

# Supplementary Submission

*To the*

Senate Economics Committee Inquiry

*Into*

Australia's Mandatory Last Resort Home Warranty  
Insurance Scheme, April 2008

Focusing on

**The hidden costs, impacts, and  
ongoing effects of Bank Guarantees  
and Deeds of Indemnities**

**RSA/Vero/Suncorp chose to remain mute on the fact that builders are the re-insurer, and underwrite the policies they issue, and receive the premium for. They obtain full recovery of any claim from the builder directly under these deeds.**

While the dominant insurers stated official position is that we don't require Bank Guarantees (BG) and or Deeds of Indemnity (DOI) as we have moved away from this concept, and further there would not be any more than 200 to 300 BG held in the nation (source Building Commission forum on BWI)

In terms of BGs and DOI it must be clearly understood that every builder in the nation under duress and against their legal advice had to sign an open-ended DOI (copy attached) in 2001 and 2002, and in many cases provide a unconditional open-ended BG, if not they were unable to work in their chosen profession.

The Vero statement now that they have moved way from requiring DOI and BGs is a hollow comment as they hold these open-ended documents from all builders. (Evidence held confirms this fact)

This presentation to the State authorities was to diffuse the dissent from building practitioners who were losing their livelihood and businesses over the conduct of the dominant insurer and complaints to all authorities while received sympathetically in many cases had the same outcome, we have no jurisdiction! The Small Business Commissioner in Victoria received many complaints and his attempts to mediate the matter were fruitless because when he called on HIA and Vero to attend the mediation they just did not turn up. (Please see article AGE, 600 HIA builders lose their business)

On the basis of the unfair business practices of the insurer the Small Business Commissioner submitted to the VCEC Inquiry in 2005 and his concerns together with those of CAV were ignored. The fact that two major government agencies in Victoria were ignored in that inquiry must be seen by this Senate Inquiry as extremely disturbing.

## **Principle**

A builder who goes through the rigors of compliance by their regulatory authority to become a registered builder must then attempt to navigate the arbitrary insurance eligibility process to achieve the letter of eligibility that imposes an annual turnover limit on their business as well as a limit on the size of project they can build irrespective of previous history, however in all cases the builder must sign an open ended deed of indemnity, most of which are embedded in the initial application. Also in many cases securities must be provided such as open ended Bank guarantees and maintained on an annual basis at a cost of 2.5% of the face value of the guarantee.

The certificate of eligibility then and only then enables their registration to become effective and on a project by project basis they may apply for the insurance certificate that then allows them to obtain a building permit.

Annual turnover and project caps imposed on building businesses in Australia are internationally unique and are an affront to standard business practice.

## **Competition**

These processes ensure the builder is tied to that one insurance company because these securities are not transferable therefore removing the perceived competition of having multiple insurers, secondly to go elsewhere a builder must firstly relinquish the previous eligibility prior to the new insurer offering a letter of eligibility. The fear of losing or obtaining less turnover from a new insurer ensures the builder will stay with the devil he knows.

The number of insurers in the market has not, and can not solve any aspect of the problem.

## **Rights of the Smaller Builder**

The rights of the small to medium builder were assigned to the insurance industry who is now the defacto regulator and decides who will build, when, and to what level. Many thousands of small builders have had their businesses ruined by not being able to satisfy insurer demands for financial equity as compared to turnover.

Most, if not all of these businesses had been successfully operating for years before the intrusion of the insurance industry, however this artificial measure enforced by the insurance industry, sanctioned and mandated by State Governments has deemed these builders unsuitable to operate.

## **The Clout of other Sectors**

In fact in April 2002 the Ministerial Order in Victoria that mandates this regime followed by NSW in December 2002 has excluded a vast sector of consumers that purchase homes in buildings of 3 levels and above because of the dissent from that powerful sector of the hi-rise building Industry.

Secondly another powerful sector of the building industry being the major estate builders voiced their displeasure with this regime and the Governments again showed favour and underwrote these builders for all events above \$10 Million, therefore enabling them to obtain warranty on the same basis as a small builder.

The Order was again changed in 2003 when the Ministry of Housing was also exempted from the warranty regime because they were unable to source builders with the required insurance cover for their own projects.

Yet again a further change took place in May 2005 that removed the requirement for the insurance industry to provide the detail of warranty claims to the Practitioners Board which we had been demanding as mandated under section 32 (b) of the Victorian Ministerial Order which we have had to abide by at law, but not the insurance industry for that 3 years.

These exempted builders only represent some 5 % of the registered builders in each State and Territory, and the balance being 95% of builders had no representative voice.

## **1. Turnover Caps**

As stated in 2004 by the Royal Australian Institute of Architects:

*Placing an arbitrary cap on the value of a project they can build is "outrageous", considering that the maximum claim is \$200,000. Architects and owners are precluded from engaging their preferred builder because insurers are reluctant to provide cover for architect-designed houses.*

Nothing much has changed in the last 3 ½ years. Builders are still terrified that the insurer will deem them a risk and effectively foreclose their business as that builder CANNOT undertake any contracts and earn an income unless the insurer grants them eligibility to purchase Builders Warranty Insurance.

Turnover caps imposed on building businesses in Australia are internationally unique and are an affront to standard business practice. In addition, while these caps limit contracts that can be undertaken they then can directly have a negative impact on the profitability of the builder.

Again, builders are not in a position to complain as even their Trade Associations are captured by the insurance income and unable to offer any support, these builders simply have to comply with insurer demands or leave the industry.

## 2. Owner Builders

The other alternative to a builder threatened with eviction from the industry is to simply work as a ‘subcontractor’ for Owner Builders. This point was raised by the Building Designers Association of NSW who described the privatisation of HWI insurance as an

*"abject failure". There has been a notable decline in the number of builders available to provide competitive quotes. This in turn is damaging the livelihoods of building designers. One of the unintended consequences of the scheme is that builders are encouraged to enter into illegal covert arrangements with owner-builders, often at the expense of reputable builders who are being driven out of the industry."*

This owner builder loophole serves both the incompetent builders as well as those builders who are competent but by dent of circumstance may have had a drop in profit for a financial year and had their eligibility capped by the insurer. Either way it is a disaster for the building industry with less than half of NSW builders holding eligibility, and over 40% of all domestic building work in Victoria still being undertaken by so called ‘owner builders’ compared to a figure of 3.79% in the Queensland QBSA scheme which is now the same size as Victoria as they have enjoyed a 45% increase in their industry over the past 4 years compared to the Victorian increase of 1.4% and NSW of 9.4% as the attached graph shows

So called Owner Builders are simply owners who engage an unregistered and uninsured builder as a subcontractor to complete their job as they offer a ‘discounted’ no liability (ie no responsibility) option for home owners sometimes attempting to purchase beyond their means.

These projects by unregistered and uninsured persons are the single-most largest increase in building industry complaints currently received by Consumer Affairs Victoria who also stated in their submission to the recent VCEC Inquiry that if warranty insurance was removed altogether it would in fact increase consumer protection as it would remove the barrier to entry to the compliant industry. It is our belief that this is a pattern repeated across Australia as prosecutions in all these jurisdictions are predominately for unregistered builders/persons which indicates that the introduction of last resort Builders Warranty Insurance has only served to reduce consumer protection which is a complete contradiction to the high minded assertions of the insurance industry upon its implementation.

## 3. Claims Costs

The deception in Builders Warranty is that a builder must demonstrate that he has the financial capacity to underwrite the insurance company for any potential claims cost and undertake that role through deeds of indemnity and

or providing his power of attorney to the insurer, and or providing bank guarantees.

This effectively places the builders as a re-insurer for the insurance company however to date the insurers have no formal reinsurance agreement in place with any builder in Australia. Aside from being in clear contravention of APRA rules, it is an affront to a building business to have to carry this sort of liability in addition to an already onerous and inflated insurance premium. Further the question of its legality is subject to a WA judgment on the 19.06.07 when Judge Eaton stated in his opinion the practice is illegal and unenforceable.

#### **4. Red Tape**

All of the above simply points to the obvious and real 'red tape' burden that builders must comply with simply in order to continue working. In an era where all State and Federal Governments are voicing concern regarding bureaucratic red tape then it seems that Builders Warranty eligibility and assessment is an obvious area that can be greatly improved upon.

##### **The Hidden Annual Costs of maintaining Securities**

Banks charge an annual fee of 2.5% of the face value per annum for the provision of the bank guarantee.

If we apply the now known limited facts in terms of volume of Bank Guarantees we are aware at a minimum they number in the thousands and the face value is in excess of \$1Billion at a cost to the industry of 2.5% per annum for the past 7 years or so.

#### **5. Affordability**

The increased cost of compliance and forced profit returns for builders to maintain their eligibility have dramatically increased the cost of building over the last decade. In fact as can be seen from the ([Victorian Building statistics](#)), the actual cost of building has increased a staggering 71% since 1998 with the most significant increases occurring in 2001 and 2002 at the peak of the Builders Warranty eligibility crisis.

The average cost of a building permit in 1998 was \$62,000.00 compared to today at \$106,000.00.

These increases have not been reduced and the added cost has provided no benefit to consumers but has served to exacerbate an already chronic situation in the Australian housing industry in relation to housing affordability.

#### **6. Conclusion and action required**

State Governments have selected dubious providers of this product in their quest to maintain the product in the market place and various players have collapsed which has seen builders having to provide securities to multiple players as they progressively failed with the result some have up to three bank guarantees in place with administrators now seeking recovery without legitimacy.

Last resort Builders Warranty insurance has failed to provide any tangible benefit to builders or their consumers and this is clearly evidenced by the lack of any verifiable claims data from the insurers.

It is a red tape burden and an operating impost that is severely restricting the competitiveness of the legitimate building industry by encouraging rogue traders across every jurisdiction.

We believe the privatised Last resort Builders Warranty regime should be outlawed in Australia and immediately removed from every consumer protection regime in every jurisdiction and this action would in fact enhance Consumer Protection as it would return builders to the compliant industry by removing the barrier to entry to the industry. (see [Small Business Commissioner attachment](#))

Many across the nation have worked tirelessly over the past six years to rectify the wrongs within what is an industry we know signifies huge respect in terms of its contribution to the nations well being, however there is one sector in particular that has been treated with contempt and total disrespect by the State regulators and managers of this industry. This sector is the vast majority of all the registered Domestic Builders of this nation and their clients, the consumers.

The immediate return of bank guarantees from both failed and current insurers is essential.

The Senate has the power and the ability to right the wrongs of the past decade, it must find the will to do so, without fear or favour and return credibility, and respect and more importantly return confidence to all players in this most important sector of an industry that is the measure of the nation's fiscal health.

Phillip John Dwyer

National President

## FORM 1 - STANDARD NATIONAL GENERAL INDEMNITY

### General Deed of Indemnity

(To be used for indemnity given by the builder's associates, directors, parent and/or associated companies and/or other third parties)

Item 1: The indemnifier:

Item 2: The proposer:

#### **Important**

1. This deed imposes various obligations on the parties signing it as indemnifier. In particular, the insurers will be entitled to seek compensation from those parties personally for any claim the insurers pay under building indemnity policies issued for the proposer named above:
2. The insurers recommend that the indemnifier consult solicitors before signing this deed.
3. This deed is not a policy of insurance, nor does it give the proposer named above any automatic right to the issue of a policy.

#### **BACKGROUND**

- A We have requested you to accept (or continue to accept) the proposer as a proposer for policies.
- B We have requested that, upon application being made by the proposer, you issue a policy for specific building work to be done by the proposer.
- C We acknowledge that you will not consider issuing such a policy unless we agree to provide this indemnity.

#### **OPERATIVE**

##### 1. Meanings

In this deed, except where the context otherwise requires:

"costs" includes:

- (a) legal costs and expenses (including experts/consultants fees) incurred by an insured and payable by you to the insured pursuant to the terms of a policy; and
- (b) legal costs and expenses (including experts/consultants fees) incurred by an insured and payable by you pursuant to a court or tribunal order or pursuant to terms of settlement of a court or tribunal proceeding; and
- (c) legal costs and expenses (including experts/consultants fees) incurred by you in handling a claim by an insured under a policy or defending a court or tribunal proceeding brought by an insured to enforce a policy.

"insurers", "you" means all of the insurers named from time to time in a policy;



*"insured"* means the insured under a *policy*;

*policy* means a home owners warranty policy, administered by HIA Insurance Services Pty Ltd mainly providing cover to homeowners against faults in and non-completion of building work, to be issued on the application of the proposer in relation to specific building work done or to be done by the *proposer*;

*"proposer"* means the licenced building contractor named at Item 2; and

*"we", "our", "us"* means the persons named in Item 1 who agree to indemnify *you* under the terms of this deed.

In this deed:

- (a) words in the singular include the plural and words in the plural include the singular; and
- (b) a reference to a person includes a reference to that person's successors and permitted assigns; and
- (c) headings are inserted for convenience only and those headings shall not form, or be read, as part of this deed.

## **2. Indemnity**

We indemnify *you* against all claims payments, costs, and any other expenses, losses and damages that *you* reasonably and properly sustain or incur that result from:

- (a) the *proposer's* act or omission; and
- (b) a claim made by an *insured* under the terms of a *policy*.

## **3. Obligation to pay**

We will pay to *you*, within 28 days of receiving a written demand for payment ("the date for payment") any amount for which we have indemnified *you* under Clause 2 without set off or counterclaim. The written demand for payment must specify the amount that *you* claim is payable, the *policy* to which it relates and the details as to how those costs, expenses, losses and damages were sustained or incurred.

## **4. Late payment interest**

If we do not pay any amount due and owing to *you* by the date for payment, we will pay *you* interest on the amount outstanding from time to time until actually paid. The annual interest rate will be the RBA 90 day bank bill rate from time to time plus 5%.

## **5. Issuing of Policies**

Notwithstanding this Deed, *you* may at any time refuse to accept any application from the *proposer* for a *policy*.

**6. Changes to policy**

*You* may at any time amend the terms of your standard policy. *You* must first give written notice to the *proposer* of the changes that are to be made before those changes are included in the terms and conditions of a *policy*. If this happens, we are still bound by this deed even though we may have to pay more because of those changes or we may revoke this deed under Clause 10.

**7. Cancellation of policy**

Where *you* are permitted to do so by law and by the *policy* conditions, *you* may cancel a *policy*. If this happens, we are still bound by this deed in respect of claims made under the cancelled *policy* prior to such cancellation. *You* must give us prompt notice if *you* cancel the *policy*.

**8. Dealing with claims**

We have no right to direct *you* as to how you deal with any claim made under any *policy*. *You* must:

- (a) inform us promptly of the details of any claim under any *policy* to which this deed relates;
- (b) inform us promptly of the proposed settlement of any such claim.

**9. Joint and several liability**

*You* may make a claim against one or more of us for any amount due under this deed without claiming first against any other person. If there are any more than one of us, our obligations under this deed are joint and several.

**10. Revocation**

This deed can be revoked by us on giving written notice to *you*. The revocation of this deed will not affect any rights that *you* have or may have against us under Clause 2 in respect of an existing or a future claim made under a *policy* issued prior to *you* receiving the notice of revocation.

**11. Notices**

All notices from *you* to us or the *proposer* must be in writing and either personally delivered to us or sent by prepaid post to our last known address.

EXECUTED as a Deed on the \_\_\_\_\_ day of \_\_\_\_\_ 2001

*The common seals of indemnifying companies are affixed here:*

.....  
**Director**

.....  
**Director**

.....  
**Director/secretary    Common seal**

.....  
**Director/secretary    Common seal**



[BUILDER APPLICATION]

**SECTION 8: RELATED PARTIES UNDERTAKING**

In consideration for the approval by Royal & SunAlliance of this eligibility application from the applicant/builder, each of the undersigned\* irrevocably and unconditionally and on a joint and several basis undertakes to pay to Royal & SunAlliance on demand all amounts paid out by Royal & SunAlliance pursuant to any claim made under the insurance issued by it in the name of an owner however arising and whether incurred by Royal & SunAlliance as a principal or jointly with another person including all costs, charges and expenses incurred in enforcing or seeking to enforce or obtain payment against the undersigned.

Each of the undersigned hereby appoints the applicant/builder as its authorised agent to execute applications for future projects and any other applications made by the applicant/builder made in connection with this eligibility application, from time to time, whereby it confirms that the obligations of the undersigned under this undertaking extend to such application. Notice of revocation of this appointment must be given to Royal & SunAlliance.

.....  
Director/Secretary Individual

.....  
Director/Secretary Name

.....  
For and on behalf of: Date

.....  
Date

\* If the applicant is a company or a trust company, this section is to be executed by each company that is a related entity (as defined in the Corporations Act 2001 (C'th)), a parent (as defined in the Corporations Act 2001 (C'th)), a subsidiary (as defined in the Corporations Act 2001 (C'th)) or an affiliate (as defined in the Corporations Act 2001 (C'th)) of the builder.

If the applicant is an individual, this section 8 is to be executed by all individuals nominated by the applicant/builder. The application will need to be accompanied by a valid solicitor's certificate for each individual confirming that the individual has received independent legal advice acceptable to Royal & SunAlliance.

[BUILDER PROFILE CHANGE APPLICATION /  
PROJECT APPLICATION]

**Related Parties Undertaking**

For and on behalf of each of the parties listed below, I hereby ratify the undertaking provided under Section 8 of the original application and confirm that the undertaking applies to any claim under the insurance issued in respect of this application . I confirm that my appointment as agent has not been revoked.

.....  
Applicant

.....  
Date

**Parties:**

## Victorian Building Costs over the term of the Bracks/Brumby Government

### ***Domestic Building Work only***

<b>Dates</b>	<b>Number of Domestic Building Permits</b>	<b>Value of Domestic Building Works</b>	<b>Average Building cost per permit</b>	<b>% Cost Increase from previous year</b>	<b>Cummulative % Cost Increase from 1998</b>
1998	78489	4,864,086,000	61,972		
1999	86850	6,000,209,000	69,088	11.5%	11.5%
2000	81082	5,662,697,695	69,840	1.1%	12.7%
2001	86426	6,929,659,000	80,181	14.8%	29.4%
2002	90052	7,929,317,000	88,053	9.8%	42.1%
2003	90313	8,458,322,000	93,656	6.4%	51.1%
2004	87984	8,725,755,457	99,175	5.9%	60.0%
2005	83740	8,592,019,914	102,604	3.5%	65.6%
2006	83893	8,871,929,241	105,753	3.1%	70.6%

*The 70.6% increase in building costs since 1998 represents an unprecedented explosion in the cost of building that is now having a direct impact on housing affordability for the community*

*This chart shows the "Number of domestic building permits" have decreased since 1999 while the "Value of domestic building works" has increased. This clearly shows that the much touted 'record figures' promoted by the Government are really only an indication of increased consumer cost for an industry that is in decline.*

It is unfortunate that these CAV comments do not appear to have been incorporated, or regarded, in the VCEC *Draft Report* (which led to the VCEC Findings and Recommendations in Chapter 7.2).

Having regard to the unfair market practice complaints lodged with the OSBC under the *Small Business Commissioner Act 2003*, and other, related, representations made to the OSBC since mid-2003, as Small Business Commissioner, I support the comments made in the above CAV submission. That is, I also support the VCEC carefully examining all feasible and practical options for the reform of builders warranty insurance in Victoria (including consideration of the proposals submitted by the BCA to the VCEC Inquiry). In particular, there appears to be considerable merit in the VCEC reconsidering the key issue of Victorian small business access to builders warranty insurance.

Finally, in making the above representation, I am sure that the VCEC will appreciate that two separate bodies, the Small Business Commissioner (vis-à-vis small business) and CAV (vis-à-vis consumers) are calling for some reform to the regulation of builders warranty insurance in Victoria.

If you require any clarification in respect of the above, or you consider it appropriate to discuss any of these issues, please do not hesitate to contact Mr David Hildebrand, Manager, Government Practices, OSBC, or myself.

Yours sincerely

**Mark Brennan**  
Small Business Commissioner

# Comparison of Housing Starts by State

	No of Housing Starts per year				% change over 4 years
	2001	2002	2003	2004	
QLD	28700	39890	40830	41600	45.0%
NSW	39770	49600	43760	43510	9.4%
VIC	41030	49100	45330	41610	1.4%
WA	16600	19210	21570	22910	38.0%

## Explanatory Notes:

1. Queensland has a fully integrated Government run system of Builders Warranty Insurance which together with a fully integrated whole of industry model ensures compliance across all aspects of building regulation. This translates into an unfettered industry that is free to invest, capitalise and produce to its full potential **without** unnecessary Government and private insurer interference. Clearly to the direct benefit of the registered builder and the consumer.

2. Western Australia has a privatised system of warranty insurance for only the big builders, and WA has two of the largest builders in the whole nation. These big builders of WA enjoy a dominant 85% market share and a Government underwritten warranty scheme which does not adversely affect the running of their business. This explains why the overall WA industry has grown, even though it has ostensibly a 'privatised' system of warranty similar to Vic and NSW. These figures conceal the fact that small to medium size builders are being shut out of the industry due to onerous and uncompetitive privatised warranty insurance provisions. The figures show that the Gallop Government has created a virtual building construction monopoly in WA - this has clearly been to the detriment of both smaller builders and all consumers.

3. Victoria and NSW have fully privatised systems of Warranty Insurance that have driven many builders out of the industry and has resulted in thousands of builders working outside of regulatory compliance. This is evident by the dismal performance of the building industry in these States - all while those Governments are boasting about their good management in 'creating' a supposed building boom.

Compiled by the Builders Collective of Australia - (03) 9532 1722

[www.builderscollective.org.au](http://www.builderscollective.org.au)

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Building momentum

HIA's ex-chief tells Aileen Keenan there is more work to be done.

John Gaffney's six years as chief advocate for the Victorian building industry may have just come to an end.

The former executive director of the Housing Industry Association of Victoria says that, if he could have his way, Victoria's planning processes would be largely taken out of the hands of government, a change he says would slash delays by between 70 and 90 per cent.

Waiting periods of 12 to 18 months would no longer exist, he insists, and consumers would be happy.

Mr Gaffney is now running a private business, Inform Construction, after a prominent stint at HIA representing 10,000 builder members who are said to create about 5 per cent of the state's gross domestic product.

He has long worked at that point where industry, government and the public come together on such divisive policy issues as housing standards. One of his recent tangles with the State Government, while at

the HIA, involved opposing controversial occupational health and safety manslaughter legislation.

Another was over the timing for the introduction of new environmental and energy-use standards for homes.

Mr Gaffney says, for him, lobbying is an intuitive process that involves waiting for an opening through which he can find a way to create change.

He says it took a year of unsuccessful lobbying against the immediate introduction of five-star energy-rated housing in Victoria before the HIA found its opening.

The HIA was not opposed to five-star housing, he says, but the industry needed time to make the change. In most cases, it was not a matter of simply modifying some aspects of house design and using more insulation. Mr Gaffney says that under the new rules, about 90 per cent of Victoria's 500 or so display homes would have been redundant. Without time to adjust to the changes, this would have cost the industry tens of millions.

While facing stiff opposition from a state government keen to secure the green vote, Mr Gaffney says a week out from meeting the then minister for planning, John Thwaites, "we thought 'the state is in a drought and the building industry has a lot to offer here. We can collect water from the roof of every future home and save it up and use it for garden water'."

On July 1, four-star housing with water-saving devices will be introduced. Five-star housing will follow on from July 1 next year. "It's going to make

houses perform very well and water-saving devices will stay forever," Mr Gaffney says.

There have also been difficult times in his career: none more so than when he received death threats after about 600 industry members lost their livelihood in the builders' warranty insurance meltdown following the collapse of HIH Insurance.

The crisis forced out builders who couldn't meet the strict criteria to gain insurance.

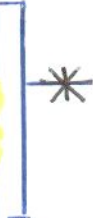
During his time as head of the Institute of Building Surveyors Victoria in the 1990s, Mr Gaffney pushed privatisation of a profession that was imploding under the council-run system.

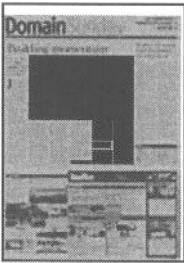
At the time, he says, building surveying was the biggest negative in the industry in terms of getting anything done. "It was sometimes taking years to get a high-rise building approved and in some instances it was taking six months to get a house approved," he says.

Turning to today, Mr Gaffney says the state's planning system, with delays of up to 18 months, is in a worse situation than surveying was before the private sector was allowed in.

It took Mr Gaffney about a decade of lobbying to achieve breakthroughs in Victorian surveying, but once established, they spurred privatisation in that sector around the country.

He believes Victoria is at the start of a two to five-year process in which planning will be privatised, and says the Government's paper Making Better Decisions Faster already hints at change, with reduced planning times as a result of





# THE SUNDAY AGE

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privatised elements of the planning process in the City of Glen Eira. He argues government control of the process is not the way: "When you are the only one with a ticket box open, it's very easy to say you'll do it when you feel like it.

"There's only one counter, you don't have a choice. You have to be as nice as pie or you have to go and spend \$8000 a day" in Victorian Civil and Administrative Tribunal action.

He believes politicians are getting an earful from voters about planning delays as, ultimately, consumers pay. He believes all planning processes

leading up to the final decision can be privatised, with councillors making the final decision.

Mr Gaffney says that if you seek policy change, understanding the people you are dealing with and knowing what will get them excited is half the game. It requires being a good listener and having contacts.

For example, bureaucrats want to have some notches in their belt after 20 or 30 years' work and they can be passionate about elements of legislation they believe in or have some ownership of.

"You get inside mail if you value bureaucrats as much as

you value politicians," he says.

At the HIA, with at least 200 to 300 issues on the go at once, Mr Gaffney would take briefings and said he would help his staff look for solutions.

"I always say to them 'Talk in sentences, not paragraphs', because they want to give you a four-hour dissertation on it.

"So you have to try and condense them down to what are the big issues and look for the opening."

**Lobbying is an intuitive process that involves waiting for an opening.**



John Gaffney, former executive director of the Housing Industry Association of Victoria.

PICTURE: RODGER CLIMMING