

THE HOUSE OF ASSEMBLY SELECT COMMITTEE ON THE COSTS OF HOUSING, BUILDING AND CONSTRUCTION IN TASMANIA MET AT HENTY HOUSE, LAUNCESTON, ON FRIDAY 10 JUNE 2011.

Mr ANDREW FOLEY, Mr JOHN OLDENHOF, Mr BRENT SIMPSON AND Mr LES CURTIS, UNITED PLUMBERS OF TASMANIA, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Hidding) - Welcome, gentlemen. Before you give your evidence, I need to ask whether you received and read the guide sent to you by the committee secretary.

Mr FOLEY - Yes.

Mr OLDENHOF - Yes.

CHAIR - A committee hearing is a proceeding of Parliament and this means that it receives the protection of parliamentary privilege. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside of the confines of this parliamentary proceeding. This is a public hearing and members of the public and journalists may be present. This means that your evidence may be reported. It is also important to understand that everything you say here is recorded on *Hansard* and it will be printed and on the web in due course.

Mr Booth arranged a public meeting with your industry recently and I will ask him to place on the record some historical context.

Mr BOOTH - I will briefly lay out the situation that has resulted in the plumbers being here before the committee today. It effectively occurred as a result of a regulation laid on the table of the House by Minister David O'Byrne under the National Occupational Licensing System which saw a fee schedule deliver a 1 200 per cent fee increase to plumbers. I put up a disallowance motion in the House and subsequent to that my office and every member's office have been contacted by plumbers extremely concerned about the situation. In fact, we saw plumbers who were leaving the industry as a result of the barriers to entry, barriers to retention, massive fee hikes and a number of other matters.

So pursuant to that we did call a public meeting which was held at Henty House and 62 plumbers turned up. Both Andrew and John turned up and I am very pleased to make their acquaintance through this process. Subsequent to that, Parliament then disallowed the fee schedule as a result of support from that plumbers meeting. There was also a discussion held with Andrew, and broadly at the meeting, about the fact that the whole act needed some form of review. It was not just about the charges; it was about a whole lot of aspects to do with the National Occupational Licensing System that needed review and even the question as to whether we in Tasmania stayed within that system at all or whether there was an alternative model. It was felt that probably the most appropriate way to try to get that information onto the public record and to provide a vehicle to properly examine some of these matters and hear evidence was to refer this matter to the Building Committee, which we are now sitting on today.

Mr FOLEY - Thank for the opportunity to make this submission today by the United Plumbers of Tasmania. This submission has been compiled by myself and many members of the United Plumbers of Tasmania working party, in particular Mr John Oldenof, Mr Alan Atkins, Mr Les Curtis and Mr Ian Goodluck. These men have vast knowledge and experience. John Oldenof has 50 years in the industry, much of which has been dealing with multimillion dollar developments; 17 years as a councillor on the West Tamar Council; four years as a deputy mayor, and president of the Riverside Lyons Club where he received the highest accolade within that environment - the Melvin Jones Fellowship.

Alan Atkins has 50 years in the industry, plumbing inspector to the St Leonards council, president of the Plumbing Institute of Australia's Queensland Chapter and contracted on multimillion dollars jobs Australia-wide.

Les Curtis has 47 years in the industry, which includes 22 years as the head plumbing inspector/surveyor for Launceston City Council, currently in the top three most experienced in his field.

Ian Goodluck, head teacher of plumbing at the Launceston Technical College for 31 years and the State coordinator of plumbing. And finally, myself, Andrew Foley, 38 years as a sole trader. To put it simply these men know what they are talking about.

The very essence of our trade has and always will be to provide a service to the public that protects their health and safety and has been that way since Roman times and through the generations. We, the registered, qualified business-running plumbers, are acutely aware of the responsibility bestowed on us. We are always improving and looking to advance our trade. Your committee, we believe, was formed to investigate costs incurred in the housing, building and construction industry in general. Our section of the industry, plumbing and gas fitting, has recently been subjected to the attempted introduction of a fee structure that could only be described as obscenely overpriced and the formulation of these fees, to say the least, was very vague and cloudy. The fees would have inflated costs to the consumer, about which there is no doubt. The angst the consumer feels about building and plumbing costs already is very high and in this current post-stimulus-money time would only have become worse. There also did not appear to be any fixed pricing arrangements as to any further increases as well in this fee structure.

Fortunately, after much lobbying, these fees were repealed in Parliament and we now await correspondence from Workplace Standards to see what the future brings. The purpose of our submission brings us to pose this question: is the introduction of the Occupational Licensing Act and the National Occupational Licensing system merely an attempt to create another level of bureaucracy and a vehicle to collect another unnecessary tax, something neither the consumer nor the registered plumber should be responsible for. At this time we would like to point out that for approximately 60 years we have had a registration system in place in Tasmania that clearly indicated who is registered to legally carry out plumbing work.

This registration list was compiled by the Plumbers and Gasfitters Board for many years by a small staff of one or two people. Local government management and plumbing inspectors always had up-to-date lists and oversaw start-work notices, site inspections and completion certificates, ensuring compliance with the original plumbing regulations

under the Sewer Drains Act 1954 and in more recent years the heavily regulated requirements of the Building Act 2000, the Tasmanian plumbing code, the Plumbing Code of Australia and the Australian Standards ASNZS 3500. We then go to 1.203, water; 2.203, sanitary plumbing and drainage; 3.203, storm water drains, 4.203, hot water services. We have the regs books of the National Construction Code.

Once the plumber completed his or her training and obtained the relevant indentured papers and decided to start their business, there is then the requirement to obtain an ABN, an ACN, a business name registration, insurances and a host of other fees before one can actually start in one's own name. We have a breakdown of overhead costs which will include all the abovementioned fees for a single operator.

Why do we need an Occupational Licensing Act? When Workplace Standards have been pressed for answers to this question, generally the answer is, 'We need to clean the industry up'. To do that we will establish a department with up to nine staff - administrator, manager, IT expert, three office staff, three investigators. To fund this department, management freely admit all fees are to be spent on implementing and administering of the OLA and the National Licensing System. So in fact this board was going to be funded by registered plumbers who are fully trained and qualified with registered businesses, ABNs, ACNs, fully insured with extensive tools and competent vehicle transport, IT communications systems, funding availability for at least several weeks work before payment might arrive, as well as estimating and quoting capability. Now, they add this exorbitant registration fee to their static and fixed costs and justify all these costs to the consumer.

It is important to note that in the building fees there are already costs for plumbing inspections et cetera. Do we need a national licensing system? We must point out that we are basically a local, essential service industry. When Workplace Standards were questioned about this they argued the need for portability of licence. It was very important for the harmonisation and the movement of registered tradesman between States and Territories. We find this very difficult to accept. For a start we would have had nine different bodies administering the system across Australia. For example, Tasmania has Workplace Standards, New South Wales would be Department of Fair Trading, South Australia would have the ACBA and so on. These bodies would answer to one central body on the mainland. Is this simplifying and being cost effective?

We are aware of local plumbers who have worked in at least four different States over their working lives and have had no difficulties in obtaining their plumbing licences in each State based on existing reciprocity agreements in recognising their original training qualifications. We believe if we were to re-establish our business interstate we would, as a matter of good business practice, attend to all fees, registrations, et cetera, relevant to the State we are moving to. And an interesting point, when Workplace Standards were questioned as to the known number or were there any figures available to verify the number of plumbers that had either moved interstate as contractors or wage earners the answer was it is not known how many will work interstate and the national licensing system may see movement increase.

Can the Tasmanian tradesmen afford the at least \$350 000 annual contribution to the national licensing system and for what gain? We have asked over the years of presentation evenings, by correspondence, e-mails many questions and in reply we have

had answers that range from 'I'm not sure, we'll get back to you on that', 'We don't expect', 'Once finalised', 'We are waiting', 'If we consider the process of auditing has not been established', 'We're still going through', 'There are around' and, finally, 'We do need to talk to councils about this new legislation' and this comment was from a letter from Workplace Standards on 6 April 2011.

Mr BOOTH - Can I just interrupt there, Andrew. Were all those quotes out of one letter?

Mr FOLEY - No, several letters. I have them here, if you need to see them.

Mr HIDDING - That is one we could believe you on, I think.

Laughter.

Mr FOLEY - We find these replies to be extremely clouded and unconvincing, to say the least. After six-plus years and not to be able to give us a clear and concise answer to the questions about something that has a huge bearing on the dynamics of our industry is abysmal. There clearly has been little consultation with the plumbing industry in general. We understand that the Master Plumbers Association executive have been consulted but we wish to point out they speak for 106 members, some who are social and associate members only, when there are, as of 9 September 2010, 1 031 registered plumbers in the State.

The motion of disallowance, number one, excessive fees - while \$54 is agreed to be a minuscule amount for registration fees -

CHAIR - Can I just interrupt there for a moment, this motion of disallowance, who -

Mr FOLEY - Sorry, that was taken from the board that we had at the meeting on -

CHAIR - These are your proposed terms for a motion?

Mr FOLEY - Yes. Sorry, I apologise.

Mr BOOTH - Perhaps we should clarify that. A meeting was held here in Henty House with the plumbers that night. I don't recall the date right at the moment but we are talking about the public meeting which 62 plumbers attended. We had a white board up and I think, Andrew, these are all of the matters that were agreed to.

Mr FOLEY - Yes, what we agreed to as a group. Sorry, about that and if I could go back to that. Excessive fees - while \$54 is agreed to be a minuscule amount for a registration fee, we feel that a 100 per cent increase with a CPI component would be a fair figure, around \$110 per annum for the advanced registered tradesmen.

Mr BOOTH - Sorry, Andrew, I just need to clarify that in fact. I am just looking down this now. You are speaking about the motion of disallowance discussion we had and effectively the resolution that was carried at the meeting but what you are now talking about are the considerations of the United Plumbers post that.

Mr FOLEY - Yes, that is correct.

Number two, there were to be no add-on costs for gas or back flow or any of the other add-on costs that were involved in the initial paperwork. Number three, entry to trade is one of the points on the board -

- (1) to gain cert. 4 advanced registered plumber's ticket for apprentices currently studying there should be no extra costs. This will encourage the future plumbing contractors of our State.
- (2) for those who have finished cert. 3 and have, for example, had three years post training in the trade and wish to attain cert. 4 or the equivalent, there should be a plan implemented to help them achieve these qualifications.

At present it can take up to two years and cost approximately \$300 to \$600 per module. Again, these young tradespeople are future plumbing contractors for our State and should be encouraged.

- (3) if an advanced tradesman, cert. 4, has been away from the trade, for example, for three years, it may be prudent for them to do a refresher course in conjunction with a training college.
- (4) Continued Personal Development should not be compulsory, but you would be encouraged to keep up with any changes in the industry, obviously to benefit your business and the consumer.
- (5) Registration in the trade should be compulsory.

It appears that the trained, qualified, registered plumbers who have all the necessary business and legal requirements in place to run a plumbing business are the ones who are being made responsible for the few untrained, unqualified, unregistered people, not plumbers, but people, who try to pass themselves off as plumbers. With this in mind we believe that the implementation of the photo ID card with a registration number and the education of the public - as in don't employ anyone unless they can present a photo ID card on demand - is a fantastic initiative.

Our direct response to help facilitate these two ideas is to offer our increased registration fee from \$54 to around \$110 as previously stated.

In closing, we would suggest Workplace Standards or any government body who wishes to alter any fee structures or regulations may need to make themselves aware of the concerns of the responsible tradesmen in our community and not a department who are only looking after their best interests and a small number of so-called industry representatives that have a biased view as to where they believe industry should be heading.

CHAIR - Thank you for that. It is now open for us to ask you some questions on your submission, so whenever you are ready.

Mr BOOTH - If I might just for a procedural reason suggest that I get the resolutions from that whiteboard and table them as part of the evidence before the committee. I have just sent a text off to organise that.

Mr FOLEY - Yes, I agree.

Ms ARCHER - In relation to the index that you have given us, on the first page you have what I presume is just an example of total overheads?

Mr FOLEY - Yes.

Ms ARCHER - How have you arrived at that?

Mr FOLEY - That is just your typical sole trader operator. I have done a rough across-the-board, spoken to three guys in the town and that is pretty much an average of what a sole trader is up for at the moment in the plumbing industry in Launceston.

Ms ARCHER - And that is per annum, obviously?

Mr FOLEY - Yes, per annum.

Mr BOOTH - Just a clarification there, there is a subcontract that is \$59 000 as part of those overhead costs. That would be utilising TA's and so forth?

Mr FOLEY - Yes, that's correct. That is a subcontractor.

CHAIR - As members of parliament we often get brought to us from the administration of a government ideas for new and improved methodologies of building houses or carrying out sanitary plumbing and the rest of it, to protect people from dodgy operators and poor outcomes, and everybody always has a beaut idea of how to get there. One thing that is possible for us, of course, to have overblown to us is this issue of mischief in the first place. So from our point of view when we are elected the first question is what is the mischief you are seeking to address here?

In your submission you referred to, on the last page that it appears that the trained, qualified registered plumbers who have all the necessary qualifications are being made responsible for the few untrained, unqualified, unregistered people who are not plumbers but people who pass themselves off as plumbers. How much of this is happening?

Mr FOLEY - I have referred there to some correspondence from one of the plumbing inspectors in Launceston. I will clarify that by saying that in 22 years he has had to deal with three people who tried to pass themselves off as plumbers.

CHAIR - Three?

Mr FOLEY - Only three - in 22 years.

CHAIR - I know you are aware of this because you would get these phone calls all the time to come and sort out plumbing that has been done by the homeowners. When I was first elected to public office with the Launceston City Council we argued with the engineering

department that there couldn't be that many dodgy connections around, so at Young Town, where I live, they did the smoke test to see how many illegal connections there were - and it was every bloody house!

Mr OLDENHOF - Mostly that's related to stormwater connections into the sewerage system because, as you realise, you treat a sewerage system and process it and if you have additional stormwater running into that you are wasting money because you're treating water that doesn't have to be treated.

CHAIR - It seems to me that the biggest mischief is through unlicensed people doing plumbing. That is something you can start dealing with through education and I believe that with new real estate disclosure arrangements, where you can't claim that something is an en suite if you don't have the correct arrangements for that, that starts to deal with that. I know the real estate agents say to people, 'This lovely bathroom and shower you have here, how about you go to the council and get it inspected and registered and then we can add value to your house'. So there's a bit of that going on. How much mischief is there of untrained and unregistered plumbers?

Mr DWAIN GRIFIN AND Mr ALAN ATKINS, UNITED PLUMBERS OF TASMANIA WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Andrew, could you give us a one-sentence explanation of their credentials?

Mr FOLEY - Dwaine is currently the plumbing inspector/surveyor for the Meander Valley Council and Alan is an ex-St Leonard's Council plumbing inspector.

CHAIR - Terrific. The question I have put on the table is: where is the mischief?

Mr GRIFFIN - Like any industry, we have some problems but the small number of problems that we have with people doing plumbing work is sorted fairly promptly by the plumbing surveyors throughout municipalities. On the rare occasion that we get people acting as plumbers it is sorted. If there are new houses being built, they can't get completion certificates and the bank won't issue money - there is a whole range of things that regulate that. As far as I can see, the problems we have are sorted and it is regulated enough as it is now. As for your homeowners going to Beck's or wherever and buying a downpipe to fit to his shed, personally I don't have a real problem with that so long as it's his own home and it's inspected and passes all the regulations. There is no nuisance or mischief that is not being sorted. It is regulated enough. Plumbing surveys in Launceston and West Tamar show that regional councils do have it under control.

Mr BOOTH - Just to get this clear for the record. I must say that the CV of the United Plumbers, giving evidence today, is extraordinary in terms of their industry expertise and so forth - it is quite incredible.

You are effectively in a situation where you went from \$54 a year to \$1 200 a year and the only justification for that which has been given thus far is that money would be used to fund three policemen to go around looking for people carrying out illegal plumbing. Is that correct?

Mr FOLEY - That is correct. But Dwaine made a point earlier, so I throw that question to him.

Mr GRIFFIN - Effectively, we do that now. We do not let people plumb unless they have a licence.

CHAIR - We, being the Meander Council?

Mr GRIFFIN - Plumbing surveyors and plumbing inspectors in general - every municipality. You cannot plumb unless you have a licence. We police that now and we are quite effective at it. We are pretty sure we do not have any unlicensed people doing work. There have been cases where there have been and it has been sorted. We are pretty confident we do not have any people doing plumbing on new houses who are not licensed. We are very confident about that.

CHAIR - Can we go to Mr Atkins while we are on this subject and then we can round it out?

Mr ATKINS - The can of worms for me, I am afraid, being a plumbing inspector with St Leonards, you would appreciate the years that we had connecting all the properties in St Leonards and Young Town to the sewerage system and I was pretty confident that every house that was put on was done properly. I did not really see a problem with it. It cost home owners a lot of money to do it.

But recently I have wandered around some of those areas and you can see additions going in and you can see quite clearly where someone has put a downpipe into the sewerage system. But the complication is - and this is a reality for plumbers - that part of Launceston is still combined and I had no end of trouble constantly dealing with plumbers who say, 'Why do I have to do it like that? Why can you do it x, y, z in Launceston?' The fact that part of Launceston is still a combined system means that, in all honesty, every plumber doing plumbing work in Launceston, has to take that map with them and know which areas are combined and which are separate. That is the problem we have. It has to be said that here we are in 2011 and we still have a major part of Launceston where 80 per cent of the sewage and stormwater all goes to the river untreated and this is what plumbers are dealing with on a daily basis. This is back to your mischief thing, how can you deal with it when part of this town has a combined system and the rest of it has a separate system?

Mr BOOTH - Can I ask you to clarify that, Alan, please? You just said that 80 per cent of the sewage in Launceston goes to the river untreated with the stormwater, is that what you said?

Mr ATKINS - Yes, that is right.

Mr BOOTH - You are saying that raw sewage goes straight into the river, 80 per cent of it?

Mr ATKINS - Yes, all the wet weather flows. All the drainage from the central Launceston area goes into Margaret Street and they have put in this massive pumping system at Margaret Street so that there is no combined system going into the river at normal times. When you get the wet weather and these pumps come in, they have to be pumped over to Tea Tree Bend, because that is not a big plant. Once that pump system hits that Tea Tree Bend, it has to go straight to the river because otherwise you would just wreck your sewerage system and everybody knows that.

CHAIR - For the record, there are a number of detention basins put in to manage that and the number of times that the flood gate is open for that to take place these days, is very rare in Launceston.

Mr OLDENHOF - As far as any illegal plumbing is concerned, if you look at the index you will see that we have some 18 different forms that council can apply to property owners or plumbers to stop work immediately or rectify a problem. Just about every situation at present is already covered under regulations. You will notice that there are 18 different forms that can be issued either to the property owner or to someone who is doing the illegal work.

CHAIR - Is it your submission that the mischief that is being proposed to be corrected is overblown?

Mr FOLEY - Yes, well and truly. What Dwaine said a moment ago proves the point and my quote of three pull-ups in 22 years.

CHAIR - Yes. That then takes me to the next step - electricity. Aurora and Transend license electricians to do work that draws off, and in some cases even takes in, their grid. An electrician signs off himself; he does not have a separate inspector. I think that the answer is that you own the main system

Mr GRIFFIN - We used to.

CHAIR - That is right. Why is it that an expert plumber, Foley and Oldenhof, cannot sign off on their own work?

Mr GRIFFIN - It is the risk. A lot of mainland councils went to private certification. It is only now that they are realising the mistakes of doing that, the cost of having faulty workmanship. The under-slab drains are your most important; you only get one shot at that. They are having huge problems on the mainland with that sort of thing. We are finding now that a lot of mainland councils are going back to having plumbing surveyors and doing all the inspections. Stormwater into sewer infiltration is another fairly big cost - treating clean water and sewerage systems. You are right, most of our plumbers are good and the rare problems that we do have are sorted, but they are only good because their work is being inspected and they have a set level that they need to be at.

Mr OLDENHOF - Having inspections as they are done today gives me as a contractor protection because I can guarantee, because it has been inspected by a third party, that this job has been done correctly according to regulations. It gives the consumer protection because they have the same. The council make a record because very seldom are jobs done exactly as the original architect might have drawn. You get an accurate picture or plan of what has either gone into the ground or above, so in future if you want to do an extension to something you could go to the council and get an accurate record of what has actually been installed. As far as I am concerned, the existing system that we have with local government doing inspections on either new or alterations is an excellent one.

CHAIR - So it could be argued that there are 29 inspectors already in the marketplace, therefore the new layer of bureaucracy is unnecessary.

Mr FOLEY - The new investigator did not necessarily have to have any plumbing knowledge. He could be an ex-policeman - this has been stated to us - without having any particular knowledge of the industry. That, to me, is fraught with danger.

CHAIR - But in a State where they do not have plumbing surveyors at councils, if you have not got the NOL scheme and you have not got a thing up here, it could all get quite ugly.

Mr FOLEY - Absolutely.

CHAIR - So what is being proposed here by government, on the face of it, isn't that weird. It is quite a normal thing; you either do it this way or that way, but what is being proposed in Tasmania is that we have both.

Mr FOLEY - It is over-regulation, simple as that.

CHAIR - And you are not prepared to give up the system you have.

Mr OLDENHOF - It's fantastic. Since 1951 this has worked really well for Tasmania. I think it protects both the plumbers and the general public. Most of them know most of the local businesses that are operating, so it is only a phone call from the inspector if he comes across something that he is not sure about and it is rectified. The inspectors I have talked to have seldom come across a problem that hasn't been rectified. There is a notice here that you can issue to say, 'Please rectify this. Please don't do anymore work on this site until this has been rectified.' They are talking about \$350 000 for bringing this new scheme in; we have estimated that there is no way they can run it for that money. Either the Government is going to have to come up with more money or we have to pay more money to implement this. I can afford to pay extra money, but I am looking at the bigger picture, at the future, and I think this is completely the wrong way to go. It is going to be a cost either on government or on contractors.

Mr BOOTH - You said, Dwaine, that the system in New South Wales with self-regulation is resulting in a lot of problems and issues down the track. Had they had an inspection before the certificate of compliance was issued, you suggest that would not be occurring now?

Mr GRIFFIN - Absolutely; that is exactly what is happening.

Mr BOOTH - I have had pretty extensive involvement in the building industry and it has always been my proposition that a lot of the regulations have just been make-work schemes, regulations for regulations sake sometimes. The most important part of any compliance system is a proper inspection so that the work, no matter who does it, complies with the act and if it doesn't then the inspector is able to require remediation to bring it to compliance and will not sign off until it is done. Does everybody around the table agree that a robust inspection system is the best way to ensure that work complies?

Mr GRIFFIN - We agree wholeheartedly. There would be no one against that. We are regulated enough. The system works now but we are talking about cleaning up the industry. The industry is not broken. The industry is working well in Tasmania at the moment.

Ms ARCHER - Do you think it is more likely the case - and the Chair touched on this - that if there is dodgy work out there it is more likely to be very old -

Mr GRIFFIN - Or homeowners.

Ms ARCHER - or homeowners. I am thinking of the example of Battery Point, Salamanca and the stormwater drains and sewage spill. There have been cases in the media about that. I am just wondering if that is what may be driving some of this.

Mr GRIFFIN - As far as I understand, the new licensing won't be able to police that any more than the plumbing inspectors and surveyors already can. They are not going to stand at your hardware store and stop people buying a piece of downpipe and stuff like that. Although it does make an impact, it is relatively low risk. The high-risk stuff is

your sewer drains that are under the slab on new dwellings and sewer drains in general, hot water in schools and stuff like that.

Mr OLDENHOF - Legionnaire's disease and refrigeration; that is the reason why we are registered, because of the health risks.

Mr GRIFFIN - We don't get homeowners doing that. They do their own downpipe on their carport.

CHAIR - The hangover of water and sewer reform is such that the plumbing surveyors are still with the councils. But in fact councils have no interest in sewer and water per se, so it is not their thing. That is more as a service to builders or to the building industry. Is it likely that there will be an iteration over the next 10 years, for instance, where all plumbing surveyors could or should work for, say, Ben Lomond Water? They need to protect their networks.

Mr GRIFFIN - They still have an interest in the sewer and water, and they help us with conditions that they want on permits and we regulate that, so we do some regulating for them.

CHAIR - Which raises my interest because this is what we are about. In the cost of building, things have built up and now you have to go down the road here to get conditions for a permit that you are putting out there. It is those kind of things, there is no question, that add costs to a building job. We are tasked with the responsibility of trying to find where there is this elaborate stuff built in and whether it is worthwhile. Nobody is saying that it is not worthwhile but one man's red tape is another man's system. If it is a good thing, that is fine. Is it still logical that a plumbing surveyor be connected to a council?

Mr GRIFFIN - Councils regulate what is inside the boundary for the plumbing surveyor, what is inside the boundary plumbing-wise and building-wise, so 99 per cent of our concentration is on the actual structure of the house itself - builder, plumbing, internal connection.

CHAIR - To put your mind at rest, the opposite view exists as well that staff from Ben Lomond Water should be available to councils.

Mr GRIFFIN - Absolutely.

CHAIR - You understand that it simply works both ways. I just wanted to explore that.

Mr BOOTH - Perhaps individual views would be good here, if they differ in terms of making sure that we get improvements in plumbing - meeting latest technology and changes in site design that we touched on before, that in fact the submitted plans usually do not relate necessarily directly to the work that is done on site because there might be rocks in the way and all that sort of stuff. By an inspection you can get the precise locations done properly and all that sort of thing. How important is that kind of relationship between a plumbing inspectorate and the mentoring of plumbers, the ability to modify plans on site and the ability to transfer skills, new ideas perhaps that the inspectors might have seen on other jobs and point out perhaps alternative solutions that might need to be designed on the job site itself?

Mr FOLEY - If I could come in with a little bit of history there, 34 or 35 years ago when I first started working for myself I left the protection of a boss and I went out by myself to start plumbing. I maintain that three or four of my mentors were the four local plumbing inspectors. Whenever I was not sure of something I made that phone call. I can remember making phone calls to Alan over the journey about certain things I was not sure about and Alan would find the time and as a part of his job would come along and steer me in the right direction. If that answers part of the question that plumbing inspectors or surveyors are a must simply because yes, they are a mentor to the younger fellows coming into the industry and also a sounding board and a guide throughout the duration of a job and then obviously they take all the required plans and so on to keep a record of them.

Mr BOOTH - To go to a system of self-inspection and get rid of the inspectors, which effectively becomes a self-regulatory system with a few untrained detectives running around paid for by the plumbers, would be a retrograde step?

Mr FOLEY - Yes. Dwaine might be able to tell me exactly about this but on the mainland, in Victoria again, there is a 20 per cent inspection rate, I think, so that tells me, if I add that up on the fingers, about 80 per cent of work that is not being looked at is left to the plumber to self-certify. To me that is frightening.

Mr ATKINS - If you bear with me, I can give you an example of where the problem occurs. In Melbourne 10 years ago I was a supervisor on the *Age* newspaper and at that stage they had begun this self-certification and I think there was a 20 per cent random inspection rate at the time. I left it to our plumbers to put the drainage in. The drainage on the *Age* newspaper is a major project and I walked on the job when they were about to backfill all the drainage underneath the entire building - it was incredible. With my plumbing inspector's background I could tell that drain wasn't laid properly; it didn't have enough fall on it. I asked for a third-person verification from the full-time surveyor on the job and he checked and said there was no fall on it. That was a job that was about to be backfilled and I hate to think what would have happened to that project if that drain had been backfilled at that time. That was self-certification, whereas if they'd ensured that it was a third-person verification, it would have been picked up.

CHAIR - Let me just put on the table for your comment that in all other industries - engineering, architecture et cetera - that protection is built in by private indemnity insurance where, say, Oldenhof Plumbers says, 'I can do that job', but before he can do the job his insurance company says, 'You need to pay me \$10 000 a year and we'll cover you'. So if the 10-storey building needs to be pulled down to fix the plumbing, they would pay for it.

Mr BOOTH - That's not quite factually correct. What they say is, 'We'll sue you for it'.

Laughter.

CHAIR - Exactly. That is the public policy issue. Someone has to protect someone somewhere. In the building industry we've had an owner/builder situation come before this committee, and I know there are many more out there, where just because the council inspector so-called 'inspected' it, it was an appalling outcome. He did not inspect

HOUSE OF ASSEMBLY SELECT COMMITTEE ON COSTS OF HOUSING, 13
BUILDING AND CONSTRUCTION, HOBART 10/6/11
(FOLEY/OLDENHOF/ATKINS/SIMPSON/CURTIS/GRIFFIN)

it properly so the people who bought the owner-built house were in a disaster situation. I think the council's going to find its way clear to take responsibility. You are saying that the current system, in spite of the fact that you would rather not go the insurance route, it is this model that you think is -

Mr OLDENHOF - We feel we are more protected by this model we are operating under at present than to move away from that.

Mr BOOTH - And therefore the consumer as well.

Mr OLDENHOF - If we are protected, the consumer is protected. Every business these days has to have all the necessary insurance policies or you don't get on site. Many of them ring you up every few months and say, 'Can you please forward us your current certificates'. Anybody who is in business would be completely irresponsible not to have any insurance. Everyone I know carries that type of insurance because it is part of any business, isn't it.

Mr ATKINS - Mr Chairman, would you mind if I raised an objection to this document that seems to be circulating at the moment?

CHAIR - No, because I don't have the document and I don't know what it is you're talking about. Perhaps that is something you could take up and Andrew could write to us separately on that.

Mr FOLEY - Yes, we can address that later on. It will come up later on down the track.

CHAIR - I want to finish that issue of indemnity. There is no question that in Australia we're going to become a much more mobile workforce. We have had a minister of the Crown in Tasmania recently suggest that it is a very good thing that Tasmanian workers fly to South Australia to find work and then fly home at weekends. Fly-in, fly-out is becoming huge and it's going to get bigger. I must confess, I don't think there are too many requirements for plumbers, for instance, at Coranbah in Queensland or Karratha in Western Australia, although they do build a lot of houses. It could be argued by the bureaucrats sitting here that the NOL scheme came about because of this necessary mobility of workers.

Mr OLDENHOF - But we all work under this Australian and New Zealand code.

Mr BOOTH - Can you read that out for the record?

Mr OLDENHOF - This is the National Plumbing Code of Australia and New Zealand. There is the Tasmanian Plumbing Regulations 2003 Statutory Rules and the 2011 National Construction Code series, volume 3. If I do a plumbing job for you in Launceston or I go to Karratha in Western Australia and do a plumbing job, I still have to abide by these rules and regulations - whether it's a hot-water cylinder, drains, every item is written there as to exactly what has to be done and how it has to be done.

CHAIR - Let's say the grandson of Oldenhof Plumbers in 20 years' time wants to set himself up as a plumber, under this system where all his work is checked by a local municipal plumbing inspector, have you prepared him for life in Australia as a registered plumber?

**HOUSE OF ASSEMBLY SELECT COMMITTEE ON COSTS OF HOUSING, 14
BUILDING AND CONSTRUCTION, HOBART 10/6/11
(FOLEY/OLDENHOF/ATKINS/SIMPSON/CURTIS/GRIFFIN)**

Could he fly somewhere and do the stuff? Or has he been over-protected by having a municipal surveyor about?

Mr OLDENHOF - I can answer that. I worked in 40 different towns in Victoria about three years ago, and all I did was ring up the local authority and say, 'I am John Oldenhof from Launceston Tasmania; this is my Tasmanian registration number. Are there any special conditions that you require for any of this work that I am going to do?' and they said, 'No problem whatsoever.'

I know that one of my friends worked in Western Australia, he had to do a job in Western Australia for a relation - a new place. He rang them up and gave his Tasmanian registration number. They said, 'Just pay us the fee' - I cannot tell you how much it was - and he paid it and he was issued with a licence to go and operate. The rest of it still operates exactly as it does here today. You put your start-work notice in before you start, you give notice when you want it inspected and then you get a notice when it is completed so they can look at it and issue you with a completion certificate. And that does not make any difference whether you are in Western Australia or in Tasmania.

CHAIR - Good answer.

Mr GRIFFIN - Tasmanian plumbers are widely renowned for being some of the best plumbers in Australia because of the level of work they do down here. Tasmanian plumbers do everything - they do hot and cold, the drains, the sewers, stormwater, the lot. On mainland Australia you get special plumbers to do hot and cold, special plumbers to do stormwater. Tasmanian plumbers do the lot and they do it to a high level. There is certainly no issue with Tasmanian plumbers.

CHAIR - No mischief there. We are not falling off the pace in national terms.

Mr GRIFFIN - No, we are certainly high in skills.

Mr FOLEY - We would be leaders in that field, if I could say that without sounding too over-confident. I would say that if any of these gentleman around the table here and sitting at the back were to go to the mainland tomorrow, by Monday they would pick a job up without any worries.

Mr BOOTH - So effectively, the current system is virtually a seamless transfer provided you have got qualifications going under the national regulations, you just come into Tasmania, you apply and you are registered to work and vice versa.

Mr ATKINS - I can verify that I have worked in Victoria, Tasmania, Queensland and Western Australia and in each case it is just simple procedure to go through, show your qualifications and I have had no problem in any State and that is over a 40-year period.

Mr BOOTH - From an inspector's point of view, have either of you had problems with people who have been properly bona fide, qualified, registered plumbers from other States coming here and doing the work that did not meet the standards?

Mr GRIFFIN - Personally I know if they are mainland plumbers. It takes them a little while to get up to Tasmanians' speed and the level of work that is required. But they do get there.

Mr FOLEY - I will give an example: a friend of mine went to outback New South Wales working and there were peculiar things in that area that he had to abide by and one of them was that you could not use copper piping in the ground because of the corrosive ground. But it was a localised issue. He went to the council to do the job and said, 'I am going to do this', the local inspector at wherever it was said, 'That is fine, go ahead and do the work, give us a ring when you are ready to have it inspected, but do not use copper piping in the ground because it is corrosive in this area.' That is just a local demographic thing that being a responsible tradesperson you would go and find out about.

Mr GRIFFIN - With a bit of mentoring they are fine.

Mr BOOTH - The point there is that if you had an old system where it was self-certification with transferability across the Australian jurisdiction then you would not get that mentoring and the guy would have put in the copper pipe and it would have failed.

Mr GRIFFIN - Just going back to one of your previous questions about plans and the designing of the plumbing work. It is very rare that the plumbing is actually installed as per the plan. You get on site and no one knows better than the plumbers. If there are problems to be sorted out between us before the job commences and the job gets done right, it is rarely according to plan. There is quite a lot of work on site before the job begins.

CHAIR - We need to draw this to a close. We have some very good information from you. I just want to explore with you why it is that you believe - and I don't want to get into the politics of your industry because every industry has that - that the Master Plumbers Association of Tasmania appear to tell us in the submission that they have been working on this now since 1999 - and it could be that they are just exhausted, in the end just worn down - but they do not seem to be against the NOLS model. They are raising the issue of some problems that might arise here and there, they are making those points of view, but generally they do not appear to be opposed to a new level of bureaucracy that needs to be paid for by their members. Do you have any clue as to why that might be the case, Andrew?

Mr FOLEY - I wish that I could give you an answer, Mr Chair, but I really don't know. It beggars belief. It is a cost increase. The whole situation is just beyond me. Dwaine may have some ideas on it, but I can't give you an answer on that, sorry.

Mr GRIFFIN - I suggest they are not representing the full industry. They have, I think, 160 members -

CHAIR - They are representing their members.

Mr FOLEY - It's 106 members.

Mr GRIFFIN - They are representing their members and some of those are not plumbers. There are a thousand-odd plumbers, so I would suggest that they are probably not representing the true industry.

Mr OLDENHOF - I found it interesting that when all these licensing fees came to be known and all the conditions that were coming with it, I contacted a number of master plumbers in the north here and they seemed to have less knowledge about the whole thing than I did. They seemed to be completely uninformed about exactly what was happening, what they were going to have to pay.

CHAIR - Not unusual, it happens in all industries.

Mr OLDENHOF - Most plumbers are one-man or two-man shows, family businesses in most cases, and my personal opinion is that if the legislation had gone through as it was previously, including all what we are talking about at present, more and more of those people would have been forced to work for big companies. It slowly would have forced the one- and two-man shows out the industry. It is just my way of thinking, but perhaps the larger master plumbers that are operating would see that as an advantage because of the reduced competition.

CHAIR - That happens in all industries too.

Mr OLDENHOF - That is just a personal opinion.

CHAIR - The people with the time to make submissions and to be involved in processes are generally larger organisations that do not consider the single sole trader who has his head down and backside up in a ditch somewhere.

Mr OLDENHOF - If you look at the number of registered plumbers in Tasmania I suggest that you will find that at least 80 per cent of them are operators like Andrew or myself, or they might have one or two extra people working for them. As far as small business goes, plumbers are probably one of the main small businesses in Tasmania.

CHAIR - This committee is interested in actual costs that already exist that do not need to exist, but we are most interested - that is why it is a very timely references committee - in new costs that might come in. We are trying to grapple with ones that are already there, let alone bat off new ones that are coming in. As someone coming from business, as all of us do, I know there is no such thing as not passing on costs; you just have to pass them on. So if there is an increase in your licence fees and there is no decrease in your current model, you have got to pass it on. So is it true that a new homeowner in Tasmania who has saved a deposit and they go to a builder and they want to build their first dream home, a little 14-square starter home type thing, is it true that the proposals from the Government at the moment are such that the new homeowner will need to pay for two systems? They will be required to pay for a whole new system of bureaucracy that you are saying is completely unnecessary and provides no extra coverage - and that there is no mischief to address in the first place.

Mr FOLEY - That is exactly right.

Mr ATKINS - The best example I can give you to answer that question is the current proposal to phase out electric hot water cylinders. It was based from Canberra and they have discovered that the difference between Queensland and Tasmania is quite marked and therefore there still a lot of work to be done. But as it is presently proposed, they changeover is going to be at enormous cost if they proceed with it.

Mr BOOTH - With regard to the situation that drives up costs when you have unnecessary overregulation or restrictions on trade that are petty and appear to have no justification behind them, a couple of matters to do with the operation of a national system spring to mind. One of them is the feed to a gas bottle. As registered plumbers, do you think that you should be called out on Christmas morning to go and attach a gas bottle to a barbecue for a client? Or do you think that attaching a gas bottle to a barbecue is something that the ordinary human being can do?

Mr FOLEY - We are talking about costs straightaway. I am going to rock along at my hourly rate to attach a gas bottle for someone; I could not justify that cost to anyone at any time. So there must be a line drawn somewhere that allows people to do that sort of thing - Dwaine has spoken about the downpipe on the chook shed - provided it is done properly.

On a different topic, I have asked the question of people in general regarding categories of equipment, of materials. Category A and category B, if you like. Category A would be a tap washer, a handle, a toilet seat -

Mr BOOTH - Barbecue bottle?

Mr FOLEY - Yes. Category B would be -

CHAIR - A fan connector, DT and all that stuff that no-one else should be playing with.

Mr FOLEY - Exactly. It is an idea I put on the table and I would be interested to see where it would go because it has a twofold effect. It allows the home handyman to feel good because he can fix his tap washer. In effect it would 'clean up' the industry and still give the opportunity for the guy on Christmas morning to hook his gas bottle up or put his downpipe on his chook shed.

CHAIR - There are variations with that idea. You could have sticker on the fitting to say, 'If you are fitting this, have a read of this.'

Mr FOLEY - Yes, or 'Plumber only'. So there are a number of steps that could be taken -

Mr OLDENHOF - Yes, but you are not going to be able to stop people -

Mr FOLEY - You will never stop it completely.

CHAIR - No, particularly farmers.

Mr OLDENHOF - If you look at present council charges for inspections and the different costs and charges that they ask for various inspections et cetera, if self-regulation came in, private companies are going to be doing this and there are some doing it at present. If

you compare the costs of a council charge and some of the business charges, councils charges are about half the price of private companies.

Mr GRIFFIN - Going back to the gas bottles, there is a line in the sand with gas bottles. Anything nine kilograms or under can be fitted by any home owner. It is only the bigger bottles that need a gas fitter.

Mr BOOTH - Has that been a prescribed regulation because when I think it went through the Parliament the minister was not able to explain it?

Mr GRIFFIN - As far as I am aware, nine kilograms or under - your normal caravan gas - can be fitted.

CHAIR - Most people use those now for domestic heat as well.

Mr BOOTH - The issue has been raised - and it seems a pretty serious matter - with regard to building, particularly in rural areas, where roof plumbing now has a requirement to send plumbers up on the roof rather than builders. I have had complaints from electricians who effectively illegally do roof plumbing work when they pull off a sheet of iron or a flashing to look at something. Have you a view in regard to that? They ought to be able to go back as it was before, with an accredited builder or whatever doing that sort of cottage work to put a roof on a house, but get the plumbing work done by a plumber.

Mr FOLEY - I wholeheartedly agree with that that. The bulk roof work is a builder's responsibility. Yes, we are responsible for gutters, flashings and so forth. There is a little bit of a line there but we are as a group wholeheartedly support it.

Mr OLDENHOF - On the mainland you will find that roof plumbers are putting the roofs on; over here builders have been putting roofs on forever. Sometimes the line is drawn where flashings, gutters and downpipes will be done by a roof plumber.

CHAIR - Most builders do not want to touch them anyway.

Mr BOOTH - But even with that there is a problem because if you are doing a roof it is not just a matter of putting the sheets on. You have valleys, for example, and that is a flashing. What do you want to do? Call a plumber out to put the valley in, call in the builder and then put the roof on - it just does not work.

Mr OLDENHOF - As it is in the regulations at present, if you stuck to the letter of the law it would be a roof plumber that would put it on.

Mr BOOTH - Similarly an electrician who has to move and replace things has to actually, I understand, use a plumber if you want to comply with the law, which is impossible because you cannot get a -

CHAIR - There are some practical dimensions in how that is policed.

Mr BOOTH - So you are comfortable with those regulatory changes to allow that freedom?

Mr ATKINS - There will be another issue that I am sure your committee will probably be faced with in due course. There is a move now to require the builder to be responsible

**HOUSE OF ASSEMBLY SELECT COMMITTEE ON COSTS OF HOUSING, 19
BUILDING AND CONSTRUCTION, HOBART 10/6/11
(FOLEY/OLDENHOF/ATKINS/SIMPSON/CURTIS/GRIFFIN)**

for site drainage before any work is done on the site. I believe that move is being done to provide drainage for the under-slab work, under the foundation work.

CHAIR - Yes, preliminary work.

Mr ATKINS - I presume if it is going to be a requirement of the builder then that will again be passed on to the plumber to provide drainage. That is site drainage and there are a number of sites.

Mr GRIFFIN - Is that to stop creating a nuisance with run-off?

Mr ATKINS - That is part of the problem but it also relates to ensuring that there is sufficient drainage for the whole site, so the whole site can be drained and is not puddling in the construction stage, and also drainage of the foundation.

Mr FOLEY - If I can just go back, Mr Booth, to your question about the electrician taking the roofing iron off, it is all about practicality, isn't it?

Mr BOOTH - Yes.

Mr FOLEY - If you have an issue and the electrician needs to get in and do an emergency job, he is not going to ring me and expect me to go to Deloraine to take off a sheet of roofing iron to get to that thing. That is a commonsense approach.

CHAIR - There is room under the current environment for commonsense to take place between trades.

Mr FOLEY - Yes, that is it.

Mr BOOTH - Not legally there is not. It is a nod and wink, a discretion.

Mr FOLEY - Yes, it is a discretionary thing - commonsense has to prevail. If that electrician does not feel confident that he has the roof on -

Mr BOOTH - However, the problem is that it is against the law at the moment, which means that if something happens then a builder who has been doing it forever suddenly finds himself in court for illegal work. That is the problem.

Mr BOOTH - The unanimous resolution of the 62 plumbers at that meeting in Henty House was to support the motion to disallow the regulations tabled on 15 March 2011, which was a disallowance motion, and subsequently Parliament did that. There was unanimous support that the licence fee was too high, that the contractor licence and the practitioner licence should only be a single licence.

Mr GRIFFIN - Definitely.

Mr BOOTH - We might give you an opportunity to expand on that. Thank you, Dwaine, for saying definitely. There should be no additional fees for the add-ons such as LPG, LNG et cetera - in other words, a single fee with accreditation for appropriate add-on modules, but if you qualified, no additional fee. It was unanimously supported by the plumbers that plumbers should be licensed - in other words, you have to be a licensed plumber to carry out the prescribed works. They wanted to see the artificial barriers to

entry and retention in the industry removed to enable plumbers to both enter and stay in the industry based on their skills and not on the size of their wallet, I guess, basically. They also wanted professional development to be available but not to be compulsory. They were the resolutions that were carried on that night. Dwaine, you've mentioned that with the single licence you had a comment as a plumbing inspector?

Mr GRIFFIN - There are a few plumbing surveyors such as myself and other people in the industry who assemble hot-water units but are not plumbing as such who will be disadvantaged. I'm an advanced plumber now and the equivalent is a contractor's licence. To get a contractor's licence it's a big cost and to get a practitioner's licence, which is a lesser one, I would be disadvantaged. If next year I decided to leave the council and go plumbing again, I would have to go back to school and get my contractor's licence, which effectively I have now. That is one of the main issues for me, the fees. We all know that they are too high. At the moment I'm being disadvantaged by the new licensing regime.

Mr BOOTH - And that will drive people out of the trade, effectively.

Mr GRIFFIN - It will. I can get a contractor's licence but it's a big cost every year to have when I'm not effectively using it. I need to have a licence of some sort to do what I'm doing.

Mr OLDENHOF - If I wasn't a contractor, just a licensed practitioner, if the local Lions Club that I'm involved with did a project and there was plumbing involved, I would not be allowed to do that because I'd have to be a contractor.

CHAIR - Finally, through your diligence in and concern over this matter, you've brought this to Parliament. There has been a disallowance and this committee may well look at an early report to Parliament on this matter but the broader thrust of this committee is to look for savings to the cost of building and construction in Tasmania. Can you think of anything or could I encourage you to think it through for your new organisation of United Plumbers and submit back to us how else we might pull unnecessary bureaucracy out, without leveraging it onto someone else - you guys are at the coalface of this - where we might find some savings? We are looking for every dollar we can find because the cost of building and construction in Tasmania has skyrocketed.

Mr FOLEY - If I can speak on behalf of the United Plumbers of Tasmania, we will sit down asap - I won't say 'due course', it will be asap - to formulate and have a look through the current system and see if there is anything we can do. That's the bottom line, we can see that our concern about what has been presented to us was going to escalate it out of this world; it was just going over the top. As I think we have stated in our submission, it's all about the consumer and looking after the consumer and encouraging them to feel comfortable about the service we provide and the costs we are doing it for.

CHAIR - Thank you very much for your very good input and kind offer to continue work on that for us.

THE WITNESSES WITHDREW.

Mr WILLIAM QUON and Mrs KATHY QUON WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Hidding) - Welcome. Before you begin giving your evidence, I would like to apologise for the government members. There has been a changeover in membership and they have a problem or two. It does not affect at all the operation of this committee. They will read the *Hansard* and participate on your evidence. It is regrettable, but it is where we are at. Also I would like to ask whether you received and read the guide that was sent to you about appearing before committees? You would have received a little document, a guide?

Mr QUON - Yes, we received that.

CHAIR - In spite of that, I need to reiterate some important aspects of that document on the record. A committee hearing is a proceeding in Parliament and this means that it received the protection of parliamentary privilege. This is an important legal protection. It allows individuals giving evidence to a parliamentary committee to speak with complete freedom and without the fear of being sued or questioned in any court or place outside of Parliament. It applies to ensure that Parliament receives the very best information when conducting its inquiries. It is important to be aware that this protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the confines of this parliamentary inquiry. This is a public hearing. Members of the public and journalists may be present, as they were, you saw, and this means that your evidence may be reported. It is important that should you wish all or any part of your evidence to be heard in private you should say so and we can consider that. Finally, just a reminder that these microphones are live, everything you say is recorded and will in due course appear on the Internet and be available for all posterity for people to read our discussion here today. That should not frighten you at all, but it is a protection for all of us, including yourselves.

With that, thank you very much for coming in. Thank you for your submission to this committee. The Quon name is well known in the building industry in the north of Tasmania and a long-term family business and so when we saw your submission and read it we felt we should invite you to come in and speak more to it if you wish and generally just engage with us in some questions so that we start building a picture of where we might - as you probably just heard - not just find current costs, but protect the industry against incoming missiles in further costs. We have half an hour or a bit more, so we will see where we go from there.

Mr BOOTH - Thank you for coming in. You have both been involved in the industry for all of your working lives, are well known and, as Rene said, well respected. You also have gone through the wringer with the last-resort compulsory home owner's warranty that used to exist in Tasmania. As a result of effective lobbying by builders and so forth that has now resulted, of course, in your not having to do that, so I might ask whether that has made a difference to your business not having to have a last-resort compulsory home owner's warranty in there in terms of regulatory change that has occurred already, and whether the new Occupational Licensing Act you feel is going to have an effect on building costs, or at least on your business and your ability to operate a business. Could you give evidence just generally about how you feel your business is restricted as a result

of unnecessary regulation right across the board and how that ultimately affects the cost of building? At the end of the day, our terms of reference are to look at driving down building costs if we can. Part of the regulatory capture of the industry seems to be a big cause of increased building costs. Do you have a general statement that you would like to make in relation to that?

Mr QUON - I think that insurance not now being mandatory in Tasmania is a good move. It is a pity that the other States cannot move towards that as well. But the thing with the fees at the moment is that there is a fee set-up for building, licensing and any additional add-on to that, say drafting, for instance, and now with the new plumbing regulations coming into being, which I believe soon will incorporate air conditioning, we still have two head fees, one for building and a secondary one for drafting, a head fee for plumbing and an additional fee for air-conditioning.

CHAIR - Do you pay all those?

Mr QUON - Yes. I just wonder why they can't all be put under a heading, 'building'. As a plumber said, for an additional thing like thermostatic mixing valves, why should you have to pay another fee if you are already a registered plumber? If the building industry is all together, why should you have to pay an additional fee for plumbing if you are already a builder?

Mr BOOTH - To clarify that, you are not talking about council fees, you are talking about registration fees?

Mr QUON - Yes, registration fees.

Mr BOOTH - You are saying that if you are qualified practitioner, it does not matter what you are, you should pay a fee perhaps to get a card that says you are a builder, a plumber or whatever and there should be no add-on fees?

Mr QUON - No, no other add-on fees. The reason being that one person can only work 40 hours a week. We are not supposed to be working 40 hours anyway but we are and probably more. You cannot earn any more than that, so why have an additional fee?

Mr BOOTH - Good point.

Mr QUON - You cannot split yourself in half and work a full year as a plumber and a full year as a builder and then pay these additional fees. You can only work the 40 hours a week.

Mrs QUON - If I could come in here and ask a question of the committee. Do you have the privilege of paying \$160 a week out of your own pocket before you can go out the drive to go to work?

Mr BOOTH - No. In fact, we live in a very rarefied atmosphere in parliament. We do not have to have any qualifications other than being elected.

Mrs QUON - That is what it costs us, \$160 a week in fees and registration costs to come out the gate.

CHAIR - That is massive, \$160 a week.

Mrs QUON - That is not taking into consideration, running your work van. That is not taking into consideration Yellow Pages advertising, if you can afford to have it. That is before we even come out the gate.

Mr BOOTH - So that is \$8 000 a year, I think it is, isn't it?

CHAIR - What are the elements of that, can we get that on the record?

Mr QUON - I think I put those on our submission we provided - can they be read out from that?

CHAIR - No, they are already on the record. So that does not include getting the business? That is just being in the business; that is getting to the gate before you even attract a customer?

Mrs QUON - Yes, and that is the question I am asking. Do you people have to pay \$160 a week to come out your gate to go to work?

CHAIR - No.

Mr BOOTH - That works out at \$8 340 a year for the record of *Hansard*.

Mrs QUON - Because my husband has taken years and years of study and extra training - he is a carpenter, a plumber, a building consultant, a draftsman and he does air conditioning; he is multiskilled, and that was his choice - he is being penalised with the fees. He is being penalised for 40-odd years of gaining extra qualifications and knowledge.

Mr BOOTH - Is that getting to the point now with that level of fees where it means that you will have to stop doing some of the work - for example, something that you do less often - because the fee associated with that is just too high to make it worth staying in there?

Mr QUON - It certainly is getting towards that now - it is practically at that stage. We have been struggling to pay the fees. That cannot continue. With air conditioning we also pay an Australian government fee for handling refrigerant and that has been the case all along. Why should there be another State government fee for doing the same thing?

CHAIR - Could it be that every system has a built-in floor in that it tries to cater to the midline? Could it be that there are not too many Bill Quons out there? Is that the problem - that you need these multiple licences?

Mr QUON - I was speaking to a plumber the other day who has been building for years, he is still a registered plumber and he does a lot of houses so I do not think that I am an isolated case.

Mr BOOTH - It is probably the case in the Tasmanian jurisdiction because we are all in regional areas that we did not have the skills base, so you have to be a jack-of-all-trades.

It is a different form of building here than what you see in the city where you might just be a framer, for example.

Mr QUON - I think Tasmania is different from the mainland, as the last witnesses pointed out. Plumbers on the mainland have always done roof plumbing; in Tasmania it has always been the builders or the carpenters who have done the roofing. That is just the way that it is.

Mr BOOTH - I would like to follow that line if we could because that is one of the issues that has been raised as being a serious impediment to being able to construct homes in a timely way because of these cross-jurisdictional things that arise where a builder is not allowed to do that roof plumbing anymore. So unless you break the law technically or even actually, you have a situation where the builder cannot get on with the job because he has to wait for the plumber to come and do some trivial thing that he has the skill to do but because he does not have the licence then he has to wait to have it done. That is just driving building costs up. Is it your contention, Bill, that we should do something with the regulatory regime that enables builders to do that roof plumbing work that they traditionally always did?

Mr QUON - I do not know that that has to go into regulations at all really. Over the years the tradesman have used a bit of commonsense and have just gone ahead with it, whether it is legal or not. The problem that I envisage will arise next is that you go down the track of Queensland where all the trades are registered and that will disallow myself and other carpenters who have always done bricklaying and a bit of plastering - they will have to register there as well, otherwise they will not be able to do that.

It is tying up the industry too much. It is all right to safeguard the public but the public and builders need to be safeguarded against the public themselves. The things I saw when I was in the inspector area and things I heard about were unbelievable - electrical wiring being done by people with bare wires, no junction boxes, and that sort of thing

Mr BOOTH - Under a self-regulation model?

Mr QUON - Done by the householder and not calling a tradesman in.

Mr BOOTH - Because they cannot afford it anymore.

Mr QUON - They probably cannot afford it. If we go a step further as they have in Adelaide already - and I envisage it will come in here; but this might be the last State because we are mostly hydro power - when they change over you will not be allowed to have an electric storage heater. Then if an old age pensioner's water heater goes, to put in either a heat pump, a gas one or a solar system will cost them more than twice as much as to replace their existing electric storage heater. It will get to the stage where people just will not be able to afford it. They will be like they are in America and some other countries; they will just have to hop into bed to keep warm or just use cold water.

Mr BOOTH - In Queensland under the National Occupational Licensing System, you have to have a separate registration for just about every single aspect of building, including probably packing your lunch. If that came into the Tasmanian jurisdiction then would the following be an accurate scenario on a building site in Tasmania? Say you were a

registered builder able to build a house. You start building it yourself and suddenly discover that you are not a framer. You do not have a framing certificate so you would have to call in a separate framer to do the framing. You might be able to put the timber panelling up but you could not put up plaster, and you might have to have a separate endorsement to do the painting.

Mr QUON - You may have to have one for everything, as I see that.

Mr BOOTH - I am trying to get to the point that in the traditional Tasmanian building industry, the understanding of a licensed builder in most areas is that you build a home for somebody and you do everything from the ridge cap to the foundations. You do the painting and plastering and sometimes you use other trades for whatever reason, but it is assumed that the builder is competent to do most of those trades currently as a single operator. What would the effect be if you did not have those endorsements? It would mean that builder would have to be running about 15 jobs to keep himself going while the framer was doing a bit, and the plasterer and the plumber and the painter.

Mr QUON - That's right. You would need more jobs to carry on because your particular part of the work would be fairly restrictive. If you could only do the carpentry and the joinery or the fitting out you would need a lot more jobs.

Mr BOOTH - What would that do to the cost of building?

Mr QUON - It would certainly bump up the cost of building; there is no doubt about that.

Mr BOOTH - Can you see any justification for that? How long have you been in the industry?

Mr QUON - Since I was about 16; I am now at retiring age.

Mr BOOTH - Can you see, in that lifetime of building, any justification for the requirement for multiple licensing for all of those different aspects of building a cottage?

Mr QUON - No.

Mr BOOTH - What do you think they are there for?

Mr QUON - I don't understand why they are there at all. The mainland is not dissimilar to here. Although there have been on the television those different aspects of shoddy workmanship, in a small community like Tasmania I doubt very much you would get another job if you did some of the jobs that you see on some of those television shows. It would sort things out because word would get around pretty quickly. On the mainland where things are probably on a larger scale and people are not skilled in a lot of aspects of work there might be some endorsement for the particular work that they can do but I don't think big fees should be charged for it - just for registration.

Mr BOOTH - How would they get their accreditation in the first place if they did not know how to build and paint and do a bit of plastering?

Mr QUON - Years ago they used to get some sort of accreditation from a tech college by doing an apprenticeship and now there are a lot of mickey mouse courses where people can do roof plumbing and be accredited as a roof plumber. That may be all right if you go down that track, but you just want a registration. There's no need to set a big fee against it. I think anyone who is good on Excel could put it on a spreadsheet. There's no need for some sophisticated computer program that is going to cost an arm and a leg and go bung so that some IT bloke has to fix it up every week.

Mr BOOTH - Like Aurora's billing system.

Laughter.

Mr QUON - Yes.

Mr BOOTH - So you'd suggest that a system, if it did require separate licensing, would be just a plastic card - like a driver's licence - with endorsements on the back?

Mr QUON - I think so. If people working in the industry are going to make it their livelihood over a number of years, obviously they would want to improve their skills or qualifications. Whether they do that on the job or partly on the job and partly through one of the technical colleges, their additional endorsements would go on their registration or licensing card. It would broaden their scope and ability to remain employed.

Mr BOOTH - But only if that system was brought in. You said before that you can't really see why there needs to be that system anyway.

Mr QUON - Not really, no.

Mrs QUON - Some years ago on the mainland I believe they advertised that you could be a bricklayer by doing a three-day course. When Bill was doing apprenticeships it was probably three or four years, and people worked on the job stacking the bricks, doing the mortar and laying bricks. I can remember distinctly reading somewhere some years ago, 'Become a bricklayer in three days'. That's where I believe you get the downfall in these dodgy jobs. It's not the genuine tradespeople; it's the ones who come in from being made redundant and think, 'I'll be a bricklayer'.

Mr BOOTH - We might move on to compulsory professional development - CPD - because a lot of those have been described as mickey mouse courses. An endorsement as a bricklayer, for example, if you could get that out of a Weetbix packet or a three-day course, it's not going to mean anything.

Mrs QUON - No.

Mr BOOTH - Bill, how has compulsory professional development assisted your business?

Mr QUON - I don't think it has, really. I'd be more inclined to go to the tech college than go to some of the organisations that put on a bit of a dinner and a five-minute spiel by a guest speaker to obtain their points, or something sent to them in the mail that they can read. I have done some CPD points. Some of these CPD points, or the acquiring of

them, do not amount to anything except that you are obtaining the points. I don't think there's any real learning in them.

CHAIR - We've had evidence from practitioners who say that, while they are annoyed by having to go to another beer-and-pizza night, they get to meet their colleagues and friends in the industry and have a nice night, but they don't learn anything.

Mr QUON - No. I went to a trade opening the other night and that was just a beer and a look around the hardware store and I got two points. They can't really justify two points out of that.

Mr BOOTH - So you paid for that?

Mr QUON - No, that was gratis.

Mr BOOTH - But you got two points that met the requirements of CPD?

Mr QUON - Yes.

Mr BOOTH - Can you step us through that CPD point system because this is a requirement under the Building Act 2000 to maintain your licence.

Mr QUON - I cannot see where that is justifiable. Before the CPD points came in, if a new product came out then you obtained the manufacturer's recommendations and read through those, had a look at the product and there was a trade night on that with some representatives from the manufacturers through one of the trade centres. I can see the worth in that sort of thing, but we did that anyway. I do not think it needs to be compulsory. If a new product came out, we read the literature on it so we could install it properly and now they are making a big thing out of it.

My opinion is that a lot of these things are to pay for teachers because a lot of the stuff has gone private; things like the white card and other things, which we did inductions on anyway and we still have to do site inductions if you go onto another site and they have a white card. If you go from one site to another, you have to do an induction on that one.

CHAIR - You still have to do an induction?

Mr QUON - Yes. These things are really to keep, I believe, some of these private organisations off the unemployment list. That is my opinion.

CHAIR - You could be right.

Mr BOOTH - The CPD is a system that is legislated through Parliament that requires you to do certain things and the minister has made regulations to that effect, and that requires you to do how many CPD points annually now?

Mr QUON - I think it is about 12 at the moment.

Mr BOOTH - Tell us about it. You have to get 12 a year and you have already said that you see no value in them because you learn it yourself anyway. What does that mean to

running your business, the ultimate cost to consumers, but before you do that can you tell us what that might involve? What have you achieved out of this?

Mr QUON - That particular night I just had a look around the hardware store, had a beer and a soft drink - I had to drive home - and had a bit of a chat to a few other builders who were there, and that was the night.

Mr BOOTH - How did that fit in with the requirements for CPD? It was offered through a provider, was it, or through a trade association?

Mr QUON - It was advertised when the literature came through that it was worth two CPD points, so obviously a lot of people would go just to bump their CPD points up.

CHAIR - Who decided it was worth two CPD points?

Mr QUON - I'm not sure, to be quite honest.

CHAIR - The hardware store?

Mr QUON - The hardware store may have.

Laughter.

Ms ARCHER - It needs to go a length of time, doesn't it?

CHAIR - But somebody has to decide whether it is a valid training exercise. We used to own a hardware store, as you know, Bill. I never thought that I could actually invite people in - tradies in of a night - using CPD points. A good trick. They all have to turn up.

Mr BOOTH - What has that delivered to your customers in terms of better value for your building services?

Mr QUON - The only thing is that I am a bit more familiar with that particular hardware store, which has only just opened.

CHAIR - And the beer!

Mr QUON - Yes. If they have something particular that I am after then I probably know that they stock it, but other than that, not really much.

Mr BOOTH - Can we step back then to when you first became a builder in your own right. You went through the apprenticeships and training and mentoring, working with people and became a builder. What is it like now running a business today with the regulatory regime as opposed to 20 years ago? How has it affected your lives?

Mr QUON - There is certainly a lot more red tape, I think, and a lot more government forms to fill out than there used to be. When we first started off and up until a few years ago even the tax form - we used to do our own taxation, keep a cash book, and do the things for the taxation department at the end of the year - was only ever four pages. They made

it simpler but they had put out a book about so thick to explain it. All that sort of thing just adds more time to the industry and you are not getting remuneration out of that. It is time off the job. It is the same with the white card. The white card is run during the day mostly, if you go and do that, and you might have a blue card before that and another card before that. If you go to Queensland you are probably doing a different colour. Marcus came back from Queensland last year. He had to do a blue card up there and when he came back he had to get his white card because it is the wrong colour here.

It just goes on and on. But if that is run during the day, the builder or the plumber has to take a day off to do the course and that means that he is not getting paid for the day so he has lost a day's pay straightaway but he has also had to pay to do the course which then pays for the instructor or whoever is taking the course and the literature that they provide you with. It keeps him off the unemployment list and gives him a job. That is good but if those things were run at night, maybe it would not be so bad; a builder could go along and spend a couple of nights a week to earn the CPD points or learn things. But he used to do that anyway. When they are run during the day and are mandatory because of the white card then it is just another cost added to the business; it has to be added on somewhere. That is one day out of the 40 working weeks that are left. With annual leave, public holidays, inclement weather, two weeks' sick pay, it is just another day that you have to add a cost on and spread it over the whole year.

Mr BOOTH - How many days are you out swinging the hammer today, setting aside age things? You are probably not as energetic as you were 30 years ago, I am not sure. I am talking about the ability to go out and swing the hammer every day. You have five days in a working week.

Mr QUON - Mostly five days a week. In those days you could cope with the other at night. You cannot do that anymore if you are a single operator. You could take a day of a week easily.

Mr BOOTH - To make sure that the record is correct, 30 years ago you would have been able to swing a hammer five days a week because you could do any compliance and bookwork and so forth at night?

Mr QUON - Yes, that is correct.

Mr BOOTH - Today you are saying that it would be a maximum of four days because there is a full day taken up with other regulatory requirements as a result of the regulatory regime.

Mr QUON - That is pretty close, Kim.

Mr BOOTH - One day per week off.

Mr QUON - Yes. It is worse now. There is a downturn in the building industry; there is a downturn in nearly everything, I think. The retailers are singing out. That is not helping either. The amount of work that is coming in per week is less as well.

Mr BOOTH - Obviously that has meant that your earnings have to be made in four days rather than five now?

Mr QUON - Yes, but it very hard to increase it in this recessed market so you just take a loss.

Mr BOOTH - Do you feel safer now that you are carrying a white card?

Mr QUON - No. Some things have got to the ridiculous stage in respect to commonsense. I do not think that you can completely legislate for commonsense.

Mr BOOTH - What effect has a white card to all practical intents and purposes; what effect does a white card have on a building project? How does that affect you as a builder? You have a white card, your labourers have a white card and you want to get somebody else in to help you or you want to get the pieman to bring you lunch or something.

Mr QUON - No-one would know if I had a white card or not really. No-one has ever asked to see it, just as no-one has ever come around to see whether the leads have been tagged but you have to have them tagged every three months. There is another probably \$1 600 per year.

Mr BOOTH - Why do you think that you have to have your leads tagged?

Mr QUON - They say for safety reasons but you could tag them - and I am registered to tag the leads and the equipment too. You could do that and a lot of people have to pay for it and that is not cheap if you are getting it done every three months. You could tag your leads into power saws and things. You could have them on the ground and someone could drop something on them and five minutes later the tag is not worth anything. A bit of commonsense has to come into this. If the lead is not in good condition then replug it or cut the end off that is damaged. But to put that impost on any industry for no reason -

Mr BOOTH - Would it surprise you if I said that we have had evidence from Workplace Standards that you do not have to tag your leads, that it is not a requirement?

Mr QUON - Yes, I have heard that too.

Mr BOOTH - It surprised me. I had no idea. In fact I had been told by numerous people, including regulators, and had to spend \$1 000 or more, sometimes \$1 500 or \$2 000, getting all sorts of things tagged every year in the sawmill, including the toaster and the toothbrush charger and the phone charger and all sorts of other things, and have now found that it is not compulsory. It is just a suggestion, apparently.

Mr QUON - It might be a suggestion. I am not sure but it may not be caught up in the BCA or other legislation. There is a standard on it and I think when I was in the hotel we had to have the RCDs tested every two years instrument-wise and every six months you had to push a button.

Ms ARCHER - It might also be an insurance requirement.

Mr BOOTH - Yes.

Mrs QUON - You were asking what is the difference from building 20 years ago to now. From my observation, we have to spend quite a bit of time justifying our existence as builders. We have to provide qualifications about what gives you the right to be in the building industry, what gives you the right to be a plumber, and we spend quite a lot of time having to justify our existence. It is not a good feeling and sometimes you really feel you are being discriminated against by trying to do the right thing in your trade.

It was interesting to hear when the plumbers were here about people flying in and flying out. That is going to be the only way that people can earn a living. I have a son who is 40. There is no work here. There is no building work at the moment for people like us.

Mr BOOTH - Is your son able to do -

Mrs QUON - He is a qualified builder. He trained with his father and he is now looking at having to go wherever he can get work. To be quite honest, another six months of what we have here and we will have to go with him.

CHAIR - I concur with that. I am involved in a bit of that at the moment with some people.

Mrs QUON - I find it hard that we have to spend all this time being questioned by people that I feel do not have the right to be questioning us, because they have no idea of the construction or plumbing industries. They are somebody sitting behind a desk who have been given a job by I do not know who. Then they send out something that says, 'You tell me why you should be qualified or what gives you the right to think that you are entitled to operate as a plumber or a whatever'. With the qualifications that my husband has, it is pretty soul-destroying.

Ms ARCHER - It is also terribly onerous, I would imagine, with paperwork.

Mrs QUON - Yes.

Mr BOOTH - You have spoken previously about retiring at some stage and doing something different, like travelling around Australia. You have \$8 340 a year in fixed charges to be in business. You're saying work falls away, so what is that going to mean to your future as a lifetime participant in the industry? When do you stop paying your fees and when do you get out of business?

Mrs QUON - At the rate it's going it's going to be pretty soon because we're not earning the money to pay the fees.

Mr QUON - We're not earning the money to even pay the Hydro bill. They've put it up again just prior to the winter.

Mr BOOTH - Once you stop paying the fees then a poleaxe comes down because you're not allowed to build anymore?

Mr QUON - That's right.

Mrs QUON - Our right to work has been taken away.

Mr QUON - There's no guarantee that you can get back into the industry. At one stage I had a DLI ticket for scaffolding, unlimited. That's when we used to put the poles up and clip them together. The legislation was changed and they brought in the national code. They recognised for some years that the Tasmanian one was just to work in Tasmania. When I was away working in Sydney - because work got a bit scarce here at that time - they must have advertised and got rid of it altogether. I came back here and found that I can't do any scaffolding over 4 metres. It used to be 3.6 metres, or 12 feet. All the other people who are registered were here when it was advertised in the paper that it was finishing up and they changed over to the national code. I paid the fee and looked up my registration number, which they recorded in the book here in Henty House, and couldn't be registered.

Mr BOOTH - And yet you had an unlimited scaffolding licence?

Mr QUON - Yes. Why? At one stage I had an assistant building surveyor's ticket but when the Compliance Corporation got hold of building, then through the act to work as an assistant building surveyor you have to work under a building surveyor for 60 per cent of the time, which means you either have to work at a council or employ a building surveyor to be able to work. You can't do that if part of your job is carpentry and part is plumbing or airconditioning. There's no way you can work 60 per cent of the time with a surveyor so that livelihood has been taken off me, and been taken off a lot of other people. When the legislation was first enacted in Tasmania they disregarded building inspectors. They had building inspectors, who are now called 'building surveyors', assistant building surveyors and building surveyors on the mainland, but they left the bottom one off here. That meant that all the building inspectors at the councils could no longer operate so they moved them up to assistant building surveyors to allow them to operate, but then they restricted to them to class 1 and 10, but an assistant building surveyor can survey class 1 right through to 10, in other words 2-9 as well - like commercial buildings and so forth

Mr BOOTH - So at this stage the fees are going to ultimately drive you out of the business?

Mr QUON - Yes, they are. Because of the recessions in the industry, and the building industry is probably the worst, this last little while has been the best the industry has ever been for the longest that I have known it - and I've been in it for quite a number of years. You can't get any real consensus out of the authorities. If you leave, like I did for three years when I went to work in Sydney, if you come back they want you to go back to tech college and become qualified again or pick up other qualifications before they will register you again. If you ride a bike when you're a kid and you stop riding when you're 10 and you hop on it when you're 21, what are you going to do? Fall off? All you have to do is a bit of reading and use a bit of commonsense and surely you can start in the industry again.

Mr BOOTH - Is it a proposition that you support that there should be a single licence? You have heard the evidence from the plumbers that they are accepting a \$100 fee, I think they said, as a reasonable amount for an annual registration. Is that enough to produce the card and maintain a registry? Is that the sort of accreditation system that would work, in your view?

Mr QUON - I believe that is all that is needed but I believe also that you should allow people back into the industry if they have done an apprenticeship and spent some time in the industry - one, two, three or 10 years. If you came from that industry or any particular industry, you would still have an interest in it even if you were doing something else.

Mr BOOTH - The criterion then would be that your work would just have a proper inspection or anybody's work would be properly inspected before it is approved. Is that how you would regulate it?

Mr QUON - I believe that the building industry, including the plumbing industry and so forth, should have mandatory inspections. They should be done by the councils or some independent body. There is bad wording in the legislation and I believe it is still the same - it says that for certain aspects of the building you have to have mandatory inspections but it lets a surveyor out as it says that the inspection can be done at the discretion of the surveyor. The builder asks for a mandatory, say, frame inspection and the surveyor, if he is a council inspector, goes out because he is being paid by the council so he always goes out. If it is a private one and it is out in the country - and I know of this case genuinely - it is going to take an hour to get out there - and I think I put that in the submission, too - it takes an hour to get back, say, 15 minutes to have a look at the job and he says to the builder, 'She's right, mate, I trust you, just keep going with it' and does not do the inspection but by sitting in the office he can survey two more plans at \$500 plus GST per plan. Why would you go out? That legislation wants fixing up.

The other legislation, I think I have mentioned, that wants fixing up is the 339 certificates. There has been that many cases where people have done illegal work either themselves or have got someone in to do it and when the house changes hands the 339 certificate comes back from the council no, no, no, because the legislation says are you aware if there are any building faults, any plumbing faults, any health issues on the house and of course there are not if they sit in the office. Tom, every day at the council at St Leonards, used to grab all the 339 certificates every morning and he used to go around all the jobs. If there was any illegal plumbing, he used to put a notice on them and make the people that did the work fix it up or compensate the purchaser for the work so they could do it, not land them with it. The government legislation wants fixing up in that respect as well, and I have spoken to Kerrie Crowder about this as well.

CHAIR - Bill, you bring a unique perspective to the task we have and your submission and your backing-up of that today is going to be important to us as we formulate some responses to this challenge we have. We thank you very much for your time, both of you.

THE WITNESSES WITHDREW.

Mr DALE LUCK, JMG ENGINEERS AND PLANNERS, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Dale is from DP Luck and Associates which is a well-known Launceston company that has been recently purchased by Johnstone McGee & Gandy Pty Ltd. Dale has a long experience in the building trade and engineering trade here in Launceston. Did you receive the guide that was sent to you?

Mr LUCK - I did.

CHAIR - The committee hearing is a proceeding of Parliament and it gives you parliamentary privilege and it gives you complete freedom in this place to speak and give evidence. It is important that you know that that protection is not accorded to you in statements that may be defamatory, repeated or referred to you outside of this place. Also this is a public hearing and members of the public and journalists could be here and also these microphones mean that it is being recorded and every word will be on *Hansard*.

With that, thank you very much for coming in. In short, for the purpose of *Hansard*, we are very interested in exploring with you whether there are any costs in building and construction in Tasmania that have come about simply as a growth or an expansion of the need to be more professional in building design and construction where some years ago builders were designing their own slabs and then it became so that the building industry had to go to people like DP Luck and Associates and have slabs designed to a much higher standard. I am keen to explore whether for something as simple as a deck built onto a house the requirement to have soil tests in every circumstance and engineering drawings in some circumstances is still valid. I know that you are in the industry and you would want to defend your industry to a degree but what we are interested in is whether it ought to be in every single case therefore by default it has just become essentially a tax on the industry. I am very interested in your views on that.

Mr LUCK - Going back then, let us start with AS 2870 which is the guiding standard, as you know, I guess. That came out in November 1986 which was the same year I started to practise and the reason for that was that obviously there had been a lot of problems in residential construction in the past and there had been attempts to stop the problems occurring on the one hand and on the other hand making sure slabs and footings were not too expensive, and it did have a dual role to try to control costs but get a good performance out at a minimum cost, I suppose. That then was the first time that soil tests came in, and we have been using those ever since.

At the moment, the design of a footing system is based on a soil classification based on that code. There are a number of ways to classify a site and the common one is to do a soil test - for example, if it is rock you can classify it without doing a test because it is rock or sand or whatever so you do minimise your cost there.

Mr BOOTH - But how do you know that, Dale? It is blindingly obvious if it is rock but how do you comply with the requirement for a soil test?

Mr LUCK - Basically it is still going to the site, writing up your report but without any testing essentially.

Mr BOOTH - But you have to as an engineer -

Mr LUCK - Or somebody does, yes - the site classifier does. A site classification could be done by a geologist or an engineer or whatever and you just do the minimum amount of work that you have to do and you can also base your site classification on other tests you have done in the area so that you can again minimise your cost. The other safeguard is, of course, the market. The market dictates how much a soil test costs and that is about \$500 to \$600 and if you charge any more than that and do a full-scale test, you will not get any work, so there is a self-regulatory thing there.

CHAIR - It is a modifying influence.

Mr LUCK - Yes, it regulates itself and so it makes the cost pretty standard. If you do a subdivision, say, 10 blocks all at once, you can cut that cost down a bit because you drill every second one and all those sorts of things. You design a footing system based on a site classification. If it is an extension, we take the view that if it is a big extension, say a big 50 square metres or whatever - a pretty big one - you would probably need at least to drill a hole and do a part soil test - you try to keep the cost down on that. If it is a really small one, you just do a desktop study and say that you are going to design this is an H because it is not going to make much difference whether it is MH or whatever.

CHAIR - I will just go back. Do the regulations or do the council require that to be considered on every occasion?

Mr LUCK - No, they cannot do that because it is up to the designer of the footings. They have to do the certification and if they are prepared to do it on a desktop study or a bore hole or -

CHAIR - That is your call?

Mr LUCK - Yes and the building surveyor should accept that unless he know you have really made a muck-up of it. The designer of the footing system makes the call and 90 per cent of the footing system is designed by engineers now because the architects and the building designers do not want to carry the insurance.

The other push we have to remember is that the consumer wants a perfect job. There is no come and go. So if there is a crack in the render and the brickwork they will ring you up and say, 'Come and fix it'. You try to explain that it is part of what happens and all of that. A lot of this is consumer-driven where our work is dictated by the fact that nobody wants to see any problems whatsoever.

CHAIR - A perfect world scenario.

Mr LUCK - Yes. I do not know whether you are aware, there is a really good book that has been produced by the Building Commission of Victoria and Tasmania. We all have copies of that and that defines defects. You know when the sun shines down a wall and it is in and out and you can see all the ripples and the ups and downs in it and you think,

gee, that is a terrible job. It tells you that you should not do that. It tells you that you should look at a wall when the sun is behind you and you are about 1.5 metres away, all those things. That is an attempt to try to control the expectation, if you like, of consumer.

The other big thing we have tried to do is to explain to consumers that our footing system will only work well if they do the right thing with tree planting and drainage and all those things. So it is a dynamic situation. That way, we can keep the design down to the minimum but that then gives them a responsibility as well. The big trouble is, how do you pass that onto them and subsequent owners of the house. Like, the third owner, how do they know what you said in your original soil test. So they might plant a blue gum a metre away from the footing and that is the problem. How do you control it? We try, therefore, to design on the absolute minimum we can and make our own mind up about when we need to do a soil test.

Going back to your deck question. You probably would not do a soil test for your deck because if it moves up and down a bit, it is all right.

Mr BOOTH - But I think the point there, Dale, is that, because of the requirement in the act, it has to have a footing design, whether it is a porch or whether it is a 30-square extension and it is the same criterion. You have to have a qualified soil site assessment and that is the problem. So I think what Rene is getting at, why do you need that?

Mr LUCK - But that comes back to the footing designer or the designer of the deck. If they are prepared to say, I will do this without a soil test, that is their call.

Mr BOOTH - Given that the BCA prescribes all of their foundation systems for different soil types and we used to build homes at the sawmill, we had a building division where we were doing these timber framed houses and so forth and because it was cheaper to build the footings to an H-standard, we just assumed that every single site, no matter where it was, was of the worst kind and we put the biggest blocks in there to meet that, plus another couple barrowloads of concrete. That is it, a lot cheaper than having to assess it and so forth.

Do you think there is a bit of a Chicken Little syndrome in the whole thing - everybody is so frightened of litigation that the regulators have decided to regulate through insurance, requiring handballing it off to an engineer who has his professional indemnity insurance and therefore every single tiny bit associated with building works which used to be something that was an accepted part of the community, we now are at a point where it is so tightly regulated that you cannot do anything yourself anymore without having that overlying level of regulatory control?

Mr LUCK - I guess there are two points to bring out of that. There is a fair bit of difference between doing a footing system to a basic H-standard and an ordinary M. So you try to do it to an M if you can and that is where the value of the soil test comes in. That is number one.

Mr BOOTH - But that is with a slab but if you are doing just a very simple footing system -

Mr LUCK - Yes and we have done that. We will often call an extension an H. If it is in an are we know a fair bit about anyway, we just do it to an H. That is up to a certain size. As I said before, if it big you might go and actually drill a hole by hand just to make sure that it is what you think it is, but not get to carried away about that report.

CHAIR - That is you, what about other -

Mr LUCK - That is pretty standard.

CHAIR - You would not have a new young engineer coming in and saying, 'I am not taking the risk; blow it, I am just going to do a soil test anyway because I am not paying.'

Mr LUCK - I do not think that happens much. In my experience, if anything, the younger, smaller operators come in on the cheap side of everything and do not worry about it as much as us old fellows worry about it because we have seen all the problems.

Laughter.

Ms ARCHER - They have not yet been caught up in the litigation process!

Mr LUCK - They haven't. But the other thing is that it does get back to the consumer expectation and that is really high now. It is a litigation thing because they will go for you. That does not mean that you would be stupidly conservative. We go to the minimum we can.

Mr BOOTH - Is there an issue there then? You are saying that it is actually a consumer-driven thing generally thing and it is fear of litigation and the costs and liability and so forth. Is the expectation of consumers that house will never get a crack or never get a window that goes tight or a door that might go tight too high? Is it worthwhile looking at perhaps changing consumer legislation to effectively protect people who are in the construction industry from the avaricious or over-anxious concerns of consumers?

Mr LUCK - I think that would help. At the end of the day you still design it to the code anyway but it would relax everybody a little bit and therefore cut some cost out of the drawings if you did not have to worry so much about it. We spend a fair bit of time in a typical design of ours going through the code and making sure that we have covered everything. Because you have to cover it all if it is in the code.

Mr BOOTH - You have to because that is a requirement of the code but has the code now become too prescriptive and too over-anxious to make sure that the practitioners never face that consumer backlash? Have we acquiesced to this obsession with people that a house will last forever?

Mr LUCK - I do not think we have. Everything in the code at the moment is there as a result of a problem. They do say in the code that the site classification really only covers up to 95 per cent. There is always going to be ones that are outside it. You are going to get some movement. There is a table in there on what width of cracks to expect. The code, I think, has pared it down to the very minimum although it keeps getting added to because you find more problems. Coming back to the deck situation for a minute, decks are a special worry in that there are only two parts of a house which will collapse. One is the

roof will blow off and the other is a deck. Decks will collapse and they will kill people and it has happened on quite a lot of occasions.

Mr BOOTH - It has.

Mr LUCK - The lounge room floor will not collapse it will bounce and you will get a phone call from clients saying, 'My china cabinet rattles Mr Luck, what are you going to do about it?' But it will not collapse. A steel beam will bend but it will not fall down. But a deck will fall over. So you do take a fair bit of care with decks and especially the loading on a deck is much more than on a lounge room. Lounge rooms are at 1.5 kpa and a deck is up to 3 kpa. Because you can have a party on the deck -

CHAIR - You could have 30 or 40 people out there.

Mr LUCK - Yes. All outside, a summer night, put the music on and the -

CHAIR - All dancing to Elvis.

Mr LUCK - and the natural frequency of most structures is about the same as rock music. That is what it is. So decks fall over. We are fairly careful with decks.

Mr BOOTH - The deck stuff is a lot more than a footing.

Mr LUCK - Yes, I am talking about the timber and all that. Footings are not the problem with decks. We can do them pretty reasonably.

Ms ARCHER - Balustrades are a -

Mr LUCK - Balustrades and the connection of the deck to the house.

CHAIR - So the deck might not have been a perfect example but it was an example I used because we have heard from designers who are practitioners who say to us you would be aware already of a unit development that we have to do landscaping, colour design for the outside of the thing and they heard whispers that before long there will be colour design on the inside. Those are the sorts of directions where people are starting to go. Incidentally, for the record Mr Luck is a member of BRAC - Building Regulations Advisory Committee and it is very good to have him on that.

So that kind of expansionary policy creep is what we are looking for. So can you bend your mind, and you would be very welcome to come back to us in a week or two if you have a flash, but if you are aware of any areas a policy creep that we could look at I would be interested to hear it.

Mr LUCK - It is important to bear in mind, too, that there is no mandate for a requirement which says that footings shall be designed by an engineer. If you talk to Graham Hunt, particularly, he will tell you that it is not the intention of the Building Act nor 28/70 that engineers have to design footings. As you know, 28/70 gives you little prescriptive designs and you use them and all that, which we do - and we also use other things - but there is no actual requirement.

Mr BOOTH - How do you get around that? When I was involved in it before I got into Parliament we used the BCA, we took the prescriptions in that and we designed to the maximum so that you did not have to run into problems. But the councils and the regulators are all now saying, 'No, you build a cabin you have to have a person with accreditation to do the design and it has to be certified by an engineer.' So there are two certificates just for a 16-foot by 8-foot cabin or something. If you build 100 of them identical you need an engineer's certificate for every single one, you need a draftsman's certification for every single one and they are all identical - all these sausages coming out of a factory sort of thing. You have to have an engineer to design the footings. We will not accept it if you say, 'I'm just using whatever and I'm giving you the BCA's plan.' So what do you say to that?

Mr LUCK - Okay. That is up to the building surveyor and not just council now. The actual private or council building surveyor can make that determination.

Mr BOOTH - That is just for footings.

Mr LUCK - No, for footing and bracing. If the designer's certification covers bracing and footings and his insurance covers bracing and footings, he can do it. There are heaps of times that we will get a plan in, which the clients says, 'Look, Dale, the designer has done the bracing we just want you to do the footings,' that is fine, not a problem.

Mr BOOTH - And if the surveyor didn't require the footings to be done by someone such as yourself?

Mr LUCK - He can't. He can't do that. If the designer has certification for footings and he can show evidence that his PI covers footings, the building surveyor has to accept that.

Mr BOOTH - So they wouldn't have to then come to you?

Mr LUCK - No, and there are lots of times when they don't. Most designers don't want that responsibility.

CHAIR - And their PI might not cover it.

Mr LUCK - No, and it is not cheap. The footings are the things where you get pinged on, not colours and size of the windows. It is the footings that you will get taken to court on, so for 90 per cent of designers it is just too hard and that is fine. Bracing too, everything is too hard.

CHAIR - So we are back to consumer expectations and fear of litigation, which has driven a lot of this?

Mr LUCK - It is two-fold. It is the difficulty of the building designers getting insurance to do those things and I suppose it worries them. It is a structural issue so they think, 'No, look, I just don't want to go near that, you do that.'

CHAIR - There is limitations legislation in Tasmania where a building company can only be sued so many years after.

Mr LUCK - Ten years, yes.

CHAIR - Does that apply to designers?

Mr LUCK - Yes. So we have ticked off everything that was done on 8 June 2001, or whatever. It applies from when the place is finished, I think, and that is good.

CHAIR - That is right. You would think that would moderate the PI costs because it is not a big long tail of indemnity.

Mr LUCK - It used to be 50 years, because that is the accepted design life of the house. I think that has made insurance a bit easier, but it is still not that easy and the premiums are high and the excess is high. It has probably got a \$20 000 or \$30 000 excess on a PI claim for that. Most building designers won't take that on board.

CHAIR - Won't risk that.

Mr BOOTH - What is your PI insurance a year then for that sort of work?

Mr LUCK - I cannot tell you now, but Dale Luck and Associates was about \$50 000 a year and our excess was about \$40 000.

Mr BOOTH - Was there ever a claim that went beyond the excess?

Mr LUCK - No, not in the residential. I have a current issue with a concrete company, which is a different kettle of fish. That was in the days when excesses were only \$5 000. All of us have problems because the code won't cover every situation. I am happy to say that I've had to help out to make a problem go away - maybe put in a bit of underpinning or whatever. It's easy to spend a couple of thousand. My view is that if I had a big problem with a house, instead of paying the \$50 000 excess I would just buy it, fix it and resell it.

CHAIR - Because you've got to live in the place.

Mr LUCK - Whatever.

Mr BOOTH - The point being that that is a more practical and financial solution to it.

Mr LUCK - It is, yes.

Mr BOOTH - But doesn't that then beg the question, if you have the regulatory regime in place - the Australian standards, the BCA and the prescriptions - what's the point of professional indemnity insurance, provided that the inspections are done properly to prove that you've done it to the code?

Mr LUCK - You will always get the one that you need insurance on; you have to be protected by insurance at the end of the day.

Mr BOOTH - What sort of thing? You've just given evidence that you'd spent most of your life in this game -

Ms ARCHER - Matters that you can't resolve and your litigation is going to go to hearing, you'd need it then, wouldn't you?

Mr LUCK - Yes. If you take a big house you could be up for a million dollars. It doesn't happen to most of us but it has to be there. You wouldn't practise without it; you couldn't. You would not be acting as a proper professional if you practise without insurance, even though on a practical basis you might up self-insuring for the little ones. There is always maybe that big one out there -

CHAIR - Is there a law that says you have to have it?

Mr LUCK - Yes. To get accreditation you have to have it. I have a couple of cases at the moment where a particular building surveyor has recommended that the house be pulled down and start again. Someone is going to pay big money for that. You can't buy that back very easily, so that would be a big claim on the insurance.

Ms ARCHER - Insurance is there to protect the consumer in that instance because what if someone becomes insolvent and doesn't have the money to settle it out of court themselves.

Mr LUCK - No, you've got to be protected.

Mr BOOTH - This is professional indemnity insurance, not failure to design -

Ms ARCHER - No, that's what I'm talking about. They are huge claims.

Mr BOOTH - Yes, but that's a different insurance - professional indemnity - we're talking about for failure to design the works properly, structural failure and so forth.

Mr LUCK - There have been some big claims on that because I've been involved on the other side of them to advise -

Mr BOOTH - How have they occurred? The certified practitioner has had professional indemnity insurance and they haven't abided by the code?

Mr LUCK - A lot of these are builder-related. The builder hasn't built it properly in accordance with the plans.

Mr BOOTH - So how did it get through the inspection system?

Mr LUCK - Well, that's the big question on these particular ones. In one case the council is being sued because of the lack of inspection.

CHAIR - At Perth?

Mr LUCK - No.

Mr BOOTH - Isn't that one of the frontline requirements, a bit like the last-resort homeowners warranty that ended up being turfed out here? There is always an

inspection in the system and if it's not done properly you can have a defective building and get a completion certificate and some unsuspecting person buys it and it falls apart. Insurance is not going to stop that happening. It might help the person who has subsequently bought it, but only if it happens within 10 years, I suppose. What do you think about the requirement for a proper, robust inspection -

CHAIR - And a sharing of the risk therefore. Is there a way we could regulate so that everybody shares some responsibility and risk rather than someone like yourself having to take out huge insurance and having to charge?

Mr LUCK - I don't know. At the end of the day someone has to say, 'I inspected these footings', and they are built in accordance with the drawings and the drawings were appropriate. That's what you're saying when you do an inspection and I don't think you can share that, although in the Tasmanian legislation the building surveyor is responsible for all inspections. They can delegate that to the engineer, which they usually do, but technically it is them, so when we do an inspection of the footing we are saying both those things. The sort of things that can get you is that there might be a deep sewer main near a house which nobody knew about but somebody should have known about. So the court will say, 'Mr Luck, you should have known that was there so you should have designed piers and all that, so it is your fault'. That did happen. It was not a court thing but one of these other ones that we fixed. It was just there and it should not have been there and nobody knew it was there, including us, but the footing was built right on top of it and it moved. That could have caused a lot of damage where your self-insurance just would not have covered that. You would have had to call on PI for that.

CHAIR - I reckon most of Ben Lomond's plans for where the services actually are are out by metres. At my place the other day it was a full three metres out for a one-meter main; anything could have happened.

Mr LUCK - Yes, and that is where you get your footing problems. You can do all the inspections you like but that will not find that. You are still responsible for it, though, because the consumer says, 'It's not my fault'.

CHAIR - That is right.

Mr LUCK - And it is not, either.

Mr BOOTH - But then it is not your fault either.

Mr LUCK - Legally it is because I could have found out that the main was there by doing whatever. It might not have been realistic to do it but the court will say that somebody had to find that sewer. Somebody knew it was there and it was up to the footing designer to find it.

Mr BOOTH - There is potentially some sort of caveat emptor thing that could apply here, too. As an owner who wants something done you should accept some responsibility. If you get someone to build something on that block, if there is a sewer through there perhaps you should have told them. How far do we insure absolutely every single part of a process and have so many overlaying insurances? At what point do you say that this has gone beyond a joke, beyond the point of no return, a no-sum game effectively?

Mr LUCK - I do not think we will go against the consumer thing. I do not think it will go backwards in terms of people's expectation. In terms of overlaying insurance, if you take a footing then the building designer is not insured for that. So he is not paying for that, but the engineer is. The building surveyor sort of is, and that is part of his all-encompassing insurance, but he would not be paying a big part of his premium for footings, I would not think, especially if he is very careful about making sure he gets certificates from an engineer on it or from somebody else.

Mr BOOTH - He also has insurance and that person will have insurance.

Mr LUCK - Yes, so theoretically you should only have one party out of each of those that has specific insurance for safe footings - and that is the engineer, say, in this case. You do not have the situation where everybody is paying for the insurance.

CHAIR - Nothing comes to mind immediately in terms of where we could do some strategic rollback or sharing of limitations even? Not long after I was elected I was working with that building limitations thing and you could see pretty quickly that you either had to legislate or there was just going to be a massive cost coming on to the price of buildings. You have to limit people's capacity to sue.

Mr LUCK - Yes. There is legislation proposed on proportional liability. I do not think it is actually in yet.

Mr BOOTH - I don't think it is.

Mr LUCK - It was proposed. At the moment they sue the one who has the biggest pockets and that is the one who has the insurance. The engineer might be 1 per cent responsible but they pay all the bill because they are the only ones who have insurance.

Ms ARCHER - The legislation will require you to sue absolutely everybody possible, won't it?

Mr LUCK - It will apportion blame. If the engineer is only 1 per cent responsible, he will only have to pay 1 per cent of the bill.

Ms ARCHER - Yes, but it still requires you to identify that there are eight different parties that you have to proceed against.

Mr LUCK - But they do that anyway. Even at the moment they will end up finding out who is responsible but that does not mean that is the way they break up the costs because of the insurance. So that proportional liability will help.

CHAIR - One would hope.

Mr LUCK - One would hope, yes.

CHAIR - As long as everybody didn't up their indemnities.

Mr LUCK - There is a fairly tight market out there, don't forget. We get undercut by 50 per cent sometimes. The market sorts that out very quickly. New people come in thinking there is a quid in it and they do it for a couple of years and get out because they realise there is not.

Ms ARCHER - Wasn't that proportionate liability legislation first proposed in something like 2003-04?

Mr LUCK - Yes, it has been around a long time.

Ms ARCHER - So that still hasn't come out?

Mr LUCK - I don't think so. Market forces are pretty good in terms of costs. The other thing, of course, to bear in mind is that we are building on worse and worse land all the time. All the good land is gone.

CHAIR - Stuff that you would not have built on years ago.

Mr LUCK - Landslip stuff and soft stuff. So the problem sites are getting more regular. The houses we are building are far too big and they take much more engineering. We did one not that long ago and \$20 000 was the engineering fee - and that was cheap. We regularly quote \$10 000.

CHAIR - Was that related to the design on a difficult block?

Mr LUCK - Yes, everything: difficult block; complex, 50-odd square house; blade walls; the whole box and dice. That is unusual but we will often spend between \$6 000 and \$15 000 on a place because they want them big and they are on horrible sites.

CHAIR - They are not 14 squares any more, are they?

Mr LUCK - I went to a site this morning that was a landslip site. That is where we are moving to, that sort of site, so you have to throw everything at it. We have run out of all the easy and good land; there is not much left anywhere.

Ms ARCHER - Not close to services.

CHAIR - Just on the landslip issue, has there been any movement in engineering thinking about land that has been sterilised in the past because it was slippy? I guess we're talking about Meredith Creek and all those sorts of areas.

Mr LUCK - Yes.

CHAIR - We had family friends who had their house moved to Prospect from there. I remember thinking it was horrendous, fancy having to move your house. Are there construction techniques that might allow us one day to consider utilising that land, which is fairly wasted?

Mr LUCK - Yes, we've had pole houses for a long time - light weight. I remember one behind the Rosevears Hotel. This bloke wanted a nice timber house and I said, 'It's going

to move'. He said, 'That's okay; we will put some jacking points in it'. We did and we jacked it back up and everybody was happy, but that is not the usual situation.

CHAIR - In the country where I was born they are actually building houses now that anticipate climate change by sliding up the poles.

Mr LUCK - Talk about a floating slab.

Laughter.

CHAIR - Exactly. At Beauty Point, for instance, there is a whole area along the foreshore and people who own houses there they are barely allowed to paint their house because of the fear. Are there not building techniques these days that would allow us to reconsider those matters?

Mr LUCK - You get to a point where the landslide will be bigger than the block, a bit like the one at Glenorchy a few years ago where the whole subdivision went. It doesn't matter what you did to your house, it is all going to go downhill anyway. That is the problem. I have had a lot of involvement at Beauty Point in trying to get things through on class A landslip sites, the ones you cannot build on. We did a report and the Mines department didn't accept it because we didn't go globally enough - probably right, I suppose - so they wouldn't accept it.

CHAIR - So the mines regulate that?

Mr LUCK - Yes. To get permission to build on a class A site the minister has personally to authorise it. Of course that means MRT have to recommend it and they are not going to do that.

Mr BOOTH - You've got to get geotech surveys done and all sorts of stuff.

Mr LUCK - Yes, and this bloke did get one; \$10 000 it cost and it was no good. At Queechy, on Sandown Rd, people are just pushing the envelope a bit further. There are techniques you can use. Landslip reports, though, are pretty expensive to do properly. It can cost \$10 000 and you might get a bad answer, the wrong answer, so you have spent the \$10 000 and you still can't build. But if the landslip is constrained to the block, we can usually do something about it.

Mr BOOTH - One of the big concerns of the committee is the potential to create a dual certification process. We have had evidence from a number of people that in terms of affordable housing it is now an oxymoron - it just does not exist anymore - and we want to enable people to own a home and rear their families in it rather than either live in the streets or renting or just spending all their money on a home which used to be something that cost, proportionately, far less. Evidence has been given that people are suggesting that there be a dual classification perhaps for a shack rather than a saleable home, a different class of building that has a different standard of construction that is simply there to provide a home and shelter for a family - a home that can be constructed using different materials perhaps or systems. Do you have any thoughts on that? Perhaps to make it a bit understandable, some people have a shed that they have converted into a

residence. They can't afford any more and is that acceptable? Should we allow people to live in sheds, if that is what they want to do?

Mr LUCK - A client of mine had a proposal to convert containers into a shack. No, there is not problem with that, provided there is a basic structural integrity. We will not call them substandard, but one of these temporary or low-key dwellings can blow over just as much as a big one can, so you have to keep the residents safe and the Building Code is primarily about keeping people safe and then it looks after making sure you do enough to keep the materials structurally competent over the life of the building. But it is the safety of the people, primarily. So you do not want your roof blowing off and you do not want the walls blowing in.

In one of these temporary types of places the wind sucked the end wall out a little bit, because the wind sucks things out, and it let the front-door latch move enough for the front door to blow open which then filled the place with positive pressure as well. So you had the negative sucks and the positive pressure and the end wall blew out. You cannot have that, obviously. So there is a basic structural thing. Regarding your footings for those, it is all about flexibility with footings. If you can afford a bit more flexibility in your footings, you can make them lighter. If people's expectations are that, like a shed, that will flex, okay. But at the moment, for people to live in a shed you have to brace it as if it was a house because sheds are not up to the residential bracing standard and people still complain when their plaster walls crack.

I do not have any problem with that at all and I would be all for that because it is my philosophy that people are spending way too much money on these grandiose houses anyway, as long as it has that basic structural integrity.

CHAIR - We might see a bit of a recession sort that business out of living in McMansions.

Mr LUCK - Yes. Why do they need four bedrooms, a theatre room, a rumpus room and four bathrooms when they are 20?

CHAIR - You are starting to sound old, Mr Luck.

Laughter.

Mr LUCK - My kids first want the house that took us 30 years of blood and sweat to build and then they start from there.

Mr BOOTH - They want you to go away and they want your house.

Mr LUCK - I did, I moved out of one and then they moved out.

Laughter.

CHAIR - I thank our witness. In terms of a consultancy, it has probably been a couple of thousand dollars' worth because I know what you charge. No, it was very kind of you and could I encourage you too, you know what we are after, we are after costs that have just rolled in and we have become blind to them. If you have some thoughts afterwards, we would be very pleased to receive a letter or a note from you.

Mr LUCK - I think it is very important to bear in mind that the market will drive prices and you just cannot charge more than people will pay.

Mr BOOTH - No, but just quickly, concerning this regulatory capture, if it has driven the price of houses beyond what the market is now selling for - and I have been looking at the price of houses lately and thinking I do not know whether you could build a house for that let alone buy the land - if we do not do something about making sure that the regulations do exactly what they are supposed to, which is protect the health and safety of people rather than creating such impossibly expensive options that you can no longer build, if you have you any thoughts in regard to any of the regulatory regime that is overloading, unnecessary, odious or onerous then please let the committee know because that is what we are after.

Mr LUCK - All right, will do.

CHAIR - Thank you very much for your time.

THE WITNESS WITHDREW.

Mr PHILIP CONNORS, DIRECTOR, **Mr JASON FOLO**, SENIOR BUILDING SURVEYING TECHNICIAN AND **Mr TROY BELL**, BUILDING SURVEYING TECHNICIAN, PROTEK BUILDING SURVEYING PTY LTD, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Gentlemen, kindly take a seat. There is some protocol that I need to take care of before you begin giving your evidence. Have you received and read the guide that was sent to you by the committee?

Mr CONNORS - Yes.

CHAIR - I still need to reiterate some important aspects of that document. A committee hearing is a proceeding of the Parliament which means that it receives the protection of parliamentary privilege. This is an important legal protection that allows individuals giving evidence to a parliamentary committee to speak with complete freedom without the fear of being sued or questioned in any court or place outside of Parliament. It applies to ensure that Parliament receives the very best information when conducting its inquiries. It is important that you are aware that this protection is not accorded to if statements that may be defamatory are repeated or referred to by you outside the confines of this parliamentary proceeding. This is a public hearing. Members of the public and journalists may be present which means that your evidence may be reported. It is important that should you wish any or all of your evidence to be heard in private, make that request and we will consider that. Finally, a reminder that these microphones mean that everything we say is being recorded in *Hansard* and will be available for reading later.

With that, thank you very much for your time today. I rang Mr Connors, just for the record, and pointed out that our previous discussions had been on a certain area of interest and that had been very fruitful and we have spoken to colleagues of yours in the trade in the south of the State and elsewhere and we are getting a picture there. But there was one particular area of interest, and that is of owner-builders, that we have not devoted much time to. I thought that considering that the people who deal with owner-builders the most are people like yourselves it would be great if you could reappear and we could ask you some questions and lean on your expertise in these areas. Thank you for coming along. Mr Connors, on that subject, would you like to make any opening statements.

Mr CONNORS - I have pulled out a couple of statistics for you to give you an idea of what Protek Building Surveying services are doing for the owner-builder at the moment. In 2009 we did 165 owner-builder jobs; 2010, 150; and 2011 to date, we have done 60. It is always sitting around that 150 to 160.

CHAIR - In comparison to, without giving away too much of your building activity -

Mr CONNORS - About 1 000 permits per year.

CHAIR - Okay, so 15 to 20 per cent?

Mr CONNORS - Yes, or thereabouts. It is a reasonable amount. Out of that 15 to 20 per cent the issue for us is how much time do we devote to an owner-builder compared to our run-of-the-mill professional builders. That is why I've brought Jason and Troy along to today, to contribute to that because they are the men who are out and about doing the building inspections, the cut and thrust of having to work and communicate with an owner-builder in particular. It's a different kettle of fish altogether from working with someone like Lawson Homes, Rossiter Homes, Hotondo - any of those professionals who are dealing on a day-to-day basis with us as building surveyors. We'll come in and they will have all the plans and documents ready, they will leave them at the counter and they're gone. The girls quickly put that information into the system, we do the certification and the inspection process takes place and we issue our final inspection notice and then the completion certificates are issued.

CHAIR - How many inspections?

Mr CONNORS - Three inspections.

CHAIR - On a residential dwelling?

Mr CONNORS - Yes. The mandatory ones are the footings - within that footing or slab inspection it could include three under that heading, it depends on what type of structure you're dealing with. The next one would be the frame inspection and the one after that, which is optional, would be occupancy and then a final. So it can be up to four.

CHAIR - Is occupancy optional?

Mr CONNORS - If it's a commercial job by, say, Hotondo Homes, they will build it right through and we will issue an occupancy and a completion all in the one inspection. They won't let people move in until it's done.

CHAIR - So there's two documents: occupancy and completion?

Mr CONNORS - Yes. That process is very streamlined and efficient and is the nuts and bolts of what we do as building surveyors.

Mr BOOTH - Phil, when you're doing the dual certificate, occupancy and completion, is that two separate certifications from the council?

Mr CONNORS - No, the building surveyor issues the occupancy. That occupancy is dependent on quite a few things. As Dale Luck was saying previously, you have to make sure that the building is suitable to be occupied, and that includes health and amenity and the safety of the occupants. It doesn't mean it needs to be finished, all it means is that it needs to be suitable to be occupied. A lot of people need to be able to move in before they have finished, especially if they are owner-builders. Without doubt, they go through a project and they build the house with the four bathrooms and the swimming pool and everything else and they run out of money before they can get the house finished. They move in and that's when our problems start. There are other issues, that Jason and Troy will talk to you about, about the construction. When an owner-builder moves in, so far as they're concerned they have a roof over their head, they are able to have a reasonable habitation within that building, not paying rent anywhere else, but they

are also out of money. From my perspective that is an incredible liability that I'm stuck with because trying to get those finished is almost impossible. I think there's around about 60 jobs from 2004 that are outstanding, 150 from 2005 et cetera.

CHAIR - Have you been paid for them?

Mr CONNORS - We've been paid at the rate that we charged at that time. Typically an inspection would have been \$65 back in 2004 and it is now \$165 for an inspection.

CHAIR - So they've got their occupancy certificate but not completion?

Mr CONNORS - Correct.

CHAIR - So you would imagine for an owner-builder a massive percentage of them would be in that circumstance just because of the way things work out?

Mr CONNORS - Yes. At the moment we're trying to clear up all those old jobs. My girls are on the phone constantly trying to contact the owner-builders. There can be up to 10 phone calls before we can contact them.

CHAIR - What is the downside for the owner-builder in not having the completion certificate? Nothing happens, does it?

Mr CONNORS - Nothing happens, no.

CHAIR - So they couldn't sell?

Mr CONNORS - They can sell without a completion certificate, no problem. People come in and buy it with what they see at that particular time.

Mr BOOTH - Why has that become a problem for you, other than the fact that you have this legacy of under-recovery because of the historically low charges that are captured around that building project? That could be adjusted by a sliding scale like the fee schedules and so forth.

Mr CONNORS - We can adjust that. The biggest issue I have is that I have a 10-year cap on liability, and that starts from the time we issue our completion certificate. I can end up with liability for 16 years sitting out there. I heard you mention to Dale about building houses other than what we would call 'deemed to satisfy in the Building Code'. That has terrific liability for me as a building surveyor because if I am ever going to be scrutinised about something that either complies or does not it has to be tested and tried according to compliance with the Building Code, the building regulations and any Australian standards that are adopted into the Building Code.

Mr BOOTH - We are not suggesting that -

CHAIR - Mr Booth had said that so we will not go down that -

Mr CONNORS - No, it was an interesting -

CHAIR - I am happy for you to explore it - briefly.

Mr CONNORS - Very quickly, the way that I would suggest you would overcome that is to build your modular homes like I think you were doing and there are quite a few others who are doing it - very cheap, affordable homes built on a standard platform. The frame will be the same all the time so if the system is approved people can just go ahead and build that same house over and over again and then the only thing that comes is that the building surveyor needs a certificate saying that the frame complies with AS60 and 84 and it is only the footing that you need to have set up then. It is normally a lightweight footing so you can build a cheap house and get it on to a site very quickly if you want to but it is just that people are expecting the earth at the moment.

Mr BOOTH - Yes, they are, but just getting back to the dual class, this is actually to do with expressions from people who have given evidence in the committee that the cost of compliance now with potentially going to a six-star rating, for example, solar access. As a result of having all those design fees associated with it, it just puts it out of reach of the housing market. They want to have their own home and live in it and do not want to go for those six-star measures and other requirements and prescriptions that cost a lot of money. That is where this kind of debate is coming from and we are wondering whether there is alternative options. I think most of the modular things you are talking about - and certainly the ones we used to build - comply absolutely with the code.

Mr CONNORS - They have to.

Mr BOOTH - They fit the BCA and that is it.

Mr CONNORS - Yes.

Mr FOLO - With those other classes of buildings what people are going to keep doing to us is come and say, 'It is a shack' and they will put every house that they want to do cheaply into that category. Then when you classify something like a shack you say that it is only to be lived in for three months or four months of the year. But who is going to regulate that? Before you know it you are going to have all these people living in those shacks -

CHAIR - Which is what happened in the southern beaches of Hobart.

Mr BOOTH - But that is actually not what is likely to happen, if it is a shack it will always be a shack and it would not be anticipated that you could not live in a shack. What difference does it make whether you are there for three months or 12 months? It would always be defined as that and when you sell it you would be selling a shack so nobody who bought it would have an expectation that it would be of the same standard perhaps of some of these other requirements.

Mr CONNORS - On that point, any buildings built prior to the Building Code and changes to legislation are deemed to comply no matter how basic they are, so that is something to recognise. A shack was constructed as a shack but it was approved by the local authorities and recognised as a dwelling at that time so you cannot go back retrospectively and try to upgrade them or anything like that.

Mr BOOTH - No, that is right and there may be no necessity to.

Mr CONNORS - No, none at all.

CHAIR - I wonder if you could define for us whether there is such a thing as an average owner-builder? How would you describe the kind of owner-builder that you deal with? Is it a second or third house for them or are they young professionals who are going to have a crack at this?

Mr BELL - If I could make a remark there, I am a builder by trade myself and I am quite sympathetic to owner-builders because I have been an owner-builder myself a number of times as well. Now that I am doing this inspection work and so forth I have found that with the owner-builders you get quite a vast array, you get those people who are trying to provide themselves and their family with cheap accommodation and I feel quite sympathetic to them, but you also get a number who are using the owner-builder arrangement to become de facto developers where you see that they have properties in the wife's name, the son's name and the daughter's name and you see the same person come back over and over again building a number of houses. You get everyone sort of in between and you get some that are very basic in what they are trying to build - it might be a shack up the bush basically - and then you get those who have grand plans for building a castle in the suburbs that you can see from the get-go that they are taking on more than they can probably afford or can actually handle in the way of building.

CHAIR - We may consider a package for owner-builders that is different from the current regime because most on the committee share your admiration and respect for those people who do want to build through their own knowledge. They could be a junior engineer or whatever; they are not silly. They work the costs out and they reckon they are going to save a few bucks. But what about these guys - let us not call them cheats because they are probably doing it legally under the system - and how do they manage to do that? Would the wife's name and son's name be good enough? If you were allowed to build two every 10 years, how do they go about it?

Mr FOLO - If you have one piece of land and you have three units on that piece of land, you might have the son's name on that land, so can go for only two of those units. He will lose two owner-builders.

CHAIR - So he is done for 10 years?

Mr FOLO - He is done, so they cannot do anything and have to get the builder because that land is in one name. If you have the land and you are going to build one house and you have it in the name of your wife and yourself, you both lose one. So if you do another house, you both lose another one. What they are doing is splitting their names up. So they will put the husband's name on this title, so he is the only one that loses one, then they put the wife on the next one and she loses one. They have still have another two between them. Then they will just get the son's name on this block of land and make sure because they know they are going to sell it off anyway, so the name is just something to get their owner-builder registration.

CHAIR - You guys aren't legislators but you are dealing with them all along; would the sky fall in if we had no rules at all? Why limit owner-builders at all?

Mr CONNORS - What are the bad things about owner-builders? Not the junior engineer ones but the doctors and other people who suddenly want to build.

CHAIR - Everyone has a nail bag they want to strap on once, I suppose, but there are people out there, as you say, who make a bit of a living at this.

Mr FOLO - The worst thing is that those people building these houses sell them to somebody else. You could be the one who buys them.

CHAIR - But Protek have done the inspections.

Mr CONNORS - That is what I thought you would say.

Mr FOLO - We are not looking at the quality. We are just making sure it complies, that it meets a standard.

CHAIR - So we can cut a corner here. Instead of a limit per 10 years - and do not take any of these as policy ideas; we are just teasing this out here - any application, whether your first one, second one, or eighth one, requires a much higher level of inspection by Protek - six mandatory inspections, for instance. Would that protect the market place?

Mr BELL - We are still limited to the extent we can inspect. For instance, a house might be structurally sound, it might be fine, but you walk into it and the architraves are falling off, the doors jam, the floor might have a bit of a lean in it and things like this. There are quality issues there and it is not our job necessarily to pick up on them.

Mr FOLO - You are putting us in the category of a project manager. This is what we were not meant to be - project managers. With the simple mandatory inspections that we do, we cannot watch everything that they do. So we go out for the frame and you find that the frame is not quite right so you get them to fix that, but then by the time you have gone out again it is occupancy. The thing is built. We've got a little list there of certain problems that we come up to.

CHAIR - Let us not think Protek because you have to protect your backsides here, but is there a market for another person who is project manager?

Mr CONNORS - There is already an accreditation level as a construction manager that they have identified. I am registered as a construction manager.

Mr BOOTH - Why are you guys worried about this in terms of the standard? Do you mean to say an owner builder might build a house that is as bad as one built by the President of the Master Builders Association at Youngtown a few years ago? That had cracks right through it, leaking roof, wrong tiles - the whole lot. There has been a suggestion that somehow owner-builders, in terms of trying to control the market and create houses, are not compliant. You know full well there are a lot of accredited builders who have constructed some appalling places.

Mr CONNORS - A quality issue.

Mr BOOTH - Yes.

Mr CONNORS - If you walk through and you see 10 mm gaps down the side of the door, or the architraves with the mitres all wrong, all we can do is shake our head and say, 'I would not put up with that'. That is a contractual issue, a quality issue. I would not put up with it if it were me.

CHAIR - Some of us are uncomfortable with this two in 10 years for good people. Let us just ignore the dodgy crooks for now. For good people, two in 10 years is onerous. Is there an exchange we could do to say you can build more but for any of the ones that you do build you have to appoint yourself a construction manager, a project manager?

Mr BELL - The point here is why do they want to build more than the two in 10 years. Are they trying to make a living out of it. I know it has become a popular thing these days. It is not just a family home now, it has become a bit of an investment as well. They are upsizing their house not because they need more room but just because they think there is money in it. That is my concern. You have people who have done apprenticeships, down their accreditation as builders, out there doing it professionally, and then you have these guys who are doing it as backyarders. I have nothing against people building for themselves but why are they wanting to do more than two in 10 years?

Mr BOOTH - Because it applies to one property. A homeowner could live in the same property for 50 years but be precluded from building a porch on the front and a porch on the back and that is it for 10 years.

Mr FOLO - No.

Mr BELL - No.

CHAIR - It is not that category?

Mr FOLO - No. If you have a house and you build that house, that is one. If they want to build a porch on it, it is not included because you have done your one. If you want to put another storey on top you are allowed to do that. You still have not lost another one.

Mr BOOTH - What about a garage outside or something like that?

Mr FOLO - Garages are 10A and they excluded them. They said they are not going to register 10As.

Mr BOOTH - My understanding was that if you had a block and you wanted to carry out those owner-builder developments on it, basically you can do two in 10 years and that is it.

Mr FOLO - No, you are allowed to work on that house.

Mr BOOTH - So any amount on the one property.

Mr FOLO - Not on the one property; it is on that one house. That is why I gave you the example of the three units. That is three separate units. If you buy next door's house and it is already built and then you want to put a deck on that one, then that would be your

second one gone but you could build another storey on that one. You are still only building on those two houses.

Mr BELL - An owner-builder is in the situation at the moment where they could every five years build a house, put sheds on it, put a veranda on it, extend it, sell it and move to another one.

CHAIR - If the young engineer we are talking about was smart enough to do three in 10 years and make a dollar on each of them, why should he not be allowed to do it?

Mr FOLO - Why shouldn't he get his accreditation and become a builder like the rest of the professionals? You are allowing a market to open up. We are trying to pick the profession up. You said earlier you have builders that are just as dodgy. We are trying to pick them up and the accreditation system is trying to pick them out.

Ms ARCHER - So you do not want people coming in without accreditation because it defeats that purpose?

Mr FOLO - Yes. I do not mind them, as we said, doing their one or two, but to allow them to do any more you are allowing them to become commercial operators.

Mr BOOTH - De facto industry.

Mr FOLO - Yes. You are putting them in the mix with people who are trying to do the right thing with their accreditation and their education and so on.

Mr CONNORS - They have nothing to lose. A builder needs to make sure that his last job is the best he can do because of word of mouth

CHAIR - You are only as good as your last one.

Mr CONNORS - That is correct. That is how you make your living, by getting a good reputation by leaving a good legacy behind you. As soon as things start to go wrong with your building work it soon spreads around a small town. So builders are professionals; they need to meet a certain standard. More than just knowing how to build, they need to be so familiar with the building regulations and the building code now - and these things are changing all the time - that unless you are working in that industry you get left behind very quickly.

Mr BOOTH - It depends on the sort of work you're doing, Phil. If you're just doing standard cottage work, I don't think that's quite as bad as your being left out.

Mr CONNORS - After opening my mouth, I can tell you now that there are so many builders who are professionals that haven't even looked at the building regulations. When we start to get complaints coming through about non-compliance with the building regulations, they look puzzled, but it puts pressure on us all the time as well. Ultimately the building surveyor is going to get roped in with every claim that comes up - whether it's the designer who hasn't put the right contours on the land and you end up with a big cut right on the boundary instead of a little batter, whether it's someone who is not happy

with the quality of the work, no matter what issues are happening now, because we have proportional liability, we get roped in - so there's the builder, the engineer, the designer.

CHAIR - Tell us about proportional liability. When did that come in?

Mr CONNORS - It came in with the Building Act 2000.

Mr BOOTH - So you're involved in litigation?

Mr CONNORS - Yes, it's something I live with all the time.

Mr BOOTH - It can't be that common because Dale Luck didn't seem to indicate that he'd been involved in it.

Mr CONNORS - Dale's had a couple in his 25 years, I would say. He operated under proportional liability and that was the deepest pocket that people would try to pin it on.

Mr BOOTH - That's the opposite of proportional.

Mr CONNORS - It was joint and several before. Now, as soon as I get a claim, as soon as I even hear that somebody might not be happy with the design or something, I have to phone my insurance company and say, 'There's a possibility that we could be included in a claim coming up here' and they say, 'Okay. Tell us all the information about that'. Even if that claim doesn't proceed, they put up your premium the next year.

CHAIR - They do?

Mr CONNORS - They do, even if you have a hint of a claim. I think mine went up \$1 500 this year because I have two potential claims, but they're at arm's length. As soon as I get a claim I have to mention it to the insurance company and they say, 'Don't give anybody anything. Don't say anything. Give us your file and we'll handle it from here'.

Mr BOOTH - Therefore isn't it worth at least exploring some sort of reduction in liability for some of these claims based on aesthetics or standard or something that don't really relate to the roof blowing off?

Mr CONNORS - No, it's a part of the whole system. It has to be there. I know it's set up correctly but the liability increases with the experience of the people you're dealing with. We have good clients, we have some bad clients and we have some clients that we have to get rid of. Quite a few of these I would put into the owner-builder - and you can correct me if you believe I'm wrong - and they're an incredible liability for us because they are building a house to do it as cheaply as they can. That is the reason they want to owner-build, that they can save supposedly 20 to 30 per cent, if things go well.

CHAIR - But the market, to a degree, does take care of it. I know of someone who wanted to be an owner-builder and the bank said, 'Go away, we don't fund those'.

Mr CONNORS - I have 165 jobs in 2009, 150 in 2010.

CHAIR - So they are funding them.

Mr BOOTH - Given that, you don't have to accept a client.

Mr CONNORS - No.

Mr BOOTH - You don't have to do owner-builders. You do it because you want to make money out of them because that's your business - and I'm not saying that judgmentally. Good on you, you provide a good service and you've done some great stuff. I am just pointing out that to set a regulatory regime that suits the people who are doing the inspection is probably not a good basis to do it. If you don't want to do it, you don't have to do it; you don't have to provide that service. So maybe that's an option as well, or maybe there is some way we can adjust the regulatory regime. That is what Rene was getting at before. Is there another way? If you have an accredited builder then that should potentially entitle you to be regarded as an accredited builder. You've said yourself that you have some builders who are good builders. They know the system works. They drop the plans off; it is done. You could charge much higher fees for an owner-builder for doing those jobs. There could be a regulatory thing that requires perhaps some other level of compliance in terms of an additional couple of compulsory inspections to enable you to charge those proper fees and maybe the adjustment of fees over a period of time. As you say, it is pretty unreasonable that you were set a fee 10 years ago and here 10 years later you are having to go out and inspect for \$65. It wouldn't start your car up.

Mr CONNORS - Yes, I do have the option. After two years I think the Building Act says the permit lapses. I am still trying to work out what that term means. I think they are about to address that.

CHAIR - Can you cause it to lapse so that your clock starts?

Mr CONNORS - No, it lapses. Under the current Building Act it lapses, but it wasn't clearly defined. I think they are addressing it now with the proposed changes to the Building Act 2000 and they have added another section, or they are proposing to add another section that says the building surveyor can resign from the actual project.

CHAIR - Which then starts his 10-year clock?

Mr CONNORS - It would do because your building work up to that stage would effectively be finished. They would then have to get another building permit to complete the works.

CHAIR - Here is another question, feel free or not to answer it because it is commercial, but with Hotondo Homes and a -

Mr CONNORS - Gold client, I call them.

CHAIR - 180 square home at this part of the cul-de-sac and then a private builder over here, an owner-builder at 180 squares, do you charge them the same amount of money?

Mr CONNORS - No, it would be double.

Mr BOOTH - For Hotondo?

Laughter.

Mr CONNORS - Double for the owner-builder, and the difference was we have just had a doctor come in to do a small renovation to his house and a bit of a garage. I spent 30 minutes at the counter when he first came in; I think Jason spent another -

Mr FOLO - I spent another two hours with him. His job is not passed yet.

Mr CONNORS - It is not even in the system yet.

Mr FOLO - It is not in the system and I have now talked to him four times. This is the bit that I don't like - you tell us not to be a designer; I seem to be the one that is propping him up. He keeps going away and he comes back. I have heard him walk out - he didn't think I was behind him - and he said, 'I'll never get this thing passed'. He wasn't happy at all. I have spent a lot of time telling him standards. I am actually teaching him how to be a designer.

Ms ARCHER - Council is probably doing the same thing - sorry for interjecting - but local government is probably doing the same thing, so all up for the hours.

Mr FOLO - I won't answer that. That is exactly right. Then I get a builder that will come in that is not allowed to do his own drawings, we have to get an accredited designer to do his drawings, yet he is more than capable -

CHAIR - Why? What is the difference?

Mr FOLO - It is the law. If you are an accredited builder, you must have an accredited designer do your work. You can get accreditation for a builder to be able to do some of his own work, but you have to see -

CHAIR - So an owner-builder -

Mr BOOTH - They can draw their own plans.

Mr CONNORS - You can't sue yourself. That is what it comes down to.

CHAIR - Is there a case that the owner-builder we are talking about could have that imposition placed upon him, that the design of your home must be done by a registered designer?

Mr FOLO - We try to push them that way, but the law allows them -

CHAIR - What I am saying is we are the law. This is Parliament, I am testing whether it needs a law - it could be an exchange. In order to tidy things up in the marketplace could we specify that an owner-builder needs to do a few more things?

Ms ARCHER - Isn't that increasing the cost of the building and construction work?

Mr BELL - The problem is, too, just to add to this, that owner-builders will bring plans in and it is not too bad a plan. They did tech drawing at high school and it is not a bad plan, but they are not aware of all of what is involved in the building industry and we will end up with information missing. Just as an example of this, I went out to do an inspection on just a standard steel shed, a slab for it, and the plan indicated that it was just a level block. I got out there. It is a sloping block, they have an illegal retaining wall, 1 100 high that they are building this slab on. So, 'No, don't pour. We have to look at this'. But the plans we were given indicated a level site. We come across this quite regularly.

Mr BOOTH - These things, it seems to me, are related more to running your business as a certification business.

Mr CONNORS - What we will accept.

Mr BOOTH - Yes, therefore, the lawyers have it stitched up pretty well. I cannot walk into my lawyer's office and have a half-hour conversation. If I do and even if I pick up the phone I will get a bill for \$20 or whatever for half a second's conversation. So why can't you people, as a professional organisation, simply say, you're not going to deal with owner-builders or, if you are an owner-builder and you do not have accreditation, then the minute you pick up the phone, the minute you start talking to us, then it is going to cost you \$60 an hour, \$100 an hour or whatever your fee structure is. Then you are going to have a proper fee-for-service rather than the standard fee, which seems to be the problem. I totally agree that you should not have to do the things you have described. You should be paid for your work as professionals and owner-builders should not expect to get that service for free. But if they want to build a home and they want to design the thing themselves, then I think it is reasonable that that is their right, provided it complies ultimately with the act and it is inspected properly, but they should pay for that.

Ms ARCHER - Following on from that, are you able to have a special retainer agreement with an individual of that type or does the law prevent you from doing that?

Mr CONNORS - They will come in and they will ask what fee we are going to charge. If our fee is dearer than that of another private building surveyor or one of the local councils they will go to that person.

Ms ARCHER - So you will always have a set fee that you quote as opposed to an hourly rate, for example, which is what I think Kim was getting at?

Mr CONNORS - We do.

Ms ARCHER - Which would allow you more flexibility then.

Mr BOOTH - To clarify that exactly, that is the point - it is entirely in your hands. You do not have to have this backlog of bills. You have already said you can dismiss yourself from the building project, you can refuse to have a client and there is no prescribed fee. You can only charge so much and so it seems that is something that really is beyond the regulatory thing; it is matter of choice of any business involved in the system, isn't it?

Mr CONNORS - Going back to the last time I appeared here, the fees have traditionally been set by local government. They were the ones who set the benchmark. I reckon our

fees this year are going to be 35 per cent dearer than the local councils here and I have already come up short because power is going up again and we just received a 3.5 per cent minimum wage rise that is impacting.

Ms ARCHER - It is competition.

Mr CONNORS - I have already sent out a letter stating what our fees were going to be this year, so I have been caught out by about 7 per cent, I would say. That is going to hurt unless I send out another letter and say, 'Whoops, sorry, I got it wrong'. I probably will have to do that, otherwise we will be looking pretty sad.

Mr BOOTH - The point being they have to understand and respect the fact that you cannot be exposed to unfair competition - we think that there should be a level playing field in that regard. But wouldn't you be better off, given that you have these problems with owner-builders and the issues you have raised, you basically become a personal trainer to someone who is going to pay you a \$200 fee or something. It is just laughable, you would burn it up in the first appointment probably. Aren't you better off saying, this is our fee, it is going to cost you whatever, \$1 200, to mentor you through this process and if they do not want to do it, they go somewhere else? The person who then tries to do that, is not going to be around because they will not be able to survive. You cannot run a professional business for nothing.

Mr CONNORS - We have taken that into consideration. Our fees for an owner-builder would be pushing up over \$1 300 at the moment and it is swings and roundabouts, some work out well and some work out terribly. So you hope that fee, overall, is going to cover you. You have to aim somewhere.

CHAIR - As we draw this together. We had evidence from a major building organisation to say that their main concern about owner-builders was the unregistered builder who is basically a pretty experienced chippy and knows what he is doing and he builds six or seven houses a year for owner-builders and he is not registered. Short of mandating disclosure, who is going to work on the site, how could you manage something like that? This was one of the building industry's two majors who said that they were not particularly troubled about owner-builders, as long as it was not just consistently a person getting all this work and not having to do all the things that a registered builder has to do.

Mr BELL - It is a little bit difficult to ascertain because, unfortunately, here in Tasmania our traditional view of a builder is anyone who swings a hammer but the law does not see a builder that way; a builder is largely a manager. A builder can be the builder of a house but never set foot on the site basically if he is confident in his leading hand and so forth, so defining it by someone being on the site or actually carrying out the physical work the way things stand at the moment is not really a viable sort of option for us.

Mr BOOTH - At the end of the day what we should be doing is delivering safe houses that comply with the code and don't leave people with any risks to their safety or any liability issues?

Mr BELL - The difficulty that I find as an inspector going out on a site, if I go and do a frame inspection with an owner-builder I am a tradesman and if I go out and do an

inspection for one of the major builders around town, I am speaking to another tradesman, we use the same technology and at least have the basic understanding; it is only if something unusual comes up that we really have a problem. If I go out to deal with an owner-builder and I turn up on site and it is an unorthodox method of construction, all the timber sizes are right and everything like that, but if you look at it and it is poor quality, the joints are not tight and things like that, it is a quality issue. It is not so much that it does not comply, there may be some non-compliant parts and you say that it does not comply and can you do this and can you do that and they say how are they going to do that as it will cost a lot in material, and the result that you get is substandard because it is patching up what was not done properly to start with. As a tradesman, I feel like saying strip the thing to the floor and start again but I know that I cannot necessarily do that with someone who has put thousands of dollars worth of time and material into a job. It puts you in a difficult situation.

Mr BOOTH - But you have to and you are obliged to if it does not comply with the BCA, though.

Mr BELL - It might be technically compliant but it is just a really horrible job.

Mr BOOTH - No, hang on, let's define this - it can't be dodgy if it complies. It might look bad but -

Mr CONNORS - Kim, you are right back to where we were before. Ultimately, it is the building surveyor who carries the liability for any of this work. It puts incredible pressure on us to meet the expectations of the owner-builder - and we are talking about owner-builders - but they have a different expectation. They think what they have built is beautiful -

CHAIR - I have a joint out there that is magnificent.

Mr CONNORS - Yes - and you have to shake your head and just say, 'That is atrocious' but to them they have put that much hard work and time and money into it, the same money as a builder would put into it, and yet it is only substandard. We have then got to try to make that call - do we pull it down and condemn it and say, 'You start again' - and they say, 'What's wrong with it?'. We are not allowed to design, of course, but we can send them an inspection direction and say that they have to correct all these issues.

Mr BOOTH - Or give them a deemed-to-comply certificate possibly, if they paid for that.

Mr CONNORS - Yes. It puts pressure back on us all the time and, ultimately, anywhere in that 10-year liability period or 15 years or whatever it ends up being, if it is sold two or three times and something goes wrong, it is going to come right back to the person who said yes, that will do.

Mr BOOTH - But isn't that then the point? I complain if I get booked for speeding because I was only a couple of kilometres over and it was late at night but I still break the law and I did not comply with the speed regulations, and obviously you would never be approving works that did not comply with the code - you wouldn't do that as a professional - so you have to make that call and you have to say to people, 'Sorry, this doesn't comply with the BCA'.

Mr FOLO - That is exactly right. What you are saying is that when you got pulled up in the car, you got pulled up for speeding and not because of what the car looked like. When we go out on site, if it looks shocking but it complies we have to pass that. That is it.

Mr BOOTH - Yes, and if it is compliant with the code and something is wrong with something that you have approved that complied with the code then there is something wrong with the code. Just because it looked shabby - the car analogy is a beauty - it does not actually matter what it looks like as long as it is safe to do what it is doing, and that is the point, I think.

Mr CONNORS - You are right, that is where the standard sits, it is either right or it is wrong and, ultimately, I, as the owner of the company, will be the one who comes under scrutiny. If there is ever any complaint or it is linked to a problem somewhere down the line, the building surveyor is ultimately the one who will be called in. When you talk about other standards for shacks and other things like that no, I am not going to live with that; it is either compliant or it is not.

Mr BOOTH - No, but it could be compliant with a different standard. It might be that a shack does not have to have six stars or there could be some different classifications, not that it would ever be expected that a building surveyor or a regulatory authority would take responsibility for that. It would be that it would comply.

Mr CONNORS - The energy rating, though, is being driven by a different thing altogether, isn't it? That is being driven by greenhouse, global warming and other things like that. They have set the standard.

Ms ARCHER - Does that mean that quality assurance is not part of the code? Is that something separate that, for instance, might be left up to the individual building company to have high standards of quality assurance?

Mr FOLO - I have a couple of units but I would not buy them. They were absolutely horrible to look through, but they complied. Also, the plumbing inspector in that particular municipality is very particular on what he does. We were talking together and he said, 'I don't even want to pass them, but they comply so I have to'. We looked at things - black tiles, sinks that had to be siliconed but they siliconed them up and there was a 30 ml gap, but it was cheap, affordable living for people to go into. He has done a runner now and is on the mainland. We can't find him and we couldn't finish the file off.

CHAIR - Is that an owner-builder?

Mr FOLO - That's an owner-builder.

Mr BOOTH - There are lots of builders who have done the same thing, too. It's not whether you are an owner-builder or a builder that you are going to complete. There are some in each case. With that building, that is an aesthetic standard. You have said that the plumbing inspector said it passes, you have said it is passed and there's nothing you can do about it, and nor should you, but when that comes on the market nobody is going to buy it and, if you do, how can you control stupidity when someone is prepared to pay a big price?

Mr FOLO - The price will be up and down. That thing that you were saying with the builders, there are builders out there doing the same thing, this is their livelihood and in a small place like Tasmania, and especially in Launceston, their credibility means a lot so there is not a lot of them trying to be cowboys around here because they don't survive in a small place like this. When they come in and do something like that, they're gone. Owner-builders don't have a company name or anything they are promoting, they're just out there doing a few spec homes.

CHAIR - You were here last time and you might recall the lady from Perth was here. I suspect in your position you know a bit about that job. Is that true?

Mr CONNORS - That's correct. I have been out to do an inspection and a report on that property.

CHAIR - We don't want to cut across commercial proceedings. We've had the benefit of all the evidence on that and in that particular job if there had been six inspections instead of four, is there anywhere you could have inserted a building inspector to have avoided those situations?

Mr CONNORS - Unfortunately in that particular instance the inspection that was linked to the problem was done but whether it was hidden by the owner-builder or just not picked up by the building inspector, I don't know, but the mandatory inspection was done. The slab didn't comply and the frame was built back inside the slab, which meant that any water that ran down ran onto the slab then went straight inside. They should have been picked up, unfortunately.

Mr BOOTH - If the inspection had been done properly then, you wouldn't have had this problem?

Mr CONNORS - No.

Mr BELL - You have to be aware that when you are inspecting, the last time you saw it, it was a frame and then the next time you see it, it's finished. That particular job, if I'm right, had a deck built in front of it. It was very low to the ground and if you looked under there, you saw a ledger holding up the joist and it looked all right. Short of the destructive test, how would you know?

CHAIR - But what you said is that between that and the next time you see it, it is finished. Should there be an inspection or two in the meantime?

Mr BELL - Where do you draw the line, at what point? There are so many different elements, that's the trouble.

Mr FOLO - The key thing to this is that they don't know their responsibility. You are saying, 'Okay, let's do another couple of inspections', and by doing that, when do we judge which owner-builders have to have that inspection because some owner-builders are operating as a manager

CHAIR - We could say all of them.

Mr FOLO - They have a qualified builder but that builder is not a builder anymore. He is a subcontractor, but those owner-builders believe they have a builder that they can blame anything on. We have so many different owner-builders but none of them know what their job actually is or how they are sitting in it. They become owner-builders because they want to pick the colours or they want to have control over a couple of little things like that and that is what they do. Some are good and some are bad.

CHAIR - With that particular property at Perth, it seemed to us on this committee that she had a very strong case and that she was having findings in her favour, but is it still the case that they themselves have to commence a legal action or has there been negotiation outside?

Mr CONNORS - I have not heard the outcome of that one.

CHAIR - They have no money, they bought that place, and if they have to drum up \$25 000 from somewhere to start a legal thing then that just feels wrong to me.

Mr CONNORS - But that is the only method of dispute resolution available in Tasmania. I understand that there is potential for a panel or a tribunal to be established here in the State. I am still waiting to hear because I have an interest in that from the Institute of Arbitrators and Mediators perspective. We need to know which way it is going. At the moment, disputes are included in building contracts. HIA are very poor; if you want to see a poor building contract it is the HIA contract. The Master Builders Association have attempted to set up a fast-track dispute resolution process within their contract that included arbitration. They are finding that is still fairly drawn out and expensive and people are not happy with that outcome. The only other thing is for a really ruthless tribunal to be established and I would be all for that if it were to be done. It would be similar to what is happening in VCAT in Victoria or the Queensland Building Services Authority.

CHAIR - Which cuts straight to the question, does it?

Mr CONNORS - Adjudication, yes, and expert determination.

Ms ARCHER - That is what you mean by 'ruthless'; they actually have teeth?

Mr CONNORS - Yes, and that it should be final and binding. If this panel is established by the Government it needs to have the power and authority to make a final and binding decision.

CHAIR - We had the building inspector from North Midlands in front of us and he said he thought there was a problem. It would appear that the council has accepted they are at fault but feels they need to be sued before they hand anything over. Well, throw everyone in a room and pay the poor old lady the money.

Mr CONNORS - What I would like to see is that if people were going to actually follow through with any litigation, the council or the permanent authority should be held accountable for their actions in exactly the same way that the private building surveyors are held accountable. Quite often they will pay their way out of it so that it does not go

to court. If there is no finding at the end and people accept a payout then that is all good, but people should be accountable for their actions. We are a private business. If any of my men make a mistake or an oversight or an error and I get sued then I have to pay for that.

CHAIR - What if we were to make pre-qualified very senior people in the industry permanent authorities in their right, other than councils? Right now you do all the work and you get paid for it, but you still have take it into Launceston City Council, who review your work

Mr CONNORS - To issue the building permit like they do on the mainland, then fine. That would give us the ability to get the industry up and moving. It does put greater responsibility on our shoulders to make sure that everything is in place.

CHAIR - From the consumer point of view it is quicker and smoother.

Mr CONNORS - That would be fantastic. I have been pushing for that for a long time. Good suggestion, Rene, I like it.

CHAIR - It was not my suggestion.

Laughter.

CHAIR - Thank you very much for that and for your expert advice.

Mr FOLO - I appreciate these two fellows coming in. They were invited because they have to deal with the cut and thrust out there on the site.

CHAIR - Thank you very much for your time.

THE WITNESSES WITHDREW.