

Committee Secretary  
Senate Economics Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

**Re; Inquiry into Australia's Mandatory Last Resort Home Warranty Insurance Scheme**

Dear Madam\ Sir,

I refer to the above Inquiry and welcome the inquiry into Home Warranty Insurance Scheme, unfortunately I was only made unaware of the Inquiry by the Senate Standing Committee particularly into "Last Resort" until 2 days ago and I hope that you will accept my submission although it is late.

This Inquiry is inevitable there have been many consumers and builders who have been devastated by Home warranty insurance for many years across the country, the changes implemented after 2002 has done nothing but worsen protection for consumers, but it has provided substantial benefits and significant financial gains by the Private Insurer.

I am a single mother of 2 teenage daughters, a homeowner who for the past 6 years have battled and lost against a PRIVATE Insurer not as a Last Resort consumer but under the First Resort.

Although, your inquiry will be looking primarily at the "last resort" what you must realize is that it is not only the policy issues of this resort, but it is the market practices and the unscrupulous, unfair conduct of the PRIVATE insurers that affect both "resorts" that causes consumers to be dealt a catastrophic blow and are left totally and utterly destroyed financially, emotionally and mentally.

My family and I are victims of a Home Warranty Scheme that has failed to protect us and protect our rights as a "consumer" in this country.

In December 1998 I purchased a brand new 2 storey, 3 x bedroom townhouse one of a 4 townhouse strata complex, which I believed had been built by a qualified experienced licenced builder.

By **December 2002**, I had contacted the builder regarding numerous defects affecting my home e.g; 25cm cracks in wall structures, water from bathrooms leaking into adjoining rooms, flooding to backyards and garages.  
He refused to carry out repairs stating that it was not he's problem.

The Strata lodged a complaint personally to the General Manager of the Home Building Service on **26<sup>th</sup> September 2003** attaching a comprehensive Structural Building Report

prepared by a qualified Structural engineer (Alfred Frasca) who identified serious structural, stormwater and fire rating defects, non-compliances with BCA, AS Council Conditions of Consent and E.P&A Act as well as NON certification of the properties.

The Strata lodged a claim against the builder B. Watson Builders Licence No. 59531C and its Supervisor and Director Mr. Bryan Watson Licence No.Q11842 for defective work with the Private Insurer “**VERO**” in **February 2004** attaching the comprehensive building report.

After numerous phone calls and letters to Vero Insurance requesting the status of our claim and never receiving a response from them, we were forced to lodge an appeal to the CTTT in **May 2004** against Vero Insurance.

2 days after we applied at the CTTT, we received a letter from Vero Insurance stating the following;-

*“We are unable to determine liability for the following reasons;-*

- *We are waiting on our building inspectors to investigate and report on your claim.*
- *Accordingly, we require your consent to an extension of time for and additional 90 days.”*

**Please Note;** Vero Insurance had 60 days to acknowledge our claim and send a building inspector to inspect the defective work, but failed to do either. This protracted delay was unacceptable and a further 90 days delay added to our stress and deteriorated the defects even more.

But to add salt to our wounds they stated further;-

*“ if we do not receive your consent within 7 days of the date of this letter, we will apply to the appropriate court\tribunal for an order extending time. This may further delay the assessment of your claim beyond the extension period.”*

It is hard to comprehend their reason to use such an unscrupulous tactic and give us NO choice, but force us to concede and give them what they want.

This tactic of protracted delay is used extensively by the Insurer when dealing with consumers' claims as you will see in this matter.

In **September 2004**, at a CTTT Hearing, the Insurer “Vero” once again requested for an extension of time because they were not ready.

**Please Note ;** A total of **217 days** had already lapsed since the lodgment of our claim. More than enough time to prepare a report.

Of course we denied the extension indicating to the CTTT Member the amount of time Vero had already had to prepare. Our request was denied and the insurer received a further extension of 2 weeks.

What was to follow was totally unacceptable and removed any protection to us the consumer as it was intended to do.

For 3 and half years, we have been in an out of the CTTT hearings with both Lawyers and Barristers. The CTTT which is meant to be a consumer and Trader tribunal has turned into a court system where the Insurer is represented by Lawyers and Barristers.

Once again forcing the consumer to be legally represented which ultimately forces the consumers to spend thousands and thousands on legal expenses.

The unfair and bias conduct of the Insurer has led us to spend thousands more as they did NOT accept our comprehensive Structural building report which we attached to our claim but requested that we provide them with another report. Furthermore, they were also NOT happy with a quote for rectification costs and requested that we provide them with itemized costs of the total breakdown of rectification.

Once again we had no choice and were forced to provide the insurer with the requests; in the meantime lawyers and barristers continue to spend time in the CTTT escalating the costs.

This added to the protracted delay further, but fueled the already growing costs of legal representation, experts reports causing financial stress and mental trauma to us.

I am a single mum when we lodged our claim raising 2 daughters aged 12 and 9 years, earning under \$35,000 a year ,desperately trying to make ends meet and living in unsafe, defective homes that were NOT certified.

Our home with rotting floor boards from flooding bathrooms, water leaking from upstairs bathroom through to the kitchen downstairs . Flooded backyards and garages, cracks caused from poor footing construction.

The other homeowners also suffering was an elderly retired pensioner, who unfortunately during this dispute lost his wife to cancer, a young couple with a child under 5 with a mortgage, now with huge financial debts.

In **January 2006** (2 years since we lodged our claim) a “Terms of Agreement” was prepared and written supposedly to end our dispute quickly and fairly. These Terms were unfair, bias, conditional (take it or leave it) and once signed prevented us from having any say or right on what would happen to our homes and denied us to ANY costs claims for compensation as it was binding.

By now the homeowners due to the protracted delay, the exorbitant financial burden, the stress caused to every day life, the emotional trauma in the personal life, had lost any sight of hope and justice in fighting this dispute.

We had once again been forced into a corner with no money left to continue, the majority of the Homeowners accepted under duress what little was offered by the Insurer.

I was not happy with this process as I knew that my rights as a consumer would be denied and that the more serious defects and non-compliances would be trivialized and minimized, but what choice did I have, I could not proceed with litigation, a single mum of two teenage girls, I was in debt and struggling just to make ends meet.

The on site mediation was to be conducted with a mediator selected by the Insurer and paid by the Insurer (bias conduct). The homeowners were to be represented by an Engineer of their choice as long it was not the engineer who prepared the first report Mr. Frasca, therefore we used Mr. Cantali (again bias tactics).

I was present the day of the onsite investigation , two officers from the Home Building Service (HBS) was sent on the bequest of the General Manager to monitor and assist if necessary regarding building defects and compliances.

Unfortunately, both the Mediator Ms.Grey (former arbitrator) and the representative for the Insurer Structural Engineer Mr. Gleeson refused to conduct the investigation while these Officers of the HBS were present. After numerous calls to lawyers representing Vero Insurance we were advised that;-

*“... if the Officers of the HBS do not leave we will be in breach of the “Terms of the Agreement” and this whole process of mediation will cease and cause serious damage to any type of resolution of this matter’.*

Again we were put in an unreasonable and unfair position and forced under duress to concede to the Insurers terms.

Although the Terms of agreement were signed in March 2006, the final Scope of work was ready in November 2006.

Many of the original serious defects and non-compliances were not mentioned for repairs which gave me grave concerns. The overall scope of work was only a band-aid solution a patch up job, providing the homeowner with no guarantee that this will fix the more serious structural faults.

The final decision on what was deemed defective and what would be repaired fell solely on the MEDIATOR.

From the date of signing it has taken a further 18 months before work commenced on the rectification of the defective work, causing further deterioration of the existing defects and more stress to the homeowners.

The new builder who was carrying out the work was selected by the Insurer.

Prior to commencement of the work, we requested to be re-accommodated while our homes were being rectified and our possessions stored. We were advised by our lawyers that the Insurer would not provide this.

For 3 months, 4 families have had to live in a construction area, with rubble, building material, dirt mud and dust. We have been inconvenienced, our privacy disrupted and intruded upon and our safety at risk.

I was absolutely petrified for the safety of my daughters particular after one of the workers fell through the upstairs ensuite onto the living room floor and injured himself, he was cut and bleeding heavily and there was debris and water everywhere.

This was disgraceful and totally unacceptable and simply a cost cutting advantage by the insurer, so much that they would risk the safety of the homeowners.

Hundred of tonnes of dirt were removed from the rear yards of Units 1,2 and 4, the yards were totally excavated, wiring and plumbing relocated and a brand new stormwater drainage system which has been added to prevent the continual flooding that all units had experienced through the years.

Bathrooms and ensuite were guttered and strip to bare frames and replaced due to the extensive damaged caused by the inadequate and poor water proofing by the original builder.

Unfortunately, the front retaining wall at the front of the property which has a serious lean, was never approved by Council, was only patched up, the Insurer's Engineer stating that it didn't require to be demolished.

That brick wall is now in a worse state than it was in 2002, and all because the Insurer did not want to provide;-

1. a plan for a new wall design to Council for approval (costing money)
2. more costs and time to carry out the construction of a new fence.

Although the work will make changes to the appearance to our homes, the experience we have suffered for 5 years will leave a detrimental effect on our lives forever; the new paint won't fix the financial debts caused by legal and experts' costs, the family relationship breakdown, the loss of friends, these things may never be repaired.

And to date we remain living in a substandard home and although the repairs have been completed these homes remain **uncertified**.

The Insurer has **NOT** complied with their "Terms of Agreement" and has failed to provide us with the appropriate certificates as specified in the Terms by the Insurer representative Mr. Gleeson. Furthermore, Mr. Gleeson HAS NOT returned to monitor or check the work has successfully fixed the problems.

In some cases the work seems satisfactory, but unfortunately after 6 months some of the remedial work has once again cracked and in the case of the front retaining wall has worsened.

We do not even know if anyone has fixed the fire rating defects appropriately in the roofs because we cannot afford an inspector or builder to carry out an inspection.

A small individual has no power and is so intimidated by the tactics and the people representing the Private Insurer that they succumb to the demands.

Be it a FIRST resort or LAST resort claim, a consumer has NO protection against a Private Insurer, their monopoly over the market and the power and superiority of the legal representation leaves an average hard working consumer with absolutely no legs to stand on and will ultimately lose everything.

They have all the time in the world and are in no hurry to deal with claims effectively and efficiently.

The entire matter with the protracted delay and numerous CTTT hearings, legal and experts costs is a tactic well developed by the insurer. There is inequality in the bargaining power between a consumer and insurer and this allows the insurer to cause the consumer so much suffering and to drain them of not only their hope, self respect and dreams, but all their money and possibly even their home, they put a consumer in such a position that they are forced to succumb to the insurers demands. They are intimidated by an insurer who uses their power, superiority and their financial pool of wealth to force them to accept a substandard home.

I hope this has demonstrated the devastating effects of Home Warranty Insurance has had on my family and the other owners, what has been written here can be supported with documented evidence and if so required be provided to you.