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SUBMISSION TO THE STANDING COMMITTEE ON ENVIRONMENT AND HERITAGE

ENQUIRY INTO THE REGULATION OF PLUMBING PRODUCT QUALITY IN
AUSTRALIA

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In relation to the terms of reference, I will address these separately:

1. **The appropriateness and effectiveness of the current plumbing product quality regulatory arrangements in Australia .**

The appropriateness and effectiveness of the current plumbing product quality regulatory arrangements in Australia depends in large part on uniformity or commonality between the States.

Over the years the Commonwealth and State Governments' regulation of plumbing product has moved towards a uniform approach, particularly by the States effectively adopting Australian Standards and the Watermark Scheme.

The Watermark Scheme guarantees to the consumer and to plumbers who are installing plumbing product that the plumbing product meets the requirements set out in the relevant Australian Standards. In general terms, each Australian standard specifies materials, testing regimes and requirements. The standards also require the testing to be undertaken by independent third parties accredited with the JASANZ Authority which was established by the Australian and New Zealand Governments for the purpose of overseeing the testing organisations.

Currently in Australia it is illegal under all State and Territory laws to install a product which is in contact with potable (drinking) water supply which does not have a Watermark.

In the absence of point of sale legislation limiting the sale of plumbing product to licensed plumbers the public is able to buy and use plumbing product (even if illegally).

The WELS Scheme is a relatively recent innovation by which the Commonwealth Authority responsible for the implementation of the Scheme certifies plumbing product for the current purposes of the WELS Act.

From my own knowledge I know there was widespread industry consultation in the development of the WELS Scheme. This consultation included industry consultation, consultation with regulators and presentations through industry forums.

It was at all times understood, including during my time as the Victorian Plumbing Commissioner, that as a pre-requisite to obtaining a WELS rating that plumbing product,

if required by Australian Standards to be Watermarked, would not be given a WELS rating unless it could satisfy the required testing to obtain a Watermark.

Unfortunately the legislation that established the WELS Scheme, for whatever reason, did not include the requirement that products which are in contact with potable water, would require as a pre-requisite to a WELS rating that it also hold a Watermark Certification.

The effect of this omission is that there is now product for sale, capable of being purchased by non-licensed persons, which appears to have government approval ie there is product for sale which has a WELS rating but which does not have a Watermark Certification.

Therefore, the current scheme has the potential to mislead the consumer and purchaser of plumbing product. Consumers may well assume that an Australian Government rated product is appropriate and legal for use.

Secondly, the absence of Watermark Certification prior to gaining a WELS rating has resulted in, and will result in, a risk to the infrastructure relating to the water reticulation system and the integrity of our most valuable resource, our supply of drinking water. We should remember the ramifications and effect on Sydney consumers in recent years when the New South Wales water supply became polluted.

In the event that a purchaser buys non Watermark Certified product and does not install it themselves, the first they may be aware that the product is illegal to be installed is when a qualified plumber refuses to install it or the State or Territory Regulator requires it to be removed. Such a situation has and does occur and causes additional expense to consumers and a great deal of stress and frustration. In the consumer's mind if it's labelled with the four star rating it must be right!

There are many ways to eliminate this problem. There could be point of sale legislation such as in place for gas appliances in Australia, although this could add an additional cost to the price of the product.

I think the better way would be to mandate the requirement for Watermark for products as determined by the National Plumbing Regulators Forum (NPRF) as contained in the Australian Standards and at the same time introduce a provision which requires an independent third party to certify that product to meet the WELS requirements and its star rating.

Adoption of the suggested processes, would be, by and large, cost neutral as an independent certifier for the Watermark could concurrently perform the test required above for WELS rating and provide the data as part of the certification process. The additional work required by the certifier would be minimal and I believe could be absorbed into the current watermark testing cost.

2. Scale of environmental benefits from controlling plumbing product quality

The most immediate impacts on environmental matters of defective plumbing product is in relation to water, stormwater and sewerage.

It is difficult to quantify the environmental risks of not controlling plumbing products. A number of examples can point to the nature of risks involved. A report prepared for the World Health Organisation identified a leak in the sewerage system in Singapore as the cause of the spread of the SARS virus which killed 300 people. Reference has been made above to the problem Sydney faced when it had a compromised water supply. Stormwater leakage can also lead to its own problems eg flooding.

Over the years the risk to the environment caused by inappropriate plumbing was prevented by the States and Territories having publicly operated Water Boards. Because of the 100% mandatory inspections being undertaken under those systems there were few, if any, incidents of unapproved products or contamination of water supply.

However with privately owned and operated water supply authorities and removal of the powers of inspection under the Competition Policy, it is now up to each State and Territory Regulator to manage the use of Australian Standards to set the criteria and methodology for product testing under the advice of the NPRF. That is, under the current regulatory regime relating to inspections, there is now a greater emphasis on approved product being used.

While each State and Territory Regulator has responsibility to ensure that only approved products are being installed, of necessity there is a greater emphasis on product itself complying with standards because of the reduced number of random inspections. The use of only Watermarked and approved product is doubly increased on the assumption that there is some product which is installed other than by licensed plumbers.

Non-Watermarked product or non-complying product with Australian Standards, not only when it is in direct contact with the potable water system, but also in relation to stormwater and sewerage, puts the community's water supply at risk, the community's

health at risk and the environment risk by way of contamination. eg a faulty back flow prevention device (which devices are used in domestic, industrial and commercial settings) could easily lead to contaminated water being fed into the potable water supply.

In my experience there are a number of examples of product which has been imported which pose the above sorts of risks including copper pipe, toilets and taps. However diligent the plumbing regulators may be they are unable to keep up with all plumbing products sold. If it was well known and advertised that all plumbing product, as determined by the Australian Standards Association, required a Watermark then that would immediately reduce the availability onto the market of non-Watermark Certified product because of the potential liability of the retailer of that product in the event of a malfunction.

3. Trade implications of controlling plumbing product quality

Watermark Certification and testing cannot be done for no money. Clearly therefore there is a cost for Watermark testing and those who jump through one of the loopholes by importing or using non certified product obviously do not incur the costs and therefore have unfair competitive advantage over those manufacturers and importers who are proud to state their product is Watermarked and meets Australian Standards. Nonetheless, that is not to say that there is an adverse trade implication by reason of requiring Watermark testing. The importation of uncertified or non complying product would have an adverse impact on local and/or complying manufacturers including those who export products.

To the trade implication should also be added the commercial implications of installation of improper and uncertified products. ie installation of product which fails obviously has a direct commercial cost not only to the community but to the particular companies involved.

4 Potential improvements to the plumbing product quality regulatory system.

In my view there is one immediate step which can be taken at no cost to the Commonwealth which would offer the industry and consumers a huge service, and at the same time give an immeasurable amount of support to the protection of Government infrastructure and our precious water supply, and that is to mandate the Watermark as a prerequisite for a WELS rating.

5 The appropriate level of government to administer plumbing product quality regulation, that is, the States (as is now) or the Commonwealth

For over 50 years Australia New Zealand Reciprocity Association of Australia (ANZRA), through agreement, tried to standardise many things in relation to plumbing regulation. Achievements and agreements were made but there has never been achieved a national consistency in plumbing regulation at large. Its successor, the NPRF, has continued with that work ie as to national regulation of plumbing. COAG spent amounts of money and time in trying to standardise registration and licensing but failed.

Whilst there are obvious difficulties in relation to a standardised national licensing authority in relation to all matters relating to plumbing, what can be achieved in the short term and which would give certainty and uniformity throughout Australia, is to regulate plumbing product quality. This can most easily and best be done at a national level. In large part the standards applying to plumbing product come from national organisations already.

Whilst in the long term there is a great deal to be said for the national regulation and administration of plumbing which would achieve greater outcomes for plumbers, consumers, governments and all Australians, in the short term it is my view that a national regulator administering plumbing product quality should be established. It would bring certainty to all involved including those listed above as well as the manufacturers and importers of plumbing product. It would remove a number of levels of bureaucracy and provide one source of information for manufacturers, consumers, plumbers and importers.