

Subject: Home owners warranty Scheme

Dear Senate Committee members.

I am a building consultant and Building Surveyor operating in the North of the State.

I am also the current deputy chair of the Institute of Mediators and Arbitrators Australia (IAMA).

I am also appointed to the dispute resolution panel established in conjunction with the Department of Consumer Affairs and the Master Builders Association (MBA) Tas. Inc.

I have participated in the Home Owners Warranty (HOW) in the role of provision of expert reports relating to condition of the building works at the time of completion/sale.

On average I would complete six (6) HOW reports per month just to give you some idea of the extent of my participation in the scheme.

To begin with, I am not aware of any claims whatsoever being successfully pursued through the HOW scheme other than comments recently made by Chris Atkins on behalf of the MBA. I am however relatively busy undertaking various forms of alternative dispute resolution (ADR) including

- Expert Determination
- Mediation/Conciliation; and
- Arbitration

Some of this ADR work flows from the MBA B.O. 4 Domestic Housing Contract while other referrals come from the various parties involved in disputes including reference from Legal advocates.

Building dispute resolution by its very nature is **not** in my opinion suited to the normal court process. Disputes invariably consists of many smaller and sometimes unconnected grievances including quality of workmanship as well as contract dispute. The technical nature of the building industry makes it nigh impossible for a judge to sort out the jargon before he can even contemplate handing down a just award.

I believe the Tasmanian government are currently working on the implementation a dispute resolution scheme to deal with the day to day matters while contractual dilutes will still be dealt with by the courts. I strongly disagree with this approach and believe that the best way to resolve these matters is by way of a panel of experts appointed to form a tribunal that will be empowered to consider all disputes and make final and binding decisions. Only then will we begin to see some semblance of justice for the consumer/builder and enable Tasmania to GET ON WITH PROGRESS!

As to what the consumer will require in the way of insurance for the instances where the builder becomes insolvent or otherwise cannot be made accountable, it appears

reasonable in these instances to provide for optional insurance cover to deal with this element alone. In this way, the consumer will have access to compensation in the same way as we all currently do with house insurance etc. Just an idea and I'm sure that this particular element will come under significant scrutiny over the coming months.

Should you wish to discuss any matter included in this correspondence, I will make myself available for comment as required.

Thank you.

Philip Connors
(Director)