

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ACCREDITATION OF BUILDING PRACTITIONERS MET AT DEVONPORT, FEDERATION ROOM, UPPER LEVEL ON 31 AUGUST 2006**

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**Mr SIMON ANGILLEY**, TECHNICAL OFFICER, TASMANIAN CONSULTING SERVICE PTY LTD WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Harriss) - Simon, thanks for taking the time not only to produce a written submission for the committee, but for giving the time to appear today. As with all other witnesses, we need to make a preliminary comment that the deliberations of the committee at the moment are staying away from anything to do with the nature of the agreement signed between Bryan Green and John White, so we are not looking at that issue.

The Director of Public Prosecutions is investigating whether there is a case to answer for criminal activity there, so we need to act judiciously and not prejudice in any way his deliberations. Because of these hearings being public and because of the nature of our questions which will flow at a later time regarding that issue we can't be seen to in any way prejudice what the Director of Public Prosecutions is doing. So we would ask you to stay away from that as well as you present your verbal evidence now in support of your written submission.

**Mr ANGILLEY** - No problem, thank you for the opportunity. I am the senior design associate with Tasmanian Consulting Service. We are an engineering design and management firm, a consultancy operating here in the north-west for about the last 20 years now. I am an accredited building practitioner, No. CC2535T. I don't know how the numbers were ever generated, but there you go. I am accredited, in the classes of builder, as construction manager level 4, which is unrestricted, and also as a building designer in restricted architectural, which is at level 3. That is up to three storeys and up to 2 000 square metres. In terms of my professional involvement, I was the 2003 National Young Associate of the Year from the Institute of Engineers Australia. I am currently involved within the engineering and associate side of things. I am the Tasmanian representative to the National Committee of Engineering Associates. I am the representative from that national committee to the Structural College Board and I am also one of five representatives on Engineers Australia's articulation committee. I have a two-year TAFE advanced diploma from North-West Institute of TAFE.

When I did my written submission, and I do apologise for its brevity, it was done I think technically half an hour after the closing for submissions and as with everything working life got a little bit in the way. I did some dot points between meetings this morning, so I will quickly run through those eight or 10 areas, which is expanding on the three areas in the written submissions. I am told I have half an hour. There is no way if we went into detail in any of those that we will fit it in, but it will probably give you a bit of an overview as to the overall perception of myself and people within my firm, and generally within engineers and associates, certainly on the north-west coast of Tasmania and through the north. I will discuss the lack of service and professionalism at times from the TCC, the deficiencies within the accreditation system and, to some degree, the

department in terms of some guidance they have given and, as I say, particular difficulties with accreditation directly.

The TCC, to this day, do not have all the systems in place that were required of them under the ministerial guidelines. They have produced some of the items, and I am talking here about procedural fairness issues, codes of conduct, audit mechanisms and issues in those areas that were, in all cases, required under ministerial guidelines and in some cases specifically required under the act, such as the code of conduct.

Many of those items are not in place today. Some of them have been put in place. Some of those are somewhat recent. I am not allowed to mention the agreement entered into, so how do I say this? At the time that that agreement was made there is written evidence the TCC still did not have a code of conduct. We have written e-mails and letters back from the TCC over a great period of time where we have continually asked for that information. In some cases they have directed us towards the department to say, 'I am sure they would appreciate your help in drafting these items', which we thought was rather droll given that they were meant to produce them as part of their application.

**CHAIR** - If you have made that clear in your e-mailed submission to us; if you would like to help you should contact DIER to assist them in the development of the systems.

**Mr ANGILLEY** - That is correct.

**CHAIR** - Is there any further detail in those e-mails to which you now refer which confirms in some detail the lack of the code of conduct?

**Mr ANGILLEY** - I can give you I guess three or four e-mails. In terms of correspondence from the TCC? No, not a great deal. In terms of correspondence from us asking for those items? Certainly.

**CHAIR** - Do you think that would reinforce your submission?

**Mr ANGILLEY** - We have asked repeatedly, and I can furnish, if you like, the full series of our letters where we have asked for that information. I have not brought the full file. I have two lever arch files in terms of correspondence and documents so I tried to grab the precis to bring with me.

**CHAIR** - I think it would be useful in us building a case or at least making some assessment.

**Mr ANGILLEY** - Getting good background, yes. The second item which is also touched upon in that e-mail was the fact that the verification officer at the Tasmanian Compliance Corporation, certainly the one dealing with our case, did not have a full a comprehensive understanding of AQF levels - Australian Qualification Framework levels. Again there is probably one e-mail where that is pointed out to them. He says, 'It is our understanding that an Associate Diploma is an AQF4, not an AQF6 as you have indicated.' That is a quote in single quotation marks, not double, sorry, but it was along those lines. I sent back, I guess, a somewhat rude history lesson on the development of the AQF system and also the development of TAFE-level diplomas in Tasmania and in other States. Some of that comes from my background and involvement in Engineers Australia, both through the Structural College Board and NCEA, as being a point person

for declining skill levels, the generic skills shortage and how it applies to associates. Also, there was my involvement with articulation committee of Engineers Australia. I did research for a few hours before I first joined that committee, basically through the Internet, and my professional job was to know the background to be able assess levels of skills. I can tell, therefore, that the training and implementation of staff that the TCC put in place was probably quite poor.

**Ms FORREST** - May we have copies of those e-mails?

**Mr ANGILLEY** - There was one, as well, which I had completely forgotten - I guess it segues quite nicely. We have our senior drafting gentleman. He is on his way towards retirement. He has, as of this financial year, moved back to four days a week. From his point of view there was no need to pursue getting building practitioner accreditation, although we did put in for him back in 2004. Because his qualification came from so long ago, it had not been assessed by TAFE and was not able to be put into the AQF system and therefore it was effectively in limbo. They then went on to say, 'Irrespective of this, we do not see how an engineering certificate applies to being a builder designer.' I am paraphrasing there, but that was the summary of their advice. In response, I asked, 'Could you please advise what use, if any, an advanced diploma of engineering, be it in civil or structural, is worth under the accreditation system?' My feeling is that it is generally useless, given the set-up of the classifications. That is something that I have as a national priority as well, in terms of the Western Australia Building Act. I have been giving advice to Engineers Australia in Western Australia, but I feel that it is probably not worth very much in Tasmania. I did point out that it would be worthwhile for the TCC to confirm, internally, in their own system, what value, if any, they placed on it because I am sure that TAFE and industry would be most interested to know the outcomes of those decisions because it will obviously affect kids coming out of year 12 in the course decisions they make in terms of their preferred career path.

In terms of the fees for Tasmanian Compliance Corporation, they classify you as an accredited building practitioner in a category and then a class. So there are classes to each category. As of this financial year, they produced a document on their web site, although not circulated to building practitioners, which indicated that after your initial annual application fee you would be charged an additional fee for each category/class - the combination of the two. In all other documentation they had ever produced it has always been charging for the annual accreditation fee, plus an additional charge for each extra category, not for each extra class.

I have a letter with the name Peter Rayner on the bottom, who is the Registrar of TCC. It was signed on his behalf, dated 24 August this year. They said, 'No, we did not stuff up, we have our schedule of fees right'. It said, quote:

'For each category a fee of \$45 plus GST will be charged.'

I know it is being a little bit pedantic. However, when you are talking about people in our firm, there are about four or five practitioners, each of whom would be charged an additional \$180, so that becomes quite a substantial amount of money being hung up in terms of semantics.

**Ms FORREST** - The engineers in your firm have several classes?

**Mr ANGILLEY** - For instance, the principal of our firm is an engineer. He is an engineer in about five classes of engineer. Part of that was because of confusion at the time of the introduction of the scheme and exactly which class would be allowed to do what work. I do not believe that confusion has been greatly clarified to this day.

**Ms FORREST** - So there were inquiries made as to what each class an engineer could do, but you didn't actually get the information back about that?

**Mr ANGILLEY** - I talked to the gentleman before 1 July 2004. They had information sessions run through Workplace Standards. They couldn't concisely answer all of the queries that we had. I actually have a detailed letter that triggered those e-mails that you probably have copies of, asking a number of detailed questions about how some areas will operate. No-one can tell me to this day, for instance, what a civil engineer does as opposed to a geotechnical engineer.

I can tell you in real life what they do. In real life there is a big crossover in many areas, particularly between the classifications of civil and structural engineering, but within the accreditation scheme there is not great clarity between what a geotechnical engineer will do as opposed to a civil engineer.

**Ms FORREST** - So that letter that you wrote, or someone from your department wrote, requesting that information from TCC, is that the letter you are referring to?

**Mr ANGILLEY** - I don't know if that information went to TCC in those words. I do have a copy of a detailed letter.

**Ms FORREST** - It might be useful to have that tabled. Did you get a response to that letter?

**Mr ANGILLEY** - To some aspects of the letter, yes.

**Ms FORREST** - It might be useful to make comment about that request and your response.

**Mrs SMITH** - We have requested some information and it will be sent up.

**Mr ANGILLEY** - I guess in terms of tabling of correspondence and paperwork, I have absolutely no problem in doing of that. The reason you don't have it, as I say, is that I am unfamiliar as to how information you want. I have had conversations on and off with Geoff Harper at Engineers Australia in Hobart and have forwarded some of the information to him. Historically, has been for a number of issues, including the potential establishment of an alternative accrediting body. I don't know how much you have got from those e-mails, but certainly I can compile all the documentation and can flag stuff that I think are probably the really relevant items. Ultimately it is up to yourselves.

**CHAIR** - If you were to use your discretion and judgment as to the more salient matters which go to the heart of the request, and ineffective or inefficient advice, or no response.

**Ms THORP** - If the category is engineer, when there are multiple classes of types of engineer, which we understand, would the concern of any firm be that, if they went and

did some work and were not 100 per cent confident that they were accredited for that particular class, then it could be potential litigation?

**Mr ANGILLEY** - No.

**Ms THORP** - That is not the concern?

**Mr ANGILLEY** - No, with an asterix. No, not for our firm, and not for the other firms with whom we regularly deal. Ultimately, I guess people in engineering see the accreditation as a necessary licencing requirement to operate. The people we deal with in terms of fellow engineers are generally members of Engineers Australia, otherwise they are certainly on the National Professional Engineers register. Requirements of that are generally more onerous to a point than the requirements of the Tasmanian Accreditation Scheme. For instance, the code of ethics of Engineers Australia is a heck of a lot better written than the code of conduct for the TCC. The entire accreditation scheme has been written from a background of builders, particularly domestic builders, and secondarily for commercial builders.

For the professional services side of the building industry - building surveyors, engineers and architects and para-professionals - I do not believe the accreditation scheme has been set up at all well. There are issues, for instance, with that. I touched on earlier what use is an advanced diploma, or an AQF6 qualification, in engineering and the short answer is none. There are issues with how much engineering design someone who does not have a four-year degree is able to do in all Australian States.

**Ms THORP** - It could not be likely, for example, because of the lack of clarity in the definitions of classes, that someone goes in and registers, gets accreditation as a geotechnical or structural engineer, goes ahead, does a task and then the client turns around and says, 'Hang on a minute. That required the services of a different type of engineer and you are only accredited for something else.'

**Mr ANGILLEY** - From a professional services point of view, or para-professional, we would abide by the act and now subsequently there is a code of conduct. We would abide by the act and the professional requirement that we only act in areas in which we have sufficient competency to perform the tasks. That is probably the best way to answer that. There is, I guess, ultimately a professional restraint.

**Ms THORP** - But it could not come back to bite you. The lack of clarity in the definition of classes could lead to an honest mistake on the part of someone applying -

**Mr ANGILLEY** - I could see that it could be an issue potentially for someone from the public who wanted to employ an engineer. Do they get a civil engineer which, until 15 years ago, was a cover-all for civil and structural engineering? Do they get a civil engineer or a structural engineer? They have to get soil tests. Can a structural engineer do a soil test? Can a civil engineer do a soil test or does it have to be a geotechnical engineer? Those issues are ultimately left to the discretion of a building surveyor because it is they who have to accept a certificate of others and be reasonably satisfied that the person who has given them that certificate of others is confident and capable of providing that information on his own.

**Mr WILKINSON** - Do you really need to have these classes? To me it would seem, and tell me if I am wrong, that if you have too many classes and try to over-prescribe then you get yourself into difficulties. I know if you are a general practitioner, you do not go and do heart surgery. If you are an orthopaedic surgeon, you do not do heart surgery. The classes are within the profession and I find it difficult to see how the TCC can say what classes there are. Should that not remain within the profession?

**Mr ANGILLEY** - The TCC, to my understanding, did not establish the classes. They have taken it straight from the minister's guidelines.

**Mr WILKINSON** - But should they be doing it - unless that is amended?

**Mr ANGILLEY** - I guess in terms of the establishment of the scheme, following the guidelines is probably well and good. In terms of being able to do a review of how a scheme is running, and then from that point making applications ultimately to the minister or to the department, even if they need to at all, they are making applications to say, 'We do not need all these areas. It is causing confusion. We would like to streamline this process.' I believe that process of review and internal review of the system is something that should definitely be happening. I do not believe it is.

**Mr WILKINSON** - You, being an engineer -

**Mr ANGILLEY** - I had better put it on record that I am an associate.

**Mr WILKINSON** - Yes, and you are involved with that work. You would not be doing work that you were not qualified to do.

**Mr ANGILLEY** - That is correct.

**Mr WILKINSON** - The best body to say whether you are qualified to do that work or not seems to me to be the professional body that you are involved with because they have got much more expertise than the others.

**Mr ANGILLEY** - Generally, yes, that is correct.

**Mr WILKINSON** - That is why I am, I suppose, struggling a bit. I know it is in the guidelines at the moment, but why should there be a body saying you're only allowed to do this, this and this. Should that not be left to the professional body that you are a part of because if you do something that you're not competent to do, you sue for negligence straightaway?

**Mr ANGILLEY** - Taking a half step back from that, we have some real issues with the TCC and how they have applied and implemented this scheme, or have implemented a scheme that seemingly didn't meet all areas of the guidelines. I think generally they've done a woeful job of that. In terms of the establishment of the classes and the areas, yes, what you say there is a valid argument for the fact that the accrediting body should have some level of discretion as to how they introduce categories, classes, whatever you want to call them.

However, I think the Director of Building Control has issued directives in terms of who can issue certificates. A lot of the set-up and framework that hangs under the act for this accrediting body, including the regulations, I believe, are issues that probably did stem from the department rather than from the TCC directly. A classic example there is that I am accredited as a construction manager and builder - in the class of construction manager. There was for some time, and it is included in the minister's guidelines, a category of project manager. The category of project manager as written describes perfectly the work that we do in terms of construction supervision and project management for our clients.

Unfortunately - and I don't have the correspondence of that with me, but there was correspondence querying that as well - the department, I believe it came internally from the department, looked at the description of that project manager category and decided there were some aspects of that description that fell outside of the act itself, so they completely wiped the project manager category. Unfortunately - and I ask this in the long, detailed letter of, I think, December 2004 - given that that category has disappeared, we had to apply for construction manager, which was a different description to what we wanted. Would there be any rewording of the description of construction manager to, I guess, pick up those areas in project manager that had fallen by the wayside? The answer to that is no, we didn't get any answer on that particular thorny question at all.

**Ms THORP** - Probably a bit difficult.

**Mr ANGILLEY** - Yes; is it a difficult issue? Absolutely, but it does come back to there being a professional not-for-profit organisation establishing its own fees and guidelines with, at this point in time, a monopoly, but that is by the by. That is because no other schemes have been accredited and I guess that's probably a bit outside of the purview of this particular inquiry. But it is their role to establish and administer a scheme for accrediting building practitioners. It is a thorny issue, yes, so I can appreciate it is difficult, but to not have any direction or any movement on that particular issue for a year and a half and just to say, 'The scheme is running and no buildings are falling down and it's all working quite well, so we are just going to ignore it,' I do not think is being on top of the issue particularly well.

**Ms FORREST** - You're suggesting that the TCC doesn't have the expertise within it to adequately address the concerns raised by professionals out there who are making applications to the TCC for accreditation and information to support their application, or otherwise, to actually deal with that adequately.

**Mr ANGILLEY** - I don't know if they have the skills within the organisation, but if they do have the skills they are not being applied.

**Ms FORREST** - There are two issues there, I am just trying to clarify what you are saying. It is either that they don't have the skills or they haven't sought the skills in areas of uncertainty, and that is demonstrated by the fact that you can't seem to get clarification for perhaps difficult issues or information that are being sought. Is that a fair representation?

**Mr ANGILLEY** - Yes, that's fair. Actually, this is going on a bit of a tangent. If we go way back to the gentleman who was in the seat previously to me, I heard from the floor that he was talking about it being a private organisation, and private organisations are for profit. By all my understanding of the establishment of the TCC, that is completely wrong. The TCC is a non-for-profit organisation. However, when you hear that argument, I understand that the TCC can set their own directors' fees. A director's fee for a director who has absolutely no interaction with the day-to-day running of a business to me would seem the way that a not-for-profit organisation distributes profits.

**Mr DEAN** - Obviously your fraternity talk amongst each other. The problems that you have identified here for us, your three issues in particular, do you know whether or not they are common issues throughout your profession?

**Mr ANGILLEY** - With respect to the three issues in that e-mail, and general dissatisfaction, yes, widespread. General contempt is probably too strong a word, but it is veering towards contempt for the organisation and the process. That is reasonably widespread. It is not contempt for the people; it is contempt for the TCC overall in terms of a number of aspects of incompetence, as we see them, as to how a well-run accrediting body should operate.

**Mr DEAN** - In example three here in the correspondence you refer to the tax invoice side. What is the position there? Have you now received the documentation that you have requested?

**Mr ANGILLEY** - Yes, I have. Is the list of people who will be appearing before this body a public list?

**Mrs SMITH** - The media have it.

**Mr ANGILLEY** - Yes, I did receive tax invoices for the last two years, amended to show the correct amount of money that we had paid.

**Mrs SMITH** - Is it not law that the Taxation department require, under GST legislation, that you hold your tax invoices for  $x$  amount of years?

**Mr ANGILLEY** - Yes, it is.

**Mrs SMITH** - Is it a legal requirement, under the tax laws, to furnish invoices?

**Mr ANGILLEY** - Yes.

**Ms FORREST** - But also for this company to lodge a tax return. You don't have to submit it with your tax return, but you need to have it there in case they requested it.

**Mr ANGILLEY** - Yes. Interestingly, the date of issue on the amended tax invoice for 2005-06 was dated 31 May. So they changed the numbers, they did not change the date.

**Mr DEAN** - Your e-mail to us was dated 15 August.



**Mr ANGILLEY** - I received a letter signed on behalf of Peter Rayner who is the Registrar, dated 24 August.

**Mrs SMITH** - This year?

**Mr ANGILLEY** - Yes. He was in receipt of my letter dated 29 June, which is when I forwarded our payment of fees for this current financial year and raised the issued of lack of tax invoices, lack of receipts, and the fact that we had paid for a great number of accreditation classes and categories in the first year but had not received accreditation in those categories or classes until the second year. We asked if, perhaps we would be getting a refund for that. They have not addressed that issue at this stage. I asked it last year as well.

**Mr DEAN** - Refunds aren't normally all that quick.

**Mr ANGILLEY** - The cheque was dated 28 June. The letter dated and posted with the cheque on 29 June. So that is our payment to them. The cheque was debited from our account on 30 June. We received a letter, following back from that, on 24 August that included revised tax invoices for this current financial year and for the last financial year. It did not include a receipt for this year. So we have yet to receive a receipt for this year. Last year, and I think I indicated this in the e-mail, we did not receive a receipt until we specifically wrote and requested it.

**Mrs SMITH** - Simon, there is a train of thought amongst some who have spoken to us of a clear principle - that if something is a monopoly it should be inside the State Government, as a registrar of building or something like that for accrediting all these builders. If national competition principles catch up to it, then it should go to tender and be dealt with in that way. Do you have an opinion of where the accreditation of the building industry would be best placed, in hindsight of everything you have been aware of since the Building Act was implemented?

**Mr ANGILLEY** - This comes from conversations with Geoff Harper at Engineers Australia in regard to the BPACT application, about which I presume you have heard. My position would be that, if you had two bodies, there would be a lot better service for building practitioners, partially because there is scope within the act for the minister to withdraw his approval for any particular accrediting body at any time. That is my understanding of the act, though I have not got the full act in front of me to refer to that.

So ultimately, having more than one non-government organisation running an accreditation scheme does give you scope for competition. Not necessarily competition in fees, but competition in performance and ensuring that there is a level of performance.

**Mrs SMITH** - So who would you see as responsible for auditing so that these two companies just didn't become a competition between one another to gather in the most practitioners out of the building industry?

**Mr ANGILLEY** - That then becomes, I guess, a philosophical argument as to competition in the economic marketplace, free trade, and so on. Whatever system you have there is going to always be a role, I believe, for the department, acting on behalf of the minister and on behalf of the elected bodies, to at least oversee and/or audit the accrediting bodies

themselves. I think at a minimum there has to be some involvement of the department at that level.

If you were to say that the department should run the accreditation scheme, that is another way of looking at it. There are pluses and minuses to that system as well. The third option is to have no accreditation, no licensing system, and to allow professional bodies and organisations within the marketplace - such as Engineers Australia, MBA, HIA and so on - to do their own schemes; there are pluses and minuses to that system.

I think that the act that we have is not too bad. The accreditation scheme that we have is reasonable, but there are a number of grey areas. For example, what can someone with an associate degree or advanced diploma do, and what is the difference between the different classes within categories? There are a number of those grey areas that I believe create great question marks about the minister's guidelines and the actual accreditation scheme we've got. If those areas were tidied up and fixed, I think you would end up having a reasonable scheme.

**Mrs SMITH** - Are you aware of whether or not there has been any auditing going in the State Government departments of the TCC and its compliance with the scheme presented to the minister when it was made the accreditation body?

**Mr ANGILLEY** - I am not aware of such, but I am similarly not in any real position to be aware if it were occurring.

**Mrs SMITH** - Are you aware of your company or any others at any stage making a complaint about the TCC to any department of the State Government at any stage?

**Mr ANGILLEY** - Our company personally? No. I guess it comes back to economic reality in terms of the amount of time I 'wasted' chasing up accreditation for the different practitioners within our firm, tempered with trying to raise a family, do my work for Engineers Australia and actually do professional work. You were asking earlier, I think, Jim, about the general feeling amongst practitioners and engineers and did they feel the same. Yes, we all feel the same inasmuch as there is really no point in complaining at this point in time because we see, rightly or wrongly, that the TCC has received ministerial accreditation when it shouldn't have. Somewhat implicit in that, there is not perhaps a whole lot that is going to be done even if there were valid objections and concerns raised.

**Mrs SMITH** - The Chair will pull me up if I am going too far on this. You made the comment that TCC got accreditation when it shouldn't have. I would put to you a case that if the TCC put forward a scheme that the minister accepted under the act, he could quite rightly have, as he did, accredited TCC to take the process on. Again, under the act the minister has the discretion, if he is aware of issues out there in the building community, to actually remove that accreditation from the company in question. So I am looking to -

**Mr ANGILLEY** - The short answer to that would be three words, and they are 'code of conduct'. It was not only required under the ministerial guidelines, it is specifically required under the act. There was no code of conduct by, of or from the TCC until approximately May this year. That is nearly two years of a scheme operating where they

have not had a code of conduct. You might have to strike this but the minister was aware of the lack of a code of conduct, given that it was specifically referenced in the agreement. I am sorry if you have to strike that, Paul.

**CHAIR** - That is not unreasonable.

**Mrs SMITH** - No, but to me it is hearsay. Are you saying the minister was aware, because unless you can put some proof to me -

**Mr ANGILLEY** - I haven't brought with me the copy of the letter, but I do have a copy of the letter of agreement between the minister and the TCC. I am sure if you have a copy here I can point you directly to the clause that references the code of conduct and the fact that one shall be established within four weeks.

**CHAIR** - Yes, we have that copy.

**Mrs SMITH** - The question I was asking was, though, whether the department and the minister were aware that that had not been established - whether you had any knowledge of that? The industry is well aware of it - there is quite enough evidence to show that there are parts of the scheme that have not been met by the TCC. I am trying to decipher whether or not the industry has stood up and told the department and the Government, 'This is wrong', or have they just been so busy trying to get it right between themselves and the TCC that they have not put that letter into the department that says these are the things that are wrong.

**Mr ANGILLEY** - In terms of in writing, no. I had a discussion with Graeme Hunt at the Inveresk rail yards approximately 12 months ago. It was when the BCA - Building Code of Australia - were introducing energy efficiency requirements. There was a training session for that at the Inveresk rail yards, followed by drinks and canapes and all that sort of general business at that point in time. Ultimately, it is an off-the-record discussion with Graeme Hunt. I said, 'Graeme, what's going on? They have all these issues'. So the short answer is, in writing or formally, no - informally, yes, personally. I would be very surprised if others have not said so, whether formally or informally. As a formal representation from Engineers Australia, I understand that, yes, there have been innumerable discussions with the department about the difficulties that engineers and engineering associates have been facing. I have been requested on a number of occasions to forward information and copies of correspondence to Engineers Australia which they, through the division office, have then been discussing and forwarding et cetera to the department. I guess their ongoing discussions were to, one, improve the service from the TCC and, two, to try and get the BPACT scheme up to speed and get it approved.

I do not have proof in writing that those submissions from the division office of Engineers Australia have been given to the department.

**Mrs SMITH** - But you have put on evidence, under oath, that you had a personal discussion and you have identified the time and the place. That was all I was looking for, thank you.

**Mr ANGILLEY** - Yes, and the discussion included those items. It was a bit of a cross-over because it included professional indemnity legislation. I am trying to think of the name of the act that was being reviewed in terms of professional insurance scheme for engineers, lawyers, doctors in terms of the -

**Ms THORP** - I remember that.

**Mr ANGILLEY** - I am sorry if I cannot remember the act -

**Ms THORP** - I can recall it but I can't remember the exact name either.

**Mr ANGILLEY** - Yes, so the discussion also covered that, which tied into insurance under the Building Act. A third matter was the security of payments legislation, which was incorporated into Victoria. I believe in late 2004 I went to a seminar in Victoria regarding security of payments legislation there, which is purely a legislative mechanism to make sure people do get paid in the building industry. I also discussed that with him. So those three items were discussed in that period.

**Mrs SMITH** - Thank you.

**Mr DEAN** - On the code of conduct, you did comment on it and said that your code of conduct is a far superior document. Is the code of conduct reasonable and realistic?

**Mr ANGILLEY** - I do not believe the code of conduct that has been put forward is measurable. It has to be a measurable code of conduct. How do you measure someone's performance to it. Without it here in front of me, and I apologise, there were three or four items under the Code which I thought were interesting. I did not think the thing overall was well written. Maybe that is just me being pedantic again, but I do not think it is particularly well written. I do not think it is measurable, for the great part, and I think that some of the items within the code of conduct are wishy-washy. I think they are a bit ambiguous in their ultimate application.

**Mr DEAN** - It seems like you were here when the other gentleman was talking.

**Mr ANGILLEY** - In terms of discussions with the department, we have had phone calls to the department but I have not made file notes of them, and I apologise for that. So I cannot give you time and dates. I had discussions with the department about a specific area that we feel is an issue and that is with regard to architectural design. Under the act you will probably aware that there are three categories. There is the category of designer, there is the category of building surveyor and there is the category of builder. From that, the way it gets broken up is at the discretion of any individual accreditation scheme. We feel that there are some real issues with that. The TCC's current web site talks about the fact that architects and building designers do the architectural design of a building and that engineers do the design of specific areas. Quoting from their web page, and this was printed on 25 August:

'Engineers and building services designers are responsible for specific areas of building ... rather than the overall architectural design.'

Whereas, architects are responsible for the architectural and overall design. That really does not represent historical and even current practice in terms of industrial buildings and industrial construction. You could probably count the number of industrial buildings designed by an architect within Tasmania on both hands. Historically, an engineer has done the design because they are a portal-framed shed or a skillion-braced shed or what have you. Their design is ultimately a function of their purpose. Generally there is no great architectural thought to the appearance - external or internal - of, for instance, a factory building. Engineers have, historically, done the overall design of that

**Ms THORP** - What a shame.

**Mr ANGILLEY** - Yes, it probably is a shame to a degree. I would argue that because I am always trying to make ours look prettier. But there is an issue because some building surveyors accept that the engineer is completely capable of going through the BCA and ensuring that there is design compliance with the BCA issues in their design. They will accept us as the overall designer of that. There are other building surveyors who argue that, no, the guiding information on the TCC web site is that the overall design must be by an architect. Whilst they will accept an engineer, be that structural, civil or whatever class, to provide a certificate for the structural design, they will not accept the engineer as providing the overall design. They require an architect or a building designer.

That then flows onto another point we have which is in terms of the class of building designer in architectural-restricted, which is in the category of an APB level 3. Normally, a building designer at that level 3, architectural-restricted, is restricted to a building that is a maximum of three storeys and a floor area of up to 2 000 square metres. It is not advertised anywhere but there are a number of building designers who have accreditation for more than that, either in storeys or in floor area. There is no mechanism for that accreditation that is documented anywhere. Indeed, when my personal application went in it needed a statutory declaration from the principal and director of our firm. The three building design examples and profiles that I had to put in I guess were accepted as being proof of my experience because I received my accreditation, but all were outside the range of either a maximum three storeys or a maximum 2 000 square metres. Therefore, in the statutory declaration we asked if it could be a building designer at an APB4, or at a higher level than an APB3. When my accreditation came back, it was at APB3 with the standard restriction of three storeys and 2 000 square metres. We subsequently rang the TCC and asked what we needed to furnish in order to get that additional numbers of storeys or additional square metre area. We were told over the phone that the short answer is, 'Look, that's just not possible; you can't', and that APB level three, building designer/architectural-restricted, has those limits on them.

The search I did this morning on the list that the department maintains shows that there are eight people who have more than those levels of three storeys and/or 2 000 square metres. Barry Neilsen is an engineer and, I suspect, therefore wants to be a builder designer - I am speculating here - simply because he is quite likely encountering similar difficulties as we are where they will not accept an engineer as an overall designer. So this is not to say that Barry cannot do this because I think he probably can, very well. He is one of the principals of Pitt and Sherry in Hobart. Barry Neilson, instead of three storeys and 2 000 square metres is accredited for 13 storeys at 21 000 square metres.

As I say, that is not to say Barry can't do it, because I think he probably can. My arguments are two-fold. One, that as an engineer there is a strong case to be put that he potentially shouldn't even have to apply for the category of building designer. My second point is that if the TCC is going to accredit people at more than the published maximums, I believe there needs to be some transparency to allow for others to apply for that process.

As I say, you could read that as being narky because I applied for it and didn't get it, and that is completely your prerogative. My point isn't so much for me, personally, but that there needs to be a process in place for those -

**Ms THORP** - The same rules for everyone.

**Mr ANGILLEY** - That is correct.

**Mr WILKINSON** - I have noticed you have a list of those people like Barry Neilson -

**Mr ANGILLEY** - It is on the web site. I just scan through them.

**Mr WILKINSON** - Okay, thanks.

**Mr DEAN** - In your e-mail to us you make comment about the Building Act, section 21(a), that the body must have confidence and expertise with accrediting building practitioners. Are you aware of the capacity of the persons performing the work within the TCC at this stage, whether or not they meet that criteria?

**Mr ANGILLEY** - At this stage, no, I do not have any detailed knowledge of the people working at the TCC. What drove that comment was, I guess, the number of e-mails and telephone conversations that we had, in particular the one pointing out the AQF - Australian Qualification Framework - levels of historical certificates you would get in engineering in Tasmania. That occurred at a time when it was at the transitional phase and they were still accepting transitional provisions of accreditation. My personal belief - and others may disagree - was that in order to be able to accredit people under a transitional phase, accepting their existing experience and/or existing qualifications, you needed to have a reasonable knowledge of past qualifications.

The discussion that I had specifically with the verification officer at the TCC was in regards to an associate diploma, and an associate diploma was issued by TAFE Tasmania in the mid and late 1990s. I couldn't tell you the exact year they changed the certificate name but it was a certificate gained by someone who has just turned 30. So she went through and got that. It was mid to late 1990s that you were getting an associate diploma and simply they had changed the name. I was be told that that was an AQF4 not an AQF6, when all that happened was a name change no greater than a decade ago. It was a very common qualification in the para-professional area in building, I thought. For the verification officers, people in a position to be able to check qualifications, which was their job, to not know that indicated a lack of skill.

**Mr DEAN** - The question was not intended to test your statement.

**Mr ANGILLEY** - No.

**Mr DEAN** - It was to see whether you had any first hand knowledge of it.

**CHAIR** - Simon, with regard to fees that you or your company need to pay have you ever been advised, as an organisation, that you might get some discounts on the fees that you pay?

**Mr ANGILLEY** - We were advised by Geoff Harper at Engineers Australia that we might get discount in terms of a corporation fee rather than paying individual practitioner fees. He was advised by some of the engineers in one of the larger engineering firms. My understanding was it either Pitt and Sherry or GH & D - but I believe Pitt and Sherry -

**CHAIR** - Johnstone, McGee and Gandy was probably the one.

**Mr ANGILLEY** - Okay.

**CHAIR** - Yes, from evidence we have heard previously.

**Mr ANGILLEY** - Yes, so I heard it through my professional affiliation with Engineers Australia. It has never been discussed, advertised or otherwise through the TCC to us directly. I do not know if it is now advertised on their web site with their schedule of fees.

Engineers, in order to show their competence must demonstrate that they have the competencies required to be on the National Professional Engineers Register (NPER). If you are an engineer and you have the competencies required to be on NPER, there are two things you can do. One is you can register on NPER, irrespective of whether you are a member of Engineers Australia or not. You don't need to be a member of Engineers Australia to be on NPER because of competition requirements. You have to pay money to be on NPER. The money paid on NPER does not give you a discount from the TCC, although the money you pay to be on NPER, their initial application and initial assessment fee, is greater than the TCC's initial application and assessment fee. However, when you then look at their ongoing annual renewals, by year three you have paid less money than you would need to pay to be an engineer under the TCC.

However, as an engineer, if you go on NPER then you have to pay the NPER fee plus you have to pay the full TCC fee, so that is one option you can take. The other option you can take is to look at it and say, 'They've advised me that I need to have to demonstrate the competencies required to be on NPER'. They do not say I have to be on NPER. Therefore you could sit there with your competencies - which you assume demonstrate that you are required to be on that national register - and wait for the TCC to do their follow-up check that you have those competencies.

The TCC started off saying that you had six months to demonstrate the competencies; that pushed out to 12 months and to the best of my knowledge - certainly within my firm or any other engineers I have talked to - they have not ever checked that any engineers have those competencies to be on NPER. So that is certainly a hole. Someone is not on the national register, though they personally feel that they have the competencies to be on the register but they don't want to join because then they are paying twice the money - not quite twice the money - two sets of money for the one accreditation. So they think, 'I

will just pay my money to TCC; that let's me work in Tasmania and I believe I have those competencies'. As I say, to this time, from all discussions I have had with other engineers within our firm, I do not know of the TCC chasing those demonstrations of competencies.

**CHAIR** - Has your firm requested of TCC a reduction in your fees? If so, what has been the response?

**Mr ANGILLEY** - I will put it baldly, but I have always put it tongue in cheek because I have, I guess, pre-empted the answer that I will get back from them. When I pointed out to them that we were being invited to help them with their code of conduct, audit system and many other procedural matters, they came back and said, 'We are sure the department would welcome any input and help you could have in drafting these'. So I sent back and said, 'I'll look into that and think about it, but will I get a reduction in my fees?', to which there was no answer.

Similarly, the only other time I have asked for a reduction in fees is when we've put to them that we paid for a number of accreditations in the first year that the accreditations were received, but they weren't received until the second year. Did they have any policy, philosophy, or otherwise of partial reimbursement of those moneys? I haven't received any correspondence back on that. That last point is ignoring the fact that we had a number of people whom we applied for and paid the accreditation for, but ultimately we wrote to them and rang them and said, 'Please don't proceed with the accreditations on these people's behalf because they are no longer employed with us and therefore we cannot vouch for their insurance requirements'. One of them was a gentleman who moved to Melbourne. He was a Chinese immigrant and his wife wanted to be in a big city, so he went to Melbourne and didn't require it at all. One was a lady who moved out of private firms into one of the councils, and another one was a guy who was only with us for a short period of time before he went back into a council. So we paid the three full application fees for those and one never progressed. Two have progressed now because I still talk to those two people, but neither of them got accredited until the second year. They paid full accreditation fees in the second year through their current employers which are, respectively, the Meander Valley Council and the Burnie City Council.

**CHAIR** - Okay. You have been the beneficiary of being the last witness, and we have spent an hour with you and we do appreciate that you have given very valuable evidence.

**Mr ANGILLEY** - One more thing - and I am probably boring the heck out of you. The gentleman before me was talking about continuing professional development. My only comment is that within engineers, engineering associates, and so on, within the professional practitioners, the CPD schemes that we would normally operate to, either under the requirements of NPER or to be a chartered member of Engineers Australia, or whatever, are particularly more onerous than those established by the TCC.

In addition, those established, for instance, for a building designer - because I fall into that category as one of my classifications - I don't find to be world's best practice in terms of their requirements for CPD. I don't find them to be Australia's best practice in terms of their requirements for CPD. I, in some aspects, probably don't meet some of the minor criteria in terms of having six hours from a certain area, but in other areas I probably rack up 100 to 150 hours a year, depending on the year, through professional



meetings on the mainland, in looking at the national strategic direction of Engineers Australia and engineering associates, and in training and education. I am yet to be audited on my CPD. As I have mentioned before, I have asked on a number of occasions for guidelines on how those audits are going to be conducted, particularly as I had to sign my code of conduct that I will comply with the audit procedures. I asked, when I sent that in, 'Can you send me the audit procedures?', and got a droll answer back basically saying those are in accordance with the act rather than any written procedures. Although I haven't been assessed, I am generally confident that I can make a pretty competent argument that I have met the CPD requirements because, as I say, I don't think they are particularly onerous compared to others in place in professional engineering organisations.

**CHAIR** - Thank you.

**THE WITNESS WITHDREW.**