

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

Mr STEVE VAUGHAN, Mr STEVE BRAMICH, TASMANIAN CHAPTER PRESIDENT, AUSTRALIAN INSTITUTE OF BUILDING SURVEYORS, Mr STEVE JEFFES AND Mr DANILO YALI WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Harris) - Can I make one introductory comment, and we will be doing this with every group of witnesses or single witness who comes before us, and that is that because the Director of Public Prosecutions is still considering the matter of a potential case to answer and until he finalises his deliberations we will not be going to any substance related to the agreement signed between Bryan Green and John White so if there is anything in that issue that you want to discuss today then we would either need to take it in camera or come back at another time.

We obviously have your written submission. If there are issues you want to speak to regarding that submission do so and then we will open up for questions. We have half an hour at this stage for your presentation and, again just like the other group, if you feel or we feel that there is a need to have you back at another time then we shall.

Mr BRAMICH - I think when you look at the submission we detailed where we, certainly as a national board, had grave concerns with the accreditation process as was in fact being used was different to what was presented to industry in that to our knowledge - and I have said in the submission about a letter we wrote to the then minister, Bryan Green, and a response that we got back - and where we had grave concern was certainly there were no expert panels set up by any organisation or industry group that I am aware of or we are aware of that could undertake reasonable due care of the accreditation process. In fact in our case with the Australian Institute of Building Surveyors we were advised by the TCC that we are the appropriate people to accredit building surveyors because we are the ones that know the game and the same would apply with the engineers.

We said, 'Fine, we're more than happy to do that but we would like a memorandum of understanding in place, just a simple document'. That was never to come to fruition. We in fact had a building surveying practitioner who did the assessment on behalf of the TCC on a commercial basis and against the advice of the national board. To our knowledge, as I said, there are certainly no expert panels, there has been no complaints tribunal set up as yet or nominated. Yes, we did nominate three alternative members back in December. Whether it has been accepted, rejected or whatever we have no idea. There has not been an independent board set up or a joint industry council nor an appeal board that we are aware of.

Regarding the Joint Industry Council, I did hear the engineers earlier say that they had received an invitation to go to a meeting on 4 October. I also received that. I rang the TCC and said, 'Have you already appointed a joint industry council?' because we weren't aware of any appointments and the response from Marguerite was, 'No, but we are

hoping that those who are invited will be happy to sit on that joint industry council'. I said on behalf of the AIBS that certainly I would be attending.

Other concerns we really have is what we call an inadequate assessment, where a lot of private conditions have been put on practitioners. In the event that we are trying to assist the bona fides of a practitioner regardless of category, if we don't have any access to any sort of private conditions we don't know whether that person is competent to do what he or she is purporting to be.

CHAIR - Steve, can you give us an example of what private conditions may be attached by TCC?

Mr BRAMICH - Okay, I can give you one which I can verify in writing. It involved a building surveying practitioner. I myself was quite heavily involved in this particular one. I advised the then Registrar, Peter Rayner, to be very, very careful in the assessment of this person. He has not practised building surveying, to my knowledge, in his time working at this particular council for at least five or six years and I believe, in fact, since he received his certificate of competency in 1983. I am aware that he had made statements that he had not even looked at a Building Code of Australia book for 10 years.

He was in fact given accreditation as an assistant building surveyor. When you look on the web site he can only work for a council and do basically houses and sheds, classes 1 and 10. The advice I got from the TCC, as I said, in writing was that his private conditions were that he could only work for this particular council but he also had to go back and undertake certain TAFE courses in dealing with the Building Code of Australia relating to domestic construction and relevant Australian standards.

I did write to the Director of Building Control, expressing my disgust as a private individual, and there was really no joy in that area but if you were saying, 'We will accredit you as an assistant building surveyor, you can do houses and sheds but we want you to go back to school and find out how to do your job,' that does not fill me with any sort of confidence.

There are others that I am aware of, and one in particular, that have gone from restrictions in working for a council to working in private enterprise, can still certify houses and sheds. Private conditions for that particular person were that they had to go back to TAFE and do the advanced diploma and show satisfactory progress and to my knowledge, 12 months down the track, he has not even enrolled.

Ms FORREST - Does the AIBS, as the professional body, have an expectation or a requirement that people get certificates of competency on a regular basis, like a five-year term?

Mr JEFFES - We have got a national accreditation system that we brought in in 1992 which relates to qualifications and experience so that has been accepted I think in - Steve will probably know better - five States as the requirement for licensing.

Mr BRAMICH - Yes, and it affects the department as well. To maintain that national accreditation we need to earn 90 CPD points over a three-year period, with a minimum of 20 in any one year.

Ms FORREST - Plus every three years it is assessed.

Mr BRAMICH - We have to verify that we are upskilling constantly and are practising.

Ms FORREST - How many points? Twenty points you said?

Mr BRAMICH - No, 90 in a three-year period, with a minimum of 20 in one year and a maximum of 50 allowed.

Mr YALI - Might I clarify something before we go much further? The certificate of competency is not a current certificate.

Ms FORREST - No, I appreciate that.

Mr YALI - It is something that was issued by the Government up until 1994.

Ms FORREST - It is a way of a practitioner demonstrating they have kept up-to-date though and they have done ongoing education training?

Mr JEFFES - No, they are two different things. The certificate of competency was actually issued in Tasmania only. It was an interview done originally by the Department of Construction and then moved to the Department of Local Government so if you wanted to be a building surveyor in Tasmania you had to go through an interview process. There were not any formal qualifications in this State until 1989. So they were brought in and they were realigned in 1992 to the national standard which was a diploma advanced and a diploma degree, depending on levels of constraint about what you could certify.

Ms FORREST - Since then you have had ongoing.

Mr JEFFES - Since 1992 you have had to have continuing professional development, yes.

Ms FORREST - Of 90 points over three years?

Mr JEFFES - That is right, yes.

Mr BRAMICH - One of the areas of concern that I have - and I did put the question to the TCC nearly two years ago now, I suppose - is how does the TCC assess continuing professional development of a building practitioner regardless of category, if that person is not a member of a professional organisation and undertaking that organisation's CPD, and they did not have a clue. 'We will get back to you.' And they certainly have never got back to us.

From our point of view, we have members, and I am sure it applies in all categories, where they are not a member of our institute, we do not know what sort of training they are doing to make sure they are constantly upskilling and maintaining their accreditation

skills and whether they are just being passed or being assessed by who knows? I do not know.

Ms FORREST - With the CPD and TCC develop their CPD requirements, are you saying that was in total - disregard might be a bit strong but I will use that - disregard for what industry bodies and professional bodies out there were doing to ensure the competency of their members?

Mr BRAMICH - The first time I saw the CPD scheme as presented by the TCC would have been maybe two months ago.

Ms FORREST - The first time you saw it was two months ago?

Mr BRAMICH - That I have saw it, yes. I know with some categories it is 12 points and you get one point just because you own a BCA.

Ms FORREST - One point because you are member of a professional organisation?

Mr BRAMICH - Yes. To me it is not a very good CPD scheme and to me it does not demonstrate that you continually upskilling and maintaining your skills.

Mr JEFFES - The AIBS is one which was brought in in 1992 and has been re-evaluated twice since then and it is going through another national evaluation to make sure that people who are party to that system remain current.

Ms FORREST - So regarding the TCC's CPD requirements - and you may not be able to answer this - is there evidence that whoever is assessing that CPD attainment can identify whether the CPD that you have done as a building surveyor is appropriate to your field of work and scope of practice or is it more appropriate to a builder who is building a hands-on building or is it just across the board?

Mr JEFFES - Our understanding is that there is nobody in the TCC that is an employee of the TCC that could make that judgment on building surveyors.

Ms FORREST - If I was a building surveyor I could go to a couple of trade shows or some kind of conference that was hardly related, if at all, and still gain those points in a way that it looked as though I was meeting those requirements but not enhancing my professional development in my particular area?

Mr BRAMICH - Correct. In our national scheme we cannot just do training in one particular area. We cap it there because we want our practitioners to get experience over a number of areas. So you get so many points for conferences and so many points for technical papers and so on. So you cannot just gain all your points by doing courses or whatever.

Ms FORREST - Going to a conference or whatever.

Mr VAUGHAN - I think the AIBS' main concern with the transfer from an old system to a new system is that there was a great opportunity when this was put out into the marketplace for people to upskill and to be fairly and openly treated and given an

accreditation certificate that they could hang on the wall and say, 'This is me, I'm proud of it. I can now operate and I can be a builder or a building designer' because they did not have anything previously to that. But for the existing schemes that are already in the marketplace, provided by the AIBS and provided by the engineers or the architects registers, they have a long history of training their own people up to a relevant standard and that standard is all based on qualifications and experience. It is a worldwide thing. This is the way people go through a training process. They go and study, they get experience and they then practise in the marketplace and they undertake CPD to upskill or to keep on top of current changes in the marketplace. This is a common thing. It is not something that is special to us here. It is a worldwide thing. It is a recognised process and I think our concern, to some degree, is that we were kept a little bit out in the cold when the transition was taking place. We were not allowed, as an industry group, to share and offer our expertise and to give our knowledge and our methods of accrediting people, where we could work with the TCC in a proactive way so that it would end up with consumer protection, which is what this act is all about. I think what has happened is that this whole process has been diluted right at the critical point because we weren't allowed to be on an industry group because there wasn't one formed. We weren't allowed to form an agreement with the TCC in terms of getting this memorandum of understanding going where we could actually practically help the TCC in its early stages to develop all these groups and to be part of the group so that we could help to accredit people in the marketplace at the appropriate level. What has actually happened is that they have kept us out to a degree and I think the other industry groups and they have gone along and done it themselves, and that is our bottom line. We are concerned about that because to become a building surveyor from scratch you have to go and do an undergraduate degree, you have to study and do the hard yards. You then have to go and practise with somebody, obtain the experience, read the book, talk to people, get this information together and then you can go and practise but for people just to be given a tick and say, 'She's right, you're a surveyor now' I think is inappropriate and that is really I think our concerns.

Mr YALI - I was party to a meeting also initially with the TCC when it first came to the fore. It came to one of our State conference meetings and promised us the world. It promised us a set-up with the joint industry groups and promised a set-up of a committee which would be party -

CHAIR - Expert panel?

Mr YALI - Expert panels because I guess we had become a bit wary with all these things in place beforehand. They never eventuated and then it got to a stage where people were being accredited or the rumours would be going around so we had a further meeting with a former member of the TCC - the four of us actually - at TAFE where we basically said, 'Look, we have grave concerns. You need to basically bring us on board to help you with the accreditation process but before we do that we want to get some clear understanding as to how the relationship is going to work' through what was called the memorandum of understanding' because we were getting calls from individual members to say, 'Look, they never got their accreditation under our system but the TCC was looking at giving them accreditation with their system'.

Mr BRAMICH - Probably a good example of that at the moment is that I had heard a rumour that a particular person had applied for accreditation under the TCC. Probably three

years ago I suppose because I was on the interview panel with this particular fellow, he was trying for reaccreditation and he couldn't demonstrate that he had his 90 points -

Mr JEFFES - Through the AIBS.

Mr BRAMICH - through the AIBS and we probably sat down and interviewed this fellow and asked for documentation or whatever for two hours or more and in the finish we said, 'No, sorry, you can't have it'. The other day I sent the TCC an e-mail. I got a phone call from Marguerite from the TCC who said, 'No, we haven't accredited this person yet and we are waiting to see if he got this job with a particular council' and then they would accredit him. That sort of thing is really scary. Those that understand what building surveyors do, for example to probably simplify things, a building surveyor - and really it is a brave call - can override Tasmania Fire in the requirements. Basically we are playing with people's lives if we are incompetent to do something. What is really scary from our institute's point of view is if you get a designer that is wrongly accredited and is not competent to design something, coupled with a building surveyor that is not competent in something, they design a building and it is not right and something happens, an emergency happens and people die, which could be the final outcome. That is the area that really is spooky.

Mrs SMITH - You gave the instance of somebody who could only tick off on sheds and houses. Who audits that that person only does that and that that person stays with that particular council and doesn't move on? Who is liable when something goes wrong - the individual, the council, the people who have accredited them?

Mr YALI - There is what we call within the industry a proportional liability within the act. It basically means that when the investigation gets done if it is found that yes, there has been a problem, the building surveyor is responsible for 50 per cent, the designer for 20 per cent and someone else for 30 per cent. That is how the act is designed.

Mr BRAMICH - If someone comes in and wants to lodge plans, with me, for instance, I would go to the web site and check, 'Okay, Bill Brown, yes he is accredited to build to that size so he is fine. The designer, no, he is not', so I would reject it on those grounds. There is a bit of argument about whether I am responsible as the building surveyor or is it the council in its permanent authority role.

Mr JEFFES - There is a dilemma also that was raised before about conditions. We do not know what those conditions are so that compounds the issue. The reality is though I think you get back to who deemed the person competent. If you deemed the person competent then I would suggest under law that the TCC is probably liable.

Mrs SMITH - And if you deem under particular conditions who audits those conditions? No-one at the moment?

Mr JEFFES - Well, at this stage we do not know anyone auditing anybody. In fact I have also been invited, with another hat on, to go on the joint council as well. I have some difficulty with that personally. My view is that that discussion on that day is actually about auditing.

Ms FORREST - Auditing work?

Mr JEFFES - They actually have a consultant coming in to tell us about how auditing should be set up for the TCC. So one assumes from that that there is none being done at the moment.

Mr BRAMICH - What they are saying is that they would like to audit 10 per cent of all accredited building practitioners, completed by the end of this year.

Ms FORREST - But what are they auditing? Their insurance, their work?

Mr BRAMICH - We have no idea.

Mr YALI - I've actually been asked to give them a hand to formulate the audit process. However in doing so I have made a presentation to them to make them aware of what we do as a profession. Because I am still competent and they still do not know what we do as a professional. That is just bottom line. Secondly, I have prepared answers for them as to what they should be looking at when an audit process gets started, as a professional, not just the questions. Initially the invite was to give them a bit of an understanding and I said, 'Yes, no problems; they are professional'. Next thing you know they asked me if I could formulate questions for them. So I said, 'Yes, okay, I will do that'. Then they came back to me with a formal offer that they would be willing to employ me on a commercial basis. To date I have said no because I do not feel competent, I guess, with them but also confident with part of my report I present to them that the person who does the audit has to be a person who has credentials as an auditor to give validity to the system and also make the process transparent, and that they should invite us to have input as part of the audit process. I actually sat with Peter Rayner this morning to go through a whole form of questionnaires of questions that should be asked. At this stage I am doing what is called a desk-top audit, to get the building surveyor to tick a box or answer some questions basically.

Mrs SMITH - From the time that the TCC took control of the accreditation process, what do you believe would have been an appropriate time for all the requirements such as auditing to have been set up in a fair and reasonable way? Is it 12 months, two years or straightaway?

Mr BRAMICH - I would have thought beforehand.

Mrs SMITH - Before the 1704?

Mr BRAMICH - Yes.

Mrs SMITH - They should have been ready to go on everything?

Mr BRAMICH - Yes.

Mrs SMITH - Was that achievable do you think?

Mr BRAMICH - Yes, and I cannot see why it could not be. I know we had meeting with David Diprose and we stressed to him that, for example, all practitioners should be accredited by them. If you get someone and you give them a tracking file number and

say, 'Yes, you can keep practising while we assess you', then if at the end of the day that person does not wash up you are going to have problems.

Mr JEFFES - Certainly we offered our own system to Mr Diprose as an example of how something had worked for building surveyors specifically and I think other professional bodies did a similar thing. So in other words, if a person had gone through our system and we gave him a copy of our system at the time then that person quite clearly would have been competent to work at those various levels. The dilemma - and I think it has happened in a number of areas - that there have been conditional approvals given and no-one knows what they are, and as a building surveyor that is extremely problematic because we are certifying work which could actually be compounding errors right from day one. Then if you have a builder that has conditional requirements and we do not know what they are either then they might not be competent to build the building. So you may have a problem with the designer or the architect, or not specifically the architect, I would assume, because there is a system I think reasonable for them, but certainly with the designers, the builder surveyor and the builder you could end up with a consumer being in a position that certainly would be untenable.

Mrs SMITH - If I want to check the registration that the building surveyor has complete experience, not private conditions, where would I go to look and would something tell me no, he can only do sheds and houses, go somewhere else?

Mr JEFFES - No.

Mr BRAMICH - The register will do that if it is up-to-date and earlier I spoke about this particular building surveying practitioner who has since left council and now works privately for another building surveying firm. The web site when I last checked three weeks ago still shows that person working for a council.

Mr JEFFES - But it doesn't show the private conditions. We are unaware of those.

Mrs SMITH - That's my question. If I want to know a person's expertise I can presume the expertise of the person with private conditions is exactly the same as somebody else on the register.

Mr JEFFES - That's correct.

Mrs SMITH - Buyer beware?

Mr JEFFES - Well the other issue that we have and I think we have documented there is that the web site is old, it's not current, it's not alive, so we have a major issue with that.

Mrs SMITH - So what is fair and reasonable in keeping a web site alive and up-to-date?

Mr JEFFES - It should be alive.

Mrs SMITH - Weekly?

Mr JEFFES - No, it should be live because we have to make decisions based on that web site.

Ms FORREST - There should be a process in place, I believe, and do you think it is reasonable that when my application goes in for accreditation and I am assessed as being suitable for accreditation, with or without restrictions - I think it is really wrong when you cannot access what those restrictions may be as a consumer -

Mr JEFFES - That's correct.

Ms FORREST - There should be an automatic update of the web site. There is absolutely no reason why that cannot happen and I think it is something that really needs a serious look at as to what is wrong with a system that allows that not to happen, and the same applies at the other end when someone's accreditation is revoked or they choose not to re-accredit, or whatever the term is, that they are not removed immediately.

Mr JEFFES - The other issue that we've quite clearly come across when we have questioned about this issue is - Steve mentioned before that some people were given conditions which required them to upskill. It is our understanding that there is no monitoring of that.

Mr YALI - Can I make another crucial point there? The web site is not managed by TCC, it is managed by BSR. How can the TCC be held responsible if, for argument's sake, you send the details to BSR and then BSR puts it to one side and decides to -

Ms FORREST - It is fraught with danger, isn't it?

Mr JEFFES - It is.

Mr BRAMICH - Our understanding was that at the end of the transition provisions come 1 July 2004 anybody else who was entering the industry had to meet the relevant qualifications and what we are finding now is that they are still putting people through under the old transition provisions and in some cases with private conditions, and that is frightening.

Ms FORREST - I'll just go back to the private conditions issue. Is that just an interim measure in that grandfather clause to allow people to come in and get up to a certain standard so that for the next accreditation they would meet those requirements that were imposed because of a not satisfactory level of qualification or is it because that person is simply not able to ever meet a condition?

My question really is: was it an interim measure in that grandfather clause or is it going to be an ongoing thing?

Mr JEFFES - It's a continual thing. It is still going on now.

The other issue is that it is not always upskilling in an educational sense, it may be some other issue, but if you are talking about upskilling in an educational sense, our experience in our profession is that when they brought the transitional provisions in and they grandfathered or allowed people to continue practising and in fact beyond the level that they were allowed to legally prior to that - so, for example, if we are a building inspector at a council you weren't allowed under the previous act to certify anything.

However, when the transition period or the grandfathering occurred they allowed those individuals to certify. So prior to that the act wouldn't allow them to certify but they allowed them to certify now. One of the difficulties was that some of those individuals were in fact upskilling. Once they receive their accreditation they're no longer upskilling because they don't need to.

CHAIR - Gentlemen, we are just about out of time. As you know, we have only allocated half an hour for each witness and it is difficult to gauge just how much information will be provided. Can I just go to the matter raised in your written submission, that of the MOU that the TCC agreed was a worthy pursuit, recognising you as the appropriate professional body. It took them eight months to write back and say, 'Yes, we will get things moving on this' and then you say that the MOU proposes TCC assess applicants and seek help from your institute. Have they sought that help from your institute? I take it from what you have said previously that they have not.

Mr BRAMICH - No. I was quite heavily involved with that MOU and it was that bad - did not finish. There were meetings between David Duprose and our then CEO in Sydney. There were notes that were done and, basically, an agreement of framework. The TCC were going to draft up an MOU; we nagged and nagged to get it. In the finish they said, 'We do not know how to write one. Can you help us?' So we drafted one for them; all they had to do was fill in the blank spots. It was not a difficult MOU - I have copies here - which basically said, 'Did you collect applications? Do you collect the fee? If there is an appeal then you deal with it' type of thing, you know? It was just a process of how things were done. For some reason - and we thought that that was going to go ahead - that all got squashed. Whether it was on advice from BSR or legal advice, I do not know.

CHAIR - That is the building standards and regulation within the department.

Mr BRAMICH - Yes.

CHAIR - Who are the people involved there? I presume it was Graham Hunt, Rob Pearce.

Mr BRAMICH - Yes, all of them. Whether it was with them or legal advice I do not know. But it all suddenly just stopped cold and we received a letter that basically said - the wording is in the report - that if we get into trouble and we do not understand then we will ask for help by way of expertise.

CHAIR - Mr Wilkinson has just suggested that you might provide us with a copy of that MOU. Can I then go to the matter that Bryan Green wrote to you and said categorically, 'The TCC is appropriately skilled to accredit building surveyors'.

Mr BRAMICH - Correct.

CHAIR - And yet the TCC had already - if I have the chronology right here - indicated to you that they would be seeking your advice because you are an appropriate body that ought be consulted and yet the minister wrote and said, 'This mob already has sufficient capacity to accredit'. That was in the absence of having established an expert panel at that stage nor an expert panel having been established since.

Mr VAUGHAN - If those panels were established from day one when the TCC became live in real time, a lot of these issues that are being discussed would have been sorted out and all the business about whether somebody needs to be accredited with or without conditions could have been appropriately dealt with. I think nobody would put their hand up at this end of the table to say that we all thought this would run smoothly from day one. It would not happen; it is a new thing. It has to be generated where you have co-regulatory input from both sides; so the Government sets the framework, the industry administers it and they work together as a team as it grows and iron out all the wrinkles.

CHAIR - Can I then summarise? We will conclude if we can because I think that we have ranged across the issues raised in your written submission. Your clear, final comment in your submission is that the scheme presented by TCC to the industry - I could add to that my words: 'And presented to the Government' - has not been established as was promoted by the TCC in its entirety and therefore you have grave doubts as an institute that there is an appropriate process in place to properly accredit building practitioners in your profession - building surveyors - and that, clearly, your submission is that such a process ought be undertaken by a government authority.

Mr JEFFES - If I can add to that that Steve and I were actually on their accreditation working group and we stated that from day one on that working group. We were concerned from day one that we were given that as a fait accompli by the government representatives.

CHAIR - You have been most concise. Thank you, gentlemen.

THE WITNESSES WITHDREW.