



Insurance just doesn't add up

Jerry Tyrrell argues that competent and caring builders do not need home warranty policies.

CPD Academy is a series of lessons in print to help you improve your trade skills and business know-how so that you can keep your edge in today's competitive market. Sydney consultant Jerry Tyrrell, co-founder of Tyrrells Property Inspections, shares his insights into the basic principles of building practice – what to do, what not to do and where to go to find out more.

Building is a very successful industry. You – that's right – you are a vital part of Australia's \$50 billion building sector.

Yet the past five years have been a disaster for many contractors as they waste time and money getting home warranty insurance.

You already provide the warranty – the insurance is for the consumer and it is accepted as a defence against the small number of serial

crooks and jerry builders (me excluded).

I'd got hundreds of stories about your frustration with this absurd insurance.

I have watched small groups lobby government and have read all the reports, which fail to deliver relief from this mess.

What is being done? Nothing.

And until you all replace the insurance process with a warranted, good-quality product with responsible after-sales service ... hang on, you're already doing this, aren't you?

Yet it costs the building industry more than \$200 million to collect the \$4 million for real remedial works.

My research for the period 1991–2000 shows there was a problem in fewer than one in every 135 jobs.

It was probably fewer than one in 500 when you take into

account the owner-built work and small renovations and extensions.

Actual payouts by insurers to our customers total less than \$25 million a year – or less than 0.05% (1/2000th) of the work value.

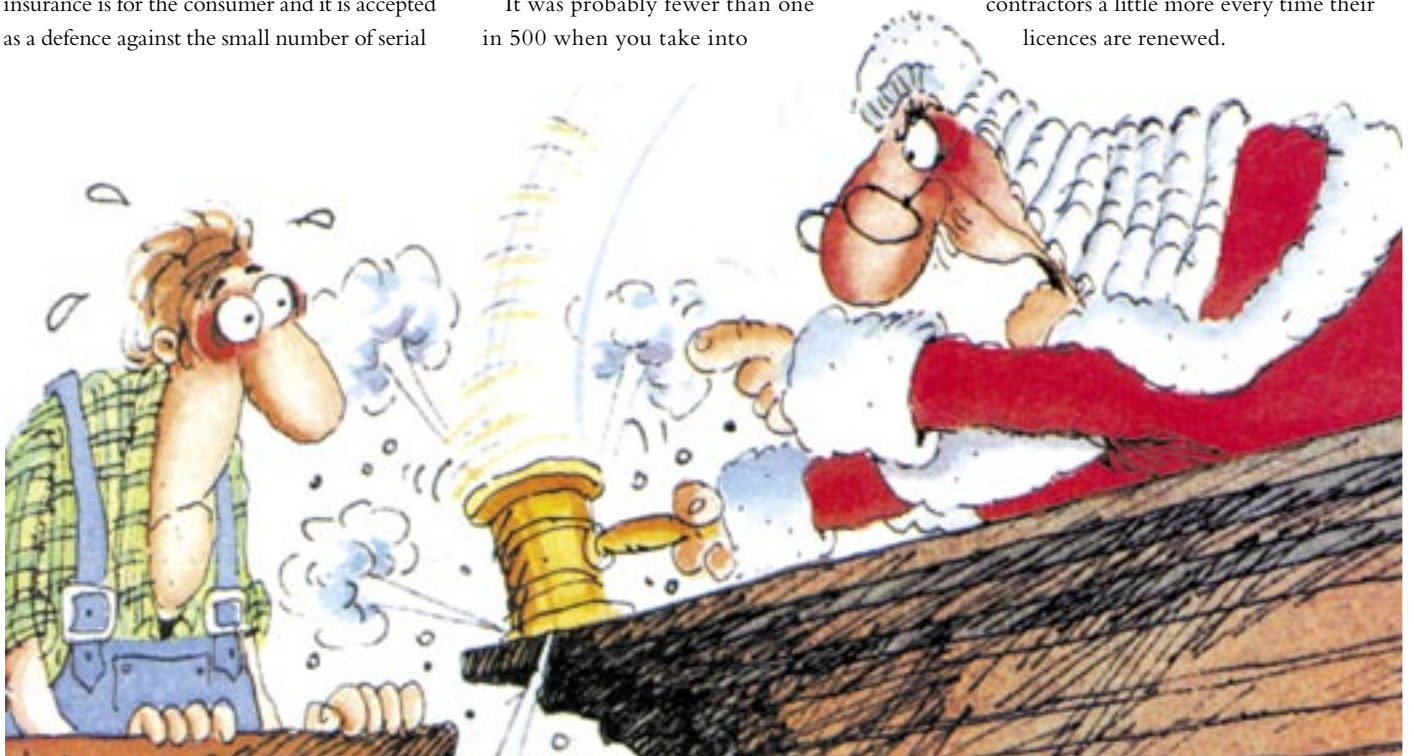
In my experience the payouts are at least twice and sometimes more than 10 times the real cost of remedial work.

So the cost of the actual problem is less than \$20 per project and less than one cent in every \$100 of building works.

It doesn't seem like much of a problem, does it?

Yet all States require contractors to provide home warranty insurance for all but the smallest jobs.

It would make more sense to simply charge contractors a little more every time their licences are renewed.



Why is insurance payout more than the actual cost?

By the time a claim is made, you and the client are very angry with each other.

You can't understand why the client doesn't appreciate all your good work and is now being unreasonable about a couple of minor issues you are happy to fix.

Or maybe the client won't accept your explanation about how their choice, design or material might have caused the problem.

Then you have to deal with the so-called experts who say the 'molehill' crack in the lining is a 'mountain' of a problem.

Perhaps the lawyers instruct the expert to include every last fault, or you are up against an unreasonable or biased judge or referee.

Finally, the works get quoted by a stranger whose start-up cost is high.

People will always charge more for a job with a history of problems.

One builder got very unlucky when he took on a country job.

His customer claimed more than \$260,000 in defects for what eventually cost less than \$20,000 to fix.

The legal and expert costs exceeded \$300,000 for both parties, so the total bill for the \$20,000 problem was close to \$1 million.

The builder didn't claim on his insurance, because ultimately he would have been asked to reimburse the insurer.

Beware of insurance companies

The strange thing about this insurance is that if a claim is made against you and the insurer pays, they seek recovery of the money from you.

I'd say 90% of insurance companies and their lawyers use legal costs, delays and your weaknesses to threaten and bully.

Here are some tips:

- Fix up all reasonable requests immediately – this leaves only a few items to fight about.
- Do not engage a lawyer unless it's one with a record of common sense and minimum paperwork.
- Do not have assets in your own name. This is tricky, because you don't want to avoid your responsibilities. However, if the legal and insurance teams know you have money they will milk the process to get at it.
- If the insurance company has jumped in without letting you fix the problems, you should talk tough about not being allowed to mitigate your loss – and their excessive remedial costs. Settle at what it would have cost you.

What can we do?

The first step is the most important: we need to agree that small faults, problems or misunderstandings that do not inconvenience the client or cause a loss should never be claimed.

Next, we must get all the certification and warranties from engineers, waterproofers and suppliers and make sure all work is covered.

Then we need to put all our resources behind 'owning' any genuine problems or issues our clients have. ➤

PROS & CONS OF INSURANCE		
Pros	Cons	Cons for your customer
Insurer will pay for cost of a mistake or misunderstanding	The insurer gets the money back from you unless you are dead or bankrupt	Substantial delays when making a claim
	Hundreds of hours of lost time	Uncertainty about what to do
	Stress on family and relationship	Unrecoverable costs, that is mortgage or rent
	Excessive remedial costs	Hundreds of hours of lost time
	Limited chance to involve your team to fix the problem and learn from it	Stress on family and relationship
	No feedback on why the main problems occur	Problems with continuity of warranty

This means:

- Agreeing on a single, non-legal dispute resolution person before you contract with your client.
- Responding quickly and sympathetically to a callback or complaint.
- Seeking help to make sure the problem is fixed properly.
- Avoiding insurers unless they comply with the above.

Good legal advice

Of the thousands of disputes I have been involved in, the contractor or consumer was satisfied with the legal advice in less than 5% of cases.

Legal advice that is appreciated by both contractor and client includes these elements:

- You can claim payment only for the work you have done.
- An independent person inspects work at the main stages.
- You do not demand your final claim until your subbies and suppliers have fixed up any reasonable faults.

Please email your thoughts or experiences to jwtyrrell@tyrrells.com ■

Next Issue: 2050 What will our industry be like?