

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ACCREDITATION OF BUILDING PRACTITIONERS MET IN THE COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON TUESDAY 24 OCTOBER 2006.**

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**Mr PETER COAD**, EXECUTIVE DIRECTOR, AND **Mr FRED LIJAUCO**, CHAIR, TASMANIAN BUILDING AND CONSTRUCTION INDUSTRY TRAINING BOARD, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIR** (Mr Harriss) - Thanks, Peter, first of all for your written submission. We want to ask questions relative to your written submission. I indicate to you both that the deliberations here come with the protection of parliamentary privilege for you both. You cannot be sued legally for anything that you might say to the committee today. People need to be aware of that. We have found, as this committee process has unfolded, that we like to be pretty informal about the process, so we will use Christian names, if that is agreeable to both of you, and we invite you to do likewise.

If there are any opening comments you would like to make in regard to your written submission, please do so and then questions will flow from that.

**Mr COAD** - First of all, thanks very much for the opportunity to speak to the submission. The first point I would like to make is the submission that we provided is a submission on behalf of the Building and Construction Industry Training Board and that is a board set up under an act of parliament, called the Building and Construction Industry Training Fund Act. It is a board of industry representatives, appointed by the Minister for Education, which includes the professions, the housing area, the commercial, the civil construction and employee representatives. So it is a broad sector of the building and construction industry.

The board obviously has a keen interest in the accreditation of building practitioners and it had adopted a policy in 2002 in relation to this whole issue. We believe that accreditation of building practitioners should be based on competence. Since that time the board has always held that view and the submission that you have before you is about that. It is based on competence; it is also based on transparency; and it is also based on cost-effectiveness in terms of what we believe to be cost-effective. In putting this submission together, we took advice from the industry of practitioners. Our board runs a series of industry workshops throughout the State by biannually and in 2002 we ran a workshop. We had over 250 builders attend those workshops and it was an independent consultant who facilitated those workshops. A series of recommendations came out of those workshops and the board adopted its policy position from that, plus the input from other industry organisations and stakeholders.

Basically, Mr Chairman, the submission you have before you is something that we believe involves the industry in terms of fitting industry organisations as the key stakeholders involved and making them accountable and responsible in terms of that process. Because the board is a statutory authority, it comes under the Audit and Financial Management Act. It has appropriate accountability requirements as well so you build those accountability issues into it as well so it adds those issues as well. But the key thing is, and it works with other government agencies, to put the responsibility

for those agencies, whether it is consumer affairs, things like business licensing or part of the workplace standards in terms of building standards and codes of practice, back with those particular organisations for the general community.

We would really commend this proposal to you. We are confident in terms of the practitioners that we spoke to at those workshops that in putting this together, they felt that it is something that the board should really look at doing. The Tasmanian Building Qualifications Board would be involved in dealing with complaints. Building standards or codes of practice would be the responsibility of the appropriate agency. The key to this would be the levy. At the moment we have two levies on the industry. We have a levy under the Building and Construction Industry Training Fund Act, which is 0.2 per cent on the value of building and construction work over \$12 000, and we have another levy under the Building Act which, I understand, is 0.1 per cent. We would be suggesting under this proposal that those two levies be amalgamated and the accreditation process would be offered to the building and construction industry cost neutral. But the key to that process would be the continual professional development that would be offered by this board to the industry and we would be able to use the funds for that purpose, so we would be able to include the professions plus the designers plus the builders plus the assessors in the process. At the moment the training levy does have some restrictions in relation to a provision of training. It has a definition but by bringing those two levies together, that is a significant advantage as well.

The qualifications board will be established under this board under the Building and Construction Industry Training Fund Act and the board has powers under section 9 of that act to appoint committees to fulfil that role.

Thanks for the introduction. I appreciate it.

**Mr WILKINSON** - Queensland certainly were impressed with the work that you are putting out when we saw them not last week but the week before.

**Ms FORREST** - There has been a bit of comment from a lot of the practitioners that have given evidence about CPD and I notice it does form a fairly important part of your proposal here, and you say you have had quite a bit of input from the industry. How do you see that working? A lot of builders have said it is a bit of an impost on their time and finances to undertake CPD, which some of them saw as not being particularly efficient or effective.

**Mr COAD** - No, we would certainly be reviewing the whole CPD process and if you go to page 4 of the submission, if you look at the professions advisory group, the designers advisory group and the builders advisory group, we'd be making sure that CPD was relevant to the issues that are affecting the industry at the time. For example, if we got a series of complaints coming in a particular area through the department of workplace standards or Consumer Affairs, we would work with those associations to put in place relevant CPD for the practitioners to address those issues. The first point you would make sure is that your CPD was relevant to the problems that were occurring within the industry to address those particular issues.

The second point regarding the CPD is that the organisations would need to look at their own particular circumstance in terms of what best suits their particular needs rather than

the scatter-gun approach, and have their training designed to meet their particular needs. So they would be the two strategies in terms of CPD, but we'd work closely with the industry associations and their members to be able to put that in place.

The other issue associated with this is that many organisations in the building and construction industry are not members of these industry organisations. The board has a database of some 5 000 organisations. We have built that up over about 10 years and we have direct access to those people. So we have an opportunity to take this training to a much broader market than just the building practitioners and all accredited builders.

**Ms FORREST** - Would you be suggesting an across-the-board point system or on problems identified, as you said - say, coming through Consumer Affairs or whoever comes to you? Would it be that each building practitioner has to do a certain number of hours or get a number of points, or is it just more needs specific?

**Mr COAD** - No. We haven't actually designed a CPD scheme, only those principles that I just mentioned to you. We would do that in consultation with the industry associations. It is very important that these industry associations such as the architects, the engineers, the master builders, the Housing Industry Association are involved in that process, but at the same time it is important that we pick up the key issues. That is why we've got that performance agreement with organisations like the Department of Justice, Workplace Standards, and Consumer Affairs. It has to be an integrated approach, but it also has to be separated and transparent so you can actually see the performance of the board, the performance of Workplace Standards and the performance of Consumer Affairs.

By doing it that way, if we are not addressing the complaints, if you don't see a drop in the number of the complaints, then we don't have a good CPD scheme. We could set up performance indicators to drive that.

**Mr LIJAUCO** - It is based on the core expertise of those agencies rather than having it in one super department. The feedback that we have been getting about the CPD is that it should be based on a needs basis, not just in Tasmania but with CPD schemes like through our counterparts on the mainland. Practitioners have said that there may not be a need for this year, for example, but the need for the following year might be different.

**Ms FORREST** - So it's not a rigid standardised approach, that's what I am saying. You're suggesting it should be in consultation with the industry to determine what the needs are and then work with them to provide it?

**Mr LIJAUCO** - That's exactly right.

**Mr COAD** - But you also need to balance that by looking at the issues that are occurring that are impacting on those things that are occurring. If you get a lot of complaints in a particular area, from a technical point of view then you design your training and organise training around that. You would have a measure of that performance for each of those jurisdictions.

**DEPUTY CHAIR (Mrs Smith)** - It is good to see a plan. The one issue I see that is missing here strongly is that whilst you've got under Consumer Affairs and Fair Trading, consumer education and rights so we educate the consumer about their rights, and so on,

where is the consumer if they have an issue with a builder that they can't sort out? Where do they fit in this master plan of yours - or don't they?

**Mr COAD** - They do.

**DEPUTY CHAIR** - Because at the moment they are ending up in the courts.

**Mr COAD** - That is a very good point and that point is addressed. Maybe it is not detailed in the submission. It is the qualifications board. We have said that we have 12 not-for-profit board members and they would make up consumer and industry representatives. This is how we would see the structure of that board. There would be three people from the professions, one from the designers, four from the builders, one from assessors and three from consumers and local government, Consumer Affairs and Fair Trading, so they would be represented on that board.

**DEPUTY CHAIR** - So if I have an issue with a builder, do I go to that board?

**Mr COAD** - If you have an issue with the builder, a personal issue, if it is a consumer complaint it would go to Consumer Affairs and Fair Trading to deal with that complaint. If it was serious enough and it cannot be resolved, they would make a report with a recommendation to the board. The board would then make a decision to either act on that or not act on it. If they do not act on it then the decision goes to the minister and the minister's decision is final - end of story; both have to agree to it. So the minister makes the final decision.

So there is a process there where the appropriate agency like Consumer Affairs and Fair Trading deals with a complaint. If it is a technical matter, if it is a structural defect or something does not comply with the building code, then it goes to the building standards people.

**DEPUTY CHAIR** - We had evidence of one person who has some structural difficulties with a house in the north. Everywhere they go they are shunted from one to another. So if that person came through this process and your board said quite clearly, 'This builder who is registered with us is not fulfilling his licence agreements', would the board have the authority to say, 'Go and fix that work or we will have it fixed'? Where will that fit?

**Mr COAD** - In terms of the first issue, the complaint would go to the Department of Justice - Workplace Standards. If the complaint cannot be resolved and dealt with, it is referred to the qualifications board with a recommendation and that recommendation might be de-registration of the builder.

**DEPUTY CHAIR** - We have tried to get him to work with the client?

**Mr COAD** - We have tried to get him to do that and he has failed to do it. The recommendation would be made. That board would then make the decision, based on the information provided, to de-register. If they do not agree with the recommendation, it goes to the minister and the minister makes the final decision. It is very clear in terms of who is responsible for what.

**DEPUTY CHAIR** - So if I am the consumer, I go to Consumer Affairs and Fair Trading. If I am not satisfied at the end of that - Consumer Affairs has said, 'No, we think the builder is okay' - I can request that the report be put to the board. If the board agrees that, 'No, the builder is right, I the consumer am wrong', I am finished.

**Mr COAD** - That is correct.

**DEPUTY CHAIR** - The courts are my only option?

**Mr COAD** - There are other avenues in terms of litigation open for individuals that they can pursue but we need a process that is open and transparent because if you go through this process, if Consumer Affairs says there is one process and they put a recommendation to this board and this board agrees with it, then they act on it.

**DEPUTY CHAIR** - So your stick approach is that if Consumer Affairs says, 'The client is right, go fix that problem and the builder says, 'I'm not going to', Consumer Affairs can say, 'Well, our report is going to the board and they may de-register you'.?'

**Mr COAD** - Absolutely. If that recommendation is to de-register, the board will de-register and act on that recommendation. If they find that the information given to the board needs more information or is not quite right or whatever they need, they may make a decision and say, 'No, we are not going to de-register'. Both reports go to the minister and the minister makes a decision and it is final.

**DEPUTY CHAIR** - Would you expect mandatory time lines in this -

**Mr COAD** - Absolutely.

**DEPUTY CHAIR** - unless both sides agree that they need more time?

**Mr COAD** - You need to have with all these processes time lines put in place and you need obviously to have a quality assurance process, and the agreement will specify that.

**Ms FORREST** - It has gone to Consumer Affairs, gone to the board, and either way, whatever it is that is determined, there is a problem and the builder has been directed to fix it. He still says no, even under the threat of being deregistered, because he is going to go overseas and work somewhere else anyway. What about the protection for the consumer in such a situation? He might disappear I suppose but if he is still around, say, what protection is there then for the consumer to have their property fixed?

**Mr COAD** - I suppose if you are talking about housing construction then you have home owners' warranty and other types of insurance which is designed to protect the consumer as well.

**DEPUTY CHAIR** - The difficult we find, though, it is last resort so the builder has to go broke, be deregistered or whatever and then insurance kicks in. Your model quite clearly appears that it should be a first-resort process, too, so the board could say that, as the builder has disappeared, insurance will fix the problem.

**Mr COAD** - The qualifications for its role is to accredit builders. They must have a level of competence to be accredited. Its role is to look at continual professional development and the delivery of that. Its role is also to deregister accredited builders who do not comply with the codes of conduct and the ethics of the board.

**DEPUTY CHAIR** - It does not fix the person's house

**Mr COAD** - No, it doesn't because that has to go back to the appropriate agency in terms of Consumer Affairs or, if it is a technical matter, Workplace Standards.

**Ms FORREST** - So either way the home warranty insurance, as a last-resort insurance that we currently have, does not really provide any protection. Would you suggest that you would need a first-resort insurance to back up this proposal, as opposed to the last resort that we currently have?

**Mr COAD** - It is interesting, but we did not get a lot of support from the industry in relation to the insurance. There are a lot of concerns with insurance. We are saying this will take some time but if it is based on competence then over a period of time you are going to have fewer complaints because you are going to have competent people operating in the industry. Unfortunately, the initial process in accreditation of builders in this State was based on grandfathering people into the industry and it was not based necessarily on competence. We are saying let us get it based on competence. By having people competent you are going to have fewer consumer issues to deal with and fewer technical issues, but if you do have an issue the responsibility for that issue rests with that particular agency to deal with it and you have time frames to deal with it. As a last resort it might end up in the courts.

**DEPUTY CHAIR** - I can understand the builders' issue with insurance, but would it be fair to say that the builders' issue with insurance is the way in which they have been stung on the fact that their competency has been attached to an insurance policy rather than to their skill? That might have been the angle of insurance that builders had a difficulty with, not an insurance that would protect the consumer if something could not be fixed.

**Mr COAD** - That is certainly an issue that we go through our workshops. Insurance was a big issue because the original scheme was very much predicated on insurance requirements rather than competency. What we are putting here is a different model, it is a model on competence and it comes with some pain because with this original concept of competence people had the view that they had to go back to school and do more training. That was a concern to a lot of builders, particularly to a lot of mature-age people who had been operating in the industry. But again it is an educational process because under the qualifications framework process nowadays you can have people's competency recognised on the job. This can be done on the job; they do not have to go to a classroom. Again, we have the mechanisms to fund that and process that for the industry.

What a wonderful thing it would be if, in five years' time, we can say that every builder in this State holds a national qualification depending on the scope of their work. If it is an unlimited qualification, it is a degree level; if it is a housing level, it is an AQF level 4. That would be a tremendous marketing thing that we could take to the community if we

could achieve that. We would see those complaints as a real indicator and a measure of the performance of this board to achieve those things.

**Ms FORREST** - Can I take a slightly different path but in the same direction in relation to audits? There is not much detail your submission about how the audit process would work. Would there be triggers, random audits or would you intend to audit every building practitioner once of year, regardless?

**Mr COAD** - There would definitely be audits because CPD will require those audits. But there would also be audits in terms of the standard and codes of conduct for the accredited practitioner as well that would be put in place by the board. You would have to have audits, otherwise you would not have any quality control over what you would be putting in place.

**Ms FORREST** - I am assuming you would do some random audits in that. A random audit conducted on builder Joe - he is quite competent, his work is up to a certain standard and they are just auditing his work, competency as well as perhaps other factors. Would that count toward assessing his competency under the competency requirements? With the auditing process, what trigger point would warrant that spot audit?

**Mr COAD** - Obviously, you would get trigger points from the two departments, whether it be Consumer Affairs or Workplace Standards. They would be two trigger points for looking into audits of building practitioners.

The other trigger point would be that you would have a standard process of auditing everyone in the industry. This would be done over a period of time. Obviously you would not be doing 2 500 accredited builders at any point in time. But in one year you would have a process in place to do an audit. But you would also have another process in place where you would do audits as a result of particular complaints.

**Ms FORREST** - So every accredited builder would expect to be audited at least once in a time frame of, say, three years, plus the occasional spot audit or an audit that was triggered by a complaint?

**Mr COAD** - Absolutely.

**Ms FORREST** - So everyone would be audited?

**Mr COAD** - Absolutely. Just like the breath test, someone is going to catch you some day. You need a system and you need a process.

**Mr LIJAUCO** - Over the long term too.

**Mr DEAN** - Can you expand a bit on the mandatory time frames that you mentioned. I do not know what the mandatory time frames would be, but I refer back to the position of the Launceston home that has been referred to, where it related to construction difficulties and problems. During the time of those issues arising - and it still hasn't improved much; it has gone on for years - the builder has continued to build. How long would the mandatory time frames be, to go through the complaints process - that is, from that body to that body. To administer it, it could well take six to 12 months.

**Mr COAD** - No. As I mentioned previously, you would need to have those things documented in the performance agreement between the three bodies. Once the department - in that case, Workplace Standards - received a complaint, they would have a set period of time to produce a report to go to the board and the board would have a set period of time to respond to that recommendation. So they would have to then deregister that. It cannot just drag on, sit on the shelf or in a tray somewhere; there would have to be a proper process in place.

**Mr DEAN** - What right does the builder have to appeal that process? Is it through a court? What would their right be?

**Mr COAD** - They could appeal the process, but we suggest that would have to be set up in some form, directly to the minister. It could be to the Building Appeals Board - that would be logical if it were a technical matter. They could then deal with that grievance. But, at the end of the day, the final decision would be made by the minister responsible.

**Mr DEAN** - And the consumer could appeal directly to the minister and his decision is final?

**Mr COAD** - Absolutely.

**DEPUTY CHAIR** - You would probably be somewhat familiar with the Queensland model?

**Mr COAD** - No I am not.

**DEPUTY CHAIR** - The first point is that in Queensland it is law, it is a requirement that every building job is contracted, so you have a signed, written contract between both parties. Do you believe that should be law here in Tasmania? Would that help not catch some people as they get caught?

**Mr COAD** - That issue hasn't been discussed at our board, but in terms it makes very good sense no matter that any person in any sort of processes in the building and construction industry has some form of contractual arrangement. That also becomes an educational process for the consumers: when they select a builder they are aware of the issues because it is not just bad builders here, it is also consumers not knowing the system or the process. We have councils involved, we have solicitors, lawyers - a whole range of different people involved in this whole process. So it is an educational process for the consumer as well, and that is something that came out through the workshops that this has to be an integrated approach and that's why you need the consumers to be involved.

**Mr LIJAUCO** - It also puts the business capabilities of the professional on the spot.

**Mr COAD** - But it also makes the industry organisations under those advisory groups represented on the boards very accountable.

**Ms FORREST** - We have looked very strongly at consumer protection, but sometimes consumers can be difficult to deal with and the builders can be at the tail end of that. Do you believe this provides enough protection for the builder as well?



**Mr COAD** - Under this proposal the builders will look after their competence and make sure that they are competent to operate within the industry to a national qualification, run the CPD and have a code of standards in terms of the code of practice and the way they should operate. Consumer Affairs should look after the issues of consumer complaints, that is their responsibility. Workplace Standards deals with codes of practice and regulations, so that is their responsibility. If someone is not meeting their area of responsibility then this makes it clearly defined. You bring it all together, it is going to be back to the 1980s.

**Mr LIJAUCO** - All the business requirements would go to Consumer Affairs - for example, insurance usually rests with the company and not with the individual; things like that.

**Ms FORREST** - So you see the role of Consumer Affairs being to inform the customer of their obligations, as well as their rights.

**Mr COAD** - Absolutely.

**Ms FORREST** - Yes, because they do have obligations as well, don't they?

**DEPUTY CHAIR** - Earlier on you said you come under the Minister for Education's portfolio.

**Mr COAD** - That's correct.

**DEPUTY CHAIR** - Has the Minister for Education supported this particular proposal you are putting before us today?

**Mr COAD** - The Minister for Education has been provided with a copy of the proposal but he hasn't responded.

**Ms FORREST** - Did the previous Minister for Education have some input into it?

**Mr COAD** - Not to this proposal. The discussion we had with the previous minister was related to competency, and that minister supported the board in requesting that builders must be competent to operate within the industry in terms of the national qualifications as the basis for competence within the industry.

**Ms FORREST** - So she was supporting the AQF4 qualification, basically.

**Mr COAD** - Yes, that is right. By doing it that way it is portable. You have transparency across boundaries, and it makes it very much marketable to the community, too, to say that these people have a national qualification.

**Mr LIJAUCO** - It also features all those other things, such as CPD, for example; it's based on an objective measure.

**DEPUTY CHAIR** - There has been some criticism of the cost of accreditation. To be fair, all have been critical because they don't believe they've received service for the cost they have paid. Have you costed a process like this to any degree to see whether or not the

accreditation fees would remain somewhere around that ballpark, or could be lowered? Or is it an unknown until you have all sides?

**Mr COAD** - We believe with the transfer of the 0.1 per cent levy added to the 0.2 per cent, which gives you 0.3 per cent, we could run the builders accreditation under the Building and Construction Industry's Qualifications Board cost neutral. There would be a nominal fee you might charge that would be cost neutral. That levy is an industry levy - it is money out of the industry. The government agencies would have to take responsibility in their area in terms of Consumer Affairs and Workplace Standards. They would have to fund their own arrangements.

We would be able to also service the CPD cost through the industry training fund. Last year we funded over 5 000 builders in this State through the industry training fund. The building practitioners are not a significant component from that area, so we could add the capacity by combining those two funds to provide this cost neutral.

**DEPUTY CHAIR** - So you are telling me that those two levies that are already there could do the Tasmanian building and construction industry qualification - all that is listed there - so you would have the Department of Justice, which is Consumer Affairs and Workplace Standards, who then would have some capacity to attach a business licence fee, perhaps, under consumer affairs and trading to a builder to assist in their roles and still come in under the \$450.

**Mr COAD** - Absolutely. There would be some costs to those departments. Consumer Affairs would be dealing with complaints, but they deal with complaints from a whole range of other community groups and organisations as well. The board can only deal with accreditation, CPD and matters relating to codes of practice. We are talking about is raising the standards of the industry to that and dealing with recommendations from both those organisations for deregistration or recommendations in relation to CPD areas that we should be concentrating on.

**Mr WILKINSON** - What were the three matters that the board would look at?

**Mr COAD** - We would be looking at CPD - continual professional development; we would be looking at the accreditation of builders; and we would also be looking at the standards and codes of conduct of developers. That would be an audit process so you would have to comply with it.

**Mr WILKINSON** - And then Consumer Affairs would look at dispute resolution, is that what you are saying?

**Mr COAD** - Yes.

**DEPUTY CHAIR** - When you take a percentage of the value of work are you comfortable that this board could still operate at a high level even in years when work was perhaps much less than it is at the moment in the percentage value that you would receive?

**Mr COAD** - That is a very good question. The board has been operating for 15 years, going on 16 years, and we have had some good times and bad times in that period. You need

to plan your training and the board has what we call a reserve fund. When the industry goes down we can apply those funds to keep the amount of training effort up.

In some cases there might be a need to adjust, if there is a significant downturn. I am pleased to report from our forecasts we have a state of the industry report and am happy to leave this with the committee. I can assure you that the next two or three years will be very, very comfortable for this State. We are quite comfortable with the amount of funds, by bringing those two levies together, you are talking around about \$3 million to run an accreditation scheme for the industry, plus continual professional development and training plus an audit process for the building and construction industry.

**Mr WILKINSON** - How many people would you need in your agency to do your accreditation, CPD and the codes of conduct of builders?

**Mr COAD** - We have not done those calculations. Again, that would be a very small organisation.

**Mr WILKINSON** - And then you have Consumer Affairs with dispute resolution. They get their people to deal with the dispute resolution where from? From your board? In relation to dispute resolution you may look at architectural faults or engineering faults or building faults, plumbing faults whatever it might be. Where do you pick up the experts to see whether there is a problem or not?

**Mr COAD** - The experts come from our advisory groups and those advisory groups are made up of those industry organisations that nominate people with the expertise to make those comments. So if it is an engineering matter the Australian Institute of Engineers would be involved in that process.

**Mr WILKINSON** - Okay.

**Mrs SMITH** - When it is a mate looking at a mate, an engineer looking at an engineer, in a small State this size, how do you guarantee that he will truly reflect the position rather than the mateship?

**Mr COAD** - That is a good point. The way that is addressed is in the structure of the organisation we have. It is only an advisory group because his recommendation will go back to a board. A board makes the final decision, not the advisory group. The expert makes only a recommendation.

**Mrs SMITH** - But surely the board would rely on the expertise of that engineer who has gone out and he will put a written report in front of your board -

**Mr COAD** - Absolutely.

**Mrs SMITH** - Unless someone comes along and says, 'Here, hang on a minute, there is a bit of collusion here', you are nearly always going to tick it off. I am playing the devil's advocate -

**Mr COAD** - That is fine, absolutely. It is a less of a chance when you have a process of separation the way this has. The advisory groups recommend to the board, the board

recommends to the building and construction training board and then you have the minister as the final arbitrator in that process.

**Mr LIJAUCO** - There are also the checks and balances. If the builder, say for example, is a member of one of these associations and all those other associations get to look at the report then there is a built-in check and balance there. It is not an industry association looking after their own members, it is a group.

**Mr DEAN** - I am harking back to the Launceston situation in asking the questions here, could the consumer in this instance then write to the board or go to the board and say, 'I would like somebody else other than that person doing that assessment?' Is the consumer entitled to intervene in that process to ensure that there is transparency and equity in the investigation?

**Mr COAD** - To be honest with you, I think I would like to take some advice on what those processes should be. You do not want to create bottlenecks where people get blockages in the system -

**Mr DEAN** - I understand that and I raise that because of a situation that has happened, so it is not an unlikely event.

**Mr COAD** - because what we are trying to do here is make it transparent so each component is responsible - you can see that level of responsibility in the process. So I would really need to take some advice on how you could design a system under this framework. What we have provided here is a framework without the detail, but you could provide a framework to enable that to happen.

**Ms FORREST** - In a situation like that with Tasmania being a small State and a lot of people in an industry knowing each other, there would have to be scope to get an independent, say, engineer from Victoria or somewhere, depending on what the problem is, to come and make an assessment of that problem.

**Mr COAD** - You can obviously have arbitration and processes in relation to arbitration if a person is in dispute but what you do not want is a system in place that people can use to drag out disputes and drag out the problem. If these people have the technical competence, as Fred just mentioned, if you have more than one industry organisation you would have to have collusion in this case by four building organisations to enable that to happen. The likelihood of that happening is not great.

If someone is aggrieved by a decision, the process goes to this other body, back to Workplace Standards under the Building Appeals Board, and someone else deals with it. That is the independent arbitrator. So you deal with it that way. If they make a decision, that is their decision and that is final, but someone else has to be the arbitrator.

**Ms FORREST** - You said that if you combine the two levies, you would have about a \$3 million amount on an annual basis -

**Mr COAD** - On current figures.

**Ms FORREST** - Do you believe that would provide CPD at no cost to the builders?

**Mr COAD** - We would provide CPD and we would subsidise those costs.

**Ms FORREST** - Would that also cover the costs of audits so that everyone would be audited at least once in a period of time? It would also allow for the costs involved in the development of standards and codes of ethics and codes of practice?

**Mr COAD** - The audit of those codes of conduct.

**Ms FORREST** - So you think that could all be met quite within that existing levy? The cost of consumer education would fall to Consumer Affairs?

**Mr COAD** - Absolutely.

**Ms FORREST** - Would that be much of an impost on their budget, do you think?

**Mr COAD** - I do not know. I could not even comment on that. All I am saying is, very little happens at the moment.

**Ms FORREST** - That is what I mean; it could be quite significant when you think how many consumers are out there.

**Mr COAD** - Bearing in mind that the consumers are also represented on this board and it is in the industry's interest to educate the consumers as well. So that is where the three parties would work together.

**Mr LIJAUCO** - They can build on existing practices to do that as well, like awards nights and so on.

**Ms FORREST** - So there are opportunities that are already being funded by something else.

**Mr COAD** - I read out a recommendation and I am happy to leave a copy of this report with the committee. It is a report from the strategic planning workshops in May 2002, which 250 builders attended. It is recommendation 4 and 5. Recommendation 4 was that, 'As an independent body, the board seeks to take on a role in the accreditation process, in particular regard to the recognition of current competency, training, accreditation and assessment.' That was a recommendation from the independent consultant who wrote that report.

Recommendation 5 was, 'It is recommended by the workshops that the most effective and fair system for administering the funding of the scheme was through an industry levy added to the existing training levy. This finding should be forwarded to the accreditation working party, as a recommendation of industry.'

They are two significant recommendations which the board based its proposal on.

**Mrs SMITH** - If your process works well and you are strong enough to ensure that if the builder does not do the right thing, then you will remove his registration, your scenario should give comfort to everyone. A meeting of building industry says, 'Yes, we can do it within the levies', but the devil's advocate in me would be saying, 'Yes, I will vote for

that because it is not going to cost me the \$450 a year it is costing me here at the moment'. Surely the building industry would expect that either you will use the big-stick approach and remove their right to trade if they do not do the right thing, or they must put something somewhere to cover the consumer if they fall down on their workmanship. That appears to me still to be the gap in your scenario. There would have to be some absolute assurance that the big stick will be taken to them. So I, as a builder, think I have all these people working for me, I have all these commitments, so if I do not do the right things by this consumer, I am deregistered and I am in trouble. Or, they have to pay something to allow that leverage for Consumer Affairs or someone to say, 'If you do not fix that in the mandated time, we will send someone in to fix it'. That is what the Queensland model tends to be. They have an insurance that allows that, instead of carrying on arguing with a builder, if the independent arbitrator says the builder is wrong and the builder is still playing up while they are dealing with that, the consumer is getting the home fixed because of this insurance.

**Mr COAD** - That would be covered under the business licensing aspect.

**Mrs SMITH** - Therefore you must expect the industry would have to pay something to Consumer Affairs, not that the whole taxpayer base should protect the builders and the consumer of a house. Would you not think that fair?

**Mr COAD** - I'd rather not comment on that because I don't have a board decision. If you look at what the industry is contributing, it is contributing at the moment at 0.1 per cent, which is \$1 million in this process. If you look at the Department of Consumer Affairs and its requirements in terms of business and licensing, then the cost to the building industry of insurance and the problems associated with that, those business licensing issues, can be picked up and addressed in terms of the insurance requirement. But there needs to be some improvement in relation to those insurance issues. Yes, the Queensland model could be integrated into this quite nicely. It needs to go with the agency that has the responsibility. Don't expect the building and construction industry to take that responsibility because they won't.

**Mrs SMITH** - You say that the 1 per cent and 2 per cent is coming out of the industry, and it is, but it is coming from the builders and the consumers because it is added to the job, isn't it? The levy that is paid on the value of the work that is being done is being paid by the consumer who has ordered a four-storey building, or whatever, in that process.

**Mr COAD** - That's correct.

**Mr SMITH** - So the consumer is making a contribution to building accreditation in your model. If you've got good builders, you should not have to worry about insurance or anything else, so the first principle is correct. It is the issue of the Consumer Affairs department. You appear to have a pretty good model here, but how that is funded to take on work that may need to be completed in a process is the only gap in this concept that I can see at the moment.

**Mr COAD** - That could be addressed in the performance agreement, and that could be done between the three bodies.

**Mr WILKINSON** - If you have a whiz-bang system then you don't need insurance because everything is working perfectly. History tells us that is not always the case and therefore some insurance is needed. You were saying that probably Consumer Affairs should be getting that, linking into the Queensland model, as opposed to yourselves. Do you believe that should be funding or backing the insurance? If you have deemed that there is a problem that is taking place within a span of one month, but the builder said, 'No, that's not a problem' -

**Mr COAD** - Absolutely. You need a time limit on these things. That would be in the agreement and they would have to act. This board would then, if it was serious and a recommendation came forward, deregister them.

**Mr WILKINSON** - So you could see no problem within your system in dealing with those problems. Is that as I understand it?

**Mr LIJAUCO** - There is clear separation between the individual and the business, so accreditation of building practitioners as individuals, plus those other business requirements, including insurance, rests with the company.

**Mr WILKINSON** - A grandfather clause has been in now since this has come into place. It would seem that there are some builders out there even where people are saying they should not be accredited as builders or whatever. What is to happen to those people? Firstly, how do you find them; secondly, what is to happen to them? Do you take it away, do you start again?

**Mr COAD** - It is interesting to answer that question, because if you look at ABS data, there are about 800 managers in the building and construction industry yet we have 2 500 accredited builders. The thing that will fix that is competence. They have to have a qualification. You obviously could not stop people from operating but they would have a certain period of time to meet that particular qualification.

**Mr WILKINSON** - How would you do it now? There are people out there who may have been a builder for however long. They haven't the qualifications behind them. Because they have put up a few pergolas or whatever they are classed as being builders. You could not suddenly say, 'No, you are not a builder anymore or you are not accredited could you?

**Mr COAD** - No, you would not do that. Under our transition arrangements we would give people a period of time. You might have a three-year period because normally it would take probably three years to get that qualification and over that period of time they could use their CPD to get that qualification and they can be assessed on the job by an RTO and if they did not achieve it after that period of time, gone.

So you would have a transition period and they would have to achieve it and if they did not achieve it, they would be out.

**Mr WILKINSON** - There are approximately 2 500 out there it is probably more - some are saying 3 500. If 1 000 did not apply for accreditation, it is going to be a fairly long process, I would think, to say who was and who wasn't competent.

**Mr LIJAUCO** - A lot of those are owner-builders as well and some of them are not practising in the industry as such. It is a fair mix.

**Mr DEAN** - Are you saying that qualification could be obtained on the job?

**Mr COAD** - It can be because there are a lot of people operating in the industry who did not go through the formal process - something like 50 per cent of the people working in our industry do not hold any formal qualifications. Our board is working hard to address that issue but that does not mean they are not competent. We need a system and a process to recognise their competency to give them a national qualification. We have that system in place now through the registered training organisations. The system is there but they need a time to be able to bring themselves up to our standard.

**Mr WILKINSON** - And then you have to be strong enough if they haven't to say, 'No, sorry, there are people out there who probably could pull out a tooth and they are not accredited dentists'.

*Laughter .*

**Mr WILKINSON** - No, I am serious. I would not like going to a dentist like that or a doctor like that but the same thing applies to a builder. You would not like going to a builder who is not accredited. Obviously it would seem at the moment there are some there who do not have any qualifications at all and yet still are accredited which I think is a problem.

**Mr COAD** - The Auditor-General identified that in his report in Victoria - you may have that - in 2002 and his recommendation was that -

'The board establish an immediate program to progressively assess the competence of practitioners in the categories and classes, particularly those that were grandfathered in as part of the transition arrangements.'

Which is revisiting the same issue.

**Mrs SMITH** - Your scenario could bring some builders with very good competencies into the accreditation process. I am aware of a chap who is 58, a very good builder, who said, 'I am heading to retirement. I am not going through all this insurance stuff; I am just going to do a bit of fiddling around. I will help another builder who is accredited and he can check off the work but I am not putting my assets on the line when I am this close to retirement'. So there is a very good builder who, if it was only competency based, probably would have filled in the paperwork and been in the system as an accredited builder but because he would not put his assets - and I could understand that - on the line to an insurance company, he is not listed as an accredited builder.

**Mr COAD** - It has to be on competence, that is the policy of our board, and that has been the policy of the previous board and this new board that has been place, but there are other elements, which you are all well aware of, in terms of the consumers and the technical aspects that have to be addressed.



**Ms FORREST** - You said someone who does not have a formal qualification who may be, say, in their fifties and still wanting to work for a number of years into the future, could be assessed on the job to attain that recognition of qualification. What sort of cost are we looking at? It would not be for nothing, I would assume; you would have to have someone from an RTO making that assessment. What sort of cost would that person be looking at?

**Mr COAD** - I don't have those figures with me, but those costs are available. There is a range of people who provide training at AQF level 4 - TAFE, the industry association. I know the Master Builders Association also provides those courses.

**Ms FORREST** - You don't have a ballpark figure?

**Mr COAD** - No.

**Mr LIJAUCO** - Some of that is going to be funded through the industry training fund.

**Ms FORREST** - That could perhaps be subsidised under this scheme?

**Mr COAD** - Absolutely.

**Mr DEAN** - That would mean that a person without their qualifications, for a three-year period - that is the period we are looking at - would need to work with a qualified builder. Is that the way it would work?

**Mr COAD** - No. You have an existing scheme in place already; we did not have one before. You would have to have some sort of transition period - they might be giving provisional accreditation for that period of time to operate in the industry. Then they would have their final accreditation issued once they have achieved their qualifications. You could not stop them from operating in the industry while they didn't have a qualification but you would have to give them a set period of time - three years - to achieve that competence to obtain the accreditation.

**Mr DEAN** - So you are saying that they could work on their own to achieve that competency provided they are assessed during that period?

**Mr COAD** - Absolutely.

**Mr LIJAUCO** - They would have to have some kind of negotiated training plan with their registered training organisation.

**Mrs SMITH** - The issue is that we have some accredited who have a question mark over their capacity, in the system we have at the moment. Is that correct?

**Mr COAD** - That is correct.

**Mrs SMITH** - Would that be less than 5 per cent of those who have been accredited under the TCC?

**Mr COAD** - I would not know. All I know is that, based on the ABS data, there are a lot of people out there who are not construction managers. We have seen a substantial increase in owner-builders. A lot of builders are using the system and using the owner-builders as an opportunity.

**CHAIR** - Isn't it fair to say that amongst the 2 000-odd that are currently accredited, there are not many owner-builders? We are really talking about people who operate in the building industry as one of the categories, whether it be an architect, engineer, building surveyor or a builder. You are not suggesting to us that some of that large 2 000-plus are constituted by owner-builders who have got themselves accredited, are you?

**Mr COAD** - I don't know.

**Mr LIJAUCO** - We have seen figures of between 600 and 800 who are owner-builders.

**CHAIR** - But not necessarily attached to the currently accredited people, whoever they are.

**Ms FORREST** - Can I clarify a point there? Are owner-builders accredited builders currently through the TCC?

**Mr COAD** - No.

**Ms FORREST** - So they don't show up in the statistics of accredited builders, is that what you are saying?

**Mr LIJAUCO** - That is right.

**Mr COAD** - When you grandfather people into the industry there is a whole range of people who can become a builder.

**CHAIR** - Except that you would presume that some form of assessment would have been made of their recent experience or jobs, not just signing people up and putting their name on a computer without some assessment having been made, surely?

**Mr COAD** - If you look at the transition arrangements, the previous scheme did not provide for competence; it provided for insurance, completion certificates, assets and those types of things. All we are saying is that this scheme should be based on competence. There are obviously a lot of people in the industry at the moment - as Fred has indicated, it is anecdotal; we don't really know the numbers - and this system will weed those people out over a period of time.

**CHAIR** - Isn't it a reasonable proposition to suggest that, in any transition or grandfathering arrangement, if there have been no complaints then a fairly cursory assessment of their competence can be undertaken. Jim has already said a while ago, something to the effect that a person who has been in the industry a long time might have a trade qualification, but that is all they have. How do you account for those people without on-the-job assessment of competence over a three-year period? That is a fairly onerous auditing responsibility for any licensing body. How do we account for people who have been operating in the industry for a long period of time or indeed a short period of time, who have had zero complaints against them, have been given access to housing indemnity

insurance, may be a member by their choice of a professional organisation and they may be in good standing? Why do they need to be further assessed?

**Mr COAD** - It is to give them a national qualification which they currently do not hold. They can take that qualification, which enables them to get accreditation, and it is transportable anywhere in Australia.

**CHAIR** - They might not want that.

**Mr COAD** - If they want to meet our scheme, but if it is not going to be based on competence, then we do not want anything to do with it; we are not interested. It has to be based on competence because, at the end of the day, you need to be able to measure people against something. Paul, you are quite right, there will be people who have been in the industry for 20 and 30 years and operating very competently with no qualifications.

**CHAIR** - Or indeed a trade qualification?

**Mr COAD** - Yes, but this system enables them to operate and them to achieve that. If they choose not to, then that is their choosing. To give you an example, we run an upskilling program. The board provides an incentive of \$6 000 for an employer to take tradespeople who have been working in the industry and to have them assessed on the job to give them a trade qualification. We have just put 89 builders through that program and we have just had to refund another 25 positions for the same program. So, people do it and they demand it because they would want to have a qualification. It is not something that is onerous here, where we are going back to school; you use your CPD to continue to get your qualification and CPD is a great way of doing that.

**CHAIR** - How about if I put to you the proposition that if it ain't broke, don't fix it? In essence, what I put to you is that there is not a large quantity of complaints against builders in this State. Would you agree with that as an assessment?

**Mr COAD** - I suppose I can respond to that by saying the issue is where we are at, at the moment. We do have a whole range of concerns within the industry in terms of the accreditation process, as recently as the workshops we had in May. Builders all expressed concern with the accreditation process.

**CHAIR** - One would not be surprised at their reaction, though, Peter, people being concerned with the accreditation that has been in place thus far? You would not be surprised at that, would you?

**Mr COAD** - That is the problem that we have because it was what happened in Victoria. It was based on people being accredited but not necessarily in relation to competence. There was a whole range of other criteria. You can debate the merits of those criteria. The Auditor-General in Victoria is saying, and we agree, that it should be based on competence and the transition arrangement should be looked at again. The industry is saying in these workshops - you might get different views from industry associations for different reasons - that it should also be based on competence. If you talk to the average builder out there, he is saying, 'I'm competent; I may not hold a qualification but I would

like to get a qualification if you put in a system that makes it easy enough for me to get it'.

**CHAIR** - Alternatively, he may say, 'I do have a trade qualification. I don't need any builder assessment because my track record stands alone'. I need to see what the Auditor-General said there in that report, in context. 'Competence' may just simply be that. A licensing body may have a look at a person's record and note that they have been operating with their trade certificate, built hundreds of houses and had no complaints. Is that a competency assessment?

**Mr COAD** - No.

**CHAIR** - Why wouldn't it be?

**Mr COAD** - Because it is not against a national standard in terms of industry competency standards which are set for a qualification. That person could meet those requirements by going through that assessment process, for sure, but you need to have a proper measure and a proper process which is nationally recognised.

**CHAIR** - Are you aiming at AQF4?

**Mr COAD** - That would depend on the scope of work that the registration is seeking. If it is unlimited we would be seeking AQF level 7. For domestic construction, in terms of a house, then AQF level 4. In between there would be different levels of qualifications.

**CHAIR** - You had mentioned at the outset that you would be looking to undertake audits and investigations et cetera as part of your submission; isn't that a change of scope from the ITB?

**Mr COAD** - No; we actually took legal advice on this some time ago and the legal advice supported that this was a proper role for the board to take. I will just read one paragraph. It says:-

'It is reasonable to conclude that if the board becomes the accreditation adviser then it has the hands-on responsibility for assessing and determining the level of skill in the building and construction industry and is therefore better equipped to advise the minister, pursuant to the functions of the board as set out in the act. The board is therefore developing the expertise to advise the minister on improving the skills and the training programs in the industry.'

So that is what it is about. It is about building competence within the building industry for people to be able to have the skills necessary to operate and also for the consumer to have the confidence in those builders to operate.

**CHAIR** - Correct me if I am wrong but what I heard you read there, though, does not indicate that you would be the assessing body for relevant qualification/competence. It is suggesting that you are in a position to advise the minister about those competencies.

**Mr COAD** - It says in the first part here -

'In order for the board to adequately fill its functions under the sections of the act referred to above, the board should obtain the necessary information and competence to enable it to assess the necessary skills required for the building and construction industry. If the board is to assess the training programs in the best interests of the building construction industry, then it should do everything in its power to obtain the relevant information and expertise.'

By fulfilling this role here, you are gaining information about the level and expertise of the building and construction industry. Putting in place programs to lift the skills of people and give them a national qualification, the legal advice said that that is a clear function of the board.

**CHAIR** - Isn't it true to suggest that the ITB is a training facilitator and not specifically scoped with the research which was suggested in your submission?

**Mr COAD** - No. In terms of the functions of the board under section 7 of the act - and I will read those out -

'The board is the principal adviser to the minister on all matters relating to training in the building and construction industry and, in particular, shall advise the minister in relation to skill requirements in the building and construction industry, and training arrangements to meet those requirements. In addition, the board has to meet the following requirements: promoting training, promote the board's aims and activities, ensure all training provided in respect to skills formation approved by the board, review and evaluate existing programs, liaise with appropriate training organisations and other bodies, advise on and coordinate training resources, ensure that principles of equal opportunity apply, increase productivity and career opportunities, provide access to employment-related training provided by employers in the building and construction industry, ensure equitable distribution amongst its employees in relation to employment and training in the building and construction industry, and provide training programs to improve the skills and knowledge of builders in the building and construction industry.'

It is that last point - to provide training to improve the skills and knowledge of builders in the construction industry - that we are talking about here, giving recognition of a qualification. That's how we see it.

**CHAIR** - Is it true that the TCC, when they were putting together their scheme, had identified the ITB as its accreditation adviser? If so, what dialogue took place between the ITB and the TCC?

**Mr COAD** - In relation to that, I need to take that question on notice because the purpose of coming here today was to discuss this submission that the board put forward in response to the terms of reference for this committee. If I may quote from it - 'an optimum

framework for the accreditation of building practitioners in the administration of the Building Act, including the appropriate consequential costs imposed on builders'.

Our board put this submission together, based on the information it received from the builders, so I can only really speak to that submission and the content of that submission. The question you are raising now is a completely different issue to the submission we put forward.

**CHAIR** - I understand that, but the simple question is this: did the TCC approach the ITB with the proposition that the ITB be its accreditation adviser?

**Mr COAD** - We had an arrangement and we withdrew from that arrangement. They did approach the board, yes.

**CHAIR** - So isn't it reasonable for me to pursue that question with you? You would know the answers to the questions I have asked without going back to -

**Mr COAD** - We will have to take those questions in writing and answer or respond because my board has given me a clear instruction that my representation here today is to deal with this issue, and that's why I can't respond. I have answered yes to your first question; we were approached about being the accreditation adviser, and we declined.

**CHAIR** - Why did you withdraw?

**Mr COAD** - Simply because the accreditation process, the transition arrangements, were not based on competence. I am happy to take any questions in relation to that, because my board has given me a clear instruction on this that I am here to speak on that only.

**Mr WILKINSON** - We won't tell if you go outside that.

**Mr COAD** - I have probably gone outside it already, but I think it's public knowledge. It just goes to show that there was a proper role for this board to fulfil. We believe it is unfortunate that the process moved away from competence and that's where we are at today.

**Mr WILKINSON** - I suppose with your building and construction training board, it's all about training and all about competency, and therefore it was in conflict with your ideas. Is it fair to say that?

**Mr COAD** - When it didn't have a training or a competence arrangement, then that's right.

**Ms FORREST** - You state that competency-based accreditation is vitally important, and to have a qualification at a level of AFQ4 or above, depending on your level of accreditation, would deem you competent. Would you contend, then, that this guarantees competence? Are you saying that with that qualification you will be competent and that is the only measure?

**Mr COAD** - Obviously the qualification is the cornerstone to it, but you still need to do your CPD and you still need to do work within the standards and codes of ethics.

**Ms FORREST** - When you come for your initial assessment, though, to see whether you are qualified to be accredited in a competency-based assessment, if you can say, 'Here is my piece of paper that says I have an AFQ4 or above' -

**Mr COAD** - Then automatically -

**Ms FORREST** - Regardless of your level of work, regardless of you having 50 outstanding complaints against you?

**Mr COAD** - Then you go back to Consumer Affairs and if they put a report to this board with all those complaints then that board -

**Ms FORREST** - So that will happen as part of the process of the initial accreditation; it is not purely based on your qualification? Is that what you are saying to me?

**Mr COAD** - Absolutely. Once you have a qualification that does not automatically mean that you are going to be accredited.

**Ms FORREST** - Okay, that is fine. I wanted to clarify that, thank you.

**CHAIR** - Any further questions? Thank you very much for the verbal as well as the written submission. It certainly has been a worthwhile exercise.

**THE WITNESSES WITHDREW.**