Thursday, 13 June 2019

(10.02 am)

MR BOULDING: Good morning, sir. Good morning, Professor.

My next witness from MTR is Mr Victor Tung.

Good morning, Mr Tung.

WITNESS: Good morning.

MR TUNG HIU YEUNG, VICTOR (affirmed in Cantonese)

MR BOULDING: Good morning, Mr Tung.

A. 早晨。

Q. You are going to give your evidence in Cantonese, as I understand it, so I'm putting my headphones on.

A. Yes.

Q. It's correct, is it not, that you have produced two witness statements for the assistance of the learned Commissioners in this Inquiry?

A. 係。

Q. I wonder if we could look at the first one, please. Page BB8/5248.

A. 係。

Q. And there we see the first page of your first statement, Mr Tung?

A. 啱。

Q. Could we go on, please, to the signature page, which I hope we will find at page 5260.

Is that your signature, above the date of 15 May

2019?

A. 啱。

Q. We are now going to go to your supplemental witness statement which I trust we will find in bundle BB14/9497.1.

A. 係。

Q. There do we see the first page of your second witness statement, Mr Tung?

A. 係，啱。

Q. Then if we could go on, please, in the bundle to 9497.4, and there do we see your signature, above the date of 6 June 2019?

A. 啱。

Q. Are the contents of those statements true to the best of your knowledge and belief?

A. 係。

Q. Now, I'd like to place you in the MTR organisation, and for that purpose perhaps we can go first to bundle B2/566.

Do you see, Mr Tung, that we are looking here at the MTR organisation chart as of 15 January 2015; correct?

A. 係。

Q. If we look at one column in from the left-hand side, do we see your photograph, I think it's the fourth photograph down. Is that you?

A. 係，係，係。

Q. Splendid. Then to see, if at all, how things moved on by August of that year, could we go to B2/578, please.

And here, in the top left-hand column, do we see the date of 16 August 2016?

A. 係。

Q. If you look at -- can you see Michael Fu at the very top of the tree?

A. 係，係。

Q. And if we go down, immediately below Michael Fu, we can see a Kenneth Kong, and then there's a picture of you but with the name "Victor Tang" next to it. Is that in fact you, Mr Tung?

A. 應該打錯字，Mr Tung，T-U-N-G。

Q. Right. Thank you very much.

I just want to ask you, with the Commissioners' leave, one or two questions about a matter arising during the course of the evidence.

I wonder if we could go back to your first witness statement, please, page 5256. And there do you see, Mr Tung, paragraph 35 of your witness statement?

A. 係。

Q. It's correct, is it not, that here you deal with the incident you refer to in the VRV room?

A. 係。

Q. And here you tell us that:

"On 30 June 2017, we were asked to carry out a hold-point inspection of rebar fixing works at the VRV room. We discovered that there was incomplete fixing of couplers and rejected the works accordingly."

Is that what you did, Mr Tung?

A. 啱。

Q. Then looking at paragraph (2):

"However, Leighton decided to proceed to cast concrete despite the rejection of the rebar fixing works and before requesting MTR to carry out a pre-pour check."

As I understand it, that's something that Leighton should not have done; is that right?

A. 係，啱嘅。

Q. Then in paragraph 3 you deal, do you not, with an email of complaint from your colleague, Jason Kwok, to Leighton's Ronald Leung, and I understand that you were copied in on that email. Is that right?

A. 啱。

Q. Then I think finally, so far as the incident is concerned, in subparagraph (4) on page B5257, you refer to the fact that you warned Leighton not to do such a thing again. Is that correct?

A. 係。

Q. Now, do I understand that you've been following the evidence of the Commission of Inquiry insofar as it relates to this VRV incident?

A. 係嘅。

Q. I wonder if we could look at the transcript for Day 10 of the hearing, and when we are there go to page 126. Splendid. I'd like to pick it up at line 7.

Do I understand it that you've had the opportunity to read this part of the transcript, Mr Tung?

A. 係。

Q. I pick it up at line 6 or line 8. Mr Pennicott is questioning Mr Fu and he says:

"And in relation to this VRV room -- the reason I'm asking you these questions is to see whether we can put this on one side for a moment -- for forever. You mention an email from Mr Holden of 15 March 2019. Is this the email that you are referring to, Mr Fu?

Answer: Yes, I can see that. Yes.

Question: It says -- it's from Mr Holden to Jacky Lee, and what Mr Holden says is:

'Further to our discussion refer attached items related to the HHS phased opening close out for accommodation blocks package'.

And the first item is the 'PWD226 design report justification of MJ', which I think is movement joint, 'in VRV base slab'; do you see that?

Answer: I see that.

Question: And attached to this email is a very lengthy report. If we can just go over the page, please:

'Review of VRV base slab around construction joint.'

Then over the page -- and it goes on for a little while. We are not going to look at it.

In your witness statement, Mr Fu, you say, in relation to this particular item:

'As the investigation and follow-up action in this regard are still ongoing, I will update the Commission of Inquiry when more information is available.'

Would you like this opportunity to give us an update, if you are able?

Answer: Right now, we are still doing the review."

Do you remember reading that evidence from Mr Fu?

A. 呢個睇過嘅。

Q. Have you had an opportunity to look at what Mr Fu was referring to as being reviewed?

A. 喺準備上嚟之前睇過呢封電郵，yes。

Q. I see. I wonder if I could turn that up, perhaps. BB6328. Is this the email that you just told the learned Commissioners that you had an opportunity to read before giving your evidence?

A. 係。

Q. We can see what it says:

"Further to our discussion refer attached items related to the HHS phased opening close out for accommodation blocks package:

-- PWD226 design report justification of MJ in VRV base slab."

Then if we could go on to BB6330, and do we see there, Mr Tung, the first page of a report produced by the Leighton engineering and design group entitled, "Review of VRV base slab around construction joint"?

A. 係。

Q. Have you had an opportunity to consider the contents of that document?

A. 唔好意思，再講多一次，問多一次，sorry。

Q. Have you had an opportunity to consider the contents of the document which starts at page 6330?

A. 考慮？都唔係好明，你話考慮係我有冇睇過 ，係咪？應該，係咪呀？

Q. Yes, the word "read" will do. Have you had an opportunity to read it?

A. 係。

Q. Good. Having read this document, Mr Tung, does the document concern the structural integrity of the area in the VRV room in which the incomplete fixing of the coupler incident to which you refer in paragraph 35 of your statement occurred?

A. 睇個報告，佢禮頓寫嘅報告，佢影響唔大嘅，不過而家都係under

review緊，佢哋。

Q. I see. Just to pick up the report because I don't think we've looked at it certainly in any detail before -- perhaps you could go to BB6332. There do you see paragraph 1.2, "Purpose and overview of temporary works"?

Have you read this paragraph, Mr Tung?

A. 有嘅。

Q. We can see, can we not, that it states:

"This design report focuses on a VRV base slab at grade A-J between grid A-8 to A-9. The slab is a 500 millimetres thick on-grade slab with several local 300 millimetre thick concrete plinths slab on it for resting several AHU units and cast with a construction joint between a main bay and an end bay."

Then there's a reference to figure 1 below.

"This design is prepared to review condition of the slab given a concern on rebar connectivity at the construction joint."

Then if we look over the page, 6333, do you see there paragraph 2.4, "Design approach"?

A. 睇到。

Q. And again is this a paragraph you've had an opportunity to read, Mr Tung?

A. 有嘅。

Q. I don't want to read it all but do we see that in the first paragraph it says:

"Checking of the slab will be carried out by reviewing the resulted load effect. The slab will be conservatively assumed as two individual slabs at both sides of the construction joint assuming no rebar continuity across the construction joint for simplification."

And then finally 2.5, the conclusion, again do I understand that you've had an opportunity to read that?

A. 有嘅。

Q. And it says:

"Based on the review to the slab condition in section 3.1 and 3.2, it can be concluded that effect of construction joint condition to the VRV base slab is minimum."

So we can see there, can we not, what Leighton invite the reader to conclude; is that right?

A. 根據呢個結論，佢係寫得啱嘅，不過仲係review緊，我覺得都係，未approve嘅。

Q. And you say it's under review. Do I understand that it's under review by MTR to see whether or not that conclusion is in fact justified? Is that the purpose of the review?

A. 係嘅。

Q. Thank you very much, Mr Tung. I have no further questions for you, but I understand that Mr Calvin Cheuk, who is one of the counsel for the Commission, is going to ask you some questions first. Then various other lawyers in the room will ask you questions. The learned Commissioners can ask you questions at any time they like. Then, depending on what you say, it may well be that I'll ask you one or two questions at the end.

Do you understand?

A. 明白。

MR BOULDING: Please listen carefully.

WITNESS: Thank you. Okay.

Examination by MR CHEUK

MR CHEUK: Good morning, Mr Tung. I act for the Commission.

A. Yes.

Q. Thank you for coming here to give evidence. I just have a few questions for you today.

A. Okay.

Q. From your witness statement, I understand that your involvement in contract 1112 was between January 2015 and December 2018; is that correct?

A. 啱。

Q. If we go to B2/566. My learned friend Mr Boulding has just taken you there. We see your name is the fourth on the second column. Do you see your name, the second

column from the left, the fourth is you; right?

A. 係。

Q. As we can see from this chart, you were responsible for HHS; correct?

A. 啱嘅。

Q. Then now if we can go to B2/598, we again can see you below James Ho; right? It's slightly -- if you see, slightly on the right-hand side, you see your name there, just below James Ho?

A. 見到，見到。

Q. By that time, your responsibilities extended to HUH, HHS, SAT, NAT and Con; "Con" means concourse, right?

A. 正確嚟講，係應該全個地盤。

Q. By that time, we can see -- pick up the date from the top of the chart, which is 31 July 2018; correct?

A. 係，見到。

Q. As I understand from your witness statement, let's leave aside the concourse and HUH, which is the Hung Hom Extension Station. Your focus was mainly in respect of HHS and SAT; correct?

A. 係。

Q. And your involvement with NAT was more limited; correct?

A. 全中。

Q. Now, if I may just take you to paragraph 20 of your witness statement, 5252 of BB8.

Here you say:

"At the time when I became involved in SCL contract 1112 in January 2015, there was a persistent problem with Leighton's late or outstanding submissions of RISC forms."

Do you see that?

A. 見到。

Q. And now if we go to paragraph 37. That's at page 5257. You also say:

"Had we insisted on proper submission of RISC forms by Leighton strictly before each and every hold-point inspection was allowed to take place, site progress would have been seriously affected."

Do you see that?

A. 有，係。

Q. I would like to ask you some questions in this regard; okay?

A. Okay.

Q. Now if we go to CC8/4397. You can take it from me that this is a chart of the SAT summary table prepared by Leighton; okay?

And if we go to, for example, the first item, first row, "SAT bay 1"; okay? And if we look at the date, the start date of fixing rebar, that's in the middle, we can see the date is 23 January 2016. Do you see that?

A. 係，見到，見到，見到。

Q. And the end date of rebar fixing is 27 January 2016; do you see that?

A. 見到。

Q. Mr Tung, you have experience of filling in a RISC form by yourself; right?

A. 有。

Q. Can I ask you, can you give us an estimate, say for a Leighton engineer to generate a RISC form, and then the RISC form passes to the administrative assistant of MTRC, and then ultimately passes to the hands of MTRC's engineer or IOW to carry out an inspection -- what sort of time would you say it takes?

A. 成個過程，我估計會超過一日。

Q. Let's say -- I'm not talking about up to the whole closing out of the RISC form; okay? I'm talking about from the time of printing out the RISC form by Leighton and then pass it to administrative assistant and then would pass it to the senior IOW and then would pass to the relevant engineers or IOWs to carry out the hold-point inspection. We are just talking of this period first. According to your estimate, is that about one day, or how long would you say?

A. 係一日嘅，不過我講一個全--即係我認識嘅流程畀你聽喇，第一，佢要喺個--禮頓嘅engine要喺個電腦run一部--一張form出嚟，跟住print out出嚟，跟住要attach drawing，跟住佢要簽名，跟住佢要掟番佢哋個QA/QC嗰邊

去做register，跟住佢哋QA/QC register之後，就會拎過嚟我哋個admin. AA嗰度，AA 佢哋嗰度就會做--又會做register，跟住就會畀大幫去簽名個--即係confirm嗰個收嘅日期，跟住之後--因為當時我記得應該係Kobe Wong去receive嗰個--即係sign嗰個--即係喺張form度佢--即係有一行係B欄嗰度，佢要簽番個名，睇下幾時收番嘅。

跟住佢後面--其實佢張凳後面有一個tray，即係我最初入去個地--1112嘅時候，佢後面有個tray，每個tray都有個當日--唔係，當刻我哋嘅幫辦嘅名，佢會擺晒啲form入去嗰個tray嗰度，跟住就我哋有時間就去收嗰啲form嘅，嗰個流程就係你喺佢run--roll張form出嚟之後，佢哋嗰邊自己可能禮頓都要半日時間，跟住再過嚟我哋AA，再--AA佢唔係淨係for你register嘅，好多文件要做嘅，佢可能要等一等，又可能幾個鐘頭之後再入，入完之後畀番個senior inspector，跟住佢就會擺啲form喺個tray度，所以喺我個感覺上係就算佢準時今日入form，可能我聽日我先收得到嘅。即係好少話我--佢入form，我十分鐘就會收到晒嘅。你明白呵？

Q. Fully understood. That's very helpful, Mr Tung.

So let's say that period takes about one day or might be slightly more than one day. I just wonder, according to your experience, is it possible that the relevant Leighton engineer could have anticipated, for example, in relation to the bay 1 area I just took you to -- could have anticipated one day before the relevant hold-point inspection and therefore submitted the RISC form one day beforehand? Would that be possible?

A. 有嘅。

Q. And if we look back to the screen, for example, looking at SAT bay 1, the commencement date was on the 23rd and the completion date was on the 27th. You see that; right?

A. 睇到。

Q. If that relevant Leighton engineer submitted the form, for example, on the 26th or even on the evening of the 25th, anticipating that the rebar fixing will be completed on the 27th. Then, by the time the rebar fixing is completed, then everybody can carry out the hold-point inspection, without any significant or substantial delay. Is that correct?

A. 應該得嘅，如果佢有足夠嘅人手嘅話。

Q. And this actually seems to me, correct me if I am wrong, it's not just -- it's a matter of planning ahead; would you agree?

A. 可以問多一次嘛？

Q. What it takes is that the relevant engineer should plan slightly ahead, so that he can submit the form slightly ahead, so that there would be no delay; would you agree?

A. 呢個同意嘅。

Q. And if we look at this table, if we go to the very bottom of this table, we can see there are about 40 pours in total?

A. 呢張table好似下面嗰度係tunnel嚟喎，NSL。

Q. Yes. Yes.

A. 上面係EWL。

Q. I'm talking about in total of the SAT area.

A. Okay.

Q. The upper part is EWL, the lower part is NSL, but they all belong to the SAT area. But I'm just drawing your attention to the total pours was about 40 pours; okay?

You can also take it from me -- I checked the dates -- these pours basically range from 26 November 2015, that is at pour number 4, if we can go back up a bit -- we can see that's the earliest pour in this sheet -- and if we go down to pour number 20b, the latest, the last pour, was 27 February 2017.

So I did a rough calculation: the whole period was about 15 months. That's more or less --

A. 上面1至24，我可以--我覺得--因為係我睇--我有份睇嘅，下面嗰由25到46其實唔係我管轄範圍，我唔可以confirm佢嗰啲日數。

Q. Yes, certainly I'm not asking you to confirm. You can take it from me these are the assumption of dates we are working at.

A. Okay，明白。

Q. What I am driving at, we are talking about around 40 pours over 15 months, which is about two to three pours per month. Would you consider it is onerous for, for example, an engineer in Leighton to do that planning

one day or two days ahead, so as to prevent any delay to carry out the hold-point inspection?

A. 呢樣嘢其實我就唔知點答，其實，因為佢哋個工作有佢哋嗰個--我唔--其實佢每一個engine佢係咪淨係包括淨係做呢啲咁嘅pour數嘅，可能呢個base slab，佢淨係睇呢個base slab，就唔係，其實周邊嘅，好似嗰啲ELS，佢哋都要跟進嘅。佢有冇--夠唔夠一個時間去做呢張form呢？我就唔可以代佢答。

CHAIRMAN: I think what's being suggested is that you can't come to a conclusion unless you look at their overall work responsibilities.

MR CHEUK: I understand.

And of course, if we say there is -- and in your view, as I understand, that will -- let me start again.

If their overwork -- workload allowed them to do the planning ahead, which I just suggested to you, then you would agree there should not be any substantial delay by the compliance of this RISC form procedure; would you agree with me?

A. 麻煩講多次。

Q. If the resources or if the workload of that particular Leighton engineer would allow him to do the planning ahead which I have just suggested to you, then the compliance of the RISC form procedure should not cause any substantial delay to the project; would you agree?

A. 係，同意。

Q. Now, when going back to your statement, at page 5257, paragraph 37 -- you say here:

"Had we insisted on proper submission of RISC forms by Leighton strictly before each and every hold-point inspection was allowed to take place, site progress would have been seriously affected."

Can I ask you, apart from raising the issue or complaint with Leighton, did you or your colleagues at MTRC do anything else, asking or forcing Leighton to comply with the RISC forms?

A. 據我所知，Kenneth Kong出過email嘅，同埋CK Cheung，即係15年中嘅出過email嘅，係咪CK Cheung？好似CK Cheung。

Q. Yes, we've seen those complaints several times, but what I'm asking is, apart from complaint, any substantive action such as holding up the inspection and tell Leighton, "I will not allow this to happen again unless you comply with the RISC form procedure""? Was that sort of substantive action ever taken by MTRC?

A. 呢個我唔係好記得。

Q. But you yourself certainly didn't say anything like that to Leighton; right?

A. 其實我有嘅，即係試過有一段時間，不過好短日子，佢試過即係掟番--即係佢會WhatsApp番張inspection form嘅copy畀我睇嘅，不過好短時間，即係大家到最後都係遲交。

Q. But you have not actually refused to carry out

a hold-point inspection because of no RISC form?

A. 可否再講多次？

Q. You have not refused to carry out a hold-point inspection because of the lack of RISC form; is that right?

A. 冇，一路都冇試過。

Q. And you described an example in your witness statement. If we go to BB14/9437. Do you recall this? It's your WhatsApp?

A. 呢個好記得。

Q. What this WhatsApp is about is there was one time that Leighton's engineer sent you four months' RISC forms in one go; correct?

A. 啱嘅。

Q. That's why you gave him that angry emoji; right?

A. 係，因為佢畀一拃form畀我之後，我要用好多時間去搵番啲紀錄去簽番啲form。

Q. Yes. After receiving these four months' RISC forms in one go, what substantive action did you take in respect of that?

A. 都係追佢交form先。

Q. Now, let's move on to a slightly different topic. BB14 -- back to your witness statement, your supplemental witness statement -- 9497.2, paragraph 4. I understand that here you explain an example how you can fill in a RISC form despite its late submission;

correct?

A. 係。

Q. If we go to 9497.6, that's the relevant Leighton RISC form.

A. 係。

Q. We see that this is a pre-pour check at HHS; correct?

A. 啱。

COMMISSIONER HANSFORD: It's on the screen.

MR CHEUK: It's on the screen, the first part A, the first item and the second item.

We also see that the hold-point inspection was carried out on 8 April. If we go down a bit, that describes the hold-point inspection's date and time, 8 April, at 1530; right?

A. 係，啱嘅。

Q. And that was by you; we see your name there?

A. 係。

Q. But you only completed this part of the form on 27 April 2016; correct?

A. 因為我16年4月27號先收到張form。

Q. I'm certainly not putting blame on you; I'm just trying to locate the exact date.

A. 但係個inspection date好exactly係寫番4月8號。

Q. Yes, we understood that.

A. Okay.

Q. Then you explain in your witness statement the reason why you can correctly fill in this form retrospectively was relying on your WhatsApp messages and photos; right?

A. 全中。

Q. I do not intend to go into all those photos and WhatsApp messages, but can I ask you this. Are you saying that you were able to carry out this exercise, tracing exercise, and did carry out this exercise, in relation to each and every late submission?

A. 係。

Q. So you are saying that -- for example, if we go back to BB14/9437, and we go to 9438, the next page, we see the physical forms that you received in that one go. So, after four months, you were able to trace everything and filling out back all the information to that stack of RISC forms; is that your evidence?

A. 係。

Q. And you are still confident they are all correct; is that right?

A. 係。

COMMISSIONER HANSFORD: Mr Tung, can I ask, how long did that exercise take? How long did it take to go through that big batch of RISC forms and complete --

A. 其實通常都係我放--差唔多放工嘅時候，做完site walk，每日做兩個鐘，我諗都要做兩至三個禮拜，因為有時個電話會hang機嘅，掃得太多。

COMMISSIONER HANSFORD: Sorry, I don't quite understand. So you had this big batch, like four months' worth, and then it took you two weeks, at the end of the day, the end of each day, two weeks to complete; is that what you are telling me?

A. 點講？其實係每日我哋行完site walk，四、五點返寫字樓之後，我用番個剩餘時間，即係當收工個剩餘時間一路係咁用個電話嘅WhatsApp喺度睇番啲咁嘅資料，所以應該都唔會話好--即係點解嗰次我咁嬲？就係話佢畀四個月嘅form我，我要用好多嘅私人時間去同佢做啲咁嘅嘢。

COMMISSIONER HANSFORD: I understand.

MR CHEUK: That's very conscientious of you, but I just wonder, do you know, would your other colleagues, like you, have the same level of diligence and carry out such exercise just like you when they receive a late submission?

A. 呢個我其實唔可以幫佢答，因為我都唔知。

Q. Let's move on to a slightly different topic. If we go back to your witness statement, paragraph 35, 5256. This is a paragraph my learned friend Mr Boulding took you to at the start of your evidence; do you recall?

A. 係，記得。

Q. It's about an incident at the VRV room; right?

A. 係。

Q. Can you help us, if we go to CC9/5254 -- can you help us to pinpoint the location of this incident? Where did it

happen? Can you use a gridline?

A. J，呢個位囉(indicating).

Q. So J1, gridline J1?

A. J7同9，J8囉好似。呢個gridline其實A到J都係睇下面嘅。而家睇A to J個gridline，我就應該係睇番下面嗰個gridline嘅，就唔係睇上面，上面係另外一part嘅gridline嚟嘅。

Q. So essentially we are looking at the yellow box at the top left-hand corner?

A. 呢個大概J7至8，7至8或者7至9，中間呢個，here。

Q. Thank you. That's helpful.

COMMISSIONER HANSFORD: It's that isolated yellow box in the top left of this, Mr Cheuk? It's that isolated yellow box in the top left of this diagram, Mr Cheuk?

MR CHEUK: That's what I understood.

He's been given a new gadget now.

COMMISSIONER HANSFORD: A new toy.

A. (Using magnifying device) Here. Here. It's okay?

MR CHEUK: Thank you. That's very helpful.

If we go back to the email which records this incident, BB8/5789.

A. Okay，係。

Q. This is an email from Jason Kwok to Ronald Leung. Jason Kwok is MTR and Ronald Leung is Leighton; right?

A. 啱嘅，係。

Q. You were copied in. We see your name in the middle, cc

Victor Tung; correct?

A. 係。

Q. The email says:

"Dear Ronald,

Please note that the rebar inspection was rejected this pm for the remaining footing at VRV unit, due to incomplete fixing of the coupler, refer to the attached photos. More than half of the coupler at the B1 rebar were not properly fixed. Your engineer did not rectify the defects and decided to cast concrete anyway. It is also note that general cleaning inspection was not arranged with our IOW before pouring concrete. This is unacceptable."

Just to confirm, it says, "Your engineer did not rectify the defects and decided to cast concrete anyway." Leighton did not just decide to cast concrete anyway but actually poured concrete successfully before MTRC's discovery. Is that correct?

A. 係落緊石屎。

Q. Was the pouring completed when MTRC discovered that?

A. 接近落晒。

Q. And therefore, when we look at the photos, the next page, these photos refer to the time of rebar inspection before the pouring of concrete; correct?

A. 係。

Q. And in this photo, can you tell us where can we see the improper connection?

Do you have the new gadget? That might help.

A. 可唔可以放大啲張相睇？可唔可以再放大少少？落番啲，上番啲(Using magnifying device)，上番啲。如果我放大咗張相嚟睇，有少少機會係呢條鐵，有少少牙係--好似係牙嚟嘅。

Q. Anything else you would like to point out? Would you like to go down a little bit?

A. 呢度，我淨係睇到呢個。

Q. Can we --

A. 呢個冇喇，冇喇，呢個。

Q. How about the next page? Anything here you wish to point out?

A. 呢度睇唔到嘢。

Q. The next page?

A. 呢度睇到落緊石屎。

Q. The next page?

A. 呢度好明顯，一睇睇到。(Using magnifying device)好明顯兩條都未扭螺絲嘅。

Q. Thank you.

Then, this morning, my learned friend Mr Boulding took you to the report, an email and a report, which we can find at BB9/6328. If we can blow up a little bit this email. The first bullet point, Mr Tung, refers to the design report justification of MJ in VRV base slab.

If we go to the next page, 6332 maybe, it talks about the purpose of this report:

"This design report focuses on a VRV base slab at grid A to J between grid A-8 to A-9."

Is this the exact location we are talking about in your witness statement?

A. 係。

Q. And is this report compiled because of that incident?

A. 我估計係。

Q. If we go back to the RISC form itself, BB8/5796.

Am I right in understanding that this RISC form is in relation to that incident that MTRC discovered?

A. 係。

Q. If we go down a little bit, on the right-hand side it says:

"Leighton please review your ITP system and brief to your front staff, it is totally unacceptable, and please tell me how to prevent the problem occur again."

Is that your handwriting?

A. 係。

Q. And we see your signature, right --

A. Yes.

Q. -- on there; right?

A. 係。

Q. So, according to Ronald Leung, Leighton's engineer, he

said there was no review of Leighton's ITP and he did not get back to you on any proposal on how to prevent the same problem from happening again. Is that correct?

A. 佢冇同我講過，其實呢啲字，我其實呢封--呢個inspection form我哋簽完之後就會畀番佢哋禮頓嘅QA/QC個department嘅，其實我係--呢句嘢其實係為畀番佢哋嗰陣時嘅QC manager睇嘅，即係佢哋一定係唔會睇嘅，禮頓嗰啲engine。

Q. But yourself, you have never received any response in relation to your request here from him; right?

A. 係，啱嘅。

COMMISSIONER HANSFORD: Sorry, Mr Tung, you were expecting a response from Leighton's QA department; is that correct?

A. 係。

COMMISSIONER HANSFORD: Okay.

MR CHEUK: And when you received no response, did you ask or chase for a response? No?

A. 我忘記咗嘅。

Q. And was there any investigation carried out by MTRC how this could have happened?

A. 呢個我唔知道。

Q. Would you agree that this was actually a very serious problem, because Leighton disregarded the two very important hold-point inspections with half of the couplers improperly connected, and they almost

succeeded?

A. 呢個係好嚴重嘅。

Q. Now that we don't have any review of the ITP system, now that --

CHAIRMAN: Sorry to interrupt. When you say "and they almost succeeded" -- was it opened up?

MR CHEUK: I mean, "almost succeeded", was they almost -- as they are uncaught.

CHAIRMAN: All right. But here they were caught but nothing seemed to have happened.

COMMISSIONER HANSFORD: Well, there's the review.

CHAIRMAN: Okay. I'm with you, yes.

MR CHEUK: Of course it would be much worse if it's completely uncaught.

CHAIRMAN: Yes.

MR CHEUK: From a layperson's perspective, how can he be sure that the same problem had not happened elsewhere, before the incident, and has not happened after this incident? Can you tell us, from your perspective as an MTRC IOW?

A. 以我哋嘅角度睇，我哋其實每日都係巡查個地盤嘅，大概幾時落石屎、幾時開始紮鐵，我哋都喺每日個巡查都見得到嘅，所以我哋每日去一路行見到--所以點解會發生件咁嘅事呢？就係話我哋啲同事、engine就係見到--即係知道--以我所知，其實呢啲應該朝頭早要收個鐵嘅，咁reject咗佢嘅，佢去做修補工程，但係當我哋晏晝再去睇嘅時候，佢已經落緊石屎，所以我哋

一路係咁巡查，其實佢好難會有啲咁嘅機會發生，即係話可能我哋行開咗，佢轉頭唔知喺邊度搵啲石屎出嚟落鬼咗佢。所以正常呢個係好--佢要做到咁樣，係冇人知道呢，就好難嘅其實。

Q. I will move on to another --

COMMISSIONER HANSFORD: Sorry, I don't understand that answer. When you say, "If they wanted to get away with this, it's almost impossible", do you mean it's almost impossible for them to get away with it, or do you mean it's almost impossible for you to spot it, to identify it? Which do you mean?

A. 其實佢喺地盤每做一樣嘢，我哋其實都大致上知道嘅，點講呢？即係如果佢要落石屎，佢始終有架石屎車喺度畀我哋見到嘅，佢唔可以將架石屎車隱形咗嘅，我哋會知道邊度落石屎，我就會過去望一望落緊咩嘢石屎、我哋有冇收過貨，雖然地盤大，但係我哋成日係咁巡嚟巡去，就點解會有張咁嘅form reject咗佢呢？就係我哋喺個地盤巡查之中望得到原來呢個inspection--rebar inspection係reject咗，而未翻睇，pre-pour checking我哋未做，所以先可以去prevent--即係其實佢要去做啲咁嘅嘢，而我哋睇唔到嘅，其實就比較困難嘅，喺日間嚟計。

COMMISSIONER HANSFORD: I understand.

MR CHEUK: Thank you. I think he's suggesting it's impossible to get away.

COMMISSIONER HANSFORD: Yes. What you are telling us, Mr Tung, is it's almost impossible for them to hide these things?

A. 幾乎係。

COMMISSIONER HANSFORD: Yes.

A. 我唔敢保證話百分之一百。

COMMISSIONER HANSFORD: But almost. Okay. Understood.

MR CHEUK: Thank you, Mr Tung. Just a slightly different topic. When you carry out a pre-pour hold-point inspection, would you verify that the rebar inspection, hold-point inspection, had already been completed every time with an MTR engineer?

A. 都會問嘅，但係有時我哋做pre-pour checking嘅時候，其實有啲inspection可以同一時間嘅，即係收鐵同埋個收pre-pour嘅時候，有機會係同一時間，亦都有時我哋睇個WhatsApp group做communication嘅時候，知道個engine會去收貨嘅，有時我都會問番，所以正常嚟計，叫做有溝通嘅，我哋同engine，佢有冇收貨。即係等如有啲--有時我哋見到啲鐵有少少好似我覺得有問題嘅，我會問番engine。

Q. Let me put it another way. Would it be possible that sometimes the rebar hold-point inspection was not carried out and you were approached by a Leighton engineer to carry out a pre-pour inspection, and you did not know that the rebar inspection had not been carried out? Would it be possible?

A. 好少機會。

Q. As I understand your evidence, because the translation says "a slim chance of that", you are basically saying it's unlikely?

A. 如果話冇可能，就好難講嘅，因為--但係以我所記憶，喺我HHS嚟計，就我好似未聽過、未收過，就係呢啲--而且佢有冇收過鐵，即係會知道嘅我哋。

Q. Thank you.

COMMISSIONER HANSFORD: Sorry, you say if that's the case, you would know, you could see it. What could you see?

A. 因為有時我--即係我哋都會同個engine喺寫字樓溝通，收咗--有冇收過鐵，有時喺個WhatsApp group嗰度寫咗係收咗鐵，可能亦都有啲情況係話有啲defect要執，要通知我哋幫手再去跟進，即係其實喺某個程度上，我哋覺得個冇睇鐵，而落咗石屎，或者淨係冇睇鐵，而做咗pre-pour inspection，就機會不大，我唔可以exactly話100%冇，但係我唔覺得係好多，亦都唔係好--即係唔可以講話太--好多咁嘅嘢。

COMMISSIONER HANSFORD: Understood.

MR CHEUK: Now I move on to another, different topic. If we can go to DD8/10908. If I can ask you some questions about couplers.

Mr Tung, you can take it from me that this is the government's acceptance letter dated 25 February 2013 for various areas, including SAT.

I assume you have not read it?

A. 係嘅。

Q. Okay. But we will see if you can assist us, after you have a chance to read it.

DD8/10940. If I may draw your attention to paragraph (b), what it says is here:

"The competent person should assign a quality

control supervisor to supervise the works, determine the necessary frequency of inspection by the quality control supervisor, which should not be less than once a week, and devise inspection checklists. The minimum qualifications and experience of the quality control supervisor is to be the same as the grade T3 TCP, as stipulated in the Code of Practice for Site Supervision 2009."

And also paragraph (c), that's in relation to RGBC, which is Leighton:

"... should assign a quality control coordinator to provide full-time on site supervision of the works and devise inspection checklists."

I won't read the remaining. Then paragraph (d):

"The names and qualifications of the supervisory personnel representing the competent person and the RGBC ... respectively should be recorded in an inspection log book. The date, time, items inspected and inspection results should be clearly recorded in the log book. The log book should be kept at the site office and, when required, produced to the Building Authority for inspection."

These are, you can take it from me, some requirements imposed by the Buildings Department in relation to the use of couplers. But what I'm interested in is in relation to SAT and HHS, so far as

you know, was there any similar procedure carried out by MTR and Leighton in respect of couplers, such as the appointment of a quality control supervisor, devise of an inspection checklist, maintaining a log book, et cetera?

A. 如果特别指派嘅，我就好似唔記得有。

Q. Inspection checklist for couplers?

A. 都未見過有。

Q. Log book, have you seen it?

A. 都冇。

Q. Thank you.

Now I move to the last topic, about testing of rebars. If we go to CC6, page 3818, paragraph 5. This is the witness statement of Alan Yeung, Leighton's senior engineer, working at SAT NSL area. If you look at paragraph 5, what he says is:

"From January 2016 to January 2017, I worked on the South Approach Tunnel area at the North South Line level (ie the 'SAT NSL area')."

So his working period and your working period at SAT actually overlap; is that correct?

A. 唔明。

Q. Both of you were working at that SAT NSL area during January 2016 and January 2017?

A. 佢係SAT NSL，佢應該做隧道。

Q. So you don't recall you met him?
A. 佢之前就喺HHS嘅，跟住應該係調咗去NSL個tunnel，即係唔係EWL嗰個level，應該係NSL個level。
Q. Did you work at the NSL level too?
A. 冇。
Q. I see.
A. I always working in EWL.
Q. I see.

Let's try another Leighton witness. If we go to CC6/3829, paragraph 6. This is the witness statement of Ronald Leung.

A. Yes.
Q. Did you know him?
A. Yes，認識。
Q. You worked together?
A. Yes.
Q. If you go to paragraph 6, he says he worked at HHS from the end of May 2015 until he left the project in June 2018.
A. 啱。
Q. Then if we go to paragraph 26, here he explains, second sentence:

"I have recently learned that some batches of rebar ordered by a member of my team (WC Lam) were not tested after arriving on site."

Okay? Do you see that?

A. 見到。

Q. I will just ask you a few questions on this topic. If we go back to paragraph 7 --

A. 啱。

Q. Here, can I just ask you this question. Is it correct that when the rebars were delivered on site, then MTRC will depend on Leightons to inform them about the delivery of the rebars, and then will go to the site and do the sampling for testing purpose; is that correct?

A. 啱嘅。

Q. Mr Fu, in his previous evidence, told us that it is an arrangement of trust, backed up by inspection. I just wonder, in such a procedure, if Leighton's engineer fails to inform MTRC's IOW, like you, and proceeds to use the untested rebars, is it right to say that it will be difficult for an IOW to discover such default?

A. 有，有困難。

Q. You know they use different colour-coding system for the rebars to signify whether it is tested or untested; right?

A. 喺呢個地盤，我其實--即係不過其實出面地盤都係每一個batch，因而佢驚係撈亂咗嘅，就會分番顏--即係會噴番一個鐵頭、鐵尾嗰度噴番顏色嘅。但係呢個地盤我就--因為唔係我負責跟開嗰啲rebar sampling，所以我

就冇乜留意。

Q. So, actually, you are not familiar with that system; is that right?

A. 喺呢個地盤，係。

Q. So you can't distinguish between the colour of a tested and an untested rebar; is that right?

A. 係。

Q. That's why -- can I ask you, when did you first come to know that there were some rebars, for example in Ronald Leung's working area, were not tested?

A. 而家睇到先知道。

Q. Now?

A. 係。

Q. And did MTRC keep any record of the amounts of rebars arrived on site?

A. 正常佢攞咗去做testing嘅時候，佢有個mill cert.，有啲--可能會有埋啲--即係佢有mill cert.有寫明係幾多噸嗰啲咁嘅紀錄，佢先可以攞咗去個地鐵嘅lab.嗰度做testing嘅，即係有做--tested嘅就會有。

Q. So actually MTRC has a record of the new test record indicating how many tonnes of rebars have arrived on site; correct?

A. 係嘅。

Q. I also assume MTRC has the record of how many tonnes of rebars were actually tested; correct?

A. 係。

Q. What is lacking here is a person monitoring whether the proportion of the testing was correct and therefore will be able to discover if there's any lack of testing; correct?

A. 如果佢冇record，我真係唔知道有冇測試過，即係佢有冇record，即係佢冇record嘅，我未必知道佢有冇測試到。

Q. You probably have misunderstood my question. I will put it again. You have -- MTRC have the mill certificates which will provide a record of how many tonnes of rebars have arrived on site. You are with me so far?

A. 係，啱嘅。

Q. I also suggest to you that MTRC also has record of how many tonnes of rebars were actually tested. And you agree with me, do you?

A. 我諗清楚先。地鐵測咗有幾多噸嘅鐵呢，其實根據佢哋個mill cert.入面有幾多噸，其實根據嗰個batch有幾多，其實有個requirement，要攞幾多鐵嘅，正常應該會知道我test咗嗰拃鐵係再--可以refer番去幾多噸鐵入面嘅，應該就。即係你想要話係咪知道總共test咗有幾多噸嘢吖嘛其實？

Q. Yes. I'm asking whether MTRC has a record of how many tonnes of rebars were actually tested.

A. 呢個我唔知道。

COMMISSIONER HANSFORD: Can I suggest there might be a bit of confusion here, because my understanding is there are two types of tests. There's the tests that happen at the mill --

A. 都有嘅。

COMMISSIONER HANSFORD: -- and there's the tests that happen by sampling on site. Is that correct? There's two tests?

A. 係嘅。

COMMISSIONER HANSFORD: So I'm confused as to which of those two tests Mr Cheuk's questions referred to.

MR CHEUK: It's my fault, Professor.

COMMISSIONER HANSFORD: I'm a bit confused on that.

MR CHEUK: Let me clarify. I'm referring -- Mr Tung, it's my fault. Let me clarify the question again.

I'm referring to an independent HOKLAS test; okay? And my question to you was: did MTRC keep any record of how many tonnes of rebars were tested under the HOKLAS test; do you know?

A. 其實喺lab.，即係我哋地鐵做lab.--做個rebar testing應該就喺地鐵個lab.嗰度做嘅，佢哋所有嘅sample，佢會有晒所有嘅mill cert.、document呢，其實佢每一次拎去個sample，佢會有晒呢啲咁紀錄，其實佢可以跟番呢啲紀錄，就知道佢其實測試咗幾多噸嘢嘅。

Q. Thank you. That's helpful. So if a person checks the mill certificates and then checks how many tonnes of rebars were tested at the HOKLAS lab, he should be able to find out whether there is any missing rebars which are not tested; right? Do I understand that correctly?

A. 呢個可能我--即係我feel到你嘅答案就係--唔係，feel到你問嘅問題其

實應該唔可以啱嘅，因為佢直情--即係其實佢攞得去做test，佢所有係去comply番個HOKLAS嘅requirement，攞番幾多鐵，其實嗰個已經係一個record有幾多鐵，你應該講緊係佢有冇啲rebar冇拎去test，而有個record，如果我唔知道佢有幾多rebar嚟咗，我咪冇record囉，即係佢有搵過--呢個take過去做一個sampling嘅，我咪知道嗰拃sample係--即係嗰拃料會嚟咗，但係你--我覺得你個問題就係話如果佢嚟咗鐵，佢唔通知我，正常我係唔會知道佢有幾多噸鐵miss咗嘅。

CHAIRMAN: It's a little -- I mean, I see the logic, but it's just -- I'm just wondering if this might be an opportune moment for the morning adjournment?

MR CHEUK: Yes. Actually, I do not intend to press further here.

CHAIRMAN: Right.

We will have a longer than normal adjournment of 20 minutes. That's because the technicians are having a little problem with the simultaneous interpretation mechanisms and they would like 20 minutes, please, just five minutes longer than normal.

Mr Tung, you are giving your evidence at the moment, and we are going to have a mid-morning adjournment now. During the time when you are giving your evidence, whether it's lunchtime or mid-morning adjournment doesn't matter, whenever you are not in court, you are not entitled to discuss your evidence with anybody. Okay?

WITNESS: 明白。

CHAIRMAN: Good. Thank you very much.

(11.29 am)

(A short adjournment)

(12.02 pm)

CHAIRMAN: Yes.

MR CHEUK: Chairman, Professor, I think I can deal with that point in submission. I don't intend to press on.

I have no further questions for this witness.

CHAIRMAN: Thank you.

Cross-examination by MR TSOI

MR TSOI: Mr Tung, I appear for Wing & Kwong, the rebar fixing sub-contractor in this case. I do have a few questions for you.

Can I turn you back to paragraph 35 of your witness statement, at BB5256. Here you set out the events on 30 June 2017 in relation to the VRV room. I just want to take you through the chronology of events, so we are clear as to what happened. All right?

A. Okay.

Q. As I understand it, what happened was a rebar fixing check was in fact conducted for the VRV room, and the person who conducted it was Mr Jason Kwok from MTR. Is that right?

A. 啱。

Q. On the Leighton side, it was an engineer called Lam

Wai Chung?

A. 啱。

Q. After the inspection, Mr Jason Kwok then rejected the rebar fixing check, so he did not pass the check?

A. 啱。

Q. That probably happened around 1.30, because we can see from the RISC form that it was ready for inspection at about 1.30.

Now, if you look at paragraph 35(2), the first WhatsApp message received there is from Jason; that's Jason Kwok, is it not?

A. 啱。

Q. And he says this:

"清潔都好似未收。"

That means the pre-pour check has not been conducted; is that right?

A. 係。

Q. Now, of course this is 3.43 in the afternoon.

A. 係呀，喺個WhatsApp，係嘅。

Q. We know that Jason Kwok was the person who conducted the rebar check and who rejected it.

A. 係。

Q. Now, because he was the person who rejected the rebar check, so when he went back for routine inspection, let's say, and he saw the concreting, he would have

known that, "Hold on, I rejected the rebar fixing check here; why is it concreting?" Hence I think that's why he sent out the WhatsApp to the group; is that right?

A. 啱。

Q. So in fact it was a happenstance that the person who from MTR inspected and rejected the rebar check happened to go back to the site and saw the concreting?

A. 其實應該就係應該點半鐘，exactly個時間佢第一次驗收嘅時間我唔知道，因為第一次驗收嘅時間，佢覺得嗰個紮鐵、啲coupler個condition唔okay嘅，其實通知--應該就會通知咗佢，當刻我哋唔會接受嘅，叫佢做啲rectification work，即係好似扭番啲螺絲頭嗰啲諸如此類，應該當佢搞好所有嘅rectification之後，應該通知我哋再去收多一次，但係佢就喺呢一刻我應該見到就係話佢冇通知我哋，做好個rectification work之後，佢已經落緊石屎喇，個情況係咁樣嘅。即係應該係第一--收過一次，係唔pass，要佢做rectification work，佢有責任去做好之後，通知番我哋再去驗收多一次嘅。

Q. Yes, that's right, and I think therefore Mr Jason Kwok was not in fact invited by Leighton to come back to the site to inspect the works. It was just by happenstance he went back to look at the site.

A. 係，係。

Q. Now, if we read on to the lower WhatsApp exchanges, we see a number but we don't have the name. It says:

"清潔未收。"

Does that mean the pre-pour check has not been accepted?

A. 應該呢個message之前我問咗我班下屬或者ryan或者叫做YK Ng嘅時候，我問佢收咗清潔未，佢哋就話清潔都再收，即係打錯字嘅，第二行「清潔都未收。」佢就答番你呢個答覆嘅。

Q. Right. If we read on from that to the message at 3.59, that's Ryan, it says:

"就落完。"

It means it's almost completed concreting; is that right?

A. 係。

Q. So, from this exchange so far, can I understand this to be the situation: after Jason rejected -- sorry, after Jason Kwok rejected the rebar check, someone in Leighton must have told the concreting sub-contractor to do the concreting; is that right? It can't be someone from MTR so it has to be someone from Leighton.

A. 正確嚟計，我哋係唔expect同個分判商，我哋通常都係只對大判，分判商就係由我哋畀咗個message佢話reject咗之後，佢要同個分判商要再去做番rectification嘅。

Q. Sorry, it's perhaps my fault. There's some confusion there. I'm not talking about the rebar fixing sub-contractor -- I'm sorry.

COMMISSIONER HANSFORD: Sorry, you are speaking over each other.

MR TSOI: Sorry.

COMMISSIONER HANSFORD: That's fine.

MR TSOI: That's my fault. I'm not talking about the rebar sub-contractor. I'm talking about the sub-contractor that's responsible for the concreting.

A. 應該佢--係禮頓叫佢落石屎嘅。

Q. In the usual situation, would it be a Leighton engineer who has conducted the hold-point inspection to go tell the concreting sub-contractor to do the concreting?

A. 係。

Q. So, in this case, it is likely that Lam Wai Chung was the person who told the concreting sub-contractor to go forward with the concreting?

A. 係。

Q. But he was the one who did the rebar fixing check with Jason Kwok, knowing that the rebar fixing check has been rejected?

A. 係。

Q. But yet you agree that it's likely he was the person who then told the concreting sub-contractor to do the concreting nonetheless?

A. 係嘅。

Q. So can I understand this correctly, that there is no system in place that could stop a Leighton engineer from instructing a concreting sub-contractor to do

concreting, notwithstanding there is no passed inspection?

A. 可唔可以再問多一次？

Q. There is no system in place that could stop a Leighton engineer from instructing the concreting company to do concreting work even if the hold point has not been passed?

A. 應該就冇嘅。

Q. If we move on to the lower WhatsApp messages, we see a message from Jason at 4.02 in the afternoon; do you see that?

A. 見到，見到。

Q. And he says this:

"就係頭先見佢落緊，先要小。"

I think, colloquially, what that means is --

A. 粗口嚟嘅。

Q. So he was actually confronting the Leighton individuals; is that right?

A. 其實應該係同我哋交流緊，就係話點解--即係佢啱啱行番轉頭，見倒落去，佢先就係話--先鬧佢。

Q. Now, from this exchange, it looks like Jason and Ryan from MTR was informing the chat group about the concreting, when the concreting was happening?

A. 係，係。

Q. But it appears that they did not stop the concreting?

A. 但係已經--你都見到，應該佢係差唔多落完咗。

Q. Now, Jason then said this at 4.03:

"請入RISC，rejct..."

I think that means, "Please put in a RISC to be rejected"?

A. 係嘅，係嘅。

Q. And the next line, I think it means, "Even if you don't put a RISC in, I will send an email out for record"?

A. 啱嘅。

Q. So there Jason is asking a retrospective RISC form to be filed with MTR so that he could reject the inspection?

A. 係嘅，係。

Q. The next entry is from you, I think, at 4.44 in the afternoon. I think it's from you to Jeff. Is that Jeff Lii of -- is that Jeff Lii or --

A. 係，係。

Q. Jeff Lii is Leighton?

A. Yes，係，係林偉聰（譯音）個senior，當刻。

Q. So Jeff Lii would have seen this chat, because he's in the chat group?

A. 係。

Q. So Leighton has been informed that check has not been completed, but they are concreting, but we don't see any reply from Leighton there in this chat group, because Jeff Lii is from Leighton?

A. 點講呢？佢唔回應唔代表佢睇唔到。

Q. Exactly. So assuming Jeff Lii saw this, he did not stop the concreting either?

A. 但係應該喺嗰刻已經落晒石屎。

Q. If we read on in the message, it says:

"Jeff點睇住啲細嘅？"

That is probably your reference to, "How can we supervise Lam Wai Chung"; is that right?

A. 佢要supervise佢個下屬唔好亂咁嚟做嘢。

Q. Then we see your final one, the exchange which says, "Rebar or general cleaning will have to be rejected"?

A. 係，因為rebar就Jason已經拒絕咗，for general cleaning或者叫做pre-pour嘅時候，我嘅同事已經confirm未收嘅，我哋都一定要有個record去reject佢嘅，因為咁佢真係冇--真係要reject囉。

COMMISSIONER HANSFORD: Can I just understand, Mr Tung, Jeff Lii didn't reply, did he? There's no reply from Jeff Lii?

A. Yes.

COMMISSIONER HANSFORD: Is that correct?

A. 係。

COMMISSIONER HANSFORD: So you don't know that he received this or rather that he looked at this during this time period, do you?

A. 畀我講長少少先。其實當刻我係放緊大假嘅，當日，我只係喺個WhatsApp--因為我成日都睇WhatsApp，我見到啲咁嘅嘢，所以我先問番我當日嘅同事

有--即係Jason raise咗個問題出嚟之後，我就問我個同事其實有冇收清潔，所以佢哋答係清潔都未有，我一路係咁--可能我中間係打咗電話去問嘅，我而家冇紀錄，我唔可以confirm，但係因為你見到由4點03分到4點44分呢段時間咁長，應該我都有機會係打過電話去complain過佢哋啲同事，so far喺呢個WhatsApp嗰度冇show出嚟。

COMMISSIONER HANSFORD: I understand.

MR TSOI: Right. If we can now look at Leighton's record of the RISC form that you invited them to submit. If I can firstly go to page CC5657.11962.

CHAIRMAN: Can I just ask, Mr Tsoi -- it's not a criticism at all, just so that I can understand -- from your perspective, you are approaching this why?

MR TSOI: Do you want me to say it in front of the witness? I'm happy to. I don't mind.

CHAIRMAN: No, not at all. I'm quite happy for the witness to go out. I'm being hesitant because it's an Inquiry, it's not specific lines of investigation in adversarial matters. But representing, as you do, the rebar fixers, I just need to sort of click in -- if you tell me that it will come together and I'll understand later, then that's fine.

MR TSOI: Well, I can tell you now, just to ease your concern. I don't mind the witness hears it. It happens all the time in my courts.

Of course, as you would be aware, my theory is that

it is possible for a Leighton engineer to either inform the inspector of works that rebar checking has been done when it in fact hasn't --

CHAIRMAN: Yes, that's right.

MR TSOI: -- and then basically con the inspector of works into doing the pre-pour check and allow the concrete to be poured in that way.

CHAIRMAN: I see.

MR TSOI: The other alternative is of course what happened here.

CHAIRMAN: I've got it. Yes. Thank you. Sorry, I was little slow on the uptake.

MR TSOI: It's my fault.

CHAIRMAN: No, it wasn't at all. I've now got it. Thank you.

MR TSOI: If we look at that file, the tabs on the left I'm particularly interested in -- the tabs on the left, do you see there are five entries of tabs on the screen, the PDF, the first one is "64_Site Diary 20170630"; do you see that?

A. 可否放大少少？

Q. The tab on the left of the screen right now.

A. 哦，okay，見到。

Q. Two entries onwards, do you see the RISC form 12445, it's recorded as, "Issued but not yet replied"?

A. 見到。

Q. This is Leighton's record. Although we know that's not true because it was replied. Let's click into that.

Can we also have on the screen at the same time the filled-in RISC form, which we can find at BB5796. That's the MTR version. If we put the two versions side by side.

So on the right is the Leighton version and on the left is the MTR version.

So, as I understand it, there's no unified system for the RISC form, so Leighton will have its records of the RISC form and MTR would have its records of the RISC form; is that right?

A. 容許我講咗先，右手邊computer PDF，以我嘅理解，呢張form係佢哋喺自己電腦run出嚟，未簽名嘅，佢run完出嚟，仲要去print番一個四式inspection form，跟住佢就會喺個signature嗰度佢自己簽番名，跟住佢先會再去佢哋個QA/QC department登記。所以到最後佢哋衍生咗右手--左手邊嗰張form，有四式form，呢張係四式form嚟嘅其實，左手邊佢有一個電腦PDF嘅版本，佢哋用佢哋嘅打印機再整番張四式form出嚟，嗰個原版嚟嘅，呢個係。

COMMISSIONER HANSFORD: Sorry, just to understand that, Mr Tung, is what you are telling us the right-hand side of this screen is the form before it's been completed?

A. 呢張form係佢哋issue呢張正式呢張form有個秝巴，佢喺個電腦produce咗出嚟之後，佢哋就會喺佢--將呢個PDF就會print落去佢個四式正式嗰個叫做--係咪叫做hard copy，即係嗰個四式個inspection form嗰度，

因為呢個係initially佢issue出嚟，打好晒佢啲description，因為你唔可以喺個電腦簽名嘅，佢應該要喺個--print完之後出嚟，佢先可以簽到個名落去。

COMMISSIONER HANSFORD: I think that's what I was trying to say, Mr Tung. So they are the same form but the left-hand one has been completed and the right-hand one is blank; is that right?

A. 係，係同一張form嚟嘅其實，因為一張喺佢啱啱issue呢張inspection form出嚟，佢個original，未打印嘅。

COMMISSIONER HANSFORD: Right.

MR TSOI: Yes, but I think you get the point, Mr Tung, because my point is if you just look at Leighton's reference, you will find the right-hand form which says, "Issued but not yet replied", and it's only when we look at the MTR records that we find the filled-in form.

It's not your fault. You are MTR.

A. 唔係，你可唔可以講多一次先？我想清楚啲。

Q. The left-hand form is the one we found in the MTR files. The right-hand form is the one we found in the Leighton files, recorded as, "Issued but not yet replied".

A. 如果就咁睇，嗰張係blank form嚟嘅，空白嘅嗰張就。

Q. So it's not, "Issued but not yet replied"; it has been issued and it has been replied, the one we see on the left?

A. 冇錯，係左手邊嗰個回覆。

Q. Perhaps a point for submission, but would you not agree that if you just look at the Leighton records and find that blank form, and it recorded as, "Issued but not yet replied", you may be led into thinking it was issued but not yet replied because it's blank?

A. 外行人唔知咪--即係如果佢唔係個地盤人，佢唔知道呢，佢就真係覺得係未簽個form嘅。但係因為呢啲咁嘅紀錄其實有時佢哋issue咗畀我哋，急住呢，都有啲係掟咗出嚟畀我哋睇先嘅，佢哋趕唔切去sign--印張嘢出嚟、簽名同埋畀佢哋個QC department去做一個register，所以有時佢哋都會有啲咁嘅form畀我哋做--即係before inspection之前，佢會有時會--有啲--我哋係見過啲咁嘅form嘅。

Q. Can I just ask factually what would have happened. MTR would have received the number 012445 RISC form from Leighton, and we know that because you received it on 4 July, I think.

A. 7月4號收到，係。

Q. When you received that form, had Mr Lam Wai Chung signed in part A?

A. 左手，sorry，我哋收到張form嘅時候，佢喺左手邊嗰張form其實係已經簽咗名嘅。

Q. So in fact what you received from Leighton was a form like the one we see on the right-hand side with Lam Wai Chung's signature?

A. 其實左--我係收到，係左手邊嗰個，唔係右手邊嗰個。

Q. Okay. I think it's the same.

But the signature signifies that he confirmed the works above are ready for pre-pour check. That can't be true, though, can it?

A. 應該以我嘅理解，佢簽得呢個名，佢係for submission嘅，inspection嘅time，佢哋係估計嘅，即係未必exactly當刻真係6月30號14點30分收得到呢樣嘢嘅，有時因為佢係forecast個inspection，都唔會相差話幾日嘅，可能都係前後一、兩個鐘頭，但係佢如果早咗或者遲咗，會通知我哋早啲去收或者遲啲去收。

Q. Sure. But my question is slightly different, because we know Lam Wai Chung did the rebar fixing check with Jason Kwok, and he knew that the rebar fixing check has failed, so he can't certify that the same location is ready for pre-pour check, yet he signed the form for the pre-pour RISC.

A. 可否問多一次？

Q. My question is this. Lam Wai Chung was the Leighton engineer who did the rebar fixing check with MTR's Jason Kwok, so Lam Wai Chung knew the rebar fixing check has failed. So he can't then possibly certify the same location is ready for pre-pour check, with the 445 form.

A. 根據個ITP，其實佢有幾個hold point去入個inspection form嘅，紮鐵一樣，即係rebar fixing，跟住pre-pour checking，佢必須每一個pour，我收與唔收，佢都要入張form畀我嘅。即係呢個係一個system制度係要有form嘅，就唔代表佢part 1 rebar fixing，佢唔reject，

佢唔需要入個second item嘅pre-pour，即係其實呢個係ITP個精神，佢要每一個hold point佢都要入form嘅，reject or not reject or pass都係佢都要有個咁嘅record嘅。

Q. I'm trying to understand because of course what MTR wrote on the left-hand side, the MTR version of the form, it's quite clear what happened, but we have no information by Lam Wai Chung when he signed the 445 pre-pour form. Do you see what I mean? A person reading the form would have thought he certified the location is ready for pre-pour check, when in fact it wasn't, because he added no notes like you did on the left-hand side.

A. 我做咗咩嘢備註？唔好意思，睇唔到，右手邊，係咪呀？再問多一次，唔好意思。

Q. It's my fault.

Do you see on the left-hand side we have notes from MTR, comments from MTR, "No invitation for general condition inspection of formwork of footing (rejected)", and then I think you wrote, "Leighton please review your ITP system and brief to your front staff, it is totally unacceptable, and please tell me how to prevent the problem occur again."

So you wrote a note and you commented on what happened for this particular RISC form?

A. 係呀，因為呢個其實都係一個幾嚴重嘅錯失嚟嘅，因為正常應該係要做好

晒，佢哋要清晰個ITP system個理念，即係佢要知道我做一個rebar fixing，我要有一個inspection form攞到agree，跟住就有一個pre-pour checking，okay咗，agree咗，佢先可以正式落石屎嘅。

而家我哋見到佢哋係好似嗰個對個ITP嗰個system好似叫做broke down，我唔識個英文--即係個中文，我可能可以叫做粉碎咗嗰個意義，因為令到好似唔使去收貨，所以我嗰次係有--有感而發咁寫番出嚟，要佢哋個--因為呢個其實張form，我簽完名，正式要佢哋--如果not given嘅時候，佢哋個QC/QA department應該會睇下咩嘢問題而令到嗰個事情發生嘅，所以我會寫多一句評語喺度，要佢哋要跟進下點解會有啲咁嘅事發生。

Q. I think you may have answered the question but I will try again. It's not your fault. It's mine.

The Leighton engineer who is supposed to sign the RISC form, we see on the right-hand side, he never made any comments, he never noted that in fact rebar fixing check has been rejected and there was no pre-pour check. This is a RISC form which is supposed to certify it is ready for pre-pour check. Would you agree with that?

A. 再問多一次，get唔到。

Q. The Leighton engineer, Lam Wai Chung, he put his signature on the pre-pour check RISC form, the one we see on the right-hand side.

A. 唔。

Q. Right?

A. 係，係。

Q. But he did not say anything about the substance of the RISC form, which is that location had no -- had not passed rebar fixing check and was not in fact ready for pre-pour check?

A. 佢需唔需要寫番話rebar fixing pass唔pass呢，我要--因為我都未見過有寫過呢樣嘢嘅，因為佢係獨立ITP，佢呢張form就係寫到係separate個system，我係--今次我要你收rebar，今次我要收pre-pour，佢冇必要去--即係佢--唔係，佢有冇必要要寫番落去話上--個--即係喺呢張pre-pour inspection嘅時候佢有冇需要寫番個rebar話fail呢？我答唔到畀你。

COMMISSIONER HANSFORD: Sorry, Mr Tung, can I ask you a question?

A. 係，好。

COMMISSIONER HANSFORD: If Mr Lam Wai Chung knew that the reinforcement check had failed, surely he should not have even submitted the pre-pour check RISC form? Isn't that correct? That's not correct?

A. 明白，明白。佢有權可以兩張form一齊入，佢係完成咗一樣，佢就可以完成--就可以開始第二樣，即係以我嘅理解，係咁樣。

COMMISSIONER HANSFORD: Okay. I'll leave it there because I think this is going to be explained to me somehow.

MR PENNICOTT: Sir --

MR TSOI: I don't quarrel with the two forms, the one for the rebar fixing and the one for the pre-pour check, he can issue them. What I'm querying is the contents of

the pre-pour RISC form, because it says, "I confirm that the works described above is ready for inspection", the pre-pour inspection.

MR PENNICOTT: But all of this has got to be read in the context of the translation, which Mr Tsoi read out earlier, of the communication at 1603 on 17 June -- 30 June, because as we understand it, it's Mr Tung's position that he asked Leighton to issue the form so it could be rejected.

COMMISSIONER HANSFORD: Right.

MR PENNICOTT: That's how we understand it.

COMMISSIONER HANSFORD: Thank you.

CHAIRMAN: So Leighton just submitted a form and they didn't have to endorse it in any particular way because they thought it would be endorsed by a rejection?

MR PENNICOTT: Of course. What you see on this form is the standard wording. That's not something that's been typed in.

MR TSOI: With all respect to Mr Pennicott, that's not quite my point, because my point has always been if we look at Leighton's record, all we can see is the form on the right-hand side. That's the point.

MR PENNICOTT: I don't see ... (unclear words).

MR TSOI: Anyway, be that as it may, just to complete the picture -- perhaps the first time we lock horns, Mr Pennicott, but anyway -- perhaps to complete the

picture, if I can now turn you to page GG1011.

This is a report issued by the Highways Department called, "On-site record checking on RISC form in relation to construction of North Approach Tunnel, South Approach Tunnel and HHS"; do you see that? Can you see that? Is that on your screen?

A. 我呀？睇到，睇到，睇到。

Q. This is a report which was issued, I think, on 23 May 2019, and this report actually mentions this incident, because if we go to page GG1231, it mentions the VRV room RISC report that we just looked at. And then it states the irregularities of the two forms. So the rebar fixing RISC form and also the pre-pour check form, if you would scroll on. So the first part is in relation to form 444 and the second part is in relation to form 445; do you see that?

A. 睇到。

Q. At the irregularities are listed therein and the remark for the 444 form was:

"Permission to carry out the proposed work not given because of incomplete fixing of couplers."

So that's the rebar fixing RISC form, and for the pre-pour form, item 10, the remark was:

"MTRCL remarked 'no invitation for general condition inspection and formwork of footing (rejected)'. MTRCL's permission to carry out the proposed work not given. No

further accepted RISC as on 12 April 2019."

Do you see that?

A. 睇到。

Q. Right. And the items of irregularities have been listed. So, for the rebar fixing RISC form, it was A, D2 and E.

CHAIRMAN: And those relate to --

MR TSOI: I will come to that.

CHAIRMAN: Okay.

MR TSOI: We now turn to page GG1022 -- or perhaps we can have the two pages together so we can look at the irregularity. So 1022 and page 1231. If we can have them either side by side or ... Right.

So A is "MTRCL's received date of RISC form was later than MTRCL's inspection date". That's irregularity A.

A. 係。

Q. Then D2, "Concrete pour date before MTRCL's endorsement date of 'rebar fixing' or 'pre-pour check' inspection".

Then E is "Works rejected without proof of follow-up inspection".

Do you see that?

A. 明白。

Q. So at least for the rebar fixing check we know that there was no further inspection around that time?

A. 暫時係。

Q. Now, for the pre-pour check RISC form, irregularities were B3, D2 and E, which is "MTR's inspection date was missing" --

A. 其實唔係冇填到，係根本冇inspect到。

Q. Exactly, that's what I want to ask. Exactly, Mr Tung.

Then D2 is, "Concrete pour date before MTRCL's endorsement date of 'rebar fixing' or 'pre-pour check'", and E is of course "Works rejected without proof of follow-up inspection".

So in fact what we know is, as you said, there was in fact no pre-pour check at all?

A. 係。

Q. Okay. So at least in that sense the report may not be complete?

A. 可以咁講，就唔係我哋冇去檢查，係佢冇邀請我去檢查。

MR TSOI: Thank you. That's all I want to ask. Thank you.

MR CHOW: Mr Chairman, I only have one question arising from Mr Tung's answers given earlier.

CHAIRMAN: Yes.

Cross-examination by MR CHOW

MR CHOW: Good afternoon, Mr Tung. I represent the government. I have one question for you, arising from one of your answers given this morning.

Mr Tung, do you remember this morning at one point

you said sometimes -- this was at the time when you were talking about the pre-pour check formal inspection -- you said sometimes we see some minor problems with the rebar, and then you said you would then check with the engineer.

Do you recall that part of your evidence?

A. 有。

Q. Can I ask you to go to bundle BB1, page 294, which is part of the inspection and test plan. Now, under item 5, for pre-pour check, within brackets it's also stated "(reinforcement fixing, formwork, cleanliness et cetera)"; can you see that?

A. 睇到。

Q. Was it your understanding at the time that for an inspector of works conducting pre-pour check, the inspector of works has to look at the reinforcement as well?

A. 邊方面鞏固嘅工作？Formwork鞏固工作定係...

Q. No, that's not what I'm asking. We see, under item 5, within brackets, it suggests that this is the scope of works that you have to inspect during pre-pour check.

A. 哦，明白，睇到喇而家。

Q. So am I right in thinking that under the requirement of the inspection and test plan, during pre-pour check, the inspector of works has to look at the reinforcement

fixing work as well?

A. 如果以紮鐵嚟計，generally係engineer收咗先嘅，喺我哋做pre-pour inspection嘅時候，我就係overall再成個--即係嗰pour石屎，我哋睇下formwork，睇下啲石屎cover，睇下啲waterproofing membrane，睇下formwork，亦都有責任去睇一睇其實以一個--人都會有錯嘅，其實我哋去睇下有冇機會啲engine睇漏咗，以我哋嘅knowledge，可能有啲U-bar漏咗，可能有啲lap length唔夠，可能要spacing，可能有機會睇漏嘅嘢，我哋都會儘量去幫手睇一睇，即係以我哋個學識或者個經驗，睇一睇有冇漏嘢嘅啫。

係咪正--如果淨係for rebar inspection，就呢樣嘢就應該就唔係話inspector嘅責任，即係佢可以幫手去睇番有冇睇漏嘢，即係我個答案係咁。

Q. Just now, when you mentioned about looking at the concrete cover -- do you recall that?

A. 石屎嗰個cover，石屎同鐵--即係正常嚟--每一個石屎個長--個面，佢有個cover，佢有個一standard cover，maybe 50mm，like that，我哋會睇一睇嗰個紮鐵嘅profile，或者--以一個牆身嚟計，佢啲正常應該每邊有50mm cover嘅，我就會--我哋收formwork嘅時候會睇下佢啲鐵會唔會掂住啲板，會通知番個大判會加番啲磚仔做cover，係呢啲咁嘅cover喇，就係。

Q. So to ensure that after pouring concrete the reinforcement inside the concrete will have sufficient concrete cover, during your pre-pour check you will have

to look at the spacing between the reinforcement and the formwork; right?

A. 係嘅。

Q. So, inevitably, you will have to look at the reinforcement as well, during pre-pour check; correct?

A. 我有考慮啲鋼筋佢紮--engine嚟計，佢係收個general arrangement，但係佢general arrangement唔包括嗰個石屎cover嘅，我哋有平時如果落一個slab，以一個slab嚟計，佢有啲叫做師傅鐵，marking down the concrete level，我哋就喺度用個肉眼望一望佢個鐵中間會拱起咗，如果拱起咗，會令到個石屎--可能個石屎面個鐵嘅cover由一個50mm嘅可能reduce到剩番10個mm嘅，咁係咪comply to our general spec.，即係個specification呢？我哋都要睇一睇嘅，即係試過有啲鐵佢紮到起波浪紋嘅。

Q. For the level of checking of reinforcement during pre-pour check, if the threaded bar has not been properly or sufficiently screwed into the couplers, do you think this sort of defect would have been spotted by your inspector of works conducting pre-pour check properly?

A. 喺我HHS我見過，亦都要求禮頓去跟進，即係有啲牆身佢封板之前--因為可能之前係漏咗coupler嘅，佢封板之前，我有睇過嗰個叫做CJ condition，即係佢CJ condition就係話我上一pour落完石屎，我又要打番花佢，可能有啲waterproofing嘅嘢hydrophilic strip要加番落去，我哋收嘅時候，都會睇番--即係如果見到有coupler，我哋都會

睇一睇啲牙有冇扭實嘅，我就好多手，成日都會試下扭唔扭到嘅，同埋有冇啲牙會唔會凸咗好多出嚟，如果唔得，即係如果太--即係如果有牙凸咗出嚟，好明顯嘅，會叫佢扭番晒，先畀佢封板嘅。

MR CHOW: Thank you very much. I have no more questions for you.

MR LIU: No questions.

MR SHIEH: No questions.

Re-examination by MR BOULDING

MR BOULDING: Mr Tung, I have just one matter that I'd like to ask you about. Do you remember discussing the matter of RISC forms with Mr Calvin Cheuk, who is counsel for the Commission of Inquiry?

A. 講番個問題出嚟先。

Q. Yes. Do you remember Mr Cheuk saying to you that you never refused to carry out hold-point inspections because of a lack of RISC forms? Do you remember him suggesting that to you?

A. 記得。

Q. And the transcript records that you agreed; you agreed that you never refused to carry out hold-point inspections because of a lack of RISC forms.

Let me ask you this. If you had refused to carry out hold-point inspections because of a lack of RISC forms, do you think that that refusal would have had any effect on the progress of the works?

A. 會有嘅。

Q. Can you explain to the learned Commissioners why there would be an impact -- firstly, why there would be an impact; and secondly, so far as you are concerned, what that impact would be? So, firstly, why would there be an impact, Mr Tung?

A. 會影響個進度，我覺得。

Q. Why do you say that, Mr Tung?

A. 點解會咁講呀？因為如果我去--我收唔到張form，而去inspection，令到佢每--其實我每日都收十幾張form嘅，唔包括個--唔只包括嗰個rebar fixing或者係pre-pour checking，其實佢每一張form佢真係要做好，其實佢做得到，不過佢要嘥好多時間先到我手，可能我收form嘅時候已經係到另外一日，因為佢--我哋個--佢哋嗰個禮頓要打出一張form，有可能再經過我哋去到佢哋嘅QA/QC department，再經過我哋嗰個AA，即係admin. 小姐，之後再經過SI，再去到佢--我哋去自己搵番張form其實可能係一日之後，所以每一張form我都要咁樣去等，其實會影響嗰個流程係咪咁暢順，應該嗰度，係咪應該咁講？

Q. And was it acceptable at the time for the work flow to be hampered?

A. 喺公司上，應該就未必會接受

Q. I see. And why, in your opinion, is that the case, Mr Tung?

A. 因為個工程進度都好緊迫嘅，我哋儘量都去體諒下佢哋都多嘢做，其實我叫做。其實我自己私人就唔接受嘅，因為我會做多好多工作係backdate番

佢所有嘅record，我要去咁樣簽番張form畀佢，對我嚟講，就比較個workload仲多咗添嘅。

MR BOULDING: I see. Thank you, Mr Tung.

Questioning by THE TRIBUNAL

COMMISSIONER HANSFORD: At one point there, Mr Tung, you say, "The company might not accept that." Which company?

Sorry, my question was, you said, "Well, the company might not accept that." Which company were you referring to?

A. 地鐵。

COMMISSIONER HANSFORD: So you are saying MTR might not accept that it would hamper the work flow? You are saying MTRC might not accept that; is that what you are telling us?

A. 係。

COMMISSIONER HANSFORD: Right.

MR BOULDING: Thank you for that clarification, Professor. That's very helpful.

I have no further questions. I don't know whether you have, Commissioner or Professor, or whether there's anything outstanding for this witness?

CHAIRMAN: I just have one question.

I appreciate what you have said, but if you are facing a problem like this, one where, as you have told

us, there was a persistent lateness in submitting of the RISC forms, or indeed a failure entirely to submit them, and it was clearly causing a problem for you to keep the records straight, didn't you have regular meetings with people higher up in the company to whom you could report this difficulty; or did, as the Americans say, the buck stop with you?

A. 但係以紀錄嚟計，我可以--我暫時都係搵--因為你落咗咩嘢石屎，其實我個紀錄都搵得到嘅，因為嗰陣時有個--開咗個WhatsApp group for我--其實for--呢個其實係一個叫做每日嗰--即係喺我嘅角度上，我開嚟就係做一個叫做photo...

CHAIRMAN: Sorry, my question, I suppose, forgive me, is a simple one: didn't you have meetings concerning work progress with people who were higher up in the company, higher up in MTRCL?

A. 係。

CHAIRMAN: And if you were having these problems with the late submission of forms, wasn't it open to you to talk to somebody with higher authority, to say, "Look, we're really having problems, we just can't get forms out of Leighton", and then that person with higher authority can decide what should be done?

A. 正常係嘅。

CHAIRMAN: Yes. And did you ever have meetings with people higher up in MTRCL, to say to them, "We've got this

problem; what do we do? You know, without being facetious, you are the people who are paid more to make these bigger decisions and you have the responsibility, you have the broader oversight of, 'Is it worthwhile refusing to do an inspection once or twice, to make a point, or do we live with the problem'?" Do you see what I'm saying?

A. 我唔記得我有冇通知我--即係喺開會嘅時候有冇通知我個senior，即係我以上嘅senior 講關於呢個問題。

CHAIRMAN: All right. Thank you very much.

MR BOULDING: Thank you very much, Mr Tung.

CHAIRMAN: Sorry, I think Mr Chow may have --

MR CHOW: You have finished?

MR BOULDING: Yes, I've finished with this witness.

CHAIRMAN: Sorry, Mr Chow suddenly stood up. I thought he may have an extra question.

MR CHOW: I just want to point out that I was informed that in one part of Mr Tung's answer to my question, which is rather important, it seems that there is some problem with the interpretation, and I would like to point this out.

CHAIRMAN: All right.

MR CHOW: That is from page 70, from line 4 to line 6, which is part of the answer given by Mr Tung to my question as to whether an inspector of works conducting pre-pour check would be able to spot the defects like the

improper connection for the couplers.

It is recorded in the transcript that his answer was:

"So, when we inspect, if we see couplers, we have to see whether it's fully threaded, and I will also conduct manual checks to see if it's threaded fully."

My understanding of Mr Tung's answer is rather whether it is fully screwed into:

"... and I will also conduct manual checks to see if it's screwed fully", rather than "threaded fully".

CHAIRMAN: Yes.

A. 啱嘅個答案，應該係我睇下佢有冇螺絲紋再露出嚟，再用手試下佢扭唔扭得郁，唔係我幫佢扭晒入去，係我試下佢仲會--即係係咪securely fixed。

MR CHOW: Right. I think that will be clear enough. Thank you.

MR BOULDING: So I think that's probably it for Mr Tung.

CHAIRMAN: Yes, I think so. Thank you. It's probably time for the luncheon adjournment as well.

MR PENNICOTT: Yes.

CHAIRMAN: Mr Tung, thank you very much. Your evidence is completed.

WITNESS: Thank you.

CHAIRMAN: You are free to go and have your lunch now, and talk to anybody you like about your evidence; all right?

WITNESS: 晏晝唔使返嚟喇，係咪呀？

CHAIRMAN: You do not, no. Thank you very much.

(The witness was released)

MR BOULDING: Sir, just before we break for lunch, can I ask Mr Pennicott a question through you?

We have Dr Peter Ewen, our very last witness, standing by at the end of a telephone. It appears to me that we are probably not going to need him.

I see Mr Pennicott nodding.

MR PENNICOTT: Yes, I agree with that. It seems to me that we've got Mr Jacky Lee next, followed by Mr Cano Ngai, and then we've got Kit Chan. If we complete all three of those this afternoon, I'll be very pleased, but I think there's little prospect of getting to Dr Ewen. I just hope we get to Mr Chan.

CHAIRMAN: In which case then, obviously we don't ... But tomorrow would be --

MR PENNICOTT: Tomorrow morning, yes. I suspect that what's going to happen is we will --

CHAIRMAN: Do you wish to start a bit earlier this afternoon in order to make up a little time?

MR PENNICOTT: No, sir. Unfortunately, I was about to say I would quite like to finish 15 minutes earlier this evening because --

CHAIRMAN: You can now have the meeting.

MR PENNICOTT: -- the appointment I had last night was

cancelled, for perhaps reasons which people might understand, since I had to get back to Central and there was no prospect of me getting there by 5.30 last night.

CHAIRMAN: No.

MR PENNICOTT: So that meeting has now been re-arranged for tonight at 5.30.

So, yes, I think we should start at 2.15, if we may, and finish at maybe 4.50, something of that order.

CHAIRMAN: Good.

Thank you. 2.15.

(1.08 pm)

(The luncheon adjournment)

(2.18 pm)

MR BOULDING: Good afternoon, sir. Good afternoon, Professor.

My next witness from MTR is Mr Jacky Lee.

Good afternoon, Mr Lee.

MR LEE CHIU YEE, JACKY (affirmed in Cantonese)

Examination-in-chief by MR BOULDING

Q. You are giving your evidence in Cantonese, as I understand it?

A. Yes. 係。

Q. Thank you. Now, you've produced a witness statement for the learned Commissioners' assistance in this Inquiry. We can find that, I hope, at bundle BB1/92.

Do we there see, Mr Lee, the first page of your

witness statement?

A. 係，冇錯。

Q. Could we scroll down, please, to page 105, where I trust we'll find your signature. Yes.

There do we see your signature, Mr Lee, below the date of 3 May 2019; correct?

A. 正確。

Q. Now, I understand that certain corrections are necessary to that statement, and we'll find most of them in bundle BB1, page 105.1 to 105.2.

There do we see, Mr Lee, a series of corrections to your witness statement?

A. 係，正確。

Q. I understand there's one more you'd like to make, so perhaps we could go back to your first statement at page BB96, and if we can look at paragraph 16, please. There you say:

"Leighton was well aware at the material time of the materials used by GKJV at the interfacing locations. While I did not personally attend the contract 1111/1112 interface meetings ..."

And then you go on to say who you were briefed by.

I understand that you would like to correct that second sentence. Is that right?

A. 係，冇錯，我本人想補充番...

Q. Sorry, I interrupted you.

A. Sorry. 我本人想更正番少少，就係話喺while--我係本身係由第12個Interface meeting開始係冇attend嘅，就喺呢個陳述書裏面，由第8、9、10、11我都有attend嘅，只係想作出呢個少少嘅修正。

Q. Yes, that's perfectly proper, Mr Lee.

Subject to those corrections and that last clarification, as you call it, are the contents of this witness statement true to the best of your knowledge and belief?

A. 係，冇錯。

Q. Now, I'd like to place you, if I may, in the MTR organisation. We can do that by reference to a couple of charts.

The first chart I hope we will find at bundle B2, page 744. If we look at the general manager, Aidan Rooney, and then go slightly to the right of that and then go down vertically, do we see your name there, Mr Lee, and you are designated as the senior construction engineer-civil; is that you?

A. 正確，正確。

Q. If we look at the bottom left-hand corner, do we see that that was the position in January 2017?

A. 係，正確。

Q. Can you just explain, by reference to this organisation chart, what the reporting structure was so far as you

were concerned at that time?

A. 當時我係處理緊金門基利，JV1111嘅contract，我直接嘅上司係Michael Fu傅先生，construction manager。

Q. Thank you. Now let's move on a little bit in time to see how matters developed.

Could we please go to B593.

Thank you. Enlarge that a bit.

We are looking here, are we not, at the MTR management organisation chart as at 9 April 2018; do you see that?

A. 係，冇錯。

Q. Then under the heading in red, "Contract 1111", do we see a little box with your photograph in it, Mr Lee?

A. 係，正確。

Q. Can you tell the Commissioners who you reported to at that stage, please?

A. 都係Michael Fu傅先生，係construction manager。

Q. Thank you very much indeed. Now, Mr Lee, the way these things operate from here on in is that you are going to be asked questions first by counsel for the Commission of Inquiry, probably Mr Pennicott, sitting just opposite you. Then various lawyers in this room have the opportunity to ask you questions. The learned Commissioners can ask you questions at any time. Then it may well be the case that I'll conclude the session

with you by asking you a few more questions.

Do you understand that?

A. 完全明白。

MR BOULDING: Thank you. Please wait there.

Examination by MR PENNICOTT

MR PENNICOTT: Mr Lee, good afternoon.

A. Good afternoon. 你好。

Q. As Mr Boulding has just indicated, my name is Ian Pennicott, I'm one of the counsel to the Commission and I have a few questions for you, but first of all thank you very much for coming along to give evidence to the Commission this afternoon.

Mr Lee, from June 2013 right through to March 2018, as I understand it, you worked as a senior construction engineer on contract 1111, not on contract 1112?

A. 正確。

Q. So we are going to hear, quite usefully, I think, some evidence coming from, as it were, the Gammon side of the situation and not necessarily from the Leighton side.

However, that's subject to this point which Mr Boulding has just alighted on. My understanding is that in the period April 2018 to July 2018, you were specifically tasked to manage the rectification of the three stitch joints under contract 1112. Is that correct?

A. 係，正確。

Q. Just to get a couple of things clear on those remedial works -- we will deal with that first, if we may. When you took up the task of managing the stitch joint rectification work, my understanding -- which was in April 2018 -- is that all of the demolition works of the original stitch joints would have been completed. Is that correct?

A. 據我理解，係喺EWL東西線個stitch joint已經係拆卸咗嘅，而係喺南北線，兩個stitch joint within--南北線裏面嗰兩個stitch joint係仍然係進行中嘅，in progress，喺我join呢一個team嘅時候。

Q. All right. Did you have an opportunity of looking at the demolition works that were going on, you say, when you were first tasked with managing the remedial works? Did you have an opportunity to see that demolition work?

A. 當我最初去--落到去NSL睇嗰兩個stitch joint，睇嗰個情況嘅時候，因為已經係拆卸緊，就裏面個情況就比較messy，即係我係in terms of個construction個condition，因為都好多concrete debris同埋呢個已經係damage咗個rebar，變咗喺當其時我睇嗰個stitch joint嘅interface就比較困難嘅，因為好難確定當其時係咪有呢--唔同嘅irregularity喺嗰一刻。

Q. You anticipated my next question --

A. Yes.

Q. -- or questions. You didn't actually see with your own eyes any of the allegedly defective connections in the

original stitch joints? You didn't see any of that; is that right?

A. 冇特別去留意個情況，因為當其時我落去睇嗰陣時--最初落去睇嗰陣時係視察番當其時嗰個site嘅condition，同埋第一個比較priority要處理就係嗰個marking out嗰個issue，因為其中一個task就係要令到裏面可以儘快咁樣clear啲debris，呢個都--裏面嘅工作因為比較confine，其實我第一個工作就要睇下嗰個marking out個progress係咪可以順利進行或者儘快進行。喺個--因為當其時我落去，亦都唔係嗰個first嘅instruction話要我去檢視嗰一個interface裏面嗰個coupler嗰個情況。

Q. Understood. All right.

Now, you say that the period of time in which you managed the rectification works of the three stitch joints was up until July 2018. Can I ask you, is it the case that your responsibilities lasted all the way through until, say, the middle of July, about 18 July, when, as I understand it, all the rectification works were completed?

A. 係，直至到最盡屘--最後嗰一pour嘅concrete pour喺一個number 2嘅stitch joint move完成為止。

Q. Yes. I ask you that because we have heard from Mr Holden, one of -- the engineering manager, if I've got that right, from Leighton, that in relation to the stitch joint that you've just mentioned, that's joint number 2, the internal stitch joint, there were some problems and difficulties encountered in pouring the

concrete to the roof to that particular stitch joint.

Do you recall those difficulties, Mr Lee?

A. 係有嘅，係根據係--我相信Mr Holden係所指嘅係第一次嘗試去make個concrete pour喺個roof slab，at the end，佢係不成功嘅，因為個石屎嗰個aggregate嗰個size同埋嗰個roof slab裏面嗰個RC係比較congest個情況之下，係hold up咗，其實中途亦都係abort咗呢一個operation，當其時我同Mr Holden都喺現場去睇呢件事嘅，我亦都有去同佢傾abort咗呢一個operation；而相隔咗兩個月，大概5月尾至到--直至到我哋rectify咗，即係整走咗呢一堆aborted咗之後，我哋先至7月中再用一個細一個size嘅aggregate嘅concrete mix，revise個concrete mix係去achieve咗嗰個roof slab嘅construction，I think--我相信你所指係呢一個Mr Holden所講嘅嘢。

Q. That's entirely right, Mr Lee. Thank you for that. That's very helpful.

Have you read Mr Holden's witness statement in relation to this particular point in particular?

A. 正確，有。

Q. I can show it to you, but from what you've just said, it sounds to me as though you agree with what he says?

A. 同意。

Q. Thank you very much. That will save us going to it. Good.

Just another small point, Mr Lee. In paragraph 32 of your witness statement, where you discuss various

inspections that took place during the carrying out of the rectification works, you mention in the last sentence of paragraph 32 that a separate and independent quality control team, who directly reported to Aidan Rooney, which you were not a part of, was deployed to conduct further inspections to ensure that all rectification works were carried out to MTR's satisfaction.

As I understand it, that team was led by Mr Cano Ngai; is that right?

A. 正確。

Q. So you tell us elsewhere in your statement that you were responsible for supervising a team comprising -- this is paragraph 19 of your statement -- Ben Chan, Albert Wan, Tony Tang, and, as I understand it, that group of people were separate and independent from Mr Cano Ngai's team; is that right?

A. 正確。

Q. So that suggests to me perhaps, would you agree, that the MTR were doing perhaps what we say in English -- I don't know how it translates into Cantonese -- a belt and braces job?

A. 我會咁樣rephrase呢個雙重--唔係雙重保險嘅，我會rephrase係一個second surveillance check，其實大家去互補番嗰個inspection，make sure我哋呢一次嘅rectification係complete同埋

satisfactory，同我哋嘅required standard。

Q. All right. That's helpful.

Mr Lee, you -- I'm not going to go through it in detail with you, but you helpfully set out -- I'm just putting this on the transcript, really -- between paragraphs 19 and 34 of your witness statement all relevant detail relating to the method statements, the quality supervision plans, the type of couplers that were used, the site supervision plan, and the thread preparation records, the coupler checklists, the hold points, the fact that site photographs were taken, and all of that is very helpful material relating to the stitch joint rectification works.

A. 係，正確。

Q. So thank you for all of that.

COMMISSIONER HANSFORD: Just on that, if I may, at this point, Mr Pennicott.

Mr Lee, in paragraph 24(2), you refer to something called Erico. What is Erico?

A. Erico其實係個Lenton個supplier個名，其實佢係Lenton supplier--Lenton嘅coupler嘅threading嗰個公司個名嚟嘅。

COMMISSIONER HANSFORD: Okay. Thank you. So BOSA supplied BOSA couplers, and Erico supplied Lenton couplers; is that correct?

A. 完全正確。

MR PENNICOTT: Sir, I'm glad you asked that because it's reminded me that there was one question I wanted to ask about that sentence as well.

Mr Lee, if we can just look at the sentence that Prof Hansford has referred to. You say:

"All on-site threading works for BOSA threaded bars and Lenton threaded bars shall be undertaken by BOSA and Erico ..."

And you have explained Erico. So were in fact the threading works both for BOSA and Lenton couplers in relation to the stitch joint rectification works -- were they actually done on site, the threading works?

A. 據我理解，喺舊年嘅時間，因為其實BOSA就已經冇一個fabrication yard喺地盤嘅，舊年2018年，其實佢哋各自嘅coupler嘅threading 都喺佢哋自己BOSA同埋呢個Lenton自己嗰個廠裏面做嘅，而嗰個 inspection亦都係跟番QAS裏面個requirement，亦都有去監督嘅。

Q. Okay. So when you say "All on-site threading works" -- I see. So both BOSA and Erico/Lenton were carrying out the threading of -- the necessary threading of the rebar at their rebar yards, probably in the New Territories; I think we heard that Lentons was in Yuen Long?

A. 係，佢哋本身係嘅，冇錯，正確。

Q. Right.

We are going to move away from the rectification works now and I'm going to ask you some questions about,

first of all, the 1111 contract, briefly.

In paragraph 15 of your witness statement, Mr Lee, that's page 95, you helpfully give us some dates by which the various Gammon structures were completed. And so at 15(1) you say:

"The NSL ... structures adjacent to the interfacing location under contract 1111 were completed in July 2015 with Lenton couplers with protective caps fixed at the interfacing end of the structures ...", and so forth.

Then you go on to say -- perhaps I should have just read it all out:

"... for Leighton's subsequent connection and the construction of the NSL stitch joint at the interfacing location did not commence until July 2017".

So there was a two-year gap between the completion of the Gammon side and the start of the construction of the original stitch joint?

A. 係正確嘅。

Q. Right. Then, so far as the EWL tunnel structures is concerned, Gammon completed their side in September 2015, and we know that the EWL stitch joint at the interfacing location, as you say, did not commence until January 2017.

So, in that case, a period of 16 to 17 months between the completion of one and the start of the stitch joint?

A. 係，正確。

Q. Then similarly with the shunt neck, the dates are finish by Gammon in January 2016, start of the connection joint in January 2017, so a year between the two?

A. 係，都係正確。

Q. All right. One of the reasons I wanted to just get that clear with you, Mr Lee, is this. We have seen, and you indeed make reference to, in your statement, the Interfacing Requirements Specification. That's at paragraphs 12, 13 and 14 of your witness statement.

We can go to the document. In fact perhaps it would be best to go to the document. BB1/420, please.

If we could go on a few pages until we find the table. That's it, thank you. 1.7.

We've asked quite a few witnesses about this particular provision --

A. 哦。

Q. -- Mr Lee. You're smiling at me; you probably realise that. You probably knew this was coming.

A. (Nodded head).

Q. As we understand it, or as I understand it, Mr Lee -- let's put it at a fairly high level to start with -- once the 1111 contractor had completed its structure, there was provision for a joint inspection to take place of that structure.

First of all, is that your general understanding of

what was anticipated?

A. 我嘅理解，根據呢個specification，係有需要一個inspection嘅。

Q. Right, of the 1111 contractor's side of the joint?

A. 係。

Q. Right. And was that joint inspection to be between Leighton, Gammon and MTR?

A. 係。

Q. Do you know whether it took place on each of the three stitch joints with which we're concerned?

A. 憑我個recollection，喺個record同埋個interface meeting同埋唔同層次嘅同事去recall番，冇一個official嘅joint inspection for呢個stitch joint--三個stitch joint，原因係因為嗰個--呢一個specification係要喺嗰三個stitch joint個readiness，禮頓係ready或者before個stitch joint to be carried out之前去進行嘅。

而嗰個--正如頭先都mention咗，就係話嗰個time gap其實係超過一年嘅time gap between嗰個1111 finish個works同埋禮頓finish嗰個佢個structure，變咗我哋--我相信當其時有一個長嘅時間，我哋啲同事或者係都--我哋自己1111嗰邊個同事未必係--可能係冇咁focus喺呢一個point裏面，因為嗰時係1111嘅peak嘅contract works個period。

喺我個理解，亦都喺我陳述書度亦都有講過，就係話我哋都envisage禮頓如果1112佢哋可以--都我哋--即係喺in terms of 1111，我哋都會incorporate，if 1112係request--upon request，我哋都會1111

會去做呢個inspection，因為其實我哋係冇一個詳細嘅理解係喺1112嗰個programme本身，construction programme，I mean。

幾時佢哋先至會出嚟做呢個stitch joint，所以係比較難去確定係咪約去做一個joint嘅inspection，unfortunately，according to the record，我都係知道係冇一個咁嘅official嘅joint inspection係做過嘅。

Q. All right. Let's just take one of the stitch joints. Let's take joint 1, the NSL interface joint. I have a picture in my mind that Gammon's structure is completed at the date that you gave us earlier, in July 2015. Leighton's structure is not going to be completed for two years' time.

A. 我嘅理解，係，因而大家嗰個excavation有個time lag。

Q. It's sometime later?

A. Yes, sometime later.

Q. Stitch joint two years later, Gammon's structure sometime later.

A. Yes.

Q. The face of the Gammon structure which was going to be joined eventually to the Leighton structure, did that face need any maintenance, constant care and attention, or was it okay just left as it was?

A. 因為嗰段時間，其實我哋係用一個sheet pile cofferdam去separate咗嘅，因為當刻我哋--因為我哋完成咗個structure--我哋自己嗰邊1111 complete咗個structure之後，我哋--1112喺next door，其實佢哋係未--有一段時間係需要做excavation，tunnel structure嘅

construction，有一段長嘅時間我哋都係用咗sheet pile cofferdam去separate咗兩邊嘅。

你頭先counsel所問個問題就係話喺嗰個face嗰度，其實我哋做完咗之後，其實嗰啲formwork係有搦走咗同埋separate by一個cofferdam。

CHAIRMAN: Sorry, can you just very briefly explain to me the concept of a cofferdam in those circumstances?

Sorry, if it's going to be very long and complicated --

MR PENNICOTT: No, I think it's worth asking.

A. Okay，當我哋1111做嗰個tunnel structure嘅時候，我哋係需要做一個sheet pile嘅我哋叫excavation lateral system，ELS system，呢個ELS system，我recall都係一個叫做cofferdam，令到我哋可以掘落去去做一個tunnel structure，但係因為我哋嘅neighbour contract 1112係未start佢嗰個excavation嘅，而我哋只可以喺嗰個cofferdam裏面完成咗我哋個structure，而我哋就live with嗰個sheet pile--adjacent sheet pile，until 1112完成佢哋嘅structure，我哋先至可以搦開嗰個sheet pile去見到雙方面嗰個structure嘅。

COMMISSIONER HANSFORD: Can I ask, just for my own information, really, how close was the cofferdam to the 1111 edge of -- so the 1111 side of the stitch joint, how close was the cofferdam?

A. 相距大概1米嗖嘅啫，1米嗖嘅咋。

COMMISSIONER HANSFORD: About a metre.

A. Yes.

COMMISSIONER HANSFORD: Right. Okay.

MR PENNICOTT: Okay. And that cofferdam was literally between the two structures, was it, Mr Lee?

A. 係，冇錯。

Q. Right. Yes. Understood.

COMMISSIONER HANSFORD: So the 1112 structure could not be built until the cofferdam was removed; is that correct? The cofferdam had to be removed before the 1112 structure could be built; is that right?

A. 唔係，我哋係用緊同一個sheet pile structure，同一個sheet pile去separate兩個個contract嘅structure，所以我哋lift咗呢一個boundary嘅sheet pile，令到1112可以進行佢哋嘅--independently進行佢哋嘅tunnel structure，once 1112個structure complete咗，呢一個sheet pile就會remove，so that我哋兩個structure係可以接口。

COMMISSIONER HANSFORD: So the cofferdam then, Mr Lee, is along the sides of the structure, and the sheet pile is in the middle of the structure, and then when it comes to constructing the 1112 structure, the sheet pile is removed? The sheet pile is removed in order to construct the 1112 structure; is that correct?

A. 你講嘅係stitch joint 定係個tunnel structure？

COMMISSIONER HANSFORD: Yes.

A. 因為如果係stitch joint，stitch joint就has to remove the cofferdam。

MR PENNICOTT: My understanding, tell me if I'm wrong, is that the 1112 structure would be constructed up to the cofferdam. What that left was obviously the stitch joint to be built. At that point, you would take out the sheet piles and the construction of the cofferdam, to enable you then to construct the stitch joint. Is that right?

A. 正確，absolutely correct.

Q. Okay. So, if that's right, I'm just wondering -- there presumably -- if the Gammon structure is constructed, the cofferdam is then built, the Leighton structure is constructed up to the cofferdam, the cofferdam is removed; it's only really at that point that a joint inspection presumably could take place, because there would be no point in inspecting the side, the Gammon side, if you are then constructing the cofferdam?

A. 我recall番當其時，我哋喺interface meeting其實都有提及過remove個cofferdam嗰個sequence，remove cofferdam...

Q. Yes.

A. ...其實係禮頓幫我哋拆嘅，因為嗰陣時因為個stage係佢哋用我哋金門留低left in嗰個sheet pile，所以當其時，即係正如我頭先講，其實幾時佢哋去remove或者係幾時個readiness去做呢個joint inspection呢？我其實就--我presume--或者當其時，我presume禮頓唔會make一個initiative嘅，unfortunately我相信當其時冇一個official，正如我咁講，冇一個official嘅joint inspection去做過嘅。

Q. All right.

COMMISSIONER HANSFORD: If I can just have one last question --

MR PENNICOTT: Please do, sir.

COMMISSIONER HANSFORD: -- on this.

So the ideal time to have carried out a joint inspection would have been when the cofferdam was removed; is that correct?

A. 正確。

COMMISSIONER HANSFORD: All right. But you understand that was not carried out?

A. 冇一個official嘅join inspection。

COMMISSIONER HANSFORD: Well, was an unofficial joint inspection carried out?

A. 我嘅understanding，係有嘅，喺兩個contractor喺一啲working level嘅正常daily嘅coordination，我理解，佢哋其實大家都好合作去睇，因為大家都喺interface嗰度做嘢，可能大家都需要幫助，其實佢哋都會on and off都有自己嘅coordination；但係我哋就喺兩--我相信喺1111嗰邊個CM team未必會每一日去monitor究竟佢哋有冇通知過我哋做過一啲咩嘢unofficial嘅inspection嘅，而--係喇，我係咁，係喇。

COMMISSIONER HANSFORD: And presumably, Mr Lee, if it was an unofficial inspection, no record would be made of an unofficial inspection; is that right?

A. 可以咁講，correct。

COMMISSIONER HANSFORD: Sorry, Mr Pennicott.

MR PENNICOTT: Not at all, sir. Thank you very much.

Mr Lee, you mentioned, during the course of that last exchange, the interface meetings that took place, and in your examination-in-chief just a moment ago, a short while ago, you corrected your witness statement to point out that you did in fact attend some of the meetings.

A. (Nodded head).

Q. Assuming the attendance records are correct, we think you attended four of the meetings, that is meetings number 2, 7, 9 and 11. We probably don't need to look them up.

But just to follow up on one point. If you could go to meeting number 15, one we haven't looked at before, at page CC2/805.

This is not one of the meetings that you were present at, Mr Lee, but if you look at minute 15.3.4, at CC806, it says:

"MTRC1111 passed the revised interface arrangement ..."

Sorry, I'll start again. Under the heading, "Interface cofferdam wall design of EWL and NSL", it says:

"MTRC1111 passed the revised interface arrangement and is attached in appendix B.

MTRC1111 stated that ELS design by Leighton should consider as-constructed permanent structure by Gammon. Leighton would provide instrumentation plan including GSM" -- I'm not sure what that stands for -- "on permanent structures."

Then if we go to appendix B, do we there pick up the point that we've just been discussing, Mr Lee, that is the details of the cofferdam?

A. Correct.

Q. Okay. And as we've heard from other witnesses, this particular aspect of the interface works, that is the cofferdam, was a matter of some importance?

A. 係。

Q. All right.

Now, the next point, Mr Lee, if you can help us with this, when it came to construct -- when the time arrived to construct the original stitch joints, we have been told by Mr Joe Tam of Leighton that on the Gammon side of the joints, the exposing of the couplers was done by the Gammon-Kaden Joint Venture or its sub-contractors. Is that correct, Mr Lee, to your recollection and understanding?

A. 正確嘅，我嘅記憶係金門係有去幫佢哋去chip off expose coupler 同埋做番嗰個rough surface，因為呢個都係我嘅engineer同埋我嘅inspector都有同我提及過，即係佢哋有幫手做嘅。

Q. All right. Did you personally witness that work being carried out, Mr Lee, or not?

A. 真係唔記得有冇exactly去見到呢件事，但係我嘅理解係亦都合理。

Q. Okay. I think, so far as -- on the Gammon side is concerned, a person by the name of Fans Chan was involved. Is that right?

A. 係，冇錯。

Q. Was he an engineer or an inspector of works --

A. 係，正確。

Q. -- an engineer?

A. 工程師，GKJV工程師。

MR PENNICOTT: All right.

Thank you very much, Mr Lee.

Sir, I have no further questions.

MS LAU: Sir, we have no questions for this witness.

CHAIRMAN: Thank you very much.

MS PANG: No questions from the government.

MR BOULDING: No?

MR SHIEH: No questions from us.

MR BOULDING: No re-examination!

CHAIRMAN: Sorry, I think Pypun also have to say something.

MR LIU: No questions.

CHAIRMAN: Thank you very much indeed. Sorry, the laughter was not in any way at your expense. Over a period of long inquiry, you will appreciate --

WITNESS: That relaxes me very much. I'm much more relaxed now.

CHAIRMAN: Thank you very much for your assistance. It's been very good of you.

WITNESS: Thank you.

CHAIRMAN: Thank you.

(The witness was released)

MR BOULDING: Thank you, sir and Professor. MTR's next witness will be Mr Ngai Kwok Hung.

MR NGAI KWOK HUNG, CANO (affirmed in Cantonese)

Examination-in-chief by MR BOULDING

Q. Good afternoon, Mr Ngai. I understand you are giving your evidence in Cantonese.

A. Yes. 係。

Q. It's correct, is it not, that you have produced a witness statement, one witness statement, for the assistance of the learned Commissioners in this Inquiry?

A. 係。

Q. I wonder if we could look at that. I hope you find it at BB8/5232. There do we see the first page of that witness statement, Mr Ngai?

A. 唔，睇到。

Q. Then if we move on, if we go down to page 5235 -- it's a short statement -- I hope we'll see your signature. Do you see your signature there -- "16 May 2019", with your signature underneath it?

A. 係。

Q. I understand that if we go back to paragraph 2, there is a typo that you would like to correct on the third line. Is it right that you obtained your master's degree in construction management from the City University of Hong Kong in 2006 and not 2016?

A. 係，冇錯，應該係2006年嘅，抱歉，有呢個打嗰方面嘅錯。

Q. Don't worry, Mr Ngai. These things happen.

Now, subject to that correction, are the contents of that statement true to the best of your knowledge and belief?

A. 係，正確嘅。

Q. It's right, is it not, that you were part of the independent quality control team overseeing the stitch joint rectification works; is that correct?

A. 係，正確嘅。

Q. And in that sense, do I understand the situation to be that you were independent, independent in the sense that you were unrelated to contract 1112?

A. 正確，我係同1112合約冇關嘅。

Q. Thank you. In those circumstances, Mr Ngai, I'm not going to take you to any sort of organisation chart because it seems to be inappropriate, but what will happen now is that you are going to be asked a few questions, I suspect, by one of the counsel for the

Commission of Inquiry. Then various lawyers in the room get an opportunity to ask you questions. The learned Commissioners can ask you questions at any time they consider appropriate. Then it may well be the case that I'll ask you some further questions at the end of the process.

Do you understand that?

A. 係，明白。

MR BOULDING: Please sit comfortably and make yourself at home.

Examination by MR PENNICOTT

MR PENNICOTT: Mr Ngai, good afternoon.

A. 係，你好，午安。

Q. My name is Ian Pennicott, I'm one of the counsel to the Commission, and thank you very much for coming along to give evidence this afternoon.

I just have a few questions for you, Mr Ngai, and I can assure you we won't be long.

As we've just heard, Mr Ngai, your involvement on contract 1112 was limited to the period, as I understand it, March -- 22 March, in fact -- 2018 through to the beginning of June 2018?

A. 係，正確。

Q. And you were -- you headed up, at Mr Rooney's request, what you describe as an independent quality control team to oversee the remedial works for the stitch joints?

A. 係。

Q. As you've just said, independent in the sense of being unrelated to contract 1112, and my understanding from your witness statement, paragraph 6(b) and (c), is that the other members of your team were Mr Cheung Ying Sum, a senior inspector of works; Mr Kine Tong Kin On, who was a ConE, a construction engineer; and Mr John Leung, also a construction engineer. As I understand it, all of you were unrelated, prior to this involvement, with contract 1112?

A. 正確。

Q. Can I ask you this, Mr Ngai. When you started your duties as this quality control team, what documentation were you given in relation to the remedial works?

A. 我記得第一日，即係18年3月22號嗰一日，當我收到呢一個指示，要做呢一個工作之後，其實當日我都搵咗當其時1112合約嗰邊佢哋嘅施工團隊，佢哋都有啲--即係第一樣，佢簡介咗當其時其實有啲咩嘢工作做，係需要我哋幫手睇，因為本身之前我哋完全係冇牽涉喺呢一個合約嘅工作入邊，所以當其時佢哋話咗畀我哋聽有三個呢個stitch joint係要做一個修補嘅工作，同時間佢畀到一個係--我記得當年應該有個修補嗰個stitch joint嘅施工方案畀我哋，同埋佢哋都口頭上大約咁樣解釋咗嗰個施工嗰個方法畀我哋知道。

Q. All right. Let me try again. We know, Mr Ngai -- and I'm not suggesting you necessarily had all of this material on 22 March -- but we know, for example, that

there were method statements produced in relation to the remedial works. Were you given those method statements?

A. 有，我記得當其時佢應該係有畀過個施工方案我哋嗰個小組嚟到參考嘅。

Q. Right. There were obviously drawings of the remedial works or the stitch joints in their rectified status or state. Were you given the drawings?

A. 應該都有嘅，但係因為其實22號嗰日係當日朝頭早嘅時候，我先至收到Mr Rooney嗰個指示，要去負責幫手做呢一個工作，所以其實嗰一日時間都較為倉猝，變咗我朝頭早，我記得朝頭早我同我啲隊員都見咗1112佢哋施工團隊先，跟住下晝佢哋都經已即刻帶我哋落去嗰三個stitch joint嗰個地盤嘅位置，大約話一話畀我哋聽當其時嘅情況，所以有啲資料其實係跟住陸續我哋再收到嘅。

Q. Yes, indeed, as I said, I wasn't suggesting you had all of this material on 22 March. So there are the method statements that you think you received subsequently, the drawings you think you would have received perhaps at a slightly later time.

A. 係，正確。

Q. And were you also provided with site supervision plans and the quality supervision plan? Were you supplied with those documents as well?

A. 如果我記憶中，應該個工地監測計劃我就冇收到嘅。

Q. All right.

Now, we know that the first stitch joint to be rectified or remedied was the EWL stitch joint. Do you

recall that, Mr Ngai?

A. 記得。

Q. Okay. That started on 25 March, we understand, so just a few days after you received your instruction from Mr Rooney?

A. 係。

Q. Then we know that the interface stitch joint, the NSL level, started later, 12 April. Then the internal stitch joint, the 1112 stitch joint, started, again a little later, on 9 May.

As I understand it from your evidence, what you are telling us is that so far as the method statements/the drawings were concerned, you would have received that material -- in order to presumably carry out your responsibilities, you needed that documentation to understand what was going to be built?

A. 係，同意。

Q. So, as we've seen, and we will see in a moment, you produced daily reports, your team produced daily reports?

A. 係。

Q. And, when you were carrying out your quality control surveillance and monitoring, presumably you had the documents, that is the method statements and the drawings, with you so that you could check what was

happening and whether everything was complying with the drawings and method statement; is that right?

A. 係，同意。

Q. If we can please go to bundle GG11/7239. This, as I understand it, Mr Ngai, is the very first report that you produced, indeed on 22 March, the day that you were instructed. Do you see that?

A. 係，正確。

Q. Okay. If we turn over the page, just so we can get the feel of all this, each report that you produced on a daily basis, apart from presumably at weekends and when work wasn't happening, almost invariably was accompanied by a series of photographs. Is that right?

A. 係。

Q. If one goes on perhaps in time, could I take you, please, to page 7536. This is the report for 19 May 2018, I hope.

A. 係，正確。

Q. Just so that if we need to look at these at any time, Mr Ngai, my understanding is, just looking at this page, when it says, "NSL (Gammon joint)", that is a reference to joint 1, that is the interface joint between the Gammon and Leighton structures?

A. 係，正確。

Q. And when it says, "NSL (Leighton joint), that's joint

number 2, the internal joint?

A. 係，正確。

Q. Right. And I've chosen this one, 19 May 2018, because, as I understand it, if one looks at the Gammon joint, that is joint 1, the interface joint, on that day concrete was poured. There was an issue about the volume, but I think that was all sorted out in due course. And indeed this joint was completed around about this date or within a few days of 19 May. That is the Gammon joint.

A. 唔好意思，你意思係講緊落石屎嗰個日子係一日？

Q. Yes.

A. 係，如果落石屎嚟講，係5月19號嘅。

Q. Yes. Okay. And the records that we have, that we've been given, suggest that this stitch joint, the remedied stitch joint, was completed around about 19 May, and your record is, in a sense, confirming that, that the concrete pour was done on that date?

A. 係，係5月19號倒石屎嘅。

COMMISSIONER HANSFORD: This is the concrete pour of the roof; is that correct?

MR PENNICOTT: It should be, yes.

A. 係，冇錯，係個頂嗰個樓面落石屎嘅日子。

Q. Okay. And so far as, on that date, the Leighton joint is concerned, that's the internal joint, you have

recorded:

"Side walls rebar fixing is in progress under CM supervision", and so forth.

So we can see that in that joint, the rebar fixing is going on.

A. 可能解釋一下，通常我哋喺報價入面寫CM，其實即係construction management，即係個建築團隊嘅，就唔係指個建築經理construction manager。

Q. Okay. Understood.

Then if I could take you, please, to page 7604. This is your daily report for 31 May 2018. Do you see that, Mr Ngai?

A. 係，見到。

Q. Under the Leighton joint it says:

"Bleed pipe was installed according to the approved drawings and concreting proceed today. Volume of concrete poured is approximately 35 cubic metres as advised by CM team which was less than the calculated volume of 40 cubic metres, to be further verified by 1112 CM team and contractor."

Do you see that?

A. 可能再解釋多少少，呢個資料，因為我記得當日應該落石屎呢個工序都做到都較為遲嘅，所以最後我收到我哋建造工程師佢--即係我哋自己團隊嘅建造工程師，佢匯報返嚟個資訊就話當其時佢得到嘅資料就話有35個立方米嘅石屎係落咗嘅，但係原身如果根據圖紙，我哋估計應該會係需要落40個

立方米嘅石屎嘅，所以對於呢一個喺個石屎量嗰方面嗰個差別，當其時所以就建議就話要有1112嘅施工團隊同埋承建商再調查一下睇下咩嘢事，因為當其時我哋只係收到呢個訊息，冇做到任何深入嗰啲調查嗰啲，所以只係可以記錄到呢一個咁嘅資料落去。

Q. All right. Then, Mr Ngai, if you go to 7612, that's the following day, 1 June. I'm not too concerned about the discrepancy in the figures, but it says here, under the Leighton joint:

"-- No site activity today.

As confirmed by CM team, approximately 22 cubic metres [of] concrete was poured yesterday for the roof slab. Remedial proposal was under preparing. It was suggested to review the gap between soffit and concrete pump pipe to facilitate concrete flow."

Mr Ngai, as I understand it, that's your last report; is that correct?

A. 冇錯，6月1號係我最後一份報告嚟嘅。

Q. It may seem a simple question but why did you stop at 1 June?

A. 因為其實係6月1號嘅時候，我都係收到當其時我哋總經理Mr Rooney佢個指示，就話我哋個團隊經已完成呢個獨立嗰個品質控制嘅責任，跟住就唔再需要我哋繼續幫手，所以呢份都係我最後嘅一份報告。

Q. All right.

So I've discussed with Mr Holden from Leighton and Mr Jacky Lee from the MTR just a moment ago some issues

that occurred with the roof, the concrete to the roof, of the 1112 internal stitch joint, and thankfully both of them are agreed, broadly speaking, as to what happened and how it was resolved. But presumably you have no knowledge of those matters if you finished your job on 1 June?

A. 係，因為跟住我就經已冇再參與佢哋嘅討論、打後嗰啲工作。

MR PENNICOTT: Thank you very much, Mr Ngai.

Sir, I have no further questions.

CHAIRMAN: Thank you.

MS LAU: No questions from us, sir.

CHAIRMAN: Thank you.

MS PANG: I don't want to disappoint my learned friends Mr Boulding and Mr Wong but I'm afraid all of the questions I intended to ask have already been covered, so no questions from us.

MR SHIEH: No questions.

MR LIU: No questions from Pypun.

MR BOULDING: And no re-examination, sir. What a delightful afternoon we are having! Thank you very much.

CHAIRMAN: Yes, Mr Ngai. Thank you very much for your attendance. Your evidence is now finished and you can be excused. Thank you again.

MR BOULDING: Thank you.

(The witness was released)

Sir, my next witness and the last witness for

today -- I see Mr Pennicott standing up.

CHAIRMAN: Just a brief adjournment, would you like?

MR PENNICOTT: I was going to suggest that, yes, sir.

CHAIRMAN: Certainly.

MR PENNICOTT: We've got Mr Kit Chan next, I assume, and I'm pleased we've got to him, but I can see what's going to happen. We may finish him, it's possible, but then that means we are going to have just Dr Ewen tomorrow morning.

CHAIRMAN: We'll see how we go.

MR PENNICOTT: We'll see how we go.

CHAIRMAN: And my understanding is we're adjourning a little early this evening.

MR PENNICOTT: Yes, sir, please.

CHAIRMAN: Good. Okay. Ten minutes?

MR PENNICOTT: Yes, sir.

(3.30 pm)

(A short adjournment)

(3.44 pm)

MR BOULDING: Good afternoon, sir. Good afternoon, Professor.

And good afternoon, Mr Kit Chan, our next witness.

Sir, you will recognise Mr Chan from the first part of the Inquiry.

CHAIRMAN: Yes.

MR BOULDING: I don't know whether you regard him as still

being on his oath or whether you'd like him to take it again.

CHAIRMAN: No. I think he needs to take a further affirmation.

MR BOULDING: So be it.

MR CHAN KIT LAM, KIT (affirmed)

Examination-in-chief by MR BOULDING

Q. Thank you very much, Mr Chan. You've given evidence before but we have another witness statement from you to assist the learned Commissioners, and I hope we will see the first page at BB8/5187.

Do we there see the first page of your witness statement, Mr Chan?

A. Yes.

Q. Then, hopefully, we'll pick up the signature page at BB8/5206.

There do we see your signature, under the date of 16 May 2019?

A. Yes.

Q. Are the contents of this statement true to the best of your knowledge and belief?

A. Yes, it's true.

Q. It may well be that the Commissioners remember where you are in the MTR hierarchy from last time, but just by way of a reminder, perhaps we could look firstly at an organisation chart for early 2015. That's at B2/566.

Do we there see in the top left-hand corner that this is the chart as at the date of 15 January 2015; is that right?

A. Yes.

Q. Do we there see you right at the top of the tree, Mr Chan?

A. Yes.

Q. Just to get a glimpse of another time during your involvement, perhaps we could now go to B2/576. Here, if you look at the top left-hand corner, we've moved on for just over a year. We are now at 31 March 2016. Do you see that?

A. Yes.

Q. And there, under the picture of Mr Aidan Rooney, do we see your photograph and name, Mr Chan?

A. Yes.

Q. Thank you very much. You'll know how this system works, I think, but just as a reminder, counsel for the Commission of Inquiry will ask you questions first. Lawyers in the room can then ask you questions. The learned Commissioners can ask you questions at any time they feel appropriate. And it might be that I ask you further questions at the conclusion of the process.

A. Yes. Thank you very much.

MR BOULDING: You are welcome.

Examination by MR PENNICOTT

MR PENNICOTT: Good afternoon, Mr Chan.

A. Good afternoon.

Q. Thank you once again for coming to give evidence to the Commission.

Mr Chan, first of all, my understanding is that throughout the course of your responsibilities as construction manager -- and we've obviously just looked at the organisation charts, or at least two of them -- you reported to Mr Rooney, to Aidan Rooney?

A. Yes, sir.

Q. In your witness statement for current purposes, you focus on the HHS area because, as you explain in your witness statement, only a limited number of pours, that's concrete pours, had been carried out in the NAT and the SAT areas by the time you had left the project in May 2016?

A. Yes, sir.

Q. And therefore most of my questions are going to be focused on the HHS area.

Can I, however, first of all ask you this. In paragraph 31 of your witness statement, at BB5195, you are there dealing with RISC form inspections and the steps that were involved in the RISC form process. Do you see that?

A. I see that.

Q. Right. One thing you don't specifically mention in

those paragraphs, I think, Mr Chan, is MTR's RISC register, and I assume that at all material times you were aware of the existence of the MTR RISC register?

A. I have some understanding but I'm not involved, because I delegate all this RISC register management to my administration staff.

Q. But you were aware of its existence?

A. Existence only. Not a lot of knowledge. But there's some system there to manage the in and out come of the RISC form.

Q. Yes. I wasn't suggesting that you were necessarily involved in inputting information into the register, but you at least knew that it was there, it --

A. Yes.

Q. -- existed, and if at any time you wanted to have a look at it, presumably you could have done?

A. Yes.

Q. In paragraph 34 of your witness statement, you are there addressing the issue of what happens if a particular RISC form is not issued for a rebar inspection or a pre-pour inspection. Do you recall that?

A. Yes.

Q. Right. You say at paragraph 34:

"As the subsequent works following the rebar fixing and pre-pour checking hold points were likely to involve a different gang of workers and/or mobilising other

equipment (such as concreting trucks), I believe it would be difficult for works to have proceeded beyond the rebar fixing and pre-pour checking hold points entirely unnoticed."

First of all, can you explain your belief there, Mr Chan?

A. I have been in the industry for more than 40 years. The normal procedures, when you do the rebar checking, that means basically the pour is ready for concreting a couple of days later, and then there are not many people working there, until the rebar checking finished; then the contractor will mobilise another gang, the carpenters, to put up the shutters, the kickers (?), right; there are different people.

Normally, they won't mobilise until the rebar checking is finished, most of the time, although some exception case. And even after the pre-pour check and everything, all the carpenters have gone away and then we have the concrete gang, different people, they have to mobilise a lot of equipment, like a concrete truck, the pumping truck, the vibrator; a totally different scenario.

So every experienced supervisor will know that what happens on site. There's no confusion.

Q. All right. So part of your reasoning for why it would be difficult to proceed without those checks having been

done --

A. Yes.

Q. -- is the different operations that are involved --

A. Exactly.

Q. -- one after the other?

A. Yes.

Q. All right. You go on to say in this paragraph:

"I also believe that if Leighton proceeded to pour concrete without first having obtained the relevant permission to proceed from MTR's CM team, members of MTR's CM team would report such fact to me, and I would follow up with Leighton's project director."

That's Mr Plummer at the relevant time.

A. Yes.

Q. That suggests to me, Mr Chan -- and perhaps it is rather obvious -- that if concrete was poured without having the relevant permission, that is the rebar inspection and the pre-pour inspection, that would be regarded by you as a very serious matter?

A. Obviously. Everyone knows my style, everyone knows my mobile phone number. If that happens, my inspector/engineer will call me immediately. Then my first thing is I will call my counterpart and go to site to find out what happened on site. According to my recollection, it never happened during my time in this project, three years ago.

Q. So, as you say, you would -- if a concrete pour had taken place without the relevant permissions, you'd expect that to be reported effectively right to the top?

A. Exactly.

Q. To you?

A. This is my guideline to my team, and my counterpart are fully aware that, they dare not to do that. It's not to their advantage. There's no benefit doing that.

Q. Right.

Then you say in paragraph 35:

"As to the inspection of the rebar fixing and pre-pour checking on site and having revisited this issue recently, occasionally" -- I emphasise the word "occasionally" -- "the CM team did not strictly enforce the procedures relating to the submission of RISC forms prior to inspection of those works and the CM team tolerated the late submission of RISC forms by their counterparts."

Mr Chan, perhaps knowing what you now know about the HHS area, and leaving aside the NFA, would you agree that your word "occasionally" is something of an understatement?

A. Not really. I would put it this way. There are several reasons why the RISC forms are not submitted on time or not submitted at all. Based on my past experience, there are several reasons.

First, it all depends on the performance of individual teams. Some team members do a better job than others, like the survey team normally have a very good RISC form submission record.

The second reason is, for big important inspections, they normally have RISC forms in order; like the EWL slab construction, they are 100 per cent. For minor pours, normally take a more relaxed view; okay, just draw pit, a minor concrete pour for a wall, they probably don't pay too much attention.

Another reason is during peak construction period, when everyone is so busy, we may have 10-20 RISC forms to submit every day and it is very time-consuming and very troublesome. I can have some sympathy for some non-essential inspection, because the RISC form applies to every pour; whether important or not important, you still have to go through the steps.

The RISC form system has been in Hong Kong for more than 40 years, since I started work on site 40 years, there are still RISC forms. But, at that time, they were not much work for the engineers to look after because we don't have to worry about safety, environmental, and then the job a lot simpler and more time, more resources. But the system of RISC form never changed. We still impose the same procedures.

So that's the reason why I have some sympathy if the

RISC form not submitted on time for some minor pours, but for important pours I insist that. I also have always keep a close eye on this status.

That's why, when you look at my paragraph 37, when the RISC form are not very good, I raise my concern to my counterpart -- say, "Look, you've got to do a gooder job; you cannot deteriorate the situation."

Q. Yes, and we are going to look at Mr Harman's registers in a moment.

A. Yes.

Q. But before we get there, have you had an opportunity of looking at the HHS table that's been prepared?

A. Yes.

Q. If we could please have a look at that together. That's at CC9/5642.

Have you had an opportunity of looking at this particular table?

A. I think this table was prepared by the contractor; is that right?

Q. Yes, that's right.

A. I don't have the chance to read this information before, but I think we've got a very similar pour summary --

Q. Yes.

A. -- which contained similar information before; right?

Q. Yes, that's right. I think you would accept, would you not, Mr Chan, that both in relation to the track slabs

and the accommodation blocks, a significant majority of the pours in those areas took place before May 2016, before you left the project?

A. Yes.

Q. Therefore, if one looks at the percentages of RISC forms that were issued against those that ought to have been issued, that happened effectively during your tenure as the construction manager; you would accept that?

A. Accept that, yes.

Q. If we could please put on the screen GG1021. It's GG3, I think.

I don't suppose you've looked at this document before, Mr Chan.

A. No, no, no.

Q. But it is a report, you can perhaps see at the top, prepared by Pypun --

A. Yes.

Q. -- on behalf of the government, and it's a report that analyses, amongst other things, the RISC forms, and indeed the completeness of RISC forms; you can see that on page 1021.

If you look under the table 1 which is dealing with rebar fixing -- do you see that?

A. Yes.

Q. In the "HHS (AB)", that's the accommodation blocks --

A. You are talking about table 1; right?

Q. Yes, table 1.

A. Okay.

Q. It's recorded -- and this is essentially a distillation of the table, the large table that we've just been looking at --

A. Yes.

Q. -- effectively -- there ought to have been of the order of 96 RISC forms. Only 28 were available, and so only 29 per cent on the accommodation blocks were issued.

A. Yes.

Q. Then leaving aside, as I say, the NFA, which obviously has a much better rate, percentage rate, than any other area, and you look at the HHS, which is essentially the tracks, the track slabs and the underpasses and so forth, out of a required number of 436, there are 149 RISC forms, that is 34 per cent.

Now, Mr Chan, obviously these are broad figures and I accept that some of the pours took place after you had left --

A. Yes.

Q. -- but in broad terms, were you aware at the time, back in 2016, that the position was this bad?

A. We don't have this statistic at that time, but I'm aware the RISC form submission are not in an ideal situation. That's the reason why, at the beginning of 2015, I start to complain to my counterpart, and then they start

addressing this issue, issue a weekly report on the status of the RISC form.

That's why, in my witness statement, paragraph 37 -- we know there's some problem in localised areas, not all over the place.

Now, the worst scenario is accommodation blocks.

Q. Yes.

A. As I explained to you, those pours are not that significant because it's very small housing; not like EWL, we've got 100 per cent.

I also mentioned to you, depends on the individual teams. Some team members are more diligent, more disciplined. That's why I explained, just before, I answered your question, it depends many reasons. That's one reason why -- I know there's some localised area, like accommodation blocks, are not doing a good job. That's why I started to complain, and they started to compile this statistic every week, and I keep chasing them to make sure the situation will not deteriorate, and then it will be under manageable condition.

In the Hong Kong industry, I don't expect every site will have 100 per cent good record in RISC form, like that Guangzhou-Macau Bridge, we've got thousands of them; right? That's a typical example.

I'm not saying I do a good job but I know the problem. That's why I take whatever action I can to

remind my counterpart, "You cannot deteriorate the situation; you start to improve it to a reasonable degree of satisfaction."

Q. Okay. Well, let's just explore a little bit your paragraphs 37 and 38 of your witness statement --

A. Yes.

Q. -- that you've mentioned.

To put it shortly, as a result of your dissatisfaction and the complaints that you were making, as I understand it, with regard to the RISC forms, Mr Harman created, as you say, a special request, register.

A. By me.

Q. Yes, quite.

Could we just look at BB8, please, 5710.

A. Thank you.

Q. This is -- first of all, Mr Chan, my understanding up to now is that this is a schedule, a table, that Mr Harman prepared.

A. Every week.

Q. Every week?

A. Yes.

Q. Did he submit it to you?

A. Yes, by email.

Q. Right.

A. And to my two senior construction engineers and a lot of

senior staff in the contractor team. More than ten people receive this report every week.

Q. Right. I think this is the first one, back on 13 May 2015?

A. No, not the first one. I remember it start either end of December 2014 or early December.

Q. Okay. Fair enough. Perhaps it doesn't matter too much. But anyway, it came to you on a regular basis --

A. Yes.

Q. -- and to a couple of your senior colleagues?

A. Yes.

Q. If we could please scroll down to find -- we don't need to scroll down, it's there. At "Active tasks (still in process)", if we look at the KCR number -- I imagine that means Kit Chan register number --

A. I think so. You are very smart.

Q. -- as opposed to the Kowloon-Canton Railway.

A. It should be Kit Chan register.

Q. At 36A --

A. Yes.

Q. -- "Mode: Email and phone".

"Leighton are making (1) late RISC submissions and (2) omitting RISC records submissions".

Then "Actions taken":

"(1) Notified MTR stated problem to construction team [date given].

(2) Prepared RISC late submission summary and sent to process owners and presented at weekly Tuesday project [management meetings] ..."

Then a column headed, "LCAL action champions". Then we have the names of four people from Leighton; do you see that?

A. Yes, I saw that.

Q. I assume those are the people that were supposed to be dealing with this issue?

A. Yes. They are construction manager and above.

Q. Right. Then, under the "Done" column, 30 per cent; "Processing"; and "Planned completion date", 18 May 2015. Then finally, "Keep this in view over next few weeks to see improvements".

Then also I think 36B is to similar effect:

"Leighton are not submitting RISC records inspection requests."

So 38A is "late" and "omitting RISC records submissions"; and then, 36B, "Leighton are not submitting RISC records inspection requests"; yes?

A. Yes.

Q. Then I won't read the rest of the details out across the page.

Then if we could go to page 5738 in the same file. We have now moved on a couple of months, Mr Chan, to August 2015. I'm at page 5738. Do you have that?

A. Yes.

Q. We see that 36A has disappeared from this register; do you see that?

A. Yes, for some reason.

Q. You deal with this in paragraph 39 of your witness statement, when you say this:

"Initially, Leighton had envisaged that the problem would be resolved soon. Although Leighton had purportedly resolved item 36A on or about 19 August ..."

That's what we have just been looking at, Mr Chan.

A. Yes.

Q. "... the problem of late submissions was in fact not resolved and I understand that MTR's other witnesses will give further evidence in relation thereto."

Then just for the sake of completeness, while we are there, in paragraph 40 you say:

"In any event, item 36B [which we have looked at] ... persisted."

A. Yes.

Q. And, as I understand it, Mr Chan, that was a problem that persisted right through to May 2016, when you left the project and went on to a new project?

A. Yes.

Q. Was it a problem, to your understanding, to your way of thinking at that time, that improved or not?

A. No. I can't exactly remember what happened three or

four years, but I keep reminding my counterpart and my senior inspector of works, "If you have problem, if the situation deteriorates, for important pours, you don't submit that, you've got to raise your hand and let me know, then I will do whatever I can. For minor pour or for whatever reason that you can facilitate to get the job done and with the promise for them to submit the form afterwards, we should keep a more open mind."

But I'm pretty sure at that time the situation did not deteriorate to the current situation, like the figures; right? That's my recollection. Look at NAT, SAT, even figure not very good, but before I left the site, the percentage are not higher than the overall average. Even HHS, why we have a low per cent is the trough wall. No minor pour. You got about maybe 300 pours for the trough wall, but the underpass, major pour, when I was there, it is more than the average. The track slab the same, the big pour.

When you look at the HHS, the overall percentage, overall from start to finish, a lot of pours at trough wall, we did it the last one or two years, 2016 to 2017.

So, when you say the figures, that figure only applies overall. It doesn't apply to my state. I've got to elaborate a little bit.

Q. I understand that. But you are really at the moment, as I understand, Mr Chan, putting forward two

justifications for the situation.

A. Yes.

Q. One is there were what you've described as minor pours, and the second, perhaps related, is that there were a lot of pours.

A. Yes.

Q. A very big number of pours, particularly in the trough walls.

A. Yes.

Q. Are you putting forward those two reasons as a legitimate excuse for the RISC forms not to be submitted as they should have been?

A. As I mentioned to you, there are five main reasons behind the reason not submitted, based on the current requirement. First, it depends on individual performance, like NFA they do a lot better job. The second thing, if the pour important, they definitely would do it, right, like the EWL, 100 per cent. When too busy, people will have not much time -- as I mentioned to you, the RISC forms are very time-consuming and labour intensive, and it was there some 40 years ago when the industry was totally different from now, and the construction work was a lot simpler at that time and now the construction is so complicated, and the expectations from society are so high. 40 years ago, I never had to deal with the Labour

Department or Environmental Department. No stakeholder issues. I just concentrate on prepare the RISC form and get the job done.

But the system is still there. Four parts. If you look, every RISC form has four parts, have to sign off by four different people. It takes a long, long time. It's not practical. I think the industry got to start thinking to revise the system to more user-friendly, with the help of new technology.

And also one very important thing is RISC form is a contractual requirement. It's an administrative procedure, not a statutory requirement. The contractor normally don't pay high attention to that. Unless, if the government wants to make it a big deal -- "Okay, it's a statutory requirement" -- then the whole thing would be different.

I'm not trying to defend but this is it the reality in the construction industry.

Q. Okay.

A. It's the normal practice in this world. That is why you have found out the Guangzhou-Macau, because so many thousands of RISC forms are not there. If we have more practical approach, not have that problems now.

CHAIRMAN: Sorry, you made mention in your last answer of Macau, sorry?

A. Zhuhai-Macau Bridge.

CHAIRMAN: Ah, sorry. Thank you.

A. The big bridge leading to China, big in the newspapers. This is one of the typical examples in the construction industry, but I think the industry changed now because the government expects a lot more. People start to think there's this expectation, so they start paying more attention and resources on that. I'm pretty sure the RISC form system is a lot better now since that incident.

CHAIRMAN: Sorry, just remind me, with the Zhuhai-Macau Bridge, the RISC form problem was the same?

A. Late submission and no submission, both.

CHAIRMAN: No submission or late submission?

A. Yes, similar.

CHAIRMAN: I may be wrong in hearing what you say, and this is not a criticism, it is purely and simply a question for clarification. Would I be correct to say that you were aware of it, your officers were aware of the problem, and it was a question of managing the problem rather than seeking, by way of abrupt action, to completely stop it?

A. I agree with you, Chairman, because as I mentioned, this is not a statutory requirement. There's no contract requirement that I can stop the work before they submit a RISC form. That's no such requirement. I can't exercise that power to stop your work until you submit

the RISC form. But if that's what the site wants, and now we have a memorandum from the government saying, "No concrete pour allowed unless we have a proper RISC form", that's a different story. The expectations are different.

CHAIRMAN: But -- and again, this is just for clarification -- I appreciate that if you are working on site, the fact that the law tells you to do something has a certain degree of immediacy about it, and you know that you are going to be in trouble. But contractually too, there's a direct obligation, is there not?

A. I agree, there's an obligation to inform us to do the hold-point inspection, and in fact my team have carried out the inspection even without a written RISC form. As I mentioned with my other colleague, they will go out and check and take photos to record it. It's a different means to achieve the end product.

CHAIRMAN: What has struck me, at this very early provisional stage, without the benefit of learned submissions from the various counsel, is that while it's very understandable, there are unintended consequences that arise from a failure to submit a RISC form before the inspection takes place and only to submit it as some form of bureaucratic bother, sometimes weeks or even months after, and it's those unintended consequences, because the system has been undermined and a new system,

a very uncertain casual system, has evolved in its place. That's the sort of problems that -- they create problems.

A. I understand, because if you don't submit a RISC form, there's a chance that people will, one way or the other, forgot to do the inspection, that's true. But I'm pretty sure most of the time, 99 per cent, people won't do the inspection and let them do the concrete pour. One or two occasions I can't limit; people make mistakes.

You can't have a project management system to avoid any mistakes or all mistakes. Different system, if the people don't execute the system in due diligence, mistakes will still happen. We are human beings. That means we should have a system as simple as possible. The more complicated the system, the more chance people will make mistakes. That's why I suggest the RISC form system should be revised, make more user-friendly, with the help of new technology; just take photo, push a button, complete the process. That would be a lot helpful.

I'm not trying to defend the mistakes, but we've got to be realistic. There's always room for improvement, every system we have on site. And all the systems depend on the people who perform it. If the people do not carry out the work in due diligence, no matter how

good a system, they still make mistakes.

CHAIRMAN: You say that this system, the RISC form system, was in use when you started, was it, 40 years ago?

A. Yes, but the situation was very different from now, I mentioned to you.

CHAIRMAN: Of course, yes.

A. On the whole, the society expectations were a lot different. I don't have to deal with CNP, no EPD, no stakeholder meetings, no safety. The only concern is fill in the RISC form and deal with the instruction and get the job done. The work was a lot simpler than now and there was more time to do. But the system never changed.

I'm not trying to defend but I just tell you the reality in Hong Kong.

MR PENNICOTT: Sure.

CHAIRMAN: No, I think, in fairness again, subject to what counsel will say, the Commission has been aware of a number of sources saying exactly what you are saying, namely that there needs to be a use of technology and simplification of the process, yes.

MR PENNICOTT: Mr Chan, let me ask you this: did it ever occur to you, during the course of your work up to May 2016 on the HHS, knowing as you did the problem that existed with the non-submission of RISC forms, to say to Leighton, "Look, I'm sorry, chaps, but we are not going

to be inspecting this rebar anymore unless you start submitting these RISC forms"?

A. If my inspector mentioned to me the situation had deteriorated, I would probably do that, because I always believe that preventive measures is always better than remedial measures. I will probably do what you just said to me if my inspector of works mentioned to me the situation had deteriorated; I would definitely step in. I promise you. This is my character.

Q. But if that's right then your perception of the situation must have been that whilst there was a problem, it wasn't serious enough --

A. Exactly.

Q. -- for you to take that sort of step; is that right?

A. Exactly. You can look at other areas. It's only localised. The accommodation blocks is the worst at that time, when you look back at the situation, because they are just small buildings, people pay less attention. But big EWL slab, 100 per cent. NSL, depends on the individual, they do a good job. NAT, when it was done, it's still very good. NFA did the same. It all depends on individuals.

There are many reasons behind a late submission or no submission. It is not a single reason.

Q. All right.

CHAIRMAN: The sort of problem that arises, though -- and

I'm not suggesting it fell within your time, Mr Chan, but I just put it forward, therefore, as an illustration -- is that we had a witness today who was a senior inspection officer, and he spoke of receiving, for example, several months worth of RISC forms sort of just put on his desk, and being diligent he then had to set about the task as best he could based on notes and photographs and other odd things, to try to tie each of these RISC forms into its proper context; you know, work which -- he didn't say so but I would imagine clearly he had to do out of hours, for example.

I'm not suggesting that happened during your time, but when I talk about these unintended consequences, that's the sort of thing. Sometimes, instead of saving time, it just adds to time, but adds to time in a very uneven fashion. Some people get stuck with the problem, others don't.

A. I totally agree with your assessment. If I know this situation, I will take action a lot earlier to stop that happening. I will not tolerate that happening. If I know that the contractor failed to submit forms several months, to my character, I just stop. That's my bottom-line character. "You've got to stop it, you've got to do the job properly, otherwise no more works on site."

CHAIRMAN: Yes.

A. We have to do that if the situation deteriorates to that extent.

COMMISSIONER HANSFORD: Mr Chan, as I understand it, you had the power to stop work?

A. I think, contractually, I can't use that power purely because of the late submission of RISC forms. I will try to talk to them nicely and say, "Look, we can't tolerate this, otherwise I will do other administrative procedures to stop your work, to slow down your work."

COMMISSIONER HANSFORD: Let me put it a different way: you had the ability to change things?

A. I got certain power to change, but if the contractor not cooperate, I need the support from management, my senior management, because --

COMMISSIONER HANSFORD: That's a different point.

A. If I try my effort and still cannot resolve the situation, I will report to my general manager.

COMMISSIONER HANSFORD: I understand that but that's a little bit hypothetical because we didn't get that far.

A. No. But if I take action earlier, I think the problem can be solved earlier. It's always to solve the problem sooner rather than later.

COMMISSIONER HANSFORD: Yes.

A. That is my style. I always like to resolve the problem. That's why I initiate that weekly report, so I know what

the problem, then I keep reminding everyone if the problem is still there, not satisfactory, please do work together to make it in a manageable style.

COMMISSIONER HANSFORD: And would you also agree, Mr Chan, that if things continue, people get into habits?

A. I agree. That's the reason why, up to a certain point, I will talk to my senior inspector, "Are you capable to deal with this? If not, let me know, then I will take action to make sure to a certain degree of satisfaction." Be honest, we can't 100 per cent, but you could do 80 to 70 per cent for not important works, okay. For important pours, I will require 100 per cent.

COMMISSIONER HANSFORD: 80 or 90 per cent is better than 29 or 34 per cent.

A. I totally agree. That is subjective. That's why my style is that I have some sympathy about late submission due to all kinds of reasons, but there's a certain bottom line you've got to protect. For important pours, big pours, you must have the RISC forms in place. For minor pours, a draw pit, the system still applies but it's tedious; right?

COMMISSIONER HANSFORD: I understand.

A. So you've got to strike a balance.

CHAIRMAN: Again, it's helping us to understand the parameters of the problem, but one of the things -- and I'm speaking purely personally -- that struck me was

with some of the young engineers whose job it was to do these inspections, that even though they fell behind in their completion of RISC forms, they didn't seem too alarmed by it, and from my position of complete ignorance I thought to myself, as a young engineer, I would have imagined myself having sleepless nights.

And I think what slowly has come about is a realisation, which you have now confirmed, that it was appreciated throughout management that some level of dodging the RISC form burden was allowable, provided it didn't get out of hand and provided it didn't affect major pours or major rebar checks. Would that be right?

A. My view is a bit different from your view, Mr Chairman. I mentioned earlier, right, the survey team, they are also very junior, they do 100 per cent job. If you look at the survey RISC form, 100 per cent. As I mentioned earlier, it depends on the performance of individuals. In a construction site, there are hundreds of people. Their capability and their performance varies a lot.

That's why I try to say that the simpler the system, the better. No matter how good the system is, the more complicated -- we are all human beings, we all make mistakes. So the simpler the system, the better. I try to emphasise that. It's not that we tolerate that. It all depends on individuals. In a construction site, hundreds of people, some are young, some are more

experienced, some are more conscience, more responsible; some have lack of responsibility. That's the reason -- that's my own view -- it all depends on individual performance, not because people tolerate that; right?

CHAIRMAN: Thank you very much.

MR PENNICOTT: Just perhaps one last area but it's still on sort of the same topic. You handed over -- this is quite an important area, I think -- the job that you had as construction manager in May 2016 to Mr Fu; is that right?

A. Yes.

Q. Was there a sort of handover period, a period where you were both working together?

A. I remember I got the notice three days ago only. So I tried to hand over the job to Mr Michael Fu within three to four days, with less than a week.

Normally, I have a note about all site issues, I pass my note to him, saying maybe, "100 items you've got to pay attention." I can't remember exactly what I discussed with Michael within the handover discussion, but I'm pretty sure those weekly reports were issued to MTR senior management, the construction manager, the two senior ConE, even after I left the site. If they pay attention to the information in those weekly reports, they should know that RISC forms are still a problem.

Q. The reason I'm asking the question, and I don't know

whether you would have picked this up, if you have been listening to the evidence or reading the transcript, but Mr Fu told the Commission that he had little or no idea of the RISC form problem until January/February 2018, when the defects in the stitch joints became apparent and investigations took place into what had happened.

Now, if that's right, it seems to me that the only conclusion that can be drawn is that you did not make him aware, back in May 2016, of this problem. Do you have any recollection at all of that?

A. I mentioned to you earlier, my learned friend, that weekly report that I mentioned in my statement; right?

Q. You mean the Kit Chan register?

A. Yes. It was still issued from Leighton to MTR after I left the site. At that time, they addressed to Michael Fu and the two senior ConE, the same thing. If you read those reports in due diligence, they should be aware that; right? I can't remember what I mentioned to him three years ago; right? But the hard evidence is that Leighton keep reporting, at least after I left -- I don't know how many weeks later but at least in June -- I saw the same weekly report issued to Michael Fu. So he should have able to see that; right?

I can't speak on his behalf why he don't know it. Whether he read the email or not, I can't speak on his behalf. Please ask him. But the reports are still

there. Leighton still issued the reports, still got Kit Chan request, every week, until maybe six months later I can't tell, right, I can't manage that.

Q. Park that point on one side for the moment, Mr Chan, if you would.

A. Yes.

Q. If, in May 2016, when you were about to hand over the job to Mr Fu, somebody had given you a blank sheet of paper and invited you to write down the top 20 problems that existed on the project, would the RISC form problem have been one of them?

A. This is a hypothetical question.

Q. Yes.

A. I can't answer, right, because three years ago I can't remember what I talked to him; right? So I can't tell. So I can't answer your question because it's a hypothetical question; right?

Q. It's a hypothetical question, I accept, but let's just pursue it a bit. Your perception of no doubt a number, a host of problems that existed on the project in May 2016, there were no doubt a lot of issues, a lot of things going on in May 2016 -- where did the RISC form problem feature in terms of importance in May 2016?

A. I'm pretty sure this is an important issue to address but I can't rank it, whether it's number 19 or 18. It's difficult, very subjective. Different people look at

different situations, have different opinion. If I think this is number 1, the other person says maybe number 5. So I can't tell. But it's an issue we need to address.

That's why I implement the system to issue -- I keep reminding everyone, every week saying, "This is still a problem, so manage that." To be fair, I can't quantify and put a number there. It's not fair.

Q. All right.

A. I hope I can answer your questions.

CHAIRMAN: Mr Pennicott, just a gentle warning order, namely that you have requested that we should adjourn. I'm not suggesting now, I'm just saying the time span -- and I doubt very much whether we will be finished with Mr Chan within that small time frame.

MR PENNICOTT: We won't, sir. I've got a couple of smaller issues that I wanted to deal with, and I'd also quite frankly like to reflect on what's been discussed in the last 15-20 minutes between yourselves, me and Mr Chan.

CHAIRMAN: Yes. It's very important, obviously.

MR PENNICOTT: It's a very important area and I did have a number of questions set out but I think, frankly, between us, perhaps all the relevant questions have been asked and Mr Chan has answered.

So I wonder, in those circumstances, whether this would be -- and obviously I don't know how many other

counsel have got questions for Mr Chan. I think the government have got some; I'm not sure about anybody else. Maybe this would be an appropriate moment because I don't think we are going to finish Mr Chan this evening, and ask him unfortunately to come back in the morning.

CHAIRMAN: Yes.

MR PENNICOTT: I know that a number of people also, including myself, are quite anxious to not have the journey that we had last night, if it can be avoided, because of the problems that may still be existing in Central, although I do understand it's much improved.

CHAIRMAN: Good.

Just before we do adjourn, could I just ask -- is Mr Tsoi going to have many questions, or yourself for that matter? My apologies.

MS LAU: We might have a few questions but I don't anticipate that it will take long.

CHAIRMAN: All right. Thank you.

Mr Chow?

MR CHOW: Sir, we do have a few questions. I think it's going to take perhaps 15 to 20 minutes, depending on the answers of Mr Chan.

CHAIRMAN: All right.

Mr Shieh?

MR SHIEH: For a change, I do have some questions.

CHAIRMAN: All right. Okay. Good. Then we will adjourn.

Mr Chan, thank you so much for your evidence this afternoon. It's been a very real help. And thank you for the frankness, too.

WITNESS: It's my job.

CHAIRMAN: Because that makes our job a great deal easier. And let me just say this, a purely personal observation, that sometimes these type of Commissions may appear to be like martinets, lacking any empathy, but I think what has come across is your man management skills and we are not ignorant of that.

WITNESS: Thank you.

CHAIRMAN: So tomorrow morning, 10 o'clock.

WITNESS: Thank you, sir.

CHAIRMAN: Sorry, you know the form. You are not entitled to discuss your evidence.

WITNESS: I've got experience. Thank you for reminding.

CHAIRMAN: Thank you.

(4.40 pm)

(The hearing adjourned until 10.00 am the following day)

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