

Senator Chris Ketter
Chair
Senate Standing Committee on Economics
PO Box 6100
Parliament house
Canberra ACT 2600

Dear Senator

Re: Inquiry into non-conforming building products July 2017

The Victorian Plumbing industry, as represented by the Master Plumbers and Mechanical Services Association of Australia (MP) thanks the Committee for the opportunity to contribute to the Inquiry.

The Master Plumbers and Mechanical Services Association is an Industry Association representing plumbing Contractors, mainly in Victoria. MP represents plumbing contractors from sole operators to medium sized plumbing businesses and large contracting firms. The MP is also part of Master Plumbers Australia.

Members of MP protect the health of our community and the environment through the delivery of professional plumbing services. MP members are installers of gas, water reticulation and irrigation systems, fire protection services, heating and cooling, mechanical services/air conditioning systems, sanitary disposal, drainage, metal roofing, wall cladding and other plumbing services. The provision of these services is essential for community health and well-being.

The World Health Organisation has declared plumbers, the most important front line health workers around the globe for their contributions to the delivery of clean water and the removal of waste via sanitation. The plumbing industry makes an extraordinary contribution to human health and the environment.

A/. PLUMBING PRODUCT SALES SPECIFICALLY

Watermark Certification Scheme, Point of Sale Legislation and Non Conforming Products

WaterMark Certification Scheme (WMCS) is the foremost certification scheme for plumbing products in Australia. WMCS falls under the Plumbing Code of Australia (PCA) administered by the Australian Building Codes Board (ABCB).

The WMCS is a certification system that protects the health and safety of the community, consumers and plumbing and drainage practitioners, this protection is envied by other industry sectors. Compliance of the WMCS has historically been the responsibility of state and territory based regulators, with the scheme being only policed at the point of installation with licensed plumbers being responsible to only install certified plumbing product where applicable. In recent times this has led to increasing conflict with builders and developers frequently purchasing product from



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overseas suppliers by the container load based on price and avoiding the supply chain in Australia, compliance with Australian Standards, and WaterMark certification.

In addition many consumers are also purchasing product online and insisting that these products be installed by the plumbing contractor. Further conflicts arise as many retailers and hardware stores do not appreciate that plumbing product should be certified under the WMCS before they can be legally installed. There is no barrier to these retailers and distributors selling plumbing product to the public whether certified or not, often these sales are based on price and sold into the DIY market. This situation causes considerable market place confusion and frustration.

Essentially the installation of plumbing product is the responsibility of the installing licensed plumber and if product other than WaterMarked product is installed such non-conformance may not be identified until after installation fails at which time it is often in ducts, under floor slabs or behind walls.

MP advocates that the WMSC should encompass point of sale legislation to truly protect water and waste infrastructure. If non approved products cannot be sold or purchased they cannot be put into service illegally. Point of sale requirements ensures that the supply chain is educated and understands their responsibility in the sale of products and that the consumer/customer/client is also able to access product information to assist in purchasing choice, rather than on price alone.

It is somewhat of a contradiction that point of sale applies to the Water Efficiency Labelling Scheme informing the purchaser about the efficiency rating but Australian Governments do not think this is necessary for the WaterMark Scheme that ensures that a product is fit for purposes with a focus on health and safety.

Given the increasing incidence of builders and developers purchasing non-conforming product directly from overseas suppliers point of sale requirements could assist this process where such requirements are addressed for;

- Products manufactured internationally at point of import
- Compliance and enforcement at point of sale through retailers etc
- Project/building completion certification

Point of sale requirements ensures that product manufacturers provide necessary information/evidence to the Australian market that products are fit for purpose and meet the appropriate standards prior to sale. Point of sale has the potential to significantly reduce non-compliance of product used in the built environment and reduces risk to Australian consumers of product failure that may impact on their health and safety and infrastructure.

It is also worth noting that Gas appliances are subject to a point of sale approval scheme.



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We have seen recently however that the Watermark Scheme needs to be further enhanced to provide for random and on-going audit testing to ensure that the product for sale is identical to the sample product that was supplied for testing.

B/. INSTALLATION and WORKMANSHIP FAILURES –

In considering the nature and extent of “failures” in the built environment, we believe that you need to give consideration to both actual, tangible examples of typical failures, but also to why those failures have, or are likely to have occurred. We need to make observations about the characteristics of the current market – regulatory, educational and attitudinal/contextual – that contribute to, or at least are failing to prevent, failures occurring.

By *failures* we mean situations where plumbing or fire protection work or products have been completed or installed in an inappropriate way and in doing so pose an unacceptable risk to property and life. We mean situations where the work or the product installed is just not done according to Codes or Standards and as a result will be, or is, not fit for purpose and requiring of repair to be effective and safe.

The current high profile examples of failure – the Grenville fire and the Aldi taps are terrible but they are indicative of a much wider problem and failure in the building regulatory environment.

Understanding why failures occur

The reasons for failures in the regulated built environment are varied. Failures can occur because the Regulations themselves are not sufficiently specific, current, well enforced, or understood by the regulated parties. Failures can be attributable to simple poor quality workmanship, or more often a lack of product or system knowledge or practical know-how. Inadequate training for new and existing practitioners can be the reason, and competitive commercial pressures can incentivise the taking of short cuts. And it can be a combination of all and more of these things, which, when in turn combined with a sense that “nobody’s watching’ (in terms of low level regulatory coverage and industry visibility around audits and inspections) that will inevitably result in failures in the built environment.

In Victoria at present we see, to various degrees, all of the above contributors to failures. These are failures which are not only costing the industry and the community millions of dollars in lost time, repairs and litigation, they are also failures which could have catastrophic implications for the safety and well-being of the community. .

The Regulatory Framework

There is a perception within the industry at present that the extent of the sorts of failures being examined by the enquiry are widespread and increasing in prevalence. This is not, for most plumbing practitioners, considered to be caused by the Regulatory Framework itself (the Plumbing Regulations in each state, the Plumbing Code of Australia and various relevant Australian Standards). Rather the “problem” is with how the Regulations and Standards are oversighted and enforced.

This is not to say that we do not believe there is a need and scope to improve the current “black letter” Regulations for plumbing and fire protection in some specific areas. Most pressingly, the industry is a whole is strongly committed to seeing the Regulatory Framework address the growing trend to off-



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site construction of plumbing products and systems, which currently fall outside of the scope of the Regulations. We believe plumbing work is plumbing work whether it be done on or off site and the failure of the current Regulations to capture this work within the ambit of the Regulations represents an unacceptable risk to the community.

There are also potential changes to the licensing arrangements that could be implemented. Specifically the creation of a 'commercial/complex' class of plumbing license to add additional input controls to the commercial market to mitigate risk, discussed further below, would likely reduce the incidence and impact of failures.

1.2 The Regulatory approach - The need for more enforcement

For the purposes of this research exercise, the key regulatory contributor to failures from our perspective is not the Regulations themselves but how they are implemented. In the many of the examples, the relevant Regulations and Standards are clear and should have been adhered to. They were not, and as mentioned above and discussed further below, there are potentially a range of reasons for that.

Notwithstanding that the work should have been done correctly in the first instance, a well-functioning Regulatory Framework, and one that was implemented with a rigour commensurate with the risk, would have measures available within its audit and compliance program to at least identify the failures

The failures occurred despite the Regulations, which raises obvious questions about the adequacy of the audit and inspection regime for plumbing works and for the sale and installation of plumbing products.

Key to this approach being effectively implemented is the availability of an adequately skilled audit/inspectorate workforce, which can be challenging to assemble and deploy. As an industry we believe that developing, maintaining and updating the skills of the regulatory authority, together with an expanded financial resource commitment (potentially financed by an expanded Compliance Certificate regime more reflective of the risks and monetary value of projects) to monitoring and auditing is key to reducing incidences of failure in the built environment.

1.3 Education and Training

In terms of contributors to failures in the built environment, education and training is not only relevant for audit and inspection. Ensuring licenced practitioners have and retain the necessary skills and experience to operate safely and effectively in what is a very dynamic (in terms of products, techniques, systems) contemporary building and construction industry is also key to failure avoidance/reduction.

This gap between licence and capability is particularly dangerous in parts of the commercial/complex building sector. The situation currently exists whereby a licenced plumber with little or no post apprenticeship experience can find him or herself working on sophisticated commercial plumbing, cooling, ventilation or fire protection systems or units with which they have had little or no practical experience. This is itself not ideal, but when, as currently applies, that same inexperienced



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commercial practitioner can enter a Design and Construct contract with a Builder/Developer, then the risks – particularly when coupled with low audits/inspection – are unacceptably high.

1.4 Link between Skills & Licencing

There are two key avenues from the education/training end of the QA spectrum, as we see it to address this gap. First is to explore the merits of overlaying a compulsory professional development element to the licensing system, effectively compelling practitioners to actively upgrade and keep current their skills.

The other means of closing that gap, and mitigating community and economic risk, is to implement changes to licensing categories. For example, a new tier into the licencing system specifically for commercial plumbing work could be made available only to be practitioners with at least 3 years commercial experience. Only practitioners in this category would then be able to enter Design and Construct contracts.

Currently there is no licencing regime applicable to Hydraulic Designers/Consultants. This is despite the fact that in many commercial projects the licenced person (Plumber) is working to, and accountable for installations within and designed by, the Hydraulic Designer. The licensed person is ultimately accountable for delivering a project he or she did not design and which may not have been designed in an appropriate way, or a way that allows the plumber to install safely and at a reasonable price. As well as shifting accountability this anomaly can serve to shift financial pressure to the licenced person, who can be effectively incentivised to cut corners to meet cost constraints imposed by the design.

Licensing Hydraulic Designers would provide an opportunity to impose some quality and competency standards but also a line of regulatory oversight at the point of the genesis of many failures – the design phase.

1.5 Commercial / Contextual factors

As well as a perceived lack of regulatory presence and some identified gaps in the licencing system, a highly cost competitive market place and a diversified product and employment market are contributing factors in terms of failures. Quantifying the contribution each or any of these factors make is an inexact science, but in the commercial building and construction market at present, practitioners can find themselves in situations where they are under significant cost and time constraints. The issue of Design and Construct contracts is again relevant here.

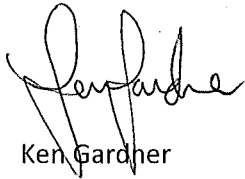
Under current arrangements, Builders sign Licenced Plumbing contractors up on a D&C basis. At the time of signing, tender specifications are usually incomplete (50-80%) and plumbers are required to estimate costs, bearing in mind there is always pressure to quote low and win the work. Industry participants advise us that these D&C contracts are particularly onerous for the plumber to adhere to, allowing few if any variations, normally the Documentation provided at Tender time is 50-80% complete.



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Yours Faithfully



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