

SUPPLEMENTARY SUBMISSION OF KEITH ROSS HEWLETT, SOLICITOR, TO REVIEW OF VENDOR DISCLOSURE OF RESIDENTIAL PROPERTY SALES IN NSW

INTRODUCTION

This is a brief supplementary submission to my first submission dated 6 September 2010.

BACKGROUND

Thank you for allowing me to attend the Public Forum on 15 September 2010, and for permitting me to address the Forum briefly late in the afternoon. I found the Forum to be interesting and informative.

ANOTHER CONCERN THAT I HAVE ABOUT PROPOSAL FOR VENDOR REPORTS

I stand by, and refer again, to my first submission dated 6 September 2010.

In addition to the many concerns that I expressed in my first submission about the proposed reform, all of which are still of great concern to me, I think there is one additional important concern.

Over my 25 years of legal practice in often acting for residential property purchasers in NSW, I have almost always seen those purchasers struggling to have enough funds to pay for the purchase price, legal fees, loan fees, stamp duty and rate adjustments by the time they instruct me to act on their behalf.

As their finances are almost invariably stretched in buying the property, purchasers are almost invariably concerned about every extra dollar in fees they have to pay in my experience.

If a purchaser has to pay \$500, or upwards of that figure, on completion for the vendor's pest or building consultant report, I can foreshadow that there would be many purchasers who will not be willing to pay an additional amount to obtain their own pest or building consultant report, no matter how strong the recommendation is from a solicitor such as myself.

In that situation, a law like this may work in practice to at least strongly discourage many purchasers from obtaining their own pest or builder's inspection consultant report. I consider this to be of great concern.

Also, I wish to correct a comment I thought I heard made in the Public Forum morning session that pest and building inspection consultant reports could take up to a week to obtain. In my experience, these reports can often be obtained within 48 hours, or even 24 hours or occasionally even quicker in an urgent situation.

Unconditional approval of finance, and especially a proper valuation by a loan provider's valuer for loan purposes if required, will take much longer in my experience.

ADDITIONAL IDEA FOR REFORM

Listening to the speakers at the Public Forum reinforced my belief that the views and ideas for reform that I expressed in my first submission dated 6 September 2010 were substantially correct.

My verbal address to the Public Forum on 15 September 2010 was mostly based on that submission, but I did not talk about all the ideas for reform that I had suggested in my submission.

I do believe however that all those ideas for reform in that submission are important, and I ask you to consider all of them. The additional idea expressed below should be read in conjunction with them.

In addition to my ideas for reform expressed in that submission, I think that a worthy idea for possible reform is if professional indemnity insurers of some pre-purchase pest and building inspectors, who recommend or require multiple disclaimers or general comments in their reports, perhaps consider trying to simplify those recommendations or requirements somewhat. It seemed to be indicated at the Forum by at least one person, from memory, that not all the professional indemnity insurers did recommend or require such comprehensive disclaimers or general comments.

Thank you for considering this supplementary submission.

Keith Ross Hewlett,
Solicitor
29 October 2010