

**Supplementary
Submission**

No 14a

INQUIRY INTO THE OPERATIONS OF THE HOME BUILDING SERVICE

Organisation: Master Builders Association of NSW
Name: Mr Peter Meredith
Position: Director - Housing
Telephone:
Date Received: 22/11/2006

Subject:

Summary

Rebecca Main
Principal Council Officer
General Purpose Standing Committee No 4
Inquiry into the Operations of the Home Building Service
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Main,

I write in regard to submission No 16 by the Office of Fair Trading (OFT) , for the purpose of making comment in regard to three specific statements contained within the OFT submission.

Our first comment is in relation to:

Page 9, subsection 2.3.5, Joint Select Committee on the Quality of Buildings, paragraph 2.

The submission of the OFT in this part states:

Establishment of a stand alone Home Building Compliance Commission in NSW to oversight building regulation was not supported on cost grounds as it would be a substantial cost to establish and maintain.

The Master Builders Association of NSW (MBA) seeks to raise the point that any argument raised by the OFT against the potential cost of establishing and independent Home Building Compliance Commission (HBCC) needs to be considered on the fact that a substantial proportion of revenue raised from licensing fees is remitted to Treasury.

The report of the Joint Select Committee on the Quality of Buildings (page 35) identified that for the period 2000/2001; almost \$19.44 million dollars was collected in licensing fees, with \$18.75 Million transferred to the consolidated fund.

Subsequent Budget Estimate hearings have identified the continuation of proportioning substantial revenue from licensing fees away from the OFT and the operations of the Home Building Service. At the Budget Estimates Hearing in 2005, it was identified that for the period 2004/2005, approximately \$20 million in fees was raised, with only \$8.1 million retained revenue.

On the 1st January 2001, a 21.5% levy was applied to licensing fees to assist in the establishment of the Home Building Service. In addition, licensing fees are also linked to CPI.

The MBA also makes the point that the recommendation of the Joint Select Committee on the Quality of Buildings was for the proposed independent HBCC to include as part of its functions the registration and auditing of certifiers. This function was not included as a function in establishing the Home Building Service, rather a new body; the Building Professionals Board was established to perform these functions. The point we raise is that the cost in establishing and maintaining the Building Professional Board as a separate authority needs also to be considered in analysing the OFT's argument against the cost of establishing the Home Building Compliance Commission.

Our second comment is in relation to:

Page 20, subsection 4.3.5, *Publication Guidelines*, paragraph 2.

The submission of the OFT states;

No information was published during the 2005-2006 reporting period as only limited data had been received from insurers.

Master Builders makes the point that insurers approved for the provision of Home Warranty Insurance are subject to reporting requirements contained in Conditions of Approval, imposed by the Minister under Section 103A of the *Home Building Act 1889*.

The *Conditions of Approval of Approved Private Providers of Insurance* as referenced under s 103A of the *Home Building Act 1989* were replaced on the 1st September 2004 by the *Market Practice Guidelines*, which also contained an obligation in regard to the reporting of data.

The reporting of data, in our view is obligatory and not discretionary as implied in the submission of the OFT, as outlined above. The various inquiries into the operations of Home Warranty Insurance were hampered by a lack of data regarding the performance of the scheme despite the legislative obligation on insurers. It is of concern that the submission of the OFT indicates that for the period 2005 – 2006, “...*only limited data had been received from insurers.*”

Our third comment is in relation to:

Page 24, section 4.5, dot point 3

The dot point states:

The risk of the Queensland scheme is carried by Queensland taxpayers whereas the risk in NSW is carried by the private insurance sector.

Master Builders raises the point that the NSW taxpayer continues to underwrite the NSW home warranty insurance scheme. The NSW government effectively reinsures any claims above \$10 million arising from the collapse of any one builder. Without this reinsurance function provided by the government, larger volume builders would not be able to obtain home warranty insurance.

Consequently, it can be said that NSW has neither a public or private scheme, rather a hybrid scheme.

We would appreciate our comments being provided to the Chair.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Meredith', written in a cursive style.

Peter Meredith
Director - Housing