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12 March 2018

Committee Secretary  
Transport and Public Works Committee  
Parliament House  
George Street  
Brisbane QLD 4000

Dear Committee Secretary

## HIA Submission Plumbing and Drainage Bill, 2018

Thank you for the opportunity to Comment on the *Plumbing and Drainage Bill 2018*. HIA is broadly supportive of the need to modernise and update the current legislation and commends the Government in particular for attempting to hasten approval timeframes for plumbing approvals.

In addition to the submission HIA made on the 2017 Bill (copy attached), HIA would like to make the following supplementary observations.

### WaterMark Products Prohibition by Regulation

The proposal to enable the prohibition of Watermark products is opposed.

As acknowledged by this legislation's explanatory notes WaterMark products are manufactured to a particular standard (or model) under a nationally recognised scheme and certified by a Conformity Assessment Body. Only certified materials and products are identified by the WaterMark trademark.

The ability for Queensland regulators to unilaterally prohibit a WaterMark product will lead to a loss of confidence in the WaterMark system and products across the State by requiring contractors to undertake a second level of product checking beyond identifying the WaterMark label. If the Queensland regulators believe that a WaterMarked product should not be used in the industry it should be addressed through the national system.

The proposal also brings into question the testing regime that the Queensland regulators will use to overturn the testing of the product that led to its gaining WaterMark approval. Will the Queensland testing require all previous tests to be repeated or will some other testing framework be used? Or will WaterMark products be excluded from the market on hearsay? Will Queensland testing be done by a body that is more competent or more independent than that which provided the testing for the WaterMark?

Moreover, there is already very adequate protection built into the *Building and Construction Legislation (Non-conforming Building Products—Chain of Responsibility and Other Matters) Amendment Act 2017*, which allows for the recall of deficient products quickly if required. This proposal in the current Bill represents over-regulation: how will it provide better safeguards that those in the 2017 Non-conforming Building Products Act?

### Penalties and Offences

Many of the penalties and offences are considered punitive relative to the scale of the offense. HIA is concerned in particular about some penalties include fines in excess of \$30,000 and prison sentences of up to 12 months.

### Clause 55 Referral of Particular disciplinary action to QCAT

This provision states that a QCAT member hearing a plumbing matter must show 10 years' experience in the plumbing and drainage trade. HIA is unconvinced of a need for the nexus between the hearing of disciplinary matters and needing to have 10 years' experience in plumbing. This requirement does not apply anywhere else in the Queensland judicial system to HIA's knowledge. For example QCAT members sitting on what can be technically and legally complex building matters, including disciplinary matters are not obliged to have 10 years' experience in the building industry or trades.

HIA asserts that this proposed requirement is just another example of the excessive regulatory framework that is being built around the plumbing industry that began with the unnecessary establishment of the Services Trade Council when there was already a licensing regime in place at the Queensland Building and Construction Commission to deal with the licensing of every other building industry trade.

### Clause 56 Carrying out work without an appropriate License-Penalties

Clause 56 (2) provides for a maximum of 350 penalty units or 1 year's imprisonment. HIA acknowledges the need to treat offences seriously, but the imprisonment of a person for up to 1 year is harsh and unreasonable. Clause 57 (2) makes it an offence to direct a person to do plumbing and drainage work if the person is not licensed for the work. Likewise this provision allowing for very large fines and a year of imprisonment is harsh and excessive.

### Clause 64 –Complying with Code Requirements

This clause contains concerning provisions which penalise drafters and designers up to 100 penalty units or over \$12,000, for making an error in the drafting plans for plumbing and drainage. This will not, as stated in the Explanatory Notes minimise delays or costs in revising plans, and should not be the subject of punitive fines. HIA is unsure how this matter is to be enforced, what are the penalties for an inexperienced designer who has prepared these plans with minor errors? By contrast it is not uncommon in subdivisions for experienced RPEQ level engineers, to submit drainage plans that require extensive changes which are negotiated between Council and the engineer. This process does not seek to penalise engineers or designers who prepare such plans.

Clause 134 Local Laws and Local Planning Instruments

This allows for a local government to implement a local law or local planning instrument relating to plumbing and drainage. The ability to implement local laws and planning instruments for plumbing and drainage has the ability to lead to inconsistency and inefficiency for the building sector and this provision should be reconsidered. It is not at all clear what circumstances this provision is seeking to address.

In general HIA remains concerned that the Bill duplicates administration and complicates the regulatory framework for little perceived gain.

Thank you once again for the opportunity to make a submission on the Plumbing and Drainage Bill 2018. Should you have any further enquiries in this matter please do not hesitate to contact Mr Kelvin Cuskelly or Mr Garry Sharman at HIA.

Yours sincerely  
HOUSING INDUSTRY ASSOCIATION LIMITED

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23 October 2017

Committee Secretary  
Public Works and Utilities Committee  
Parliament House  
George Street  
Brisbane QLD 4000

Dear Committee Secretary

## HIA Submission Plumbing and Drainage Bill, 2017

Thank you for the opportunity to Comment on the Plumbing and Drainage Bill 2017. HIA is broadly supportive of the need to modernise and update the current legislation and commends the Government in particular for attempting to hasten approval timeframes.

The HIA is disappointed for the extremely short time frame allowed for consideration (less than ten working days), and preparation of submissions by all parties. If government seeks to be taken seriously with regard to consultation on such important matters it needs to set aside reasonable timeframes for submissions.

The HIA represents a large number of members who regularly deal with the current legislation. HIA members range across the full range of trades and services in the residential building industry including plumbers, builders, certifiers, specialist contractors and subcontractors, and accordingly the following comments are provided:

Third Party Certification - The Plumbing and Drainage Bill, provided the Queensland Government with an opportunity to introduce third party certification for plumbing approvals. Given the success of third party certification for building works this process should be replicated in the bill. HIA urges Government to amend the legislation to enable this critical efficiency.

Watermark Products -The explanatory notes indicate the possibility of prohibiting WaterMark products by regulation for products “that are unsuitable or unsafe despite their WaterMark certification” This seems to be in conflict with clause 65 (1) (a) of the Act and part 7, clause 54 of the regulation. Both of these clauses state only a WaterMark product can be used. How is a Contractor able to determine when this applies and if further checks are needed?

Clauses 17-18 -19 Inquiry about applicant –The act states the Commissioner may by notice given to the applicant to take 40 business days (or a leisurely 8 weeks) and if they do not respond the request is automatically rejected (clause 19 deciding approvals). Conversely contractors must respond within 20 or in some cases 10, business days. In the interests of balance and timeliness QBCC responses must be done within a maximum of 20 business days. If the QBCC do not

respond within 20 business days this should be made a deemed approval not a refusal as is currently the case. Accordingly clause 19 (3) dealing with a deemed refusal must be deleted.

Use of the Phrase “As soon as is practicable” is used extensively through the Act and regulations. This is ambiguous and should be replaced with a reasonable maximum timeframe of 10 business days.

Clause 22 Form of License – states that an expiry date must be on the license. This should also be carried over to the QBCC business licences.

Clause 46 Licensee to have regard to particular guidelines - This is inconsistent with the QBCC Act. The Plumbing Act, states only another plumber can supervise a plumber. The QBCC Act states that the head builder/ contractor must supervise and sign off on all trade contractors' work that is carried out on the site.

Clause 55 Referral of Particular disciplinary action to QCAT - This provision states that a QCAT must show 10 years' experience in the plumbing and drainage trade. Do any QCAT members carry these qualifications? QCAT members that sit before building matters do not carry 10 years' experience in the building industry or trades.

Clause 85 Misleading representations re on-site sewage treatment plant - If these plants have executive approvals in place or has watermark approval if appropriate, does this mean everything is ok. Business practice is that builders will get the plumbers to supply and install, and have the plumber undertake all local authority approvals.

Clause 106 Trade Services Council, Functions- does the Council override the ABCB and the PCA? This is unclear and needs clarification.

Clause 109 Membership of the Council – This section should leave room for other specialist members as required.

Clause 128 (3) Conducting meeting – The current drafting registers an abstained vote, the vote is taken as negative. This vote should be registered as a matter of fact, that is an abstained vote.

Thank you once again for the opportunity to make a submission on the Plumbing and Drainage Act. Should you have any further enquiries in this matter please do not hesitate to contact Mr Kelvin Cuskelly or Mr Garry Sharman at HIA.

Yours sincerely  
HOUSING INDUSTRY ASSOCIATION LIMITED



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