

## **TAKE GUARD AGAINST THE MAN-OF-STRAW BUILDER**

By KIM LOVEGROVE

IN VICTORIA, residential builders are required to be insured in accordance with the Building Act 1993. The insurance regime offers protection for owners in the event that building work is defective. If a builder goes into liquidation and leaves a partly built site, the insurance provides indemnification for completion costs. As liquidation is one of the banes of the building industry, this form of indemnification is laudable.

Successors in title can claim indemnification for problematic building work up to six-and-a-half years after an occupancy permit was issued.

There are essentially two types of residential building cover: annual blanket and job by job. Annual blanket is where the builder purchases a policy every year. This covers all domestic building works undertaken. All building practitioners have to provide evidence of insurance before they register with the Building Practitioners Board. Job-by-job cover is project specific.

It is also worth noting that building surveyors are not allowed to issue a building permit unless the builder gives evidence of both their registration and insurance. The building surveyor is in the invidious position of having to police this area. There is the perennial risk that a surveyor may forget to verify that there is insurance or may mistake a quotation for insurance as being a policy.

It is important that owners and builders understand the insurance alternatives. They should acquaint themselves with the type, nature and financial elements of the cover. Even though it is a legal requirement for building practitioners to be insured, never assume. If a builder is uninsured, admittedly the builder can be prosecuted under the Building Act, but that is the extent of it. The aggrieved will not get money back.

Remember, a lack of domestic cover could prove diabolical. The greatest threat is the man-of-straw builder or the \$2 company. Over the years, I have known of instances where owners have overpaid the builder. If the builder goes belly up, the owner is deprived of the ability to get his money back. Result: financial ruin.

An added problem is that without insurance it may be difficult to sell the home. There is a disclosure requirement in the vendor's statement. One of the things that one would be expected to disclose is the absence of building cover. Such a disclosure would be a disincentive to purchase or could lower the purchase price. A failure to make the disclosure could be grounds for rescinding the sale.

So before you build, check the builder's insurance. When in doubt, get advice.

***Kim Lovegrove is a principal of Lovegrove Solicitors, who specialise in construction law.***