 11 points, the fact that site photographs were taken, and 12 all of that is very helpful material relating to the 13 stitch joint rectification works. 14 A. Yes. 15 Q. So thank you for all of that. 16 COMMISSIONER HANSFORD: Just on that, if I may, at this 17 point, Mr Pennicott. 18 Mr Lee, in paragraph 24(2), you refer to something 19 called Erico. What is Erico? 20 A. Erico is a Lenton -- the name of a Lenton supplier. It 21 is a Lenton supplier, basically, Lenton coupler 22 supplier, the name of the supplier. 23 COMMISSIONER HANSFORD: Okay. Thank you. So BOSA supplied 24 BOSA couplers, and Erico supplied Lenton couplers; is 25 that correct?</p>	<p>1 We are going to move away from the rectification 2 works now and I'm going to ask you some questions about, 3 first of all, the 1111 contract, briefly. 4 In paragraph 15 of your witness statement, Mr Lee, 5 that's page 95, you helpfully give us some dates by 6 which the various Gammon structures were completed. And 7 so at 15(1) you say: 8 "The NSL ... structures adjacent to the interfacing 9 location under contract 1111 were completed in July 2015 10 with Lenton couplers with protective caps fixed at the 11 interfacing end of the structures ...", and so forth. 12 Then you go on to say -- perhaps I should have just 13 read it all out: 14 "... for Leighton's subsequent connection and the 15 construction of the NSL stitch joint at the interfacing 16 location did not commence until July 2017". 17 So there was a two-year gap between the completion 18 of the Gammon side and the start of the construction of 19 the original stitch joint? 20 A. Yes, correct. 21 Q. Right. Then, so far as the EWL tunnel structures is 22 concerned, Gammon completed their side in September 23 2015, and we know that the EWL stitch joint at the 24 interfacing location, as you say, did not commence until 25 January 2017.</p>

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<p>1 So, in that case, a period of 16 to 17 months 2 between the completion of one and the start of the 3 stitch joint? 4 A. Correct. 5 Q. Then similarly with the shunt neck, the dates are finish 6 by Gammon in January 2016, start of the connection joint 7 in January 2017, so a year between the two? 8 A. Yes. Correct. 9 Q. All right. One of the reasons I wanted to just get that 10 clear with you, Mr Lee, is this. We have seen, and you 11 indeed make reference to, in your statement, the 12 Interfacing Requirements Specification. That's at 13 paragraphs 12, 13 and 14 of your witness statement. 14 We can go to the document. In fact perhaps it would 15 be best to go to the document. BB1/420, please. 16 If we could go on a few pages until we find the 17 table. That's it, thank you. 1.7. 18 We've asked quite a few witnesses about this 19 particular provision -- 20 A. (Chinese spoken). 21 Q. -- Mr Lee. You're smiling at me; you probably realise 22 that. You probably knew this was coming. 23 A. (Nodded head). 24 Q. As we understand it, or as I understand it, Mr Lee -- 25 let's put it at a fairly high level to start with --</p>	<p>1 actually, for contract 1111, we can act upon request; we 2 could do the inspection. There was no understanding 3 that that would be part of 1112 construction programme. 4 We didn't know when they would complete their stitch 5 joints at that time. So it would be difficult to 6 project when the joint inspection would be done. 7 As I understand it, there was no such formal joint 8 inspection. 9 Q. All right. Let's just take one of the stitch joints. 10 Let's take joint 1, the NSL interface joint. I have 11 a picture in my mind that Gammon's structure is 12 completed at the date that you gave us earlier, in July 13 2015. Leighton's structure is not going to be completed 14 for two years' time. 15 A. My understanding is that -- 16 Q. It's sometime later? 17 A. (In English) Yes, sometime later. 18 Q. Stitch joint two years later, Gammon's structure 19 sometime later. 20 A. (In English) Yes. 21 Q. The face of the Gammon structure which was going to be 22 joined eventually to the Leighton structure, did that 23 face need any maintenance, constant care and attention, 24 or was it okay just left as it was? 25 A. At that time, we had the cofferdam, sheet pile</p>
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<p>1 once the 1111 contractor had completed its structure, 2 there was provision for a joint inspection to take place 3 of that structure. 4 First of all, is that your general understanding of 5 what was anticipated? 6 A. My understanding is that according to the specification, 7 there was the need to do an inspection. 8 Q. Right, of the 1111 contractor's side of the joint? 9 A. Yes. 10 Q. Right. And was that joint inspection to be between 11 Leighton, Gammon and MTR? 12 A. Yes. 13 Q. Do you know whether it took place on each of the three 14 stitch joints with which we're concerned? 15 A. My recollection, and also from the records, and also 16 I have asked colleagues to recall this, there was no 17 official joint inspection of the three stitch joints. 18 It's because, for the inspection to be carried out, 19 Leighton had to be ready. As we have looked at, there 20 was a more than one-year time gap between 1111 and the 21 time of completion of Leighton, on their part, in 22 respect of their structure. 23 So my colleagues on the 1111 side for some time did 24 not focus on that particular matter. That was the peak 25 working time for 1111. We envisaged that -- well,</p>	<p>1 cofferdam. After the completion of the 1111 structure, 2 1112 was doing excavation, tunnel construction for some 3 time, and we have some separation provided by the 4 cofferdam, some sort of cofferdam. So the separation 5 was offered by the cofferdam. 6 CHAIRMAN: Sorry, can you just very briefly explain to me 7 the concept of a cofferdam in those circumstances? 8 Sorry, if it's going to be very long and 9 complicated -- 10 MR PENNICOTT: No, I think it's worth asking. 11 A. When we were doing the tunnel structure for 1111, we had 12 to provide an ELS system, excavation lateral support 13 system. It's called a cofferdam. So that we can dig 14 down to construct the tunnel structure. Our neighbour, 15 contract 1112, had yet to start the excavation, so we 16 could only complete our structure within the cofferdam, 17 and then we would have an adjacent sheet pile. The pile 18 will only be taken away when the 1112 was completed. 19 COMMISSIONER HANSFORD: Can I ask, just for my own 20 information, really, how close was the cofferdam to the 21 1111 edge of -- so the 1111 side of the stitch joint, 22 how close was the cofferdam? 23 A. About a metre. 24 COMMISSIONER HANSFORD: About a metre. 25 A. (In English) Yes.</p>

Page 93	1 COMMISSIONER HANSFORD: Right. Okay. 2 MR PENNICOTT: Okay. And that cofferdam was literally 3 between the two structures, was it, Mr Lee? 4 A. Yes. 5 Q. Right. Yes. Understood. 6 COMMISSIONER HANSFORD: So the 1112 structure could not be 7 built until the cofferdam was removed; is that correct? 8 The cofferdam had to be removed before the 1112 9 structure could be built; is that right? 10 A. No. We share the same sheet pile, separating the two 11 structures, under the two contracts. So we lifted the 12 sheet pile so that 1112 could independently complete 13 their structure. Once the 1112 structure had been 14 completed, the sheet pile will be removed, so that there 15 will be connection. 16 COMMISSIONER HANSFORD: So the cofferdam then, Mr Lee, is 17 along the sides of the structure, and the sheet pile is 18 in the middle of the structure, and then when it comes 19 to constructing the 1112 structure, the sheet pile is 20 removed? The sheet pile is removed in order to 21 construct the 1112 structure; is that correct? 22 A. Are you talking about the tunnel structure or the stitch 23 joint? 24 COMMISSIONER HANSFORD: Yes. 25 A. If we are talking about the stitch joint, the cofferdam	Page 95	1 be an initiative coming from Leighton. But, as I've 2 said, there was no such official joint inspection 3 conducted. 4 Q. All right. 5 COMMISSIONER HANSFORD: If I can just have one last 6 question -- 7 MR PENNICOTT: Please do, sir. 8 COMMISSIONER HANSFORD: -- on this. 9 So the ideal time to have carried out a joint 10 inspection would have been when the cofferdam was 11 removed; is that correct? 12 A. Correct. 13 COMMISSIONER HANSFORD: All right. But you understand that 14 was not carried out? 15 A. No official joint inspection. 16 COMMISSIONER HANSFORD: Well, was an unofficial joint 17 inspection carried out? 18 A. I understand there was one. At a working level, the two 19 contractors, during their daily coordination, they were 20 in cooperation at the interface. They needed each 21 other. So they had coordination on and off. I don't 22 think the CM team on 1111 side would tell us whether 23 they have done any unofficial inspections on 24 a day-to-day basis. That's my understanding. 25 COMMISSIONER HANSFORD: And presumably, Mr Lee, if it was
Page 94	1 will have to be removed first. 2 MR PENNICOTT: My understanding, tell me if I'm wrong, is 3 that the 1112 structure would be constructed up to the 4 cofferdam. What that left was obviously the stitch 5 joint to be built. At that point, you would take out 6 the sheet piles and the construction of the cofferdam, 7 to enable you then to construct the stitch joint. Is 8 that right? 9 A. (In English) Absolutely correct. 10 A. Absolutely correct. 11 Q. Okay. So, if that's right, I'm just wondering -- there 12 presumably -- if the Gammon structure is constructed, 13 the cofferdam is then built, the Leighton structure is 14 constructed up to the cofferdam, the cofferdam is 15 removed; it's only really at that point that a joint 16 inspection presumably could take place, because there 17 would be no point in inspecting the side, the Gammon 18 side, if you are then constructing the cofferdam? 19 A. I can recall, at the interface meetings, we did talk 20 about the sequence of the removal of the cofferdam. 21 Q. Yes. 22 A. Leighton did it for us. At that stage, they used the 23 sheet pile left by Gammon. As I've said, when it would 24 be removed, that is when they would be ready for joint 25 inspection, it was something, I presume at that time, to	Page 96	1 an unofficial inspection, no record would be made of 2 an unofficial inspection; is that right? 3 A. You could put it like that. 4 COMMISSIONER HANSFORD: Sorry, Mr Pennicott. 5 MR PENNICOTT: Not at all, sir. Thank you very much. 6 Mr Lee, you mentioned, during the course of that 7 last exchange, the interface meetings that took place, 8 and in your examination-in-chief just a moment ago, 9 a short while ago, you corrected your witness statement 10 to point out that you did in fact attend some of the 11 meetings. 12 A. (Nodded head). 13 Q. Assuming the attendance records are correct, we think 14 you attended four of the meetings, that is meetings 15 number 2, 7, 9 and 11. We probably don't need to look 16 them up. 17 But just to follow up on one point. If you could go 18 to meeting number 15, one we haven't looked at before, 19 at page CC2/805. 20 This is not one of the meetings that you were 21 present at, Mr Lee, but if you look at minute 15.3.4, at 22 CC806, it says: 23 "MTRC1111 passed the revised interface 24 arrangement ..." 25 Sorry, I'll start again. Under the heading,

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<p>1 "Interface cofferdam wall design of EWL and NSL", it 2 says: 3 "MTRC1111 passed the revised interface arrangement 4 and is attached in appendix B. 5 MTRC1111 stated that ELS design by Leighton should 6 consider as-constructed permanent structure by Gammon. 7 Leighton would provide instrumentation plan including 8 GSM" -- I'm not sure what that stands for -- "on 9 permanent structures." 10 Then if we go to appendix B, do we there pick up the 11 point that we've just been discussing, Mr Lee, that is 12 the details of the cofferdam? 13 A. (In English) Correct. 14 Q. Okay. And as we've heard from other witnesses, this 15 particular aspect of the interface works, that is the 16 cofferdam, was a matter of some importance? 17 A. Yes. 18 Q. All right. 19 Now, the next point, Mr Lee, if you can help us with 20 this, when it came to construct -- when the time arrived 21 to construct the original stitch joints, we have been 22 told by Mr Joe Tam of Leighton that on the Gammon side 23 of the joints, the exposing of the couplers was done by 24 the Gammon-Kaden Joint Venture or its sub-contractors. 25 Is that correct, Mr Lee, to your recollection and</p>	<p>1 MR BOULDING: No re-examination! 2 CHAIRMAN: Sorry, I think Pypun also have to say something. 3 MR LIU: No questions. 4 CHAIRMAN: Thank you very much indeed. Sorry, the laughter 5 was not in any way at your expense. Over a period of 6 long inquiry, you will appreciate -- 7 WITNESS: (In English) That relaxes me very much. I'm much 8 more relaxed now. 9 CHAIRMAN: Thank you very much for your assistance. It's 10 been very good of you. 11 WITNESS: (In English) Thank you. 12 CHAIRMAN: Thank you. 13 (The witness was released) 14 MR BOULDING: Thank you, sir and Professor. MTR's next 15 witness will be Mr Ngai Kwok Hung. 16 MR NGAI KWOK HUNG, CANO (affirmed in Cantonese) 17 (All answers given via simultaneous interpreter 18 except where otherwise specified) 19 Examination-in-chief by MR BOULDING 20 Q. Good afternoon, Mr Ngai. I understand you are giving 21 your evidence in Cantonese. 22 A. (In English) Yes. 23 Q. It's correct, is it not, that you have produced 24 a witness statement, one witness statement, for the 25 assistance of the learned Commissioners in this Inquiry?</p>
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<p>1 understanding? 2 A. Correct. My recollection is that Gammon helped them 3 chip off, expose the couplers and build the rough 4 surface. My engineers and my inspectors did mention 5 this to me; they helped out as well. 6 Q. All right. Did you personally witness that work being 7 carried out, Mr Lee, or not? 8 A. I don't quite remember whether exactly I witnessed that 9 but my understanding is that that was reasonable. 10 Q. Okay. I think, so far as -- on the Gammon side is 11 concerned, a person by the name of Fans Chan was 12 involved. Is that right? 13 A. Yes, that's correct. 14 Q. Was he an engineer or an inspector of works -- 15 A. That's correct. 16 Q. -- an engineer? 17 A. He's an engineer. GKJV engineer, yes. 18 MR PENNICOTT: All right. 19 Thank you very much, Mr Lee. 20 Sir, I have no further questions. 21 MS LAU: Sir, we have no questions for this witness. 22 CHAIRMAN: Thank you very much. 23 MS PANG: No questions from the government. 24 MR BOULDING: No? 25 MR SHIEH: No questions from us.</p>	<p>1 A. Yes. 2 Q. I wonder if we could look at that. I hope you find it 3 at BB8/5232. There do we see the first page of that 4 witness statement, Mr Ngai? 5 A. Yes, I can see that. 6 Q. Then if we move on, if we go down to page 5235 -- it's 7 a short statement -- I hope we'll see your signature. 8 Do you see your signature there -- "16 May 2019", with 9 your signature underneath it? 10 A. Yes. 11 Q. I understand that if we go back to paragraph 2, there is 12 a typo that you would like to correct on the third line. 13 Is it right that you obtained your master's degree in 14 construction management from the City University of 15 Hong Kong in 2006 and not 2016? 16 A. That's correct. It should be 2006. I apologise for the 17 typo. 18 Q. Don't worry, Mr Ngai. These things happen. 19 Now, subject to that correction, are the contents of 20 that statement true to the best of your knowledge and 21 belief? 22 A. Yes, it's true. 23 Q. It's right, is it not, that you were part of the 24 independent quality control team overseeing the stitch 25 joint rectification works; is that correct?</p>

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<p>1 A. That's correct.</p> <p>2 Q. And in that sense, do I understand the situation to be</p> <p>3 that you were independent, independent in the sense that</p> <p>4 you were unrelated to contract 1112?</p> <p>5 A. That's correct. I am unrelated to contract 1112.</p> <p>6 Q. Thank you. In those circumstances, Mr Ngai, I'm not</p> <p>7 going to take you to any sort of organisation chart</p> <p>8 because it seems to be inappropriate, but what will</p> <p>9 happen now is that you are going to be asked a few</p> <p>10 questions, I suspect, by one of the counsel for the</p> <p>11 Commission of Inquiry. Then various lawyers in the room</p> <p>12 get an opportunity to ask you questions. The learned</p> <p>13 Commissioners can ask you questions at any time they</p> <p>14 consider appropriate. Then it may well be the case that</p> <p>15 I'll ask you some further questions at the end of the</p> <p>16 process.</p> <p>17 Do you understand that?</p> <p>18 A. Yes, understood.</p> <p>19 MR BOULDING: Please sit comfortably and make yourself at</p> <p>20 home.</p> <p>21 Examination by MR PENNICOTT</p> <p>22 MR PENNICOTT: Mr Ngai, good afternoon.</p> <p>23 A. Good afternoon.</p> <p>24 Q. My name is Ian Pennicott, I'm one of the counsel to the</p> <p>25 Commission, and thank you very much for coming along to</p>	<p>1 A. I remember the first day, 22 March 2018, when I was</p> <p>2 given the instruction to take up this duty, on that day</p> <p>3 I approached the construction team of 1112. They</p> <p>4 briefed us on the kind of work that we were supposed to</p> <p>5 do. We were not involved in this contract at all prior</p> <p>6 to that, and they told us about the three stitch joints</p> <p>7 that would be in need of rectification.</p> <p>8 I remember there was the statement, the construction</p> <p>9 statement, and they briefed us on the details of the</p> <p>10 work.</p> <p>11 Q. All right. Let me try again. We know, Mr Ngai -- and</p> <p>12 I'm not suggesting you necessarily had all of this</p> <p>13 material on 22 March -- but we know, for example, that</p> <p>14 there were method statements produced in relation to the</p> <p>15 remedial works. Were you given those method statements?</p> <p>16 A. Yes, I did. I think I was given the method statement to</p> <p>17 the team for reference.</p> <p>18 Q. Right. There were obviously drawings of the remedial</p> <p>19 works or the stitch joints in their rectified status or</p> <p>20 state. Were you given the drawings?</p> <p>21 A. I suppose so, but on that date, it was only in the</p> <p>22 morning that I received the instruction from Mr Rooney</p> <p>23 to assist in this kind of work, and time was a bit</p> <p>24 tight. I remember, in the morning, my team met the</p> <p>25 construction team of 1112, and then in the afternoon we</p>
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<p>1 give evidence this afternoon.</p> <p>2 I just have a few questions for you, Mr Ngai, and</p> <p>3 I can assure you we won't be long.</p> <p>4 As we've just heard, Mr Ngai, your involvement on</p> <p>5 contract 1112 was limited to the period, as I understand</p> <p>6 it, March -- 22 March, in fact -- 2018 through to the</p> <p>7 beginning of June 2018?</p> <p>8 A. Yes, correct.</p> <p>9 Q. And you were -- you headed up, at Mr Rooney's request,</p> <p>10 what you describe as an independent quality control team</p> <p>11 to oversee the remedial works for the stitch joints?</p> <p>12 A. Yes.</p> <p>13 Q. As you've just said, independent in the sense of being</p> <p>14 unrelated to contract 1112, and my understanding from</p> <p>15 your witness statement, paragraph 6(b) and (c), is that</p> <p>16 the other members of your team were Mr Cheung Ying Sum,</p> <p>17 a senior inspector of works; Mr Kine Tong Kin On, who</p> <p>18 was a ConE, a construction engineer; and Mr John Leung,</p> <p>19 also a construction engineer. As I understand it, all</p> <p>20 of you were unrelated, prior to this involvement, with</p> <p>21 contract 1112?</p> <p>22 A. Correct.</p> <p>23 Q. Can I ask you this, Mr Ngai. When you started your</p> <p>24 duties as this quality control team, what documentation</p> <p>25 were you given in relation to the remedial works?</p>	<p>1 were taken to the stitch joint site and we were briefed</p> <p>2 on the situation. And the documentation came later,</p> <p>3 gradually.</p> <p>4 Q. Yes, indeed, as I said, I wasn't suggesting you had all</p> <p>5 of this material on 22 March. So there are the method</p> <p>6 statements that you think you received subsequently, the</p> <p>7 drawings you think you would have received perhaps at</p> <p>8 a slightly later time.</p> <p>9 A. Correct.</p> <p>10 Q. And were you also provided with site supervision plans</p> <p>11 and the quality supervision plan? Were you supplied</p> <p>12 with those documents as well?</p> <p>13 A. Well, if my memory serves me right, I did not receive</p> <p>14 the site supervision plans.</p> <p>15 Q. All right.</p> <p>16 Now, we know that the first stitch joint to be</p> <p>17 rectified or remedied was the EWL stitch joint. Do you</p> <p>18 recall that, Mr Ngai?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. That started on 25 March, we understand, so just</p> <p>21 a few days after you received your instruction from</p> <p>22 Mr Rooney?</p> <p>23 A. Yes.</p> <p>24 Q. Then we know that the interface stitch joint, the NSL</p> <p>25 level, started later, 12 April. Then the internal</p>

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<p>1 stitch joint, the 1112 stitch joint, started, again 2 a little later, on 9 May. 3 As I understand it from your evidence, what you are 4 telling us is that so far as the method statements/the 5 drawings were concerned, you would have received that 6 material -- in order to presumably carry out your 7 responsibilities, you needed that documentation to 8 understand what was going to be built? 9 A. I agree. 10 Q. So, as we've seen, and we will see in a moment, you 11 produced daily reports, your team produced daily 12 reports? 13 A. Yes. 14 Q. And, when you were carrying out your quality control 15 surveillance and monitoring, presumably you had the 16 documents, that is the method statements and the 17 drawings, with you so that you could check what was 18 happening and whether everything was complying with the 19 drawings and method statement; is that right? 20 A. I agree. 21 Q. If we can please go to bundle GG11/7239. This, as 22 I understand it, Mr Ngai, is the very first report that 23 you produced, indeed on 22 March, the day that you were 24 instructed. Do you see that? 25 A. Yes, it's correct.</p>	<p>1 about this date or within a few days of 19 May. That is 2 the Gammon joint. 3 A. You mean the pour date? 4 Q. Yes. 5 A. It's 19 May. 6 Q. Yes. Okay. And the records that we have, that we've 7 been given, suggest that this stitch joint, the remedied 8 stitch joint, was completed around about 19 May, and 9 your record is, in a sense, confirming that, that the 10 concrete pour was done on that date? 11 A. The pour date is 19 May. 12 COMMISSIONER HANSFORD: This is the concrete pour of the 13 roof; is that correct? 14 MR PENNICOTT: It should be, yes. 15 A. Yes, the roof, the pour date for the roof. 16 Q. Okay. And so far as, on that date, the Leighton joint 17 is concerned, that's the internal joint, you have 18 recorded: 19 "Side walls rebar fixing is in progress under CM 20 supervision", and so forth. 21 So we can see that in that joint, the rebar fixing 22 is going on. 23 A. Well, maybe I should explain. When we talk about CM, it 24 means construction management -- it means the 25 construction team, not the construction manager himself.</p>
<p>Page 106</p> <p>1 Q. Okay. If we turn over the page, just so we can get the 2 feel of all this, each report that you produced on 3 a daily basis, apart from presumably at weekends and 4 when work wasn't happening, almost invariably was 5 accompanied by a series of photographs. Is that right? 6 A. Yes. 7 Q. If one goes on perhaps in time, could I take you, 8 please, to page 7536. This is the report for 19 May 9 2018, I hope. 10 A. Correct. 11 Q. Just so that if we need to look at these at any time, 12 Mr Ngai, my understanding is, just looking at this page, 13 when it says, "NSL (Gammon joint)", that is a reference 14 to joint 1, that is the interface joint between the 15 Gammon and Leighton structures? 16 A. Correct. 17 Q. And when it says, "NSL (Leighton joint), that's joint 18 number 2, the internal joint? 19 A. Correct. 20 Q. Right. And I've chosen this one, 19 May 2018, because, 21 as I understand it, if one looks at the Gammon joint, 22 that is joint 1, the interface joint, on that day 23 concrete was poured. There was an issue about the 24 volume, but I think that was all sorted out in due 25 course. And indeed this joint was completed around</p>	<p>Page 108</p> <p>1 Q. Okay. Understood. 2 Then if I could take you, please, to page 7604. 3 This is your daily report for 31 May 2018. Do you see 4 that, Mr Ngai? 5 A. Yes, I see that. 6 Q. Under the Leighton joint it says: 7 "Bleed pipe was installed according to the approved 8 drawings and concreting proceed today. Volume of 9 concrete poured is approximately 35 cubic metres as 10 advised by CM team which was less than the calculated 11 volume of 40 cubic metres, to be further verified by 12 1112 CM team and contractor." 13 Do you see that? 14 A. Maybe I should elaborate. The concreting was done 15 rather late on that day. My engineer told me that 16 35 cubic metres of concrete was poured. According to 17 the drawings, it should be 40 cubic metres. So that's 18 a gap, a difference. So it was suggested that there 19 should be further verification by 1112 CM team and 20 contractor. We received the information on that day. 21 We did not conduct any investigation. 22 That's put in the report, to show that we have 23 received the information. 24 Q. All right. Then, Mr Ngai, if you go to 7612, that's the 25 following day, 1 June. I'm not too concerned about the</p>

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<p>1 discrepancy in the figures, but it says here, under the 2 Leighton joint: 3 "-- No site activity today. 4 As confirmed by CM team, approximately 22 cubic 5 metres [of] concrete was poured yesterday for the roof 6 slab. Remedial proposal was under preparing. It was 7 suggested to review the gap between soffit and concrete 8 pump pipe to facilitate concrete flow." 9 Mr Ngai, as I understand it, that's your last 10 report; is that correct? 11 A. Yes, it would be the last report, the one dated 1 June. 12 Q. It may seem a simple question but why did you stop at 13 1 June? 14 A. On 1 June, I received an instruction from Mr Rooney, 15 saying that we had completed our mission, our duty; we 16 were no longer needed. So that's why this is my last 17 report. 18 Q. All right. 19 So I've discussed with Mr Holden from Leighton and 20 Mr Jacky Lee from the MTR just a moment ago some issues 21 that occurred with the roof, the concrete to the roof, 22 of the 1112 internal stitch joint, and thankfully both 23 of them are agreed, broadly speaking, as to what 24 happened and how it was resolved. But presumably you 25 have no knowledge of those matters if you finished your</p>	<p>1 CHAIRMAN: Certainly. 2 MR PENNICOTT: We've got Mr Kit Chan next, I assume, and I'm 3 pleased we've got to him, but I can see what's going to 4 happen. We may finish him, it's possible, but then that 5 means we are going to have just Dr Ewen tomorrow 6 morning. 7 CHAIRMAN: We'll see how we go. 8 MR PENNICOTT: We'll see how we go. 9 CHAIRMAN: And my understanding is we're adjourning a little 10 early this evening. 11 MR PENNICOTT: Yes, sir, please. 12 CHAIRMAN: Good. Okay. Ten minutes? 13 MR PENNICOTT: Yes, sir. 14 (3.30 pm) 15 (A short adjournment) 16 (3.44 pm) 17 MR BOULDING: Good afternoon, sir. Good afternoon, 18 Professor. 19 And good afternoon, Mr Kit Chan, our next witness. 20 Sir, you will recognise Mr Chan from the first part 21 of the Inquiry. 22 CHAIRMAN: Yes. 23 MR BOULDING: I don't know whether you regard him as still 24 being on his oath or whether you'd like him to take it 25 again.</p>
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<p>1 job on 1 June? 2 A. That's correct, because I was not involved in any 3 subsequent discussion on any future works. 4 MR PENNICOTT: Thank you very much, Mr Ngai. 5 Sir, I have no further questions. 6 CHAIRMAN: Thank you. 7 MS LAU: No questions from us, sir. 8 CHAIRMAN: Thank you. 9 MS PANG: I don't want to disappoint my learned friends 10 Mr Boulding and Mr Wong but I'm afraid all of the 11 questions I intended to ask have already been covered, 12 so no questions from us. 13 MR SHIEH: No questions. 14 MR LIU: No questions from Pypun. 15 MR BOULDING: And no re-examination, sir. What a delightful 16 afternoon we are having! Thank you very much. 17 CHAIRMAN: Yes, Mr Ngai. Thank you very much for your 18 attendance. Your evidence is now finished and you can 19 be excused. Thank you again. 20 MR BOULDING: Thank you. 21 (The witness was released) 22 Sir, my next witness and the last witness for 23 today -- I see Mr Pennicott standing up. 24 CHAIRMAN: Just a brief adjournment, would you like? 25 MR PENNICOTT: I was going to suggest that, yes, sir.</p>	<p>1 CHAIRMAN: No. I think he needs to take a further 2 affirmation. 3 MR BOULDING: So be it. 4 MR CHAN KIT LAM, KIT (affirmed) 5 Examination-in-chief by MR BOULDING 6 MR BOULDING: Thank you very much, Mr Chan. You've given 7 evidence before but we have another witness statement 8 from you to assist the learned Commissioners, and I hope 9 we will see the first page at BB8/5187. 10 Do we there see the first page of your witness 11 statement, Mr Chan? 12 A. Yes. 13 Q. Then, hopefully, we'll pick up the signature page at 14 BB8/5206. 15 There do we see your signature, under the date of 16 16 May 2019? 17 A. Yes. 18 Q. Are the contents of this statement true to the best of 19 your knowledge and belief? 20 A. Yes, it's true. 21 Q. It may well be that the Commissioners remember where you 22 are in the MTR hierarchy from last time, but just by way 23 of a reminder, perhaps we could look firstly at 24 an organisation chart for early 2015. That's at B2/566. 25 Do we there see in the top left-hand corner that</p>

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<p>1 this is the chart as at the date of 15 January 2015; is 2 that right? 3 A. Yes. 4 Q. Do we there see you right at the top of the tree, 5 Mr Chan? 6 A. Yes. 7 Q. Just to get a glimpse of another time during your 8 involvement, perhaps we could now go to B2/576. Here, 9 if you look at the top left-hand corner, we've moved on 10 for just over a year. We are now at 31 March 2016. Do 11 you see that? 12 A. Yes. 13 Q. And there, under the picture of Mr Aidan Rooney, do we 14 see your photograph and name, Mr Chan? 15 A. Yes. 16 Q. Thank you very much. You'll know how this system works, 17 I think, but just as a reminder, counsel for the 18 Commission of Inquiry will ask you questions first. 19 Lawyers in the room can then ask you questions. The 20 learned Commissioners can ask you questions at any time 21 they feel appropriate. And it might be that I ask you 22 further questions at the conclusion of the process. 23 A. Yes. Thank you very much. 24 MR BOULDING: You are welcome. 25 Examination by MR PENNICOTT</p>	<p>1 Q. Right. One thing you don't specifically mention in 2 those paragraphs, I think, Mr Chan, is MTR's RISC 3 register, and I assume that at all material times you 4 were aware of the existence of the MTR RISC register? 5 A. I have some understanding but I'm not involved, because 6 I delegate all this RISC register management to my 7 administration staff. 8 Q. But you were aware of its existence? 9 A. Existence only. Not a lot of knowledge. But there's 10 some system there to manage the in and out come of the 11 RISC form. 12 Q. Yes. I wasn't suggesting that you were necessarily 13 involved in inputting information into the register, but 14 you at least knew that it was there, it -- 15 A. Yes. 16 Q. -- existed, and if at any time you wanted to have a look 17 at it, presumably you could have done? 18 A. Yes. 19 Q. In paragraph 34 of your witness statement, you are there 20 addressing the issue of what happens if a particular 21 RISC form is not issued for a rebar inspection or 22 a pre-pour inspection. Do you recall that? 23 A. Yes. 24 Q. Right. You say at paragraph 34: 25 "As the subsequent works following the rebar fixing</p>
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<p>1 MR PENNICOTT: Good afternoon, Mr Chan. 2 A. Good afternoon. 3 Q. Thank you once again for coming to give evidence to the 4 Commission. 5 Mr Chan, first of all, my understanding is that 6 throughout the course of your responsibilities as 7 construction manager -- and we've obviously just looked 8 at the organisation charts, or at least two of them -- 9 you reported to Mr Rooney, to Aidan Rooney? 10 A. Yes, sir. 11 Q. In your witness statement for current purposes, you 12 focus on the HHS area because, as you explain in your 13 witness statement, only a limited number of pours, 14 that's concrete pours, had been carried out in the NAT 15 and the SAT areas by the time you had left the project 16 in May 2016? 17 A. Yes, sir. 18 Q. And therefore most of my questions are going to be 19 focused on the HHS area. 20 Can I, however, first of all ask you this. In 21 paragraph 31 of your witness statement, at BB5195, you 22 are there dealing with RISC form inspections and the 23 steps that were involved in the RISC form process. Do 24 you see that? 25 A. I see that.</p>	<p>1 and pre-pour checking hold points were likely to involve 2 a different gang of workers and/or mobilising other 3 equipment (such as concreting trucks), I believe it 4 would be difficult for works to have proceeded beyond 5 the rebar fixing and pre-pour checking hold points 6 entirely unnoticed." 7 First of all, can you explain your belief there, 8 Mr Chan? 9 A. I have been in the industry for more than 40 years. The 10 normal procedures, when you do the rebar checking, that 11 means basically the pour is ready for concreting 12 a couple of days later, and then there are not many 13 people working there, until the rebar checking finished; 14 then the contractor will mobilise another gang, the 15 carpenters, to put up the shutters, the kickers (?), 16 right; there are different people. 17 Normally, they won't mobilise until the rebar 18 checking is finished, most of the time, although some 19 exception case. And even after the pre-pour check and 20 everything, all the carpenters have gone away and then 21 we have the concrete gang, different people, they have 22 to mobilise a lot of equipment, like a concrete truck, 23 the pumping truck, the vibrator; a totally different 24 scenario. 25 So every experienced supervisor will know that what</p>

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<p>1 happens on site. There's no confusion.</p> <p>2 Q. All right. So part of your reasoning for why it would</p> <p>3 be difficult to proceed without those checks having been</p> <p>4 done --</p> <p>5 A. Yes.</p> <p>6 Q. -- is the different operations that are involved --</p> <p>7 A. Exactly.</p> <p>8 Q. -- one after the other?</p> <p>9 A. Yes.</p> <p>10 Q. All right. You go on to say in this paragraph:</p> <p>11 "I also believe that if Leighton proceeded to pour</p> <p>12 concrete without first having obtained the relevant</p> <p>13 permission to proceed from MTR's CM team, members of</p> <p>14 MTR's CM team would report such fact to me, and I would</p> <p>15 follow up with Leighton's project director."</p> <p>16 That's Mr Plummer at the relevant time.</p> <p>17 A. Yes.</p> <p>18 Q. That suggests to me, Mr Chan -- and perhaps it is rather</p> <p>19 obvious -- that if concrete was poured without having</p> <p>20 the relevant permission, that is the rebar inspection</p> <p>21 and the pre-pour inspection, that would be regarded by</p> <p>22 you as a very serious matter?</p> <p>23 A. Obviously. Everyone knows my style, everyone knows my</p> <p>24 mobile phone number. If that happens, my</p> <p>25 inspector/engineer will call me immediately. Then my</p>	<p>1 an understatement?</p> <p>2 A. Not really. I would put it this way. There are several</p> <p>3 reasons why the RISC forms are not submitted on time or</p> <p>4 not submitted at all. Based on my past experience,</p> <p>5 there are several reasons.</p> <p>6 First, it all depends on the performance of</p> <p>7 individual teams. Some team members do a better job</p> <p>8 than others, like the survey team normally have a very</p> <p>9 good RISC form submission record.</p> <p>10 The second reason is, for big important inspections,</p> <p>11 they normally have RISC forms in order; like the EWL</p> <p>12 slab construction, they are 100 per cent. For minor</p> <p>13 pours, normally take a more relaxed view; okay, just</p> <p>14 draw pit, a minor concrete pour for a wall, they</p> <p>15 probably don't pay too much attention.</p> <p>16 Another reason is during peak construction period,</p> <p>17 when everyone is so busy, we may have 10-20 RISC forms</p> <p>18 to submit every day and it is very time-consuming and</p> <p>19 very troublesome. I can have some sympathy for some</p> <p>20 non-essential inspection, because the RISC form applies</p> <p>21 to every pour; whether important or not important, you</p> <p>22 still have to go through the steps.</p> <p>23 The RISC form system has been in Hong Kong for more</p> <p>24 than 40 years, since I started work on site 40 years,</p> <p>25 there are still RISC forms. But, at that time, they</p>
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<p>1 first thing is I will call my counterpart and go to site</p> <p>2 to find out what happened on site. According to my</p> <p>3 recollection, it never happened during my time in this</p> <p>4 project, three years ago.</p> <p>5 Q. So, as you say, you would -- if a concrete pour had</p> <p>6 taken place without the relevant permissions, you'd</p> <p>7 expect that to be reported effectively right to the top?</p> <p>8 A. Exactly.</p> <p>9 Q. To you?</p> <p>10 A. This is my guideline to my team, and my counterpart are</p> <p>11 fully aware that, they dare not to do that. It's not to</p> <p>12 their advantage. There's no benefit doing that.</p> <p>13 Q. Right.</p> <p>14 Then you say in paragraph 35:</p> <p>15 "As to the inspection of the rebar fixing and</p> <p>16 pre-pour checking on site and having revisited this</p> <p>17 issue recently, occasionally" -- I emphasise the word</p> <p>18 "occasionally" -- "the CM team did not strictly enforce</p> <p>19 the procedures relating to the submission of RISC forms</p> <p>20 prior to inspection of those works and the CM team</p> <p>21 tolerated the late submission of RISC forms by their</p> <p>22 counterparts."</p> <p>23 Mr Chan, perhaps knowing what you now know about the</p> <p>24 HHS area, and leaving aside the NFA, would you agree</p> <p>25 that your word "occasionally" is something of</p>	<p>1 were not much work for the engineers to look after</p> <p>2 because we don't have to worry about safety,</p> <p>3 environmental, and then the job a lot simpler and more</p> <p>4 time, more resources. But the system of RISC form never</p> <p>5 changed. We still impose the same procedures.</p> <p>6 So that's the reason why I have some sympathy if the</p> <p>7 RISC form not submitted on time for some minor pours,</p> <p>8 but for important pours I insist that. I also have</p> <p>9 always keep a close eye on this status.</p> <p>10 That's why, when you look at my paragraph 37, when</p> <p>11 the RISC form are not very good, I raise my concern to</p> <p>12 my counterpart -- say, "Look, you've got to do a gooder</p> <p>13 job; you cannot deteriorate the situation."</p> <p>14 Q. Yes, and we are going to look at Mr Harman's registers</p> <p>15 in a moment.</p> <p>16 A. Yes.</p> <p>17 Q. But before we get there, have you had an opportunity of</p> <p>18 looking at the HHS table that's been prepared?</p> <p>19 A. Yes.</p> <p>20 Q. If we could please have a look at that together. That's</p> <p>21 at CC9/5642.</p> <p>22 Have you had an opportunity of looking at this</p> <p>23 particular table?</p> <p>24 A. I think this table was prepared by the contractor; is</p> <p>25 that right?</p>

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<p>1 Q. Yes, that's right. 2 A. I don't have the chance to read this information before, 3 but I think we've got a very similar pour summary -- 4 Q. Yes. 5 A. -- which contained similar information before; right? 6 Q. Yes, that's right. I think you would accept, would you 7 not, Mr Chan, that both in relation to the track slabs 8 and the accommodation blocks, a significant majority of 9 the pours in those areas took place before May 2016, 10 before you left the project? 11 A. Yes. 12 Q. Therefore, if one looks at the percentages of RISC forms 13 that were issued against those that ought to have been 14 issued, that happened effectively during your tenure as 15 the construction manager; you would accept that? 16 A. Accept that, yes. 17 Q. If we could please put on the screen GG1021. It's GG3, 18 I think. 19 I don't suppose you've looked at this document 20 before, Mr Chan. 21 A. No, no, no. 22 Q. But it is a report, you can perhaps see at the top, 23 prepared by Pypun -- 24 A. Yes. 25 Q. -- on behalf of the government, and it's a report that</p>	<p>1 I accept that some of the pours took place after you had 2 left -- 3 A. Yes. 4 Q. -- but in broad terms, were you aware at the time, back 5 in 2016, that the position was this bad? 6 A. We don't have this statistic at that time, but I'm aware 7 the RISC form submission are not in an ideal situation. 8 That's the reason why, at the beginning of 2015, I start 9 to complain to my counterpart, and then they start 10 addressing this issue, issue a weekly report on the 11 status of the RISC form. 12 That's why, in my witness statement, paragraph 37 -- 13 we know there's some problem in localised areas, not all 14 over the place. 15 Now, the worst scenario is accommodation blocks. 16 Q. Yes. 17 A. As I explained to you, those pours are not that 18 significant because it's very small housing; not like 19 EWL, we've got 100 per cent. 20 I also mentioned to you, depends on the individual 21 teams. Some team members are more diligent, more 22 disciplined. That's why I explained, just before, 23 I answered your question, it depends many reasons. 24 That's one reason why -- I know there's some localised 25 area, like accommodation blocks, are not doing a good</p>
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<p>1 analyses, amongst other things, the RISC forms, and 2 indeed the completeness of RISC forms; you can see that 3 on page 1021. 4 If you look under the table 1 which is dealing with 5 rebar fixing -- do you see that? 6 A. Yes. 7 Q. In the "HHS (AB)", that's the accommodation blocks -- 8 A. You are talking about table 1; right? 9 Q. Yes, table 1. 10 A. Okay. 11 Q. It's recorded -- and this is essentially a distillation 12 of the table, the large table that we've just been 13 looking at -- 14 A. Yes. 15 Q. -- effectively -- there ought to have been of the order 16 of 96 RISC forms. Only 28 were available, and so only 17 29 per cent on the accommodation blocks were issued. 18 A. Yes. 19 Q. Then leaving aside, as I say, the NFA, which obviously 20 has a much better rate, percentage rate, than any other 21 area, and you look at the HHS, which is essentially the 22 tracks, the track slabs and the underpasses and so 23 forth, out of a required number of 436, there are 149 24 RISC forms, that is 34 per cent. 25 Now, Mr Chan, obviously these are broad figures and</p>	<p>1 job. That's why I started to complain, and they started 2 to compile this statistic every week, and I keep chasing 3 them to make sure the situation will not deteriorate, 4 and then it will be under manageable condition. 5 In the Hong Kong industry, I don't expect every site 6 will have 100 per cent good record in RISC form, like 7 (Chinese spoken), Guangzhou-Macau Bridge, we've got 8 thousands of them; right? That's a typical example. 9 I'm not saying I do a good job but I know the 10 problem. That's why I take whatever action I can to 11 remind my counterpart, "You cannot deteriorate the 12 situation; you start to improve it to a reasonable 13 degree of satisfaction." 14 Q. Okay. Well, let's just explore a little bit your 15 paragraphs 37 and 38 of your witness statement -- 16 A. Yes. 17 Q. -- that you've mentioned. 18 To put it shortly, as a result of your 19 dissatisfaction and the complaints that you were making, 20 as I understand it, with regard to the RISC forms, 21 Mr Harman created, as you say, a special request, 22 register. 23 A. By me. 24 Q. Yes, quite. 25 Could we just look at BB8, please, 5710.</p>

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<p>1 A. Thank you. 2 Q. This is -- first of all, Mr Chan, my understanding up to 3 now is that this is a schedule, a table, that Mr Harman 4 prepared. 5 A. Every week. 6 Q. Every week? 7 A. Yes. 8 Q. Did he submit it to you? 9 A. Yes, by email. 10 Q. Right. 11 A. And to my two senior construction engineers and a lot of 12 senior staff in the contractor team. More than ten 13 people receive this report every week. 14 Q. Right. I think this is the first one, back on 13 May 15 2015? 16 A. No, not the first one. I remember it start either end 17 of December 2014 or early December. 18 Q. Okay. Fair enough. Perhaps it doesn't matter too much. 19 But anyway, it came to you on a regular basis -- 20 A. Yes. 21 Q. -- and to a couple of your senior colleagues? 22 A. Yes. 23 Q. If we could please scroll down to find -- we don't need 24 to scroll down, it's there. At "Active tasks (still in 25 process)", if we look at the KCR number -- I imagine</p>	<p>1 weeks to see improvements". 2 Then also I think 36B is to similar effect: 3 "Leighton are not submitting RISC records inspection 4 requests." 5 So 38A is "late" and "omitting RISC records 6 submissions"; and then, 36B, "Leighton are not 7 submitting RISC records inspection requests"; yes? 8 A. Yes. 9 Q. Then I won't read the rest of the details out across the 10 page. 11 Then if we could go to page 5738 in the same file. 12 We have now moved on a couple of months, Mr Chan, to 13 August 2015. I'm at page 5738. Do you have that? 14 A. Yes. 15 Q. We see that 36A has disappeared from this register; do 16 you see that? 17 A. Yes, for some reason. 18 Q. You deal with this in paragraph 39 of your witness 19 statement, when you say this: 20 "Initially, Leighton had envisaged that the problem 21 would be resolved soon. Although Leighton had 22 purportedly resolved item 36A on or about 19 August ..." 23 That's what we have just been looking at, Mr Chan. 24 A. Yes. 25 Q. "... the problem of late submissions was in fact not</p>
Page 126	Page 128
<p>1 that means Kit Chan register number -- 2 A. I think so. You are very smart. 3 Q. -- as opposed to the Kowloon-Canton Railway. 4 A. It should be Kit Chan register. 5 Q. At 36A -- 6 A. Yes. 7 Q. -- "Mode: Email and phone". 8 "Leighton are making (1) late RISC submissions and 9 (2) omitting RISC records submissions". 10 Then "Actions taken": 11 "(1) Notified MTR stated problem to construction 12 team [date given]. 13 (2) Prepared RISC late submission summary and sent 14 to process owners and presented at weekly Tuesday 15 project [management meetings] ..." 16 Then a column headed, "LCAL action champions". Then 17 we have the names of four people from Leighton; do you 18 see that? 19 A. Yes, I saw that. 20 Q. I assume those are the people that were supposed to be 21 dealing with this issue? 22 A. Yes. They are construction manager and above. 23 Q. Right. Then, under the "Done" column, 30 per cent; 24 "Processing"; and "Planned completion date", 18 May 25 2015. Then finally, "Keep this in view over next few</p>	<p>1 resolved and I understand that MTR's other witnesses 2 will give further evidence in relation thereto." 3 Then just for the sake of completeness, while we are 4 there, in paragraph 40 you say: 5 "In any event, item 36B [which we have looked 6 at] ... persisted." 7 A. Yes. 8 Q. And, as I understand it, Mr Chan, that was a problem 9 that persisted right through to May 2016, when you left 10 the project and went on to a new project? 11 A. Yes. 12 Q. Was it a problem, to your understanding, to your way of 13 thinking at that time, that improved or not? 14 A. No. I can't exactly remember what happened three or 15 four years, but I keep reminding my counterpart and my 16 senior inspector of works, "If you have problem, if the 17 situation deteriorates, for important pours, you don't 18 submit that, you've got to raise your hand and let me 19 know, then I will do whatever I can. For minor pour or 20 for whatever reason that you can facilitate to get the 21 job done and with the promise for them to submit the 22 form afterwards, we should keep a more open mind." 23 But I'm pretty sure at that time the situation did 24 not deteriorate to the current situation, like the 25 figures; right? That's my recollection. Look at NAT,</p>

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<p>1 SAT, even figure not very good, but before I left the</p> <p>2 site, the percentage are not higher than the overall</p> <p>3 average. Even HHS, why we have a low per cent is the</p> <p>4 trough wall. No minor pour. You got about maybe 300</p> <p>5 pours for the trough wall, but the underpass, major</p> <p>6 pour, when I was there, it is more than the average.</p> <p>7 The track slab the same, the big pour.</p> <p>8 When you look at the HHS, the overall percentage,</p> <p>9 overall from start to finish, a lot of pours at trough</p> <p>10 wall, we did it the last one or two years, 2016 to 2017.</p> <p>11 So, when you say the figures, that figure only</p> <p>12 applies overall. It doesn't apply to my state. I've</p> <p>13 got to elaborate a little bit.</p> <p>14 Q. I understand that. But you are really at the moment, as</p> <p>15 I understand, Mr Chan, putting forward two</p> <p>16 justifications for the situation.</p> <p>17 A. Yes.</p> <p>18 Q. One is there were what you've described as minor pours,</p> <p>19 and the second, perhaps related, is that there were</p> <p>20 a lot of pours.</p> <p>21 A. Yes.</p> <p>22 Q. A very big number of pours, particularly in the trough</p> <p>23 walls.</p> <p>24 A. Yes.</p> <p>25 Q. Are you putting forward those two reasons as</p>	<p>1 And also one very important thing is RISC form is</p> <p>2 a contractual requirement. It's an administrative</p> <p>3 procedure, not a statutory requirement. The contractor</p> <p>4 normally don't pay high attention to that. Unless, if</p> <p>5 the government wants to make it a big deal -- "Okay,</p> <p>6 it's a statutory requirement" -- then the whole thing</p> <p>7 would be different.</p> <p>8 I'm not trying to defend but this is it the reality</p> <p>9 in the construction industry.</p> <p>10 Q. Okay.</p> <p>11 A. It's the normal practice in this world. That is why you</p> <p>12 have found out the Guangzhou-Macau, because so many</p> <p>13 thousands of RISC forms are not there. If we have more</p> <p>14 practical approach, not have that problems now.</p> <p>15 CHAIRMAN: Sorry, you made mention in your last answer of</p> <p>16 Macau, sorry?</p> <p>17 A. Zhuhai-Macau Bridge.</p> <p>18 CHAIRMAN: Ah, sorry. Thank you.</p> <p>19 A. The big bridge leading to China, big in the newspapers.</p> <p>20 This is one of the typical examples in the construction</p> <p>21 industry, but I think the industry changed now because</p> <p>22 the government expects a lot more. People start to</p> <p>23 think there's this expectation, so they start paying</p> <p>24 more attention and resources on that. I'm pretty sure</p> <p>25 the RISC form system is a lot better now since that</p>
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<p>1 a legitimate excuse for the RISC forms not to be</p> <p>2 submitted as they should have been?</p> <p>3 A. As I mentioned to you, there are five main reasons</p> <p>4 behind the reason not submitted, based on the current</p> <p>5 requirement. First, it depends on individual</p> <p>6 performance, like NFA they do a lot better job. The</p> <p>7 second thing, if the pour important, they definitely</p> <p>8 would do it, right, like the EWL, 100 per cent. When</p> <p>9 too busy, people will have not much time -- as</p> <p>10 I mentioned to you, the RISC forms are very</p> <p>11 time-consuming and labour intensive, and it was there</p> <p>12 some 40 years ago when the industry was totally</p> <p>13 different from now, and the construction work was a lot</p> <p>14 simpler at that time and now the construction is so</p> <p>15 complicated, and the expectations from society are so</p> <p>16 high. 40 years ago, I never had to deal with the Labour</p> <p>17 Department or Environmental Department. No stakeholder</p> <p>18 issues. I just concentrate on prepare the RISC form and</p> <p>19 get the job done.</p> <p>20 But the system is still there. Four parts. If you</p> <p>21 look, every RISC form has four parts, have to sign off</p> <p>22 by four different people. It takes a long, long time.</p> <p>23 It's not practical. I think the industry got to start</p> <p>24 thinking to revise the system to more user-friendly,</p> <p>25 with the help of new technology.</p>	<p>1 incident.</p> <p>2 CHAIRMAN: Sorry, just remind me, with the Zhuhai-Macau</p> <p>3 Bridge, the RISC form problem was the same?</p> <p>4 A. Late submission and no submission, both.</p> <p>5 CHAIRMAN: No submission or late submission?</p> <p>6 A. Yes, similar.</p> <p>7 CHAIRMAN: I may be wrong in hearing what you say, and this</p> <p>8 is not a criticism, it is purely and simply a question</p> <p>9 for clarification. Would I be correct to say that you</p> <p>10 were aware of it, your officers were aware of the</p> <p>11 problem, and it was a question of managing the problem</p> <p>12 rather than seeking, by way of abrupt action, to</p> <p>13 completely stop it?</p> <p>14 A. I agree with you, Chairman, because as I mentioned, this</p> <p>15 is not a statutory requirement. There's no contract</p> <p>16 requirement that I can stop the work before they submit</p> <p>17 a RISC form. That's no such requirement. I can't</p> <p>18 exercise that power to stop your work until you submit</p> <p>19 the RISC form. But if that's what the site wants, and</p> <p>20 now we have a memorandum from the government saying, "No</p> <p>21 concrete pour allowed unless we have a proper RISC</p> <p>22 form", that's a different story. The expectations are</p> <p>23 different.</p> <p>24 CHAIRMAN: But -- and again, this is just for</p> <p>25 clarification -- I appreciate that if you are working</p>

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1 on site, the fact that the law tells you to do something
2 has a certain degree of immediacy about it, and you know
3 that you are going to be in trouble. But contractually
4 too, there's a direct obligation, is there not?
5 A. I agree, there's an obligation to inform us to do the
6 hold-point inspection, and in fact my team have carried
7 out the inspection even without a written RISC form. As
8 I mentioned with my other colleague, they will go out
9 and check and take photos to record it. It's
10 a different means to achieve the end product.
11 CHAIRMAN: What has struck me, at this very early
12 provisional stage, without the benefit of learned
13 submissions from the various counsel, is that while it's
14 very understandable, there are unintended consequences
15 that arise from a failure to submit a RISC form before
16 the inspection takes place and only to submit it as some
17 form of bureaucratic bother, sometimes weeks or even
18 months after, and it's those unintended consequences,
19 because the system has been undermined and a new system,
20 a very uncertain casual system, has evolved in its
21 place. That's the sort of problems that -- they create
22 problems.
23 A. I understand, because if you don't submit a RISC form,
24 there's a chance that people will, one way or the other,
25 forgot to do the inspection, that's true. But I'm

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1 pretty sure most of the time, 99 per cent, people won't
2 do the inspection and let them do the concrete pour.
3 One or two occasions I can't limit; people make
4 mistakes.
5 You can't have a project management system to avoid
6 any mistakes or all mistakes. Different system, if the
7 people don't execute the system in due diligence,
8 mistakes will still happen. We are human beings. That
9 means we should have a system as simple as possible.
10 The more complicated the system, the more chance people
11 will make mistakes. That's why I suggest the RISC form
12 system should be revised, make more user-friendly, with
13 the help of new technology; just take photo, push
14 a button, complete the process. That would be a lot
15 helpful.
16 I'm not trying to defend the mistakes, but we've got
17 to be realistic. There's always room for improvement,
18 every system we have on site. And all the systems
19 depend on the people who perform it. If the people do
20 not carry out the work in due diligence, no matter how
21 good a system, they still make mistakes.
22 CHAIRMAN: You say that this system, the RISC form system,
23 was in use when you started, was it, 40 years ago?
24 A. Yes, but the situation was very different from now,
25 I mentioned to you.

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1 CHAIRMAN: Of course, yes.
2 A. On the whole, the society expectations were a lot
3 different. I don't have to deal with CNP, no EPD, no
4 stakeholder meetings, no safety. The only concern is
5 fill in the RISC form and deal with the instruction and
6 get the job done. The work was a lot simpler than now
7 and there was more time to do. But the system never
8 changed.
9 I'm not trying to defend but I just tell you the
10 reality in Hong Kong.
11 MR PENNICOTT: Sure.
12 CHAIRMAN: No, I think, in fairness again, subject to what
13 counsel will say, the Commission has been aware of
14 a number of sources saying exactly what you are saying,
15 namely that there needs to be a use of technology and
16 simplification of the process, yes.
17 MR PENNICOTT: Mr Chan, let me ask you this: did it ever
18 occur to you, during the course of your work up to May
19 2016 on the HHS, knowing as you did the problem that
20 existed with the non-submission of RISC forms, to say to
21 Leighton, "Look, I'm sorry, chaps, but we are not going
22 to be inspecting this rebar anymore unless you start
23 submitting these RISC forms"?
24 A. If my inspector mentioned to me the situation had
25 deteriorated, I would probably do that, because I always

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1 believe that preventive measures is always better than
2 remedial measures. I will probably do what you just
3 said to me if my inspector of works mentioned to me the
4 situation had deteriorated; I would definitely step in.
5 I promise you. This is my character.
6 Q. But if that's right then your perception of the
7 situation must have been that whilst there was
8 a problem, it wasn't serious enough --
9 A. Exactly.
10 Q. -- for you to take that sort of step; is that right?
11 A. Exactly. You can look at other areas. It's only
12 localised. The accommodation blocks is the worst at
13 that time, when you look back at the situation, because
14 they are just small buildings, people pay less
15 attention. But big EWL slab, 100 per cent. NSL,
16 depends on the individual, they do a good job. NAT,
17 when it was done, it's still very good. NFA did the
18 same. It all depends on individuals.
19 There are many reasons behind a late submission or
20 no submission. It is not a single reason.
21 Q. All right.
22 CHAIRMAN: The sort of problem that arises, though -- and
23 I'm not suggesting it fell within your time, Mr Chan,
24 but I just put it forward, therefore, as
25 an illustration -- is that we had a witness today who

<p style="text-align: right;">Page 137</p> <p>1 was a senior inspection officer, and he spoke of 2 receiving, for example, several months worth of RISC 3 forms sort of just put on his desk, and being diligent 4 he then had to set about the task as best he could based 5 on notes and photographs and other odd things, to try to 6 tie each of these RISC forms into its proper context; 7 you know, work which -- he didn't say so but I would 8 imagine clearly he had to do out of hours, for example. 9 I'm not suggesting that happened during your time, 10 but when I talk about these unintended consequences, 11 that's the sort of thing. Sometimes, instead of saving 12 time, it just adds to time, but adds to time in a very 13 uneven fashion. Some people get stuck with the problem, 14 others don't. 15 A. I totally agree with your assessment. If I know this 16 situation, I will take action a lot earlier to stop that 17 happening. I will not tolerate that happening. If 18 I know that the contractor failed to submit forms 19 several months, to my character, I just stop. That's my 20 bottom-line character. "You've got to stop it, you've 21 got to do the job properly, otherwise no more works 22 on site." 23 CHAIRMAN: Yes. 24 A. We have to do that if the situation deteriorates to that 25 extent.</p>	<p style="text-align: right;">Page 139</p> <p>1 problem is still there, not satisfactory, please do work 2 together to make it in a manageable style. 3 COMMISSIONER HANSFORD: And would you also agree, Mr Chan, 4 that if things continue, people get into habits? 5 A. I agree. That's the reason why, up to a certain point, 6 I will talk to my senior inspector, "Are you capable to 7 deal with this? If not, let me know, then I will take 8 action to make sure to a certain degree of 9 satisfaction." Be honest, we can't 100 per cent, but 10 you could do 80 to 70 per cent for not important works, 11 okay. For important pours, I will require 100 per cent. 12 COMMISSIONER HANSFORD: 80 or 90 per cent is better than 29 13 or 34 per cent. 14 A. I totally agree. That is subjective. That's why my 15 style is that I have some sympathy about late submission 16 due to all kinds of reasons, but there's a certain 17 bottom line you've got to protect. For important pours, 18 big pours, you must have the RISC forms in place. For 19 minor pours, a draw pit, the system still applies but 20 it's tedious; right? 21 COMMISSIONER HANSFORD: I understand. 22 A. So you've got to strike a balance. 23 CHAIRMAN: Again, it's helping us to understand the 24 parameters of the problem, but one of the things -- and 25 I'm speaking purely personally -- that struck me was</p>
<p style="text-align: right;">Page 138</p> <p>1 COMMISSIONER HANSFORD: Mr Chan, as I understand it, you had 2 the power to stop work? 3 A. I think, contractually, I can't use that power purely 4 because of the late submission of RISC forms. I will 5 try to talk to them nicely and say, "Look, we can't 6 tolerate this, otherwise I will do other administrative 7 procedures to stop your work, to slow down your work." 8 COMMISSIONER HANSFORD: Let me put it a different way: you 9 had the ability to change things? 10 A. I got certain power to change, but if the contractor not 11 cooperate, I need the support from management, my senior 12 management, because -- 13 COMMISSIONER HANSFORD: That's a different point. 14 A. If I try my effort and still cannot resolve the 15 situation, I will report to my general manager. 16 COMMISSIONER HANSFORD: I understand that but that's 17 a little bit hypothetical because we didn't get that 18 far. 19 A. No. But if I take action earlier, I think the problem 20 can be solved earlier. It's always to solve the problem 21 sooner rather than later. 22 COMMISSIONER HANSFORD: Yes. 23 A. That is my style. I always like to resolve the problem. 24 That's why I initiate that weekly report, so I know what 25 the problem, then I keep reminding everyone if the</p>	<p style="text-align: right;">Page 140</p> <p>1 with some of the young engineers whose job it was to do 2 these inspections, that even though they fell behind in 3 their completion of RISC forms, they didn't seem too 4 alarmed by it, and from my position of complete 5 ignorance I thought to myself, as a young engineer, 6 I would have imagined myself having sleepless nights. 7 And I think what slowly has come about is 8 a realisation, which you have now confirmed, that it was 9 appreciated throughout management that some level of 10 dodging the RISC form burden was allowable, provided it 11 didn't get out of hand and provided it didn't affect 12 major pours or major rebar checks. Would that be right? 13 A. My view is a bit different from your view, Mr Chairman. 14 I mentioned earlier, right, the survey team, they are 15 also very junior, they do 100 per cent job. If you look 16 at the survey RISC form, 100 per cent. As I mentioned 17 earlier, it depends on the performance of individuals. 18 In a construction site, there are hundreds of people. 19 Their capability and their performance varies a lot. 20 That's why I try to say that the simpler the system, 21 the better. No matter how good the system is, the more 22 complicated -- we are all human beings, we all make 23 mistakes. So the simpler the system, the better. I try 24 to emphasise that. It's not that we tolerate that. It 25 all depends on individuals. In a construction site,</p>

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<p>1 hundreds of people, some are young, some are more 2 experienced, some are more conscience, more responsible; 3 some have lack of responsibility. That's the reason -- 4 that's my own view -- it all depends on individual 5 performance, not because people tolerate that; right? 6 CHAIRMAN: Thank you very much. 7 MR PENNICOTT: Just perhaps one last area but it's still on 8 sort of the same topic. You handed over -- this is 9 quite an important area, I think -- the job that you had 10 as construction manager in May 2016 to Mr Fu; is that 11 right? 12 A. Yes. 13 Q. Was there a sort of handover period, a period where you 14 were both working together? 15 A. I remember I got the notice three days ago only. So 16 I tried to hand over the job to Mr Michael Fu within 17 three to four days, with less than a week. 18 Normally, I have a note about all site issues, 19 I pass my note to him, saying maybe, "100 items you've 20 got to pay attention." I can't remember exactly what 21 I discussed with Michael within the handover discussion, 22 but I'm pretty sure those weekly reports were issued to 23 MTR senior management, the construction manager, the two 24 senior ConE, even after I left the site. If they pay 25 attention to the information in those weekly reports,</p>	<p>1 I can't speak on his behalf why he don't know it. 2 Whether he read the email or not, I can't speak on his 3 behalf. Please ask him. But the reports are still 4 there. Leighton still issued the reports, still got 5 Kit Chan request, every week, until maybe six months 6 later I can't tell, right, I can't manage that. 7 Q. Park that point on one side for the moment, Mr Chan, if 8 you would. 9 A. Yes. 10 Q. If, in May 2016, when you were about to hand over the 11 job to Mr Fu, somebody had given you a blank sheet of 12 paper and invited you to write down the top 20 problems 13 that existed on the project, would the RISC form problem 14 have been one of them? 15 A. This is a hypothetical question. 16 Q. Yes. 17 A. I can't answer, right, because three years ago I can't 18 remember what I talked to him; right? So I can't tell. 19 So I can't answer your question because it's 20 a hypothetical question; right? 21 Q. It's a hypothetical question, I accept, but let's just 22 pursue it a bit. Your perception of no doubt a number, 23 a host of problems that existed on the project in May 24 2016, there were no doubt a lot of issues, a lot of 25 things going on in May 2016 -- where did the RISC form</p>
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<p>1 they should know that RISC forms are still a problem. 2 Q. The reason I'm asking the question, and I don't know 3 whether you would have picked this up, if you have been 4 listening to the evidence or reading the transcript, but 5 Mr Fu told the Commission that he had little or no idea 6 of the RISC form problem until January/February 2018, 7 when the defects in the stitch joints became apparent 8 and investigations took place into what had happened. 9 Now, if that's right, it seems to me that the only 10 conclusion that can be drawn is that you did not make 11 him aware, back in May 2016, of this problem. Do you 12 have any recollection at all of that? 13 A. I mentioned to you earlier, my learned friend, that 14 weekly report that I mentioned in my statement; right? 15 Q. You mean the Kit Chan register? 16 A. Yes. It was still issued from Leighton to MTR after 17 I left the site. At that time, they addressed to 18 Michael Fu and the two senior ConE, the same thing. If 19 you read those reports in due diligence, they should be 20 aware that; right? I can't remember what I mentioned to 21 him three years ago; right? But the hard evidence is 22 that Leighton keep reporting, at least after I left -- 23 I don't know how many weeks later but at least in 24 June -- I saw the same weekly report issued to 25 Michael Fu. So he should have able to see that; right?</p>	<p>1 problem feature in terms of importance in May 2016? 2 A. I'm pretty sure this is an important issue to address 3 but I can't rank it, whether it's number 19 or 18. It's 4 difficult, very subjective. Different people look at 5 different situations, have different opinion. If 6 I think this is number 1, the other person says maybe 7 number 5. So I can't tell. But it's an issue we need 8 to address. 9 That's why I implement the system to issue -- I keep 10 reminding everyone, every week saying, "This is still 11 a problem, so manage that." To be fair, I can't 12 quantify and put a number there. It's not fair. 13 Q. All right. 14 A. I hope I can answer your questions. 15 CHAIRMAN: Mr Pennicott, just a gentle warning order, namely 16 that you have requested that we should adjourn. I'm not 17 suggesting now, I'm just saying the time span -- and 18 I doubt very much whether we will be finished with 19 Mr Chan within that small time frame. 20 MR PENNICOTT: We won't, sir. I've got a couple of smaller 21 issues that I wanted to deal with, and I'd also quite 22 frankly like to reflect on what's been discussed in the 23 last 15-20 minutes between yourselves, me and Mr Chan. 24 CHAIRMAN: Yes. It's very important, obviously. 25 MR PENNICOTT: It's a very important area and I did have</p>

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1 a number of questions set out but I think, frankly,	1 (The hearing adjourned until 10.00 am the following day)
2 between us, perhaps all the relevant questions have been	2
3 asked and Mr Chan has answered.	3
4 So I wonder, in those circumstances, whether this	4
5 would be -- and obviously I don't know how many other	5
6 counsel have got questions for Mr Chan. I think the	6
7 government have got some; I'm not sure about anybody	7
8 else. Maybe this would be an appropriate moment because	8
9 I don't think we are going to finish Mr Chan this	9
10 evening, and ask him unfortunately to come back in the	10
11 morning.	11
12 CHAIRMAN: Yes.	12
13 MR PENNICOTT: I know that a number of people also,	13
14 including myself, are quite anxious to not have the	14
15 journey that we had last night, if it can be avoided,	15
16 because of the problems that may still be existing in	16
17 Central, although I do understand it's much improved.	17
18 CHAIRMAN: Good.	18
19 Just before we do adjourn, could I just ask -- is	19
20 Mr Tsoi going to have many questions, or yourself for	20
21 that matter? My apologies.	21
22 MS LAU: We might have a few questions but I don't	22
23 anticipate that it will take long.	23
24 CHAIRMAN: All right. Thank you.	24
25 Mr Chow?	25
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1 MR CHOW: Sir, we do have a few questions. I think it's	1 INDEX
2 going to take perhaps 15 to 20 minutes, depending on the	2 PAGE
3 answers of Mr Chan.	3 MR TUNG HIU YEUNG, VICTOR (affirmed in Cantonese)1
4 CHAIRMAN: All right.	4 Examination by MR CHEUK10
5 Mr Shieh?	5 Cross-examination by MR TSOI43
6 MR SHIEH: For a change, I do have some questions.	6 Cross-examination by MR CHOW65
7 CHAIRMAN: All right. Okay. Good. Then we will adjourn.	7 Re-examination by MR BOULDING69
8 Mr Chan, thank you so much for your evidence this	8 Questioning by THE TRIBUNAL71
9 afternoon. It's been a very real help. And thank you	9 (The witness was released)75
10 for the frankness, too.	10 MR LEE CHIU YEE, JACKY (affirmed in Cantonese)77
11 WITNESS: It's my job.	11 Examination-in-chief by MR BOULDING77
12 CHAIRMAN: Because that makes our job a great deal easier.	12 Examination by MR PENNICOTT80
13 And let me just say this, a purely personal observation,	13 (The witness was released)99
14 that sometimes these type of Commissions may appear to	14 MR NGAI KWOK HUNG, CANO (affirmed in Cantonese)99
15 be like martinets, lacking any empathy, but I think what	15 Examination-in-chief by MR BOULDING99
16 has come across is your man management skills and we are	16 Examination by MR PENNICOTT101
17 not ignorant of that.	17 (The witness was released)110
18 WITNESS: Thank you.	18 MR CHAN KIT LAM, KIT (affirmed)112
19 CHAIRMAN: So tomorrow morning, 10 o'clock.	19 Examination-in-chief by MR BOULDING112
20 WITNESS: Thank you, sir.	20 Examination by MR PENNICOTT113
21 CHAIRMAN: Sorry, you know the form. You are not entitled	21
22 to discuss your evidence.	22
23 WITNESS: I've got experience. Thank you for reminding.	23
24 CHAIRMAN: Thank you.	24
25 (4.40 pm)	25