

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ACCREDITATION OF BUILDING PRACTITIONERS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON TUESDAY 29 AUGUST 2006.

Mr DAN O'TOOLE, PRESIDENT, ENGINEERS AUSTRALIA TASMANIA DIVISION, **Mr GEOFFREY HARPER**, DIRECTOR, ENGINEERS AUSTRALIA TASMANIA DIVISION, AND **Mr IAN JOHNSTONE**, MANAGING DIRECTOR, JOHNSTONE McGEE AND GANDY, CONSULTING ENGINEERS, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Harriss) - Gentlemen, we have until four o'clock for your presentation and we are working to a pretty tight time schedule today in terms of other witnesses before we conclude this evening. Can I by way of introductory comment indicate to you that obviously every member has received your submission. Because the Director of Public Prosecutions has not yet concluded his consideration of the matter of a potential case to answer for either the government parties or the Tasmanian Compliance Corporation, matters related to term of reference (1), detailed and specific matters as to legality of the service level agreement signed between Bryan Green and John White, are not matters for this committee to address at this stage until the Director of Public Prosecutions has concluded his deliberations.

Your submission in large measure does not get into that arena however there are matters related to the BPACT application to be an authorised body so please bear that in mind. If there are matters that you would wish to have considered in camera the committee would need to make a determination about that. So be as free as you want with addressing this detailed submission of yours. We recognise that essentially the detail of your submission is a duplicate of that which you have submitted to the KPMG inquiry. It likewise and nonetheless addresses essentially our term of reference (2). It may range across term of reference (1) that relates to the service level agreement.

Do you have any questions about that procedure before you lead your verbal evidence which will lead us into questions of you?

Mr HARPER - I assume you would prefer us to give a brief overview and then leave it to the questioning, not go into too much detail of the document?

CHAIR - That would be fine, Geoff, and the more time that you can leave available for questions related to your submission that would be helpful. An overview by all means.

Lin has reminded me that if at four o'clock we all consider there is a need for you to return do not feel pressured because there is time for us to revisit any matter with you at a later date. We are going to be taking further evidence, obviously, related to term of reference (1). So over to you for the moment and then we will open up for questions.

Mr O'TOOLE - I guess one of the concerns with respect to Engineers Australia is the interests of practising engineers in Tasmania with regard to accreditation processes.

Engineers Australia I guess has embodied accreditation processes with regards to our chartered status and also the National Professional Engineers' Register.

I guess one of our issues is how the TCC accredit engineers, the process by which they do that. Given the standards, the competencies and documentation of those at this stage resides with Engineers Australia and whilst we are happy to have those used for public benefit, there is a significant, I guess, amount of our members' volunteer contributions in putting those together so we would not like to see those used for a profit-making venture. That is one of the main issues.

We have some additional information which I presume we can table with you today?

CHAIR - You certainly can.

Mr O'TOOLE - One is our public policy guide which states our policy with regards to regulation of the engineering profession. I won't go into that in detail but it states that we support the regulation of the profession where it is in the public benefit and public interest to do so and we believe that we have some models for doing that with respect to our chartered status in the National Professional Engineers Register. I will also provide you with an outline of our chartered status documentation and an outline of the workings of the national professional engineers register. I guess it is relevant to this inquiry because the Building Act and the TCC documentation with respect to accreditation of engineers requires recognition of accreditation of competencies to meet the NPER requirements.

Mr HARPER - I suppose I have been involved with the whole process right from the beginning of the reference groups that were established well back to the introduction of the act so I have been through the reference groups which were responsible for developing the guidelines which were later released by the minister for what was required for a scheme under the Building Act to accredit people. So we are fairly familiar with the requirements right through and we believe the whole legislation is a good piece of legislation if it works properly because it will provide protection to the public, provided the people who are being accredited have been accredited against some set of competency standards.

Engineers Australia totally agree with some sort of competency-based assessment for everybody and that was one of the reasons Engineers Australia determined that it could not work with the proposal that was put forward when there were suggestions that not everybody would go through a competency-based assessment and why Engineers Australia later on joined with the board of architects to go down to BPACT and put up a model for professional accreditation.

Most of the things that we have to say and the difficulties our members have had are fairly well documented in the documents we have provided. One of the additional pieces of information we are going to table today relate to the difficulties, for example, Ian Johnstone's company has had in determining what fees they should pay each year and we table the summary of the bills they have got in for the three different years that accreditation has been in vogue for and each year they seem to get a large bill charged on a per person basis and then at a later stage after discussions they will come up with a corporate fee which is substantially reduced. For example, in 2006 they received two

accounts, one for in excess of \$8 500 to accredit everybody individually and then they got a corporate fee of \$2 227.50 on the same day.

Mr WILKINSON - What was the difference? Sorry, Geoff.

Mr HARPER - There are copies here that I can table for everybody.

CHAIR - We have some of that information.

Mr HARPER - You have some but we realised after meeting with KPMG there was a bit of confusion of understanding and particularly one of the difficulties is understanding what a category and a class were. Under the ministerial guidelines the categories are engineer, building surveyor, building designer, architect and similar but then they are also broken down for an engineer into different classes for structural engineer, building services, energy management, environmental, geotech, civil, acoustics and fire safety. At different times the terms get interchanged and billed at different rates, which has led to a bit of confusion. Ian might like to comment a bit further on that.

Mr JOHNSTONE - Certainly. Because we are a multidisciplined company ourselves personally we are not the only one in that situation. We have people who need to be qualified in the various different categories of engineering in order to be able to sign off the required documents under the act. One of the TCC persons did at one stage say, 'Why do you have so many? Why don't you just accredit a couple of people and have them sign the document?' The bottom line is that the act does not allow us to do that. So one of our issues totally right from day one has been they do not understand the game. They do not talk our language, they do not understand the ins and outs of our profession, to say to us only accredit a couple of people, without recognition of the fact that we are multidisciplined and we have all these different people we need to accredit. So that has been one of our issues.

They and the act mix up the aspect of a company and individuals. The accreditation is on an individual basis however the PI insurance is required to be on a company basis and that is not controlled in any way within the act. A very simple example could be someone doing some moonlighting on a Sunday, they might have accreditation through our company via our PI but on a Sunday morning they do a building, a tin shed for someone down the road, they slot it into a council for approval, the council thinks, 'I have seen this person's signature before'. They don't even think about it but in fact that person doesn't have any PI insurance. So one of the fundamentals of the whole act of insurance cover for the ultimate owner of that property is not covered because we are not going to cover it if it is not one of our projects and we are not receiving a fee for it. So there is a whole issue there which we have raised with the local government guys, we have raised it with TCC and we in fact have attempted to find a way around that ourselves by changing one of the standard forms and requiring a director of our company to sign off as well as an individual but that has not been taken up by the system at all.

Our issues are that it does not do anything for us. We have everything we need through the Institution of Engineers and the CPN and the National Professional Engineers Register. We have our CPD there, we have our code of ethics there and we have not received anything from TCC which has assisted us in any way in running our business

and ensuring that our business runs better and that it is better for the public. All it has done is provide a fee base to TCC and a lot of paper work for us.

CHAIR - Just while you are on that matter and I've had a look at document 15 that you have submitted to us with that range of fees, the first account of \$6 700, the second account was watered down to \$3 600 and the third account was down to \$2 277, on what basis has the TCC indicated to you that they were wrong on two occasions before they got to \$2 277 and on what basis were they able to provide you with a third account after having assessed your obligation to pay \$6 700?

Mr JOHNSTONE - The first year when it first came out we argued that the fees were exorbitant. We are paying \$90 a person in Victoria to be accredited over there. So they put out nominally \$450 plus the \$45 per category and we said, 'Ugh!' That was the first reaction. We then found out that one of our competitors had somehow received a corporate rate so we started to question them on that. 'Oh well, if you really ask for it we do have one and we can talk to you about it', but it wasn't open, it was not out in the open as being available; it was something we happened to find out through word of mouth.

So then we broke it down and that year we broke it down into the various categories so that we paid three times an individual rate, three times the \$450 nominally, it was \$405 back then but nominally \$450 plus a category per person as they register and that is how the \$2000-odd came up.

The in-between one came up when they tried to break it down further into classes so that instead of only paying \$45 to be an engineer, you had to pay \$45 to be a mechanical engineer, an electrical engineer, a structural engineer or whichever categories that you multiply wished to be accredited in. Some of our engineers, for instance, would cover structural, civil and environmental perhaps because they are related fields and all fall into the same sort of areas.

So that is how they got from the largest one, by going down the classes and breaking it right down to classes, then they came back to categories and then they have argued what is a category and what is a class and then we have broken it back down to a corporate rate from an individual rate. So that is how we have layered it.

CHAIR - Can I conclude from that then, Ian, the three times the \$495 was an arbitrary application by the TCC?

Mr JOHNSTONE - I can only assume that, yes.

CHAIR - And your request for further consideration only came about because you became aware that a competing company had somehow paid less for their accreditation of their various employees than you had?

Mr JOHNSTONE - That's correct, absolutely.

CHAIR - Has the TCC, since your dispute, if I can call it that, with them, published any guidelines as to how they attach fees for corporate entities?

Mr JOHNSTONE - Not that quantifies it. There was a reference in one paper, one notice they sent out, one newsletter type style 18 months or so ago that there was a corporate rate, I believe, but it was not quantified - on request, I think was the terminology used, from memory.

CHAIR - So to the best of your knowledge has anybody asked the TCC as to how they applied the fees to your competitor and what brought about that application of theirs, of different fees, lower fees?

Mr JOHNSTONE - No, not that I am aware of.

Mr HARPER - Our members have periodically requested a schedule of fees from the TCC and I think documents 13 and 13A are two versions that have come out of it. They have not been provided to all building practitioners. The last one, the 13A, has only recently come up on their web site since that was implemented. Prior to that it was extremely difficult to find out any fee schedules. And 13 does give you a bit of a hint that there is a corporate rate but on inquiring sometimes they don't mention that unless you inquire hard.

CHAIR - Yes, because your 13A submission makes a comment there that there is no mention of a company fee.

Mr HARPER - No, and that is the recent current document that is on the web site.

CHAIR - So my cursory observation then would be that it is merely an arbitrary application by the Tasmanian Compliance Corporation. That is my superficial view.

Mr JOHNSTONE - In 2005 when they sent us the larger accounts again by person, I immediately wrote back to them and said, 'We had a corporate rate last year,' and the first thing they tried to tell me was, 'That was only for the first year. That was an introductory offer.' That is only verbal but that was the comment I got back so to be quite honest, what did I do? I simply adjusted their invoice and sent them back what I was going to pay them, and they have never questioned it.

Mr WILKINSON - That was the same for 2006?

Mr JOHNSTONE - In 2006 they sent us a total stack of 15-odd individual invoices averaging around about \$750 each and then they also sent the summary one, which you have got a copy of in the documents there, which is three times the individual rate plus the individual categories, totalling around \$2 200 or something, so two sets of invoices came out for the same accreditation basically.

Ms FORREST - You talk about the category being architect and the classes are structural building services and so on.

Mr HARPER - Engineering.

Ms FORREST - Sorry, engineering. On page 13, the attachment there, it talks about categories for accreditation. If we go to 13A it says 'category/classes' so are they

suggesting that they are combined now and there is no distinction between a category and a class?

Mr HARPER - Category and class actually come from the minister's guidelines for accreditation and it is very clear what a category and a class is when you get to there but there has always been a blurred definition in the TCC's mind.

Ms FORREST - So, looking at this document, you could argue that category and class are the same thing so if you get under the engineers and electrical, hydraulic and mechanical, there is only one rather than three.

Ms THORP - Or is class a subset of category?

Mr JOHNSTONE - Class is a subset of category.

Ms THORP - Yes, that makes more sense.

Mr HARPER - But the way that document is structured is misleading.

Mr O'TOOLE - I think that document was 2005, wasn't it?

Ms FORREST - For the period ending 30 June 2007. That is the latest one.

Mr JOHNSTONE - There was an earlier reference to that about 12 months ago and it was at the time when everybody was trying to get their second set of invoices sorted out and that slash was really muddying the waters by TCC at the time and hoping they could push it through at the higher rate. But most of the professionals did not carry that at all and went back to the pure category rate.

Ms FORREST - Based on the guidelines that define it.

Mr WILKINSON - When you first commenced was there a set scale of fees imposed and did you get a note of those set scale of fees, or how did you get the knowledge that you had to pay a certain amount?

Mr HARPER - Initially what came out was just an expression of interest form. Anybody who thought they may have been wanting to be accredited under the Building Act ticked a form and then after TCC received that form back, the expression of interest, they would then mail out an application form. At that stage it was always believed that there was one fee of \$495 per person.

Mr WILKINSON - Was that given to you in any written documentation that it was going to be \$450 per person or was it just the bush rumours going around?

Mr HARPER - I think that just came out with the account, with the application.

Mr JOHNSTONE - It came out with the application.

Mr WILKINSON - So originally when you first became involved there was an understanding that you would have to pay \$450 per person to be accredited each year?

Mr HARPER - Correct.

Mr WILKINSON - As I understand it, what would have then occurred is you would have said, 'How is this fee derived?' Did you ask that question and if you did, what were the answers given?

Mr HARPER - It's impossible to get very much information at all. That's the fee. Our members were also asking for the code of conduct and audit procedures -

Mr JOHNSTONE - Accreditation processes.

Mr HARPER - how they were going to be assessed and very little information was being given. I think that is documented in a number of the documents we have provided.

Mr WILKINSON - Yes.

Mr HARPER - It was very vague and very difficult to get any information.

Mr WILKINSON - So you weren't at any stage told how those fees were derived? In other words, there was going to be \$200 of it for administration, \$100 for newsletters, that type of thing; you weren't given that breakdown?

Mr HARPER - No.

Mr WILKINSON - Was a breakdown asked for?

Mr HARPER - We asked whether some of it was for, shall we say, assessment because naturally in the first year they should have been doing some sort of assessment of each application and then an ongoing fee and we said for professions there is no need for any assessment to be done because, for example, an architect is under the Architects Act, an engineer should be on the National Professional Engineers Register therefore there is no assessment hence there should have been a lower fee for professionals and that was one of the arguments.

Mr WILKINSON - Therefore when you first ticked the box perhaps for accreditation you believed \$450 per individual? Then you learnt at some later stage that it was going to be more than that, is that right?

Mr JOHNSTONE - When we first ticked the box I don't believe we knew the fee.

Mr HARPER - No.

Mr JOHNSTONE - The fee came out once we had ticked the box and their correspondence started to come back to us. So get in, then get told how much.

Mr WILKINSON - But that finished up not being the figure, didn't it, because that differed at varying stages? Can you give me, please, some indication of how it differed? \$450 once you ticked the box, you then were told it was going to be \$450. What was the next figure you were told?

Mr JOHNSTONE - There was the \$450 plus the \$45 per category which, for instance, with myself is around about \$750, so anywhere between \$650 and \$750 to \$800 per person was what then came out of an individual registration. We started to ask questions obviously and we didn't pay the invoice initially. We said, 'What's going on here? This is a huge amount of money' and we started to talk around some of the professions and that was when we found that one other company at least had managed to get a corporate or discounted rate from them.

I then went up and sat down with Mr Diprose and went through the whole thing. He said, 'Ah, yes, well if you apply for it we can and we'll do it on this basis', and that basis was there were three individuals totalled up and then per category per person which drops it from around about \$7 000 or \$8 000 down to just over \$2 000.

Mr WILKINSON - So that was never given to you in any information from TCC prior to you going to them?

Mr JOHNSTONE - No. This year was the first year we have seen an invoice up-front with a corporate rate on it. Previously we have had to go back and ask for it and work for it.

Mr HARPER - There was also some confusion in the first year whether the fee was for an annual fee or for a three-year accreditation because the accreditation was for three years so some people had interpreted that was for the three years.

Mr WILKINSON - Were there ever any meetings between TCC and all interested bodies where all this was discussed?

Mr HARPER - There were meetings with I think it was called a builders group but the professions were not invited. We specifically asked whether we could attend those meetings and we were advised that no, they are dealing with builders' issues because they have different issues of accreditation and getting it up and going. It wasn't until - I think the document is in here - the one and only meeting we had with the TCC and Workplace Standards people in December 2004 where we kept on saying there are issues from a professional side of it but we couldn't get a forum to discuss those.

Mr WILKINSON - Have you ever endeavoured to work out what you believe would be an appropriate fee considering the work that has to be done for accreditation and the fact that you believe it is good legislation but you believe there are probably other ways around it to make it legislation which fits the industry better?

Mr HARPER - Where there's no major assessment required we believe that the one that was put forward by Consumer Affairs was quite reasonable. It was about \$135 per annum.

CHAIR - Geoff, say where there is no particular assessment required to determine competency or whatever, are you suggesting that in fact the TCC doesn't have to do any work when considering an engineer to be an accredited person, doesn't have to do substantial work?

Mr HARPER - From an engineer who is on the national professional engineers register, which is basically the requirement under the minister's guidelines, to have the

competencies to be on the National Professional Engineers Register, if they come along with it already signed off on the register then all they need to do is check their insurance and do the paper work for putting them on the register. There is no additional assessment required.

CHAIR - That being the case, this probably could more particularly be directed to Mr Johnstone, what does the TCC do to assess your competency to be an accredited person?

Mr HARPER - They simply look at a piece of paper and put a tick in a box and put it in a file.

CHAIR - Is there any reference to Engineers Australia by them to determine whether you are on the NPER?

Mr HARPER - They don't consult us, no, but NPER is an online register that is available so anybody could look that up and use it as a basis. The problem is not everybody has needed to be on the National Professional Engineers Register because there is no legislation calling that up as a standard in Tasmania really. Therefore, not everybody has been on the National Professional Engineers Register. Quite a lot of them are chartered professional engineers, which is Engineers Australia's internal benchmark, but an external benchmark is the National Professional Engineers Register. The competencies are exactly the same, it is just that one is an external body that has the National Professional Engineers Register and the internal one is CPN.

Mr JOHNSTONE - You don't have to be a member of Engineers Australia to be on the Professional Engineers Register.

Mr HARPER - That's correct.

Ms FORREST - But their requirements are the same?

Mr JOHNSTONE - Yes.

Ms FORREST - And recognised?

Mr JOHNSTONE - In terms of the assessment process, yes.

Mr WILKINSON - Therefore what you are saying is in relation to your competency, your competency has already been tested and accepted by being a member of Engineers Australia or -

Mr O'TOOLE - Not by being a member but by having the chartered status and being on the national register.

Mr WILKINSON - Sure. Therefore, really being blunt, there is nothing to do by way of TCC to talk about competency or not because already a professional body who has been professional in engineering standards has stated that you are professional so therefore really what you are doing is just paying x amount of dollars for nothing. Being blunt, is that fair?

Mr HARPER - They did give some conditional accreditations which then gave people six months, which was then revised to 12 months, to demonstrate their competency to be on the National Professional Engineers Register. We are not aware of what has happened to those people who were accredited by TCC under those principles. They happened nearly two years ago or more and as you'd see from one of the documents we have, document 25 in our documents gives a list as of September 2005 of all the engineering accreditations of which I think something like over 200 aren't on the National Professional Engineers Register so we are not certain how they have ever been assessed to be competent.

Mr WILKINSON - But, if I might, if I wanted to make sure that an engineer who I employed was competent or not I would be going to a body which is competent in saying whether that engineer is competent - that is, engineers. They are the only people I would think who would realise whether that body was competent or not or that firm was competent or not. I wouldn't go to a lawyer or a doctor to see whether that engineer was competent; I would go to the engineers association.

What I am saying is what do TCC do to say you're competent because you've already been passed as being competent by getting your degree and becoming registered as an engineer?

Mr HARPER - We've asked that question many times and we're not sure because they do not consult us.

Mrs SMITH - Could we backtrack a little bit? Can you tell us from your experience with TCC what the make-up of expertise in that organisation is when they look at the accreditations of engineers, builders or anything else? Can you run us through who, in that company, has engineering expertise, building expertise or anything else or are you aware they go to an external panel of experts? I am looking at number 7.

Mr HARPER - Yes, that is what we were told was going to be original structure of the TCC and as far as we are aware, for engineers particularly there is no accreditation adviser involved. There is no committee or anything, expert panel, that we are aware of. We have asked the question of how they do them and we have actually invited them in one of our letters -

Mr O'TOOLE - 2003.

Mr HARPER - from Richard Bevan who was the then president of Engineers Australia to come and talk to us about it and we informed them that we had copyright on these competencies but realised that they had been accredited to do the accreditations under the Building Act and invited them to come and talk to us as to whether we could come to some arrangement to facilitate the accreditation but nothing was ever received.

Mrs SMITH - So, to your knowledge, is there anyone employed within the TCC that would have this expertise? Let us forget about the externals to start with - an engineer with accreditation from yourselves?

Mr JOHNSTONE - Not that I am aware of.

Mr O'TOOLE - No, there is not; not to our knowledge.

Mr JOHNSTONE - I have been approached to go on some of their boards and I know people have been approached over the last two, two and a half years, probably and it would appear they haven't been able to form a board for the accreditation as yet.

Mrs SMITH - This running sheet of their accreditation scheme, though, talks about expert panels and then it talks about joint industry councils, independent boards, appeal boards. What sort of board did they request you to become a member of?

Mr JOHNSTONE - The appeals and complaints area as an engineering expert.

Mrs SMITH - Are you aware whether that board has -

Mr JOHNSTONE - Ever been convened? No, I am not. I haven't got back to Mr White yet. I had a personal phone call.

Mr HARPER - In relation to the Joint Industry Council that you just mentioned, only yesterday did I receive an invitation to attend its first meeting which is to be held on 4 October so that board that was part of their scheme on 13 August 2003 has not yet met and we also -

Ms FORREST - Which board is that?

Mr HARPER - The Joint Industry Council. So the first meeting of that is to be held on 4 October and we have written back to ask them who is actually on the council and what their terms of reference are.

Mr WILKINSON - If I could conclude on that line of questioning that I was going down in relation to the accreditation and expertise to give that accreditation, as I understand it, there was provisional accreditation given for a period of six months but that provisional accreditation was given by the TCC, as I understand it. The TCC - please tell me if I am wrong - did not have any expertise in relation to engineers in order to give that accreditation.

Mr O'TOOLE - That is our understanding.

Mr WILKINSON - Therefore what we have is a non-professional body, a body with no expertise in engineering giving provisional accreditation to engineers.

Mr HARPER - I believe in their initial ones they did seek a reference from a senior person.

Mr JOHNSTONE - Yes, but that was not within their organisation, that was an external reference.

Mr WILKINSON - So you could have a person then who is not accredited by any of the bodies who are the professional bodies still being accredited by TCC?

Mr O'TOOLE - Yes.

Mr WILKINSON - And do you know of any people out there that have that provisional accreditation that are not accredited by any of the professional bodies? In other words, 'Look, I'm a doctor. I've passed my doctor's exams, I have gone through university and I have done all the things to be a doctor and be a surgeon', let us say, therefore you get a tick-off with all of the professional bodies. Along comes a member of parliament who says, 'This person here who has come off the street is a doctor. I will give you provisional registration to become a doctor', without any of that expertise and knowledge to say whether he should or shouldn't be, is that what we are saying?

Mr HARPER - Some of our graduate members are on the TCC register. They may have the expertise but they have not been tested by us.

Mr JOHNSTONE - There were some grandfather clauses associated with the introduction whereby if someone was able to indicate they had been working in the profession for a number years and potentially with some sign-off by someone who had some recognised experience, then they would be accredited. However, most of them then had this six months period to prove that they could in fact attain national professional engineers registration if they wish to get it.

Ms THORP - And then they'd appear on their database.

Mr JOHNSTONE - No, they would be on the database from day one but they should have had to show that within six months or, as Geoff said, it was extended to 12 months. To our knowledge no-one has ever been followed up in that respect and those people we would assume - I am pretty confident - would all still be on that list. We struggled to get one of our staff on who does not have any formal qualifications but is recognised as the best in his field in the State. He has lectured in the field, he has been an expert witness in the field, he has designed everything associated with his field. But because he did not have the right ticket they could not find a box to tick to put him in. I forced the issue and got him in by signing a statutory declaration saying that he could do it.

CHAIR - Is that in hydraulics engineering?

Mr JOHNSTONE - Yes.

Ms THORP - What an inspired guess.

CHAIR - I know that there is a gap there and the TCC has struggled to give accreditation for people in hydraulics design.

Mr JOHNSTONE - The only way that I could get him on was that I signed a statutory declaration to say that he was competent to do the work.

Ms FORREST - So it falls back to you then?

Mr JOHNSTONE - It comes back to me. I am an accredited as a hydraulic engineer under the act. I was able to obtain that. So that was taken as being enough to sign him off and get him on the list.

CHAIR - In document 26 there is a private condition attached there 'six months to demonstrate competencies required for NPER listing in the field'. Was that because the Mr Saltmarsh referred to there was not on the NPER?

Mr HARPER - Correct.

CHAIR - So your evidence suggests that there has been no follow-up by TCC to satisfy itself that anybody given that private condition has now met the requirements for NPER?

Mr O'TOOLE - That is correct.

Ms FORREST - You said that there is the NPER which is the national external register and that Engineers Australia have an internal register.

Mr HARPER - We have our membership classifications which is professional engineering.

Ms FORREST - So some people could be on both those lists?

Mr HARPER - Yes. Most are professional engineers. They could be on the National Professional Engineers Register if needed.

Ms FORREST - But they might not be. So some of these 200 people that were not on the NPER could be members of Engineers Australia still?

Mr HARPER - Yes, but no-one has ever checked whether they are and in fact under the privacy legislation these days we could not tell anybody.

Ms FORREST - Okay. So when someone is accredited and registered on the NPER there is a fairly standard criteria and expectation that those people will meet before they will be registered?

Mr HARPER - There is a set of competency standards which are in here which are available publicly. They are fairly well detailed and documented in this document.

Ms FORREST - With regard to the class of engineer, it is all there so if someone from the TCC wanted to make an assessment about whether an engineer in a particular area like hydraulics or whatever is competent, they know that if they have been registered on the NPER they are competent in that area?

Mr HARPER - Correct.

Ms FORREST - Can we go back to number 17. I assume that there are some of your company employees or members.

Mr JOHNSTONE - Yes.

Ms FORREST - Some of them are incurring a cost of \$90 for two categories, so \$45 a category basically. Are we looking at categories or classes here?

Mr JOHNSTONE - Categories. For myself there the two categories are engineer and building designer. As well as doing engineering I have also obtained an accreditation to do the building designing components of such things as warehousing and some of those sorts of things.

Ms FORREST - I assume that you are registered on the NPER under those categories.

Mr JOHNSTONE - Not under building designer, no.

Ms FORREST - Right, so for the TCC to charge you the extra \$45 for that there is some work for them to ensure that you actually are competent in that area.

Mr JOHNSTONE - I provided them with some documentation including some copies of drawings to show that I had been involved in building design. In that case I think I provided them with some Incat buildings, the boat-building complex, that I had been involved in as a building designer.

Ms FORREST - So for anyone that has more than one category there is an element of work the TCC need to do to determine whether they are competent or not. What I am trying to establish here is, is there a degree of work that would warrant the extra \$45 or is it just another tick in another box?

Mr JOHNSTONE - I think that there is work there to warrant the \$45.

Ms FORREST - Right.

Mr JOHNSTONE - That to me is a fee which allows someone to do the basic assessment which is required. I do not have a problem in paying that.

Ms FORREST - Do you believe that was done then? Do you believe that these checks were done to ensure that you rightly deserved your two classifications there?

Mr JOHNSTONE - I really can't answer that. We put a stack of documentation like that to them from the 13 or 14-odd people we put in at that time. Whether they filed it, what they did with it I honestly don't know.

Ms FORREST - From previous discussion you don't think that the expertise was there to thoroughly assess that. It could have all been a heap of stuff - if I went to assess it I wouldn't have a clue as to whether you were meeting competency measures or not. It would need to be someone at your level or above, I would suggest, who could make that determination. Do you think that is the case?

Mr JOHNSTONE - They would need someone with some knowledge of the game of the industry that we are in, the professions and the interactions between the various components of the profession to be able to do it.

It would also be very easy to put documentation in which just snowed them. Very easy.

Ms FORREST - Is it one person who is making an assessment? If we go back to 7, you have an assessment by expert panels so obviously if people who were making the

assessments did not have those necessary qualifications who are they calling on and have they called on anyone to assist them in that determination or does that not seem to have happened?

Mr JOHNSTONE - My observation of a number of visits at that time to their office in Macquarie Street was that they had a series of people sitting around a table, a couple of tables such as this, just shuffling paper and the bulk of them were people who were employed elsewhere and came in frequently at 4 to 4.30 in the afternoon and worked to midnight and shuffled the paper.

Ms FORREST - What qualifications do these people have?

Mr JOHNSTONE - I don't know. That was my observation of what was occurring.

Mrs SMITH - The impression I get from your evidence is that if I decided to do some paper work and fudge it in any way I liked and put up the dollars and send my application to TCC it is quite possible that Sue Smith could get accreditation to be something in the building area. Is that a fair assumption?

Mr JOHNSTONE - You would probably have to include a mock-up of a bachelor of engineering degree.

Mrs SMITH - But you could do that for me.

Mr JOHNSTONE - You can buy them on the Net from California for about \$50, I think. But if you went to the trouble of putting together a portfolio of the required information so that you were able to tick the boxes, yes.

Mrs SMITH - The message I am getting is that I should be concerned that we have a piece of legislation that is supposed to protect the communities of Tasmania in the building area and that perhaps I should be concerned that we are not fulfilling those expectations on behalf of the consumer.

Mr HARPER - The way it has been implemented, yes.

Mr JOHNSTONE - Yes, I think you are relying totally on the ethics and the morals and the code of conduct of those who want to do the right thing within the profession to ensure that you get it and hence really nothing has changed.

Mr WILKINSON - And therefore you are opening yourself up to a huge negligence claim, aren't you?

Mr JOHNSTONE - Potentially.

Mr WILKINSON - Potentially.

CHAIR - On that matter, gentlemen, can I take you to your document number 7 which sets out the Tasmanian Compliance Corporation's accreditation scheme and its flow chart.

I think all of the members of this committee are aware that there were prerequisites set in place by the legislation - expectations of what would occur. This was TCC's submission to the Government as to how it would structure its assessment, assessment by an expert panel. Has there been an expert panel established by TCC?

Mr JOHNSTONE - I'm not aware of one.

CHAIR - What on this flow chart has been established by the TCC prior to the signing of the service level agreement because that service level agreement, and we will come to that at a later stage, details some things that the TCC would do if it received exclusivity? What on that flow chart is in place?

Mr JOHNSTONE - Potentially authentication of insurance -

CHAIR - Yes.

Mr JOHNSTONE - assuming that they believe the piece of paper that is provided and signed off in relation to insurance.

Ms FORREST - They have done some spot audits, haven't they, of insurance?

Mr JOHNSTONE - Of insurance, yes.

Ms FORREST - To ensure the insurance certificate they get is current and accurate. Is that what the audit has done?

Mr HARPER - They called that their audits but really that is a condition of accreditation and it is not the audit which the act was talking about.

Ms FORREST - I appreciate that.

Mrs SMITH - But if you were looking to authenticate insurance, surely when I got your application and it said you are insured with GIO I would make a call to GIO and say, 'Please e-mail me a verification that this information is correct'. Would it be an expectation that they might do that when you put your insurance process in?

Mr HARPER - You can certainly get certificates of currency from insurance firms without too much bother.

Mrs SMITH - So that should be an administration process at an office level and it should be quite easy to do.

Mr JOHNSTONE - And you should be aware when it is going to expire so you can follow it up in time.

CHAIR - Members, can I come in there. We are one minute past four. There is the next delegation ready. I have a number of questions that I would want to go to relating to your introductory comments about the Consumer Affairs model which you supported et cetera and the BPACT application and issues related to it. My reading of where we are at is that we will need to have you back.

Are members happy if we thank Geoff, Dan and Ian at this stage? The reason I ask that of committee members is that you have made a couple of statements in your introductory letter to your submission and I would want to go to some of the detail of that. Is that a reasonable proposition that we move into the next one? I would have thought there was a good deal more that we need to investigate.

Mrs SMITH - There's a lot more.

Mr WILKINSON - There's a lot more, isn't there. One thing I was looking at is what would they believe is the best available way and best way to attack this and the best way to have the compliance corporation et cetera - there are a number of questions there. With your expertise it would be helpful as far as coming to what we believe to be the appropriate way to deal with it is concerned.

Mr O'TOOLE - There are some models of that in our national policy statement.

CHAIR - Can we, at this stage, thank you for that frank sharing of information with the committee. We will contact you soon and reconvene.

Mr JOHNSTONE - Can I leave two comments with you?

CHAIR - Certainly.

Mr JOHNSTONE - One is that out of what we have gone through, there seems to be two things: one is that competency equals insurance and the other one is that the scheme has been set up for builders to ensure that the housing sector in particular and the home purchasers get a good deal, the right product and have insurance over potential defects. Those, to me, are the prime base aspects. The first one is something that shouldn't be, of course - competency equals insurance - but that, in reality, seems to be the only thing that is really of interest. But it really has been set up for builders and to ensure the builders come up with the right answer. Professionals are really off the side.

CHAIR - Okay. Thanks, gentlemen, we will talk to you again soon.

THE WITNESSES WITHDREW.