

# **EDUCATION AND HEALTH STANDING COMMITTEE**

**AUSTRALIAN BUILDING CODES BOARD INVESTIGATION INTO THE LEACHING OF  
LEAD INTO DRINKING WATER FROM PLUMBING IN AUSTRALIAN BUILDINGS**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 13 JUNE 2018**

## **Members**

**Ms J.M. Freeman (Chair)  
Mr W.R. Marmion (Deputy Chair)  
Ms J. Farrer  
Mr R.S. Love  
Ms S.E. Winton**

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**Hearing commenced at 9.08 am****Mr NEIL SAVERY****Chief Executive Officer, Australian Building Codes Board, examined:****Mr KENNETH BOWRON****Building Commissioner, Building and Energy, Department of Mines, Industry Regulation and Safety, examined:**

**The CHAIR:** On behalf of the committee, I would like to thank you for agreeing to appear today to provide evidence in relation to the Australian Building Codes investigation into the leaching of lead into drinking water from plumbing in Australian buildings. My name is Janine Freeman and I am the Chair of the Education and Health Standing Committee. I would like to introduce the other members of the committee. This is Mr Bill Marmion, who is the Deputy Chair; Josie Farrer, at the end; Shane Love, next to me; and Sabine Winton in between the two of them. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege. However, this privilege does not apply to anything you might say outside of today's proceedings. Before we begin, do you have any questions about your attendance here today?

**The WITNESSES:** No.

**The CHAIR:** Would you like to make a brief opening statement?

**Mr SAVERY:** I am in your hands. I have a statement, but I suspect that it is more relevant for your questions.

**The CHAIR:** Okay. Well, you can always give us a copy of the statement.

**Mr SAVERY:** Sure.

**The CHAIR:** We can put that into our records and if you are happy for them to be public then we will just publish them on our site.

**Mr SAVERY:** Yes, there is no issue with them being public.

**The CHAIR:** I will probably hand over straight to the deputy chair, because this is an issue that he has a great interest in.

**Mr W.R. MARMION:** Yes, thanks, Janine. I would be interested to know what is happening in the area because my concern, and I think the concern of a lot of engineers, was that when I have looked at the standards around testing for lead in water, it appears to me, and I have rung lots of people, that there is not a standard regime for how you test, how you sample. I understand you are doing a research project, so I am interested to know what the scope of that project is and what you hope to achieve, and then I probably will have some follow on questions because I am interested to know whether there will be some clarity around brass fittings. Everyone knows that if you take a sample of water to the chem laboratories, they are going to tell you how much lead is in it, and everyone has been fixated on that, but I am interested in how you sample the water. I have spoken to lots of people, including people on the lead committee for NHMRC, and Macquarie University people, and I get the impression that there is no defined standard, so I am interested in whether you are going to come up with that.

**Mr SAVERY:** There are a number of moving parts in response to the question, and I think the most important observation to make from the outset is that there are three key interdependent

documents. There is the Australian Drinking Water Guidelines, which set minimum levels for metals within water, amongst other things, and that is administered by essentially environmental health officials around the country. There are different groupings of those officials. Of course, the ABCB has no direct control over the drinking water guidelines.

The drinking water guidelines themselves also then inform the testing standards developed by Standards Australia, which, again, the Australian Building Codes Board does not have control over. The most important of those standards is AS4020, which I think we will come back to in the context of your question, because that is the key testing standard. Then you have the Plumbing Code of Australia, and it is the Plumbing Code of Australia in the context of domestic plumbing connections that references, and by referencing, it gives it statute, it is a regulatory process, to the standard, which in turn the standard is referencing the drinking water guidelines. You almost have to work backwards if you want to change the metal composition within water, the metal chemistry of water; that is, for the code to be referencing a standard that has a more strict level of control over lead or other metals, you have to change the Australian Drinking Water Guidelines. That is a sort of superficial overview of it.

I think it is also important to understand that the chemistry of the water that is coming to the domestic supply is not controlled by the Plumbing Code of Australia. It is under the influence of the Australian Drinking Water Guidelines, but, again, if you like, the mains infrastructure that brings the water from the reservoir to the domestic supply is controlled by Australian water authorities, depending on what the arrangements are in each jurisdiction. So not only the chemistry of that water, but potentially the means by which it is conveyed, that is the mains themselves, could have a significant influence on the chemistry of the water before it arrives at the domestic supply. Through the research we have to break all of that down to understand to what extent are brass fittings potentially, but possibly other things, contributing to lead contamination of drinking water? When I talk about domestic supply, I am talking about any kind of building, an institutional building like the hospital, like Optus Stadium, or a domestic home. They are all receiving that water supply.

Where we are at in the process is that following the audit that was undertaken by the WA Building Commission at the Perth Children's Hospital, we received that information, along with work that Queensland Health had done in regards to Aldi taps. If you are familiar with the Aldi taps issue in Queensland, along with the research that Macquarie University had self-initiated into contamination of drinking water for domestic homes, they looked at 212 homes in New South Wales, and all of that led to the board determining that it felt there was a need to do an investigation as to what contribution products controlled by the Plumbing Code of Australia linked to the WaterMark Product Certification Scheme, are potentially contributing to that.

We are at a relatively early stage in as much as whilst Professor Mark Taylor from Macquarie University has completed a draft final report, and we can talk about that later in terms of its status if you are interested, that would only be potentially the first step for the ABCB in saying that there is an issue or there is not an issue, and whatever recommendations Professor Taylor has. Obviously we are then going to have to engage in a process of involving potentially Standards Australia and enHealth, which are all the environmental health officers around the country, to coordinate changes to all of those other documents.

You asked specifically about what the scope of the project is, so I will just read here: the scope is the potential sources of lead in plumbing products materials—that will be domestic supply products, not mains products—and the effect of water chemistry, quality and temperature on plumbing products materials, the cumulative effect of multiple products materials in a water service, and the interaction of different products materials within a water service.

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We have had a really interesting instance—I was talking to Mr Bowron just outside—of warm water systems, which is unrelated to the purpose of your inquiry, but it may have come across your desks, where it has been determined that there has been a particular product that is prone to failing quite prematurely in warm water systems.

**Mr W.R. MARMION:** Is that a metal product?

**Mr SAVERY:** No, it is not; it is a PVC derived product.

**Mr W.R. MARMION:** Right.

**Mr SAVERY:** It is not necessarily contaminating the water; it is just breaking prematurely. Of course, the first instinct was: there is a faulty product. But the more you look into it, it was determined that it was the combination—and this is still being worked through—the chemistry of the water, the water temperature, the velocity of the water, and the combination of copper and this product. When all of that combines, one product is breaking down prematurely.

There is the consideration of product standards, which is the point I was making earlier, particularly AS4020; hydraulic effects on materials and how products are currently tested; and the assessment of hydraulic design features in relevant standards on lead released from plumbing products.

I think it is also just worth noting what the study is not investigating. It will not include testing and evaluation of lead content in plumbing products, materials and components to determine compliance with the lead content standards. So we are not going to go out and pick products off the shelf and analyse them to see if they are conforming or not. There is testing and evaluation of lead content in drinking water caused by plumbing products, materials and components—we are not going to go out and do an evaluation of a whole range of products—and potential sources of lead in drinking water other than as a result of plumbing products, materials and components—for example, water supply chains.

Sorry, you did ask specifically about the testing standards. It is interesting because only last week I was talking to the chair of enHealth, which is a Queensland health official, and because they have had this Aldi tap issue, they sought the advice and counsel of NATA, which is the National Association of Testing Authorities. They did essentially a test case where, as I understand it from this conversation, there are two recognised or accredited testing laboratories in Australia, and what they wanted to do was determine if there was variability in the way that the two testing laboratories tested to the one standard. When they did the analysis, they actually were pleasantly surprised—well, maybe “surprised” is an unfair word, but they were pleased to see that the tests done by two separate testing laboratories were done identically. Now, that probably does not specifically answer the question of whether what is set in the standards is the right test, but it does show that the testing laboratories are testing to an identical methodology.

**Mr W.R. MARMION:** Yes, just picking up on that, one of the basic things in testing is the sample size.

**Mr SAVERY:** Yes.

**Mr W.R. MARMION:** In most things, it is fine, but with lead, lead isotopes can just pop out randomly, say, of a brass fitting. So if water is sitting in a plumbing system, say, all weekend—use that as an example—and you turn on the tap on a Monday morning, the first kid at school, you know, the water fountain, and you take a sample, there is a high probability, in my view, that you will get more lead in that water than you would half an hour later, and the rest of the week there might be bugger all.

**Mr SAVERY:** Yes.

[9.20 am]

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**Mr W.R. MARMION:** But the first bit, you will get a lot. Then that opens up the question: the sample you take, if you take a test tube sample, it is likely to have a high concentration of lead, whereas if you take a one-litre sample of the first source and test how much lead is in it, it will be less. The Australian drinking water guideline is about what your drinking source water is about, and with a kid two years old drinking it for six months—and it is a guideline—you are actually getting a sample that is biased with too much lead in it. In fact, you are going for a higher standard of lead in the actual source water. So my concern is that unless someone says, “This is how you sample”, or even, “Please take a one-litre sample”, which they do in the United States, and I know that the study in New South Wales, the guy doing it—I have forgotten his name —

**Mr SAVERY:** Professor Mark Taylor.

**Mr W.R. MARMION:** I think there was another guy I spoke to.

**Mr SAVERY:** Okay.

**Mr W.R. MARMION:** They took one-litre samples, whereas in the children’s hospital, the testing done by the health department was taking, I think, 125-millilitre samples, and they were taking one and then another one, and the second one was less. The other concern was, from advice I got from an 87-year-old mechanical engineer who had nothing else to do but add up all the samples that the health department did—added up all the samples, added up all the lead, all the water, divided, and actually came well below—75 per cent below the Australian drinking water standard, including all the bad results. This is a big issue, because there is a \$300 million claim being put in by the contractor, so it is really important that we sort this out. I am pleased that you have got the four different silos to try and work it out, but I guess, at the end of the day, you are going to probably come up with something to do with the brass fittings in a building, when that is another issue, because for a brass fitting for your hose out the back, I would be quite happy to have a 4.5 per cent lead content, but for drinking water, you might want the brass fitting to have a higher standard. So I am interested in your comment on that.

**Mr SAVERY:** Yes. You have raised an interesting point, because under the WaterMark product certification scheme, it only applies to the internal domestic use of plumbing products. So you could have two brass fittings that are identical, one used for your garden hose and your shed, bought at Bunnings, or wherever—Tradelink et cetera—but the same brass fitting is equally used in the home. The WaterMark product scheme does make the distinction between those two products, but the trouble is that when you are purchasing it off the shelf, you are not necessarily informed, the retailer is not necessarily informed, and you could end up with a situation where that product is inadvertently used in the wrong situation. Now, that is something that is also being looked at at the moment in the context of point-of-sale legislation, which is going to have a number of themes to it in terms of trying to better make that distinction between how a product is used, and in some respects—I am looking at Mr Bowron here, because I know of his involvement in gas regulation, but with gas fittings, many of which are brass fittings, they make the distinction. They have a yellow mark on it and a green mark on it to distinguish between when that same fitting is used in a plumbing fixture and when it is used in a gas fixture, because they corrode differently as a result, and so they colour mark them. There are those sorts of issues.

I think it is also important to make the point that many of the contributing factors to what may be being observed is what we describe as in situ, so we have the legacy of 150 years of construction, and much of that construction used a lot of lead fittings or products that have high levels of lead in them, and the code does not tackle or cannot tackle those situations. So, even if we were to end up, let us say, in a year’s time or a bit longer in making all the necessary changes to those documents, Australia is still going to have that existing in situ problem for a considerable period of time.

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**Ms J. FARRER:** I would like to ask in regards to Aboriginal communities, with their supply of water, which comes from bore water, and just recently I have been out to the community of Balgo. The CEO had left but someone else was sort of sitting in, and he is not from Australia, but just the way that he explained to us that he found that the water out at Balgo Hills community was quite aggressive. Now, we did not get too much information in regards to that, but I was concerned as to the high level of our people who have now been placed on dialysis. I am thinking: is there a contribution from that water or waters right through the Kimberley where people have said—and I talk about people as in the water authority—that some of the waters there are contaminated from out of the ground, and we have seen that at Pandanus Park. It is a community where bottled water had been handed to the whole community by the water authority. But why is it? I keep thinking that there has to be some other contribution. The health department is always saying that Aboriginal people are taking too much sugar in their drinks, but when you go out to places like Balgo, where communities themselves have put out notices to sell in the shops, if there are any cool drinks to be sold, they are non-sugar cool drinks.

**The CHAIR:** From your perspective, are there any issues around the products that they use in contribution to any contamination in water? Are you looking at that in particular?

**Mr SAVERY:** No. Look, obviously, I am not sufficiently qualified to be able to make an informed comment on the specifics of that situation. But we are only looking at plumbing products that come into contact with drinking water at the point of domestic supply.

**The CHAIR:** So in the kitchen?

**Mr SAVERY:** In the kitchen, well, from the boundary of the house, so there will be pipes underground, potentially, and as I understand it, in WA, often above ground, through the roof is not an uncommon practice, and what the contribution of those materials and products are. So anything that is coming directly out of the ground, such as bore water, its chemistry may have some health effects, but it is not something that we either are looking at or have any control over.

**Mr BOWRON:** I guess that applies from—as building commissioner, there are probably two comments. Again, we do not have any jurisdiction over the chemistry and are not qualified to comment on your question. The second thing is, at this stage, we do not regulate water supplies that do not come through a meter. So we only regulate metered water supplies.

**The CHAIR:** So only Water Corp, only the basic —

**Mr BOWRON:** I think it will be only Water Corp water. We have a consultation RIS out at the moment on plumbing, which, amongst many other things, raises the question of should the scope be expanded, so for community comment. That is out right now.

**Mr W.R. MARMION:** Back on to what you are actually doing, which is testing products. You raised an issue about PVC pipes. This is actually becoming a big issue because things can impact metal as well, such as temperature, and the actual composition of the water that is going through there, and also if there is a charge. To throw more murky stuff into the pot, an engineer spoke to me who actually commissioned a hospital, a similar building in Africa, which had the same problems with lead fittings, with the high lead content in the water. It turned out that the water coming through stainless steel pipes, through PVC and then into the brass fitting area, had a high iron content—a higher iron content than we have in Australia—and when it was rushing through the PVC there was a static charge set up, so there was a one amp current when it hit the metal area. Electrolysis was happening, and an increased amount, because of the lead pile iron content in the water. There are all these factors that you cannot really examine unless you test and do that sort of stuff. That is another issue, and that can affect, obviously, the amount of dezincification in a brass tap. Could you comment on that?

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[9.30 am]

**Mr SAVERY:** When you get down to that level of technical detail, the ABCB is relying quite heavily on Standards Australia as the primary standards writing body in the country. They have their technical committees established who have experts who are able to make adjudication on the types of issues that need to be covered by the standards. So the ABCB itself becomes quite reliant on the way in which those technical standards are developed. There is a protocol arrangement that the ABCB has that seeks to ensure that any standard that is referenced in the code is fit for purpose and is addressing the key issues. But as with all regulation and quasi regulation, it is constantly subject to review. As we become more familiar with the types of issues you are raising, and I have mentioned the warm water system as another example, those issues ultimately go back to Standards Australia to seek for them to have their technical committees advise on whether or not the standards need to be changed, so I acknowledge the changes.

I think the other important thing, of course, is that technology itself is changing. One of the things the Building Code of Australia recognised in 1996, as it was then—and now, since 2011, the National Construction Code, which includes plumbing and is a performance-based code, an outcomes-based code—was that it cannot possibly keep up with the speed and scale of change that is happening in the industry. The whole point of the regulatory environment, which is called up in WA as it is in all states and territories, is to not prescribe the technology, but to prescribe the outcome that you have to achieve and enable people to demonstrate ways of achieving it. One of those ways is through using a referenced standard; that is, this is a relied upon test that has already been accepted as meeting that outcome. If through our acquired knowledge we learn that technology has changed, or, in fact, there is some fault or misunderstanding in the way that those standards have been set, then we seek to address that. This research will help us do that. Obviously I cannot predetermine the outcome of this work, but I would be surprised if we are not going back and talking to Standards Australia.

**The CHAIR:** Yes, that is what I was going to ask you. In terms of Standards Australia, because now there is that issue around it being a privatised organisation whereas previously it was a public organisation, and there are questions around the influence that product merchandising has on standards, instead of standards of outcome and products that you want to go into homes having the influence on standards, is the current standard operating effectively, from what you have deduced so far? That is obviously a major aspect of your research and your report.

**Mr SAVERY:** Yes. I would like to place on the record that we have an extremely important relationship with Standards Australia, and a very mutually beneficial relationship with Standards Australia, in as much as building and plumbing standards are the largest portfolio of standards that Standards Australia administers. For SAI Global, which is the commercial aspect of the whole arrangement, its building and plumbing standards are the largest selling standards that they have. That is just by way of background.

**The CHAIR:** How much does it cost to buy a standard?

**Mr SAVERY:** It will vary. It can be as much as \$1 500 for a standard. Obviously, I am familiar with WA's inquiry. Was it this committee that did the —

**The CHAIR:** No, it was the delegated legislation committee.

**Mr SAVERY:** Okay, so I am familiar with all of that, obviously familiar with all the calls around the country for free standards et cetera, but everyone knows there are publishing licensing agreements in place, and the history to that. But in terms of your question, the thing that gives me confidence that the standards that we reference are appropriate, unless through exercises like this, we all learn that in fact there is something that needs to be addressed, is that we have in place with Standards

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Australia a protocol for referenced standards. That sets the bar or the threshold through which the ABCB will or will not accept a standard for referencing in the code. That does not apply just to Standards Australia; it applies to international standards, through ISO. It applies to industry standards because we reference industry standards. Really, what it is saying is that the sort of criteria that it has, that there is a robust, strong evidence base to the standard that is being referenced, the standard does not create unfair competition through the process, and that we are satisfied that the process that it has actually followed for its development is procedurally fair and robust and all of those kinds of things. So it is not just a case of someone writes a standard, here it is, ABCB, put it into your code, because behind the scenes, that is going to give us some competitive advantage. We are very aware of that potential. And because I do have a very close working relationship with Standards Australia, I believe that Standards Australia is extremely aware of that issue. It has just completed a major governance review, which it is about to implement, and that will include reviewing how it puts its technical committees together to try and reduce the potential for competitive advantage.

**Mr BOWRON:** I think I can add to that. The standards process is still with Standards Australia, which is the not-for-profit standalone company; the publishing rights are with SAI Global at the moment; that is being reviewed, and there is some fairly public tension between that happening. As a regulator, we get involved in the preparation of all relevant standards, and we are responsible for recommending if they are called up in legislation, so I guess two comments on there is all parties are usually involved in the preparation of the standard, because it both has to meet base safety issues but also be achievable to do from a manufacturing point of view. So it is a balance, always, between there. But most people realise that if you start crossing the minimum safety areas, no regulator will call it up. They will call their own. So there is a protection in there. And the last six years, I sat on a Standards Australia governance committee, which oversighted the production of these standards. I mean, they do have very rigorous processes in place, so I am pretty comfortable with the process of developing standards, and that the ones we do call up, either through the National Construction Code or otherwise, have that balance.

**The CHAIR:** Yes. So what is the extent of compliance with standards and compliance with plumbing products in Western Australia in terms of that? That is sort of a question for you, really, but what sort of percentage noncompliance do we have around those sort of plumbing—particularly in dangerous sort of lead-based —

**Mr BOWRON:** I do not have exact percentages on me, but it is certainly fairly low on the use of noncomplying products. I think the issue is people do purchase the wrong thing for the wrong purpose. Most of our issues deal with unlicensed work. They are the biggest concerns that we have. Again, our CRIS is looking at whether people should be able to change their own tap washers or put a new shower head on rather than having to call a plumber to do those things.

**The CHAIR:** Not in my case.

**Mr BOWRON:** But that is most of the issues that we find. I think the largest point of concern will be done by changing product sales responsibilities and making sure these responsible —

**The CHAIR:** Do we not do that at the moment? We have not changed product sales so they do not—is that part of the issue around the Aldi issue, that there is no responsibility on product sales as to the standard quality, or is there a responsibility on product sales?

[9.40 am]

**Mr SAVERY:** There is a responsibility in the entire supply chain to meet the necessary standards or code requirements. It really comes back to where the onus of responsibility is weighted in the legislation, and around the country, for plumbing products —



**The CHAIR:** It is the plumber.

**Mr SAVERY:** — it is predominantly the plumber that is the point of installation. Now, the reason for that, and I have been the regulator in this space, is because it is relatively convenient and therefore efficient from a governance point of view to both inspect the quality of the work—that is, the competency of the installation—as well as the product. Are you putting the right product in? To separate those two things, that is we are going to look at the product up here at the start of the supply chain, or somewhere close to the start of the supply chain, but we still have an obligation to inspect the work to make sure it has been done correctly, and that splits your resources, to do both. It does not remove the fact that if the person at this end is selling a non-conforming product, they have some responsibility, but it is not as obvious or as strong in legislation other than Queensland, which has now introduced supply chain legislation, as it is in other states and territories.

**The CHAIR:** So given that we have Aldi here, why did we not have the problem, or Sydney has Aldi, why did they not have the same problem that Queensland had with faulty supply chain equipment being given, I assume, to people changing shower heads, taps, home provider —

**Mr SAVERY:** This is a universal problem in Australia. It may manifest itself differently in different territories, because supply of products may be somewhat different. You know, a container arrives in one—because the contractor has purchased a —

**The CHAIR:** But that is not how Aldi works. Aldi works on —

**Mr SAVERY:** Oh, you are specifically talking about Aldi, sorry.

**The CHAIR:** Yes. Just for the purposes of Hansard, my understanding with the Aldi issue is that it had defective plumbing supplies. Did it have lead in the supplies, or what was —

**Mr SAVERY:** No, so I think it is really important to be clear that at the moment, that is a claim.

**The CHAIR:** Okay. Well, the claim is that they had defective—was it lead?

**Mr SAVERY:** It was lead—elevated lead in this particular tap fitting.

**The CHAIR:** In a tap fitting, and the tap fitting would be put in not by plumbers but by people at home putting those tap fittings in?

**Mr SAVERY:** So the issue is not about the connection and who has installed it. There was a test, as I understand it, because I have not got all the facts available to me, that an Aldi product was taken for sample testing by the Queensland authorities, and they determined that there were levels in that tap of lead higher than the Australian Drinking Water Guidelines.

**Mr W.R. MARMION:** Is that 4.5, for Hansard?

**Mr SAVERY:** 4.25 per cent, yes.

**Mr SAVERY:** Aldi has contested that. Their conformity assessment body—that is, the body that certifies the product—contests that. And where it is sitting at the moment, as I understand it, is there are two test results, one by the manufacturer and their conformity assessment body that says it meets the guidelines, and one by Queensland health authorities which says it does not meet the guidelines, and that is —

**The CHAIR:** Okay. Is it still for sale?

**Mr SAVERY:** Like a lot of Aldi products, they are here for a very, very short point in time.

**The CHAIR:** But it would have gone through the whole of Australia, then, that particular product?

**Mr SAVERY:** I do not know that that is the case. Certainly it was not confined solely to Queensland.

**The CHAIR:** Well, you must know that. As a building commissioner, you must know whether those —

**Mr W.R. MARMION:** I think they follow the supply chain with their product.

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**Mr BOWRON:** But that is a supply chain issue, and, again, no, I do not know. My staff know, but, no, I do not know if there has been a sale —

**The CHAIR:** Can you find that out for us?

**Mr BOWRON:** I certainly can.

**The CHAIR:** Can you come back to us on that, yes.

**Mr W.R. MARMION:** On the same theme, and railing back to WA, the plumbing fittings that were in the Perth Children's Hospital, do you know if they complied? Because I know they were tested, and given that you said you know something about it, did they comply with the 4.25 standard?

**Mr SAVERY:** I can only rely on the material that has been gathered by the WA authorities, which indicates that there is potentially a compliance issue with those products.

**Mr W.R. MARMION:** Is that right? Ken, do you know that?

**Mr SAVERY:** The thing is, they would have to be WaterMark products, and we are the WaterMark administrator.

**Mr W.R. MARMION:** Yes.

**Mr SAVERY:** Now, we have not been asked to make enquiries of the conformity assessment body about the conformity of those products.

**Mr W.R. MARMION:** Really? No-one has asked you yet?

**Mr SAVERY:** No.

**Mr W.R. MARMION:** On the same theme, because this is important, do you know, Ken, if the health department or whoever is project managing it has actually tested the content of the lead in the brass fittings that were potentially —

**Mr BOWRON:** No, the only tests we were involved with, was we could not determine the source of the lead. There was a number of areas that we believed it could come from.

**Mr W.R. MARMION:** I understand. You did a very good report.

**Mr BOWRON:** But we could not determine beyond that.

**The CHAIR:** So how do we reassure the public? If we have had the situation, where the Queensland health department has a test that says that this product that they bought off the shelf was not compliant and the supplier says it is compliant, is the only way to reassure the public to do what Queensland did and introduce legislation that ensures compliance, and is that on the basis of the AS420 or is that on the basis of the Queensland health department's requirements?

**Mr SAVERY:** Well, Queensland's legislation is much broader than plumbing fixtures and, if anything, was instigated in response to the cladding fire.

**The CHAIR:** The cladding fire, okay.

**Mr SAVERY:** The non-conforming products potentially, so it is building, plumbing products, or any products, it can be electrical products like the infinity cables, putting a broader and more obvious onus of responsibility on everyone involved in the supply chain.

**The CHAIR:** To conform with the Australian standards.

**Mr SAVERY:** To conform and comply with standards, codes et cetera, and at the same time provide—well, sorry, not at the same time. I think, in terms of your question about compliance and reassurance, as you would know, legislation itself does not create the reassurance. You then have to actually go out and audit and, if need be, enforce those provisions. So some of those issues, in the context of your interests, are possibly more relevant to other work that the Building Ministers'

Forum is engaged in at the moment at a national level, discussing whether the Queensland legislation is potentially a model for other states and territories, and other states and territories do have features of the Queensland laws. Are there other elements of governance and administration in this sector, that is the building and construction sector, in need of further review? That is under consideration by the Building Ministers' Forum.

**The CHAIR:** Is it made more complex because there are separate jurisdictions instead of a national jurisdiction? Would we not be better off with just one jurisdiction in this area in terms of the complexities, given that supply chains like Aldi, for example, are Australian-wide, and yet there are different regulations and requirements at different states, is that made more difficult in terms of—in terms of consumer law now, all consumer law is basically federal. I mean, it is done state by state, but it is all conformed; it all conforms to the same aspect. Is that not where you would want to go? Is that not why you have these building codes and all of that sort of stuff to ensure that that complexity is not there?

**Mr SAVERY:** Sure. So federation has its problems, we all know that. The states and territories and the commonwealth through the Australian Building Codes Board's intergovernmental agreement recognised the benefits of harmonisation, and the most obvious feature of that in this sector is the National Construction Code, which are the minimum regulations.

The broader issues that we are talking about in this forum are potentially around how you then implement that. Now, constitutionally, that is a role for the states and territories. The states and territories, as you say, with consumer law, with occupational health and safety legislation, have created models which create a higher degree of harmonisation, and they are the sorts of things that are under active consideration by the Building Ministers' Forum, largely in response to the cladding issue, which has caused them to do a national assessment of where we are at. I think it stands to reason that there are potential benefits of having greater levels of harmonisation.

**The CHAIR:** Well, it does concern me that a product that Queensland health department had concerns about would have been on sale here, but there is no requirement for us to have concern about it.

**Mr SAVERY:** I do not know that that is necessarily the case.

**Mr BOWRON:** No, that is not necessarily the case. Through the forums such as the ABCB and the Building Ministers' Forum and a number of regulator forums, the states work very cooperatively on these and know what is going on in each jurisdiction. Usually what you find is that one state where the issue is bigger or more urgent takes the running. They deal with it first, and everyone else watches and sees how that settles down, and then follows suit fairly quickly. So a case in point might be RCD safety switches in houses.

[9.50 am]

**The CHAIR:** Well, the case in point for me is that there is a whole bunch of consumers who probably bought tap fittings that may or may not, but the health department in Queensland believe they are, have a lead content that is above the Australian Standard 4020, but we do not react to that.

**Mr BOWRON:** No, but we react to see what is the resolution, what the counterclaims are.

**The CHAIR:** Meanwhile, people have them in their houses.

**Mr W.R. MARMION:** They are not going to die. It is not like a switch, an electrical switch.

**The CHAIR:** No, that is true.

**Mr SAVERY:** The WaterMark scheme is a national scheme. If ultimately, through that exercise, it is determined that there is a fault —

**The CHAIR:** They will be recalled.

**Mr SAVERY:** Well, they will not be recalled by the ABCB, because we do not have recall powers. But we would then take issue with the conformity assessment body under the WaterMark scheme that issued the certificate for that particular product.

**The CHAIR:** Yes. So when do they get recalled?

**Mr SAVERY:** Well, potentially that will lead to a sequence of events that may involve the ACCC.

**The CHAIR:** And then they get recalled.

**Mr SAVERY:** Yes, because we do not have the authority to recall products et cetera. But there is a mechanism —

**Mr BOWRON:** Nor do I. I can ban the sale, but I cannot recall them.

**The CHAIR:** Okay.

**Mr SAVERY:** But the Queensland authorities have to resolve the issue in the first instance, because Aldi taps, we all know about it because it has been made public, but it has not formally been brought to the attention of the ABCB under WaterMark.

**The CHAIR:** Okay. I am really sorry, I am finding this really interesting and I would love to continue it, but we have to finish. I thank you very much.

**Mr SAVERY:** Thank you.

**The CHAIR:** If we have any further questions, are you happy with us putting them in writing to you?

**Mr SAVERY:** Of course.

**The CHAIR:** And to you?

**Mr BOWRON:** And the reason for me coming—you had invited Mr Savery on his own—was that I am a member of the ABCB.

**The CHAIR:** You are more than welcome.

**Mr BOWRON:** I am WA's rep. So I will be able to give any feedback on the status of the study.

**The CHAIR:** Yes, that would be great. We would love to know what the status of it is and the continuation of it.

**Mr BOWRON:** Happy to cooperate.

**Hearing concluded at 9.52 am**

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