

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO THE MANAGEMENT AND OVERSIGHT OF THE PERTH CHILDREN'S HOSPITAL PROJECT



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 18 SEPTEMBER 2017**

SESSION TWO

Members

**Dr A.D. Buti (Chair)
Mr D.C. Nalder (Deputy Chair)
Mr V.A. Catania
Mr S.A. Millman
Mr B. Urban**

Hearing commenced at 11.09 am

Mr STUART HENRY

Executive Director, Plumbing Products Industry Group Inc, examined:

The CHAIR: On behalf of the Public Accounts Committee, I would like to thank you for appearing today to provide evidence relating to the committee's inquiry into the management and oversight of the Perth Children's Hospital project. My name is Tony Buti. I am the chair of the committee and the member for Armadale. With me today and to my left is Dean Nalder, the committee's deputy chair and member for Bateman. To his left is committee member Mr Vince Catania, the member for North West Central. To my right is Mr Simon Millman, the member for Mount Lawley, and to his right is Mr Barry Urban, the member for Darling Range. 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 that you may say outside of today's proceedings.

Would you please introduce yourself for the record.

Mr HENRY: Yes. Good morning. Stuart Henry. I am the executive director of the Plumbing Products Industry Group. I almost said Master Plumbers Association—I was their executive director for 18 years.

The CHAIR: Do you have any questions about your attendance here today?

Mr HENRY: Not at this point, no.

The CHAIR: Before we ask you some questions, would you like to make a brief opening statement before we proceed?

Mr HENRY: Obviously we have a serious issue here as far as the Perth Children's Hospital is concerned. What I have endeavoured to do in my submission is indicate that it is not in isolation; that there was a Macquarie University report that indicates an excess of lead in potable water supplies in households in New South Wales from a study done last year; and that in America there has been a substantial response to lead in potable water by reducing the amount of lead content in brass, and indicating quite specifically what sort of lead content should be et cetera. I think that it is something that does need to be addressed, but I think there is a broader issue in terms of the building and construction industry and that is nonconforming building products, particularly from my interest area which is the plumbing product area, and how we need to improve the watermark certification scheme if we are going to be confident about it doing its job and protecting the community.

The CHAIR: How pervasive is the issue of non-watermark plumbing products in Australia?

Mr HENRY: It is very hard to get a handle on it, but the reality is that it is not illegal to sell a non-watermark plumbing product. You can go into virtually any outlet —

The CHAIR: Why is that?

Mr S.A. MILLMAN: Say that again.

Mr HENRY: Sorry?

The CHAIR: Why?

Mr HENRY: I do not know. I mean, it is an anomaly as far as I am concerned. The only person with a legal requirement to install a watermark product is a licensed plumber. Anybody else can install anything.

The CHAIR: Before I hand over, that is incredibly worrying. What sort of manufacturing requirements does watermark certification seek to ensure?

Mr HENRY: To ensure? Firstly, that the product is fit for purpose and that it complies with any product standard relating to that item or range of products. Those standards are obviously designed to ensure that the product is fit for purpose but also addresses any safety issues that might be associated with that.

Mr B. URBAN: I have become, not an expert, but I have read quite a lot into brass fittings and everything, since coming on this committee. It is quite disturbing. I am going to agree with you; I think it is quite disturbing, when you start looking into it, the vast amount of water certification, particularly for brass products, is so wide and varied. I concur with your thoughts on that. There are lots of things I want to ask you because I thought your submission was quite inviting and brought some more clarity to me. You made the statement there has been no secret regarding the increasing incidence of nonconforming building products both nationally and internationally. I take your comment, in a paper you have written a couple of years ago, about America and Canada particularly, taking the brass fittings out of potable water. I just want you to comment further on that. That is probably my question: can you clarify that?

Mr HENRY: I suppose the underpinning point of that is that we are in a global market. Products are manufactured globally in a range of different countries and they are sold in a market globally, whereas when watermark and certification schemes were first introduced 20 or 30-odd years ago, you had a much more local base, if you like, for the marketing and manufacture of products. Today, anybody can go online and purchase products virtually from anywhere in the world and have them shipped in here, and there is no control.

Mr B. URBAN: You can have brass fittings which are for gas installation particularly, and they could be used—they should not be used, but they can be used—in water, potable water particularly, and obviously the lead content in gas fittings or compression joints, or whatever you want to call them, is far higher.

Mr HENRY: Well, I am not sure that it is far higher, but those products could be —

Mr B. URBAN: It goes up to 4.2 per cent of lead.

Mr HENRY: Yes, they could be interchangeable and the fact is that there is no potential leaching with a gas valve, for example, because there is no water contact, whereas when you use them in potable water supply, there is water contact and that is where the leaching occurs. So, the lead component of brass in gas fittings is not critical but it is in potable water. Then the other challenge, of course, is that you get a wide discrepancy in the water itself in terms of its alkalinity or acidity and what other content may be there by virtue of the nature of the way it is collected or harvested, or whatever.

Mr V.A. CATANIA: So at the moment, there is no licence requirement or fine put in place if the hardware or a cell's products that have not got watermarks on there —

Mr HENRY: Not to my knowledge.

Mr V.A. CATANIA: — but if a licensed plumber installs a fitting that does not have the watermark, it is illegal? What is the fine for that, do you know offhand?

Mr HENRY: I really do not know what the regulatory controls are but I think the regulatory controls are fairly minimal. I do not think there is a lot of policing of it. I think it is a difficult thing to police in any event because if the product is already installed, it might be hard to see it.

Mr D.C. NALDER: On that, there are three non-compliant elbow joints in the TMV.

Mr S.A. MILLMAN: You can show him the photo.

Mr D.C. NALDER: Are you aware of that? Have you seen it?

Mr HENRY: Yes; I have seen it.

Mr D.C. NALDER: You are aware of it. How does that happen and who is responsible for that or who should have identified that?

Mr HENRY: Well, I do not know whose contract that was in terms of the hospital, but somebody has obviously put that together and if it was a licensed plumber, they are responsible; if it was not a licensed plumber, it does not appear to me from my understanding of how the watermark certification regulatory requirements apply that there is any legal comeback on that person.

Mr D.C. NALDER: Pardon my ignorance: is that a federal regulation or a state regulation?

Mr HENRY: Traditionally, these things have been state. That is why I draw the example, if you like, with the water efficiency labelling scheme. Here we have commonwealth-initiated legislation that has been virtually taken up, or complimentary legislation provided, to ensure that we have an effective water efficiency labelling scheme. But when we have a watermark certification scheme to ensure products are fit for purpose and address health issues, there is no consistency.

Mr D.C. NALDER: If it is not illegal for anybody to sell plumbing components that are un-watermarked and you are concerned about it, which department is responsible for the regulations in this space if it is not yours?

Mr HENRY: Which department?

Mr D.C. NALDER: Yes. I would imagine, if it is a regulation —

Mr HENRY: I would have thought the building industry commission in Western Australia —

Mr D.C. NALDER: Should be putting up the —

Mr HENRY: and the department of industry —

Mr D.C. NALDER: If we have got to fix it in this state, it is not your department that is responsible for fixing it.

Mr B. URBAN: No, he is private.

Mr D.C. NALDER: Oh, sorry. I thought he —

Mr HENRY: I am an industry association. We would like to have that power!

Mr D.C. NALDER: Where would it be?

Mr HENRY: My understanding is it would be under the building industry commission, as it currently stands, because they are responsible for the Plumbers Licensing Board and regulation under that.

Mr V.A. CATANIA: Have you made any approaches in the past to them?

Mr HENRY: We have raised that issue.

Mr V.A. CATANIA: How long ago?

[11.20 am]

Mr HENRY: I sit on the Plumbing Industry Reference Group. There is a representative of manufacturers and suppliers, which is a subgroup, if you like, of the plumbing licensing board and the Building Commission. We have made representation on the importance of this. We understand that over the last few years, both state and federal governments have been banging the drum on reducing regulation and red tape. We have suggested that they could do that in a very complementary way by joining WaterMark and WELS into a single scheme but we are told by the bureaucrats that it is not possible. However, water efficiency is just another performance factor that ensures a product is fit for purpose, so I find it very difficult to explain how that can be a rationale for not joining the two schemes.

Mr S.A. MILLMAN: Mr Henry, you represent a number of manufacturers based in Australia; is that right?

Mr HENRY: Yes.

Mr S.A. MILLMAN: In terms of the manufacturers of their products, do they watermark their products before releasing them to market?

Mr HENRY: If they need to be watermarked, yes. Some of our manufacturers have both WELS and WaterMarks; some have just WaterMarks and some have just WELS.

Mr S.A. MILLMAN: In terms of the products on the market, are they aware of the country of origin of the products that are coming onto the market that do not meet the regulatory requirements?

Mr HENRY: I could not answer that. I do not know. Most of our members would certainly be fully aware of what their responsibilities are if they are selling products that are affected in anyway in a regulatory fashion, but what people outside of that do, I do not know. What its knowledge base is, I do not know.

Mr S.A. MILLMAN: Have you not received anecdotal evidence about countries of origin that are routinely not complying with the regulatory requirements?

Mr HENRY: Anecdotally, I suppose, by and large the finger is pointed at China because I think China is a source of a lot of product that is being manufactured cheaply there.

Mr S.A. MILLMAN: Are they cheaper than Australia?

Mr HENRY: Generally speaking, yes. But I think China is also moving towards a quality assurance system which is going to make a big difference going forward. The reason I am aware of that is that the WELS unit out at the Department of Agriculture and Water Resources, commonwealth, sent a delegation there last year and the Chinese government is very keen on picking up on the Australian water efficiency standard and incorporating that and having their manufacturers incorporate that into their product systems.

Mr D.C. NALDER: Do you have a view on the cause of lead in the water at Perth Children's Hospital?

Mr HENRY: I can only go on the reports and the information that is available to me, but it would appear that the source is brass fittings from what I have read.

Mr D.C. NALDER: From the dezincification?

Mr HENRY: And that lead is leaching out of those products. There has certainly been some suggestion that some products were watermarked and some may not have been. I think you are suggesting some of these are not watermarked.

Mr S.A. MILLMAN: The ones in the red boxes.

Mr HENRY: The ones in the red boxes, yes. Again, it may be that water is leaching out of that—I am not a technical person for a start so I cannot go into the technical details. I thought the report put

out by the Building Commission in April was fairly benign. They were not really pointing the finger or doing anything to give anyone any confidence that there was an investigation that was finding out what was happening. The Jacobs report perhaps provided a bit more detail about what was happening. I am sorry; I have lost my train of thought. What was the question?

The CHAIR: What you thought might be the source.

Mr HENRY: Yes. Based on what I am reading, it would seem like this is the source.

Mr D.C. NALDER: Over time we have dropped the lead standard in brass fittings from around six per cent to four per cent. The head of ChemCentre is concerned that if we are still seeing zincification and lead leaching, maybe that needs to be reviewed again, do you have a view that?

Mr HENRY: I can only go on what I have read from the USA and places like that. It would seem that they thought that reducing lead content will have a dramatic effect on the lead content in potable water by dropping the lead content in brass to minimal levels. From my members' point of view, there are some concerns about that because they are geared up in terms of their manufacturing processes to deal with brass with lead in it because it makes the lead more malleable.

Mr D.C. NALDER: The brass more malleable.

Mr HENRY: Sorry, the brass. There are other materials around but they are not quite as good. The other thing that is of concern is the amount of recycling that is going on in China. We have to applaud their endeavours to do that but concerns are raised about the quality of the materials that are going into the recycling process and how they come out, because what we might see as good brass that might be made in a foundry in Perth in Western Australia, if we have got any left here, would perhaps be substantially different from brass that comes out of a foundry in the backblocks of China in terms of the leachability of lead in that brass, the quantity of brass and the consistency of the mixture and the material anyway.

Mr V.A. CATANIA: Given there have been reports over New South Wales about these fittings and testing in housing and what have you, it seems like nothing has happened here in Western Australian in terms of the testing, has anyone written to you or your board or the Chief Health Officer to ask for houses or any other public buildings to be tested to see whether there is a systemic problem?

Mr HENRY: Not to my knowledge but I think it would be a good idea. I think this whole issue is about public health. I think all regulatory and legislative requirements, in the main, should be about ensuring the comfort and wellbeing of our communities. And it would seem to me that if the health department has the capacity to do that they should at least do some preliminary investigation. Because I think the telling thing for me about the New South Wales University report was that the time frame for the installation of some of those kitchen tapware where they are claiming that the lead was leaching from is not inconsistent with the changes in the USA and importing product from China.

The CHAIR: In your submission you mention the checks and balances being grossly inadequate under the Australian building codes in regards to ensuring plumbing products maintain their integrity, what are the current responsibilities of the ABCB in this area and where do you think it is lacking?

Mr HENRY: The responsibilities in that area are that they are now the new owner administrator of the WaterMark certification scheme. They took it over from Standards Australia by agreement through the Building Ministers' Forum and have set about changing the rules and the requirements of the WaterMark scheme. I understand they consulted with various industry experts from time to time, not in a holistic fashion but individually and independently, and they have come up with the view that the surveillance regime can be different from what it was. Then they are putting the responsibility for some of that surveillance back onto the WaterMark certification assessment

bodies that are charged with certifying plumbing products. The problem with that, and whilst we expect them all to behave in a responsible fashion, is that it comes back to price. If they do not have a reasonable price or cannot negotiate a reasonable price with the manufacturer carrying out that certification, they will not incorporate the necessary factory audits required to ensure consistency in the production line of these products. A five-yearly surveillance arrangement is insufficient, as I indicated in my submission. In Europe and USA we understand that factory audits are required or carried out approximately every six months because there is a difference in the manufacturing process or, if there is a difference in the manufacturing process, that may be just the source of raw materials. That source of raw material might have a substantial difference in the materials consistency in the brass level, using brass as an example.

[11.30 am]

So, there needs to be a more detailed surveillance than a desktop audit of certifications supposedly carried out by authorised people because, for example, we believe that there is currently a product that has been watermarked that is not actually meeting the requirements of the WaterMark certification scheme. So that is a major concern. Again, as we understand the way these things are applied, it is the state regulators who should be responsible for this. If the WaterMark was point of sale like the water efficiency labelling scheme is, it would be easy to go into a store and take a product off the shelf and test it. So you could have a random testing situation, which would help ensure compliance, because if the penalties are sufficient, people are not going to be importing products and selling them on the shelves if there is a compliance regime and there are penalties.

The CHAIR: Of course, the compliance regime here—if we introduced the six-month audit that they have in the Europe and the US, it potentially could increase the cost of the locally manufactured products.

Mr HENRY: Well, it will.

The CHAIR: Then there is an issue about cheaper imports. Is there not a real fundamental problem that it is only licensed plumbers?

Mr HENRY: That is the point. That is why we say the point of sale is critical because it takes that responsibility, if you like, in a sense, from licensed plumbers. However, it should still stand that they are responsible for installing certified products. But if it is point of sale, everybody knows about it. Everybody has a responsibility.

The CHAIR: And you mentioned in your submission at page 6 that there has been a —

... resistance from a number of government jurisdictions to the WaterMark Certification Scheme being changed to point of sale ...

Has Western Australia been one of those reluctant jurisdictions?

Mr HENRY: I can only go on anecdotal feedback, which I do not necessarily hold a lot of store in, in some of these things, because there is, obviously, a bit of gossip about who sits around board tables and who says what, but I understand that the Western Australian representative on the Australian Building Codes Board has not been a strong supporter. I understand that New South Wales has been less than supportive. But they are the only two that I am able to comment on. I understand a number of the other regulators charged with the responsibility of regulating plumbing are quite supportive of the idea. I understand the ABCB will be investigating during the course of the next 12 months the value of point of sale.

The CHAIR: So, overall, your recommendation to ensure that we have a better regulatory framework to make plumbing products safer is the point of sale issue, is it?

Mr HENRY: Yes. That will assist.

The CHAIR: Anything else?

Mr HENRY: I guess ensuring that state regulators actually follow through if they are the ones who are responsible. Essentially, the way I look at it—and there seems to be resistance from state jurisdictions in having too much national uniformity—is adopting a similar legislative base to that which WELS has, so that there is consistency across the country. The regulator under the WELS act is the commonwealth, but there is some agreement and cooperation among the state jurisdictions. But I think we all have a responsibility. I mean, at the end of the day, public health is something that everyone should have some concern for.

Mr D.C. NALDER: Is there anything else you can think of that is pertinent to our investigation?

Mr HENRY: I guess it is pertinent. I see us really, ultimately, following the US, because it would seem—and I understand Europe is looking at some of those areas as well—to be a consistent way forward, and then if we have got an international approach to this, then it helps to address the globalisation of markets. The other thing, of course, is that if we do make this change, on behalf of my members, we would like to make sure that there is an adequate transition process, that suddenly there is not a decision made that next month all products have to be sold because there are obviously costs associated with that on manufacturers and suppliers and that impacts on their business.

Mr B. URBAN: Is that only with potable water or is that generically?

Mr HENRY: Just with potable water, because I understand that in the US, products can be sold that are used for irrigation purposes and other purposes, industrial purposes, where it is not consumed by humans. I guess the dramatic impact of lead in water, which I have also endeavoured to portray in my submission, is the impact on children. It is cumulative. Even irrespective of what the levels of lead might be in the water, in a small child that can accumulate over time.

Mr V.A. CATANIA: That is saying to me that this is quite a large issue if you are saying if there was legislation to be introduced to make sure that there are much better safeguards in having the WaterMark and to impose those safeguards, you need time for the industry to transition. That says to me that there is a massive problem out there if you need time to transition to make things safe.

Mr HENRY: No. I suppose I am making a point that some of my members have already made in this discussion. I mean, historically, we have not had a view on lead in potable water other than whatever the units are, but suddenly, because of the Perth Children's Hospital and other circumstances—the Flint water supply in the USA—we are seeing a lot more of a focus on this around the world. We are saying, "Well, if we've got manufacturers who are manufacturing to a standard that's acceptable today and that standard is going to change, and we believe it probably should, then there should be a period for a transition."

The CHAIR: So you see the US as being the leading jurisdiction in this area?

Mr HENRY: It seems to be the case at this stage from what I have read, yes.

The CHAIR: Has the situation been in the US with the twice-a-year audit, and presumably the certification is at the point of sale, is it?

Mr HENRY: The system is a bit different there but litigation is such a big factor in the US, as you probably appreciate, the Home Depot and other major stores like that would not sell a product unless it is certified, because it reduces their potential liability.

The CHAIR: Has that resulted in cheaper imports coming into the country?

Mr HENRY: I think imports coming into the country all have to be certified. In fact, from a commercial point of view, one of the organisations I am familiar with in the USA has actually opened up in China and built a laboratory there to test and certify a product to meet the American market.

The CHAIR: The argument about trying to counter the cheaper imports is to make sure that everything is certified whether they are imported or locally produced?

Mr HENRY: Yes.

Mr B. URBAN: Only for potable water use.

Mr HENRY: We are not trying to counter cheaper products; we just want to make sure that products are fit for purpose and meet their responsibilities.

The CHAIR: For sure. In regards to your submission, we are planning to post that online as a public document. Do you have any concerns about that?

Mr HENRY: No.

The CHAIR: Thank you for the evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you again.

Mr HENRY: I assume that transcript will be emailed to me.

The CHAIR: Yes.

Hearing concluded at 11.38 am
