

THE HOUSE OF ASSEMBLY SELECT COMMITTEE ON THE COSTS OF HOUSING, BUILDING AND CONSTRUCTION IN TASMANIA MET AT HENTY HOUSE, CHARLES STREET, LAUNCESTON, ON THURSDAY 3 FEBRUARY 2011.

Mr PHILIP CONNORS, DIRECTOR; **Mr JASON VAN ZETTEN**, BUILDING DESIGN, PROTEK; AND **Mr JOHN DYKMAN**, HOTONDO HOMES LAUNCESTON, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Hidding) - Thank you for coming in today. Mr Connors, as the presenter of the submission to this committee, we invited you to come and speak to it and we also invited you to bring some clients. You have Mr Van Zetten and Mr Dykman with you and we thank you for that. That widens the scope for us to ask questions. Mr Connors, would you like to make some opening remarks to your submission before we get into some questions?

Mr CONNORS - Just one question first. I am wondering who the two people are here in the back corner?

CHAIR - Not that it's any of your business or mine because this is an open meeting, but Mr and Mrs Davy of Perth also made a submission to this committee about a problem they'd had with a house and they are interested in our deliberations. It is good to have outside interest.

Mr CONNORS - That's good. Probably by way of introduction, I am a carpenter by trade and have operated my own business in the Launceston area for 10 years prior to going into local government. During that time I trained as an environmental health officer and building surveyor. With the impending introduction of the Building Act 2000 I saw an opportunity to get out and launch into private practice again, which was always my desire after having my own building business. The Building Act regulations came in in 2004, so there was a little bit of a delay between when I commenced as a building surveyor and in the preceding three years I established a business called Protek Consulting. That consulting business initially was doing pre-purchase inspections, general building consultancy and dispute resolution. I am a graded mediator and arbitrator and also the current chair of the Institute of Arbitrators and Mediators here in Tasmania.

That preceding three years gave me a good opportunity to get a handle on the building industry but as the Building Act, through the regulations, came into force we really kicked into gear and now Protek Building Surveying is what I would consider a leader in our field here in the north of the State. We are doing probably the majority of building permits in the immediate Launceston area, but we also extend statewide. We also provide private building surveying consultancy work to Flinders Island, one of the remote areas, and that poses zone problems as well.

Has everybody had an opportunity to read my submission?

CHAIR - Yes. It is presented to the committee and the committee has a duty to read all the submissions, so we have.

Mr CONNORS - Did you also have opportunity to read the two other attachments that I forwarded at a later date? They were a document from the AIBS that talked about insurance costs and an investigation into the litigation that comes along with building surveying generally.

CHAIR - Yes.

Mr CONNORS - That's good; if you have read that I won't go into too much more detail. You probably have a fairly good handle on what it is all about.

Without a doubt we are seeing an increase in the amount of pressure that is now coming on private building surveyors as a profession. We are seeing the increase of auditing of our work and I, unfortunately, have problems that go back to 2004 when we first started. I have a raft of jobs that are outstanding and cannot be completed and the majority of those are owner/builder jobs. Once owner/builders start a job they normally have limited finances and it is really difficult to be able to get those things finished so I personally have a liability that I have to carry. If I ever want to consider selling my business I have to cover inspections that would have been charged out at say \$65 an hour and our inspection rate would now be \$130 for inspection, for instance. So there is a liability attached to that.

CHAIR - Just a minute, so that we don't skip over that. When does your liability expire?

Mr CONNORS - When that permit is complete, when it is out of the system.

CHAIR - So that's practical completion?

Mr CONNORS - Yes, when we issue what's called a final inspection notification and then that goes off to the Permit Authority. The Permit Authority then issues the completion certificate. Now that whole system varies markedly from Victoria, New South Wales, Queensland and others. Tasmania developed its own system which incorporates the Permit Authority as a key player in the process that we have here. Are you familiar with how it operates at all?

CHAIR - Well that is one of the things that we want to get into. So let's just put that out the side for a moment, the Permit Authority.

Mr CONNORS - Good, yes.

CHAIR - I want to finish off on that matter - particularly of owner/builders with limited finance. So you have a tail of responsibility I suppose. What number of jobs are we talking about for instance?

Mr CONNORS - I would have upwards of 400 jobs sitting out there that are incomplete that would go back two years or more.

Mr BOOTH - Phil, your liability in that regard is simply to finish the inspections that have been paid for, is that it?

Mr CONNORS - Yes, that's correct.

Mr BOOTH - So there could be some fee adjustment problem rather than there being a problem that they take too long?

Mr CONNORS - Yes, the legislation does not recognise the completion of a building permit at the moment. It is one of those things - we can put a note on there saying this permit is valid for two years but there is nothing in the legislation that actually determines the life of a building permit at the moment. The liability issue is directly related to the costs that we are being paid for our services at the moment. When I look at owner/builders in particular, we charge a premium. For owner/builders to come to a private building surveying company we charge them 35 per cent more than we would do for Mr Dykman for instance. The difference is this: I have three lovely ladies at the front counter who are trained specifically to provide the information, the assistance and the help to get them through what is without a doubt a bureaucratic nightmare because suddenly we have another element inserted into what was a traditional process handled by local government and that is private building surveying. People come to us and they are confused. Why would they even want to come to us when we say we are going to charge them 35 per cent more than we would do for a standard customer? Our premium customers are actually being charged at a rate that is above what local government will charge as well. So why would people want to come to us is the question I keep asking myself every day when I turn up for work.

CHAIR - All right, so there are a few issues tied up in all that. With the whole issue of your competing against local government, I am proposing to the committee that we look at it separately shortly because, whilst it is intertwined through your thing, this is a committee looking at the layers of costs of building generally. So can we go back to the completion thing?

Mr CONNORS - All I wanted to say is the only reason they do come is because they are looking for assistance and they are looking for something that will take them all the way through the process with confidence.

Mr BOOTH - The liability issue in terms of cost would be overcome by having the capacity to charge contemporaneous fees.

Mr CONNORS - Yes, you have to be able to charge a fee that represents the on-cost that you have there.

CHAIR - What stops you from charging that?

Mr CONNORS - People will come into the counter and they will ask how much it is going to cost if they go to the council and we say, 'You'll have to find that out yourself of course because if we are going to compare price we can't compete'.

Mr BOOTH - But in terms of the fee you could say that if all the inspections were done in 12 months then the fee would be such and such and if you didn't complete it in two, three or four years' time, we would then charge you double or triple the fee, whatever inflation has brought it to.

Mr CONNORS - Yes, we could. Remember, the whole Building Act is a developing thing and when it started in 2004 we moved down to the Building and Miscellaneous Provisions Act which allowed a building surveyor to provide a certificate but the council were still the ones responsible for the actual permit. As we moved into the Building Act that responsibility then rested with the building surveyor. There has been just a gradual moving over toward a true operation of the act and it still has a lot of things carried over and one of those things that is carried over is that the councils are trying to stay in their traditional role and that is one of the issues that we are certainly facing.

CHAIR - All right. Just back on the owner/builder who is struggling to finish his or her job: as members of parliament we are particularly keen to make sure that owner/builders are not penalised and, frankly, they already are through certain industry settings and public policy settings that are driven by industry. For instance, owner/builders pay for a levy to employ apprentices for Mr Dykman and I mean that is just cross-sectoral - one lot of people paying for another industry - but the whole issue of an owner/builder struggling to finish off his job for a couple of years is hardly a surprise and you would be the first one to understand that. A budget to build a house at \$232 000 never comes in at \$232 000, it is always going to come in at \$249 000 or something and so they always run out of money. But there is of course also a need in the community from neighbours for these jobs to be finished because they are often unfinished symphonies -

Mr CONNORS - Yes, that is right, the paper blows off the walls.

CHAIR - Should there be some element of public policy that requires owner/builders to be a little more careful with their money and actually finish within a time?

Mr CONNORS - It would be a great help to the industry if there were certain parameters set on the life of a building permit. I am not saying that we should not ever extend them but it should be clear what the actual life of the permit is so that, once they start, if they get to a certain stage they should be applying for a new building permit or being able to extend the one that they already have with additional fees attached. It is something that can be done but it is not possible to do this as a private practitioner while you are competing against councils who are just allowing this whole process to roll on. They have no compulsion to actually bring in the money that is necessary to cover that cost. They don't need to.

CHAIR - Because they are in the local government situation?

Mr CONNORS - Yes.

Mr DYKMAN - But don't councils charge an additional fee if a building permit is not completed in two years?

Mr CONNORS - They can extend that, yes, and they need to write to the building surveyor to ask whether it is appropriate to extend that permit. We have the situation now where, with the permits that are outstanding that we cannot complete, we have the ability to just fold up that whole job and send it off to the Permit Authority to say that it cannot be finished. But what happens with it then? What happens with the people who, like you say, might have financial situations where they cannot complete that project? Do you

send it back to the Permit Authority, which then has to apply for new fees, and go through that whole planning process again. It brings in all sorts of issues there.

CHAIR - That would be a failure of process.

Mr CONNORS - And if you had to apply for a new building permit for a house that is started already, you've got changes that occur in the building code for energy efficiency, et cetera. How would people handle that in trying to finish off a job?

CHAIR - All right. With the agreement of the committee what I would like to look at, because it is a centrepiece of your submission and does look somewhat apposite to what we are about, is the cost of building. What currently happens is that with the council or local government sector, here in the north particularly, there are a number of councils that have stayed in the business and are artificially skewing the market through ratepayer funding support. On the face of it, it could be argued that that actually keeps the price of your services down and I think that probably does. But you are making a case that in the long term it is driving things up because it's inefficient and a number of other matters. Let us explore why it is you feel local government should get right out of -

Mr CONNORS - I want to clarify that. It's vital for our industry, the building surveyors, that councils stay in. Why? Because there are not enough building surveyors to handle the work now.

CHAIR - Okay.

Mr CONNORS - All I'm suggesting to you is that the way the legislation is written, with the permit authority and the building surveying being moulded and melded into one, creates the situation where you get an overlap. We're getting review of documents that are being sent in by the Permit Authority building surveyor that then creates hold-ups in the process. They might determine that they're not happy with our decision as the building surveyor and they will send it back and say, 'We're not going to accept this permit.' That happens.

Mr BOOTH - On what basis would they do that?

Mr CONNORS - Because their building surveyor has determined that he wouldn't do it that way.

Mr BOOTH - Some of the council building surveyors were just touched on the shoulder and deemed to be a surveyor when the initial act came.

Mr CONNORS - Yes, the grandfather thing.

Mr BOOTH - Apart from that you would all have to theoretically abide by the same regulations, wouldn't you, the professional indemnity insurance and so forth?

Mr CONNORS - Yes, the professional indemnity insurance is an issue there of course. I've got to pay upwards of \$25 000 a year to be able to operate my business with the insurance.

CHAIR - This is an important point because local government doesn't have to pay that.

Mr CONNORS - They do pay, but the council pay on behalf of the Permit Authority. The building surveyors who operate there are free from the sort of liability that we carry. They're at arm's length. Who is going to get sued if there's an issue? It's going to be the council. It's not an individual. My name is on the line every time I do a job. The current pressure that is coming on my company is that the Department of Justice are saying that if a building surveyor does a job then the actual building surveyor should go and inspect. We're doing 800 permits a year; 900 at the moment. If I had to go out and physically inspect every one of my own jobs I wouldn't be able to do half the work that I'm doing now. We've got to engage people who are either doing their diploma - and the training for a building surveyor can take upwards of 10 years because it's all done externally. To get people trained and through the system is a major impost for my company. I'm actually paying people to train. They'll get a certain way through and say, 'I can't finish this course.' So we're paying out all the time, more money going into to trying to get building surveyors trained and not actually seeing them come through.

Mr BOOTH - Why would be that if you're a qualified building surveyor and you've got a licence to operate in that position, how could it be that a council building surveyor could second guess what you're doing in that sense?

Mr VAN ZETTEN - The code is full of grey areas that can be treated one way or another and the council often uses their flex or force to say no or to prove a point, whereas some of the councils are happy to work with you on certain areas. The code isn't a black and white book; it's a grey area.

Mr BOOTH - The deemed to comply provisions enable a surveyor and engineer to give a certificate that that's the case. I am just trying to get to why it would be.

Mr CONNORS - The problem comes with the fact that we have a permit authority who should be just issuing the permit. There should be no review of a private certification at all.

CHAIR - Okay, that's what we're talking about.

Mr CONNORS - I will use Launceston as a perfect example. We have a manager who is the manager of planning, building, environmental health and plumbing. He is also the manager of the Permit Authority. For a big project, like the residential old people's home mooted for opposite Bunnings, I have had the architect phone me up and say, 'Phil, I just went into the council to submit an application for this proposal and while I was there they have solicited me to give them the building surveying and they have offered to expedite the process, make sure that they work with us and get this job through.' If you go to a private building surveyor, you can't be guaranteed that you'll be able to get this project through.

That is a real worry and the problem for me is that you have planning, building, plumbing - all being issued by this Permit Authority. You have a building surveying company who is also working in conjunction with the council. They have a monopoly over everything that comes through planning, in particular - it has to come into the council through planning - so through that they can grab a lot of the customers. It

happens all the time. John, you probably haven't been solicited at the counter when you go in.

Mr DYKMAN - We have occasionally, yes.

Mr CONNORS - You have occasionally. Jason, does it happen to you when you go into the council?

Mr VAN ZETTEN - It happens all the time. We've even had it quoted that the council will take longer on Protek's jobs than they will on their own jobs going through. They will put Protek's jobs in a too-hard basket, it's been quoted, to take the work on, which is surprising because once they get the work, they don't perform anyway.

Mr BOOTH - What council is that, Jason?

Mr VAN ZETTEN - Launceston.

Mr BOOTH - Can you give us the names?

Mr VAN ZETTEN - Yes, Barry Magnus. He's the boss; he said it straight out. Prior to that, Bev Gossage has said exactly the same thing, and Bill O'Connor - three names. They have said exactly the same thing, that if they get a job from Protek, they'll sit it on Bill's desk until they finish their own, and then they'll do it last. So a process that should take seven to 10 days is regularly taking 30 days.

Mr CONNORS - We are talking about efficiency. You want to know what adds to the cost of building? The whole Building Act.

Mr BOOTH - So if you submitted the same project to the council, it would take x days; if you submitted it through Protek it would take x plus?

Mr VAN ZETTEN - It goes in waves. We get asked a question now and then when they go on the chase to get more work. They go off it again. We have stuck fairly loyally to the private building surveyors along the way due to the fact that they give us performance. You get questions answered. Once they have your money their attitude doesn't change. We can work with them on projects; it doesn't get parked. So it does go in waves.

Mr BOOTH - Phil, back to that matter about the council surveyor not issuing certificates or requiring further work to be done on your certification, wouldn't they effectively then have to accept transfer of liability?

Mr CONNORS - That's what we're trying to get through, Kim. But all the time I am battling with these issues. It is eight years of work to get to the stage where I now have the opportunity to speak to you. But all the way through you have to work through these issues with individuals and it doesn't help because they all say, 'We're not going to change anything we do until we're told to do so'.

Mr BOOTH - So do they accept the transfer of liability then?

Mr CONNORS - No, the way the act reads is that the building surveyor is responsible for that project.

Mr BOOTH - Even though they change your specification?

Mr CONNORS - Even though they change the specification; that's what is happening. Meander Valley Council at the moment send out all their permits and they say, 'Please note that the building must not be occupied ... and made compliant with the requirement as set out in the Tas Building Act 2000 ... any further enquiries please contact council's assistant building surveyor, Wayne Wilson.' This is a planning permit that is associated with my building permit. So for any queries or questions about my building permit, please contact Wayne Wilson, Assistant Building Surveyor. So confusion is there for people out in the industry. If we are going to have private building surveying, I can see that we can get so much more efficient and we can deliver what the Building Act set out to achieve, and that was to free up what was traditionally held by local council.

Mr BOOTH - So you would be arguing that it should be a total disconnect basically, once you have accepted it as a qualified building?

Mr CONNORS - That is the key to it. I don't want to see council pull out. If they want to run a business they are no different from any other building surveyor in the State who takes this liability, but they need to be accountable. We have no access to the information they have in the council; we have to pay for every time we download a title and they get it for nothing.

CHAIR - You say that you wouldn't want councils out of the business because there wouldn't be enough surveyors so you are saying that you would want councils to maintain the service but at proper administrative arm's length from each permit authority?

Mr CONNORS - I use the term 'council' because they are just another business. If they want to compete, that's fine; I'm prepared to compete on an even basis.

CHAIR - Regarding the business of the Permit Authority reviewing your certifications, what happens in other States with that?

Mr CONNORS - The building surveyor issues the building permit and the completion certificate -

CHAIR - And that's it?

Mr CONNORS - and that's it. There is a \$33 lodgment fee - I think I brought it in - for councils in Victoria because all they do is submit it and the Permit Authority file it away.

CHAIR - Because the Phil Connors in Victoria has done his job, he has his indemnity insurance, he has stamped it -

Mr CONNORS - Liability rests with the building surveyor.

CHAIR - Liability rests with you.

Mr CONNORS - Yes, and the process is very streamlined; a lot of liability, probably more than we are taking on, because the building surveyor in Victoria, for instance, has to check the planning and any other issue that relates to that and will make his decision based on that. If he gets it wrong, they are going to be audited, fined and possibly put out of business. That's what it's about.

Mr BOOTH - Can you provide the committee at a later time with a couple of examples where your certification has been second-best guessed by council?

Mr CONNORS - Yes, I can.

Ms ARCHER - In other States are the permit authorities within council still, or are they independent permit authorities?

Mr CONNORS - Some councils are still operating on the mainland, the majority have pulled out because of the liability attached to it but you will still find local councils - and I am not going to fool you - where the same tension that we are talking about here still exists on the mainland in a lot of ways.

Ms ARCHER - It's a culture.

Mr CONNORS - Yes. I have employed a lady who is now my office manager who worked in New South Wales in a building surveying company and she acknowledges that there was no true cost recovery; they just set a fee and said, 'Yes, that sounds reasonable'. They didn't have to actually run a business. It is a whole different perspective on the industry. You might pay more for the service of a private building surveyor but the outcome and what the Building Act was trying to achieve, if you look at *Hansard*, was to free up the industry, make it more user friendly, have inspections at two o'clock in the morning if that means you are going to get the job up and rolling, but that is what it is supposed to do.

CHAIR - And only the insertion of private industry into the market was going to deliver that?

Mr CONNORS - Yes.

CHAIR - Nowhere in the debate on the Building Act, certainly in the lower House, was there contemplation that councils should get out of it. You cleared that up from your point of view, you are not saying they should get out of it.

Mr CONNORS - That's correct.

CHAIR - But they should compete.

Mr CONNORS - Yes, and I think the Permit Authority will work, but there has to be accountability even for that authority. The time frames and the delays that occur with planning, building permit issue, plumbing permit issue are set down in legislation as to what it should take, but do they meet those time frames?

CHAIR - We would be interested in your views. We have statistics on whether they meet them or not and Launceston City Council is a starring force in that list.

Mr CONNORS - Okay. Jason, you have talked to me before about backdating permits. Can you give me an example?

Mr VAN ZETTEN - Yes. I had a phone call this morning from one of the planners at the Launceston City Council. The DA was due yesterday for a simple unit in the backyard of a house that the head planner said would be straightforward. I said, 'Isn't that due yesterday?' 'Oh, yes'. Over the last three or four months we have had half a dozen DAs that at day 43 have rung council and said, 'How's that going?' and someone in the council said, 'We haven't got to that yet. We haven't finished it. The agenda has been on holidays'. A week or 10 days later the permit comes in backdated to day 42, even though we have proof of that. That has happened on eight or 10 occasions.

Mr CONNORS - And they come up as 100 per cent tick.

Mr VAN ZETTEN - Yes, and we are finding that as a regular occurrence, so the council has new ways of doing things. It is about 60 days door to door for an average permit at the moment. A lot of them are just planning, not building, and dragging out to the 90 days. I have a job of my own on the go.

Ms ARCHER - Have you questioned them as to why it is taking an extra 10 days to get to you? Is it an Australia Post problem? Is there an excuse?

Mr VAN ZETTEN - We have questioned that. We have gone to the council to collect it and it's never available. Their printer is always down or there's another problem. We have questioned it, however we have got to a stage where we have upset one of the planners by questioning it - it's their decision so if I question them on this one, I lose on the next one. We do about 250 houses a year and we can afford the 10 days but the building trade and the clients can't. It is killing the builders.

Mr CONNORS - It adds cost.

Mr VAN ZETTEN - It adds costs. It's not unusual to find this is the case. We have a \$2 million job on the go at the moment and the planning department has made a mistake. The builder wants to start; he has 20 guys ready to start in Launceston. Planning wants that fixed but they haven't jumped on it. It has taken weeks and weeks to fix it and this is ongoing. Ben Lomond Water are no better at the end of the day. I have a request that came in this morning for additional information on a permit they issued six months ago. They have finished it, signed it and now they've said, 'You can't start until that request for more information is complete'. This is daily; this is four hours of my day every day on 200 to 250 houses a year. The builders are hung by it. The holding costs of blocks are going through the roof. If builders want to build a spec home, and the market needs a certain amount out of the developers, they need to have \$1 million worth of land up their sleeve, not \$500 000, so the holding costs on that are going through the roof.

Mr BOOTH - Can you table for the committee the Ben Lomond information so that we have the exact details on that?

Mr VAN ZETTEN - Yes.

CHAIR - Jason, if you were to drop us a line to say 'as requested by the committee' - this was the permit number and this is what arrived later et cetera.

Mr VAN ZETTEN - Yes, that is fine. It is not unusual. It is daily from Ben Lomond and council.

CHAIR - From our point of view, if we can get our hands on a live case -

Mr VAN ZETTEN - With the DAs being backdated, we only have our diary notes and phone records but we are happy to forward it on; we just don't want to hinder our own process. I have 20 DAs to put in in the next two weeks and it could get dragged out; I could get requests for more information. I had a backdated request for information the other day. The council has forgotten about a job and it's two-and-a-half months old now. It is my own job on the east coast. When I put it in I said, 'If you need more time, send me a stop clock or something to sign. Ring me and tell me and I'll sign it and give you another month'. But instead they have sent me a 'stop the clock' for more information but they've backdated it until the day before I submitted the job. So there are all these inaccuracies in the planning system at the moment.

CHAIR - Which council is that?

Mr VAN ZETTEN - This is Break O'Day, which simply cannot keep up with the workload. Some councils are going well in planning. West Tamar is excelling -

Mr DYKMAN - Yes, they have a good planner.

Mr VAN ZETTEN - They have good planners and good people. Their building department still has the mentality of 'We want to get Phil's work', and I don't know why. They can't get through their own work quickly so why compete? They are always trying to knock the private guys out, which is surprising. In some ways you'd question whether it is a mentality of the people who have been in these positions for too long.

CHAIR - I'm sure there's a bit of culture there.

Mr VAN ZETTEN - If you throw in all the other factors now to build a house, you have Tas Fire, Ben Lomond Water, energy assessments, flood, planning, building, plumbing, engineers, sewer design, septic tank design. There are lots of factors.

Mr CONNORS - Bushfire protection is going to be another big one.

CHAIR - Yes, that is the latest one.

Mr VAN ZETTEN - And it is frustrating in the trade in the sense that you pay consultants to do these things, you pay professionals that technically should override the council and it is not unusual for the person at the council to send that back with a 'No, we won't accept that'.

CHAIR - Can we look at that because that has come up in previous evidence where we have questioned local government on whether they couldn't issue a permit with conditions that simply say 'You need a certificate from a bushfire expert' but the answer was that no, the council needed to look at that to see if they were happy with it. The question is whether, if those people are certified to provide the work, their own certification should be enough.

Mr CONNORS - Yes, that is exactly right because we are ending up with two layers of review and that adds time-delay cost.

Mr VAN ZETTEN - All these people are qualified and accredited and the accreditation process alone -

CHAIR - And indemnified.

Mr VAN ZETTEN - And our insurances, I reckon there is \$50 000 of our costs a year in staying accredited and staying insured. There is \$50 00 in it before we open our doors just to draw a single house. We are getting questioned. Our stuff goes to Phil, Phil approves it, it goes to council, it bounces back because the dog kennel door doesn't meet what they call the correct part of the standard or the code. We are just fighting this all the time and in most cases it comes back to the office and the officer sits around and looks at it and says, 'Is it a time delay? Is that all it is?'

CHAIR - And you, by your evidence here, are giving the impression that you believe a lot of this is based on time delay - of them not being able to do their stuff in the time?

Mr VAN ZETTEN - Yes.

Ms ARCHER - Is there inconsistency with decisions as well? For instance, on one job something got through and then on a similar job it didn't - with the same council, I mean?

Mr VAN ZETTEN - Yes, with the same council. Launceston stands out as the worst of the worst for inconsistency in our opinion. You can go to a different planner. We can manipulate which planner it goes into but they do not necessarily get the job so there is massive inconsistency. One planner will have a pre-submission meeting and they say, 'Yes, that will be good' and then it gets knocked back for that reason and that is not unusual. Launceston says they are trying to do something about it but all they are doing about it is slowing down the process. They are not being proactive about it. Launceston are working in a reactive place at the minute, they are so run down and overrun and they are looking at such minor detail they are missing the big picture and this is across the board. Smaller councils with consistency - if there are two or three planners in a council who sit down and have a coffee together and go over a job, you retain more consistency. But once you get to the 10 or 12 planner stage the consistency goes right out the door.

Mr BOOTH - But that could be consistent with different building surveyors, too, couldn't it? There is nothing about a building department that makes them immune from being inconsistent, I suppose, just like council.

Mr VAN ZETTEN - Planning schemes are grey and their building code is grey. There are a lot of grey areas. Take some of these grey areas, such as insurance jobs - a house half

burns down and we find inconsistencies in finding a building surveyor who is happy to draw a line and work out where we need to apply the new code and what is old. That is due to the grey areas of the code. The code is designed for new houses in suburbia and we have to implement our ways.

CHAIR - As we are talking about planning and building, there are two issues here. You were saying that West Tamar has a good record from your industry point of view and Launceston not so good and the graph that we have bears that out, but West Tamar does have one of these new planning schemes which has the P1 status in it which means that a permitted use still has to go through planning.

Mr VAN ZETTEN - I think if you gave West Tamar's planning scheme to Launceston's department to read everything would be discretionary. I think it is the planners that drive it.

Ms ARCHER - It is in the interpretation, you mean?

Mr VAN ZETTEN - It is in the people, it is in the interpretation.

CHAIR - Just in cost terms, is it not so that West Tamar is required to submit the permitted use to planning and Launceston is not and so therefore West Tamar actually takes \$400-and-something off somebody for something that the only question on that is, for instance, setback?

Mr VAN ZETTEN - The \$400 is cheaper than the holding costs on the block so you move with it. It is a week holding a block.

CHAIR - This is our point, we are looking for cost savings and these new planning schemes have this new P1 process, which isn't a permitted use. It just isn't. If you've got to pay \$400 to submit it to a process where it's already been through a process because it's within a building envelope -

Mr CONNORS - They are trying to bring in the 'deemed to comply' for certain houses - if you're building back from the boundary and you only have a six-metre garage or frontage or that sort of thing -

CHAIR - Who is trying to bring that in?

Mr CONNORS - They are talking about trying to facilitate a 'deemed to comply' provision -

Mr BOOTH - A performance-based thing.

Mr CONNORS - a performance-based provision in the planning schemes to try to overcome some of these hold ups for the performance-based planning schemes. We understand that that is happening. It would, presumably, affect these guys more because planning has to be done before it comes to me.

CHAIR - Exactly. So Mr Dykman, you have a bit to do with both Launceston and West Tamar?

Mr DYKMAN - Yes, and my frustration has driven me to use our designers to do that side of it because I don't have the patience for the nonsense that they have to deal with. When you express your frustrations you go to the bottom of the pile. The planning scheme at West Tamar seems to be pretty good, but I fail to understand why we need to pay a planning permit for something that is permitted use. I have no problem paying a planning permit if it is outside that. But if it is within the requirements, why would we have to have that additional delay and additional cost to get it through planning?

Mr BOOTH - So is it the actual quantity, sort of like a price gouging, to make sure that it complies, or is it just tick-a-box type of thing for that? Something that is truly discretionary would take a lot more time to assess, but you pay the same fee, do you?

Mr DYKMAN - No, if it's discretionary it would have to go through an advertising process, so there would be additional costs there. We all understand that and we don't have a problem with that, but when it's permitted use -

Mr BOOTH - If a fee reflected full cost recovery for that part of it, which might be 15 minutes or 20 minutes, you wouldn't object; it is just the arbitrary \$400 fee. Is that the main issue there?

Mr DYKMAN - Yes. Generally, West Tamar have been fairly good they have whizzed them out fairly quickly once we've put them through.

CHAIR - I'm not saying that West Tamar do this capriciously, the fact is that the planning scheme that they have adopted - and the Planning Commission has required them to adopt it following the whole process - has this new P1 scheme, which means they need to assess every job, every dwelling and they charge a fee.

Mr BOOTH - They charge a fee for that, that is the point.

CHAIR - I understand it is around \$400. I wouldn't be surprised because Sorell has just charged me \$490 for some signage and we're up to 60 days and ticking. But Ms White and I will get around to that, I am sure, one of these days.

Mr BOOTH - It is because of who is on the sign I think they are worried about.

CHAIR - No, no, I am worried that Ms White might have objected to my sign, but it's not true. The point is that I don't believe it's West Tamar's fault. They are required under this planning scheme to do that and it would appear from your submissions that they, in any event, are one council you can deal with, and the matrix actually shows that. Both their building and planning permits are way in front - the time frame is way in front of Launceston.

Mr VAN ZETTEN - We can work parallel with them. It's not unusual to work in parallel. We put building and planning drawings in at once, we have a pre-submission meeting, they say, 'Yes, that complies,' so their building and planning will work together and talk to each other, versus other councils that don't do that. Even the situation where the statewide planning scheme comes in, one planning scheme, Launceston is so fast at overlaying certain areas that almost every development site left in Launceston is covered

and 50 per cent of the town is covered by overlays now. So even if we do get a statewide planning scheme -

CHAIR - Can you just explain what that means so we've got it on record?

Mr VAN ZETTEN - Launceston has just come in with their Gorge Catchment Area, which is a big area of Launceston, which means they've got lots of scenic protection areas. So every application that comes in for scenic protection - there's three new subdivisions in Launceston with 70 to 100 blocks in each and all of them are overlayed with scenic protection. So all the new houses, all the mums and dads coming in to build their new house, once the title is issued they are going to take around 90 to 120 days before they can start building, not 50 or 60, which is what it should be. So you have to go through a process and then the council suddenly have this control over your project, so even if you put the house here, they can make you move it to there. The planning scheme is now overridden by planners' opinions.

Mr BOOTH - But it is only protecting something that benefits ultimately the subdividers and the whole community. You are not objecting to planning per se are you?

Mr VAN ZETTEN - With scenic protection they are making us put curves in driveways. You can't see that when you drive past on your way into Launceston.

Mr BOOTH - You can from a distance though. I can show you examples around the place where you have a massive scar gun straight off the side of a hill whereas if it was on a curve you wouldn't see it.

Mr VAN ZETTEN - Yes.

Mr BOOTH - Somehow you have to assess that.

Mr DYKMAN - The scenic protection covers two big areas. We have built houses in West Launceston in a little subdivision called Trammell Court but on the other side of the hill there is no skyline preservation or anything required there. But it is under scenic protection because it is close to the Gorge, I suppose, but it is not going to be seen from anywhere.

Ms ARCHER - That's an issue for the regional planning initiative from the three strategies though; that is quite separate from the residential planning code.

Mr BOOTH - No, this has become an issue because what Jason is saying is that it is an overload.

Mr VAN ZETTEN - Four or five years ago probably 15 per cent or 20 per cent of our jobs would need a planning permit in Launceston, now it is 100 per cent. I went through our office yesterday and said is there anything in Launceston that does not need a planning permit, haven't we a deck or something? No, not a thing. Everything needs a planning permit.

CHAIR - Everything needs a planning permit?

Mr VAN ZETTEN - Yes - even decks the decks on the back a house. There are no strategies in place with these councils that say, 'It is a deck out the back of a house in West Launceston and you cannot see it from anywhere.' We should have a 14- or 21-day turnaround time on them and we have been promised that. Launceston had a meeting and promised us that. They said that would happen, they said they would do this and that and it hasn't happened. So we are looking at carports and decks taking 60 days for planning.

Mr BOOTH - Completely minor works, in other words.

Mr VAN ZETTEN - It slows up the whole town. By the end of that some of these people with their decks get so sick of it, they don't build them, they don't spend money and the town is pretty parked at the moment. If you have a look at the real estate in the town, you will see that everything is parked, there is nothing moving. To slow builders down now, to slow the trade down - the whole picture - is a terrible time to be doing it. It really has got worse in the last six to 12 months, it has deteriorated a lot.

Mr BOOTH - Can you give us examples - areas where in your view there is absolutely unnecessary red tape and over-regulation, resulting not only in the time delays but also actually imposing a fee on people?

Mr CONNORS - Certainly the Permit Authority is the area that needs to be accountable. It needs to be accountable and to be audited. If we are going to have this additional layer which varies from other States, the Permit Authority needs to be audited and accountable for its actions.

CHAIR - How does that work? This is a very important point so let's explore this. How would you audit a permit authority?

Mr CONNORS - You have to be able to set the time frames and make sure that they are abiding by those times. To go back to what Jason was saying about backdating permits and other things like that you can make your figures look very rosy -

Mr BOOTH - So who would audit the auditor then? I mean at some point in time they are suppose to be -

Mr CONNORS - We are being audited.

Mr BOOTH - I know.

Mr CONNORS - Building surveyors, builders, designers.

CHAIR - Who audits you?

Mr VAN ZETTEN - The Accreditation Board.

Mr CONNORS - The Accreditation Board through the Department of Justice.

CHAIR - Okay, so the Director of Building Control?

Mr CONNORS - Yes. And the audits only really started over the last 18 months to two years - they are starting to do random audits. They started with local government building departments and they are working through the private building surveyors at the moment.

CHAIR - But the Permit Authority is not audited and it is your evidence that is thereby allowing a situation which adds greatly to the cost of building in the north of the State?

Mr CONNORS - Yes, the delays that are occurring there ultimately impact on people like John who need to be able to get out and get their work up and running. So that brings in everything. Every permit that is issued - planning, building, plumbing, environmental health as well; environmental health is something that sort of slips under the radar - means that as a building surveyor we are being held up on every job that has anything to do with a food premises. I haven't spoken to Jason about this, but have you done any drawings for a food premises at all around town - new restaurants and that sort of thing?

Mr VAN ZETTEN - Not of late.

Mr CONNORS - The environmental health officer, once again, has the ability to override the Building Code. The Building Code has 'deemed to comply' provisions within it as for food premises fitouts. The environmental health officer can add to that and as soon as they want to add to anything in the Building Code they have to do an analysis and provide a report to prove that they have to add this additional element to that food premises. That takes time. As soon as the environmental health officer wants to go and provide one of these food hazard analyses, the clock stops and we have to wait for them to provide that.

Mr BOOTH - But that's beyond the BCA provisions?

Mr CONNORS - They are adding to the BCA provisions and a common one is they want what is called a 'slop hopper'. Are you familiar with those?

Mr BOOTH - Yes.

Mr CONNORS - A place where you wash out your mops and other things like that.

Mr BOOTH - Why isn't that in the code then?

Mr CONNORS - It is not required for 95 per cent of smaller food premises.

Mr BOOTH - Do they require it for them all now?

Mr CONNORS - Often, yes. Individuals might have a preference for a certain thing and it happens right across the board, whether it is planners or anybody else. The individuals that you deal with will ultimately determine what they are going to want to apply to that particular job. This does add time delays and frustrations to people who are putting in their applications.

Mr BOOTH - So you put in a design without a slop hopper and then the environmental health officer says no, even though the code doesn't necessarily require it. Under the act I can require a slop hopper.

Mr CONNORS - That's correct.

Mr VAN ZETTEN - If you argue they park it, in short. That is where auditing needs to come. They need to be accountable.

Laughter.

Ms ARCHER - That is the theme of the day, I think.

CHAIR - You can see it happening.

Mr VAN ZETTEN - Talk about auditing of council processes, I had a job, Phil's company did a quote for me and the client chose the cheaper Launceston City Council option. I was on site at Port Sorell, so it was a job outside of Launceston City Council -

CHAIR - Hang on, the Launceston City Council guy did it?

Mr VAN ZETTEN - They take on work outside their council now. That is their big aim at the moment - to go bigger.

Mr CONNORS - That is in my submission.

Mr VAN ZETTEN - That is the big spider they are going for. They are trying to grab all the little councils and all this sort of work. So this is a private job that has been taken on by the Launceston City Council up at Shearwater. It is a simple four- or five-unit development and three building surveyors rocked up on site while I was there to do the frame inspection. I know for a fact in Phil's quote there is no way he can run a business effectively unless you call it one-off training, for three building surveyors to get in the car and drive up there for a \$65 inspection. That was the quoted inspection rate, \$65 to Shearwater in a Launceston City Council car with three of them. I stayed a bit longer and did another job while I was up there and actually passed them on the way back, an hour-and-a-half later. So there's massive inconsistency there with auditing. Maybe the audit system needs to go further into what the actual cost of it is.

CHAIR - Thank you. We will have an opportunity to consider that.

Mr BOOTH - Jason, you mention you are spending something like \$50 000 a year on insurance and accreditation fees. Can you break that up? What is the accreditation cost?

Mr VAN ZETTEN - The accreditation cost itself is quite low. Regarding the CPD points we need to get, John needs 12 a year, I need 30 a year, which is 30 to 60 hours worth of training.

Mr CONNORS - I need 60.

Mr VAN ZETTEN - Which is at least a week's work out of your year. Insurance costs are skyrocketing. We have just cut our insurance costs by limiting what sort of work we do, by not taking on certain sorts of work. We have done that and have said, 'No, we're not going to do x y and some stormwater work, some of this, some of that', which I'm qualified to do, but if it saves me a lot of money in a year we'll go that way.

Mr BOOTH - That is the direct insurance add-on for that work you are saying?

Mr VAN ZETTEN - Our insurance went up to about \$33 000 a year on a turnover of more than 200 houses a year, so we've dropped that back to a lot less now. We are knocking off things, the high-risk areas in their mind, which are low risk in our mind, and we have focused on what we have to do. So that affects what we can do and what we can take on. There is training insurance. They are the main costs, I suppose, for starting up. It would cost you \$30 000 to \$50 000 to start up. The good thing I guess for us is that if you are a young person trying to get into the trade, there's no way you could physically start a business.

Mr DYKMAN - And that insurance is professional indemnities, which we can't protect ourselves with.

Mr BOOTH - With the CPD, what about the fees - not the actual course itself?

Mr VAN ZETTEN - The courses would cost you \$200 to \$300 each for two or three points. You are adding that up pretty regularly, so it all adds up in the bigger picture.

Mr BOOTH - With the extra accreditation, say if you wanted to be accredited to build, demolish and those extra add-ons, are those fees substantial?

Mr VAN ZETTEN - The fees for the accreditation board aren't that high. It's the cost of retaining your accreditation that's high. I suppose that's where I would question what you said before about owner-builders paying levies et cetera. We are paying all these costs and the owner-builders can draw a plan themselves that's nowhere up to standard and they can build a house that's not up to standard and do it a lot cheaper.

Mr BOOTH - I would like to get back to that not-up-to-standard business in a moment, but with regard to the CPD, have you done courses that have been of no benefit?

Mr VAN ZETTEN - Yes. I did a 'How to draw a site plan' course recently to get the last of my points. I draw 200 houses a year so I drew that. I go through the HIA with a lot of mine so I do a lot of the builders courses because there's nothing available for us, which is not a problem. I do a lot of builders courses and sit there with builders who have been working in the trade for a fair while; they know 90 per cent of the stuff. The HIA is always going to move that, but I have sat through the same course every year for three or four years at a cost of \$300 to get towards my 30 points.

Mr BOOTH - A nice little earner for the organisation providing the courses and you just have to do it?

Mr VAN ZETTEN - It's a better deal than anywhere else. To go to the mainland to get your points costs thousands of dollars.

Mr BOOTH - We had evidence before - not in this committee but in Parliament - that courses have been offered - for example, to get CPD go and listen to Bryan Green talking about the Building Act, before he got caught, and go fishing on the east coast with HIA. Have you ever had any of those courses?

Mr VAN ZETTEN - The HIA and the MBA offer the cleanest courses. They are the best done. You have to do a certain amount of work for your points; there's nothing slack about them. There is a guy in Hobart. You pay him \$1 000 a year, or whatever the cost might be, and he sends you a video to watch. Quite a lot of clients that I speak to who are accredited have said, 'We put it in the too-hard basket and get our points'.

Mr BOOTH - Isn't that the same as sitting with John doing a building course that you already know? You have said that the courses you do often have no value in that sense.

Mr VAN ZETTEN - Six of one and half a dozen of the other. I would rather go through the HIA system.

Mr BOOTH - The point I'm making is that if the courses are of no value, it doesn't matter who is doing them. You have said that the courses cost you your time.

Mr VAN ZETTEN - Yes. I don't believe in going the other way and paying money to get a ticket. It's just not my attitude. I wouldn't accept it from my staff and I wouldn't do it myself.

Ms ARCHER - It doesn't sound as though there are enough courses for designers to get the required 30 points. Would that be the case?

Mr VAN ZETTEN - You can go to Melbourne and other places but for us it's a business move as well. At least if you're paying money to be there, we are sitting next to builders and we're keeping our work flow coming in. We are sitting in the room with them and picking up some work, so we look at the positives. If we're going to do that, there's no point going to Melbourne and sitting beside another designer.

Mr BOOTH - The point I'm making is that if the scheme is worthless, what's the point of doing it? Why waste your time and the fees? I am trying to get to the bottom of whether no matter who you get it through, the CPD is delivering the outcomes you would notionally think it is supposed to.

Mr VAN ZETTEN - Yes. There is not much else I can say.

CHAIR - Phil, you point to a concern that you had that there is an indication that the Director of Building Control is considering mandating minimum fees for building surveying services. Why would the Director of Building Control do this? Are you saying maximum fees or the minimum fee?

Mr CONNORS - Minimum fee. You have to remember over the last four or five years I have been working with the local councils around here. I have had to put in complaints with the Meander Valley Council, Northern Midlands Council and I have attempted to

broach Launceston, but I hesitate to do that because we do most of our work here and it has been clearly stated here today that if you upset them you cause trouble.

CHAIR - So you have put in complaints against those councils?

Mr CONNORS - I have.

CHAIR - To whom? Director of Building -

Mr CONNORS - No, to the Government Prices Oversight Commission. Now the whole system of complaints causes grief because if you want to put in a complaint against the Permit Authority which is going to issue all your permits and deal with the time frames and whatever, it has just caused me grief. It is no wonder I am going grey because the pressure it puts on me, my company and my staff each time we have to actually force the issue is beyond what I consider reasonable. The whole process is wrong. I have won both complaints that I have put in but there is no teeth in the Government Prices Oversight Commission.

CHAIR - These complaints are about the low level of charging?

Mr CONNORS - Low level of charging - you've got similar submissions to what I put in; they will not deal with the issue of permit authority and building surveying. They keep coming back and saying to give them proof that there is an issue. You have to say 'Well, typical fees', and they will deal with that. They won't actually deal with the anti-competitive nature of the way the Building Act is set-up.

CHAIR - All right. Back to this mandating of minimum fees.

Mr CONNORS - Just recently we attended one of our CPD training points that was put on for the AIBS, Australian Institute of Building Surveyors. At that meeting we had a lawyer in to talk about the responsibilities of building surveyors as a third party independent certifier, and also professional ethics. The main thrust of the morning session was to deal with the fact that building surveyors have a terrific liability placed on them. They cannot abuse their position of power and do jobs for family and other things like that. Patrick Toomey is the gentleman the government uses as their lawyer, their go-to man. Patrick made it very clear that the building surveyors have an ethical responsibility to charge fees that reflect the liability and the responsibility that we take on. He said it would be totally inappropriate to collude together to set fees, but what they did recommend was that the building surveyors indicate how long it took to do a certification properly, indicate what their on-costs were and put it together so that there can be a base line established for what work should be done, because without a doubt there are building surveyors who are under pressure and who are discounting the prices, especially down in Hobart where there are upwards of 10 private building surveying companies operating out of our capital city. Some of the building surveyors are doing certifications for \$450. That is a whole house with the inspections. Now the inspections relate to the quality of work that you are going to get at the end of the job.

I understand that our friends at the back here had an issue with the amount of inspections that were being done and the things that a building surveyor is supposed to cover. We have mandated inspections that we have to do.

CHAIR - Who mandates that?

Mr CONNORS - It is in the legislation. You don't have to go and inspect but these are the ones that are set down as the issues that should be looked at - footings and foundations, frame and then you have an occupancy and a final. We do not look at quality of work but to do so would add another layer of cost to a survey.

Mr BOOTH - Security of payments legislation to some degree deals with quality of work being done in building disputes.

Mr CONNORS - No, security of payments deals with payments.

Mr BOOTH - Yes, but it deals with quality too, doesn't it?

Mr CONNORS - No. All it does is give the adjudicator the ability to say, 'No, I don't agree that you should get your full payment'. They don't deal with the actual issues and problems that come out of building.

Mr BOOTH - But that is part of the point, isn't it? If you are looking at quality, it's subjective judgment, basically. There are some prescriptions you can use but at the end of the day with some of that stuff an adjudicator potentially is a much cheaper way to go to resolve this.

Mr CONNORS - No, two different issues, Kim. Security of payments deals with the amount of money that is owed to a contractor. When you put your invoice in -

Mr BOOTH - Yes, I understand how it works.

Mr CONNORS - they don't judge whether the work is defective or not. If you can put in a good enough submission stating that you shouldn't pay the whole amount because you believe that these things are an issue, the adjudicator will say you're not getting all that money at the moment. But it doesn't fix the defect that is present in the building.

Queensland in particular have a really good system - Queensland Building Services Authority. They have men on the ground who will go out and have a look at the claims of people who believe that they have defective building work and address it. They have the power to get in and determine, on the spot, whether that is defective.

Mr BOOTH - Based on aesthetic judgment beyond a -

Mr CONNORS - There are standards that cover all the usual things that people complain about. They normally complain about the quality of the paint, the render finish, the quality of your fit-out, doors, the plane of tiles - all those things are now documented very clearly in the Guide to Standards and Tolerances that has been adopted by our State Government and is also used in other States. That does give you a ready-reckoner to the Australian Standards that deal with all these issues. All it does is say that if you get past a certain limit you can call it a defect because people will go right up to something and say, 'Look at that paint', but if you stand back a few metres and look at it, there is no issue. John would be able to back me up on this. We are heading into a time now where

people's expectations are way above where they've ever been before. The amount of dispute resolution and issues that come through my office alone is phenomenal.

The security of payments act is a good tool to ensure people get paid quickly but does not deal with defective building works.

Mr BOOTH - How do you propose to deal with it under the act, because if it complies with the BCA, that doesn't actually refer to it?

Mr CONNORS - It has nothing to do with quality. If we go in and we see gaps in the mitres around the door, we have to say, 'Why on earth did they get that builder?', but the house is finished. I can't determine quality.

CHAIR - I would like to discuss this hybrid system of building certification which blends the Permit Authority and building surveying certification. You are saying the role of the Permit Authority has necessarily taken on a life of its own in Tasmania, given the statutory role incorporated in the Building Act. This function is in fact a peculiarity that belongs to Tasmania alone. You clearly have a view there about the setting up of this Permit Authority and that it's not even the council that -

Mr CONNORS - No, it can be anybody.

CHAIR - Yes, but the elected representatives have no control over the Permit Authority, do they?

Mr CONNORS - No.

CHAIR - This is an in-house bureaucratic authority?

Mr CONNORS - That is correct and it gains its power through the Building Act.

CHAIR - Yes. So does every council have a permit authority?

Mr CONNORS - Every council, at the moment, has taken on the role of a permit authority. The general manager has the ability to nominate anybody as a permit authority. He can delegate that role to anybody. So you could set up a company, Kim, if you wanted to and call yourself 'The Northern Regional Permit Authority' and that could be a one-stop shop that each one of the municipalities could use and facilitate. Would that help with uniformity? Yes. Would that help streamline the process? Yes. But when I mooted that at the meeting we had where we had Graeme Hunt and Patrick Toomey, who are very influential in that, they said there is no way councils are even going to consider that because they will then lose their traditional power base. It would politically unacceptable even though there might be terrific cost savings and efficiencies to be achieved they would resist it with everything they have and so they said, 'Forget about that idea'.

CHAIR - My final question relates to plumbing. You can get private certification for building works so we can get a designer - Protek, for instance - who issues a certificate in spite of the fact that it can be overruled by the Permit Authority, but you still have to go to the council for your plumbing permit, don't you?

Mr CONNORS - Plumbing and planning.

CHAIR - There is no private arrangement for plumbing?

Mr CONNORS - No, they haven't privatised plumbing at the moment. There certainly is a good argument for allowing a plumber to certify their own work up to the connection. Now that we have actually divided or taken away the water and the sewerage, there is no reason now why we shouldn't have private certification for plumbing works. The inconsistencies that occur from one council to another is something John could probably speak on, but the level of inspections varies from West Tamar Council, which is pedantic to the nth degree, to Dorset Council, which doesn't even do any inspections at all.

CHAIR - For plumbers?

Mr CONNORS - No, they just get a certificate from the plumber.

Mr BOOTH - Self-certification.

Mr CONNORS - Self-certification.

CHAIR - Through need, no doubt, because they probably have no in-house experience to double check the plumber anyway.

Mr CONNORS - Yes, and from what I hear up in the Northern Territory, for instance, the building surveyors who are working out of Darwin do not even go and do any inspections. They have self-certification of their building works. Why? Because of the remoteness of the area. It varies right across Australia as to what things are acceptable are what aren't, but certainly in Tasmania we have a peculiar system. John, do you find much inconsistency with the level of inspection for plumbing work in the councils you deal with?

Mr DYKMAN - Surprisingly, Launceston are fairly casual on the plumbing side. West Tamar are very pedantic. Frank Furfaro can be quite a difficult bloke to deal with at times.

Mr CONNORS - Does that add cost to your project, do you think?

Mr DYKMAN - It really just delays the certificate of completion, because that will not be issued until the plumbing is signed off.

Mr CONNORS - What effect does that have on you?

Mr DYKMAN - We have clients that want to move into houses and they cannot get their final payment release from the bank until we have a certificate of completion and we have been caught before so we will not hand over a house until we have final payment. It puts us all in an awkward position if things can't go through smoothly and one of the frustrations is the certificates of completion. While we can get a final inspection from you guys, some councils will sit on that for a couple of weeks before we get a certificate of completion and some banks will not pay out.

Mr BOOTH - John, with regard to the CPD issue and just generally costs of being a builder both in terms of the fees that you pay but also importantly the hours that you have to spend, can you give us an outline of the areas, if there are areas, that you regard as being unnecessary and just simply bureaucratic red tape, that are adding costs to your business?

Mr DYKMAN - We would like to see the Permit Authority be the private certifier and that would certainly help things. As far as CPD costs go I am in a bit of a different position than most other builders being part of a franchise in that we have regular training. To quantify that would be pretty hard to do and it certainly takes time, but I find that the training points that I earn there are of more value to my business than what I can get from either the MBA or HIA. We have sat in on courses there and I have felt, 'Gee, if you didn't know that, you have no right to be out building!'

It is just the time delays that are the frustration for us. We like to keep our clients happy and we don't want to see them in an awkward position where they have already given notice in the place that they are renting and then can't move into their new house. I have had to bend the rules a few times. The people have been good; they have honoured their commitment to us but, as I say, we have been caught before and it has cost us a considerable amount of money. That is why we have set these processes in place to avoid a repeat.

CHAIR - With an eye on the clock, could I offer you, Mr Connors, a final moment? Is there anything you feel that hasn't been covered that you would like to consider?

Mr CONNORS - Just to finish off with the dispute resolution area. Without a doubt until the Government put in place a proper process, which they have indicated they know that they need to do, until that element is included in the system that we've got, we are never really going to see any satisfaction for the home owner at the end of the process. There has to be a means for us to ensure that the accredited builders are being audited, yes, but that the people who are actually purchasing and spending the biggest amount of money they are ever going to spend in their life are getting a good product at the end. Does it add cost? Yes. Are the Government delaying the implementation of that because they know that it is going to add another layer of bureaucracy to the system? Yes. But is it vital to the whole system that we've got to ensure that our building industry is delivering good outcomes? Yes.

I believe strongly that we should be putting the pressure on the Government to finally make a decision as to what system they are going to implement for a dispute resolution.

Mr BOOTH - Do you think that an adjudication -

Mr CONNORS - A panel of people who just get in - it has to be ruthless - three experts who are appointed to a panel to make a decision and that's it.

CHAIR - A decision on reparation is the important thing. Finding for instance that yes, you've been wronged, that gives you a certain level of satisfaction, but who is going to fix it? Who is going to pay for it is the next step and with your experience in the building trade that there are so many of those unrequited sort of problems out there.

Mr CONNORS - Yes, it would take a little bit to put in place to ensure that it was being enforced. A lot of the time people don't want the builder back if they've got a dispute.

CHAIR - They want somebody else to fix it.

Mr CONNORS - They want somebody else to fix it.

Mr BOOTH - Just quickly, in terms of the way that the securities and payments stuff works, when you have an appointing authority that gets and adjudicator and they make a decision, are you suggesting that something similar to that could work in terms of building disputes resolution about quality and standards and so forth? Instead of going through the arbitration and the tortuous appeals and legal processes, you would have something like a panel. So you would have a dispute between two parties, they would appoint and adjudication panel who would just walk in and get justice by sundown, basically?

Mr CONNORS - Yes. Interestingly in Victoria, VCAT have through legislation mandated good building contracts. They have actually put those in place. We haven't got that down here. We have a huge variety, which ranges from the HIA through to the MBA, which tried to put in a fast track dispute resolution clause that ultimately ends up in arbitration. As an arbitrator I can tell you now it's not a cheap process.

CHAIR - These are the contract documents?

Mr CONNORS - Yes.

CHAIR - You are saying there are so many different types in Tasmania?

Mr CONNORS - Yes. And quite a few builders are still operating without contracts.

CHAIR - Without contracts?

Mr CONNORS - Without a written contract. I would guess for smaller jobs where a lot of disputes would arise, the number is 70 per cent.

Mr BOOTH - Do you think a good process to protect consumers would be a system where you have the payments linked to achievement of certification of a certain stage of building before any payment be made, rather than a builder saying, 'I've got to this stage, give me the money.' Do you think that that should actually be a process inserted there that, unless it is actually beyond dispute that things got to that point, then there is no payment made, which effectively protects the client, I guess.

Mr CONNORS - I haven't put my mind to that one, Kim, but certainly you've got to ensure that you are not paying out money for works that haven't been done. That is where a lot of the problems arise. There is nothing to help the homeowner finalise a project. If there are major issues wrong with it, you can't ever get the thing fixed if you've paid out all your money.

Mr BOOTH - The Branston's dispute, which is well known, is a classic case where they spent up to \$150 000 in legal fees and they haven't had a nail fixed in the house yet.

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Whereas if they hadn't paid for the work, which was clearly found to be deficient, then they at least could have had the work done with the money that they had.

Mr CONNORS - Yes, it could work that way, but I think there's more to it than just that process.

Mr DYKMAN - But that process should then protect the builder as well, because while you are coming from a client perspective, I can tell you from a builder's perspective, if people don't want to pay, it is really difficult for us to get the money. We have all the contracts signed and we have to go through a long drawn-out legal process that costs a lot of money and often for little result.

Mr BOOTH - Security payments deals with that to a degree but I totally agree with you, too, I am not just focused on the clients' perspective. It goes both ways. The money could be placed in a bond perhaps; it could be set aside -

CHAIR - Contract law was always like that.

Mr BOOTH - It's a very serious problem.

Mr CONNORS - The only reason I bring this in as a matter of concern is that it does add cost to the building industry. We're not just talking about certain things, we are talking about what adds cost overall to our industry.

CHAIR - If, for instance - and perish the thought - Protek, on an inspection, approved a certain set of works which were not up to scratch - in other words, you had an inspector who did not do his job; he either didn't inspect or he knew somebody and looked the other way and certified it - and later on that occupier, or the next occupier, of that house proves that the inspections were deficient and therefore the house has problems, what reparation is available and who pays?

Mr CONNORS - If the building surveyor was found to be negligent, he would pay. We have proportionate liability now built into our Building Act, so it really comes down to the building surveyor. I have to pay the first \$50 000 of any claim of the \$25 000 insurance -

CHAIR - It's under your insurance, though?

Mr CONNORS - Professional indemnity insurance.

CHAIR - You pay the first \$50 000?

Mr CONNORS - Yes. As soon as you get a claim against, your \$25 000 premium would rise to \$45 000 the next year.

CHAIR - Thank you very much for the submission and your very frank discussion here today. It has been an expert panel of some note. You represent a large chunk of the Launceston building industry so we thank you very much for your input. Phil, if you feel afterwards that there are some things you want to add, feel free to write back to the committee.

I need to remind you that what you have said to us here today is protected by parliamentary privilege. Once you leave the table you need to be aware that privilege does not attach to comments you may make to anyone, including the media, even if you are just repeating what you said here today. I don't think anything you have said is defamatory, however, as you were talking about councils and people, somebody could claim it to be. If you were to find any disbenefit flowing to you from any council for any of the evidence you've given us here, I think as members of parliament we would be keen to know about that as well. Any council reading this *Hansard* will note the warning from this chairman.

Mr CONNORS - Thank you for the opportunity.

THE WITNESSES WITHDREW.

Mr PETER GODFREY WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thanks for coming in. You have an interesting perspective on this inquiry. The inquiry was set up because the Parliament clearly accepted that there may be an issue with the cost of building in Tasmania. There are many elements to all that. We understand that you have an interesting point of view of that so we welcome you to the committee. Would you like to make a preliminary comment before we start kicking it around in conversation?

Mr GODFREY - Not really. My background is that I have worked as a builder in Tasmania with a registered builder. Just the two of us work together. I have done building designs, designing transportable cabins, until the Building Act of 2000 came in and quashed all of that. Theoretically we weren't capable of reading this book anymore and I work now as an electrical contractor, which is my real trade. So I have a fair bit of interest in building.

CHAIR - Yes. So you are a registered electrician?

Mr GODFREY - I am an electrical contractor, a licensed contractor - a licensed form-filler really. You do a little bit of work in between filling out forms.

CHAIR - If you find the time.

Mr GODFREY - I rang my supplier yesterday and said, 'Can you send me out some installation notice books?' and they said, 'We are not allowed to anymore. Aurora said we are not allowed to send them out to you'. So now we have to ring Aurora and say, 'Can you send us the books?' instead of the suppliers being able to send them. We can get work notices for Aurora, what they call EWRs, my supplier can send them but they can't send installation notices. Either I drive from Deloraine into Launceston to get a new book to fill out the forms to say I have done the job right or I ring them and say, if I can get them, 'Will you please send me the forms?'. Talk about making life hard. I know heaps of builders who gave up being builders when the Building Act came in because it just made life too hard.

It used to be that when you were building a house the builder could just get a soil test if that was really necessary and say, 'Okay, the soil is class A, S or M, the footings are 450 square, 450 deep' straight out of the Australian Framing Code 1684.2. After the Building Act came in all of a sudden you had to have an engineer design the footings and then the engineers go overboard and want them 450 square and 600 deep and then they used to sign on the form, 'We don't take any responsibility for this; it is up to the builder to make sure it complies with the code'. Well, what was the point of paying them \$1 000? If someone has a mortgage, it is about \$3 000 by the time they pay it off, and it is all here in the book; right in the front is the section on footings. It tells you how much weight the building is going to have, all the calculations are there, what sort of soil, how deep the footings should be. It is the same thing with bracings and the strengths of beams. When I designed the transportable cabins that I used to build I went through this book and designed all of the cabins to fit the rules and now instead of just saying, 'Well, it's all in the book,' we have to have an engineer sign off on them. Now I only wire

them, I don't organise the building because I can't stand being an office worker, so I moved back to being a real person. But it's insane. There are 13 pages of plans with extremely detailed drawings straight out of this book, all the wind-loading calculations - everything - but now an engineer has to say, 'Yes, that's what is in the book' - stamp - '\$500, thanks very much'. So the cost of building just went through the roof.

Mr BOOTH - Is that for every single building?

Mr GODFREY - Yes.

Mr BOOTH - If you built 10 buildings identical, you pay -

Mr GODFREY - I still have to have an engineer stamp them.

Mr BOOTH - For every one of them, so \$500 for exactly the same?

CHAIR - I am not sure whether you are accurate, though, in saying that it came in with the Building Act.

Mr GODFREY - The Building Act required that an engineer had to sign off on footings, he also required soil tests, even though where I live there is a Quamby soil map and blind Freddy can look at it and say, 'I'm on mudstone here and I've got clay. Therefore it's M class soil'. You can read it off the map, but you still need a \$500 soil test.

CHAIR - I am not here to argue with you, but I think in certain parts of Launceston all through the 1990s you were required to get soil tests and engineered slabs. So that was well before that.

Mr GODFREY - Even with bob footings just for piers they want an engineer. They also required - luckily it's gone - the home indemnity warranty that was insurance to ensure the companies got a lot of money and did nothing with it. I am very glad that's gone. That was a waste of space.

CHAIR - Mr Kons did a good job with that and dropkicked that out of the place.

Mr GODFREY - It was a good idea to get rid of it. The PAL policy is another bugbear. I had a discussion with the planning commission a month or so back about that, but in, say, the West Tamar and Meander with their interpretation of it the PAL policy stopped people being allowed to build in the country on any class of soil. In the Meander Valley it's a 100-acre or 40-hectare limit. So if you've got class 5, 6 or 7 soil on your land, it is completely useless; you cannot build on it. People who want to have a cheap building cannot build anymore because it is theoretically agricultural land. Part of the reason for that is gone now; that nobody is going to be converting much of that to plantation. My suggestion to the planning commission was that nobody will complain about you protecting class 1, 2 and 3, but the council should be able to look at each individual block and say, 'Well, that rocky knoll there filled with dolerite talus is useless for agriculture so you can build there', but you can't build somewhere else. And you can't build on a flood plain. They are called flood plains for a good reason, as we've seen in Queensland.

A lot of commonsense has to come into stuff like that and there are just too many regulations. I remember in the 1980s in northern New South Wales I built a house and I went to the council. Their planning things were one A4 sheet that said: your house has to be this big, it has to have this percentage of windows and it has to fit the strength of the framing code. That was it; it was really easy to build.

You can pass this book around and have a look. The Architects Institute of New South Wales brought that book out in the early 1980s, *Low Cost Country Home Building*. It showed hippies, if you want to call them that, or new settlers who wanted to build cheap houses in the bush how to build a house out of what was on your land: round poles to replace square sawn timber; mud brick; what was stable, what wasn't; where to site a house, where not to site a house. We could have something like that down here. If you went up to the Great Lake, a lot of the shacks up there, and I've been in some of them, don't fit anybody's building code in a pink fit. Yet they are there.

It is almost in the psyche of Tasmanians to want to do something different and to have a rough little place to live. In the bush you could build a temporary house easily to that code. You could have a shack code and a house code. If someone wants to sell it, they sell it as a shack or they sell it as a house. People would know that that one doesn't have triple glazing and heating like this place here that melts you in the middle of summer. I don't know why you haven't got airconditioning. But it's a waste of power as well, isn't it?

CHAIR - It is; we're trying to be sustainable.

Mr GODFREY - You see the Aurora ads for heating and the people are sitting around in singlets in the middle of winter. Maybe we ought to have an ad telling people that they have a wardrobe full of things called jumpers. You put the bloody jumper on and that warms you up. You don't have to waste your money on heaters.

Laughter.

Mr GODFREY - Here we are trying to save power but we have someone like Aurora who is plugging people to use tonnes more.

CHAIR - Or you could sit closer - your wife could snuggle in.

Mr GODFREY - That would be a good ad. You should be in advertising - you're in the wrong business.

Ms ARCHER - Don't encourage him.

Laughter.

Mr GODFREY - There's this disparity as well in the building codes that we have. I can buy and a house in our area pre-1989 that doesn't have to meet the building code - it was built before the building code happened - and I can live in that house forever without any insulation. But if I want to build a new house, I have to have underfloor insulation, double-glazing, insulation in the walls, in the roof, and for someone like me I would hate it. I have a window open all year around because I can't stand being hot and I can't stand

the air being still, and we have these houses now that are that sealed up. People go and buy things made out of chipboard that is filled with formaldehyde glues and furniture like this that has formaldehyde in it as well, and all they are doing is poisoning themselves because they don't open the windows. So we encourage people to die from toxicity in their house instead of having a window open and putting a jumper on. It doesn't make any sense.

Plans: I built a shed on my place recently and I drew the plans up as an owner-builder, which I'm allowed to do. I put the plans to the council. The council said, 'You beauty, where did you get the engineering stuff from?'. I said I got them out of the framing code. No problems; the plans are approved. But if you did it and you paid someone else to build, you would have to pay a draftsman to draw the plans, which just doesn't make any sense. This book is the Australian Standard for Building. It shows you how to build roofs, floors, and what sized rooms you have to have. Why do you need to pay someone \$3 000 or \$4 000 to draw a set of plans? It doesn't make any sense. The plans don't need to be that specific anyway. We have building inspectors that work for the council. They know their job, or if they don't they shouldn't be the building inspector. They should come out and look, like they do, and say, 'Look, another couple of bolts would be really good there', or, 'That beam's not quite big enough. Can you change it to something else?', and be a bit more helpful. Then your plan could just be a hand-drawn sketch, like our plans used to be in the 1980s in northern New South Wales. You just drew them by hand on a bit of A4 and took them to the council and said, 'I want to build this'. They go, 'That looks great, no worries.' Then a building inspector would come out and go, 'Yes, it looks really good. Can you put a bolt in there? Can you do this?'. 'Yes, sure', and that was it.

Mr BOOTH - So are you saying that the building inspector should be trained and responsible to understand the codes and be able to tick it off as compliant or not?

Mr GODFREY - How can he inspect if he doesn't know the rules? The Aurora inspectors have to know all the rules to be able to inspect, even though a lot of them don't. If the building inspector is signing off to say, 'I've inspected this building', that should be a legally binding thing to say that that building complies with the code. He shouldn't just turn up and go, 'Oh, yes, yes, beauty, right', and walk out. He should actually have a look - he should know his job. What is the point of an inspector if he doesn't know what he's doing?

Mr BOOTH - So do you think that is where the compliance issue starts and finishes, effectively? If the work complies with the code, the building inspector should be able to understand the code for cottage work or whatever and be able to identify any areas of deficiency, order a correction or otherwise pass it if it complies?

Mr GODFREY - That's his job, I reckon, yes, otherwise what is he inspecting? He's not inspecting anything except to say, 'Can you have a green roof rail or a red one?'. That is pretty pointless. That is his job. The councils advertise for a building inspector that has usually been on the tools and knows the framing codes and the Building Code of Australia. That's it, it's pretty simple stuff to know and the buck should stop there. I don't see why we should go around suing everyone every time something goes slightly different to what we think it should. If the council stamped it to say, 'This complies and we have inspected it', well, they've inspected it and that is all that needs to happen. I

mentioned the planning departments - they should be a little bit more flexible and not so stiff, as Meander are with their 40-hectare rule. That is insane. There are plenty of properties with great house sites and some absolute garbage land and you could put your house on the garbage land out of the flood zone, as we see from Queensland, Victoria and everywhere else. I lived in northern New South Wales and every major city is built on a flood plain, on the bend of a river. Blind Freddy can stand on the hill and say, 'You wouldn't build there, would you?', but that's where the boats came to get the cedar logs so that is where the town grew. Here we have a lot more opportunity to think about things a bit better and not build on flood plains.

CHAIR - I am interested in your comments on the PAL policy. I think every reasonable person would understand that the intent of those policies is to protect agricultural land and for all the reasons that you would protect it, and that each council should have the ability to say whatever. West Tamar would say they have different soils, so they have a 25-hectare provision -

Mr GODFREY - I am not sure about West Tamar but I know Meander is 40.

Mr BOOTH - It's still an arbitrary provision, though.

CHAIR - It is, but I think any reasonable person would understand that the intent of it is to say, 'If that otherwise agricultural land has a section which is basically bandicoot country, you can build on it'. That is what most people think. However, that gets quite subjective. Is it really bandicoot country or could you grow garlic on it, for instance? As an aside, I used to chair the Development Services Committee of the Launceston City Council and we were the issuing authority. I remember we chose to break our own rules once on a bleeding heart submission about this guy who wanted to subdivide off a block for his son who was sick and needed to make his way in the world. No sooner had they built a house on it, they slapped a 'For Sale' sign on it and cleaned up a motza.

Ms ARCHER - I thought you were going to say you were appealed?

CHAIR - It's too late; there's nothing you can do. The point is that everybody can come up with some story about why something should be allowed, so how do you overcome human ingenuity?

Mr GODFREY - If you look at the 40-hectare limit, you could get something like the best farm around and split it into 40-hectare blocks and flog it off and you've destroyed the ability of that land to be a useful farm again. If you have a house with 40 hectares and those people don't intend to do anything except have a cow and a horse and then the next-door neighbour says, 'I'm going to have a few dogs', then the farm is gone anyway. So the 40-hectare limit is counterproductive in that way, and the 25 hectare in the West Tamar is the same. It has to be a bit more flexible where maybe the planning commission has to be a planning commission and look at land and say, 'No, that's farming area, that's industrial, that's residential'. At the moment we don't have planning schemes, we have reactive schemes. A developer comes along and says, 'I want to do this' and then the council reacts to that, instead of the council saying, 'Sorry, that land is put aside for agriculture and that land is put aside for industrial'.

CHAIR - I think most of the world would agree with you on that.

Mr GODFREY - Yes, they want a planning scheme or a planning commission.

I am overwhelmed. I call myself a 'fossil'. I am 55 now and I don't really feel like working that much. I like the idea of earning enough to live and having a life/work balance that is about 50-50, so I get plenty of time to go bushwalking, surfing et cetera. I get people ringing me up all the time, harassing the hell out of me because I am cheaper than my competition and I bother to look for things that go wrong, and other people apparently don't. If they have a fault, the electrician turns up, says, 'Gee, that's a tough one. Sorry, haven't got time', and then leaves. I have had faults where people have had a building extension and nails have gone through wires and livened up the bracing in their house. It took me four hours to find the nail and fix it, but the other electricians just walked away and I am not that sort of a character. We stopped training apprentices. We moved TAFE into some weird thing called a Polytechnic that sounds more like a glue rather than a bloody training institute.

Laughter.

Mr GODFREY - I used to be a TAFE teacher years ago - I worked part time for seven years in New South Wales as a TAFE teacher - and we moved into this weird thing that was competency-based training where theoretically I could go out and watch an apprentice stick a power point on the wall and say, 'Yes, he knows how to do that.' That is not your trade. The trade is to learn a wide range of things, go and do it for a while and then you are bound to get bored doing that and then you go, 'Ah, but I learnt about generators, I may go and work in a power station for a while and move around and do different things', so the training needs to be broad based. They actually need to train apprentices because I am going to retire as soon as I possibly can because I still have a fair bit of life left in me with a bit of luck and then people will be still ringing me up and harassing me all the time and saying, 'But the competition charges \$120 an hour and sends two blokes, we want you' and I go, 'Go away, leave me alone, I'm too busy'. It is almost my answering machine message now, 'Go away, leave me alone'.

Laughter.

Mr GODFREY - Good tradesmen leave. We have this new thing that came out, the Occupational Licensing Act and this is all the information that we have to put on our blasted receipts now. People don't understand any of the bloody thing that you put on there. I give them a copy of the installation notice now and they look at it and say, 'What the hell is an omega sign about, what's that bloody infinity sign about?' and I go, 'It doesn't matter, I just have to give you something that says that it fits all these weird things'. They changed our licence numbers so now I have to remember a whole bunch of new numbers - as if I haven't got enough pin codes and access codes and phone numbers and whatever to remember - because of that National Electricity Market garbage. Aurora actually expects us to go to the house next door to where we are working and read their meter number and write it on a form. At the meeting when they suggested that everyone just said that it wasn't going to happen.

Mr BOOTH - What did they want you to do?

Mr GODFREY - On the electrical installation notice there is a space - an EWR on it - any electrical work requests. There is a space where we have to put down the national marketing number like the number of the company who they buy their power off if contestability ever comes in and the meter number from the house next door and tell them whether it is before or after. That is something -

Mr BOOTH - Do you mean that if you came to fix a power point in my house you would have to go and read the next door neighbour's meter?

Mr GODFREY - If I want Aurora to come and do any work as far as changing the mains or something like that or if I have changed a switchboard and I want Aurora to come and pull the fuse out while I change the switchboard and put the fuse back in, which is the most insane regulation I have ever heard of - like I can turn fuses off, I can go downstairs and turn this whole building off but I can't walk out the front and pull the fuse out off the barge board of a house because that is an Aurora fuse. I thought we were trained to pull that fuse out and work on the equipment while it's not live -

CHAIR - What do they charge you to come and do that?

Mr GODFREY - Aurora have to do that so it means -

CHAIR - What would they charge to come and do that?

Mr GODFREY - I don't know if they charge for that job -

CHAIR - My word, they charge - trust me!

Mr GODFREY - Probably \$75 or something insane, but we have to try to organise them - what they call a 'tee up' - and they turn up, pull the fuse out, then I can work on the switchboard and then ring them and say, 'Can you come back and put the fuse back in?' but what I do is just pull the cable out, put a big connector over the end of it to make it safe, work on the board and put the cable back in. It would be a lot easier if I could just pull the fuse out - I am not working with a live wire while I am doing it - and they just go 'If you are okay about working on it like that, well that's all right' and I said, 'I'm okay about pulling the fuse out, too' but 'No, you're not allowed to. That's our fuse. You can't touch our fuse' but I am allowed to touch the switch. When you buy a meter board and put it on you pay for the board - \$100-odd for the board - and I put it on but all of a sudden once Aurora put their meter on that board belongs to them and we are not allowed to put anything on that board. But I can turn the switch off on the new places but I can't pull the fuse out. My answer from whoever the Infrastructure minister was at the time, which I believe was Mr O'Byrne, that he got from Aurora was, 'It's a regulation. It's the law'. Well, the law is made by you people, you know, so how about changing it? Just make something simpler - like allowing an electrician to pull a fuse out. The only thing I can think of is that they don't trust us to not pull the fuse out, hook a wire on, bypass their meter and put the fuse back in again but if we are going to do that we would do it anyway.

CHAIR - For the record, while I do not mind having a minister verballed, I doubt it was Mr O'Byrne because he was never the Minister for Energy.

Mr GODFREY - His advice from Aurora was that it was the law, or something weird like that.

CHAIR - It was a minister but you're unsure who.

Mr GODFREY - Yes, it was a minister.

The other things that come into it of course are power prices. Once you added Basslink in all of a sudden you have added a monster cost to people's power price. We've got to fish up the \$93 million a year to pay for the cable and the national grid and contestability added more and more layers. The other thing is what about working on the people to say, 'Put a jumper on'. Think about energy usage.

Mr BOOTH - But what you are talking about is in relation to the Building Code in terms of being too vigorous.

Mr GODFREY - Yes, the Building Code is just too silly. There is too much requirement to make a hermetically sealed building up to make it cost less to heat. The Government could save a fortune in power bills by instructing people to use less power and we wouldn't need to build these sealed up places. As far as I know, nobody has ever frozen to death in their house in Tasmania.

CHAIR - You don't think the current sneaky strategy of massive increases to power bills are dampening off demand?

Mr GODFREY - I don't think so. People say, 'Oh well, I can't buy anymore beer this week, I've got to pay the power bill'. I go into houses all the time and they've got their heat pumps running all day while they are out. You ask, 'What the hell for?' and they say, 'I like walking into a warm house'. For a couple of minutes to warm it up when you get home you waste all this power leaving it running. I run on solar power, I admit that. I am not connected to the grid, haven't been connected to the grid for 30-odd years because I don't like power bills and I am pretty frugal with electricity anyway because I collect my own. But I cannot stand it. I will not install millions of downlights in houses because to me they are little exhaust fans. You drill a 90ml hole in the ceiling, put a silly downlight in and it has a gap all the way around the outside and we have to take the insulation away above it and it sucks all the hot air into the roof. What have you done, you've just filled your house with exhaust fans. It is dumb as dishwater, no-one would do that. So I don't even put them in; I say, 'No, I don't do that stuff'. People look at me weirdly, but that is how I am.

Mr BOOTH - What about barriers to entry with a trade; why didn't you become an accredited builder? You were a builder so why did you not?

Mr GODFREY - Because before the Building Act came in, anyone who was a skilled worker like that could be a builder, but after the Building Act 2000 I didn't have the qualifications to be a builder anymore. I didn't do a TAFE course, I just learnt from my boss, working for him. That was not enough to be a builder and then there was all the stuff around the insurance and I thought the home indemnity warranty was an absolute farce and I didn't want to play around with any of that. \

As an electrician I have to have public risk insurance. I worked for 35 years without any insurance and never had any problems but all of a sudden I have to have all this public risk insurance and that costs me nearly a grand a year - well it costs the customers a grand a year because I have to put my prices up. I don't think it really covers anyone, if something goes wrong Aurora comes along and says, 'You go and fix it' and if I do something wrong, Aurora inspects it. They ring me up and say, 'You didn't mark this cable properly, get back and fix it now, otherwise you could lose your licence'. So why do I need insurance? Aurora inspects my work. The guy took two hours to inspect a little place that had two lights and four powerpoints once. Took everything off the wall, every light down, every powerpoint off, the owner was telling me, and still couldn't find anything wrong. because it fitted the rules I read the book so I have insurance for that for nothing again.

Mr BOOTH - So what other areas can you identify that would be, in your view, unnecessary and drive building costs up because that is what this committee is looking at?

Mr GODFREY - I know that in New South Wales - it does not seem to apply here yet - they made a rule that builders had to have their extension leads on 2-metre high stands running through the air to wherever they wanted them to go and then they made them put up fences around the roof so they couldn't fall off the roof. A guy was telling me that it cost a dollar a meter more to put the fence up than it did for the guttering. You had to fence the whole roof to replace the gutter and it was a dollar a meter more for the fencing than it was for the gutter.

CHAIR - Yes.

Mr GODFREY - What happens with screwing an eye on the rib and tying yourself on with a rope or one of those leads that catches you before you hit the ground? A fence is insane. If you go running down the roof and slip and hit the fence you are just going to hit it at waist height and go bump and land on the ground on your head anyway. It is not going to make any difference. I usually just screw a loop on the roof if it is a steep one and tie myself off and work off a rope. Probably some lunatic with a high-vis jacket and a helmet will come around one day and say, 'You are not tied off properly' and I'll say, 'Watch out if I drop something.'

Laughter.

Mr GODFREY - It doesn't make any sense. You have all these weird things that someone in an office - probably with the right intentions - has said, 'We are going to fix this up; we will make it really safe' but they've never been up on a roof and walked around and seen how difficult it is to have one of these retractable lead things and how you keep tripping over it all the time or how, if you happen to slide down a roof and hit the fence, you are on the deck anyway. It is not going to hold you on.

There is that other thing of testing of leads. Well what that says is I can come along and test the power lead that plugs into your laptop and put a tag on it and that says today that lead is okay but it is not going to say -

CHAIR - Is that compulsory, putting on a lead, do you think?

Mr GODFREY - People think it is. Apparently it is only a recommendation, but most people think you have to have it done and the guys make a killing out of charging you \$10 a lead or something to test them. There is nothing to say you haven't thrown it on the ground and run over it in the car park the next day.

CHAIR - Exactly and then it's crook.

Mr GODFREY - It is a nice idea but it is something that does not practically work.

CHAIR - Thank you.

Mr BOOTH - I was just going to drill down into the areas of worthless regulations that you have been talking about. You mentioned the -

Mr GODFREY - Fencing around the roof.

Mr BOOTH - fencing around roofs and so forth and cord tagging, but in your view does is there an argument that it is actually more dangerous to rely on a tag on a thing to decide whether it is safe - like an extension cord, for example?

Mr GODFREY - It can do. People might think the lead is safe because it has a tag on it but they have run over it with their car. Most people don't bother. That is another thing: an ad that says before you get your lead out why don't you run your hand down it and have a look for splits and things. I heard of a doctor being killed years ago when he went under his house, plugged a lead in, rolled the lead out and got to the other end of it and unfortunately for him it was too late that he realised he had cut the plug off it to use it for something else and he got fried and it killed him. Dead doctor.

People should look at things like that before they plug them in. Somewhere there is a personal version of caveat emptor that has to come into the world where you are actually responsible for yourself. If I walk that way and smack my head into the wall I am not going to be able to blame you, am I? It is me who did it. Somewhere that has to come in to stop this insurance sort of blaming everyone else rubbish. If I build a really dodgy building, that is my problem, isn't it?

Mr BOOTH - What about CPD - compulsory professional development?

Mr GODFREY - They are talking about bringing that in for us. It was a waste of space for builders when we went to some of those courses. We turned up and they told us less that we would learn at the hardware store. You go to the hardware store they would always hold some new gadget up - 'Look at this thing?' And you would say, 'You beauty!'

CHAIR - Particularly the old hardware stores.

Mr GODFREY - Yes. You would go to the course and you sit there and they would waffle on for about two hours, yes you have been here long enough have a cuppa and a biscuit and off you go. I don't want to name too many names, but there are still probably companies running courses - companies where you pay them and they send you your points and all you have to do is fill out an odd form here and there and send it back and you get your points, whether you have done anything useful or not. You didn't have to

do anything in the early days you just paid the money and you got CPD points whether you have done anything useful or not. You didn't have to do anything in the early days. You just paid the money and you got CPD points. They are thinking of bringing them in for electricians, but they haven't designed them and thought about them yet, but hopefully they will think for another 10 years and I won't have to worry about it.

Mr BOOTH - Do you think those things are a barrier to people remaining in the trades?

Mr GODFREY - They sure are. It used to cost us an hour travelling into Launceston, a couple of hours at the meeting and another hour travelling back home again for a completely useless course for him to get two points. They could have just said, 'Here's these new things, read the pamphlets, have a look at them'.

Mr BOOTH - Did he have a history of having works found to be non-compliant?

Mr GODFREY - Never. His work was perfect. The thing is that people used to just say, 'I'm not going to do it'. I knew builders who said, 'I'm not going to do it. I'm not going to bother trying to put up with this licence stuff. I'm not going off to do useless courses; I'm just going to work for owner-builders'. They got a way around it, of course; the person gets a building permit for their own house and then the builder trots along and builds it and then they are an owner-builder so he doesn't need a licence. There are heaps of people doing that. There is always some way around it no matter how clever the people in the government department, or whatever, think they are. They can design a thing but there is always a way around it. They said it was to get rid of dodgy builders, but it actually got rid of some really good builders and then made a few big companies bigger and that was about it. It got rid of too many builders and made life hard for the people who are still in the trade because they are so busy. People ring me and say, 'I rang so-and-so and they won't ring back'. I say, 'I'll tell you why. They are too busy. They don't want to ring you back'.

Mr BOOTH - Could the same thing happen with the electrical trade as well?

Mr GODFREY - I'm sure it could. It would annoy the hell out of me. The Australian Standard 3000 came out in 2007. About three months ago they brought out the amendments for that, 44 pages of amendments. So you either buy a new rule book, in which case then you have to read the whole rule book again to try to figure out what the changes are, or you do what I did, print all the amendments out, cut them out and stick them in your book so you know that it is an amendment. How many CPD points are you going to give me for reading 44 pages of, 'We changed this word from 'and' to 'and' with a full stop after it.'? Some of the amendments are that silly. Or they change the colour of a diagram, like the water in the bath from green to blue. There is no difference, why have they changed it, 44 pages in a book that came out in 2007?

That is the other thing, the Standards Association turned into a book-producing company rather than being a standards company. Because they are privatised, and that's a real bugbear of privatising government things, they just keep producing more and more standards all the time. The 3000 is for our electrical code; 3008 is how big a wire we need to use. If I want to work in a marina or a caravan park I've got to get the Australian Standard 3012 and read that one. If I want to work somewhere else there's another

standard. It just goes on and on and nobody can keep up with them. You just end up with a head full of absolutely useless stuff.

Mr BOOTH - Is there anything else you would like to add specifically with regard to looking at costs in the building industry?

Mr GODFREY - I would like to see you bring out a book like this. I know stacks of people who live in illegal buildings and they live in illegal buildings because they don't want a house like what some people call a house these days. They just don't need that and they don't want it. If you sent a building inspector to look at the shacks, he would just put big signs on them saying 'condemned'. But people like living in places like that. If you had a shack code and it said, 'This is a low-cost shack', they go stamp, 'That is all right; it fits that rule. If anything stronger than a light breeze comes through, it is going to fall over, but that is up to you, you built it'.

CHAIR - The counterargument to that is that they say the southern beaches near Sorell used to be all shacks, but they are now commuter homes. They don't have water, sewer or anything and it is a disaster. One of the reasons we have the new sewer and water corporations is the southern beaches. Shacks were at the very base of all that. Someone from Sydney buys one and then they ring their local member of parliament and say, 'Are you insane? There's no water and sewer here'. 'Exactly, mate, that's why you bought a waterfront property for \$180 000'.

Mr GODFREY - There is always going to be a thing either way but if you are making rules, you have to think about who you are making the rules for. It is not like a standard person who fits in the standard-person box, there are people who don't really want to fit in that box. If you make rules that are too stiff, the people who don't fit in the standard-person box are deemed to be acting illegally, aren't they. They say, 'I don't feel that I'm acting illegally, I'm just going to do it anyway', so they do it anyway. That is why you are bringing in an illegal building amnesty. It is not because there are no illegal buildings out there, there are stacks of them, but it is because you don't have a broad enough brush to allow for different people.

Mr BOOTH - You mentioned the government regulations with regard to getting an engineer to design a footing that you never had to get an engineer to design before because you have the -

Mr GODFREY - It's in the framing code, yes.

Mr BOOTH - Can you detail with regard to the normal, simple building process of, say, building a cottage where you see over-regulation is driving up costs? What do you think you should be able to do to build a place, as opposed to the costs that are imposed on you?

Mr GODFREY - I think you should still be able to decide what level of comfort you expect in your own house. I work in heaps of rooms filled with fibreglass and that stuff is toxic; there is no doubt in my mind. I get out of the roof and my eyes are burning and red, my skin is itchy and I cough when I get in there so if I'm in there for more than 10 minutes, I wear a respirator. They are filling houses with this toxic material and when you get into the roof you see in the sunlight coming in little needles of fibreglass floating around

everywhere. If I don't want a house like that, I don't reckon I should have to have it. If someone buys it, they will know it is not filled with toxic fibreglass. They can always get a building inspection. Zed and I used to do them all the time for people buying a house. They'd say, 'What do you think about this house?' and we'd say, 'It's a piece of junk' or 'Yes, it's all right'. You know what you are going to buy, you only have to pay a few dollars for someone who knows what they are doing to look at it, so this whole idea of 'You have to protect the consumers', consumers can protect themselves. If you don't want all that sealed-up insulation et cetera, why should you have to have it? I don't light a fire at home until it gets below 10° because I am okay with a jumper until then. Even after that, you can put a blanket over your feet. You are not going to have electric solar heating, are you? It just doesn't work.

CHAIR - Thank you very much for your submission and for coming and sharing that with us.

Mr GODFREY - Undo some rules, that would be good. Parliament often thinks that its job is to make laws but there are squillions of them that could be got rid of. You could spend a couple of years doing that and that would be really good. Rule number 1, you are responsible for yourself. Rule number 2, it's nobody else's fault. That would be a start.

THE WITNESS WITHDREW.

Mrs JILL DAVEY WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Mrs Davey, you made a submission to this committee about a house that you bought that had been built by an owner-builder, had been inspected by council inspectors, but in your opinion there were clear building problems that should have been picked up at inspection time and were not. We understand that you made submissions to the Director of Building Control. In fact she was one of the first people before us and so we asked her about it and she said that it was under consideration. We then knew that you were engaged and we now understand that you have more to tell this committee.

Mrs DAVEY - The Justice department have found the surveyor from the Northern Midlands Council guilty. That leaves us, though, in a terrible position. We have bought this house and now have nearly a \$33 000 bill to fix it. All the surveyor has to do by the Justice department's finding is to do another course. That does not help us in any way.

CHAIR - This is the Director of Building Control?

Mrs DAVEY - Yes, Kerrie Crowder; that is what she has found.

CHAIR - Has that finding not suggested any way to make reparation?

Mrs DAVEY - No, and the council were the most terrible people to deal with. They kept fobbing me off. They would not take responsibility. I did actually get them there to have a look. I got the deputy mayor to come and look and he could see the problems. We have water coming right into our toilet door frame from the outside of the house. There are no window flashings. There is no insulation in the walls and there are gaps like this on the outside where the flashing boards have been cut too short. Nothing has been made compliant with the Building Code of Australia.

Mr BOOTH - What date was it built?

Mrs DAVEY - It was only built in 2007 or 2008. We moved in 2009 and the certificate of completion was granted the week before we moved in, so one would not have thought we needed to have a building surveyor to inspect this building again because council had passed everything. It had MDF skirtings and they were swelling, so we took them off and they would mildew - black. I rang the insurance company to come and look and they found that it wasn't water inside; it was the structure that was wrong. Then they sent a building consultant, and this is his report and all the pictures that he has taken. My problem with council and their surveyors is that I got all these forms from the council and there are pages and boxes - have you checked the slab, the fittings, the framework, the roof, the trusses, the flashings? - and not one box on these forms is ticked, but they signed their name on the bottom. They have not been to check this house. It was quite obvious that they had not checked it because they would have picked up these things, like no flashings around the windows. Now we have to have every window in this house taken out and all the cladding taken off. There is no insulation in the walls; the house is as cold as charity.

CHAIR - We can see what the issue is here. If there has been an adverse finding against the surveyor then we don't need to go into all the reasons why because it is clearly adverse. Was any advice given to you as to how you should seek reparation?

Ms DAVEY - Council told me to sue the builder. They sent me this booklet.

Ms ARCHER - But is that before the finding?

Ms DAVEY - This was before the finding, yes.

Ms ARCHER - What about after the finding?

Ms DAVEY - No, nothing.

CHAIR - Now it would appear that somebody has decided that council is culpable.

Ms DAVEY - Yes.

CHAIR - What is your next step? Has anybody advised you on that?

Ms DAVEY - No. It is in the hands of the lawyer.

Mr BACON - You couldn't get legal advice?

Ms DAVEY - No, they can't give you legal advice. I asked the general manager, 'Do they have a fund for this sort of thing', and he said, 'That'll have to go through the courts'. So therefore we have to go through courts to get any -

Mr BOOTH - Against the council.

Mr BACON - And they have insurance.

Ms DAVEY - When I rang the owner-builder and told him about this problem, he said, 'Your insurance will cover it', and I said, 'No, our insurance will not cover your workmanship'. This is what council told me.

CHAIR - I doubt that the owner-builder is responsible because he has had people sign off on his work.

Ms DAVEY - That is right; it is council. Why should council sign off on something that doesn't meet the building code? We have the Building Code of Australia, standards to meet, so why aren't these surveyors, who are being paid to do that job, doing that job?

CHAIR - Clearly we have an open case in front of us.

Ms ARCHER - It is probably a proportionate liability case too.

Ms DAVEY - It is going to cost us a lot of money. We have paid far too much for the house to start with, apparently, because it didn't comply and now we have to pay again because of somebody not doing their job.

Mr BOOTH - So your argument effectively is the lack of regulatory control?

Ms DAVEY - Yes. My argument is that these surveyors are paid x amount of dollars to check these buildings. If it was like the builder from Hotondo Homes, he could lose his accreditation by not complying to a building standard. This owner-builder gets nothing; he can get away with it. Why aren't the regulations harsher and more strict for these owner-builders who do not have the skill a builder has?

Mr BOOTH - Isn't the problem that it was ticked off by the surveyor?

Ms DAVEY - It is ticked off, and there again the surveyor is at fault for passing this work.

Mr BOOTH - You relied on the regulatory authority to give it a certificate of completion.

Ms DAVEY - Yes.

Mr BOOTH - An ordinary person would assume therefore that it complied it every way.

Ms DAVEY - That's exactly right, and it didn't.

CHAIR - Complied such that the frames, the flashings - all the boxes that have to be ticked.

Ms DAVEY - They say they don't have to check for insulation but if we have that standard, why are they not checking the insulation? I asked council for that and a fortnight after the Justice department had been and looked at the problems I got a letter back from them to say, 'Yes, there is insulation in the walls', but there wasn't because the man from the Justice department took the power point off the wall and found a hollow wall. Why write and tell me there is insulation in the walls when there's not?

Mr BOOTH - Who wrote to tell you that?

Ms DAVEY - The surveyor.

Mr BOOTH - The council surveyor?

Ms DAVEY - Yes, he told me there was insulation in the walls, and there's not.

Mr BOOTH - Is there building paper or something like that -

Ms DAVEY - Sisalation, yes, that's it, but no -

Mr BOOTH - He is probably calling that insulation.

Ms DAVEY - It was 1.5 -

CHAIR - No, that's not the building part of it.

Ms DAVEY - That's exactly right, Rene. I even knew that and I'm not a builder.

CHAIR - What I am really interested in is what you now do for reparation. If it is now down to you to initiate a legal case against the council, well that is damned expensive.

Ms DAVEY - It is. I had to pay a \$1 500 up-front fee.

CHAIR - To your lawyer?

Ms DAVEY - To a lawyer.

CHAIR - Has your lawyer got this underway?

Ms DAVEY - I took the fee in yesterday because they said there is more hope of getting money out of them than the builder.

Ms WHITE - The council, you would think, would be liable.

CHAIR - Yes, you would think so.

Mrs DAVEY - They should be liable. It has ruined my -

CHAIR - But it is a feature of our legal system that so many cases and so much justice has forgone because people can't afford to buy it. You have to have money, upfront, to brief a lawyer and get in the game even, don't you?

Mrs DAVEY - That's right.

CHAIR - Then they can muck you around against the council's lawyer, which is open-ended.

Mrs DAVEY - I don't want this to go on for years. It has already taken 12 months. I was so sick last year over it and I guess I don't want another 12 months of that either. I want it to be finalised. I have a builder coming next week to try and get it fixed before the winter. I did ring Protek, but Phil Connors was on holiday when I rang. So then I had to get all these other builders in to come and check the job. It has been an absolute nightmare for us.

CHAIR - Yes, it has, and it's awful for you. Clearly, there is a gap in our processes.

Mrs DAVEY - There is, in council.

CHAIR - This inquiry is about the cost of building. If this sort of stuff is happening to you, it's happening to others, and therefore there's a cost to building, and we need to know about that.

Mrs DAVEY - It is the cost of building. On top of our house, we have another \$33 000 to fix the problem plus legal fees.

CHAIR - Yes, it's something that this committee will need to consider and make recommendations on. It's terrific to get a real-time update on a case.

Mrs DAVEY - This is live.

CHAIR - A live case, yes.

Mrs DAVEY - Can I also say that this man - I know he rambled about electrical work. Again, this owner/builder did all the electrical work in the garage himself. None of the wiring is to a standard. Because the shed is a metal-framed shed, the shed is live or it could be.

CHAIR - Live to earth.

Mrs DAVEY - I had Aurora out to inspect it and they are going to pursue it, and they will fine him. Even the earth wire to the house is illegal and the metre box wasn't right, they had to come back. All these things should not happen in this day and age. They shouldn't happen in Tasmania. We're a good State and why should we have this shonky nonsense?

CHAIR - Exactly.

Mrs DAVEY - I don't like it.

CHAIR - Thank you very much for your original submission and the update on that has been terrific.

Mr BOOTH - I was going to make a comment that you should take very careful and considered advice as to how you pursue this because we have seen a number of people who have suffered detriment as a result. In a couple of these cases, they were registered builders, one with the HIA, one with the MBA, so the consumer had every confidence, they thought that the house would be compliant, but found that the places were similar to yours - just a complete mess. They pursued the legal process of arbitration and so forth, and they have spent, in one case, \$150 000-odd in legal costs and haven't had a nail straightened in the house. They can't get the legal fees back either, so be very careful that you consider it.

Mrs DAVEY - I haven't spoken to the barrister yet. We only decided on that yesterday. I told them if they don't have plenty of fire, not to bother, because I have more attitude than they'll ever have.

Mr BOOTH - Yes, but the costs can be enormous.

Mrs DAVEY - Yes. If there's not a good case, well, I may as well drop it.

CHAIR - The Director of Building Control has made a finding for a start.

Mrs DAVEY - That's what the barrister said.

CHAIR - It staggers me that that's all the Director of Building Control can actually do - make a finding.

Mrs DAVEY - That is what she said.

CHAIR - But that's our system, and that's our job to look at it.

Mrs DAVEY - She said that that was the act. That's as far as they could go. I knew there would be no compensation but I thought that this man would have been dealt with more severely for doing this sort of work. There were two of them, actually, one was in charge of the job, the other one went and checked. 'You come along and check my job', but he signed his name to it for me. 'You signed your name onto this paper for me'.

So the two of them worked together against me on this job.

CHAIR - Thank you for that and if you get that to my Longford office, I'll circulate it to all committee members. That'll be great.

Mrs DAVEY - Thank you very much.

CHAIR - Thanks for your very frank advice and we wish you all the very best.

THE WITNESS WITHDREW.

Mr JOHN FULTON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thank you very much for coming in, Mr Fulton. I give you an opportunity now to speak to your submission. This committee has been set up because the Parliament feels that there may be a case that the cost of building in Tasmania has been inflated by various laws or there has been policy creep in a certain area. We are open to look at everything but we are particularly looking at arrangements that actually add to the cost of building in Tasmania. So with that I invite you to make your opening statements.

Mr FULTON - I like the last two guys - or the last person and the one before they were spot on.

Before I get into what I really came to say, I will submit these photographs - they were taken by Protek of much the same problem here in Launceston, and this is the report from Protek. I have taken these photos and what happened was it was done by an accredited builder right at the start and the substandard work all the timber joists in two years have rotted out, the woman of the house at asthma and because of the mould spores which she had to get down and clean she suffered sickness for six or nine months and the doctor could not work out why it was until they found out it was the spores from the poor workmanship.

Mr BOOTH - So, John, you are tabling these for the committee?

Mr FULTON - Yes.

Mr BOOTH - And this place was built by an accredited builder?

Mr FULTON - Yes. I personally presented that to one of the members of WST - I couldn't actually give them a copy of it because I had no authority - but I told them it was there and where they could go to get the document, but no action was taken.

Ms WHITE - WST?

Mr FULTON - Work Standards Tasmania.

CHAIR - Workplace Standards.

Mr FULTON - This report was a media release - the date is in the *Examiner* - by Roy Ormerod and I underlined it in red where he says 'if people have their paperwork correct then it shows that they are a good builder' and here we have actual defects. As you read it, you will see that the way the Government is working has nothing to do with accreditation or quality of workmanship, it is about paperwork. That statement by Roy Ormerod there, just gives it in a nutshell what is going on.

Mr BOOTH - The statement where he says:

'Our auditors should be looking at quality paperwork. It is not our role to be looking at the level of detail of building practices.'

Mr FULTON - Yes, exactly.

CHAIR - Did he really say that?

Mr FULTON - Well, that is the media release. To a select committee -

CHAIR -

'If people are slack on paperwork they are likely to be slack in other areas.'

Oh, my goodness!

Ms WHITE - The newspaper could have got it wrong, you never know.

CHAIR - That was a Legislative select committee.

Mr FULTON - It is a select committee, it would be on record if he did actually say that.

Can I just say one thing before I pass on from that. That guy who owned the house will not use an accredited builder. He will not use an accredited builder for any more work. I work with about seven builders and out of the seven only one ever registered, the others are doing home owner/builders. One of the guys who did the repair on this job is now full time demolishing accredited builders work and putting it back together as it should be. He is pulling accredited builders work apart after this sort of thing happens.

CHAIR - John, just for the sake of the committee, could you just explain your background in the industry and what practitioner you are at the moment?

Mr FULTON - I actually started building back in the seventies. I left my trade, which was a toolmaker - fitting and turning - and I went out into construction and from that construction I went into building. Then I obtained a plumber's licence and then I got a civil engineering diploma and I am basically working between civil engineer diploma and the trades. I can cut across the whole bang lot of them, because I cover a whole heap of qualifications.

CHAIR - Are you currently a registered builder?

Mr FULTON - No, I'm not registered anywhere and that is why I am here actually, because they refuse to issue me a licence on the basis that I am not earning enough money.

CHAIR - Okay. So what are your qualifications?

Mr FULTON - So I started off toolmaking, fitting and turning and then I was a motor vehicle mechanic and I did that at night school.

Mr BOOTH - You have certification for all these?

Mr FULTON - Yes, these are all certified.

Mr BOOTH - Just you need to read out what it is because *Hansard* won't show you holding it.

Mr FULTON - Yes. Heating and ventilation, plumbing, sanitary plumbing, back flow prevention, civil engineering.

CHAIR - Have you practised as a plumber, for instance?

Mr FULTON - Yes, I've done 30 years.

CHAIR - As a plumber?

Mr FULTON - As a plumber. Ten years as a toolmaker, fitter and turner. Probably four to five years physically building houses. Then I've got my civil engineering diploma, where I've done design work. I've got a fairly broad spectrum right across the whole building industry.

CHAIR - You are saying that you can't get registration in any of them because you don't work enough?

Mr FULTON - The government keeps putting up the registration fees; as you saw in my report, they were up to \$10 000 and by the time you add your overhead costs on there is \$15 000 just to obtain registration. This is an application - just pass them around.

CHAIR - What would you like to be registered as?

Mr FULTON - I have got to be registered as a plumber. I have to be registered under the Building Act to be able to do design work.

CHAIR - I see, to design.

Mr FULTON - This is the last one I did, the last lot of designs. I could not get them through council because it wasn't viable to pay the registration fees and the insurance. It was presented to council and the council knocked it back, because I hadn't paid the government the \$2 000 in registration fees.

CHAIR - So you would wish to be -

Mr FULTON - I have got to maintain something or -

CHAIR - You got to earn a living, that is right. So if we could wave a magic wand, what would you be registered as next week?

Mr FULTON - I would have my plumbing registration upfront because I've been working 12 months now unregistered. I am driving unregistered vehicles. There is not enough money to go around to register the vehicles. I have got six vehicles to register. I have got my private car, I've got a ute, I've got a truck, I've got an excavator and I've got two trailers just to be able to conduct a business.

Mr BOOTH - Do you need the excavator?

Mr FULTON - I need the excavator, and the truck to tow the excavator. The truck registrations are set for the transport industry; they are not set for someone who has to get from point A to point B to earn a living. I am running 1 000 kilometres a year whereas a truck operator is running 20 000 a year. There is a big different but I still have to pay the full registration fee. If I am designing then I have to put a percentage in for heavy vehicle registrations and the consumer is not prepared to pay a heavy vehicle registration fee on a drawing, so the whole thing skyrockets.

Mr BOOTH - So at this stage you're not registered as a -

Mr FULTON - I'm not registered under anything and that has created another problem.

Mr BACON - Is that because of the cost?

Mr FULTON - Yes, I am not earning enough money.

Ms WHITE - To cover the cost of your registration?

Mr FULTON - There is a minimum amount of income you have to have to maintain your own existence. It has to be established by parliament what the minimum income is that is needed for human existence. It is no good putting a licensing fee on if it is going to come out of that minimum income. So if \$17 000 for a single person is the minimum income needed to sustain life, and if you have \$15 000 worth of licensing fees, that only leaves \$2 000 to live on.

Ms WHITE - So if you were to start up this business tomorrow, it is very difficult because the costs are inhibitive?

Mr FULTON - I would never have worked in my life under this legislation now. I damaged my spine in a sporting accident in 1972 and that has limited my capacity to work by about 40-50 per cent. I have good times of 20-30 per cent and bad times, but I have managed to live all my life with a disability. I take care of it and I can manage; I have never been on social security but under the current regulations I can't do it.

Ms WHITE - With the registration of your vehicles, because of the cost you need to pay for the excavator and your truck to cart it, would it be cheaper for you to sell those and then hire them when you need them at appropriate times, if you are doing such little work that you are not even covering the \$15 000 a year?

Mr FULTON - No, the excavator is being used. If you have an excavator on site you are looking at \$80-90 an hour. While you're working you might use an excavator for one, two or three hours a day; it all depends on what you are doing. You can't have an excavator sitting there doing nothing but churning up the cost at \$80 an hour. You can't keep getting them back. Not only that, I have the excavator to protect my back from damage, so where someone might get in and do a little bit of work with a shovel I use the excavator instead. You will find most of the builders now have their own excavators. For 40 years I have had some form of earthmoving machinery to protect my spine. With

big constructions - I have done million dollar jobs - you can't hire equipment in for an hour, take it away and then bring it back. Every time you take it on and off the job there are on-costs. It doesn't work. You have to have your own equipment otherwise the costs would just blow out; you would never get a tender.

Mr BOOTH - Basically I think the point you're making there, John, is that because of your disability with your back -

Mr FULTON - That's just one thing.

Mr BOOTH - Yes, but because of that you can't afford the overheads - the fixed costs of all the registration and licensing fees - because you can only work one or two days a week.

Mr FULTON - I am probably working 50-60 per cent of the time.

Mr BOOTH - So two-and-a-half days a week?

Mr FULTON - Yes, something like that.

Ms ARCHER - There's no other reason why you wouldn't be approved, though?

Mr FULTON - No, it's just that I don't have the money.

Mr BACON - How much is the plumbing registration?

Mr FULTON - With insurance it is over \$2 000 this year.

CHAIR - Kicked in in December, as Mr Brooks pointed out to Parliament.

Mr BOOTH - So \$40 a week to be a plumber?

Mr FULTON - No, it works out a lot more than that because you are dividing that by 52 but we only work 44 weeks a year and out of the 44 weeks a year you have to take off time for quoting, book work, inclement weather, short days. People don't realise how many short days you get. You get to a job and you're there for six-and-a-half hours and it is not worth going to another job by the time you take travelling time into it, the time you get your tools out and try to do something. The day is finished before you actually do anything, so you finish up with a lot of short days. You have inclement weather for two or three weeks. You have all your quoting time and book time so you are only working and charging for about 50 per cent of your time.

Another problem we have is all this substandard work. For instance, with that photo I showed you, if they did that job in two weeks doing substandard work, for us to do it properly it would take four weeks. They get paid \$80 an hour for doing substandard work and they can get through it in two weeks, but we have to put in the same tender as those to be successful, so if it takes us twice as long we are only getting \$40 an hour instead of \$80 an hour. So all this regulation and all the costs of licensing are actually pushing people to be poor builders and good builders are being forced out of the industry, so you finish up with an industry with totally incompetent builders because they are the ones who are ripping people off by doing substandard work but they are the ones who

have the money to pay the licensing fees. The ones who are doing the proper thing can't their hourly rate up to cover it because they are competing against substandard work so they get forced out of the industry. The whole regulation process is encouraging people to be incompetent and do bad workmanship.

Mr BOOTH - How did that accredited builder get that stuff through council approval or was that illegal?

Mr FULTON - I don't know.

Mr BOOTH - Do you know if the job was tendered?

Mr FULTON - I don't know if it went through council. There is a lot of work going on that doesn't go through council.

Ms WHITE - Is that your house?

Mr FULTON - No.

Mr BOOTH - That job that you have the photos of and somebody repaired it, was that job approved by council?

Mr FULTON - I don't know how approval would go because he won't use an accredited builder. If you had something like that happen to you with an accredited builder, there is no way in the world that you are going to get another accredited builder back. This other guy is a brilliant builder, absolutely impeccable, but he is not registered. He knows his job and people are clamoring over him and his phone never stops ringing because they want an unregistered builder who is competent. They don't want incompetent registered builders.

Mr BOOTH - So you are saying that there are accredited builders out there who are incompetent?

Mr FULTON - Totally. I went to a job a couple of weeks ago. There was a problem. He had one plumber up there to have a look at it and he said, 'Your septic tank is blocked', so he gets it cleaned out, which is probably \$200 or \$300 to get the top taken off and cleaned out, but it did not fix the problem. So he called him back and he shoved his camera up the drain, 'No problem, it must be in the soak trench', so when I arrived he had an excavator there for six or seven hours digging up all the soak trenches trying to find the problem. Then he called me and said, 'This has cost me \$2 000; can you come up and have a look?' I have known for 15 or 20 years this builder who owned the property, so I went up there and said, 'What's your problem?'. He went up and flushed the toilet and in the time it took the toilet to flush I said, 'I know what your problem is', and within 20 minutes I had the problem fixed. What you have is a whole heap of people who don't know what they are doing, because it only took one flush of the toilet for me to know what the problem was, yet three other plumbers could not pick up the problem.

I did a job out at Moat Farm at Carrick and they had seal gases right through the house and water pouring in through the roof. He had the plumber who actually did the renovation there. He got him back and he charged him \$3 000 and did not fix it.

Somehow they got my name and I went out and had a look. The workmanship out there was just absolutely crap.

Ms ARCHER - How do you improve that, though, because lowering the cost of registration is not going to get rid of all the bad seeds in the industry?

Mr FULTON - No, it is not going to get rid of the bad but at least it keeps the good ones and it allows the good ones to work.

Ms ARCHER - To compete.

Mr FULTON - Yes; \$15 000, if you take the overhead costs, is a lot of money per hour that you have to regenerate.

Mr BOOTH - On the hours that you are charging out?

Mr FULTON - On the hours that you are charging out. There is another thing here - and I did mention it in my submission - about ageing population, and the ageing population is one of the main criteria that you are going to have to look at. In this document, produced by Tasmania -

Mr BOOTH - Scott, would you read the name for *Hansard*?

Mr BACON - 'Fees under the Occupational Licensing Act 2005' and 'The National Occupational Licensing System'.

Mr FULTON - On page 8 it says:

'Approximately 21% of the current registered plumbers and LPG gasfitters are over the age of 60.'

Twenty-one per cent is over 60. There is another 21 per cent between 55 and 60. That is 40 per cent of the industry coming up to retirement. On those graphs - and I have put a coloured band - half the industry is in that little part, and they are all the good tradesmen. Then you have the other 58 per cent spread over 40-odd years. Those people within that band width are the ones who are cutting their hours back because of age. It is a little different physically working out there all day than it is sitting in an office writing with a pen. Licensing fees are going up and up and it is pushing them all out onto the dole.

I was talking to the manager of vehicle registrations and when they are looking at viability, they said, 'We don't have to worry about the viability of government assistance because that's Federal, not State'. I asked them, 'If they put us out of work, the cost of paying us not to work is a real cost, it must go against it' and he said, 'It's not a State cost and therefore we don't put it into our calculations. It goes against the Federal budget if it is available'.

Ms ARCHER - So fees should be commensurate to the hours of work, perhaps?

Mr FULTON - Elise, you're not going to do it. The Plumbing Act came in 1952 and when it was brought in it was a very nominal fee - last year it was \$25 or \$35, very, very

minimal - and what it did was give recognition that you were a tradesman. It doesn't matter if you work 100 hours or 3 000 hours a year, you are registered. It is the only way a licensing fee can work because you have to deal with human beings and human beings can have disabilities, they age, they get sick. We have economic recessions, and economic recessions are deadly - I have been through four to six of them. There is no social security. If you work for yourself you are treated as a business and as a legal entity; legal entities do not need social security. I can rephrase it in another way by saying if you sell your labour direct to the consumer, there is no social security. If you sell your labour to an employee who then on-sells it to the consumer -

Mr BOOTH - Sell it to an employer.

Mr FULTON - Employer, sorry. Sells it to an employer, they can access the social security system. So it all depends on how you sell your labour to the consumer. One is entitled to social security, the other is not. I have never been able to access social security in my whole life. My back collapsed, I couldn't even walk for four years but I still couldn't access social security. So the licensing fees have to be set in such a position that they are affordable even if you can't walk. They have to be because you are dealing with human beings.

Mr BOOTH - Because otherwise what you are saying is without the licence you cannot work which means -

Mr FULTON - You die. The bottom line is you die. I have had 15 years of trying to deal with it and the Government has basically said that if you're going to die then it is a very strong incentive to comply. So they have endorsed that death is part of the regulatory system.

Mr BOOTH - Obviously dying is a significant cost to both yourself and the consumer but in terms of looking at the cost of building, is it a fair thing to say that your contention is that the fees and charges that you have to pay before you lift a spanner are so high that they are keeping people out of the industry?

Mr FULTON - Yes, they exceed my income. We've just been through an economic recession. You all know that the building industry is slowing down because the Federal Government has pulled the economic stimulus off. It was in today's paper that it was slowing down. When it slows down big industry drop off staff. They sack staff. For us who are sole traders, we have just got to wear lower income. Our income can drop from \$60 000 or \$70 000 down to \$5 000 in an economic recession. There is no-one there to pick up or give us money. There is no social security. So during times of economic recession you don't pay your licensing fees because you have a minimum amount of income you need to maintain human subsistence.

Mr BOOTH - So that keeps you out of the industry?

Mr FULTON - No, it means we work unregistered. It can't keep us out of the industry because we die. The bottom line is that death is the ultimate penalty for all this licensing.

Ms ARCHER - It probably means tax doesn't get paid too, I suspect.

Mr FULTON - Well, I was going to submit this as well. This is a letter from Launceston City Council and Ben Lomond Water. Because the Government refused to give me a licence because I wasn't earning enough, there was no money to pay the council rates. So I made an offer to pay it in labour, it is the only thing I've got left, and the council will not accept labour. So what do you do? This is dumber and dumber stuff. You take our licence away so we can't convert our labour into currency and then the council turn around and say, 'We require payment in money'. We have no money because you won't give me a licence.

Ms ARCHER - They did not refuse you a licence.

Mr FULTON - No, I didn't have enough money.

Ms ARCHER - You couldn't afford to pay for it.

Mr FULTON - I didn't have enough money to pay for it, which is exactly the same thing as a refusal. Now they have turned around and said, 'Well, you must die now'.

Mr BOOTH - If the fee was reasonable you would have a licence, that is the point.

Mr FULTON - If it was like it was, \$20 or something like that. It has to be nominal because it has to be able to cope with human limitations, ageing, injury, sickness, disabilities, right across the whole spectrum. You can't push them up because as soon as you do the human limitations will stop you working.

Ms ARCHER - Does it have to be paid in a lump sum? Will they accept part payment or monthly payment?

Mr FULTON - No.

Mr BOOTH - John, you mentioned that you were with a team of six initially. How many of them are plumbers?

Mr FULTON - No, they were all builders.

Mr BOOTH - Are any of them accredited?

Mr FULTON - One.

Mr BOOTH - One out of six. So that means effectively the accreditation process, costs and so forth, has effectively driven five of those six out of the industry.

Mr FULTON - And they are all extremely competent and good builders.

Mr BOOTH - What are the issues there that have driven them out? You have talked about the cost.

Mr FULTON - The cost, the continual professional development, which is a load of rubbish - a total load of rubbish.

Mr BOOTH - Can you give us some examples of that?

Mr FULTON - Andrew, one builder who was registered, is on edge having to get all his paperwork in about all the courses he has done. He is getting letters back from Work Standards Tasmania saying, 'You haven't done this box and you haven't done that box and we're going to take your licence'. They are living under threat and when you are living under threat it has a psychological effect on people.

Mr BOOTH - Has the CPD made him a better builder, though?

Mr FULTON - No. All it has done is make him angry. If you go on the site, he is a very calm, collected, very nice person, but now because of all the costs and all the CPD, he is just very, very angry. At work now he has to be extremely efficient and keep the blokes going.

Ms ARCHER - Just on the CPD, before the days of CPD how would you stay up-to-date with any changes in the Australian standards or anything like that?

Mr FULTON - What changes?

Ms ARCHER - So there were very few changes. If there were changes, how was it done in the past?

Mr FULTON - You read the information on the box. If you have to install something, you get the information. You go to a CPD point, listen to the lecture - it is well documented in psychological studies that 50 per cent of the information is gone out of your head by the time you get out the door. Within a week you have lost 90 per cent of the information. To retain information within the body there are only two ways of doing it: one is by repetition and the other is by deep understanding. They are the only two ways you can any long-term memory. With continual professional development you listen to a lecture and 90 per cent of any information will be gone within a week and 100 per cent of it will be gone within three months, so it is all a waste of time. For me, and for most people, if you have new products you get the pamphlet and read it and then go and do the job. The only issue is the change in regulations need to be upgraded. It is not products that are the problem, it is the regulations. The regulations - or any changes to them - aren't being sent out to us to read.

CHAIR - This is no comment on your situation or the other six that you were talking about, but there is a way around the CPD and registration et cetera and that is to become a contractor to people who do that. This is what many builders have done, who choose to still work for themselves but don't put themselves out there as registered builders, and work on jobs for the registered builder. In that way they avoid all the nonsense that the registered builder has to go through. It is obviously not as much money but he doesn't have the outlay either.

Mr FULTON - No, he doesn't have the outlay but there are other criteria that you're not dealing with. One, if you have a disability of any description you are not going to be a reliable person to get to the job every day because if your back stuffs up you don't turn up.

CHAIR - That would be the case if you were a builder, too.

Mr FULTON - Yes, and I have had to deal with that. If I get in an hour or two hours a day - I have got away with it for 40 years and been able to work with it - but no-one is going to contend with that.

Second is your personality. The more artistic you become the less ability you have to work under the authority of someone else because all your artistic abilities are squashed by the overhead principal contractor. You have to take that into consideration. Artistic people might be 5 per cent or 10 per cent of the work force, probably more in the building industry than other industries because of the creation aspect of the building industry, and they have difficulty being able to maintain a job. If I go to work for a builder and it doesn't allow me the freedom, I go into depression and three or four hours later I walk off the job. That is just my personality, I can't control it.

Mr BOOTH - If you are working as a builder, traditionally people have a contract between the client and the builder where the client says, 'I want a veranda built on my house' and that interface between the builder and the client is the important ingredient, whereas you couldn't subcontract that out to someone else - be a builder and say, 'I'm going to get Fred to come round and do it.'

CHAIR - The gentleman sitting here earlier, the builder, he was one of our apprentices 30 years ago. My guess is that in Launceston there are probably 40 young people who went through but of them my guess is only 10 of them are registered builders. The rest of them still have a nail bag on but -

Mr BOOTH - But that might be because they cannot get accreditation, whereas if they didn't have to do the CPD -

CHAIR - That's true and there is a degree of niggle there too, don't worry. They all don't want to go through all that stuff.

Mr FULTON - There are a lot of people who do not want to take the responsibility. You have to look at society and how society is made up and there is a certain lot of people who are artistic. To operate you have to have artistic people who create the thing, then you have people who are good at management - it's called the people principle - and then you have the workers down underneath, which is the bulk of the people. Now if you try to get those who are up the top who like creating or the management and try to put them down there they won't work, they won't perform. You have to realise there is a certain criterion a box that every human being works in and you can't turn around and say you have to come out of that box and go into this box because it will only cause depression.

Mr BOOTH - In any event you have been a builder for 30 or 40 years I think you said and you can't now work as a builder legally?

Mr FULTON - No. I was designing. I can't design.

CHAIR - As a designer?

Mr FULTON - Yes, I can't get it through. There is nothing wrong with it.

Mr BOOTH - You were a builder as well.

Mr FULTON - It cost me \$100 000 to get the qualification - me, personally, \$100 000. Then I had to update to AutoCAD and it was another 12 months' course.

CHAIR - Yes.

Mr FULTON - One stroke with a pen you have to pay these fees, you have to do all this accreditation, you have to have all this insurance - bang, \$100 000 of my time out the door. It is obvious that the Government does not want qualified people. You don't want qualified, confident people.

Ms ARCHER - But if you are an owner/builder you could submit something like that.

Mr FULTON - Yes, that is how this actually got through. It was an owner/builder and even then you have trouble because it was done on AutoCAD and when he submitted it he said to the owner/builder, 'You didn't draw these up. If they were drawn in pencil we would accept it because they are drawn on AutoCAD we can't accept it'. He had to go through the argument to say that he had actually pressed the key a couple of times to do something on the plan to make it that he actually did it. Now this is ridiculous when you have to have an owner/builder standing beside you and telling you which key to press on the keyboard so as he can get a set of plans through a council.

Ms WHITE - Which council was that?

CHAIR - No, don't feel you have to answer that.

Mr FULTON - No, I would prefer -

CHAIR - If you don't want to you don't have to.

Mr FULTON - No. That is how ridiculous the system has got. If that went through a builder he couldn't get that through the council because it would have to have an accreditation number. If it goes through a homeowner and as long as he pressed one key he can get it through. If he doesn't press the key he can't get it through and that is the ridiculous thing.

Mr BOOTH - What do you have to say about standard designs where a design has been done professionally by an accredited person and then you build multiple dwellings out of that standard approved plan? You used to be able to buy books of approved plans or other house plans..

Mr FULTON - Steel sheds. They are basic but if they have the certificate on them - every one is just a repeat except for the soil structure underneath and the soil structure in Tasmania is very, very poor - it is the worst in Australia except for a section in South Australia. We have highly reactive clay, as you all know, and it varies between what part of the State we are in and I have done a lot of underpinning and so forth. Other than that, if you have a structural certificate it will stand anywhere.

I was going to say Andrew, a registered builder, went to put a lean-to on an external door and all it required was two posts up, a piece timber on the brick work, two sheets of iron and a little bit of spouting and his cost was \$500 to do the job for this lady and the building costs were \$600 - the building approval was \$600; minimum building fee \$600. The total cost of the job was \$1 100 and \$600 was building fees.

CHAIR - Well, it sounds like minor works to me which most councils have a minor works provision and that is not \$600.

Mr FULTON - I think you will find it is.

CHAIR - We will find out.

Mr FULTON - You are talking about costs. Say you work 400 hours a year, I'm working on about \$50 an hour because I can't compete against bad workmanship who are charging \$80 an hour, because I have to spend the extra time on the job. So our hourly rate comes down.

You have statutory costs of \$10 000, overhead costs of \$6 000 in earning that \$10 000. The Commonwealth tax is nil and you finish up with a disposable income of \$4 000. So if you go up to 1 200 hours a year, which is about seven months' work, you earn a total labour income of \$60 000, your statutory charges are \$10 000, your overhead costs increase to about \$20 000. Remembering that I can burn anything up to 150 litres of diesel a day, your Commonwealth tax is \$5 000 and you finish up with \$24 000.

If you push it to 1 400 hours, which gives you \$70 000, you still have \$10 000 in statutory costs, overhead costs increase again, your Commonwealth tax increases and you finish up with \$28 000. Now the Commonwealth social security will pay you \$28 000 not to work. So you have to look at the costs of what we're actually getting against the Commonwealth and whether it's even viable to go to work.

Underneath I have set out the maximum weeks per year, 52, public holidays, sick leave, it gives you a total number of 44 weeks per year. The total number of hours worked in a year on a 36-hour week is 1 584 hours then you have lost time, short days, inclement weather, which I've put down as 60 hours - which I talked to you before about - quoting discussion with client, 100 hours - well, you'd go through more than that - so your maximum paid hours per year is 1 424 hours and your maximum income you can get on that basis is \$29 000 which is less than the Commonwealth social security.

So why are you charging \$10 000 when you can get \$29 000, tax-free, from social security. If you pay the licensing fees, you are going to finish up with \$19 000 for working a full year.

You can go through those figures.

CHAIR - Do you have a position on how we might fix this? You are saying that the registration costs are too dear, you are saying make them \$20. Well, winding that out from the system, as we have it, is probably impossible. However, is there a case for

somebody in your situation that there be a separate class of registration - a part-time class or something?

Mr FULTON - If you read this document - you still have that, I think - someone has it.

CHAIR - Yes, it's here. This one is marked up though. It has your writing in it.

Mr FULTON - No, that's all right, that was only for references. In this document it says that cost recovery and the State's cost is around about \$330 000 a year to the national occupational licence. The Government has just created an \$8 million department to run this. It says that you have to be self-funded, so the only way you could self-fund is through licensing fees.

So they have committed to run an \$8 million industry which is going to force more people out of work.

In here it says if you don't pay your licensing fees within two weeks of their coming due then if you have a look at it you will find there's a \$250 000 fine for working unregistered - \$250 000 fine - and that's for a company or corporation - and a \$50 000 fine -

Ms ARCHER - That would be the maximum. It'd be discretionary.

Mr FULTON - No, there's nothing in there to say that. That is what the fine is, \$50 000 fine and 12 months imprisonment for earning an honest day's work.

Ms ARCHER - I think you'll find there is a limit that can -

Mr FULTON - It doesn't say it in the act and if it's not in the act -

Ms ARCHER - I've seen it in a lot of this sort of legislation. I think it's an either/or and a maximum.

CHAIR - It doesn't mention anything here.

Ms ARCHER - It wouldn't be a stipulate.

Mr FULTON - But it says that in two weeks unless you can provide a reasonable excuse they automatically send out an infringement notice.

CHAIR - So your proposition is that people should be able to break the law for cheaper than that?

Mr FULTON - If we can't afford to live, what is going to happen; who is going to pay us? I have had it out with the Commonwealth social security. State licensing laws are invalid under section 109 of the Constitution and Commonwealth law requires us to work. As soon as we come back to work we have to pay the licence fee. They are invalid under Commonwealth law.

Mr BOOTH - John, given the bell curve that you have shown us with the ageing trades population creating a shortage and your own evidence that the costs are actually driving you out of the business or forcing people to work illegally, how do you see the best way of keeping those skills available to the community as people get older and they have disabilities and all those things?

Mr FULTON - The Plumbers and Gas-fitters Registration Act started in 1952 and it has gone right up until 15 January. They only had a nominal fee and it has worked without a problem for 60 years and now they have brought in the new act and it is creating problems. You have to go back to what it was. How are you going to define who is earning how much money? You can't. The Government can't. It has to be able to work for everyone. It has to be able to work for a person who is 70 years as much as a person at 20.

Mr BOOTH - So if it was nominally, say, a \$50 fee to be paid annually to be registered in the trade that you have already achieved the skills in, you should be able to carry that every year as long as you want to work even if you only end up working one day a month.

Mr FULTON - Yes. It has to be cheap enough. It has to be set at the position where human limitations do not interfere with the act.

Mr BOOTH - The fee is a barrier to participation?

Mr FULTON - Fees are a barrier. I have set out the fees in that submission.

Mr BOOTH - What other barriers would there be then - the other requirements of CPD, for example?

Mr FULTON - CPD should go. It is a waste of time and a waste of space. The only thing that I would recommend is that for those who are registered the upgrades of the code could be sent out by e-mail, so there is really no cost to the government. We don't get upgrades to the code. We have to go looking for them and we have to pay massive amounts of money to get the Australian Standards, and they are not cheap. They are \$600 or \$700 a copy. Plumbing is one set, the building code is another set and gas is another set of codes, so the next thing you know you have \$4 000 or \$5 000 worth of Australian standards that you have to buy every 12 months. You just don't worry about them. We really need the upgrades but we don't want to go right through the whole code every time you get it. For any upgrades or any variations, yes, we do need to know them. There is a problem where some builders don't have computers and don't have e-mail. They haven't got to that stage yet and they don't need to get to that stage, so for those who don't have computers you might have to send a letter. E-mailing all changes would be good and I think that is all you basically need for us.

The other thing you need is inspections, inspections and inspections, which Kim has pushed for eight or nine years. He said the only way to correct what is going on in the industry is inspections and he has held that view since he has been a politician.

Mr BOOTH - Since before actually.

Laughter.

CHAIR - More inspections?

Mr BOOTH - No, competent inspections, and staged at the critical parts of the job so you don't have this situation that we had with Judy where she ends up with a house that is just useless, and the pictures that John has brought in.

Mr FULTON - It should be picked up. Any problems should be picked up straightaway by council inspectors, but they are not doing their jobs. If they are going to sign it off, they have to carry the liabilities. We can't have court cases. Look at Allan Bryan; no-one ever got paid. He lost his wife, he lost his house -

Mr BOOTH - This is the Bryan case where a second or third owner of a house sued the builder who had built it 20 years before because it had a crack in the foundation and it ended up with a cascade of legal costs and so forth. The builder was found liable actually 20 or 25 years after he had built the house -

CHAIR - Which is no longer possible.

Mr BOOTH - and after two or three owners had actually bought it, lived in it, sold it and someone else came and bought it. The third owner, I think it was, noticed a crack in the foundation and suddenly 25 years later this guy ends up bankrupt, as John said.

Mr FULTON - The end result of that was that there was a gum tree planted about that far away from the foundations. It grew up, sucked all the moisture out and cracked the foundations. He actually finished up buying the house in the end. He removed the gum tree, everything came back down and everything is back to where it was. It was the gum tree. Someone planted the gum tree that caused the problem.

Mr BOOTH - Except he had gone bankrupt and lost his wife.

Mr FULTON - He lost everything in the process.

These are cords. I don't know if you are aware of cord tagging.

Ms ARCHER - Yes, we've seen those.

Mr FULTON - I use that every day that I'm on the site. It is \$8 to get a cord tag and I have to do it four times, so that is \$32 plus GST to get that cord tagged.

Mr BOOTH - Each year?

Mr FULTON - Each year, \$32, and I've got 38 cords in my vehicle. Regardless of whether I use them or not, \$38 per cord. I carry four different grinders, four different jackhammers -

CHAIR - Who said you have to have tags?

Mr FULTON - That is part of Workplace Standards safety, occupation and health. It is \$1 300 a year to get that put on that. This cord here goes from the power box into my range of power cords because on the site there is only one plug in the meter box. I plug that in there, which has eight power outlets - \$32 a year.

Mr BOOTH - So your understanding is that cord tagging is compulsory?

Mr FULTON - That is compulsory. It is enforceable by the principal contractors, not so much by the government. If you don't have it, they won't allow you on site.

Mr BOOTH - You would be surprised to hear that Mr Ormerod gave evidence in a previous committee meeting, which is on *Hansard*, that in fact it is only a guideline and not compulsory.

Mr FULTON - That is right; the principal builders will force it, not the Government. If the principal builder wants to throw you off site because you haven't got your tag, you can't do anything. The same as this white card we are supposed to have. That is the biggest load of rubbish. I have so many cards, induction cards, and now we have got to go and get another one. Government is just making businesses -

CHAIR - Make-work schemes.

Mr FULTON - Yes. The guy that repaired that job, in the first photos I showed you, they went and did the course and he said, 'All you guys here; you know what you are doing, don't you?'. 'Yes.' He said, 'Righto, off you go; I will send you out the card later,' and that is all that happens.

Mr BOOTH - But you have to pay \$100 for the card.

Mr FULTON - Yes. So it is just a money-making business enterprise by the Government. It achieves nothing. With 40 years in the industry we know everything, we know all the pitfalls, but we still have to spend the money to get this card so we can get on site.

Mr BOOTH - You mention the cost of registrations and so forth. What do you think about a GPS-based registration, a mileage cost for registration rather than a fixed annual charge for small commercial vehicles and small-use operators?

Mr FULTON - I tried that with the government. I actually sent a statutory declaration down with my speedo reading. The National Transport Commission have got all the average use of all the vehicles, so I just divided that into the cost of the registration and I said, 'I will purchase \$1 000 worth of kilometres; here is the cheque'. That will do me and if I want another \$1 000 then I will buy it. They rejected my application. They said we can't do it.

Mr BOOTH - With GPS tracking -

Mr FULTON - GPS can, but it has a lot of pitfalls too.

Mr BOOTH - How would suggest that you would be able to monitor it? With one of those wheel pedometers?

Mr FULTON - There is a thing you can put on the axle. Have you seen those?

Ms ARCHER - Spot audits?

Mr BOOTH - I am just trying to see if you have a suggestion in terms of a solution.

Mr FULTON - I told them I would buy a thing you put on the centre of the axle, which would give you the kilometres travelled. I also gave them a statutory declaration of my speedo readout. I would abide by the kilometres to maintain my viability, but they would not accept it.

Mr BOOTH - Were a system like that brought in, do you think that would solve the problem where you have to have an excavator on site because of your back but you might only do a few hundred kilometres a year.

Mr FULTON - It would certainly solve it for me but it is going to create major problems for the major transport companies. They might say that average is 27 000 but if they are doing 60 000 you will hear screams. Because you are under heavy vehicles those travelling from Perth to Melbourne, compared with just running around Tasmania, would be screaming. It would work for me but it's not going to work for others.

Mr BOOTH - We are thinking about people like yourself who would apply for a thing like that because they use it in conjunction with their business, not for hire like a truck operator hiring his truck out, but if it is only for carting your own plumbing tools and excavator.

CHAIR - That's what we will consider, John. For instance, the Government is perfectly able to look after car collectors. It is a terrific deal. You get yourself a special car but you only use it every now and then and rather than paying full registration you get an SI plate, which is a terrific idea because they are only trotted out four or five times a year. The Government is perfectly capable of doing that but there has to be logic and pressure behind it.

Mr FULTON - Because I'm running unregistered vehicles I am quite happy to sign a statutory declaration now, 'These are my kilometres', and send them a cheque for it. I am trying to comply with the law; I wouldn't be here if I wasn't trying to comply, but I can't comply the way it is so I have to break the law to be able to maintain my human existence.

CHAIR - Thank you, John. Your submission is very clear and we can see your situation. We thank you for your attendance today. As I advised you at the commencement of your evidence, what you have said to us today is protected by parliamentary privilege. Once you leave the table you need to be aware that privilege does not attach to any comments you may make to anyone, including the media. Further, and I think I speak on behalf of my colleagues, nothing that we have said or not said here can be taken that we approve of unlicensed working or use of unregistered vehicles. You break the law at your own risk and as members of parliament we would urge you not to break the law.

THE WITNESS WITHDREW.

Mr FRANK NOTT, DEPUTY MAYOR, **Mr PETER BUTTON**, DIRECTOR DEVELOPMENT SERVICES AND **Mr BARRY MAGNUS**, MANAGER BUILDING SERVICES, LAUNCESTON CITY COUNCIL, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Mr Deputy Mayor, thank you very much for your time today. I understand the Mayor has fallen ill so it is very good of you to be able to make yourself available to deputise for him and we will try not to work you over too much!.

Mr NOTT - I'll do the best I can.

CHAIR - I am sure you will and it is terrific also that you have two senior managers in an area that we are particularly interested in so we can get first-hand technical advice as we go along, so that is terrific.

The Parliament was of the view and agreed that there was enough concern about the cost of building construction in Tasmania that it took the opportunity to have a look at the overall costs, where they come from, whether there has been any policy creep in public policy areas, so levies, local government costs, all of those are on the table. We don't have any particular hunting license, we are not after anything in particular it is very broad at this stage but it was clear to us from many of the submissions that time is money for builders, holding costs of land and developments are expensive and so therefore of course council performance, the Permit Authority's performance, comes into question to a greater and lesser degree. So while we were in Launceston today we thought we would take the opportunity to speak to two councils we are speaking to you and Northern Midlands and we chose to do that before we actually looked at a matrix that we got from LGAT which shows we would be seeking to ask you some questions anyway about the time lines for approvals under planning and building arrangements so that has worked out well for us.

So, thank you for your attendance and is there anything you would like to say upfront before we get into a question and answer session?

Mr NOTT - First of all, you would appreciate that I was thrust into this role at very short notice and I will be guided by my director and my manager, Peter and Barry.

CHAIR - Sure.

Mr NOTT - Obviously planning reform is, I believe, necessary and while it is moving ahead - and perhaps it is not moving as quickly as we might like - that does have an impact on building and so on. I think the submission as presented gives a fair indication of that and some of the issues that obviously affect Launceston City Council. The fact of the floods and cyclones in Queensland may well have some impact in the sense that we may have the loss of skilled tradesmen going north because of the opportunity, particularly with the slowing economy in Tasmania. I guess that is an important factor.

On the technical side of things I will be guided by my director and manager so I think that is probably all I need to say at this stage, although it is fair to say that we consider that, perhaps as far as government regulations are concerned, Tasmania might be some

years behind the mainland States and that has impact. In addition to that, once the planning system comes to fruition and we get some agreement, I am sure that will help the cost. We do have some problems and I guess Northern Midlands may have mentioned that this morning -

CHAIR - No, we haven't seen them yet.

Mr NOTT - I beg your pardon. Where there are adjoining councils and so on, there are different regulations between councils and that causes some angst from time to time because of the inconsistencies particularly with building regs and permits and so on. I think basically the text of our submission would indicate our concerns in that area, and I hope to be able to answer the questions. If I can't, then my learned colleagues on my left will help me out.

Mr BOOTH - We have had evidence before the committee that effectively the councils are cross-subsidising the costs of the development assessment and building surveying costs with other areas, other costs centres, in the council, so it is not full reflective costing that you charge when you are assessing a DA, particularly in the building surveying areas where private enterprise provides that service. The argument is that your prices in those areas are artificially low. Can you give us an indication of how you actually figure out your costs of assessing a building application and doing the building surveying works specifically?

Mr MAGNUS - Basically from there we look at the full cost implications of providing trained staff to do the assessment, the cost of actually, for instance, housing the staff, the running of the office, which would be phones, computers, etcetera. I am just trying to think of the actual percentage which I can't quite quote at the moment, but we also actually look at a profit margin on that. That is for the building surveying, remembering in that there is a separation with the Permit Authority with compliance. So building surveying and that is full cost recovery it is costed at. We have actually gone through a couple of inquiries recently, have gone through our fees and we are more than confident that we are actually charging for cost recovery. As a matter of fact I would suggest to you that on most jobs we are returning a small profit to council.

CHAIR - Which leads to the question: why would council be in this game? Forget the fact that you always were in it. The post Building Act 2000 allows you to be in it, but it doesn't necessarily say you have to be in it and down south many councils have chosen not to be in it because it either doesn't make a quid or if it does it just breaks even and provides council with quite a deal of liability exposure for its own work. I think the first question that needs to be asked is why are you in the business of building surveying and I will cover my bases and see if I can see if I can cut you off at the pass with this, by saying it is probably a good thing you are otherwise the cost of this area would go through the roof. It is always good to have a policeman at the tender box in that kind of thing. But I would like you to answer in full why it is that council is in the business of building surveying at all?

Mr MAGNUS - With regards to Launceston, traditionally Launceston has always been in it. So basically the service has been there prior to privatisation of course.

CHAIR - But every council was.

Mr MAGNUS - That is correct. We have always been in it. That is the first thing, we always have been. The second thing that we have actually found is that it is interesting - can I jump onto the liability that you are saying? Because of the way the legislation is actually written, no matter what the intent of the Government was, if you go and get legal opinion and speak to some very learned colleagues, Patrick Toomey and so on, you will actually find that the council, even if it is not in building surveying, has an enormous liability by being the Permit Authority. I know what the intention was, but the way it is actually worded it says, 'The Permit Authority will consider all aspects or all relevant aspects.' So the legal opinion that we have discussed -

CHAIR - You have got the liability anyway.

Mr MAGNUS - We have the liability. It doesn't matter what has happened. So council, very wisely in my opinion, has chosen to say well we should actually be staying in this area to ensure that the service that is delivered is what we would expect for the community.

CHAIR - Why is it that your competitors - and in a straight business sense they are your competitors; it would seem that the legislation has set that situation up to work side by side and provide the competitive tension - still have to get the tick-off from you on their own work?

Mr MAGNUS - That is an interesting question. We have split the function and we have just gone through a State audit, which I not sure you are aware of. The auditors went through our permit authority just before Christmas. I have been with the council for 12 months - Peter has brought me in - and I have an extremely long background of managing building surveying practices in the private sector.

CHAIR - You are going to be very useful to us then.

Mr MAGNUS - I am also the State President of the Australian Institute of Building Surveyors at the moment.

CHAIR - You're going to be doubly useful to us. We might lock you in for a week or so.

Laughter.

Mr MAGNUS - Peter has come on board at the Launceston City Council and he has brought me on board. We have reviewed it to the legislation and we have ensured that our permit authority is acting totally separately to our building surveyors. We have also the compliance section and plumbing.

CHAIR - Is that for probity reasons so that it works properly?

Mr MAGNUS - Yes.

Mr BUTTON - We were very concerned that if we were going to run a building services unit within council it run very openly and transparently so that our private enterprise

competitors could not point the finger at us and say we were hiding under the skirts of government.

CHAIR - Could they have made that charge in the past or could they still be making that charge? It was only just recently and obviously you are in a process of change now.

Mr BOOTH - Would it have been a fair call in the past?

Mr BUTTON - It would have been a fair call. When I called Barry in to take over the building area it was part of the whole reform process I am trying to put in place with Launceston. There is planning reform and building reform and there was a lot of comment and suspicion by the private competitors that we were cross-subsidising the services. It was at our behest that the auditors came in; we asked them to come in to do a complete and thorough analysis of what we were doing and make recommendations to make sure that the lines were very clear and separate.

CHAIR - From Alderman Nott's perspective - I left the council not long before Alderman Nott came on - one of the issues we always had was the asphalt plant. The Launceston City Council always felt it should own a asphalt plant to keep the price of asphalt down. That worked well but it was a crooked bit of public policy because it seemed to work for the ratepayers but it eventually bit them on the backside. I am really keen to understand why it is that you are in this game at all if you are saying you are at a point of showing a little bit of a profit. These other companies have to make a profit, not just a little bit of a profit. Shouldn't the council, Alderman Nott, be requiring a business unit of its own council to not only have genuine cost attribution but to return a commercial rate of return on its activities to the council?

Mr NOTT - It is certainly a consideration. Following on from what you said about the asphalt plant, I think when the former general manager, Frank Dixon, was there he stopped the practice of footpaths and driveways being done, as well as the asphalt business ceasing. It would appear that there is merit in that.

CHAIR - If it is a fair case to make that if you are going to be commercial then be commercial, how many outside-area jobs have you taken on, say, in the last 12 months? We may well write to you separately asking for some material, and I know your computer system is good enough to do a printout - looking at 685 planning applications, we might ask you to print out a line on each of them. How many jobs has your business unit taken outside of the Launceston municipality?

Mr MAGNUS - I'm going to say it would be in the vicinity of 40 to 50 jobs.

CHAIR - How do you actually achieve those? You don't have somebody sitting in Latrobe saying, 'I need to build a house. I must go and see the Launceston City Council'. How does this work?

Mr MAGNUS - There are several ways in which it does work. One is that we have now put on Gabriel Barnes who has come from the George Town Council. They are not servicing the area; there is only one local company from Launceston servicing it. We are asked for alternative prices.

CHAIR - That makes sense with a neighbouring council.

Mr MAGNUS - Because Gabriel is known in the area we get quite a bit of inquiry. I have come from the Meander Valley so again we get some inquiry from there. I was also the Associate Director of Davis Langdon in Queensland, which is the largest building surveying practice in Australia.

CHAIR - How many houses did you build on the flood plain?

Laughter.

Mr MAGNUS - Absolutely none, but while I was working at the Gold Coast City Council there may have been some that I approved that unfortunately may have had a bit of tidal trouble.

Mr BUTTON - Don't ask about what he certified in Cairns.

Laughter.

CHAIR - They did a good job. They are still all up.

Mr MAGNUS - I was watching the cyclone very closely because I did the Pier on Radisson in Cairns three-and-a half years ago and it is right on the headland.

Mr BOOTH - Does that mean we are going to have a problem down here shortly then?

Mr MAGNUS - Never ever.

Laughter.

Mr MAGNUS - From there, because of their association with me Davis Langdon quite often refer very large projects because Davis Langdon only deal in large commercial projects. I get quite a few referrals on that. Also on that, you are speaking to a building surveyor that is unrestricted and we do have a limit of those in Tasmania. Being unrestricted, just in case it is not clear to everyone, means that I can certify any type of job and I have quite an expertise in working in isolated areas and alternative solutions. There are a lot of people through my AIBS contacts and my previous work who say, 'Hey, we're looking for a building surveyor in Tasmania. I know Barry is working down there' and we receive that. That is all put through the Launceston City Council. I do not act privately because I feel that it would be a conflict to work with the council and also do private work. Personally, I struggle with that so I choose that all of our work goes through the Launceston City Council as a quote. We quote. Our quotes are open. Pitt and Sherry has have asked us about it. I have told them to come down and I am more than happy to show them our quotes.

Mr BOOTH - Is that the case with all of the building inspectorate that you have, that they do not act in private enterprise as well?

Mr MAGNUS - Gabriel Barnes was and part of his contract is that we are allowing him to finish any jobs that he has outstanding but anything new is exactly the same. As far as I

am aware, none of my staff are working outside. That is certainly Peter's and my expectation for the staff.

CHAIR - No weekenders?

Mr BUTTON - No weekenders. Another corporate reason that I have been driving since being the director is that Launceston being the largest city in the State, despite our southern suburbs -

CHAIR - Just write it down, Scott.

Laughter.

Mr BUTTON - I come from the mainland.

Ms ARCHER - You don't understand the parochialism.

Mr BUTTON - I do and that is why I play with it.

I guess Launceston being a large regional council and having worked in regional development for 25 years, I think Launceston has a responsibility to work in partnerships with resource sharing with its neighbouring councils and I think that is the only way we are going to get this region up and going, and that is something that I have shared with the aldermen. It has been a vision of both Barry's and mine that we get planning and building reform so that you can get to the point by the end of this year where you can do a planning and building and plumbing application all in one and you can get fast, effective but transparent service.

CHAIR - What a great idea.

Mr NOTT - At a regional level.

Mr BUTTON - At a regional level so that you can put in a development application in any one of our nine councils and it can be a multipart application that can go to any one of the councils.

CHAIR - That sounds great and we will consider that further but I am still back on the corporate test, and you have worked in corporate life obviously so you know what that means. You know therefore that somebody else that is currently in corporate life, one of your competitors looking at you, wants to see you as being completely corporate and not practising in a manner that would suggest that he be able to operate like that.

So if you had a frame inspection in the Latrobe municipality, would you send three inspectors up there for the day to go and inspect that?

Mr MAGNUS - Certainly not. I believe what you might be referring to is that there was a private job up there and it was stated previously to me that there were three of our officers up there. As far as I'm aware, the developer was a friend and they were just calling up to see him.

That does not happen because the same developer is building something at Latrobe at the moment which we are certifying and you will find that only one inspector goes there, normally either first thing in the morning or last thing in the afternoon - quite often it's me because it's on my way home.

CHAIR - I know that with the neighbouring councils you're working towards a regional policy, but the fact that you would take a job an hour away - well outside of the Tamar Valley - set aside then the fact that it appeared that three inspectors had so little to do that they went for a drive together for a nice day out -

Mr MAGNUS - Peter and I never have.

CHAIR - So many of those sort of jobs have you taken outside of the Tamar Valley area?

Mr MAGNUS - We have several of them in Hobart.

CHAIR - Who inspects that?

Mr MAGNUS - A company for us in Hobart.

CHAIR - On a contract?

Ms ARCHER - It begs the question, why do it then if you can't be there physically?

Mr MAGNUS - Why do it? Because we've been approached to do it. They are clients that we normally work with. They are comfortable working with us. The one thing in that that I would like to put on record is the one thing that we are working at in Launceston: we are very dissatisfied with the quality of work of building surveyors throughout the State, generally - that's not every one of them - but, generally, we are very disappointed in the quality of service. We're not discounting our service, we're lifting our service, and we are hoping that the rest of the State will come along with us to work well and truly above the minimum standard that quite a lot of them are working to now. We don't find it very satisfactory.

CHAIR - No, and there are elements of your operation that they don't find satisfactory either. So I guess that's the multi-model - the model that we have operating and the tension there - and I guess the way for you to keep your noses clean is to have a completely demonstrable corporate model where, not only does it wash its face, but it has all the cost attribution to it and it actually also makes a profit so that they can see that it's just another -

Ms ARCHER - Even playing field.

CHAIR - even playing field - just another operator. Just another commercial operator and, as you claim, doing a better job.

Well, then for them to get the business, they need to raise their game, which is axiomatic - it's where it goes - they will lift their game. You will drag them up as long as you are on the same playing field with them, I would have thought.

Mr MAGNUS - I believe that I might be aware of the company that you might be referring to because there is only one company that really majorly competes against us here. They actually win jobs off us on quotes and they have done it quite regularly.

Mr BOOTH - What's your strike rate, roughly?

Mr MAGNUS - I would be very hard-pressed to answer honestly on that but I would believe that we would be about 50 or 60 per cent.

Ms ARCHER - On ones you quote, you mean?

Mr MAGNUS - Yes. So if we quoted 10, I would expect that we would get five or six of them. But I haven't gone through the figures to say that - I can't give that to you exactly.

Mr BOOTH - But it's something in that order. In terms of attribution of costs to the job, you said that the building approval seems like a cost centre, but then is each job quoted out? Do you take into account the distance you have to travel individually on a job or is it a set standard fee for a standard house or do you look at the location and add mileage and those sorts of things?

Mr MAGNUS - You will find in that that what we do in that quite often that will work on an hourly rate and that is a standard practice that most major companies on the mainland work on. But, yes, there is an element of travel involved.

You will find that, for instance, if we were travelling to do that inspection in Hobart, someone would be paying somewhere between \$500 to \$800 for an inspection.

Mr BOOTH - So a person building a room on their house in Invermay is not cross-subsidising the travelling costs of someone who's building a house in Latrobe.

Mr MAGNUS - Certainly not. You will find in that that there were two jobs that were approached to quote on the east coast, which I have actually referred through to another building surveyor just to get a quote because I said I could not economically quote for that. It is impossible for me. The costs are far too exceptional. We do not quote on everything. We actually do look at the possibility of a servicing.

Mr BOOTH - Yes.

Mr BUTTON - Barry would attest to this, we often do servicing in outer areas where we know we are going that way. For example, Hobart, if you are going down to an AOBs meeting or to a RMPAT meeting, we know we are down there and we schedule the inspections on that same day, so we are not doing those one-off.

Mr MAGNUS - Remember that we are not doing housing, so it is not a critical inspection as in they are pouring the footing today; we are doing a commercial one, so we are looking at the fire separation, the exit signage and that which has a degree of flexibility about it in terms of timing.

CHAIR - Just on the Permit Authority stuff then, which isn't anything to do with you; is that right? Do you have anything to do with the Permit Authority?

Mr MAGNUS - No. I manage the section, but Peter is actually I believe now delegated the Permit Authority and we have a coordinator Rachael Swaine who actually co-ordinates it. The only time she comes to me is for either technical input if she requires it, she requests it, or alternately management to do with budgetary.

CHAIR - We have got evidence that in other States where a building surveyor does a job of work and he charges \$1 700 to the client for whatever and applies his very best intellect to it and issues certification for that. That then goes to the council to the Permit Authority at which point the Permit Authority can simply say, 'No, this is not good enough' and strike it down and send it back for more work. It begs the question: what is the point of having private certification if they can't actually certify. And who is it who actually makes that judgment on - let us be honest about it, you are talking about the one company - on Protek's work? Who actually made the judgment on the certification of Protek on a certain job that was rejected? Was that your department Barry?

Mr MAGNUS - If it is rejected, yes, it is my department. Rachael Swaine would actually do it. If she felt uncomfortable she would come to me for direction with regards to technical aspects. You have also got to remember I am also not the coordinator of the building surveying either, that is what Gabriel Barnes does.

CHAIR - But how can that be arm's length, though, if you want to go in-house. It is your wish to show full probity in having your Permit Authority separated out from your other functions? How can the manager of your corporate operation have the power to strike down a certification of a competitor?

Mr MAGNUS - I don't actually manage the corporate identity day to day, Gabriel Barnes does. I am employed as the building services manager; I am not employed as a building surveyor.

Mr BOOTH - But on what basis would you purport to knock out an approval by a duly certified building surveyor who works out in free enterprise where they have actually submitted something and approved it.

Mr MAGNUS - I can probably answer this quite easily. If you actually go through our records you will see that not only private building surveyors get memos and that of required amendments to what is called the Certificate of Likely Compliance, the form that they are issuing, but also our building surveyors get exactly the same treatment, get exactly the same memos and get exactly the same requests.

Mr BOOTH - But on what basis do they purport to act, given that a person is a qualified and licensed building surveyor, has got professional indemnity insurance and all that sort of thing - I am just trying to get to how it could be that you have got a construct where you have got a private certification process that operates at arm's length, or completely in absentia of the council itself which also has its own unit - on what basis does the Permit Authority purport to override the person who is carrying insurance?

Mr MAGNUS - For instance, if the building surveyor issues the CLC, which is a Certificate of Likely Compliance and there is no town planning approval for it, the refusal is issued by the Permit Authority.

Mr BOOTH - Are there any that you can think of that are not based on the failure of some other part of the organisation or a different authority?

Mr MAGNUS - Yes, where the building surveyor has actually issued an illegal form. For instance if they have issued a Certificate of Likely Compliance but it is an existing work that is there, the requirement of our State legislation is that there is an order issued and it will either be a certificate to proceed or a certificate of substantial compliance. For instance, if any building surveyor lodges a Certificate of Likely Compliance for existing work they have actually not carried out their statutory function and therefore the Permit Authority would pick that up and refuse it and it would not matter whether they are private or council, it would be refused.

Mr BOOTH - So that is the only basis? You don't look at the design, the compliance with the VCA for example for structural -

Mr MAGNUS - No, but we have been in discussion with our actual risk auditors and sometime in the next 12 months we will be pulling out randomly one in 10 applications and we will be going through a small check sheet for our risk management as the Permit Authority and the instruction is that that is random. It will be taken whether it is council or whether it is private, it does not matter there will be a random check of those. For instance, if Gabriel had issued a CLC it certainly would not be referred to him. Because I am also a building surveyor, it would be referred to me to check his work if it was his. If by chance it was something that maybe Gabriel had asked me to sign on his behalf and that because of the size of it, it would be audited by Gabriel.

Ms ARCHER - What about the speed of which they are approved? Would you approve things faster coming from council?

Mr MAGNUS - Most certainly not. I can show you a project that has been in one day and been approved. If they ring us up and tell us there is some urgency about it and everything is in order - I just did one last week -

CHAIR - I am sure that is right.

Ms ARCHER - I am trying to explore -

Mr MAGNUS - They are all in number order - as they come in, they are dealt with.

Mr BOOTH - You don't put them on the bottom of the shuffle if they -

Mr MAGNUS - I most certainly do not - and that is a specific instruction to my staff also.

CHAIR - I was going to say could your staff be doing that?

Mr MAGNUS - I can tell you now if we were aware of our staff doing it I would certainly be discussing that with Peter, there would actually be warnings because it is certainly not within our procedures to do so.

CHAIR - And if people in the industry were saying that staff including counter staff had said to them plainly that it is going to take a little while because we are going to deal with the council ones first, is that possible?

Mr MAGNUS - Anything is possible in that I don't control what people say, but the instruction is that - and as far as I am aware it is adhered to - it is certainly not said.

Ms ARCHER - Is there a written instruction? Would it be in memo form to staff or is it just the way things are?

Mr BUTTON - It is a written instruction and also minutes of meetings of both building and planning and my directions to my management team. I think the other thing that double checks that is that I require on the first day of every month a spreadsheet from our compliance unit which lists every BA and every DA that is on the books, when did it come in, how long has it taken to be dealt with and when did it go out. It is done in terms of actual numbers, in terms of dates due and what is overdue versus underdue so that I can see a pattern.

CHAIR - Given that you are in a competitive industry and therefore there is always going to be chatter and back-chatter amongst competitors - and we have heard here from you today that you believe that your competitors in many cases aren't up to much -

Mr MAGNUS - They are working to the minimum standards that would be required. I believe that we are trying to and definitely are in most cases working above the minimum standard.

CHAIR - So that would be not an unusual statement for a competitor to make about someone else?

Mr MAGNUS - I would certainly expect that they should.

CHAIR - So you wouldn't be surprised then from the other side that they would hold certain views, particularly about a council that doesn't need to be in the business but chooses to be in the business? What relationship do you have with your key clients as the Permit Authority? In Launceston City in 2008-09 there were 877 BAs.

Mr MAGNUS - We have two key clients - Protek and Launceston City Council's Building Surveying Unit.

CHAIR - Yes.

Mr MAGNUS - Our coordinator has had lunch with both to discuss any problems that they have at the same time and has encouraged them to come to us with regard to any problem they are having with administration so that they are treated in the same way. And you would be remembering this that we set-up that meeting?

Mr BUTTON - Yes. I guess also to broaden the focus what we have instituted is a development forum. We had our first meeting in August last year and we are having them every quarter to six months where we get the development industry right across the board, invite them in and we have our staff and the development industry together. We talk about everything we are trying to do and implement and we put it out on the table to get comment on. We invite people like Protek, the HIA, the Property Council group and we are getting some really good feedback and out of that we are developing improvements in our planning and building processes.

CHAIR - So your aim is to have that regional approach, that you can go to any of the local councils, and I think that is a terrific idea. It is great leadership from the major city council to drive that.

Mr BUTTON - But we have to do it within our own house first and tidy that up.

CHAIR - That was going to be my next point. You don't have a whole lot of credibility, I would have thought, when your competitors are saying that, for instance, at the West Tamar Council they have staff that are on the same wavelength and page as them, are just as critical, but things seems to happen a lot quicker and easier and with a lot less grief. There was evidence given to this committee last week from an organisation that said that their members are saying that they can get a house BA-approved and almost constructed in the time that they extract the paperwork out your council. If we look at the score sheet, and we are waiting on the 2009-10 score sheet to arrive, the 2008-09 score sheet puts you second-top at an average of 34 days for a building approval process that should take -

Mr MAGNUS - Can I correct you here? I believe that you are talking about DAs.

CHAIR - No. Let's talk about DAs, then. DAs have done reasonably all right. You are at 685 of those, of which average days for approval for permitted use is 38 days and 42 days for discretionary use. We are going to be seeking some more information on that, too, as to how many 'stop clocks' there were and we will break all that down. I am specifically now talking about building applications - and this is before your time.

Mr MAGNUS - They give me a report every seven days and we look at anything that is over and why it has been more than seven days.

CHAIR - Well out of 29 councils, Launceston is the second-worst but only just behind the worst with an average of 34 days. That is borne out by other evidence that we have received from building organisations through their clients and other participants in the building industry, who say that the worst council they have ever dealt with is the Launceston City Council. This is not something that the deputy mayor or the mayor wants to hear, but I suspect your general manager knows about it because it has come out from the Measuring Council Performance in Tasmania collection and it is supplied by the local government division. We are waiting on the new one. It could be that you have had a miraculous recovery in the last 12 months, and congratulations if you have, but I suspect that it may well be somewhat the same - an average of 34 days out of 877 DAs.

Mr NOTT - One thing that needs to be raised is that there is no doubt that since the arrival of Peter and Barry things have changed in planning and building in Launceston within the council. It may well be that those figures are better.

Mr BUTTON - We would hope so.

CHAIR - When was the change effected?

Mr BUTTON - I took the job on in mid-January last year. I then brought Barry in in late April, so it has taken a while. There is a culture, as you would realise, within the Launceston City Council. Being a big council there is a culture of doing things and it has taken quite a bit of angst on my part and Barry's part to wash that culture out and say, 'We are here as the economic drivers and leaders of this region. We're not here to entrench business and old practices', and we are constantly driving that. I understand those figures and accept that they may have been in the past but I would be extremely disappointed if the new figures are anything like that.

Mr NOTT - In addition, we have a new manager of planning.

Mr BUTTON - We brought in our new manager of planning from New South Wales, so we have a completely new management team and new processes for both planning and building. I am not even happy with the planning figures you've given us. They are probably true for then but now we are driving them down and I have set performance targets for our new planning manager because we want to reduce them. He has worked under a regime in Victoria and recently in New South Wales where our turnover was half the time we have at the moment.

CHAIR - Good. I am a ratepayer of this city and all I can say is thank heavens you have all that underway.

Mr MAGNUS - I would certainly like to know which ones they are because we only have 14 days to deal with them. If I knew which ones they are, I would actually investigate them, as Peter has quite often made me do.

Ms ARCHER - The 2009-10 figures only take us up to June last year so that would only bring -

CHAIR - Yes, only six months of your time, but there ought to be some change, you'd think. We've asked for those numbers, so they should be coming out of the local government division fairly shortly. You might want to check because the material is given by the councils, so somewhere in your system somebody has already provided them.

Mr MAGNUS - It's in the audit. The figures are actually incorrect and they are through our computer system because when anything is lodged it goes straight to the permit authority, but that's not necessarily when the permit authority are dealing with it. That has been highlighted in our audit, remember that?

Mr BUTTON - Okay, yes.

Mr MAGNUS - So if you're looking at all building approvals, it's because sometimes our permit authority doesn't see them for two or three weeks. What has happened is that in our computer system - which we are upgrading now, and it has been highlighted by our audit - when an application is lodged it is actually going straight to the permit authority, but that doesn't actually happen. It actually goes and gets processed -

CHAIR - What would the customer care about that? He's put it in and has to wait an average of 34 days.

Mr MAGNUS - Because we are taking into account the building surveyor's processing on top of the permit authority's processing. They legally would then have 28 days.

CHAIR - Does a permit authority have 28 days?

Mr MAGNUS - No, 14. That is what has been highlighted by the auditor. When we're recording it, they said, 'You need to change that system', so that basically when it's going to the permit authority it is recorded as that. That's come from the auditors.

CHAIR - That sounds a possible defence.

Mr BUTTON - It's a point of investigation rather than a defence.

Mr MAGNUS - The times that you're suggesting are still unacceptable to me. If everything is in order, there is no reason that we shouldn't have it out in a week and that's what I would expect from all my staff.

CHAIR - Exactly.

Mr BOOTH - Would some of the planning applications be wrapped up in that time line as well, though, where it might be discretionary?

Mr MAGNUS - Before I came to council they were going by phone call to someone to say something is outstanding. I said, 'No, that must be in writing'. I said, 'Still make the phone call, so that if we can deal with it, we can deal with it quickly', but it also must be in writing because we must be advising the people why it's being held. That was an administrative process that wasn't happening.

CHAIR - I can indicate that we are going to be writing to a number of councils in Tasmania to push the button and show us the year's worth of work. Rather than have to think through what questions we want to ask you, we will have the information in front of us to see for ourselves how all that stuff works. It would be great to get that off you and we'll write to you in due course about that.

Mr BOOTH - Barry, you were concerned about the standard of building surveying work amongst other building surveyors in Tasmania.

Mr MAGNUS - This is probably more driven by the Australian Institute of Building Surveyors than Launceston's opinion.

Mr BOOTH - Okay, but does your opinion then affect the Permit Authority in terms of ticking off surveyors' work? You mentioned specifically that you weren't happy and you've said that you have the Institute of Surveyors hat on, but does that reflect in terms of a rejection or a requirement to modify -

Mr MAGNUS - No.

Mr BOOTH - Right, so that's simply an issue you have that is external to any rejection.

Mr MAGNUS - It's external and the only time the council would become aware of it is when a job is finished and we receive the complaints about something that's wrong. Then we have to somehow go back and see what has actually happened and what's gone wrong.

Mr BOOTH - How do you resolve that then when you have a private building certifier, or indeed your own -

Mr MAGNUS - As we do for council as well, yes.

Mr BOOTH - So how then as a permit authority do you deal with that issue? How do you adjust it, how do you adjudicate it? What do you do, because a person who is qualified, in the case of a private person here at least, has professional indemnity insurance, registration and accreditation, so how do you deal with that given that they have signed a deemed to comply certificate or something? How do you 'undeem' it?

Mr MAGNUS - Basically our compliance section would then write to the building surveyor or I must admit internally we would send an e-mail to the building surveyor to say, 'This has occurred. Can you please explain or is there something that is actually not correct?'

Mr BOOTH - This is internally within council you are talking about?

Mr MAGNUS - Internally we would e-mail the building surveyor.

Mr BOOTH - And externally?

Mr MAGNUS - Externally we would normally make the phone call and follow it up with a letter but e-mail if we have the actual e-mail address.

Mr BOOTH - But the same action?

Mr MAGNUS - Exactly the same action and then from there, depending on the severity of it, if it is something minor that can be fixed up it is, by letter, or if it is something major - and I am looking at one just today - it may require me to go to Peter and get a notice served. It has come up to do because of the sale of a property and that is quite often how a lot of these things occur.

Mr BOOTH - A building inspection or something?

Mr MAGNUS - Yes. In this particular case there is a commercial property in town, someone has just purchased something and they have made a query, we have just looked at it and thought, 'We need some clarity here because there does appear to be a problem', and we

will write, e-mail or phone the person and say, 'Can you explain why this has occurred?' because we have to write to the owner and say, 'You need to correct this section of your building'.

Mr BOOTH - With any certified council or private, what action do you take against either your own agency or the company providing those building surveying -

Mr MAGNUS - We request the information because sometimes there are alternative solutions which we are not privileged to which may deal with it and that may be more than satisfactory.

Mr BOOTH - They don't actually file a deem to comply with you. The surveyor has looked at it and said, 'It doesn't fit the code but because he has used x, y and z, then that is okay -

Mr MAGNUS - There is an alternative solution that is available.

Mr BOOTH - so I will tick it off ',but you are not aware of that, is that what you are saying?

Mr MAGNUS - We are aware that there is an alternative solution but we are not fully aware of the actual details of it so we would go back to the building surveyor and say, 'We've had the inquiry, what's actually happened with that?' They may offer that. They may turn around and say, 'We've missed it'. They may turn around and say, 'We don't believe it's part of our duty to do it' and from there, depending on the appropriateness of the action and as laid down by legislation we will then pursue it. We always try to because we are definitely not trying to be a provoking council. We will also try to write to someone before we pursue something, unless of course it is an emergency situation where we would have to look at those.

Mr BOOTH - Do you get many of them? How many of them have you had since you have been there, roughly?

Mr MAGNUS - Goodness gracious, probably about a dozen or two dozen.

Mr BUTTON - There wouldn't be too many.

Mr MAGNUS - It does not happen every day, but it happens fairly regularly.

Mr BOOTH - What is the most serious area that you can think of off the top of your head?

Mr MAGNUS - The one I am looking at today may be a very, very serious problem because it is dealing with fire ratings. Therefore it is a fire safety issue. If there is not a satisfactory explanation for it, we are going to have to write to the owner to say, 'Hey, there's some major upgrading of an extension that you've done'. That is probably the most serious because that is costly as well as being the possibility of safety.

Mr BOOTH - And were that the case and it had been ticked off and there was not an alternative solution that was satisfactory, what would happen to the certifier of that? What is the process then?

Mr MAGNUS - Depending on what it is there is a complaint lodged but I can only think of one complaint that has been lodged here since I have been here and there was one at Meander when I was there. Normally it is a discussion that is resolved and it is resolved through negotiation, however the seriousness of it is that if someone appears to have been very, very negligent or possibly negligent we might refer it through the director to make an adjudication through the complaints process.

Mr BOOTH - At this stage in a general sense there is no problem with the private certifiers in this State in terms of certification as far as the council is concerned and as far as the permit authority is concerned, and it is not the Institute of Surveyors' hat. As far as the permit authority goes there is not a problem with the standard of certification by either councils or private certifiers in the State?

Mr MAGNUS - There is not a major problem by definition. There is certainly a lot of follow-up that the permit authority seems to have to do.

Mr BOOTH - Can you comment whether that is more often through a private certifier as opposed to a council certifier?

Mr MAGNUS - I couldn't comment on that because there are an awful lot of very old ones that definitely would be council, not being signed off by the system, certain things not followed up. So at this particular point in time I couldn't say that one or the other would actually be worse.

Mr BUTTON - I guess the other part of it, too, is that behind our operation I am very aware of the Freedom of Information Act and the new right to information and I am really impressing on my staff through Barry that everything is done, is documented, is on file and is available through that process. Having worked in Queensland recently where you have both private and public building certification, as well as planning, I have been through court systems where it is important to have everything properly documented so that you have complete transparency.

CHAIR - In any organisation you will have situations where somebody either makes an error or even deliberately does his or her job incorrectly by simply certifying something that was not inspected or not inspected properly and that turns into a problem later. Does the LCC self-insure against indemnity there or have you got your own full insurance?

Mr BUTTON - We have our own insurance.

Mr BOOTH - Self-insurance or you have taken out insurance? Do you have a policy with another company like an insurer or do you self-insure.

Mr MAGNUS - It is a policy because we wrote to the actual policy holder to advise them to ensure that when I was appointed we would be covered also for work outside.

CHAIR - I guess this sounds a simple question, but if you have a person out there who is aggrieved through the wrongful performance, lack or whatever, a breach of proper performance -

Mr BOOTH - Failure to inspect properly.

CHAIR - Does that person have to go to court to sue the council or do you have a mechanism whereby that person can come in and say, 'Listen, we have a problem, game over, you are insured, let us sit down and work something out'?

Mr BUTTON - Yes, we do negotiate. If we have problems with a building and if they have problems with planning we do that. They can either come in directly or they often come in through the Housing Industry Association.

Mr BOOTH - But if you have an external insurer, you cannot just run up the white flag; you have to hand it over to the insurer.

Mr BUTTON - That is right, we hand it over to the insurer, but we do -

Ms ARCHER - Then they negotiate with their lawyer.

Mr BUTTON - They negotiate, yes, but we haven't had a situation where it has hit the court. They have been able to negotiate quite sensibly with our insurance person and theirs and settle it.

CHAIR - On the face of it, it would be very wrong for a city council to set up something and one of its poor ratepayers, probably a pensioner, has to go the Supreme Court and start up a \$100 000 civil action, which is a nonsense.

Mr BUTTON - Politically it would be unpalatable, I would assume.

CHAIR - Just a bit for the deputy major.

Laughter.

Mr BUTTON - With stormwater complaints and so on that we receive from a lot of the old pensioners our staff go out and do a little bit more because of their restriction.

Mr BOOTH - In regard to the requirements of the BCA and accreditation under the Building Act, for example, are there any areas that you see that the requirements for compliance under the Building Act 2000 place an unnecessary burden on builders and costs? In looking at costs of building CPD has been raised. A number of submissions have been that it is worthless and doesn't achieve anything other than wasting the time and some money. Do you want to comment on that and any other areas you would see where compliance costs are simply unnecessary and don't achieve results or vice versa?

Mr MAGNUS - Again, probably from the Australian Institute of Building Surveyors, and some of the legislation we have in place in the State. For instance, we gave the example of the statement that is made for the permit authority. How can someone have done a technical assessment and then this is happening? I believe that some of the legislation is possibly putting some unnecessary burdens upon the industry itself and perhaps there could be some efficiencies if some of those matters were reviewed.

Bushfire control is just coming up again. That is going to be a great one because someone is going to have to do the assessment, and people are going to have to be

trained. I am not necessarily saying that bushfire controls are incorrect, but maybe it should be costed out to see if there are any efficient ways of adopting that type of legislation rather than perhaps the consideration they have done. I know the AIBS has made some submissions to the State Government with regard to bushfire control but unfortunately it doesn't seem to have been looked at very favourably.

CHAIR - In that area of policy creep, it has been put to me that there appears to be much more interest from permit authorities on a higher range of matters, particularly in non-domestic buildings. Landscaping requirements are becoming more onerous and it was put to me that the next thing they will be into is colour schemes. Have you seen any movement in that, that there is creep within this?

Mr MAGNUS - Again, I will answer with the Australian Institute of Building Surveyors hat on. We have seen over some time quite a bit of creep of a lot of technical assessment moving into planning schemes. I have some people here who would have opposite views to me from planning. For instance, when I was reviewing something that was being proposed just recently for some of the new regionals, they were talking about whether a heritage building should be subject to planning if it was having a fire upgrade but it wasn't affecting the fabric of the building. At one stage one of the planners had suggested that goes out, but the other planners said, 'No, it comes back in. We couldn't possibly trust people with that'.

CHAIR - The perfect planning response.

CHAIR - I said to Peter, 'If they're going to put a fire hose reel on a stand outside for safety reasons, that means that we are going to put it into the planning process'. So from a building surveyor's point of view we have energy efficiency, bushfire control and all that in the building code, called up by our acts. In the institute we see a lot of technical assessment creeping into the planning, which we feel is possibly unnecessary and possibly bogging down the system, particularly if it is assessed at planning and comes to us and then we find that it doesn't comply with the building code and has to be changed.

Mr BOOTH - Do you have any sympathy for a system in terms of consumer protection and also for accreditation of quality of work from builders, that there be some sort of contract law in domestic building where money was held in escrow and only available upon an inspection at a fixed stage or a number of stages in the contract? In other words, the builder couldn't be paid unless the work had been done and was compliant with all the matters that were required. Secondly, the builder would know the money was there because it was in escrow and they would have adjudication rather than tortuous mediation.

Mr MAGNUS - Probably on major jobs, but I believe that on a lot of the smaller jobs - a house of maybe \$1 500 worth of fee - that would be adding quite a bit of administration. So from a building surveyor's point of view probably the fee would have to be raised to possibly even \$1 800 to cover the administration required. There would have to be administration fees because this is what we have to go through. However, on major commercial jobs, from a building surveying background quite often the bills are broken up: 'this is for the assessment and we will build for the inspections'.

CHAIR - I want to tidy one matter up. There are some people who have made some pretty aggressive statements about the Launceston City Council and you have made some statements that they would see as aggressive. You were saying that you believe that the standard of private building surveyors in the State or the north of the State -

Mr MAGNUS - I don't think I said 'private'. I said 'building surveyors' - or I hope I did.

CHAIR - Okay - the standard of building surveyors in Tasmania needs work. You are wearing two hats; are you basing that on your professional background?

Mr MAGNUS - It would actually be with both hats. One is as the manager of Launceston. We would like to see certainly a reasonably high standard from building surveyors. I see building surveying practices working to what I would consider to be a minimum service level which would satisfy the legislation. Coming from Davis Langdon, we dealt with all the major commercials. People came to us not because of the price but because of the quality of the service.

CHAIR - So what particular area of their operations should they be sharpening up?

Mr MAGNUS - I would suggest to you Launceston has been just as guilty of this in the past, and I hope that we are working out of it, in not offering to the public, the mums and dads who come in in particular, a full picture of the actual process. When I've raised that with other building surveyors a common response has been, 'It's not my job', but to me that is not a great service level. You are a consultant; you are consulting as a building surveyor and you are certainly making sure that statutory law is followed, but to me the building surveying role is a little bit more. It is helping and assisting to say, 'You do need Ben Lomond Water approval and you will need to go and see the planners in this particular case'. So it is giving some advice with regards to the whole of the process.

CHAIR - One other statement that was made by some practitioners is that Launceston has developed into a council that is very problematic to deal with because there is hardly any permitted-use applications these days. Even a deck falls foul of some overlay plan or whatever. It sounds as though, from their point of view, Launceston has become impossibly prescriptive. You are a fairly fresh face in this State; do you think that is true?

Mr BUTTON - I do definitely. Something that I have put on both Barry and our planning manager is that when we draft our new planning scheme requirements we reduce our number of permits required by at least 50 per cent and that I will not be taking it to the aldermen until I can put my hand on my heart and say there is a reduction in the number of permits required. It is outrageous. That is why in this paper I have made very clear statements that it's fine for us at Launceston because of our personal or political commitment to do it, but we must work in tune with our neighbours and in tune with the whole State, that we do planning reform across the whole State, not region by region or council by council.

CHAIR - In leadership you have to have clean hands yourself.

Mr BUTTON - That's right.

CHAIR - You can't go demanding your neighbours lift their game if you are in that situation.

Mr BUTTON - I am embarrassed to say that I agree with that but that is the way it is. I have to work with it and I have been quite frank with the aldermen about it. I have come from working 10 years in Victoria and 10 years in Queensland on planning and building reform. Yes, we are 10 years behind the times but it is very much our commitment to bring that up to scratch.

CHAIR - What is the time frame of your new building scheme requirements?

Mr BUTTON - For the new planning scheme requirements we hope to have at least a first draft at about Easter. That will depend very much on the PD1-PD4 process that the State is undertaking at the moment. As late as yesterday we had contracted a chief panel member from the Victorian Ministry of Planning to come down and give us a peer review of what we have done so far to say whether it is going to do what we want it to do. If it is not and is behind the times then we go back to the drawing board and do it again.

CHAIR - Will your planning scheme have the same provisions that say West Tamar has now where it is the P1 model where even a house on a block of land that in the scheme of things everybody accepts it is just a cookie cut house on a cookie cut block of land, the only thing you have got to measure is the setback, it fits or it doesn't, and yet they have still got to pay a planning fee. This committee is about looking for cost. They have got to charge a fee and you guys don't currently charge a fee. So a builder who, while he is saying nice things about West Tamar in speed terms, is hating having to get the chequebook out and pay them for something that is plain as the nose on your face and probably a five-minute job, and for \$400-and-something as I understand it.

Mr BUTTON - I think we - and Duncan can agree with me or disagree - are going through a battle at the moment with the planners around the table from the nine councils to try to get consistent planning controls in our new planning schemes.

CHAIR - Can West Tamar unwind where they are?

Mr BUTTON - Yes, they have to under the PD1 and the planning full process.

Ms ARCHER - Because the Planning Commission has to approve it.

Mr BUTTON - That is right.

Mr MAGNUS - It would be wonderful if we just had consistent definitions right across the State and we have not.

Ms ARCHER - A whole new process aims to achieve that, doesn't it? The Planning Commission is not going to grant sign off unless they are consistent?

Mr MAGNUS - Hopefully, that is the ideal.

Mr BUTTON - Once you have got those consistent controls you have got a consistent electronic platform, a consistent form, any developer can put in an application to any

council for any other council in that area. Until you get that, you are not going to get the economy of this State to go along, we are going to be always on the back foot.

CHAIR - I like the way you are talking. Thank you for your assistance and frank contributions.

Mr NOTT - On behalf of the Mayor, Albert Van Zetten, can I thank you for hearing our submission. Could I also acknowledge the expertise of my colleagues here, Barry and Peter. Thank you.

CHAIR - Thank you.

THE WITNESSES WITHDREW

Mr DUNCAN PATON, MANAGER PLANNING AND DEVELOPMENT, NORTHERN MIDLANDS COUNCIL, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Thanks very much for your time today, Duncan. I understand your mayor or representative of council couldn't be with you but as you are the planning services manager -

Mr PATON - Planning development, yes. It doesn't matter about the title, it is all the same.

Mr BOOTH - But your area of responsibility covers off on building control.

Mr PATON - That is right, I do planning and building, environmental health and animal control.

CHAIR - That is what happens in a country council, doesn't it, you have to do everything?

Mr PATON - Yes.

CHAIR - We are sitting in Launceston today and we thought it was a good opportunity to meet with two councils. We haven't met with any councils before and we may not meet with others but we will be seeking information from a number of councils, selected for various reasons, to understand better the flow of the development application business for planning and building. I suspect that we might not be writing to you seeing you have a pretty good record, but we will see how we go. It was interesting that the Launceston City Council has worked out that the computer might be getting it into big trouble because out of 302 building applications there are 11 average days for building approval and that is good.

I don't think you were in the room when the people from Launceston were saying that from their point of view they are working towards regional leadership in coming to a point where everybody is on the same page, where somebody in Northern Midlands could choose to apply for their building at the Launceston desk or at the Northern Midlands desk or vice versa and there is a standard process. That is the sort of thing they have in mind. Whether it gets there or not, that is in the lap of the gods, but we will see where that goes.

Mr PATON - I believe it will get there. Peter and I, plus our equivalents from West Tamar and Meander, meet every month or two and have discussions along those lines. I think at least the four councils in this immediate area at Mr Button's and my level are committed towards achieving that.

CHAIR - That is great. It's good leadership. What is the status of your plan? How new is the Northern Midlands planning scheme?

Mr PATON - Older than most, newer than some - as at 1995.

CHAIR - So you don't have the P1 model, where a new house is not a mandatory planning application as it is West Tamar?

Mr PATON - No, I would disagree. You do require a permit in Northern Midlands for a house.

Mr BOOTH - Was yours just an old interim order that became a scheme in 1995?

Mr PATON - When Northern Midlands was created back in 1993 we had six or seven different schemes, some of which were interim orders. A consultant came in and prepared a new scheme for us, the current one. The provisions in the residential zone are generally the compliance-type provisions, acceptable solutions and performance criteria that is the direction of the current template. Whereas, in the bulk of the others, it is more the older-style arbitrary measure.

Mr BOOTH - So they are just a permitted use in some cases and permitted with conditions in the other ones?

Mr PATON - Permitted or discretionary. We do have some P1 categories within our scheme but that doesn't extend to a house in the residential zone.

CHAIR - In, say, Swan Avenue there is a brand-new building block and someone wants to develop on it. He goes to Protek, or someone, and says, 'I want to build a simple house on this block of land. It is drawn, the setbacks are within the provisions'. It is currently not a permitted use in the Northern Midlands?

Mr PATON - It is permitted with permit. The legislation provides permitted category, section 58, and discretionary, section 57, and traditionally there has always been that extra category put into planning schemes or permitted without a permit, which is an exemption under another word.

CHAIR - What does Launceston City Council do because they don't charge what West Tamar charges?

Mr PATON - No. I can't tell you what Launceston City Council does now. I worked for the Launceston council about 15 years ago and in those days permits were issued for houses and it was what we then called a 'minor permit' and you would come along and lodge your building application for your house and, unbeknownst to you, you also received a minor planning approval.

CHAIR - That is right.

Mr PATON - You never knew you were getting one. You never filled in a form for one or anything else.

CHAIR - That was checking for setbacks.

Mr PATON - Yes, that is it. The building department would send it across. One of the people in the planning department would have a quick look at it and do exactly that, tick a few boxes and say, 'Yes, it needs that and it needs that' -

CHAIR - It never used to go to a development services committee.

Mr PATON - No, it didn't.

Mr BACON - You don't want that?

CHAIR - That is right, that is what used to happen but the trouble is under other planning schemes -

Mr PATON - Including mine.

CHAIR - Yes, although in Launceston they are not charging and in West Tamar they are. I can tell you we had evidence today - and I am aware that they are in any event - that down in West Tamar you have to actually pay for your otherwise permitted thing to be assessed under the planning scheme. Do you charge that too?

Mr PATON - Yes, but from what you said earlier probably not as much.

CHAIR - What do you charge?

Mr PATON - Only about \$200 or something.

Mr BOOTH - Is that based on a full recovery basis?

Mr PATON - No.

Mr BOOTH - So it is just arbitrary.

Mr PATON - It is an arbitrary sum exactly. It is an estimate. Our planning comes nowhere near close to recovering half its costs.

CHAIR - Doesn't it?

Mr PATON - No.

Mr BOOTH - What about the building regulation side of things?

Mr PATON - Where we do the certificates of compliance, as in the building assessment rather than the Permit Authority -

Mr BOOTH - Are you still running building inspectors and surveyors?

Mr PATON - Yes, we are, but if you break the building component into the two sides, the Permit Authority has an arbitrary fee of about \$150 for the permit. The building surveying services are charged out at cost recovery. It used to be substantially subsidised by council, however, we got taken before the Prices Oversight Commission or whatever it is -

Mr BOOTH - GPOC.

Mr PATON - and basically we were considered to be anti-competition and so we effectively more than doubled our building prices so that we calculated them out at full cost recovery. It was not our choice. We considered that we were offering a service. We are a country council over an extensive distance. It is not practical or reasonable to expect that a private building surveyor would set up a practice in Avoca nor did we consider generally that it was reasonable that a person in Avoca should pay the extra travel-related costs of having a private surveyor travel out there, so we have continued to offer the service and we continue to offer that service at the heavily subsidised prices we always charged until such stage as we were forced to put them up, so we have put up that side of them but not the rest.

CHAIR - Why not?

Mr PATON - There is no need to. We are a council, we are a local government and we offer a service. We are there working for our community.

CHAIR - Yes, but somebody has to pay for it. If you don't make money on it then the rest of the ratepayers -

Mr PATON - Yes, it is subsidised by all of the ratepayers. So all the ratepayers pay a couple of dollars in their rates towards subsidising the costs of the building and indeed the planning approvals for those people who develop.

Ms ARCHER - You would see it as a community obligation, I suppose.

Mr PATON - Yes.

Mr BOOTH - But the building surveying staff you said that is a cost centre, that staff which is separate to the Permit Authority is actually working on a full cost recovery basis.

Mr PATON - Yes.

Mr BOOTH - So there is no competition issue with the rest because no-one else offers it, do they? You cannot get an independent planner or an independent permit authority to -

Mr BACON - You are the planning authority for the Northern Midlands.

Mr PATON - We are the planning authority for the Northern Midlands. There is no independent planning authority. The private building surveyors practise in our region but to a lesser extent. Possibly their costs are greater, and particularly travel costs, but obviously they do a number of houses and other developments in Perth, Longford and Evandale which are 15 or 20 minutes travel from Launceston and do less in Avoca or Campbell Town or Ross.

CHAIR - You were saying earlier that you are not at full cost recovery, that is on the planning side and that is not on the building surveying side.

Mr PATON - We are on cost recovery only on building surveying.

CHAIR - Okay, fine. I am wondering why Launceston does not charge and never has for its assessment of a permitted use and your council and West Tamar does. I am trying to get my head around what brought this on and it's been explained to me by somebody from West Tamar, 'Well, that's our new planning scheme. It has the P1 process in it. It still needs to be assessed'. Is that not accurate?

Mr PATON - I believe that is probably accurate and it's an arguable justification. I don't wish to get involved on the merits of the decision of West Tamar; they could equally choose not to charge for it.

As you described it yourself, in the majority of cases if it's standard suburban block and you're going to put a standard suburban house on there, it's really only a matter of looking at the plans and saying, 'Yes, it's 5 metres from the front boundary and 1 metre from the side boundary, and 1 metre from the rear boundary', or more, and it's fine. Tick the box and we all move on. That is literally a five-minute thing.

CHAIR - But do you do that in Northern Midlands?

Mr PATON - No, because one of the difficulties we have in Northern Midlands is that we have an extensive number of what we call special areas. There are historic areas, scenic protection areas, there are areas that are flood-prone and within all of these areas are residential zones. I will say in the gist of this conversation that I am not a supporter of PD4 because I think it will cause more confusion.

CHAIR - Planning Directive 4?

Mr PATON - Yes, which is the State's push to -

Ms ARCHER - It's the Residential Planning Code - single dwelling.

Mr PATON - Yes. Without going into any great discussion on the inadequacies of it as drafted currently, the concept of arbitrarily making all housing permitted without permit I believe is a backward step.

CHAIR - Do you?

Mr PATON - Yes, I do.

CHAIR - Because of these special overlays?

Mr PATON - I do, that's correct.

Ms ARCHER - But wouldn't it depend on what an area is zoned so that it would only apply to a purely or strictly residential area?

Mr PATON - Yes, but I have substantial areas within Ross, Campbell Town, Longford, Evandale and Perth as well which have a heritage overlay over them; they are residential zones but they have heritage overlays over them.

Ms ARCHER - No, but once heritage comes it doesn't come under that.

Mr PATON - I understand that.

Ms ARCHER - Yes, because it's discretionary.

Mr PATON - I understand that, Protek understand that, but for your average person at home their only contact with the planning department is that one time in their life when they decide that they want to build something, and that doesn't even include all of them. It is only a small percentage of people out there who ever actually build their own house or have their own house built, and all they hear is, 'Oh, yes, a house is permitted, it doesn't need a planning permit'.

To me, the probability is that a significant number of them booked the builder. Under parliamentary privilege, I can quite happily say that in my experience most builders don't read their plans, they don't read their permits and they don't care. So they'll happily take a booking, they'll happily enter into a contract to build your house for you and it'll all be checked and you'll be all ready to go and start work next week. So next week is almost here and the builder then thinks, 'I'd better get my building permit', then suddenly, 'Oh no, it's in a heritage area. Sorry, you need planning approval'. That is going to take six weeks, and it's council fault.

CHAIR - Yes. Prior to coming to this job, for about five years I was a real estate principal.

Mr PATON - Yes, I know.

CHAIR - I found that that was where a lot of the problems started; a real estate salesman would be saying, 'I'll sell this block of land' - it's a residential block of land - and it was at that point that it was not disclosed as to what the overlays were and what the provisions were. But, my goodness, when you did sell a block of land in Launceston that was actually a residential block of land, that's exactly what it was. That meant you could engage your builder, bung your plans in and within a couple of weeks' time you could start building.

Mr PATON - No, that's not correct.

CHAIR - Back then.

Mr PATON - No, even then it's not correct.

CHAIR - No?

Mr PATON - That's correct in most cases. I live in Launceston and there is a scenic protection overlay over my house. I'm in a residential zone but there is a scenic protection overlay so any development work on my house becomes discretionary.

CHAIR - But what I'm saying is as a real estate agent we became good at saying, 'These blocks of land are residential in a scenic protection area. Therefore you need to go through that process', and you can't do this or that.

Mr PATON - Our real estate agents in the Northern Midlands do that, and they do it well. I rarely hear of suggestions that they have given incorrect advice provided I can convince them not to give planning advice.

Laughter.

Mr BOOTH - Everybody is a planner.

CHAIR - Everybody is a planner.

Ms ARCHER - Everybody is a backyard lawyer too.

Mr PATON - We've got a few of those.

CHAIR - Regarding your concern over PD4 - you are an expert witness in this case and we will be being briefed by the planning commission on these matters - to pin it down, what is your major concern?

Mr PATON - My major concern with PD4 is that I think it will create inconsistencies. I think it will lead people to believe that they can start work well before they can. It will only happen in a percentage of cases. The percentage of cases it will happen in will be greater in Northern Midlands than in Launceston because we have a greater area covered by various special area overlays. We have a greater percentage of properties within heritage precincts. We probably have a greater percentage of properties within scenic layers and the like, and I suggest that that will cause a confusion that way.

I would also go on to suggest that given that the State, with the cooperation of all of the councils in the three regions, is actively working towards finally coming up with something for planning directive one, to have a template process so that we can have greater consistency in our planning schemes, the introduction of PD4 is a pointless exercise. If we talk about costs in the building and planning industries and everything else, the State is throwing good money away, wasting its time and resources on PD4.

CHAIR - So PD1 would do?

Mr PATON - PD1 will do that. If it is the State's decision that houses will be classified as permitted without permit, whatever label you want to give it, the essential gist is you are saying that a house shouldn't require a permit, subject to those other reasons.

CHAIR - Subject to overlays.

Mr PATON - Subject to overlays, a house shouldn't require a permit. If that is the position of the State, then it writes it into the template for PD1 and every council in the State has that done. These standardised planning schemes would be out now had the State not dragged its feet.

Ms ARCHER - Isn't it true, though, that the northern part of the three regional planning initiatives hasn't even been finalised Or am I confusing that with the north-west.

Mr PATON - What do you mean when you say that?

Ms ARCHER - You are talking about, I presume, a regional strategy and consistency statewide, or at least consistency in the three regions.

Mr PATON - Yes.

CHAIR - Is that PD1?

Mr PATON - Part of it.

Ms ARCHER - And that needs to come before getting our single dwelling residential planning code.

Mr PATON - Not at all.

Ms ARCHER - I have heard that the northern region is holding up that process, so please correct me if I am wrong.

Mr PATON - I would endorse what Peter Button said and suggest that the northern region will produce eight planning schemes; probably eight in draft form by Easter and eight ready to go formally to the commissions by mid year.

Ms ARCHER - And all councils have had a role in that, I presume?

Mr PATON - Yes. All councils are involved in that and it is moving ahead. The regional land use strategy component has not yet been completed and that becomes a chicken-and-egg discussion as to which part you need first. Would it be best if we had had the regional land use strategy prepared first? Yes, it would and it would have been wonderful if we could have had that done a year ago. It didn't happen. I am not going to point fingers at that, but it won't hold the process up. The councils in this region are committed towards working with the PD1 process. We might not agree with all of the details that are coming out of it, but I believe that we are all committed towards achieving the end result.

Ms ARCHER - Are you saying that the PD1 process would otherwise have PD4 encapsulated in it?

Mr PATON - Hopefully not in its current format.

Ms ARCHER - Okay, so putting aside that format, it would be allowed for within PD1?

Mr PATON - Yes. If it is the State's position that houses should be permitted without permit, subject to overlays, whilst that is not my personal position, if it is the State's position that that is what it should be, then that is what it will be. That will come through the PD1 process which will give us one new planning scheme for every council in the State. All of those planning schemes should be largely consistent. They will all have some minor variations but they should be largely consistent.

CHAIR - They will be consistent on that housing thing because it will be prescribed.

Mr PATON - Yes.

CHAIR - In PD1.

Mr PATON - On that basis it is prescribed and so that is the way it goes.

CHAIR - So what you are saying is that PD4 is just unnecessary.

Mr PATON - It is an unnecessary waste of time.

Ms ARCHER - I think it is a bureaucratic thing.

CHAIR - That is very interesting and a very practical explanation of where we are with that.

Mr PATON - It will also create further confusion for people who do actually read the planning schemes because if you bring in PD4 in a month's time and modify the Northern Midlands planning scheme, that's fine and we will change our website and we will change a few hard copies about the place and that is okay, but you will just get the hang of that and then we will have a new interim scheme in the middle of the year that changes it again. Then you will say, 'Well why did you bother changing that one?'.

Ms ARCHER - I think it is because they are committed to something that has taken so long and perhaps it is all -

Mr PATON - Everything takes a long time but perhaps that extra effort that is being spent on PD4 could have been spent on PD1 and we could have had that finalised by now.

CHAIR - I am sure some committee members will look forward to arguing your case with the Planning Commission in due course when we get a chance to spend some time with them.

A matter that came to this committee was a submission from a pensioner couple from Perth. It has since been to the Director of Building Control, who has found in favour of the complainant. This person came to this committee this morning to tell us the latest.

Mr PATON - Is it 21 King Street?

CHAIR - Is that the Daveys?

Mr PATON - Yes.

CHAIR - Yes. Are you in a position to give us a clue as to what council's attitude to these matters are or where you go in these cases?

Mr PATON - The Director of Building Control has found, as you said, in favour of Mrs Davey's complaint and has found that our assistant building surveyor acted unprofessionally in his assessment and has directed that the officer undertake some further training this year or over the next 12 months, which that officer will do. The Director of Building Control fell well short in her decision of actually suggesting to what extent the assessment process by building surveyors should be modified to pick up the

complaints of Mrs Davey. Our officers have consulted with our solicitor and there will be no appeal, so we accept the result and the decision of the director.

CHAIR - Which is only to do some training for your staff member.

Mr PATON - That's correct. Will Mrs Davey then take that and use that to seek compensation for the faults that she perceives in her building? She may and she may not. We have notified our insurer.

CHAIR - So you have insurance?

Mr PATON - Yes, we are insured through CMP. We have notified them of a potential claim.

CHAIR - To your knowledge is that insurer of a nature that would require this pensioner couple to go through the full civil process or is there a mediation process?

Mr PATON - I would expect it would go through a mediation process. They are one of the major insurers of local government in the country.

Ms ARCHER - The Supreme Court requires mediation before trial at some stage.

Mr PATON - And they will certainly be looking towards a mediated outcome. Realistically, the costs I believe involved in the repairs that might be necessary to this house probably don't warrant extensive court proceedings -

CHAIR - No.

Mr PATON - It's more than our council's excess. I think council generally contributes the first \$10 000.

CHAIR - So it is in the court of the insurance company?

Mr PATON - I suspect it would be more than that and it will go to the insurance company, but not enough for people to engage extensive representation and fight it out in the Supreme Court.

CHAIR - Except that she has to. To start the proceedings she needs a barrister.

Mr PATON - If it goes to the Supreme Court she does.

Ms ARCHER - It will be the Magistrates Court for \$33 000.

Mr PATON - I would have expected that the first thing she would do would be to lodge a claim. Obviously she will get her solicitor to lodge a claim against council, if that is the course she chooses to take. I will be very interested in that one myself. I built a house a couple of years ago in another council area and I can come up with a longer list of faults.

CHAIR - You built the house?

Mr PATON - No, we engaged builders to do it; I am not a builder.

Mr BOOTH - An accredited builder?

Mr PATON - Yes, although he shouldn't be.

Mr BOOTH - What action has been taken as a result of that?

Mr PATON - Nothing. We complained to the Master Builders Association of Northern Tasmania and they said, 'What do you want us to do about it?'. I said to them, 'He's registered with you guys'. We used a builder because we wanted the housing indemnity insurance, which was still in play at that time, and he made a number up and put it on the front of a contract. I said, 'Do we have indemnity insurance?' and he said, 'Yes, that's the number there'. When we checked he had just made it up.

Mr BOOTH - How long ago was that?

Mr PATON - Six years.

Mr BOOTH - So was it MBA insurance?

Mr PATON - I don't know the details off the top of my head for that, but he just made up the number.

CHAIR - I wouldn't lose too much sleep; he couldn't claim a thing off it anyway.

Mr PATON - It didn't matter; he lied to me from the start.

Mr BOOTH - So you went to the MBA because you thought that they would deliver a building because of who they are that would be compliant and built to a quality. You used an accredited builder because you thought that an accredited builder would build to a standard, but didn't, so what do you have to say about the accreditation and the trade associations with regard to backing their work?

Mr PATON - I was very disappointed and I engaged my lawyer. When the builder asked for his final payment, my lawyer wrote to him and said, 'You walk away and we will', and I haven't heard back from the builder.

Mr BOOTH - And you got no support from the MBA?

Mr PATON - None whatsoever.

Ms ARCHER - You were lucky you took that approach prior to the end.

Mr PATON - It was only the last payment, so I withheld the last \$7 000 and it cost me about \$25 000.

Mr BOOTH - You have just given us an example of accreditation that wasn't worth the paper it was written on or the fees that were paid for it. Are there any areas of

accreditation that you see are simply an unnecessary impost on the home owner who ultimately pays for all these things?

Mr PATON - I believe that the accreditation of builders is important. I believe that unaccredited builders ought not be allowed to practice.

Mr BOOTH - Because they might build something like this accredited guy?

Mr PATON - Yes, but I believe the Director of Building Control should be in a position to remove a builder's accreditation and therefore put that person out of business - so teeth and the willingness to use them. It is the willingness to use the teeth that is the greatest problem.

Ms ARCHER - And how to recompense someone?

Mr PATON - That would be handy, too, but who takes responsibility for that? The accrediting authority or whoever accredits the builder should take the responsibility if the builder is not behaving properly, but over what period of time? If a builder becomes lazy and cuts corners after having worked in the industry for 10 years, that can't be the responsibility of the accrediting authority. I noticed there was some discussion over CPD; some people believe that is not necessary. I would say it is essential.

Mr BOOTH - This bloke presumably had been doing CPD -

Ms ARCHER - It depends on what courses they are sitting.

Mr PATON - That's true. CPD points by going to a little conference held in Campbell Town for the day where you have a nice lunch and sit around and pat each other on the back are not worthwhile.

CHAIR - Having to get a series of points up annually means that you are always piddling around with silly courses because you have to tick that box. If you were able to in a profession - and I think some professions do that - show every three years that you have your points up that allows you to plan to do, say, a company director's course in the last year or in the middle year which really teaches you something. Do you understand?

Mr PATON - Yes.

CHAIR - It allows you to do it in a three-year patch rather than being forced to go off and do silly things.

Ms ARCHER - Doing the same course every year for three years..

CHAIR - We have had evidence here today of one person saying that it is a complete nonsense, it is the same course, but I get to meet my customers there. He actually uses it as networking time.

Mr PATON - Many of them do but perhaps the accrediting bodies could offer annually although with perhaps a requirement. I would be quite happy for a requirement for all

professionals in planning and in building and in many of those related fields to be required to achieve a course on their roles and responsibilities, their legal obligations.

CHAIR - Ethics.

Mr PATON - In ethics.

CHAIR - They are always going along doing something about damp-proof coursing, what about something like ethics in business?

Mr PATON - Going to do a thing on damp-proof coursing is a bit like the guy who runs a clothing shop going to the Melbourne Market. It is part of the job, whereas training on their rights and their responsibilities and ethical behaviour - I would be very happy to see a requirement for all practitioners, including the builders and planners and not just the building surveyors. I believe if they could do a course every three years in professional ethics and their rights and responsibilities and need to back up what they do and say, I think that would be wonderful and we would all benefit from that because they can go and do the other ones anyway. Builders to keep up with what they are doing in their building industry are going to go and attend things on damp coursing from time to time. They are going to go and attend product releases for this and find out what that new thing is going to do for them and they are going to go and do that because the builder down the road is doing it and they can see that it is actually working for him so they will go and learn about it. But they are not going to go and learn about ethics -

CHAIR - I think that is good advice.

Mr PATON - and their rights and responsibilities and the rights and responsibilities of their clients if they are not forced to.

Mr BOOTH - Therefore in a sense there might be an argument you could advance that the ethics course and rights and responsibilities and so forth could be something if it was a prescriptive requirement of maintaining accreditation every number of years but checking out how to do a damp course and all this sort of make-work stuff that you already know how to do perhaps ought to be a requirement if your work is in fact found to be deficient. It just seems to me, and I have certainly had it put to me, that a lot of professional builders who do not get their work rejected, never have complaints, have never been before a tribunal or a court are absolutely infuriated if treated like children and sent off to do a course which wastes them hours of their time travelling to and fro, they are not working and they are not earning and they are putting up with some nonsense that the HIA and the MBA have put on some sort of dodgy course which is a great income stream for the trade associations but does not improve the standard of work. Do you think there is an argument that where a builder is found to be deficient that there be an order from, say, the building surveyor who is inspecting the work to say, 'You have to go and do a module on the framing act or you have to go and do something on under-tile damp proofing' or whatever.

Mr PATON - Yes, but I would hedge that by saying that I would not want my building surveyor giving such a direction to a builder. I would suggest that my building surveyors could pass those comments on to the Director of Building Control and the order could

come from them. I would not like to see council building surveyors telling independent builders that they had to go and get further training.

Mr BOOTH - No, but that would actually be a cause and effect, wouldn't it? You would have an inspection and it either passes or fails and if it does not pass then notification should go to perhaps Workplace Standards who then say, 'Fred Bloggs has now had three failures, so Fred to keep your accreditation off you go'.

Mr PATON - Perhaps there ought to be a system in place whereby Workplace Standards or the Director of Building Control is notified every time an inspection fails instead of the builder simply being told to fix a couple of things and give us a call back.

CHAIR - Duncan, time is drawing to a close and there are a couple of questions I want to ask you. Firstly, why is the Northern Midlands Council in the building certification game? Is it historic that you always had somebody -

Mr PATON - Yes.

CHAIR - and is it a service? Why are you in the game at all now that you have been forced to be fully cost allocated by GPOC? Your current staffer has been found to require more training and I won't get into whether that is right or wrong or indifferent but would council not bend their minds to the question why are we in this at all?

Mr PATON - We are in this, I believe, because we are still maintaining a community service. We are in it because we have always been in it. Now that we have been forced to go for cost recovery there is no benefit or there is no gain or loss in continuing to do it to council. There would be a loss, I believe, to a significant number of people in our community if we stopped doing it.

CHAIR - The service you mean?

Mr PATON - Yes.

CHAIR - So that if somebody moved into Longford and set themselves up as a private building surveyor, council could look at that differently then?

Mr PATON - If there was a private building surveyor based within our municipality -

CHAIR - Yes, Perth or Evandale.

Mr PATON - somewhere like that we would possibly take that opportunity to review it. Dare I say even when our staff retire that is often an opportunity for you then to review whether or not you continue to offer that service.

With regard to the recent decision of the director, that was largely based on the fact that a particular form was not filled in correctly to demonstrate that work had been done.

CHAIR - We are not participating in any blame game either; it was an arm's-length process.

Mr PATON - No. While we are just talking about general things here too, as an opinion one significant factor that contributes to the cost of building in this State is the reliance on 5-star and 6-star building design. Northern Midlands' planning scheme has a component in there about solar efficiency which says that we would like you to have 10 per cent of your floor area reflected in windows on a northern wall or on a north-facing wall. But if you look around now, a significant number of our discretionary applications come in as a result of builders and building designers coming up with a 5-star or 6-star design that is completely reliant on double glazing and extra insulation and this, that and the other and in some cases does not have a single window on the northern wall, and in many cases they don't have eaves either. Commonsense tells us that if you put some windows on the northern wall, you will get the sun coming in there to help warm the house up. If you put eaves out there particularly over that northern wall, the heat of the summer sun will be kept out of the house and all the benefits of the winter sun will come streaming in and you can save a lot of money. Five-star and 6-star design is a misnomer because people don't listen to the design part. It is 5-star design or 6-star design; it is not 5-star or 6-star building.

Mr BOOTH - The rating.

Mr PATON - But the design is rated. If you put all your insulation in the ceiling and if your builder is lazy or in a hurry because it is four o'clock on a Friday afternoon - that is a lie; there is never a builder on site at four o'clock on a Friday -

CHAIR - Don't be like that.

Mr PATON - particularly if he thinks the owner is coming along to have a look. You only have to miss this much area in the ceiling with your insulation -

CHAIR - And you have lost it.

Mr PATON - and the efficiency has plummeted.

Mr BOOTH - An electrician gave evidence about down-lights becoming thermal heat pumps.

Mr PATON - That is exactly what they do. We have a significant number of our houses, particularly in the north here, being built on reactive soils. You can put in whatever foundations you like but you are not going to take out all the movement. With the movement comes some adjustments in your doors and windows so you get draughts in the house. So you may have paid good money for a 5- or a 6-star design, you have paid substantially extra money in the building of your house to have all this extra insulation and design components put in there but because the builder isn't a 5-star or a 6-star builder that money has been wasted. And because your design didn't incorporate any passive solar benefits, for the rest of your life you are reaching into your pocket paying extensive Hydro bills or gas or whatever other choice you may have put in, and we all know that none of those are getting any cheaper.

CHAIR - Good point.

Mr PATON - The more technical things we come up with and conveniently environmentally this, or whatever tag you want to put on it, it is only as good as the person building it, and it is the same as the building assessment process; it is only as good as the person doing that assessment.

Mr BOOTH - But isn't that the critical break point? If people are doing work that is not compliant and you are paying for an inspection and if the inspection itself is inadequate then the whole system collapses.

Mr PATON - Okay. How much do you want to pay for your inspections?

Mr BOOTH - It depends how important you regard the compliance, I suppose, and it is the regulatory authorities who decide that you have to have a 6-star house or a 5-star house.

Mr PATON - But at the moment compulsory building inspections are: the slab, the frame and then completion. If those are the only three compulsory inspections and you want your council building surveyor to be responsible to make sure that the damp coursing is in properly, to make sure that the flashings have been put around the windows properly, to make sure that the insulation is in the walls and in the ceiling, and to make sure it has been laid properly, you have three more inspections and you have to pay for them.

Mr BOOTH - I think that is something that should be considered because the fact that it is compulsory or otherwise is irrelevant in terms of someone signing off who has an obligation as an inspector to sign off. If they are not convinced that the damp course has been done properly or the insulation is in the wall then they should have done the inspection.

CHAIR - This is a silly question considering your experience, but a registered builder who has gone through all this sort of stuff surely can survive on three inspections. But a one-off owner-builder -

Mr BOOTH - Unless they are an MBA builder apparently.

CHAIR - Exactly. But a one-off owner builder if he had to have six inspections, I don't think that would be onerous. I think you would say that would be a reasonable protection. In the case of the one at Perth that may well have been -

Mr PATON - Probably quite right and we could have a record of complaints against the other builders and the director can regulate the number of inspections that may be required for that builder.

CHAIR - Exactly and say, 'For the next two years you will be having six'.

Mr BOOTH - A gold-star rating gives you three.

Ms ARCHER - As part of a penalty, too.

CHAIR - That is not bad advice.

Mr PATON - It is across the board. I am afraid it is across the board and it includes the council inspectors as well. My house down the coast was inspected by the council inspectors, but two of the piers were missing. You only had to count the holes in the ground.

Mr BOOTH - Did you get them back?

Mr PATON - No, I bought new ones and put them in myself.

CHAIR - That bloody inspector knocked them off.

Mr PATON - No, they were never there, were they. If the plans show 35 piers and there are only 33 holes, wouldn't you guess when you were doing your footings inspection that something is wrong?

Ms ARCHER - You would think so.

Mr BOOTH - That is really precisely the point, isn't it, that obviously either the inspector is incompetent or hasn't done their job properly.

CHAIR - I would say to the council, 'Get out of it'. Put a private inspector in there so you can sue the socks off him. Make him count the 35. You are much more likely to do it with a private guy than a council guy. It is just the nature of the beast, particularly when you have all these people grandfathered in over the years in these councils.

Mr PATON - Everybody breaks the rules and perhaps here we come back to our teaching ethics.

CHAIR - Exactly, but it is mankind's ingenuity. Before you were on the council, while I was chairman of building services as an alderman we caught builders, after the footing inspections, dragging lengths of trench mesh out to take off for their next job because it had been inspected. If there are rules there, someone is going to try to break them.

Ms ARCHER - That is one way of saving building costs.

Mr PATON - It doesn't help with the building later, though, does it.

Ms ARCHER - I was being facetious.

Mr PATON - And that doesn't save on the building costs because the owner of the building has still paid for it. Everybody is making a profit in the process except for council.

CHAIR - Which begs the question, why would councils be in it?

Mr PATON - Because some of them still care.

CHAIR - And your answer is spot on because you believe the people of the Northern Midlands will be disadvantaged by not having someone there.

Ms ARCHER - But you do have to incur liability costs, which are then borne by the ratepayer.

Mr PATON - Yes.

Mr BOOTH - Although that is the same insurance, effectively, in that sense. You don't actually pay; you have it in professional indemnity insurance.

CHAIR - But they have \$10 000, that is pretty right. What was the city council cost?

Ms ARCHER - \$25 000.

CHAIR - A nasty whack on the budget.

Mr BOOTH - I suppose to some degree you could argue that it prevents market failure. If you have an inspector in an institution and suddenly they need building surveyors in Queensland and all the privates here shoot off up there, then at least you have probably more chance of maintaining that critical mass.

Mr PATON - That is right. Mind you, if there is a rush on building surveyors in Queensland and they are getting paid a lot, ours will go too.

CHAIR - You will stay here, though?

Mr PATON - I'm not a building surveyor.

Mr BOOTH - But you do have the institution of building infrastructure and so forth.

Mr PATON - I heard your earlier comments, but I am a planner by background.

CHAIR - Okay. Thank you very much for your frank contribution and particularly some advice that you have given us. That will be very useful for us. We look forward to advancing some of those arguments. Over the course of this inquiry you will be able to log on and have a look at how we are going.

Mr PATON - Find out what I actually said.

Laughter.

CHAIR - Thanks very much for your time and your frank submission. It was very good indeed.

Mr PATON - Thanks very much.

THE WITNESS WITHDREW.