

GRELLMAN REPORT— THE SAVIOUR OF HOME WARRANTY CRISIS?

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The current crisis facing the private home warranty insurance scheme in Australia could be resolved following the issue of the Richard Grellman Report under the NSW Home Warranty Insurance Inquiry. Currently, the providers of home warranty insurance issue policies to a builder. Without the policy, a builder cannot commence residential building work and consequently, residential building projects could not get off the ground. In practice, many projects were stalled and smaller builders complained that they either had to go out of business or restructure their business.

Some form of amelioration was provided on 30 September 2003 when Royal & SunAlliance, its broker AON and the Housing Industry Association introduced a new simplified warranty insurance which provided automatic upgrades to \$2 million of the annual turnover profiles of existing category 1, 2 and 3 builders. The anticipated effect is to double the activity levels of small to medium builders to almost \$18 billion.

However, difficulties still exist and the Grellman report, which was released to the public on 22 October 2003, provides six options aimed at addressing them. Of these, the report recommends that the following be introduced:

- a body known as the Scheme Board and Advisory Council (Scheme Board) to achieve effective governance of the scheme. The body's members will comprise representatives from insurers,

builders, consumers and the legal field and would ensure that licensing of builders, enforcement of licensing conditions, dispute resolution and regulation of insurers are properly carried out and monitored against government objectives;

- Premium Determination Guidelines and the submission of annual filings on premiums by insurers to the council;
- Market Practice and Claims Handling Guidelines to regulate and monitor performance of insurers;
- an Industry Deed to control and facilitate the smooth entry of other insurers into the market place. There is speculation of entry by the Insurance Australia Group Ltd (IAG) in this regard. The Deed will seek the commitment of insurers to underwrite the scheme for an agreed period of time;
- an independent licensing function be created which reports directly to the Council;
- monitoring of the dispute resolution mechanisms by the Scheme Board to assess their effectiveness; and
- high-rise developments be excluded from the scheme and mandatory certification of these projects by approved certifiers be required. At the time of writing, it is expected that this will be effected before the end of the year by amendment to the *Home Building Regulation 1997* (NSW).

The remaining options include a return to the government-funded scheme (similar to the Queensland model) and the purchasing of insurance cover by consumers themselves. These were rejected as being too profound in the short term. The report favours a more 'measured approach' so that the recent 'last resort' legislative reforms of 2002 would have time to achieve optimal functionality and consequently, promote stability in

the scheme. The NSW government has indicated that it endorses, in principle, the Grellman recommendations, and the NSW position is expected to lead the way for reforms in other States. It remains to be seen whether the recommendations will in fact signal the end of the crisis. There has been vocal support in the building industry for a return to the government-funded scheme and this, in principle, would at least alleviate much of the uncertainty associated with a privately funded insurance scheme which is susceptible to external factors (current terrorism concerns included) and might ultimately prove to be less stable in the immediate to long term.