



The Hon. Dominic Perrottet MP
Minister for Finance, Services and Property



Our Ref: WC01145/15

Mr David Blunt
Clerk of the Parliaments
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Blunt

Please find enclosed the New South Wales Government response to the Joint Select Committee on Loose Fill Asbestos Insulation recommendations, following its *Inquiry into loose fill asbestos insulation in New South Wales*.

Yours sincerely

Dominic Perrottet MP
Minister for Finance, Services and Property

Encl.

14/7/15

Received at 3:30pm
Wednesday 15 July 2015

**GOVERNMENT RESPONSE TO
JOINT SELECT COMMITTEE ON LOOSE FILL ASBESTOS INSULATION**

Recommendation 1

That the NSW Government publish the final report of the PricewaterhouseCoopers forensic investigation concerning the number of New South Wales properties that may contain loose-fill asbestos insulation, when it is completed in April 2015.

Response

Supported.

The final report of the independent investigation into the use of loose fill asbestos containing ceiling insulation report is to be made publically available.

Recommendation 2

That the NSW Government provide emergency financial assistance to the owners and residents of homes affected by loose-fill asbestos insulation to cover immediate expenses such as crisis accommodation, replacement of personal goods, rates and utility bills and short-term maintenance or remediation work.

Response

Supported. The Government has actioned this recommendation.

On 19 December 2014 the Government announced the short-term 'Make Safe' program and assistance package. The package includes immediate assistance to affected owners and residents where necessary for the sealing of exposure pathways, environmental cleaning of habitable areas, hazard labelling and regular inspections of the property. Financial support is also available for mental health counselling services and where required, emergency accommodation and assistance towards the replacement of soft furnishings.

The Government also sought finance industry support for affected owners and residents with mortgages over their properties. In response, a number of banks committed their support and customised relief packages for homeowners affected by loose fill asbestos insulation. Local councils also provided assistance to affected homeowners in relation to their rate payments.

Recommendation 3

That the NSW Government implement a mandatory testing program for homes built before 1980 in areas in which there are known to be, or it is likely that there are, a number of homes affected by loose-fill asbestos insulation.

Response

Not supported.

A mandatory testing program would be expensive to administer, difficult to enforce entry to properties, potentially encourage unsafe removal to avoid detection and is a disproportionate response given the cost and logistical implications identified.

The Loose Fill Asbestos Insulation Taskforce has been integral in liaising with and educating the New South Wales community, and residents and owners affected by loose fill asbestos insulation. To address these needs, the Government and the Taskforce implemented a comprehensive media and communication strategy to encourage community awareness, safety and testing of potentially affected properties.

The Government worked with local councils who wrote to residents in 26 potentially affected local government areas, to inform them of the risks associated with loose fill asbestos insulation and the free sampling service made available to residents who suspected loose fill asbestos insulation in their homes built prior to 1980, followed by a free technical assessment for any confirmed containing the material.

The announcement and implementation of the Government's voluntary purchase/demolition scheme for affected premises will also further encourage community participation and incentive to test for the loose fill asbestos insulation and mitigate health risks for homeowners and residents.

Compelling residents to test for loose fill asbestos insulation can also be achieved through mechanisms outlined in recommendation 4 which will require the presence of loose fill asbestos insulation information be provided on a section 149(2) certificate and provided at point of sale. Also see responses to recommendations 6-7 in relation to vendor/agent disclosure and registers.

Recommendation 4

That the NSW Government amend Schedule 4 of the *Environmental Planning and Assessment Regulation 2000* to ensure that the presence of loose-fill asbestos insulation in a home is included on a section 149 planning certificate.

Response

Supported. The Government has actioned this recommendation.

The Department of Planning and Environment as the lead agency, has commenced drafting legislative amendments to the *Environmental Planning and Assessment Regulation 2000*, to require that the presence of loose fill asbestos insulation in dwellings positively identified through testing or from historical records be listed on the section 149(2) planning certificate issued by council for that property. Section 149(2) planning certificates are required by the conveyancing legislation to be attached to contracts at the point of sale, although they can be applied for at any time.

The Department will also develop generic wording that can be included on a section 149(5) planning certificate for properties that have not undergone testing that advises about the possibility of loose fill asbestos insulation in pre-1980 homes in the identified local government area. This certificate is not mandatory for the contract of sale but allows for additional relevant information about the land that a council can provide at its own discretion.

To ensure consistency and accuracy, the Department of Planning and Environment will develop the wording in consultation with the Office of Local Government, Local Government NSW.

Recommendation 5

That the NSW Government take a leadership role with local government and governments across Australia, through the Council of Australian Governments process, to undertake an urgent study into the costs and benefits of establishing a comprehensive asbestos register or reporting system to apply to all residential properties at time of sale.

Response

Supported in part.

The Government considers that the scope of this recommendation relates to managing the presence of asbestos more generally. The responses to recommendations 6-7 below set out registration and reporting systems for loose-fill asbestos insulation.

New South Wales has recently endorsed the National Strategic Plan for Asbestos Management and Awareness and in doing so, is participating in and pursuing an agreed national asbestos management framework. The Commonwealth, State and Territories Ministers on Workplace

Relations and Work Health and Safety (formerly the Council of Australian Governments {COAG} Select Council on Workplace Relations) has oversight of the National Strategic Plan.

The Commonwealth Asbestos Safety and Eradication Agency, which is responsible for the National Strategic Plan, has commissioned research to understand buyer behaviour and attitudes towards the use of asbestos content reports in the residential property sector and identify points of influence to increase buyer take-up of voluntary asbestos inspection reports. This will assist in identifying gaps in the national asbestos framework. New South Wales has a senior official representative on the Commonwealth Asbestos Safety and Eradication Council.

Recommendation 6

That the NSW Government impose a specific legal requirement on vendors, their agents and advisors, to disclose to prospective buyers the current or past presence of loose-fill asbestos insulation in a home.

Response

Supported in principle.

The Government is considering this matter in conjunction with the amendments to the section 149 planning certificates under the *Environmental Planning and Assessment Regulation 2000*.

NSW Fair Trading is the lead agency for these initiatives and is being supported by Land and Property Information, the Department of Planning and Environment and the Office of Local Government.

Recommendation 7

That the NSW Government implement measures to protect tradespeople and emergency service workers from being exposed to loose-fill asbestos insulation, including:

- **tagging of all properties known to be affected, with penalties for non-compliance**

Response

Supported in principle.

The Government is considering implementing legislation to establish and enforce mandatory hazard labelling (or 'tagging') of confirmed loose fill asbestos insulation affected premises to ensure the health and safety of tradespeople, maintenance workers, service providers and emergency service workers.

Further investigation will be led by the NSW Fair Trading as to how this initiative will be implemented and maintained.

Premises registered with the Government's 'Make Safe' assistance program are also required to have a tag or approved label inside the electrical services metre box, which currently assists emergency services personnel and tradespeople in the identification of the asbestos hazard.

- **imposing a legal requirement on homeowners to disclose that their home is affected by loose-fill asbestos**

Response

Supported.

The Government is considering implementing legislation to establish and enforce mandatory hazard labelling (or 'tagging') of confirmed loose fill asbestos insulation affected premises as well as the establishment of a Loose Fill Asbestos Insulation Register.

Further investigation will be led by the NSW Fair Trading as to how these initiatives will be implemented and maintained.

- **developing a regular, mandatory asbestos awareness training program for relevant industries and trades**

Response

Supported in principle.

Mandatory asbestos training is required under the *Work Health and Safety Regulation 2011* for all workers involved in asbestos removal work or carrying out asbestos-related work. As this recommendation requires consideration of asbestos management issues broader than loose fill asbestos insulation, the matter has been referred to the Heads of Asbestos Coordination Authorities (HACA) for investigation and consultation with industry.

- **ensuring that all reasonable steps are being taken to effectively advise the emergency services authorities of the location of contaminated homes.**

Response

Supported.

The Chair of the Loose Fill Asbestos Insulation Taskforce is liaising with emergency services agencies, Fire and Rescue NSW, NSW Police, Rural Fire Service and NSW Ambulance, about establishing a Memorandum of Understanding to incorporate protocols for advising emergency service agencies of the location of loose fill asbestos insulation affected homes. It is anticipated that this will align with the establishment of a Loose Fill Asbestos Insulation Register.

Recommendation 8

That the NSW Government examine reducing the costs levied for the disposal of asbestos waste, in order to encourage its safe disposal.

Response

Supported in principle.

The landfill charge for asbestos or any other waste in New South Wales is a commercial matter to be determined by the respective waste management operator.

However a component of this charge, the Waste and Environmental Levy, that applies to all waste disposed of in relevant areas of New South Wales, can be waived by the Environment Protection Authority in some circumstances. The Authority has already waived this charge for materials associated with the removal of loose fill asbestos insulation from homes in New South Wales.

More broadly the Environment Protection Authority is working with a number of individual and combined councils to trial approaches to remove obstacles to the safe disposal of all asbestos materials in the community. The Authority also anticipates it will be able to recommend future measures that will both reduce the financial burden and other obstacles to the safe disposal of household quantities of asbestos materials in New South Wales.

Recommendation 9

That the NSW Government make provision for free counselling and mental health support to individuals and families affected by loose-fill asbestos insulation.

Response

Supported. The Government has actioned this recommendation.

Residents of loose fill asbestos insulation properties who require counselling support are advised to firstly consult their local general practitioner who can recommend the most appropriate support for them.

Residents can be assessed for treatment under a Mental Health Treatment Plan, which covers 10 counselling or psychological sessions in a year, under Medicare. Residents who are not eligible for a Mental Health Treatment Plan can be referred by their general practitioner for private counselling or psychological assessment. In this case the individual can then seek reimbursement from the Government's 'Make Safe' assistance package, of up to \$850.

Recommendation 10

That the NSW Government urgently establish a taskforce to develop and implement a buy-back scheme to demolish homes identified as being contaminated by loose-fill asbestos insulation in New South Wales, modelled on the approach adopted by the ACT Government.

Response

Supported. The Government has actioned this recommendation.

The Loose Fill Asbestos Insulation Taskforce was established on 19 December 2014 and has presented its final report to Government. The Government has determined to implement a voluntary purchase/demolition scheme for premises confirmed to be affected by loose fill asbestos insulation. An Implementation Taskforce will also be established within the structure of NSW Fair Trading to oversee and implement the scheme.

Homeowners who participate in the voluntary purchase/demolition scheme will also be extended the following considerations:

- Stamp duty concession on the purchase of any future property in New South Wales
- \$1,000 for the provision of independent legal advice
- Relocation assistance allowance to a maximum of \$10,000 per household plus an additional \$2,000 per dependent child (to a maximum of two children) for owner/occupiers, or \$1,000 per tenant(s) named on the lease of an affected property
- \$1,000 for the replacement of soft furnishings/porous materials
- \$850 for counselling services and mental health support.