

## OPENING STATEMENT

Good day Senators,

I wish to thank in particular today Senator Carr for giving my colleague Tim Renouf and myself the opportunity to have some verbal input into this Senate Inquiry on Non – Conforming Building products.

I have been reading the various testimonies from previous days and was present at the recent July 14 Melbourne Inquiry.

As background for the Senators. I have appeared on the stand by video link before the 2014 Royal Commission Home Insulation Program. Some of my on the stand testimony along with other references to myself, I was personally quoted thirteen times in the 400 page report.

I have many documents from the Home Insulation Program disaster that have never seen the “light of day”, my most prized document is where I discovered that at the 2013 Queensland Coronial Inquest Home Program, the Queensland Coroner actually withheld material evidence that compromised the outcomes of that Inquest and a Royal Commission.

Further, moving to the Royal Commission, withholding of evidence was a comprehensive issue here, to, regarding the non – policing, and industry not following the Wiring Rules Standard.

I was the only person who exposed the truth of what actually killed those young workers, as some parties in the bulk fibrous insulation industry aided and abetted by parties in the Electrical Industry attempted to blame reflective foil.

The worst outcome from this 27 million dollars of taxpayers money Royal Commission is there are many unresolved issues this Federal Government, even with the support of a COAG agreement, WILL NOT ADDRESS.

I am here today to expose how some big industries use the Australian Standards, for their profits at “times,” aided and abetted” by Government, and their various Departments, such as the ABCB and the ACCC.

I am exposing today actions of the insulation industry, more so the big bulk fibrous insulation manufacturers, who “engineer” Standards which allow non - compliant performing products, not fit for purpose to the detriment of the public.

**An example already exposing Standards Australia.**

One of the most serious issues of many is the Glass Standard as exposed by Dr Nathan Munz and Dr Leon Jacobs during this Senate Inquiry. Glass everyone uses, glass everyone replaces. To this day I believe, Standards Australia has not resolved the issues with the Glass Standard.

My colleague Tim Renouf has revealed some serious thermal deficiency of issues regarding Insulation Standards.

**End of my opening Statement**

**SUPPLEMENTARY SUBMISSION TO Submission 141. July 31, 2017**

Since my submission 141 there have been events that have raised the credibility of the Standards Process.

I will now expose the corruption of governance issues of Standards Australia engulfing the Insulation Standards, concentrating on the most recent incident that is still ongoing.

The Pliable building Membrane Standard AS 4200.1 AS4200.2.

**This example, I believe illustrates that routinely Standards are subverted for the benefits of industry, more so big industry at the detriment of the consumer.**

*With regards to this Senate Inquiry, and my submission I will be quoting excerpts from the 2006 Productivity Commission into Standards Australia, because Standards Australia I believe, are not in quite a few Standards protecting the Public Interest.*

Why am I stating these facts is because of the behavior of big Industry, more so the bulk fibrous insulation industry who reside on Standard Committee BD 058, and the Working Groups, these party's also reside with Standards Australia on the NCC Working Group. Which advises the ABCB (Australia Building Codes Board) who formulate building regulations.

We are all aware of the ABCB "get out of jail" free rules on deemed to satisfy, (See point 4 below) which I believe the ABCB must be directed to rethink their rules and regulations to be in a more directive, direction, and everyone follows the rules for the benefit of the community. NO IFS, OR BUTS.

**Excerpts from the 2006 Productivity Commission into Standards Australia,**

The Government should have greater input into the writing of Australian Standards that are to be referenced in regulation and should consider providing direct financial or additional 'in-kind' support for the development of such regulatory standards (see chapter 9).

The BCA is a national code containing technical standards for buildings. It has four broad levels of guidance and obligations (figure 7.1):

- at the broadest level, *objectives* outline what the Australian Building Codes Board has judged to be the 'community expectation' in relation to a particular area of building performance, such as safeguarding people and other property from injury and loss of amenity from a structural failure or malfunction;
- at the next level, the *functional statement* describes 'how it is proposed that the building will be designed and constructed to meet those community expectations' (ABCB 2004b, p. A0.8);
- at the third level are the *performance requirements*, that set out the minimum level of performance *required* for a building to meet the BCA, for example, the performance requirement for structural stability states that the building must, by

P112

resisting the actions to which it may reasonably be subjected, 'remain stable and not collapse' (ABCB 2004a, vol. 1, p. BP1.1); and

- at the fourth level, the BCA offers two ways to comply with the performance requirements — builders and designers can choose to follow 'deemed-to-satisfy' solutions or an alternative solution, provided the alternative solution can be demonstrated to meet the performance criteria.

P113

**Note, the alternative solution has been now been superseded by a performance based NCC.**

Deficiencies of formulating, truthful fit for purpose Thermal Insulation Standards should be based on very basic scientific research principles, Standards Committee BD 058 actually, reject these principles by stating lack of funding for further research, which is completely untrue.

**Excerpt from Justice Murphy judgement Jan 2017 revealed on the front page Standards Australia website (200" judgement statements)**

**MoU: Memorandum of Understanding**

32 Pursuant to the MoU, the Commonwealth undertakes that it:

(b) will encourage its agencies to consider the merit of providing financial or in-kind support on a case-by-case basis for the development of regulatory Standards; and

(c) may provide financial assistance in relation to activities contributing in net terms to the welfare and wellbeing of the Australian community as a whole that would not occur if left entirely to the private market

The relevance, big industry directly has the opportunity with Government, to manipulate the Standards for both party's benefit. Even the ACCC join the group.

**Excerpts from the 2006 Productivity Commission into Standards Australia**

### **Australian Competition and Consumer Commission**

The main purpose of the MoU is to outline the specific role which the ACCC expects Standards Australia to play when developing safety and information standards relevant to the *Trade Practices Act 1974* (TPA). The MoU requires

The MoU also allows the ACCC to advise Standards Australia in writing of any deficiencies that, in its view, are found in Australian Standards used as the basis for regulatory standards, and requires that Standards Australia refer any such deficiencies to the relevant committees for consideration.

The MoU requires the ACCC to make proposals for the development of standards to address market problems, encourage the development of business codes of practices as Australian Standards to alleviate such problems, and make ACCC staff available

P57

## History of Standards Australia ignoring the public interest

Standard AS 4200.1 AS4200.2, more so heat testing parameters.

Feb 12, 2015

From AFIA (Independent foil Association) to members on DRAFT AS4200.1

A draft revised standard has been sent by [REDACTED] who is chair of the Working Group on the standard AS4200.1, to the BD58 Manager and circulated to the members of BD58. As far as we know this draft was not circulated to all the other members of the Working Group and signed off prior to being sent to BD58 and cannot therefore be said to be from the Working Group in our view. Moreover, the AFIA representative was not advised of the last meeting of the Working Group and therefore was not able to attend.

Excerpts from the 2006 Productivity Commission into Standards Australia

Over the years, the deceptively simple process of standards development has become surrounded by a complex bureaucratic support system. The system becomes even more complex when international standards are considered. One of the major barriers to effective participation by consumers has been the difficulty we experience navigating the system. (Consumers' Federation of Australia, sub. 77, p. 5)

There are also problems with 'transparency', even for Committee members trying to understand what is behind proposals to (re)draft standards, and the processes and time frames to guide deliberations. (Dr. Luke Nottage, sub. 52, p. 5)

P137

Dec 2, 2015

### AS 4200.1 Pliable Building Membranes Durability Research Brief

Prepared for BD-058 Prepared by: [REDACTED]

#### Post Cladding – long term damage functions

##### 1.1 Heat

Heat exposure on membranes occurs on a diurnal basis and has been suggested to reach as high as 90°C on roof cladding surfaces. Extreme heat may be experienced on membranes during bushfire events in the case the membrane is used in a bushfire prone area. In both low temperature cyclic peaks and intense fire fronts the membranes should maintain their performance properties to ensure the sarking can still maintain its function after the heat event. The sources of heat are either incoming solar radiation or high kW bush fire front intensity. Both these heat sources need to be understood to determine if the membrane can continue to perform all other functions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## These comments below mimic the issues exposed by NASH above

### Excerpts from the 2006 Productivity Commission into Standards Australia

Fans Direct ... sees ... serious flaws and failures in the current operation of the Standards Australia processes ... (p. 1) [It] is ... producing outcomes that are not open to appropriate public or industry scrutiny or input and which do not appear to lead to effective and technically meritorious standards. (Fans Direct, sub. 31, pp. 1 and 10)

... the standard-setting system operated by Standards Australia ... is particularly dysfunctional. ... [it] operates largely free of important constraints, such as participation, transparency, and potential for "appeal" or challenge. (Dr. Luke Nottage, sub. 52, p. 1)

I think that ... [Standards Australia] has degraded from an enthusiastic, lean, caring body, able and willing to work effectively with volunteers to a self-serving arrogant cost recovery driven set of bureaucrats. (Prof. Ben Selinger, sub. 2, p. 3)

1 As noted above, even where participants' overall assessments were positive, almost without exception they recognised some problems and identified scope for improvements.

#### P64

Industry's objectives are to achieve advantage in the marketplace through standards which they often try to manipulate to their advantage, and this is not necessarily in the general public's interest. (Dr Richard Aynsley, sub. 39, p. 5)

#### P78

### PUBLISHED STANDARD May 2, 2017

Standards AS 4200.1 Appendix A4

State (b) Testing conditions to be **70+ or - 2°C for 24 hours**

### Excerpts from the 2006 Productivity Commission into Standards Australia

Standards Australia actively pursues the consensus model of standards development. Their policies support participation by people representing as many varied positions as possible, although their attempts to form well-balanced committees are not always successful. ... some industry groups have been known to use the committee process to advance their own interests at the expense of consumers and against the public interest. (Consumers' Federation of Australia, sub. 77, p. 3)

A significant number of committees are dominated by parties with vested interests and do not include sufficient representatives of the end users who are usually the ones directly affected. There are possible conflicts of interest issues here. (Safety Institute of Australia, sub. 84, p. 1)

#### P140

**JULY 11, 2017**

**BELOW EXCERPT FROM BD 058 MINUTES JULY 11, 2017**

2. Issues surrounding the test temperatures were discussed in previous meetings prior to publication of the 2017 revision of the Standards. It was noted that previously it was agreed that further research and modelling was needed before any changes would be decided upon. The question of who would undertake the research and funding were brought up. The committee agreed that the proposed changes were not supported and that the issue should be tabled for the next full committee meeting for further discussion.

BD 058 questions who would undertake the research and funding.

This is always been raised when any issues that don't suit industry, challenge industry. As revealed in this example with NASH. See point 32 below

Following a legal action between HI-RISE ACCESS PTY LTD and Standards Australia, all documents relative to that action are available publically on Standards Australia website.

File number:	VID 227 of 2014
Judge:	MURPHY J
Date of judgment:	30 May 2017
Catchwords:	<b>CONSUMER LAW</b> – Misleading or deceptive conduct – knowledge to be imputed to the target audience – whether the impugned statements conveyed the representations alleged – whether representations of fact or opinion – whether representations “in trade or commerce” – principles relevant to conduct “in trade or commerce” – whether activities of peak Australian Standards body in developing, publishing and promoting Australian Standards is “in trade or commerce” – conclusion that the relevant activities are not “in trade or commerce”
Legislation:	<i>Competition and Consumer Act 2010 (Cth)</i>  Sch 2, Australian Consumer Law  <i>Trade Practices Act 1974 (Cth)</i>

I certify that the preceding **one hundred and ninety-eight (198) numbered paragraphs** are a true copy of the Reasons for Judgment herein of the Honourable Justice Murphy.

I believe in the NASH saga the target audience are the public and Standards would be prosecuted.

**Excerpt from Justice Murphy judgement**

**MoU: Memorandum of Understanding**

32 Pursuant to the MoU, the Commonwealth undertakes that it:

- (b) will encourage its agencies to consider the merit of providing financial or in-kind support on a case-by-case basis for the development of regulatory Standards; and

(c) may provide financial assistance in relation to activities contributing in net terms to the welfare and wellbeing of the Australian community as a whole that would not occur if left entirely to the private market

## **Relevance to this statement above and this Inquiry**

*The Federal Government just provided 3.5 million dollars for fire testing to enable more relevant fire Standards because of the Grenfell fires exposing non-compliant cladding.*

*In light of this, this Senate Inquiry must instruct the Federal Government to implement the 2010 Senate Inquiry Home Insulation Recommendations 6 – 11.*

*These recommendations called for independent testing, the Federal Government must in “light” of the 3.5 million dollars for fire testing, fund a Building Research Centre.*

*This Centre must include a climate simulator big enough to accommodate a small house that can be subjected to controlled weather conditions, to once and for all, research using basic scientific principles to establish the most appropriate thermal insulations for the varying climates of Australia, as well as performance of air-conditioning ductwork.*

*Energy efficiency of ducted air-conditioning or heating systems the ductwork accounts for 98% of the energy use, thus with rising power bills, uncertainty of power supply this issue requires urgent attention.*

*Basically in a broad sense, eliminate non-conforming, non-compliant product performance in regards to the correct performance of suitable products for thermal building energy efficiency.*

***It has been exposed that non-compliant cladding in most cases was for building energy efficiency. It certainly was for Grenfell.***

***The cladding contributes to a building for aesthetic appearance with the benefit of thermal building energy efficiency, otherwise the foam would not be included as part of the cladding.***

## **JULY 27, 2017**

### **BELOW PART JULY 27, 2017 LETTER FROM STANDARDS BD 058 TO NASH**

#### **Point 2 – Heat shrinkage guidance test temperatures for metal roofing**

This topic was discussed during drafting and is still subject to ongoing discussions within the committee. It was noted that further research and modelling was needed before any changes would be decided upon. The committee agreed that at this time the proposed changes are not supported.

BD 058 as the voting Committee agreed with the research, but chose to ignore this and omitted to reveal this real reason to NASH as exposed July 11, 2017 above earlier.

Then BD 058 ask NASH to appear before BD 058 below

The Standard has been printed NASH participated in drafting the Standard

On behalf of the committee, I would also like to invite the National Association of Steel-Framed Housing Inc. to nominate a representative to attend the next technical committee meeting, so that any clarifications and follow up questions can be presented and discussed. The next Technical Committee meeting is tentatively scheduled for October 2017 in Sydney.

**Why weren't they invited to address BD 058, before BD 058 voted on the draft Standard?**

The issue of the test temperature has always been 90°C

Why has this temperature been lowered by 22%? Lowered to around 70°C

One can only submit that the products now being marketed have failing integrity as demonstrated in this e mail from the AFIA, (Foil Association) President, an Australian laminator who also imports foil product from China.

But there are other products out there that start to melt at 60 degrees.

----- Original message -----

From: [REDACTED]

Date: 02/12/2015 4:10 PM (GMT+10:00)

To: [REDACTED]

Subject: FW: Durability research scope

Dear All,

Heat is another important factor. A number of our members supply products that are quite resistant to heat in the range of roofs and walls. But there are other products out there that start to melt at 60 degrees.

Therefore, Industry residing on Standards can reset the lower temperature to avoid future liability? AND THEY HAVE.

As evidenced in this case demonstrates by defying their own Working Group recommendations and Public Comment.

The Standard stipulates the test method and boundaries, again the innocent public are left stranded with products not fit for purpose.

**Excerpts from the 2006 Productivity Commission into Standards Australia**

**Regulatory impact analysis**

impose any obligation on Standards Australia. However, the MoU between Standards Australia and the Australian Government (Article 3) states that Standards Australia will have regard to the following principles (among others) in the preparation of new, or amending existing, Australian Standards:

3.1.1 any assessment process for the development of standards should be scientifically and economically rigorous, including, where appropriate a risk assessment process which takes into account public and occupational health and safety and environmental protection;

Several observations can be made about these MoU provisions:

- there is little guidance provided on the nature and level of analysis or rigour required;
- there is no requirement that the analysis be documented and made accessible to the public; and
- the use of the term *where appropriate* makes the application of the clauses uncertain.

**P118**

What happens next? Does the ABCB disagree with the Standard and raise the test temperature?

Remember Standards Australia, and the two largest bulk fibrous insulation companies reside on the NCC Working Group.

Will the other members of the NCC Working Group force the test temperature issue?

If they don't there will be two Government Departments liable, I believe?

***This saga demonstrates why Standards Australia will not fully adopt the recommendations from the 2006 Productivity Commission into Standards Australia***

I complained about the insulation supplied by Knauf to the Birdsville township.

Anyone questioning the Insulation Standards for thermal performance with regards Knauf as I have to the ACCC, I know why the ACCC attempt to "dodge issues" and not want to follow through with an investigation.

The ACCC represent and protect I believe, big industry and the Government, the ACCC are part of the Standards process.

**Excerpts from the 2006 Productivity Commission into Standards Australia**

**Australian Competition and Consumer Commission**

The main purpose of the MoU is to outline the specific role which the ACCC expects Standards Australia to play when developing safety and information standards relevant to the *Trade Practices Act 1974 (TPA)*. The MoU requires

The MoU also allows the ACCC to advise Standards Australia in writing of any deficiencies that, in its view, are found in Australian Standards used as the basis for regulatory standards, and requires that Standards Australia refer any such deficiencies to the relevant committees for consideration.

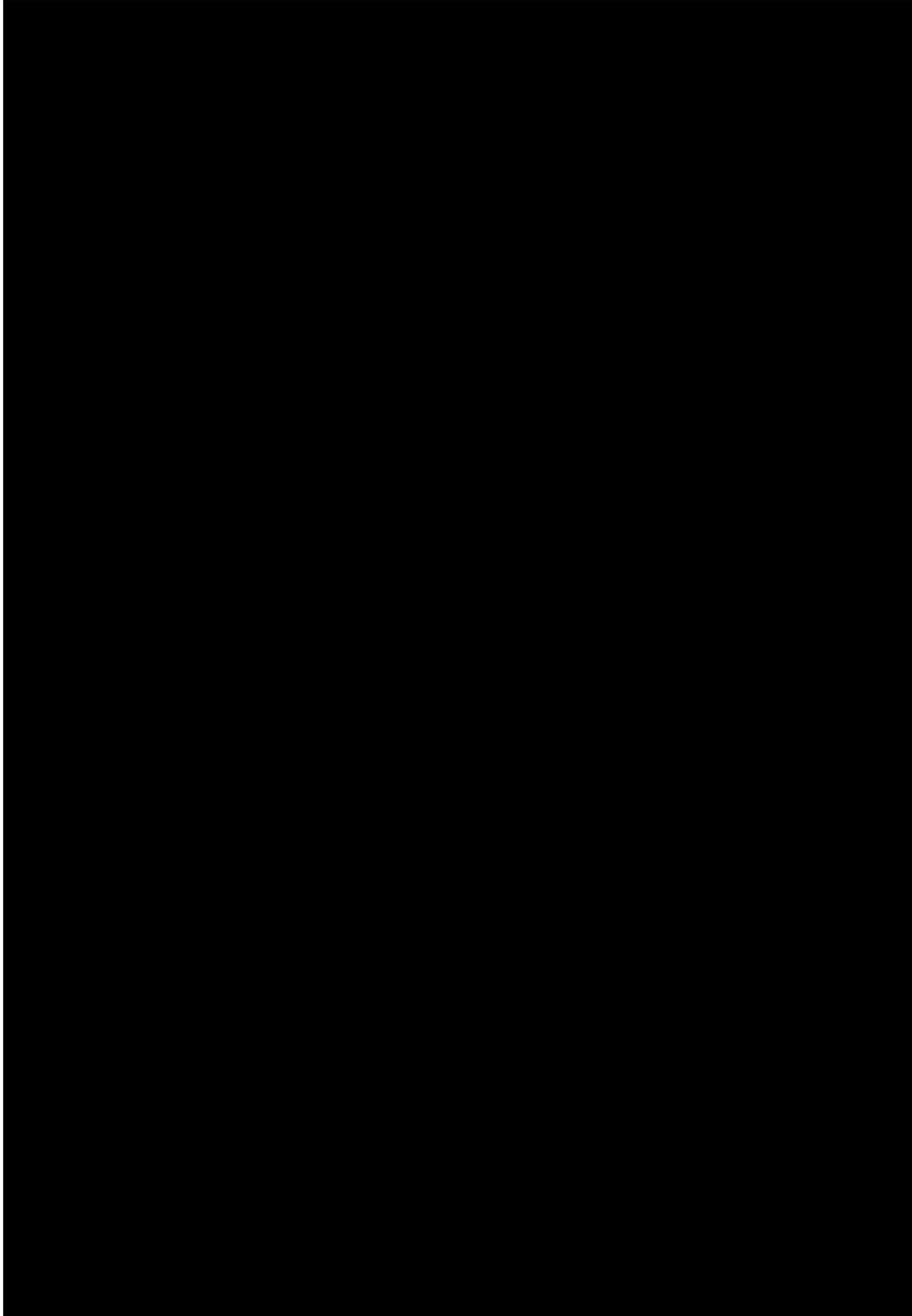
The MoU requires the ACCC to make proposals for the development of standards to address market problems, encourage the development of business codes of practices as Australian Standards to alleviate such problems, and make ACCC staff available

I am not allowed to see the letter the ACCC sent to Knauf Insulation.

Where is the transparency of Standards, which includes the ACCC as per the MoU and its processes for writing Standards and resolving any issues that arise from those Standards?

I believe this is a conflict of interest at its greatest. The public are being conned!

To confirm this I present this letter below from the ACCC to me Graeme Doreian regarding my complaint regarding Knauf Insulation



*With all the issues and potential billions of dollars of liability.*

*Who pays to rectify this mess?*

*At the end of the day, in most cases, I believe the manufacturers should pay.*

*That being Chinese manufacturers most of the time.*

*What the political system will not want the general public to know is, that all Chinese industry is owned by various Chinese Governments.*

*Therefore they are liable, but even though there are procedures in the free trade agreements for compensation, this will never happen.*

*No government will take on China, will they Senators?*

*Therefore by default, China is sending countries like Australia's economy into virtual bankruptcy, to rectify non - compliant products, while we trade with China. Who's coming to Bunnings?*

*The Senate is aware of Bunnings disregard non- compliant products and false certification certificates. I wonder whether Bunning will be investigated in the public interest?*

I finish with this observation:

*From memory I believe, Senator Scott Ryan summed up the political "system" saying to a colleague Tim Renouf, and myself. "There are lots of Senate Inquires and basically they go nowhere."*

Graeme B Doreian