

Flawed foundations

Mandatory home warranty insurance is supposed to protect owners but after 30 inquiries into the scheme, many question its benefits, writes **Kelsey Munro**.

It's the worst suffering, it's financially draining, it's destroyed their relationships, their homes. It's so repugnant to what Australians would expect," says Catherine Cusack, the NSW opposition spokeswoman for fair trading. "How have these people that I deal with had all their suffering ignored for so long?"

Cusack is talking about the nightmarish limbo faced by people who are locked in dispute with their home warranty insurers. Unable to move into their homes, get defects repaired or sell as is and start again, many are tens of thousands of dollars worse off because they tried to make a claim against their home building warranty insurance when something went wrong.

Most consumers think that the mandatory home building warranty scheme in place in NSW and Victoria will cover them for substandard building work. But the reality is very different. And consumers groups are concerned.

"No rational consumer would choose to buy this insurance if it wasn't mandatory," Choice's Gordon Renouf says.

In Victoria and NSW, government regulations compel home owners to buy the privately administered

insurance, which is exempt from oversight by the Australian Prudential Regulatory Authority.

Voices condemning the mandatory scheme are getting louder following the collapse earlier this year of Beechwood Homes, NSW's biggest home builder, throwing up new doubts about its worth to consumers.

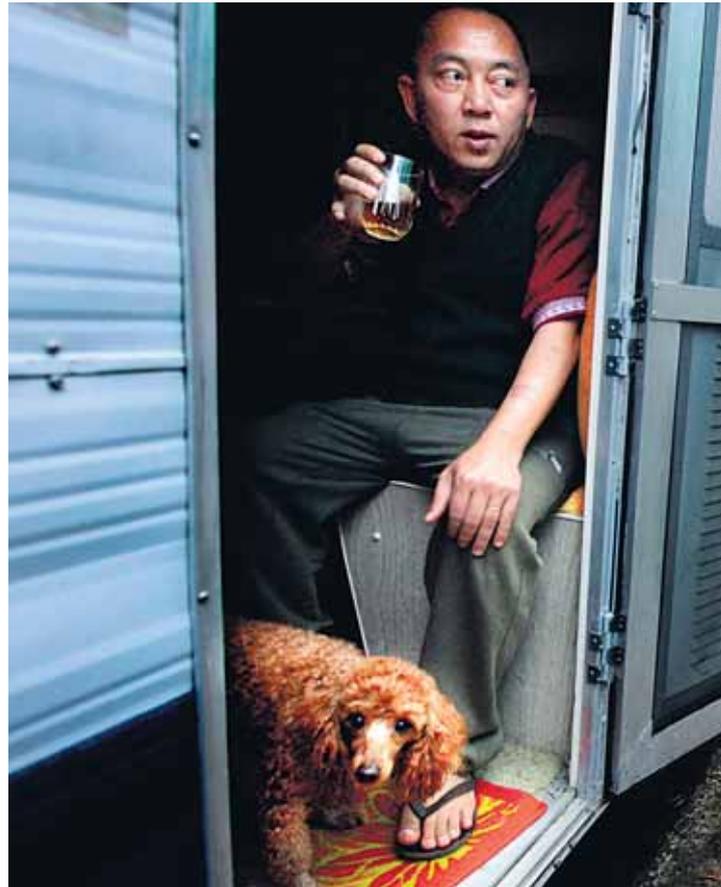
"It has no value whatsoever, in a nutshell," says Gerard Brody of the Consumer Action Law Centre in Victoria. "You can only make a claim when the builder is dead, disappeared or insolvent. So a consumer basically has to exhaust all their legal avenues before they can claim on the insurance. That's not really insurance."

In all states except Queensland (see box), home warranty insurance is only a "last resort" scheme which does not cover all instances of shoddy work.

It's meant to be a safety net for consumers when a builder dies, disappears or becomes insolvent but the unlucky consumers only discover its limited application when things go wrong.

What many don't know is that consumer protection for renovators and home building has never worked well and has been a running sore for years.

There have been more than 30



government inquiries into the system's flaws. Six years ago there was a national review, led by Professor Percy Allen, which was meant to fix the problems.

Since then it is estimated that about \$225 million has been collected by the six private insurers in NSW alone, with only a fraction – about \$16 million – paid out in claims.

In the Victorian Parliament last year, an answer to a question on notice said premiums in the state were between

\$90 million and \$120 million a year. Vere, owned by Suncorp Metway, has between 60 and 75 per cent of the home building warranty insurance market.

Now, following the release of a highly critical Productivity Commission report in May, an all-party Senate inquiry is investigating the scheme – again.

At the Sydney hearing on June 13, several people who have fallen into the black hole of protracted disputes around home building warranty

HOW TO PROTECT YOURSELF IF YOU'RE BUILDING OR RENOVATING

For now, people building or renovating their homes in NSW and Victoria are stuck with the mandatory home building warranty scheme. That raises the question of how you can protect yourself when renovating or building.

"Consumers have to wonder whether it's worth building. It's one of the biggest risks for consumers and they can't in essence insure against it,



Always check credentials first ...
Phil Dwyer. Photo: Edwina Pickles

because of the limited application of building warranty insurance," says Gerard Brody from the Consumer Action Law Centre in Melbourne.

Some people mistakenly think they are covered by their general insurance – their home building policy – but these policies specifically exclude building defects.

For instance, NRMA's home building insurance cover excludes inherent defects and structural defects; settling, shrinkage or expansion in buildings, foundations, walls or pavements and faulty design or workmanship.

That means consumers have to be defensive in their thinking and rely only on highly recommended builders.

As a start, they would have to be licensed. Phil Dwyer, builder and national president of the Builders' Collective of Australia, says: "Probably the best thing you can do is find a builder that represents himself, ask the builder for the last three jobs they've done, and get references from owners.

"Check his credentials – not through websites, but through the people he's just worked for. Until such time as we get proper consumer protection, that's the best thing that can be done. It gives you a year's track record for the builder, from people who will know if

there will be any issues. And a good builder will be happy to give you his last three jobs."

Real estate consultant and consumer advocate Neil Jenman says progressive payment is key to managing construction work – make sure you hold some money back.

"My wife and I built our house eight years ago. I found that when you pay the tradesmen you wouldn't see them again. So I got them together and said, 'I like spending time with you guys but there's only one way to keep you coming back and that's to not pay you.' So always hold something back, to keep them coming back. Keep control of the purse strings.

"In general, home owners don't understand that you're the boss and the boss calls the shots. When we hire tradesmen or real estate agents we tend to get intimidated. They say, 'It's our policy.'

"Home renovators and home builders themselves should say, 'Let me tell you about our policy; our policy is we don't pay until we're happy the job is done properly. If you don't like it then too bad, go find another job.'

"The way the economy is tightening up, home renovators are in a much better position than they used to be.

Home owners don't realise how much power they've got."

Make sure your documentation is as detailed as possible and don't leave anything vague so there is no wriggle room to cut corners or push up costs.

"If you have any trouble later, bring them back to it and say, 'This is what we agreed to'. And always ask, 'Is there anything else I should know?' Later on when they raise something new you can say you asked and they didn't bring it up at the time," Jenman says. **KM**



Keep control of the purse strings ...
Neil Jenman. Photo: Phil Carrick