

**INQUIRY INTO OPPORTUNITIES TO CONSOLIDATE
TRIBUNALS IN NSW**

Name: Name suppressed

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Partially Confidential

To whom it may concern

In 2006 I commenced building a swimming pool at a residential property in Sydney. I had never built a swimming pool before. Actually, I had never undertaken a significant building project – and, to compensate for my inexperience, I sought to rely on the expertise of an accredited builder who built and designed residential swimming pools for a living. I chose a builder that was a member of the professional association and whose website confirmed their expertise in “swimming pool design, building and project management”. The site was in a (sandy) sea level suburb – a flat parcel of land apparently suitable for bob-cat access and the contract was based on the association’s standard contract with a “fixed price” of \$45,000. Before signing the contract, I invested quite some time in querying inclusions and exclusions and validating “estimates” with the salesperson.

Within a week of commencing construction, the Builder’s incompetence was clear. For example, multiple defects in the Council-approved plans commissioned by the Builder required multiple Council resubmissions (errors included omitting the mains pipe clearly visible on the Council sewer diagram running through the proposed pool location). When the shape and dimensions of the hole dug and the proximity to the property perimeter bore no resemblance to either the contractual arrangement or the defective plans, the builder refused to address or acknowledge the errors, rather suggesting we should “just live with it”. Within the first week, the bob-cat had also driven over (and destroyed) the household hot water system and the garage doors temporarily removed for access.

I then received a \$15,000 bill in week 2 of construction for “unexpected costs” such as the need for a smaller bob-cat (because builder had incorrectly measured side passage width) and the “unexpected cost” of transferring sand waste from back yard to front yard (yet strangely the cost of trucks to remove the waste from the site were covered in the original fixed price). When I queried this with the principal of the building firm, he confirmed that his salesperson had likely “said things beyond his expertise and authority” so there was nothing he could do. Further, despite the website assertions, he confirmed he “don’t really do all that other stuff – we’re just a pool builder, mate”. When I refused to pay the \$15,000 for “unexpected charges”, the builder downed tools and left the site, without as much as supporting the exposed house foundations from potential sand erosion.

At this point I sought legal advice from my longstanding family lawyer who suggested lodging a claim with the CTTT. In short, the ambivalence and glacial pace of the CTTT meant that the site sat unattended for almost 2 years while the foundation steel rusted and the house foundations slid slowly and inevitably into the gaping sandy hole.

If the Builder was expert at anything, it was manipulating the CTTT into delays, adjournments and inaction, tactics the various Commissioners made no effort to resist. It became clear that the Builder’s familiarity with CTTT timings and processes provided significant leverage in assisting the builder to wear me down over time. Despite the bleeding obvious from the comprehensive portfolio of photographs, on one occasion the Commissioner agreed to the Builder’s suggestion for an \$8,000 engineering report that I was expected to fund without question. The CTTT also didn’t flinch (or consider consequences) when the builder deliberately missed virtually every deadline or sought long-dated adjournments for no given reason. In hindsight, for the Builder this proved the most

simple and effective tool in encouraging me to give up, particularly given my house and back yard were irreparably deteriorating before my very eyes.

I was astounded that a Tribunal founded on the premise of cost effective consumer protection was so engrossed in process as to completely miss the consumers' perspective. I was astounded (and the builder presumably elated) that I was unable to make logic and commerciality prevail. Each hearing presented a new Commissioner, few of which had swimming pool subject matter expertise and none of whom had ever pre-read the front page of the casefile (let alone the 15cm thick file of "expert" reports, evidentiary statements and a diversity of photographic evidence). All the while, my family were living in an aborted construction site, in constant fear of house subsidence, paranoid about every gust of wind and every rain-drop and suffering enhanced asthma with the constant dust and stress.

In the end, after \$30,000 in legal costs, no visible progress over almost 2 years, I did simply give up and, to move my family on from this sad and sorry saga, paid what was tantamount to extortion money to the builder just to walk away and start again with a credible builder. I can only imagine the builder's elation at this "victory" – his objectives had been fulfilled.

My experience with the CTTT was one of the worst experiences of my life. It was frustrating, illogical, expensive and so easily manipulated by a careless, error-prone builder who had actively set out to deceive me. The Tribunal cared nought for me and offered no empathy or compassion during an incredibly difficult time. Despite my initial due diligence, the total cost of my \$45,000 fixed price swimming pool ultimately exceeded \$130,000, which is a disgrace.

Whatever happens to the CTTT, in my experience, I cannot believe it is currently achieving any of its objectives and assume only a radical overhaul could possibly address this absurdity.

Yours Sincerely

Highly disgruntled consumer

Executive Summary

In 2006 I commenced building a "fixed price" residential swimming pool and Builder incompetence became immediately clear leading to a CTTT claim. This began a saga lasting 2 years without construction, rusting foundation steel and house foundations sliding into a sandy hole.

I was astounded that a Tribunal founded on consumer protection so missed the consumers' perspective. No Commissioner ever pre-read the casefile and my family lived in an aborted construction site in ever fear of house subsidence.

My CTTT experience was appalling, frustrating, expensive and manipulated by a builder out to deceive me. The Tribunal offered no empathy as my \$45,000 fixed price pool cost me \$130,000.

In my experience, the CTTT cannot currently be achieving its objectives and assume only a radical overhaul could address this.