

Model legislation will combat building costs

By JOSHUA FRITH

MODEL legislation will be submitted to the State governments and territories later this year to combat the burgeoning costs of insurance and civil actions within the building industry.

The legislation is predicted to drastically improve the assessment of risks and insurance premiums in the industry.

The model legislation will be put before the Northern Territory in August and the Victorian Government in the latter part of this year, while other States are expected to adopt at least part of the legislation.

Mr Kim Lovegrove, who was a consultant to the Australian Uniform Building Regulations Co-ordinating Council (AUBRCC) and a partner with solicitors Home Wilkinson & Lowry, helped prepare the model legislation.

"Currently architects, engineers and municipal authorities are being bludgeoned by escalating lawsuits and are the victims of grossly inequitable forms of litigious

assault," Mr. Lovegrove said. "Architects, engineers and local councils have become popular defendants because they are insured."

The chairman of the standing committee on legal liability and professional indemnity with the Institute of Engineers, Dr Peter Miller, was recently reported as saying that insurance costs had become so bad that many engineering firms could disappear if legislative capping was not introduced.

There are two main thrusts to the liability reforms. The first eliminates the "deep pocket syndrome" or the doctrine of joint and several liability.

Mr Lovegrove said the existing doctrine meant that if, for example, there were five defendants and only one of them was solvent due to insurance, and if the balance of defendants had gone into liquidation when an award was made, the insured defendant picked up the "tab" for everybody.

The second aspect of the reform proposes a 10-year liability capping on civil actions. Under the present system, a person could theoretically press for damages if a fault was discovered a century after construction.

"Initially plus six is the scenario for claims — the current statute of limitations has confusing connotations," Mr Lovegrove said.

"This handicaps architects, engineers and local councils because they cannot tell in advance how long they will be at risk of legal proceedings."

The liability reforms have been described as a "man for all seasons" due to the benefits they would bring to engineers, councils, architects and ratepayers as insurance risks would be far lower and cheaper.

"These reforms will obviously appeal to the current nationalistic and republican sentiments that are sweeping through the country as they reflect a judicial approach that is home grown," Mr Lovegrove said.

Huge improvement in risk assessment



Mr Dix (left) and Mr Lovegrove . . . fighting costs — Picture: PAUL BURSTON