TRANSPORT AND PUBLIC WORKS COMMITTEE

Members present:

Mr SR King MP (Chair)
Mr CE Boyce MP
Mr RI Katter MP
Mrs JR Miller MP
Mr BJ Mellish MP
Mr TJ Sorensen MP

Staff present:

Ms D Jeffrey (Committee Secretary)
Ms M Telford (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE PLUMBING AND DRAINAGE BILL 2018

TRANSCRIPT OF PROCEEDINGS

MONDAY, 19 MARCH 2018

Brisbane

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The committee met at 9.33 am.

CHAIR: Good morning. I declare open the public hearing for the committee's inquiry into the Plumbing and Drainage Bill 2018. Thank you for your interest and for your attendance here today. I would like to acknowledge the traditional owners of the land where we are today.

My name is Shane King, member for Kurwongbah and chair of the committee. The other committee members with me here today are: Mr Ted Sorensen, member for Hervey Bay and deputy chair; Mr Colin Boyce, member for Callide; Mr Robbie Katter, member for Traeger; Mr Bart Mellish, member for Aspley; and Mrs Jo-Ann Miller, member for Bundamba.

On 15 February 2018 the Minister for Housing and Public Works introduced the bill to parliament. The parliament has referred the bill to the committee for examination, with a reporting date of 9 April 2018. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament.

The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions to witnesses, so we will take those as read. Only the committee and invited witnesses may participate in the proceedings. As parliamentary proceedings under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. I therefore ask you to please identify yourself when you first speak and to speak clearly and at a reasonable pace. Witnesses will be provided with a transcript. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings. I ask everyone present to turn mobiles phones off or switch to silent mode.

The purpose of today is to assist the committee with its examination of the bill. Witnesses at today's public hearing will appear in the order outlined on the public hearing program. The program has been published on the committee's webpage, and there are hard copies available from committee staff.

I would like to welcome all the witnesses who are appearing today and thank you for making a submission to our inquiry. We have had the opportunity to read the written submissions and familiarise ourselves with the issues raised. At today's hearing we would like to further explore aspects of the issues you have raised in your submissions. Given the full schedule today, I ask that you keep your introductory statement to no longer than two minutes to allow sufficient time for the committee to discuss issues with you.

BRODNIK, Ms Kate, Senior Policy Solicitor, Queensland Law Society

DUNN, Mr Matt, Government Relations Principal Adviser, Queensland Law Society

CHAIR: I now welcome representatives from the Queensland Law Society. Would you like to make an opening statement?

Mr Dunn: I would like to thank the committee very much for allowing the Queensland Law Society to appear before you today at the hearing on the Plumbing and Drainage Bill. The Law Society is an organisation representing the solicitors of Queensland. We are independent and apolitical. We make a lot of work in good law, which is of keen interest to our members, looking at legislation and making representations from the point of view of what makes a good law.

We reviewed this bill amongst a package of 16 other bills that were introduced all at the same time as part of the introduction of the new session of parliament. As a result, we identified a few issues that we wish to raise which we submitted upon. There might well be many other fundamental legislative issues that we have not picked up due to time and the number of bills that were introduced

all at once and the lack of any documents to tell us where the new bits of the bills were. We needed to conduct a review of each of the 16 bills line by line to figure out where the changes were from last parliament. We have done the best job we can.

There are three issues that we outlined in our written submission which I will not go over in detail—one of which relates to the right to claim privilege against self-incrimination. There are exemptions to that, but the exemptions for the continued use of information are probably not drawn in the way that they should be to be regular in that circumstance. The offences and penalties in the bill seem to be quite elevated in this particular circumstance. That may be a policy decision of government, but they seem to be a little bit out of step with other corresponding pieces of legislation.

The other point that we noted was that there was a particularly peculiar transitional regulation-making power which appeared to be incredibly free ranging and widespread, and that seemed to be a little out of place in the circumstances. It was either a matter that there was not enough time to get the policy work done and to put the transitional arrangements in full into the act or alternatively the department just wanted to play it safe and give themselves the power to do anything at all in the transitional space. Those were the three main issues that we raised.

CHAIR: I am pretty comfortable with that. Could you expand a little on the transitional regulation-making power? You said it was extremely broad. Could you flesh that out a little more, please?

Mr Dunn: Certainly. For the benefit of the committee, clause 174 provides a transitional regulation-making power. It says that a regulation can be made in relation to anything that is necessary to facilitate the transition from the operation of the repealed act to the operation of this act if this act does not provide or sufficiently provide for a matter. That power is also expressed to be able to be made retrospective, which is a little bit unusual as well. The regulation must declare that it is a transitional regulation, which is quite ordinary, and also that those transitional regulations expire one year after the day that the section commences. That also is quite ordinary.

Where it is a little bit extraordinary is where there is the power to do anything at all as long as it is within the general feeling of the act, as it seems to be drafted, including if the act does not provide for a particular matter but it is felt that that will further the transition from the old act to the new act. What in effect it is saying is: 'If we have missed something, if we did not realise something, if we have not noticed something, if something has not been taken account of, we can come back later on and pass a regulation to make it so—which is what we intended to do in the first place.'

I appreciate that there were probably tight time frames around the commencement of parliament and getting the new legislation in, but it does seem a little extraordinary to give the government the power to basically come and fix up mistakes not through the parliamentary process but through the regulation-making process. The regulation-making process is perhaps not quite as robust. In fact, it is nowhere near as robust as the parliamentary process. Pieces of legislation must come before parliamentary committees. They must be reviewed. There are submissions. There is consideration of the public interest and the benefits of various parties giving and taking and such things. Regulations can simply just be made by Governor in Council signing off.

There is parliamentary oversight of those regulations. Parliament can basically cancel a regulation, but the cancellation process is something that occurs with a notice being given at the next parliamentary session—after the regulation is made, there is a time period to go and then there is a vote. Conceivably, a regulation which is particularly prejudicial to somebody's interest could be on the books for three months or six months before a vote actually comes to strike that regulation down, in which case people have had to obey the law as it was made for that period of time before it gets there.

It sticks out a little bit as being a little peculiar in the circumstances. It may be a function of the fact that there was not enough time to get all of the transitional work done. If that is the case then maybe it is a matter of needing to bring the bill back when that work is done and those issues have been thought through. There are a number of issues in this bill which will affect the rights and liberties of individuals, as well as the livelihoods of individuals and regulation. There is much of that. A lot of those are policy decisions which are not really within the purview of the Law Society, but it is a particularly peculiar thing to throw in something of that breadth in that case.

The fact that it allows regulations to be made in a retrospective way to the commencement of the section of the act is also a little bit concerning. Obviously retrospective legislation in general is problematic unless it is giving a benefit. Retrospective regulations are also problematic because there is obviously less scrutiny, which we have talked about, but processes to alert the public as to what is

in regulations are a lot less refined—the fact that regulations can be passed, they can be retrospective and a lot of people will probably never know that those regulations had been passed because they will simply go up on the Parliamentary Counsel's website.

There are a few elements in there that seem a bit problematic. It would be interesting to know why that provision is drafted in such a broad way. It probably needs a bit of tidying up in that case to make it a little bit more thoughtful.

CHAIR: I am hoping that part of the reason it was brought in was to do with safety and decisions having to be made because of the nature of this bill. That is something that we intend to flesh out.

Mr SORENSEN: One of the issues that you raised in your submission related to the penalties and offences and your concern about them not being proportionate to similar offences in other acts. Can you provide us with a bit of information on that?

Ms Brodnik: Yes. Some of the offences outlined, particularly in clauses 56, 57, 186 and 187, do appear to be a bit disproportionate to other acts. You will see in our written submission that we have referred to section 126 of the Building Act, which imposes a penalty unit of 165, as compared with clauses 56 and 57, which start at 250 and go up from there based on how many offences are committed. It even includes a term of imprisonment as well. In other legislation, such as the Electrical Safety Act and the Work Health and Safety Act, offences are often linked to a breach of a duty that has led to some bad consequence, so death or grievous bodily harm or injury to the health and safety of a person. In these offences under this bill it is the work that is performed that is either not licensed or not supervised properly. While the Law Society completely concurs that the scheme is set up to promote safety and to ensure that work is done so that the workers and the public are not injured, we still think there needs to be a proportionate balance between the penalty that is imposed and what that might mean in terms of effect on livelihood, considering that the exemptions under I think it is clause 58 are an exhaustive list and maybe do not allow for another excuse to be provided or another defence. We just want to draw the committee's attention to those offences and see if in your view, in light of the other acts that are out there, you consider that they are proportionate.

Mr Dunn: If we have a look at clause 56, which is the clause relating to carrying out work without an appropriate licence, which is probably relevant for a lot of what you are going to hear today, there is a 'three strikes' kind of process there. There is a lower penalty for a first offence, a slightly higher penalty for a second offence and then for a third or later offence or in a special other case there is a little bit of a higher penalty including a term of imprisonment. It would be quite possible in the circumstance to simply just give the one penalty and then leave it to the discretion of the judge to determine where the appropriate penalty is. Obviously the Law Society has a lot of concern around mandatory sentencing or sentencing which tries to shanghai judges into a particular result rather than others, but there is that particular thing.

Whether imprisonment is appropriate in the circumstances of this particular offence is another interesting question. The offences are about carrying out unlicensed work; they are not necessarily connected to then endangering the public. You would have thought for a term of imprisonment you would need some element of endangering the public. One interesting side note as well in that offence is that the third or most aggravated offence level, the 350 penalty units or the term of imprisonment, is responsive where unlicensed plumbing or drainage work is done but is grossly defective. That is getting towards that concept of there being some public harm, but it is not quite there. Again, those offences might need to be a little bit more refined as to exactly the type of public interest that the scheme is trying to be directed at, rather than simply throwing an offence at something with a big number.

Part of the general fundamental elements of regulatory schemes is trying to constantly focus the scheme on the public interest that is being directed, the danger that is trying to be avoided, and trying to focus everything in that particular direction.

Mr KATTER: You mentioned that there were concerns with clause 48. I want to hear a bit more about that.

Ms Brodnik: Clause 48 relates to the supply of documents for an audit. The clause talks about what needs to be supplied and then the consequences if someone does not supply the documents or information. Subclause (5) says the person who is given a notice must comply with it within 10 business days unless the person has a reasonable excuse, potentially the time they receive a notice or whatnot. Subclause (6) then goes on to say it is not a reasonable excuse for a person to fail to comply with a notice on the basis that complying with a notice might tend to incriminate the person or expose the person to an increased penalty. That is a direct abrogation of the right to claim privilege against self-incrimination, which is a longstanding common law right and a right that we say should only be abrogated where it is appropriately justified.

Reviewing the objects and purpose of this legislation, though it is designed to promote safety and good work, we do not think the balance is right. You then go to clause 97 and particularly 97(3), where it again refers to this clause 48 and it says that potentially this privilege may be able to be protected but then subclauses (b) and (c) say 'except where there is an offence against this act or a disciplinary proceeding'. In the previous subclause you give the person the right to claim privilege but then you take it away in the next few subclauses so it essentially has the effect of taking that right away, which we object to.

CHAIR: As there are no further questions, thank you for your time.

BRADFORD, Mr Shane, President, Air Conditioning and Mechanical Contractors' Association

LIMBURG, Ms Kim, Chief Executive Officer, Australian Refrigeration Mechanics Association

MacKRILL, Mr Graham, Executive Director, Queensland and New South Wales, Air Conditioning and Mechanical Contractors' Association

McLEAN, Mr Don, Member, Australian Refrigeration Mechanics Association

TUENA, Ian President, Australian Refrigeration Association (via teleconference)

CHAIR: We have had the opportunity to read the submissions that you have put in and familiarise ourselves with the issues you have raised. At the hearing today we would like to further explore the aspects of the issues you have raised in your submissions. Given the full schedule, I would ask if you could keep your introductory statements to no longer than two minutes to allow sufficient time for the committee to discuss issues with you. Would one of you please like to make an opening statement?

Mr MacKrill: Good morning, Chair and committee. Thank you for the opportunity to be here today. Our submission is supported by all of the major refrigeration, plumbing and building industry groups, as well as union groups. We wish to publicly acknowledge their support for the introduction of this licence. The focus of our submission in relation to the Plumbing and Drainage Bill 2018 is in support of the introduction of an occupational licence for mechanical services plumbers. The introduction of the occupational licence will provide occupational certainty for workers who are trained and qualified to work in the highly specialised scope of work which ensures that air-conditioning equipment in commercial buildings and bulk medical gas services in hospitals are installed in a safe manner.

Mechanical services plumbing is a highly specialised form of air-conditioning work in refrigeration and air conditioning, and air-conditioning technicians also function in that space of the whole of the trade. We have mechanical services plumbing, then we also have refrigeration and air-conditioning technicians working in that space and we would also be advocating to work towards having refrigeration and air-conditioning mechanics occupationally licensed at some stage in the future.

Shane Bradford is the owner of an organisation that employs several tradespersons, including both trades—refrigeration and air-conditioning and mechanical services plumbing—and has been doing that since 1999. Shane is here to answer any questions in relation to how the industry operates. Should the committee wish to have details of how this sector of the trade operates I cannot see anyone better than Shane to answer those questions for us. We thank the committee for reviewing our substantive submission made as part of this process and we welcome any questions.

CHAIR: We will move to an opening statement from the Refrigeration Mechanics Association.

Ms Limburg: ARMA commends Minister de Brenni for delivering comprehensive reforms and thanks his department for ongoing consultation. We also thank this committee for the opportunity to present today. ARMA supports the need for a medical gas licence and, to a lesser extent, a mechanical services plumbing licence. Our concerns lie with the latter, with the broad description of scope of works, and we seek improved wording to ensure the latter is literally not let loose to work on high-pressure refrigerants nor the systems. The exclusions I have just mentioned are specialised areas of HVAC&R and we urge extreme caution.

In Nambour in 2009 a plumber cut into the refrigerant pipe, not understanding the high pressure of refrigeration in the pipes. He was forced off a three-metre-high scaffolding and tragically died. In Rochester in Victoria in approximately 2014 two diesel fitters went to a mate's pub, went, 'Yeah, she'll be right, mate. We'll fix the problem with the cold room,' not understanding hydrocarbon refrigerants—and we are leaning towards natural refrigerants—one of them lit a cigarette and both are now passed away, sadly. These are the accidents that we are trying to prevent from occurring.

ARMA is seeking support for the removal of the two refrigeration and air-conditioning occupational licences under the draft mechanical services licences, to develop RAC occupational licensing under the QBCC with the related existing contractors RAC licensing. I note that it is possible to do that. It may take a little bit more time, but we already have the fire protection licences which exist that are not a contractors licence. HVAC&R is heating, ventilation, air conditioning and

refrigeration. It is a specialised industry and requires a specific skill set. Competencies to carry out this work are achieved by completion of an apprenticeship in either the UEE 32211 refrigeration and air conditioning or the least preferred, which is the MEM 30205 RAC stream.

If I can explain the difference in refrigerant and what plumbers work with in gas work, RAC is a multipass refrigerated system which operates at high pressure. The plumbers work on what is a single pass at a lot lower pressure. Either RAC or plumbers can continue on and do a medical gas qualification, but it would be fair to say that plumbing would require more competencies than the RAC would because RAC are already dealing with those high end sort of refrigerants. It is regulated as well, so that is another difference between the medical gas and the refrigerated systems.

I wanted to point out that New South Wales recognises the three specialist trades and licence accordingly. As in the case of RAC, it is inclusive of all refrigerated systems and that includes split-system installations and it is inclusive of the restricted electrical. Don is here with me today and he will talk in a moment about the electrical side. Victoria is developing a stand-alone RAC trade, so it is interesting that Queensland is going down the path when Victoria is saying, 'Hey, it's not working'. At the moment, under the regulations, the new staff at the VBA are determining the regulations to the extent that the trade qualified refrigeration and air-conditioning person cannot get a licence unless they are supervised by a cert II mechanical services. That is part of the problem with coming under plumbing. Tasmania will soon be including the split systems in the trade qualified, which is the RAC.

I want to touch on the original warranty amount as well. It was 1,100. I think I am to blame for the fact that it went up to 3,300 and neither worked. We have electricians far exceeding the scope of 3,300. I should also point out that the QBCC does not have any technically skilled person to carry out inspections on RAC work or RAC equipment. To date, I am unaware of RAC inspections having been carried out ever. That is another concern.

From the moment the system is installed by an unskilled worker—I want to touch on the star rating. As consumers, we will go to a Harvey Norman or a Good Guys or whatever and say, 'Okay, that has a three- or four-star rating on the split system'. The problem is that that only applies while it is sitting on the shelf. When that system is installed, in this situation, we have as high as 75 per cent split-system air conditioners not operating efficiently, because that is how many are no longer being installed by the trade qualified.

With a cert II split installer's licence, it is a refrigerant handling licence. This is where there is a great deal of confusion. It is not an actual technical competency. A split installer will install that split system and we can pretty much guarantee that it will not be operating to its design parameters, so the consumer is paying a hell of a lot more in power. That is a concern for us. We worry about the consumer side of it. With the simple 30-degree angle of a pipe, there are a whole heap of calculations that have to go in. It is not taught. That is something that is learned through a four-year apprenticeship. We are defeating the Kigali agreement. We are just not meeting it and we will not until we see appropriate licensing.

I have not touched on the safety side and I realise I have probably gone past my two minutes, so I apologise. If we were to licence a cert III occupational licence with a zero threshold, this trade can deliver energy efficient split-system installations and that is just one area. We have the ability to provide compliance on that as well. We cannot do that with cert II. Again, it is the safety. I will finish now. Thanks for your patience.

CHAIR: It was largely covered in the submissions about the energy efficiency, so thank you for fleshing that out. Don, did you have anything to add from the electrical side?

Mr McLean: While we are on the subject of safety, the legal guys who were here before talked about penalties for people getting injured in this field. I was injured last year due to the fact that a trade qualified electrician was employed to install air conditioning, but did not understand the wiring of it. He left live wires in the roof that electrocuted me. I have sustained quite severe injuries from that. I have just had a nerve bypass in my arm.

These people are allowed to do my trade, which I went to TAFE for. I come from Mount Isa. I had to travel away from my mum and dad and my home when I was a child to spend a lot of time in TAFE colleges to learn my trade. Now they are allowing someone who is an electrician or, to me even worse, a plumber install that air conditioner or the electrical system to an air conditioner after doing a two-day course. We are not talking about the professional people who run TAFE colleges teaching; we are talking about fly-by-night people who come into a town, train all the electricians, give them the piece of paper.

I have even had guys ring me asking me, because they have had a course, the guy got sick and only turned up for one day. We have a situation where these people are legally allowed to do my trade. They are endangering me and they are endangering the public. It is just totally ridiculous that on one side you say that you need to do a four-year trade qualification to put in a 19-kilowatt air conditioner, but if you want to put in an 18-kilowatt air conditioner you can rock on down to the local pub on Wednesday, do a two-hour course and you can do it. That is basically where we are at, at the moment.

CHAIR: Thanks for that, Don. We will now go to the phone and the Australian Refrigeration Association.

Mr Tuena: Thank you. Unfortunately, due to health reasons, I am unable to attend in person. My apologies for that. The ARA commends the Queensland state government for recognising the trade of refrigeration and air conditioning as a trade under the QBCC mechanical services licensing amendment 2017. However, we caution strongly against proceeding under the current proposed scope and definition. With the signing of both the Paris COP21 agreement and the ratification of the Kigali agreement, the Australian federal government has effectively endorsed the greatest change in the refrigeration and air-conditioning industry since 1935.

We commenced the HFC refrigerant phase down on 1 January this year. As this phase down begins to take effect, the working fluids used as a refrigerant in all vapour compression refrigeration systems will either be toxic, flammable or operate at extreme pressures. Ninety per cent of the current workforce have not had experience with the properties of such fluids and are presently not qualified to work with such fluids. A massive retraining program is required within our industry. Therefore, it is in the interests of both public and worker safety that a well-designed, properly scoped state occupational licence is developed with a minimum educational level being cert III refrigeration and air conditioning under the UEE32211 or, alternatively, a mechanical services. However, the UEE is quite clearly the better program.

Queensland has a unique opportunity to be a leader in developing a strong working model of a graded occupational licensing system, particularly if there is a trade of refrigeration and air conditioning, that can be replicated in other states. However, this requires careful planning and further industry consultation, in addition to better alignment of the current government legislation unique to Queensland, such as the Queensland Petroleum and Gas (Production Safety) Act 2004 and the Petroleum and Gas (Production and Safety) Regulation 2004 relating to the use of natural refrigerants. In particular, section 8 of the regulation sets out the requirement of converting existing equipment from synthetic greenhouse gases to natural refrigerants.

We ask the committee to proceed slowly, carefully and thoughtfully with the proposed changes to produce a licensing system that is simple, provides the skill sets required to work on the more complicated systems of the future, provides the additional safety mechanisms to the public and the workforce as will be required by the only working fluid that will be available to the industry and a system that allows for the future development of refrigeration systems and allows Queensland to be a competitive leader in the refrigeration and air-conditioning space. Whilst we agree there needs to be a subclass of licensing as written, we strongly recommend that these license structures be based on the technical competence of the tradesperson, not the size of the building or the system that the tradesperson is working on. Even a small system can be dangerous if a tradesperson has not been trained properly. That concludes our statement.

CHAIR: Thank you very much for that. We will now go to questions.

Mr SORENSEN: After listening to all of that, it is pretty hard to believe that we are trying to do what we are doing. A friend of mine was killed on a trawler when he took the head off the compressor and blew his head off. How can we put plumbers and electricians into that situation?

Mr McLean: I will try to answer your question. I think that is the main problem we have with this legislation and where we are going with handing out licences willy-nilly for a couple of hundred dollars after a one- or two-day course. A person working on a trawler is a fairly dangerous idea, but you could imagine worse in my area of expertise, where you could have an electrician do a two-day course and then put in one of the new air conditioners R32, which is a flammable gas. That is flammable while it is under normal atmospheric pressures, but if you put it under 3,000 kPa of pressure it becomes a basic bomb. After two a day-course, that person is allowed to install that thing into a service station. He is allowed to install that thing into the Caltex depot or the refinery. Even worse, he can install that thing in your three-year-old daughter's bedroom. That is where it gets ridiculously dangerous.

As a country, we have spent millions and millions of dollars to try to protect the ozone layer, but then we turn around and say to the trade that is protecting that, 'We don't think you're valuable; we will let anybody do your trade if they pay the money and do a short course over two days'. That is what is happening at the moment.

The other thing that you need to remember about refrigerants is that they are oxygen depleting. If you are sleeping in a room and the air conditioner leaks because they have not done something as simple as flare properly and it all leaks into your room, you suffocate. We are not talking about little things here; we are talking about quite dangerous things.

Like you were saying before about economics with the state and your power supply and all the troubles we are having with that, you have all these air conditioners everywhere in Brisbane all working at 35 or 40 per cent efficiency and your grid is trying to deal with that at Christmas time. Why? Because you want to give electricians a free pass into the refrigeration industry or, as I am saying, with all due respect, even worse a plumber trying to work on a refrigeration thing. As a refrigeration mechanic and a quite highly educated person, I would not even attempt to repair a sewer or connect my house to a sewer. Why would that person then want to start trying to play with electrics or refrigeration? To me, you are asking for trouble, you really are, and it does not matter whether it is in your daughter's bedroom or the high rise down the road.

CHAIR: Thanks, Don. I think we get the intent and passion of what you are saying. Shane, you had something to add to that as well?

Mr Bradford: I think we are getting mixed up a bit. What we are talking about is a mechanical services plumbing licence. I think we need to be careful with the wording in the licence and not overreach with the wording for what the scope of work is. These guys go through a four-year apprenticeship to do all the work with medical gases, universities.

It is more about moving water and air around a building rather than refrigerant. We obviously employ both trades. What we find with our mechanical services plumbers is they do nothing on the refrigeration side of it apart from install pipework, which they are trained to do at tech college, but it gets commissioned by the refrigeration and air-conditioning mechanics. I cannot vouch for every business in Queensland and I am sure that it does not get done that way in some respects. What we are looking for is a licence for those guys—and then I think we are getting mixed up in the fact that we also are looking for occupational licensing for the RAC trade as well. That is where these guys are going. I think it is really important that we do not mix the whole thing up.

We need to continue down the path with occupational licensing for mechanical services plumbers but then push really hard for that occupational licensing for the RAC guys as well and not get mixed up. They are two very different scopes of work. I think it is the wording in the legislation around what they are able to do with their occupational licensing that we need to be very careful with. There is some wording in there about repair and maintenance that probably should not be in there. I would not expect mechanical services plumbers to do any electrical work based on their training. It is just that we need to be very careful with some of that wording in that licence and then work hard to get an occupational licence up for the RAC trade as well. If we can roll that all into this legislation that would be a perfect scenario for the industry. I am not sure how easy that is; I suspect it is not.

CHAIR: This legislation is about a mechanical services licence. I agree with you; that is probably where the confusion is coming in. I understand exactly what you are saying. We have to report and discuss all this, so what you have said has been taken on board, thank you.

Mr Tuena: I am in agreement with Graham. Quite clearly the industry has defined the scope of work that mechanical service plumbers do and it is a trade in its own right and, therefore, deserves recognition. As Graham alluded to, the confusion comes when we start pushing into the refrigeration—the confusion with the legislators and the government seems to be about the fact that what underpins every air-conditioning system is a vapour compression refrigeration system. That system is a trade in its own right. This is where the confusion seems to come in. The industry has quite clearly defined the scope of each trade, and I think both the plumbing and the refrigeration air-conditioning industries agree on those scopes of works for each trade.

The game has changed and changed significantly as from 1 January. I cannot emphasise enough the danger of the refrigerants, whether they be classed A2L, mildly flammable refrigerants, or A3 refrigerants. We will have ammonia, flammable refrigerants inclusive of hydrocarbons and synthetic refrigerants and we will have carbon dioxide, which operates at pressures of up to 100 bar. The skill sets need to increase significantly. We should not be in this position, but we are. Therefore,

we really are asking the legislators to proceed cautiously and slowly and to work closely with the industry to produce the right type of licensing structure that will prevent the injuries to the public and to the workforce.

What we are seeing are explosions. We believe it is from the diesel effect. That is where air contaminates a system because it has not been installed correctly; it has not been evacuated correctly. We are starting to see these R32 split systems, which only have a minimal charge, have severe explosions. We have seen a death in India of a worker and we have seen in the Netherlands the ramifications of a severe explosion from a split system. In both cases the underlying commonality was that the systems had not been evacuated properly. We know anecdotally that that is quite a common practice amongst the certificate II qualified people. We are very clearly saying that we need to raise this standard and have a minimum entry level when working on any refrigerant that is flammable, whether it be A2L or A3.

Mr BOYCE: I have a question for Don. I am a qualified boilermaker. From a practical point of view—not that I want to be a fridgie—if you had to train me to install a split system air conditioner, how long do you think it would take me to gain the necessary qualifications?

Mr McLean: In realistic terms I would say go and do the trade, which is a four-year trade, which is seven weeks a year. When I did my trade in Mount Isa—because you had to fly in and out to do it—it was seven weeks a year for three years, so 21 weeks. That would be the realistic answer. That is with highly qualified TAFE teachers, not the private enterprise trainers that we have.

Mr BOYCE: What you are basically telling me is that a 21-week course would be suitable rather than four years in the trade?

Mr McLean: It is a 21-week course. Like I said, it is with highly qualified teachers at a TAFE college, which is a part of the four years worth of practical training under the wing of a highly qualified specialist.

CHAIR: The Department of Housing and Public Works have advised they are still working with the industry to finalise these qualifications. I appreciate your answer there.

Mr McLean: I just want to point out that the legislation is very similar to what operates in Victoria right now. In Victoria right now you have plumbers installing multihead split system air conditioners. They are putting them in, they are running the pipes, they are doing everything and at the last second they get a refrigeration mechanic to commission them. Why do you need a refrigeration mechanic to commission them if you are good enough to put them in? It is like if I were to do the operation, but when it comes to the end of the operation I get a really good surgeon to come in and see if I have done it right. It is a bit late by then. This legislation that we are looking at is a Pandora's box to people. You have to remember that you have air-conditioning type hot water systems nowadays as well.

CHAIR: Thanks for that. I do appreciate that. We are not having a debate here. There is always the opportunity for the person who is commissioning—and whatever our own beliefs are, we will be discussing all this later—to say, 'No, that's not good enough. I'm sorry,' and that gets pushed back on the licensing regime to perhaps strengthen it as you are asking for.

Mr MELLISH: I have a couple of questions to the Refrigeration Mechanics Association related to what you said in your opening remarks. If I can summarise a bit, you support the mechanical services licensing and you support the medical gas licensing, but you are after in the short, medium and longer term refrigeration and air-conditioning services licensing?

Ms Limburg: We support the medical and we support the mechanical services plumbers. We just ask that the definition of 'scope of work' be better worded. The other thing that is a concern is duct work. The only trade technically competent to understand the full system—and we are talking about the duct work through to the air flow to the system that operates, even the condensate drain and the effects of that back on the system. The duct work must be included in the occupational licence for RAC.

This draft bill, the 2018 one, suggests the exclusion of duct work for all four mechanical services. While the refrigeration mechanic is the technically competent person, they do not turn around and manufacture the duct work; they will go to a supplier who has it already prepared or a sheet metalist, and that is fine. However, to exclude the word 'duct work', you are actually excluding what the refrigeration mechanic needs to do, which is install. There are huge issues with clearance for working inside roofs and things like that. There are some great funny photos that get around.

Mr MELLISH: Going back to the broad point, I suppose your problem is not what is in the bill but what is not in it? Your issue is with the status quo?

Ms Limburg: It is and it is not. The bill contains the inclusion to put into regulations two refrigeration and air-conditioning occupational licences. We want to see that removed and put in with the QBCC to include under the current contractors licensing the occupational aspects. In relation to the other two, yes we support it and, as you are saying, what is not included in it as the scope.

Mr SORENSEN: You just said you had a lack of consultation with the HVAC&R industries. Can somebody elaborate on that?

Ms Limburg: Sorry, what was that question? A lack of consultation with—

Mr SORENSEN: It was about a lack of consultation with the heating, venting and air-conditioning refrigeration industry and disregarding people from the specialist field.

Ms Limburg: I can elaborate on that. We found out—and when I say 'we' I mean industry. We did not know about the draft bill or the consultation processes that were taking place. From memory, we were actually a day or two away from the survey closing online. I had spoken to ARA, ARC, RACCA and AMCA of course and none of us were aware. This is a common problem here in Queensland where the actual industry is not being consulted. Once we found out what was happening—and I have to truly give credit to the minister's department; they have been working with us and keeping us appraised of everything that is happening.

CHAIR: As there are no further questions, I say thank you very much for your time, including Ian on the phone. We will now move on to the next group of witnesses, the Local Government Association stakeholders.

DENMAN, Mr Eddie, Development Engineering Program Leader, Logan City Council; and Institute of Plumbing Inspectors Queensland

HODGKINSON, Mr Brad, Coordinator Plumbing Services, Moreton Bay Regional Council

CHAIR: I will not go through the instructions again as you are aware of the proceedings. We welcome the representatives from Logan City Council and Moreton Bay Regional Council, my own council. Would you like to make a brief opening statement?

Mr Denman: My name is Eddie Denman. I am representing Logan City Council. I am also representing the Institute of Plumbing Inspectors Queensland. Firstly, I would like to thank the committee for inviting me today to discuss submissions from both organisations against the Plumbing and Drainage Bill 2018.

Both submissions identified two important sections of the bill, monitoring particular onsite sewage facilities—our local government has an issue with the requirement and we are seeking clarity towards monitoring of the onsite facility—and inclusion of a new definition for the 'water service'. The proposed definition is too broad and includes water harvesting or collection, which does not currently fall within the provisions of the Plumbing and Drainage Act 2002. I would be happy to answer any questions that the committee may have towards the submissions of the Logan City Council and the Institute of Plumbing Inspectors Queensland.

Mr Hodgkinson: Thank you for the opportunity to present to you today. My name is Brad Hodgkinson from the Moreton Bay Regional Council. I am also the member for the Local Government Association on the Service Trades Council. The submission from Moreton Bay is aligned with the submission from the LGAQ. There are three key issues that have come out of the bill, in particular the terms 'inspection certificate' and 'final inspection certificate' in clause 69 of the bill. The second is the lack of regulatory support for local governments to monitor on-site sewage facilities that are not for testing purposes—clause 137 of the bill—and the inclusion of the new definition of water service which is in schedule 1 of the bill.

CHAIR: Can you clarify that? Start with the definition of water service and what your real concerns are. I know it is in your submission, but you have the opportunity to give us a bit more information and we would appreciate it.

Mr Hodgkinson: Certainly. As Eddie said in his opening presentation, Logan has a concern with the definition of 'water service'. The definition itself is taken from the Water Supply (Safety and Reliability) Act. We would like the definition to be reconsidered and amended to the context of AS 3500 2003 titled 'Glossary of Terms' to ensure that appropriate alignment for plumbing and drainage framework in Queensland is maintained. The following reasons for this change are provided for the committee's consideration. The words 'water service' appears more than 110 times in AS 3500.1 2015. Part 1 is titled 'Water Services'. This document provides technical requirements for licensed plumbers to install water services in Queensland.

The second point is that the words 'water service' as they appear throughout AS 3500, plumbing and drainage suite of standards, takes the context of the meaning of the term in the glossary. The objective of the water services standard is to provide the installer with solutions to comply with the Plumbing Code of Australia. The glossary of terms in AS 3500 2003 is a reference document in the Plumbing Code of Australia.

The definition of water service, which is another point in the bill, refers to, in part, groundwater extraction and replenishment of river water extraction. This work is not in the context of plumbing and drainage. The definition of water service in the bill refers to drainage other than stormwater drainage; therefore, drainage could be considered sanitary drainage. Sanitary drainage is also another definition in the bill. Industry will be confused by the broadened definition of water service contained in the bill and how in its context it applies to the plumbing and drainage framework.

CHAIR: What changes would you recommend to the bill to address those concerns?

Mr Hodgkinson: Simply, that it revert back to how it is now. The reference in the glossary of terms is sufficient to identify how plumbing and drainage is to be applied to satisfy provisions in Queensland.

CHAIR: Thank you very much. You have been very substantive in your submissions. Unless you have anything further you would like to add?

Mr Hodgkinson: There are another couple of points there.

CHAIR: Please continue.

Mr Hodgkinson: With regard to clause 137 of the bill, monitoring particulars of on-site sewage facilities, it is requested that the department of public works engage with local governments and the LGAQ in drafting the new plumbing regulation and also the Queensland Plumbing and Wastewater Code requirements, including the types of on-site sewage facilities the local government must monitor to ensure a balance between reactive and pro-active approaches to monitoring in Queensland.

It is difficult to comment on clause 137 of the bill, given that local governments are unclear on what limitations will be placed on monitoring on-site sewage facilities given the absence of the regulation. Currently local governments must monitor on-site sewage facilities installed for testing purposes only. There is no mandatory requirement currently for local governments to monitor the tens of thousands of on-site sewage facilities, including ageing septic systems, installed throughout Queensland. It is acknowledged that local government has sufficient authority to investigate and take compliance action on failing on-site sewage facilities. This approach, however, is considered reactive and does not align with a meaningful management strategy to safeguard and measure the ongoing performance of on-site sewage facilities.

The Queensland Building Plan provided for submissions regarding monitoring and maintenance of on-site sewage and greywater treatment plants. Moreton Bay council and the LGAQ are not opposed to the implementation of auditing programs for on-site sewage and greywater treatment plant systems servicing; however, it is recommended that further consideration of the intricacies, practicalities and costs are further considered with local government when drafting the regulation.

Mr KATTER: Can you tease those costs out a bit? Does that mean you would be likely to have another inspector or just another round of inspections? I know that local governments are under a fair bit of strain as it is. You are just making a recommendation. That is not how it is at the moment. I just need a bit of clarity on it.

Mr Hodgkinson: Yes. There is no provision that local governments must monitor on-site sewage facilities at the moment. It is restricted to those that are installed for testing purposes, which is very minuscule. There would be very few of those systems. It is basically for all systems that have chief executive approved treatment plants throughout the state there is no regime currently to monitor. The regulation does not say that we must monitor those systems. Given the volume that exists in Queensland at the moment, it would be suggested that a risk assessment approach be taken to audit an amount of on-site sewage facilities, and that will be surely a consideration in the regulation and the options that are put through. Truly, there is no ability at the moment to recover costs, and I guess that is the question for monitoring on-site sewage facilities.

Mr SORENSEN: You say that the sewage treatment plants are on private property and there is no way of monitoring that water but if the council wanted to they could, couldn't they? They could draw up a policy to do that.

Mr Hodgkinson: They could, yes, under a local law or some mechanism to allow them to do that.

Mr SORENSEN: I come from a council background and I know in our council we used to have a monitoring program that used environ flows, because we had a pretty bad experience with one in particular where the effluent was actually running into a waterhole. You get algae that grows in there, and because they were using that for irrigation a woman got very sick over it. Councils can actually have a policy—

Mr Hodgkinson: They can have a program, true. There is no regulation in play, however, to say that, and I guess that is where discussion is about future regulation and what options may be available for council to go out and monitor on-site sewage facilities.

Mr SORENSEN: The way we used to do it was they had to have a certificate from a person who was licensed to monitor the water and what was going on in there. Instead of having the council going out, they had to bring the certificate in to us.

Mr Hodgkinson: Yes, there is a requirement that when a treatment system is serviced the service report is provided to council and the property owner. There is a register of those dockets. That is one process, but that is not a full monitoring program of evaluating the performance of the systems throughout the region.

CHAIR: I have a question about your concerns regarding clause 69 and the inspection certificate and final inspection certificate. We get bogged down in semantics a lot. I wonder if you could go a bit further into your concerns between those two.

Mr Hodgkinson: Certainly. Moreton Bay council welcomes the inclusion of section 69 in the bill, however, we believe that more clarity is necessary to distinguish between the terminology 'inspection certificate' and 'final inspection certificate', as the provision applies more to home owners and occupants rather than the plumber or builder who may be more familiar with the terms used in plumbing legislation.

The issuing of an inspection certificate in this context is a new requirement for councils to administer, and we believe it is more appropriate if the inspection certificate could be called a preliminary inspection certificate, an interim inspection or a partial inspection certificate. This would be more consistent with the approach taken in legislative frameworks such as the Planning Act 2016 and the Building Act 1975. This suggestion is put forward to eliminate any doubt that an inspection certificate could be confused with a final inspection certificate.

There is also a comment regarding the example provided in clause 69 of the bill. In part, the example relates to the issuing of an inspection certificate for an ensuite fixture within a new house. This means that the toilet, basin and shower in the ensuite are operational and fit for use whereby an inspection certificate is issued by council for the work. This example appears impractical for an individual dwelling.

The understanding of this new provision throughout the consultation period was that an inspection certificate would more relate to a multi-residential type development. For example, if council used a permit for 20 townhouses and five of these townhouses are completed, where the fixtures are operational and fit for purpose then an inspection certificate would be issued for the five townhouses. There are two recommendations that have been included in the LGAQ's submission with regard to these matters.

Mr BOYCE: Can you elaborate a little bit on how you think this might affect existing dwellings in many small country towns throughout Queensland where they have the old-fashioned septic system? I was wondering if council was then obliged to inspect all existing septic systems, for example, and how that might impact rural councils and home owners that live in these small communities.

Mr Denman: I would say that a good example we could look at is the notifiable work form 4 system where you do a one in 20 audit. By allowing a one in 20 audit it actually allows a local government better scope to cover the area they need to, especially in regional areas. As the current form 4 system works, local governments are paid by the state government for the QBCC to perform those audit inspections, which gives them the resources they need to deliver that service. That is a model you could look at with regard to doing board inspections on the on-sites to make sure you raise that level of compliance.

Mr BOYCE: Compliance would mean and/or maybe replacement of the system if it was deemed inadequate or not working?

Mr Denman: That would be correct.

CHAIR: There being no further questions, thank you very much for your time. We will now break until 11.30am.

Proceedings suspended from 10.45 am to 11.30 am.

CHATTERTON, Mr Glen, Manager, Industry Engagement and Strategic Projects, Services Trades College Australia

CUSKELLY, Mr Kelvin, Assistant Director, Building, Housing Industry Association

KRETSCHMER, Mr Ernie, Technical Services Manager, Master Plumbers' Association of Queensland

JOHNSON, Ms Dyan, Manager, Policy and Economics, Master Builders Queensland

O 'HALLORAN, Mr Gary, State Secretary, Plumbing and Pipe Trades Employees Union

SHARMAN, Mr Garry, Assistant Director, Planning and Development, Housing Industry Association

CHAIR: We have had the opportunity to read your submissions and familiarise ourselves with the issues you have raised. At today's hearing we would like to further explore aspects of the issues you have raised in those submissions. I would ask that, because we have read your submissions, you keep your introductory statement to no longer than two minutes, if you can, to allow sufficient time for us to discuss these issues with you.

Mr Sharman: I would like to thank the committee for the opportunity to speak today on behalf of the association. At the outset, HIA is broadly supportive of the bill as presented, particularly the goal of improving approval time frames, and supports a Plumbing and Drainage Act that delivers high-quality and affording housing for Queenslanders. We would like to discuss third-party certification. HIA is of the view that plumbing approvals can be given through third-party certification. It is an opportunity for reform that should be embraced. It is an opportunity for the system to be opened up to allow suitably qualified technically skilled and experienced third parties to grant plumbing approvals.

The Queensland building system approves approximately 100,000 applications a year via third-party building certifications. If we think that whole buildings can be certified, why should the plumbing approvals system be different? We do not think there is any real evidence that a system that is managed just by local governments is superior, and we think that a more efficient system will lead to more affordable housing for Queenslanders.

We are very interested in looking at the detail of the regulations. One thing we are concerned about is the approval time frames. We understand that approval time frames will eventually rely on a deemed refusal process. If local government has not decided a plumbing application and that is taken as a refusal—we oppose that process—it will lead to costly and frustrating delays and approvals and should be avoided. Any mechanism which allows the decision-maker the luxury of being too slow is not efficient and will only add to the cost of housing.

The WaterMark process is a concerning situation. The Queensland government's position, as we understand it, is that it supports the WaterMark system. We are very concerned with any proposal to prohibit WaterMark products by regulation. To quote the Queensland Department of Housing and Public Works website—

> The WaterMark scheme is a national scheme that maintains minimum safety standards and ensures that plumbing and drainage materials or products are 'fit-for-purpose'. The WaterMark scheme mandates quality assurance processes that are assessed by independent certification assessment bodies against WaterMark technical specifications. As a member of the Council of Australian Governments, Queensland supports and adopts the ABCB National Construction Code in its current form including the WaterMark scheme.

In our submission, any proposal to prohibit WaterMark reverses the government's position. If there are problems with products, including things like bathroom pods, they can be remedied through nonconforming building product legislation. Any issues with the WaterMark process are inherently best dealt via the WaterMark certification scheme, which has mechanisms in place for review and revision on a nationally agreed basis. Prohibition is not the remedy.

That concludes my remarks. I would like to thank you for the chance to make a submission. We look forward to working with government and other interested parties on the implementation of the bill.

Ms Johnson: Master Builders is also broadly supportive of the bill. We really welcome the opportunity and the approach that the department has taking with this legislation in relation to comprehensive consultation. We have had a chance to address most of our key issues notwithstanding those that are still to come through in the regulations. We do have one significant outstanding concern that we share with the HIA, and it is the prohibited WaterMark products.

We have been working quite proactively on the issue of nonconforming products for a number of years now. One thing that we have been advocating for across our alliance of industry associations and with our members is a robust, clear product certification system across all product types. The current system is incredibly complicated, confusing and difficult to navigate. We really welcomed the NCP legislation that came through last year that had the required information to pass along the chain. We saw that as a good step forward, but we are still such a long way from having a clear shared understanding of what product information needs to pass along the chain and how a product certification system can work.

Plumbing products and WaterMark are the one exception to that and are the envy of a lot of other product areas in that we have a good, strong product certification system that is mandatory and backed up by government. We are concerned that this idea for a prohibited WaterMark undermines trust in that system, and trying to set up something in parallel is going to make things even more confusing and therefore reduce the chances of compliance. There will be more complexity and it will make it harder to comply. The Queensland government does have a seat on the Australian Building Codes Board which manages WaterMark. That is the right avenue for change if there are problems with products going through WaterMark. We want them to reinforce this system and not undermine it with something separate.

Mr Kretschmer: On behalf of the Master Plumbers Association, its council and members, I would like to thank the committee for the opportunity to speak today. I will not reiterate what is in the report, as have you read it. In answer to Master Builders with regard to the prohibited WaterMark area, it is my understanding that was introduced not as a blanket control of products or to remove WaterMark on products. It was purely an idea to capture the bathroom pods issue that we discussed with the committee previously. I am happy to talk about that later as well.

Mr Chatterton: Thank you to the committee for your time and for listening to our views. The Service Trades College Australia is the premium non-government training organisation for mechanical services, plumbing and fire protection, which is also a joint partnership between unions and major contractor associations like the Master Plumbers Association, the Fire Association and the Air Conditioning & Mechanical Contractors Association. I am here with Gary O'Halloran, the state secretary of the Plumbers Union, who is also a mechanical services plumber himself. We strongly support the bill. In particular, we support the adoption of the mechanical services plumbing licence as well as the WaterMark reforms which have been referred to earlier.

I watched some of the earlier presentations. I did not see the end of those and I am unaware of whether or not they have been cleaned up, but I want to reassure the committee that there has been a bit of 'fake news' happening this morning. This bill does not in any way impact on refrigeration in trawlers, in pub coldrooms or in somebody's daughter's home bedroom. Indeed, it does not apply in a domestic setting. It does not apply to refrigeration. In fact, I searched for the word 'refrigeration' in the explanatory notes and there is one clause that refers to refrigeration which it says that if you have an unlimited design or a limited design licence—design only—for refrigeration, you are deemed to still have it under this bill. Any conversation at all that this bill is somehow stopping a fridgie from doing their job is wrong and is factually incorrect.

With regard to public consultation, I along with thousands of other Queenslanders went to public consultation sessions. There were countless media events on this. They were held in every major city in Queensland. I went to some in Townsville, Cairns, Morningside and Gold Coast. I went to one in Caboolture. I know there were some in Ipswich and Toowoomba but by that point I said to my bosses, 'Stop. No more.' I would suggest that any statement that there has not been public consultation or industry engagement on this bill probably speaks to the people saying that rather than the actual process the government undertook, and we commend them for that process.

With regard to the bill itself, it has the support of the Australian Refrigeration Mechanics Association, the Refrigeration Air Conditioning Contractors Association, the Australian Institute of Refrigeration Air Conditioning and Heating, the Air-Conditioning & Refrigeration Equipment Manufacturers Association of Australia, Refrigerants Australia, the Air Conditioning & Mechanical Contractors Association, the Master Plumbers Association, the National Fire Industry Association, the Electrical Trades Union and the plumbers' trade unions and has no opposition from the Master

Builders or HIA. I would say that is as close to a slam dunk in terms of industry and stakeholders as you are ever going to get. From our point of view, that is unanimous. I note that some people who have made statements they do not support the bill have put in submissions saying that they do.

Just to close off on that particular point, refrigeration is not being occupationally licensed by this bill, although if it was we would support it. It is not enabling plumbers to do a fridgie's work. This is about the pipes that pump heating and cooling of a building. The VBA model is not being implemented in Queensland, splits are not included and it has nothing to do with a Certificate II for putting in splits. We do support a change to make sure there is a zero dollar monetary threshold for the work, and nobody is coming off the tools due to the transitioning provisions.

With regard to WaterMark I want to make some quick statements. WaterMark has overstepped its mark, for lack of a better term. I would hazard a guess that if a building was co-compliant and we did not need a builder's licence anymore or any form of private certification, some people would be jumping up and down about that. That is exactly what is happening with plumbers. We hold the basic principle that plumbing needs a plumbing licence; building needs a building licence; and electrical work needs an electrical licence. All major plumbing and services trades stakeholders hold this position, and we are losing confidence in WaterMark because of the amendments they have put in place.

WaterMark was simply not designed to approve an entire room, an entire kitchen or, indeed, an entire house—which we believe will happen in the future—which would mean that in any other situation you would need a four-year apprenticeship and a plumber's licence to do that work, but because of a private certification scheme you do not need that. This is not self-certification; this is the complete deregulation of almost 30 per cent of the entire plumbing trade. We stand strongly opposed to that, and we commend the government strongly for the position it has taken.

I note that we have made significant comments in our substantive submission. I also respect that I have gone a little bit over two minutes, so I thank you for your indulgence. We stand ready to answer any of your questions.

Mr MELLISH: I have some questions for whoever on the panel wants to contribute. In terms of WaterMark and how it is covering pods, how long has that been in existence? I am just interested in the scope change and when that came about.

Mr Chatterton: It came into place last year. What has happened is that a national body of bureaucrats, predominantly, from the federal government with a consultative committee have agreed that you should be able to install an entire room without the need for a licence. I did note the comments that the government is a member of COAG and ABCB, the Australian Building Codes Board, and we have a seat on that board and we agree with that, but Queensland also adopts an entire building code—it is called the Queensland Development Code under this plumbing act—which puts in place specific exemptions from our adoption of the national construction code.

I will give you two quick examples about what would happen if we did not have this. In Queensland you would actually increase your energy efficiency rating if you put floor insulation in your Queenslander. We have an exemption for that because, as we all know, in a Queenslander house the breeze blows underneath and it cools down the house. It does not do that in Victoria, New South Wales or Tasmania. Because it does not do that, that is how they have written the federal code. We had an exemption for that when it was adopted.

Another thing that would have been made almost illegal in around 2009 or 2010 is alfresco outdoor eating areas in restaurants. Again, in Victoria you need to blast heaters at people who want to eat outside, but in Queensland it is very nice to eat outside in March and even through to April. It is not inconsistent and it is not reversing the Queensland government's position to have exemptions or changes to the National Construction Code. We have an entire document that is hundreds of pages that does that.

Mr Cuskelly: Just to follow on from Ernie's comment, to prohibit the WaterMark products has been borne out of these bathroom pods. Ernie and I both sit on the Plumbing Code Committee with the ABCB, and they are meeting this week down in Hobart. On the WaterMark issue there was a submission on that policy put in to the ABCB a couple of weeks ago or a month ago. There are some changes being made. There are more changes being looked at as well as the possibility of a point-of-sale type system, which is sort of in line with the Queensland non-performing products bill as well.

I would not like to see the chief executive be able to prohibit a WaterMark product. We are either all in or we are not in at all. Get rid of it or let's work with it. I think at a couple of those PCC

meetings it was put forward to WaterMark a whole pod and it was rejected because we felt that it just was not feasible. As Glen said, there are just too many variables. Having a pod delivered to a house or a unit and then asking a qualified plumber to install it is fine, but then telling him he takes responsibility for the pod is just ridiculous because he has not put it together. We need to look at the other end a little bit with the pods. I support that we should not be prohibiting, or allow someone to prohibit, a WaterMark product.

Ms Johnson: We spoke to the department about what they intended by that. We were given a different story, that it was about an emergency situation where they came across a product that was a problem that needed to be removed quickly. We fully appreciate that pods are an issue and that that probably is the intent, but it does leave me questioning how far this provision goes and what are the boundaries on it? We have cart blanche essentially to say whatever we do not like and it will not just be about pods. However, I would still argue that it should still go back through the proper system and we should be working to make the system work right rather than setting up something else—a Queensland thing—that we prefer.

We would like to do that with energy efficiency, too; we would like the southerners to appreciate that we do not live their way. In the meantime, we have to reinforce the system we have and we have to make sure this is as strong and as good as we can give it. We just cannot give up and walk away from it and any time we do not like something we will set up something else over here and just hope the industry finds this and this and this and that they comply with all those different things.

CHAIR: Forgive my own naivety, a WaterMark product—and I think we have discussed it in previous hearings with the department—is certified for a use, and there could be different uses: domestic versus non-domestic uses. Could they still be WaterMarked? Then a pod would be made of quite a number of these components. To WaterMark a whole pod when one individual part might not be fit for that purpose, that is what we have in contention here, is it not? Could you just go back and replace that one WaterMark component? Can you fill us in with a bit more information on it?

Mr Kretschmer: You have two issues there. In the process of building the pod, products get captured under the WaterMark. Technically, you could possibly have nonconforming products within a certified product. If something needs to be replaced, does that change the original specs of the WaterMark and make it not valid, for lack of a better word? It is possible. None of that has been figured out.

CHAIR: That was the question. I go back—and once again forgive my naivety—a certain tap that may be used in agriculture that has a different quality obviously is then used in domestic and because that has a WaterMark certification for its use, but it is used in the wrong way, then the whole pod is noncompliant. Who recertifies it once that thing is replaced?

Mr Kretschmer: The second point I meant to make before—the easiest way to explain it is if it is going into a plumbing system or a drainage system it must be a certified product.

Mr BOYCE: Glen, you spoke about deregulation. Could you expand a little bit on that as to why it should not be deregulated?

Mr Chatterton: Are you talking about the WaterMark situation?

Mr BOYCE: Yes.

Mr Chatterton: At the moment we are faced with a situation where an entire bathroom is signed off and there is an insurance certificate issued for that bathroom. It is then shipped to site and installed. The circumstances that we have had with those products that have been shipped to site have meant that roughly two people per job have had to be employed to fix the products. It leads to issues further down the track where, say, my mother buys one of these apartments and the fittings or the pipework goes and someone has to come in and fix it. If you do not get the company that installed the pod—say, you call your body corporate, they call the local plumber and they fiddle with the pipes. That voids the warranty for your entire bathroom. You are then in a situation where you have to zero insurance over your bathroom.

The other issue—and this I think is the truly scary issue—is it enables someone like me to go and put together one of these bathrooms right now. We have gone from a situation where you need a four-year apprenticeship or equal competency under the training act, because we have competency training not time based training, plus one-year provisional plumbing, then you get your full licence for which you are vetted by the QBCC. There is an investigative structure and a disciplinary structure in place. We have abolished all of that and, instead, anyone anywhere in the world can now put this work together. It is a situation that exists exclusively for a small piece of the entire plumbing landscape where in any other circumstance at all if that was done on site, if it was done next door or out the front

or the way most buildings are built, you would require those minimum standards. It is a complete abolition. These are the main two arguments I would put to you.

Mr MELLISH: My question is for the industry reps. The existing process if a WaterMark product is unsafe or another product is unsafe is to go through the Australian Building Codes Board, as I understand it. What are the time frames between that and what is proposed in the bill at the moment?

Ms Johnson: I am not aware of the time frames through WaterMark, but I know in the bill nothing is proposed as far as time frames are concerned. It is just, 'We will prohibit a product,' with no boundaries, rules, time frames or how that is going to work. I do not know.

Mr MELLISH: If Queensland found a product that for whatever reason—safety primarily—wanted to not allow, how much more difficult would that be through the ABCB process rather than what is proposed in the bill? I understand you would need to get agreement from other states if Queensland wanted to act, whereas under the legislation Queensland would not have to seek the approval of other states?

Ms Johnson: I do not think you would need to get full agreement from the other states. Could I refer that to our national officer who sits on the board who works with the ABCB and get a proper answer for you rather than my half-thought through one?

Mr MELLISH: Sure.

CHAIR: Would you take the question on notice?

Ms Johnson: Yes, please. I will refer it to my national colleagues who work with the ABCB all the time.

CHAIR: Thank you for that. I have a question to the master plumbers. Can you explain why you believe the definition of 'water services' in schedule 1 is not correct? Can you expand on that a bit for us and why it should be amended?

Mr Kretschmer: This was actually covered by Brad Hodgkinson in the previous session and he was spot on. It does not really deal with watercourses. It certainly does not deal with drainage and other things that are led.

CHAIR: You are comfortable with that?

Mr Kretschmer: Yes, absolutely.

CHAIR: Any further questions? If you would like to add something, now is the time.

Mr Cuskelly: I do not agree with all of what Glen said—and that would not surprise him. I think it is very important whichever way we go, especially with the bathroom pods, we must have a plumber in that system somewhere. We cannot—and Glen is right; I can go out or my son can go out if we have the cash, set this up and flog them off as being compliant or conforming. A plumber does not even see it until he has to hook it up. When he hooks it up, switches the water on and then we find the pipes—because we have found that with a lot of the imported ones they just attach garden hoses to it. After about half an hour under pressure they blow and they wonder why their bathroom is full of water. To endorse Glen and the union and also the Master Plumbers, we need a plumber in there somewhere. How that system is going to work I think industry can sort out. We need someone in there.

CHAIR: It is a licensed trade and coming from a licensed trade, I take that on board. Thank you. Does anybody else want to add anything?

Mr Chatterton: I just want to underscore the point that we have got many, many state exemptions to nationally consistent laws in Queensland, particularly around energy efficient buildings. They are mainly designed for what the consumers would like. There are some safety exemptions as well. All of them were supported by the entire industry. That is similar to what we are asking for here in the pods. We thank Kelvin for his views as well.

Mr Kretschmer: I do apologise. Just to reinforce what Glen just said, it is not just state based legislation that has individual requirements. The Building Code of Australia and the Plumbing Code of Australia have state by state differences in them, so it is not just a Queensland thing.

CHAIR: Thank you very much for your time. We will now move on to the department. If you could come forward we will continue on.

BASSETT, Mr Brett, Commissioner, Queensland Building and Construction Commission

CARROLL, Ms Liza, Director-General, Department of Housing and Public Works

NEUENDORF, Ms Anne, Manager, Strategic Policy, Department of Housing and Public Works

RIVERS, Mr Don, Assistant Director-General, Building Industry Policy, Department of Housing and Public Works

WALKER, Mr Lindsay, Director, Strategic Policy, Department of Housing and Public Works

CHAIR: I now welcome representatives from the Department of Housing and Public Works and the Queensland Building and Construction Commission. Starting with the department, would you like to make an opening statement and respond to any of the issues that have been raised today?

Ms Carroll: Because of the time frame and the fact that you have had a number of questions today, we thought that, rather than trying to make a quick opening statement that dealt with all of the issues, it was probably best to hand it over to you to ask particular questions that you may have. I think Mr Bassett is also happy to answer questions. I certainly have staff here today who can go into some of the detail or issues that people have raised. I thank the committee for the opportunity. We will hand over to you for questions.

Mr SORENSEN: In relation to WaterMark products that have been in store prior to being prohibited, what is the process in replacing those products? Can they be repaired instead or what process is in place so that consumers can be ensured that the installed products meet the requirements?

Ms Carroll: I think the important thing to note is that obviously for some time now the WaterMark products have been going through a process of being WaterMarked. The provision that is in the bill is an additional provision to enable Queensland to take additional action. There are certainly provisions already within the QBCC and also we can explain how the WaterMark process has worked to date, if that is useful, because I note that there were some questions about how long something takes to get WaterMarked et cetera. I might hand over to my colleagues.

Mr Walker: In relation to the first question about what happens if today we decide to issue a regulation or pass a regulation that says that WaterMark product X, whether it be a tap or a toilet or something like that, is now prohibited, that would make it effectively a noncomplying product, I believe, for the purposes of the Queensland Building and Construction Commission legislation. Again, I will defer to anything my colleague Mr Bassett has to say, but that would trigger the ability for a recall of that product including any products that had already been installed into buildings. Is that correct?

Mr Bassett: In effect, the way that we would deal with that is, if a product is a nonconforming or a noncompliant product, it becomes a nonconforming product under the new nonconforming legislation that came into effect on 1 November last year. One of the key things that we need to do in order to enliven our powers in that legislation is to, in effect, go through a number of questions about whether the product is safe or unsafe et cetera.

One of the first things that we would do is we would seek advice from the installer or manufacturer of a product because under that legislation we have chain of responsibility obligations and we can go right up to the manufacturer of a product. We would seek to rely on information that they have given us as to whether or not the product is safe or unsafe. Simply because a product is nonconforming does not mean that the product is not fit for purpose. We would seek expert advice through the Service Trades Council. We also would seek through the Building Products Advisory Committee, which was also legislated in that piece of legislation, to get technical advice from organisations such as Queensland Health and other relevant experts to advise us as to whether or not the product is safe.

As part of the nonconforming legislation, there is also the ability for a product to be nonconforming but, as long as there are relevant safety steps in place that mitigate the risk, that is something we can consider as well. The first thing we always seek to do in those instances is to work with the supplier, the installer or the manufacturer of the product.

CHAIR: If there were a product that was WaterMarked but did not conform, how would that work in that situation?

Mr Bassett: Once again, under the nonconforming building products legislation, we have the ability to test or cause to be tested a product that may be a nonconforming building product. In that specific instance, if we have a reasonable suspicion or belief that a product is a nonconforming product because it does not meet the WaterMark tests then we could certainly commission testing ourselves independently to determine whether or not the product meets the relevant Australian standards that are associated with WaterMark or we could cause to be tested—that is, we could direct somebody else to have the product tested.

If there is a safety issue during that process then I have the ability to direct certain things to be done. For example, I could direct that the product be removed and replaced. As Mr Walker has articulated, there are certain circumstances where the minister may issue a public recall, but in order to do so there are a number of steps that we would need to go through. One of those key steps would be to alert the person against whom the minister may be seeking to make a recall order and offer them the opportunity to provide information back to us—to provide a submission, in effect. They are a couple of different examples that we could do.

CHAIR: Training requirements have come up quite a few times today. Could you elaborate further on the process in terms of industry consultation and potential time lines?

Ms Carroll: Are you talking about the training requirements around mechanical services?

CHAIR: Yes.

Ms Carroll: I might get Ms Neuendorf to respond to that.

Ms Neuendorf: In relation to the technical qualifications, I know there has been a lot of discussion about a certificate II and a certificate III. The department is still working through with industry to refine that so that we have the right scope of work for each of the licence classes that will be prescribed in a regulation and that includes technical qualifications. They have not been finalised. What I would like to mention though is that a certificate II is not a state requirement. That is actually Commonwealth legislation and that is to do with a refrigerant-handling licence. That is ozone depleting gases. Any person who works with that must have the Commonwealth licence. That is the requirement for a certificate II. Currently in Queensland to have a contract for air-conditioning refrigeration, it is actually an apprenticeship, which is a certificate III.

Mr MELLISH: My question is around the time frames of how you would go about an unsafe product being ruled out by ABCB or the relevant process versus what would happen under the proposed legislation?

Mr Walker: The time frames for legislation in Queensland can be very quick. It is just however long it takes to pass a regulation. In the past I have been involved in regulations that have been passed in 24 or 48 hours—for instance, with the flood efforts where we had to make some quick changes to allow for hot-water installations to be fixed. That can be done very quickly at a local scale. In terms of the changes for WaterMark, it is very hard to say how long that could potentially be. We are aware of it taking significant periods of time—up to six to 12 months—for particular issues to be addressed and go through what is effectively a national process. Sometimes those processes move quickly or slowly depending on which issues are more important or the perception of the importance of the issue.

Mr MELLISH: Are there any recent examples of plumbing products going through the national process?

Mr Walker: All the time. WaterMark is consistently looking at new products.

Mr MELLISH: I do not mean being approved but being taken out of service.

Mr Walker: The one example that I am aware of was a douche toilet seat. I cannot give you the exact dates, but we became aware of it. We raised it at a national level and some time down the track, after we talked to the Commonwealth agency, the Australian Building Codes Board, about it, that particular conformity assessment body reviewed their own WaterMark and then withdrew it. There was a fair bit of time involved there. It was effectively a voluntary withdrawal by the assessment body as well.

CHAIR: Going back to training, we have heard the refrigeration industry were quite concerned that this would be an upskilling of the plumbing industry. The plumbing industry is saying that there is an air-conditioning refrigeration apprenticeship and a plumbing apprenticeship and they are separate. Is this to be a stand-alone qualification, an apprenticeship as such? Could you elaborate on that?

Ms Neuendorf: We have established a licence under the act. There was a draft regulation that was tabled in October last year. That indicates that there are four licence classes. Even though there is one licence, just like you have one provision for unlicensed contracting work, there are a number of licences that exist in the regulation. We recognise the specialist streams. In the draft regulation we recognise that there is plumbing work associated with mechanical services work. We recognise that there is specialist air-conditioning refrigeration work. We also recognise that working with medical gas is specialist work. Even though we need to work with industry to finalise the regulation and what would be the appropriate training qualifications, they are four distinct licence classes, and we would envisage that they would need qualifications that are adequate for that licence class.

Mr BOYCE: In relation to medical gases and how they are delivered, it is my understanding that the anaesthetist in a hospital is responsible for that. Could you explain why that is?

Ms Neuendorf: Currently the Australian standard, which is not mandatory in Queensland, talks about the testing and commissioning of medical gas in healthcare facilities. It talks about an anaesthetist for non-respiratory gases such as nitrous oxide and it talks about a competent person in relation to respiratory gases. However, as I said, that is not mandatory in Queensland in that it is not caught up in the National Construction Code or in our legislation. However, Queensland Health do regulate this. I cannot comment in relation to their policies. However, their policies, I understand, require the anaesthetist to do certain testing. Again, I cannot comment in relation to Queensland Health policy.

Mr BOYCE: My understanding is that at the end of the day the anaesthetist is responsible as to what gas might come out of that particular fitting. If that has been done by a qualified person in the person, wouldn't it be relevant that they test it rather than the anaesthetist?

Ms Neuendorf: This is a matter of certification. The bill at the moment is dealing with the licensing aspect to make sure that the people who are doing the installation are actually qualified to perform that. It does not cover the certification process.

Mr BOYCE: I believe there is an anomaly there. In the case of the children who lost their lives in hospital, it seems to me that in that particular case there was something dreadfully wrong with how that installation was prepared and set up in the first place.

CHAIR: We will take that as a statement. I would like to ask about the regulatory impact statement. There will be one before the license is finalised. Is there a time line for that?

Ms Neuendorf: The commencement of the licensing is once we have worked through the regulation with industry to identify when industry would be ready, so I cannot put a time frame on that. The regulatory impact assessment will be done prior to that.

CHAIR: There were no questions taken on notice in this session, but there were in the last session. For the record, answers to questions on notice have to be back to us by 12 pm on Thursday, 22 March 2018. I thank you all for your time. I now declare the hearing closed.

The committee adjourned at 12.19 pm.