

**Submission  
No 29**

## **INQUIRY INTO LOOSE FILL ASBESTOS INSULATION**

**Organisation:** Unions NSW

**Date received:** 3/11/2014

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# Inquiry into loose fill asbestos insulation

**Joint Select Committee**

**Submission of Unions NSW**

**31 October 2014**

**Submission by:** Shay Deguara  
Unions NSW  
Trades Hall Building  
Level 3, 4 Goulburn Street  
Sydney NSW 2000  
T: 02 9881 5999  
F: 02 9261 3505  
E: [whs@unionsnsw.org.au](mailto:whs@unionsnsw.org.au)

## Recommendations

1. Unions NSW recommend that the Committee contact relevant members of the bureaucracy from the WorkSafe ACT, the ACT Asbestos Taskforce and the Asbestos Response Community Reference Group to invite them to make a submission or attend to provide oral evidence.
2. That the NSW Joint Select Committee identify from the Safety Return to Work Support Agency, and the WorkCover Authority all relevant details of the PWC inquiry into loose fill asbestos.
3.
  - a) That the Committee adopt the same actions as the ACT government including funding for relocation of housing and stamp duty exemptions and
  - b) The NSW Government seek grant contributions for the NSW government from the Commonwealth to assist NSW residents to relocate or remediate their homes in the same form as the ACT Government.
4.
  - c) The NSW Government should establish compulsory asbestos awareness training modules and accreditation with WorkCover Authority and AQTF regulation.
  - d) The NSW Government should undertake greater audits of Class A and B asbestos removalists.
5. That the NSW Government should establish an Independent Asbestos Commissioners and an advisory Reference Group.
6. That the current EPA grants to combat illegal dumping be extended to all council area and that all council areas (and their subcontractors) are provided with assistance to adequately and safely receive, transport and contain asbestos containing materials.
7. That the WorkCover Authority be instructed to draft a change in the Code of Practice and Regulation to require asbestos removal by a licensed asbestos remover and banning removal without a licensed removalist.
8. That the committee recommend to the NSW Government announce their opposition to the COAG process to allow a Comcare takeover of Work Health and Safety and Workers Compensation and to vehemently oppose this action through NSW involvement at COAG.
9. A state wide asbestos register should be developed for all built environment and terrain asbestos containing material.

- 10. That the NSW Parliament recommends that all houses sold in NSW be required to have a certificate of no existing asbestos or an asbestos register certified by an accredited asbestos assessor. That the government look at a process for subsidizing households where loose fill asbestos is present for the difference of market value or remediation where action is taken to remove the loose fill asbestos, e.g. sale and demolition or remediation same as ACT.**
- 11. To prevent dumping the results of the asbestos registers should be stored centrally by government and can be amended when the owner gets a certificate from a licensed asbestos remover.**
- 12. As in ACT the power box should contain notification if asbestos is present.**
- 13. That the NSW WorkCover Authority utilise its enforcement powers to ensure that the asbestos control provisions including removal in the WHS Regulation and Codes of Practice are applied in all NSW workplaces.**
- 14. That an extensive advertising budget and campaign is developed to increase asbestos awareness of DIY renovators.**
- 15. That the Planning and Assessment rules be modified to mandate removal of existing asbestos in structures when a Development Application is made.**
- 16. We call on the NSW Government to re commit to the National Asbestos Plan in its original form by announcing a plan to remove asbestos from all government premises.**

## Preamble

1. Unions NSW welcomes the opportunity to make a submission to this Inquiry and hopes that the Parliament will be able to make some insightful recommendations that enable greater safety of NSW residents, those who work on their homes, and those that are affected by the contamination of Mr Fluffy and other loose fill asbestos.
2. Unions NSW is the peak union council in New South Wales with over 600,000 members in affiliates and 60 affiliated unions. Unions NSW and our affiliates play an essential role in all workplaces across the state through a range of representative activities such as assisting in the negotiation of workplace WHS, Injury Management and Return to Work policies and our extensive network of workplace representatives that assist workers prevent injuries and facilitate return to work.
3. Unions NSW also works with community groups through community organising and political advocacy to ensure that when the community is not at work that they are safe from harm and that we can improve workers living standards and health overall. In the safety context, this is not limited to direct effects or externalities from industry but also from goods and services supplied now or in the past to residents to theoretically assist them in making their own home and livings standards better.
4. Asbestos was considered for a long period of time as a highly affordable, versatile and useful material for undertaking a range of commercial and residential activities. It has been used for a variety of functions over the years from fibro cladding, brake materials, lagging, cement base, vinyl floor tiles, tubing, roofing material, carpets, electricity containment and heat insulation to name just a few of these uses.
5. This submission explains that it is apparent that several companies with the knowledge of, and apparent complicity of governments at the time extended the lifespan of asbestos products entering our community well past their used by date. This lead to Australia becoming the largest consumer per head of asbestos products for at least three decades after the World War II and a legacy that this inquiry will hopefully contribute to the ongoing remediation of our industrial, commercial, rural, urban, community and residential environments.
6. Unions NSW hopes to explain what is happening with asbestos removal in general and the current failures that continue unsafe exposure to the community.
7. We hope that our recommendations are sound and based on what has been done elsewhere and is reasonably practicable to be achieved in NSW. We hope that the

NSW Parliament can start to end the exposure of workers, residents, and the community to asbestos, be it loose fill or in other forms.

## Terms of Reference

8. The Joint Special Committee has called for this inquiry with the following terms of reference.

### ***Inquiry into loose fill asbestos insulation***

*1. That a joint select committee be appointed to inquire into and report on loose fill asbestos insulation, also referred to as 'Mr Fluffy' insulation, in homes in New South*

*Wales, and in particular:*

*(a) the number and location of homes affected by loose fill asbestos insulation*

*(b) the actions taken by governments to deal with loose fill asbestos insulation in other jurisdictions*

*(c) the role of state and local governments to advise and assist home owners and occupiers to reduce the risks posed by loose fill asbestos insulation*

*(d) the requirements for property owners to notify potential buyers, renters, tradespeople and emergency service officers regarding the presence of loose fill asbestos insulation in their property, and*

*(e) any other related matter.*

9. Unions NSW has addressed these terms of reference in their order but wishes to make the following contextual observations about asbestos prior to addressing the terms of reference.

### **Context: Asbestos Kills**

10. The context above is not alarmist but a fact. Asbestos has killed thousands of Australian people and is due to kill 1000s more.
11. There is no safe level of exposure to asbestos in Australia. The National Industrial Chemicals Notification and Assessment Scheme (NICNAS) Department of Health (Commonwealth) states there is no safe exposure level to asbestos<sup>1</sup>. The different types of asbestos all have different capacities to establish symptoms of asbestos related diseases, but none have a safe exposure level in Australia. Types of asbestos used in Mr Fluffy differ in media reports from blue, white and brown. This is not an issue for the Committee to be drawn into as all asbestos kills.
12. Internationally the World Health Organisation estimates that over 107,000 people die due to occupational exposure<sup>2</sup>. The occupational exposure will become a large

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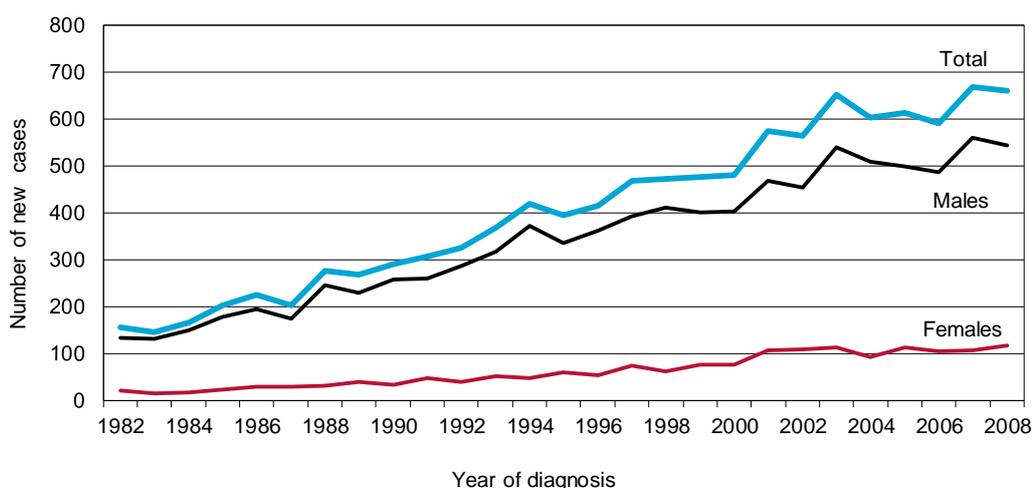
<sup>1</sup> Asbestos (chrysotile asbestos) safety factsheet CAS No: 12001-29-5 Department of Health, NICNAS <http://www.nicnas.gov.au/communications/publications/information-sheets/existing-chemical-info-sheets/chrysotile-asbestos-safety-factsheet>

<sup>2</sup> Asbestos: elimination of asbestos-related diseases, Fact sheet N°343, July 2014, <http://www.who.int/mediacentre/factsheets/fs343/en/>

underestimate of the actual deaths caused by asbestos exposure as the killer trade in asbestos exportation continues un-abated to the several billion people who populate China, India and South East Asia. China has taken over Australia’s reputation as the largest consumer of asbestos in the world. Despite a number of countries being signatories to the Rotterdam Convention and the ILO Convention on Asbestos C162 there appears to be a growing use of asbestos with our neighbours whilst the product is imported and utilised without regulation.

13. In the Australian context the death toll should be alarming. Australia wide asbestos deaths are estimated to be over 1000 per year. Common asbestos diseases include Mesothelioma, Asbestosis, and Lung Cancer, however, the scarring from exposure can also debilitate significantly the quality and productivity of workers and often leads to secondary system failure such as heart attacks from over use, pumping through scarred lungs. Other diseases are currently under review where there are identified “clusters” of other suspected asbestos related diseases such as clusters of eye tumors in small asbestos communities. Asbestos exposure is also associated with cancer of other systems.
  
14. Due to the long latency of asbestos disease it is hard to predict the peak in diagnosis and death. However, it has been predicted by some that the peak will come at approximately 2020. This peak of course will be dependent on the rate that we continue to expose people to asbestos. The following tables come from Safe Work Australia and demonstrates new cases of mesothelioma and deaths<sup>3</sup>. Depending on what stage diagnosed the mortality rates for mesothelioma are high and often swift.

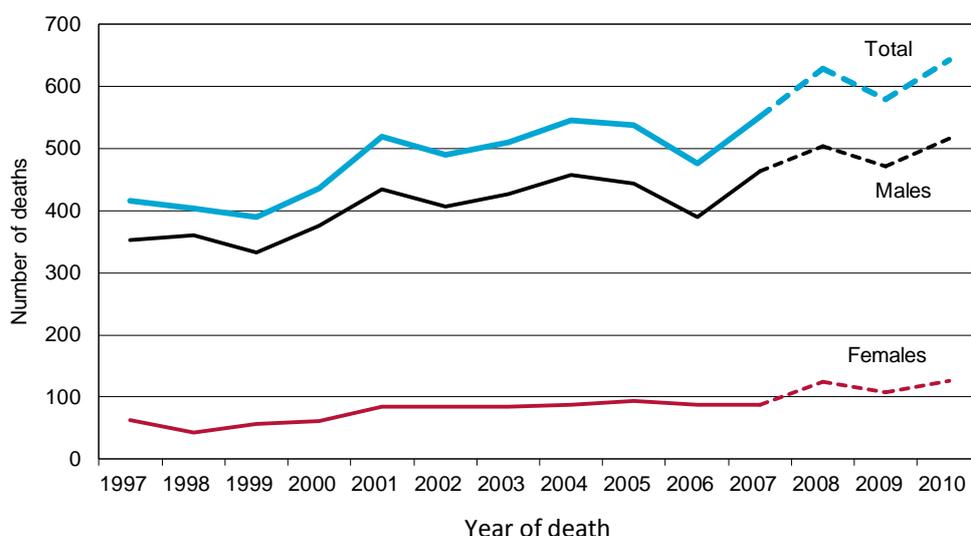
**Figure 1** Number of new cases of mesothelioma by sex, 1982 to 2008



Source: AIHW Australian Cancer Incidence and Mortality Books (compiled by AIHW from data supplied by state and territory cancer registries).

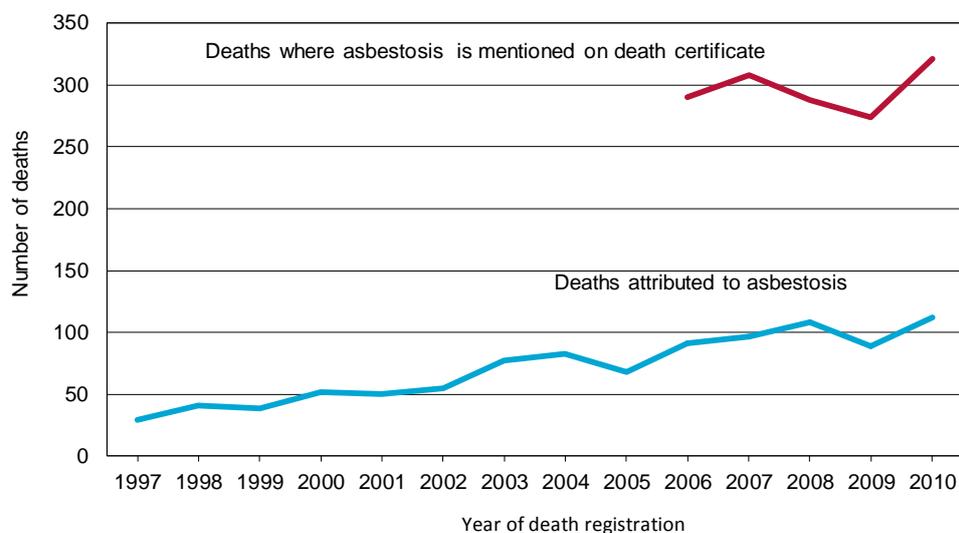
<sup>3</sup> Safe Work Australia, Asbestos-related Disease Indicators, October 2012

Figure 2 Deaths due to mesothelioma: number by sex, 1997 to 2010<sup>(a)</sup>



15. Deaths due to asbestosis are also rising and of considerable concern.

Figure 3 Deaths due to asbestosis: 1997 to 2010



Note: Data where asbestosis was mentioned on the death certificate are only available from 2006.

Source: ABS Causes of Death data.

16. The non-occupational exposure of people to asbestos causing asbestos related illness and death is explored in the Australian Mesothelioma Registry<sup>4</sup>. It states that 62.9% of the sample indicated occupational exposure. The other 37% of the exposure indicated exposure to non-occupational asbestos often associated with house hold renovations and living in a house containing asbestos. Formally James Hardie’s representatives on the National Mesothelioma Register claimed the non-

<sup>4</sup> Department of Health (Cwlth), Safe Work Australia, Australian Mesothelioma Registry, [http://www.mesothelioma-australia.com/media/10743/amr-data-report\\_final-for-publication2013-1-.pdf](http://www.mesothelioma-australia.com/media/10743/amr-data-report_final-for-publication2013-1-.pdf)

occupational rate as evidence that asbestos was not the cause of mesothelioma. However, the current Mesothelioma Register does further research which identifies a range of mainly domestic exposures that is likely to be the cause of the illness.

17. For example the number of women dying from mesothelioma per year is now over 100 per year<sup>5</sup>. The female mortality rate is often not due to direct occupational exposure but secondary exposure in the community.
18. Lung Cancer is of course difficult due to multi causality but is estimated as at least doubling the recorded death toll from asbestos.
19. The NSW Dust Diseases Board issues compensation for occupational asbestos exposure related diseases in NSW and last year awarded 422 new awards for occupational exposure.
20. The NSW Dust Diseases Tribunal issues awards for non-occupational exposure and the statistics on the number of awards was unavailable to the author at time of submission.
21. The mix of people who are contracting asbestos related illness has been changing from the miners and manufacturers of asbestos to trades and construction, and now 3<sup>rd</sup> and 4<sup>th</sup> generation of non-occupational exposure.
22. Non occupational exposure has included people exposed during home renovation, living in asbestos containing residences, living and working near asbestos work. Asbestos Diseases Foundation of Australia has examples of people contracting mesothelioma in their thirties after witnessing their parents working on asbestos buildings when growing up.

## **Term of Reference**

### **(a) the number and location of homes affected by loose fill asbestos insulation**

#### **Mr Fluffy and Loose Fill Problem**

23. Most of the information is unclear. Relying upon limited records available in the public domain. The ACT Government has probably the best information regarding

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<sup>5</sup> Australian Mesothelioma Registry, 3<sup>rd</sup> Annual Report, Mesothelioma in Australia 2013, and Safe Work Australia, Asbestos Related Disease Indicators, August 2010.

the Mr Fluffy situation in NSW through the number of calls that they receive and also through the history of how the product was installed.

## **Recommendation**

**Unions NSW recommend that the Committee contact relevant members of the bureaucracy from the WorkSafe ACT, the ACT Asbestos Taskforce and the Asbestos Response Community Reference Group to invite them to make a submission or attend to provide oral evidence.**

24. Therefore the rest of this submission related to MR Fluffy is all anecdotal hearsay information provided from workers and unions but may guide the committee into searching with the relevant ACT and Commonwealth authorities further information.
25. Mr Fluffy loose fill asbestos was installed in a number of houses in the 1960s and 1970s to reduce energy usage.
26. The age of the houses means that they are in need of renovation and repair and this poses an extra risk for tradespeople and DIY renovators.
27. A number of the houses have reported leaking of asbestos into living areas and under the house, in walls and around the house.
28. The form that the asbestos takes is that it is friable asbestos in normal state and is uncontained or not bonded by modern definition.

## **Source**

29. At the time there were strict tariff rules governing everything that was imported. The source company appears to be unclear but due to the strict tariff rules recording imports at the time and examination of the fibres it is thought that the asbestos was imported from South Africa. As this period (1960s and 1970s) was partially governed by an embargo and sanctions against apartheid in South Africa, it is thought that the asbestos may have been imported via New Zealand to avoid these sanctions.
30. Where it is installed is unknown. There is a large concentration around the ACT and in the colder areas. In NSW the colder shire councils have been targeted by WorkCover due to proximity to Canberra and likely use. It has been identified in other regional areas and in Sydney also including in the west of Sydney in Liverpool Council area, but also in council areas on the northern beaches. During the Rudd Home Insulation period anecdotal evidence was heard that a number of houses were inspected and unable to get insulation bats installed due to the presence of existing asbestos insulation. We are unaware of whether WorkCover or the Federal

Government created a register where these houses were present but these houses may present an opportunity for NSW Government agencies to identify the presence of asbestos with the request for installation being refused within the last five years.

31. It has also been stated that Mr Fluffy installed asbestos in and around ACT at the time with some reports in Yass, the Riverina, Cooma and further afar. Batemans Bay, Jervis Bay and other popular places for Canberra people to have holiday houses are also suspected as being places where loose fill asbestos may be present. This is because the asbestos was installed by two methods.
32. Firstly Mr Fluffy installed the fibres via pump through the company and its employees and also allowed for Do It Yourself (DIY) installation where you purchased the bags of fibres and installed the asbestos yourself. There could be any number of locations where the DIY method was used in NSW. It was typically poorer residents doing DIY installation who only had to pay for the product rather than the labour.
33. Reports of approximately 100 residences in the Queenbeyan area, with other reports from Yass and Eurobodalla indicating the problem of loose fill asbestos may be significant in NSW.
34. It should be noted that the WorkCover Authority has appointed Price Waterhouse Coopers to undertake an assessment of the Mr Fluffy problem. PWC's terms of reference or community involvement, assumptions or methods have not been made available to the unions or the community and this may assist this inquiry.

## **Recommendation**

**That the NSW Joint Select Committee identify from the Safety Return to Work Support Agency, and the WorkCover Authority all relevant details of the PWC inquiry into loose fill asbestos.**

35. The ACT may have a clearer indication upon which to base NSW Parliament's research through the collateral information provided to them in their operations and from the information gathered from their sample. The statistics that a publicly available include:
  - Approximately 1000 ACT premises have been identified.
  - An estimated 90 homes in Queenbeyan have been identified.
  - The age of the buildings involved means that the fibres are now falling into wall spaces, under house, into gardens, living areas, cots, bedrooms, cupboards etc.. This is mostly in those sites identified as in tact but has also been identified in houses that formerly had the asbestos fibres removed.

- It is now so difficult to remediate houses with asbestos that the ACT Government recommends demolition of houses in many instances. The ACT Government has undertaken trial remediation to cost the exercise.

## **Term of Reference**

### **(b) the actions taken by governments to deal with loose fill asbestos insulation in other jurisdictions**

#### **The Neglect**

36. State and Federal governments supported the installation of asbestos and asbestos insulation to reduce power usage. Federal Government supported “Mr Fluffy” in and around ACT in the 1960s and 1970s to reduce heating needs.
37. Federal and State Governments provided large amounts of subsidised or state housing to assist public servants and others in the growing Canberra area, and Snowy area during development of Canberra and the Snowy Hydro scheme. This occurred prior to ACT self-governance in 1990, in ACT and neighbouring NSW.
38. The NSW and Federal Government were the joint owners of the Snowy Hydro as a significant power supply agency to that region which like all suppliers has capacity limited and expense of generation increase when there is a water shortage.
39. NSW State Government Health Officers, Industrial Inspectors and Hygienists, and Consumer Commissioners (in their previous forms) all regularly checked asbestos for health effects including with conflicting overseas information and maintained approval to this product.
40. There are clear records of NSW and Federal Governments ignoring research as to the extent of health harm that asbestos causes and the prevalence of asbestos diseases. This includes the stacking of government health committees with representatives from the asbestos industry and actively downplaying the significance of contrary research.<sup>6</sup>
41. NSW Government and other governments at the National Health and Medical Research Council (NH&MRC) allowed asbestos company Doctors to work with NSW Health’s chief scientific officer to downgrade the provision of guidance on asbestos use and safety. The advice was compromised and the government was co co-opted.

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<sup>6</sup> See Peacock M., Killer Company, James Hardie Exposed, Chapter 4

42. Even in 1997 the NSW WorkCover Authority downplayed independent health estimates of the size of the asbestos mortality rate by independent medical researchers predicting the size of the problem.<sup>7</sup> The government was proven wrong just a few years later.
43. The asbestos producing companies such as James Hardie and CSR in their own research knew of the dangers from early in the 1920s it is reported.
44. Asbestos Companies had significant influence with NSW Governments during the time of asbestos manufacture and were significant donors to some political parties.

### **Federal and ACT Governments**

45. The Hawke Government assisted in the late 1980s and 1990s with assessment and removal in the Canberra area. This was because the ACT was without self-rule before 1990. The assistance provided was welcomed but the methodology has now been identified as flawed.
46. The federal scheme worked by, if the asbestos insulation was sealed and tact it was left as is. If it was damaged or not contained it was removed.
47. The federal scheme meant that non-sealed houses had asbestos removed that may have already entered other parts of the house other than the roof prolonging contamination. The in-tact houses have now had the asbestos contaminate other parts of the house due to the deterioration of the house structure.
48. Mr Fluffy and asbestos in general is a particular issue in ex-Commonwealth sites such as Defence sites, in Army areas like Holdsworthy and Naval bases. Asbestos was used industrially and for construction purposes and was dumped on these sites.
49. We are told the Defence Department has for the last three years had an officer appointed to track and map in-tact asbestos in Defence premises. There is a register that will be held for 70 years for litigation purposes with Defence.
50. Defence was attempting to import asbestos after the ban into the 2000s after the ban was imposed.
51. A number of defence lands have been converted to residential and environmental estates under NSW state land controls.

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<sup>7</sup> Ibid. p84

52. ACT Government has been at the forefront of the asbestos response for loose fill and other asbestos.

53. They have established an ACT Government Asbestos Response Taskforce which includes a community reference group.

54. The ACT has developed a comprehensive approach to deal with asbestos response including:

- A tripartite group to assist guide government's actions
- Requiring vendors of houses to supply an asbestos report
- Providing at market value buy backs of houses with asbestos contamination
- Establishing an appropriate assessment process to identify houses affected by loose fill asbestos
- A labelling protocol to prevent tradespersons working on asbestos contaminated houses unaware.
- A ban on unlicensed asbestos removal i.e. different to NSW's threshold.
- Assistance with waste disposal.
- Making mandatory asbestos awareness training.
- Ensuring that an asbestos management plan is present on all asbestos
- Establishing a territory Wide Asbestos Register
- Assisting residents with being registered on the national asbestos exposure register
- Other recommendations included in the Taskforce Website<sup>8</sup>

55. The Committee would be aware of the announcement this week to lend the money from the federal Government to ACT. This is welcome, however, ACT were looking to gain grants rather than loans due to the Commonwealth's complicity in the problem.

### **Recommendations**

- a) That the Committee adopt the same actions as the ACT government including funding for relocation of housing and stamp duty exemptions and**
- b) The NSW Government seek grant contributions for the NSW government from the Commonwealth to assist NSW residents to relocate or remediate their homes in the same form as the ACT Government.**

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<sup>8</sup> ACT Asbestos Response Taskforce, <http://www.act.gov.au/asbestos-response-taskforce#keyactivity>

## Term of Reference

### **(c) the role of state and local governments to advise and assist home owners and occupiers to reduce the risks posed by loose fill asbestos insulation**

#### **New South Wales**

56. In NSW, the reaction to the loose fill insulation problem has been slow. This inquiry and the welcomed assistance of providing WorkCover Inspectors to assess asbestos fibres only came about after residents correspondence, union generated media and also correspondence directly to the Minister.

#### **Consultation**

57. There are two government consultation bodies for asbestos in NSW that we are aware of. The first one is the Heads of Asbestos Agencies which includes WorkCover, EPA, Local Government, and others but does not include victims groups, residents or workers representatives. There are no community members on this committee.

58. The second group is the Demolition and Asbestos Consultative Committee (DACC) which has workers representatives, industry representatives and WorkCover.

59. Unions sit on this group as the only remaining tri partite consultative forum and can provide minutes if not provided by WorkCover who as facilitator who should be able to provide these.

60. There is no real consultation at present as available in ACT with the Taskforce Community Reference Group and the DACC mainly deals with industry asbestos issues as well as demolition.

#### **Removal and Remediation**

61. Loose fill asbestos is of significant concern in NSW due to a gap in regulation. Technically unlicensed asbestos removers can remove up to 10 square metres of non-friable asbestos or ACM under the WHS Regulation 2011<sup>9</sup>. Loose fill asbestos is measured in volume and therefore may be mistaken as being able to be removed as part of ACM with the 10 m squared being an inadequate measure.

62. The licensing regime in NSW is very loose and the Building unions refer to stories where the asbestos that is removed for example by a class B removal is dumped

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<sup>9</sup> NSW WorkCover Authority, Code of Practice, How to Safely Remove Asbestos, p. 6

underground on some sites in temporarily constructed trenches rather than paying for asbestos waste removal or requiring an asbestos management plan..

63. Other illegal dumping has also been reported in the media at schools, parks, car parks and other areas of great concern for the community. The current trial to combat illegal dumping for households for 24 councils was requested and welcomed by unions and other community groups and councils.<sup>10</sup>. There are significant reported stories of commercial waste dumping to justify the extension of the scheme to all council areas and for commercial asbestos waste also.

64. Unions NSW are aware a number of council areas are ill equipped to handle asbestos waste removal.

**Recommendation**

**That the current EPA grants to combat illegal dumping be extended to all council area and that all council areas (and their subcontractors) are provided with assistance to adequately and safely receive, transport and contain asbestos containing materials.**

**Recommendation**

**That the WorkCover Authority be instructed to draft a change in the Code of Practice and Regulation to require asbestos removal by a licensed asbestos remover and banning removal without a licensed removalist.**

65. Unions NSW is told Cambodian workers are currently being used to remove asbestos with illegal methods in large part in Sydney by some contractors. We are unaware of the employment status of the workers but believe that their behaviour indicates little asbestos awareness.

66. The NSW Government has assisted the electrical utilities with a standardised asbestos awareness training. There is intent to carry this onto other industries. There is unfortunately no compulsory asbestos awareness training or accreditation in industry. The ACT example provides for compulsory asbestos awareness training and mandatory requirements including with loose fill asbestos for several occupation types.

67. Prior to the introduction of the harmonised laws NSW had a plan to eventually ban unlicensed asbestos removal going to ten then to zero square metres before a licensed asbestos removalist is required.

**Recommendation**

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- a) **The NSW Government should establish compulsory asbestos awareness training modules and accreditation with WorkCover Authority and AQTF regulation.**
- b) **The NSW Government should undertake greater audits of Class A and B asbestos removalists.**

68. As described by the recent NSW Parliamentary Inquiry the Workers Compensation Dust Diseases Board operates efficiently.

69. James Hardies has just announced the company that they set up to pay for asbestos deaths is in financial difficulty meaning that they will pay victims in instalments. The Unions and the Government are in discussion, and also with James Hardie and the substance of these discussions will not form part of this submission.

70. Significantly for the purposes of occupational dust diseases, the move by the Commonwealth (and COAG) to transfer jurisdiction of workers compensation to the federal Comcare scheme offers a significant threat to the viability of the dust diseases compensation system in NSW. The Comcare system with greatly delayed processes, and extremely low compensation caps offers a poor alternative to the current Dust Diseases system in NSW developed and enhanced by Liberal national and Labor governments. If the predominant asbestos producing legacy companies are allowed to move to the Commonwealth then the people of NSW who contract asbestos diseases will receive little compensation whilst they are left disabled by these frightful symptoms of asbestos disease and then death.

## **Recommendation**

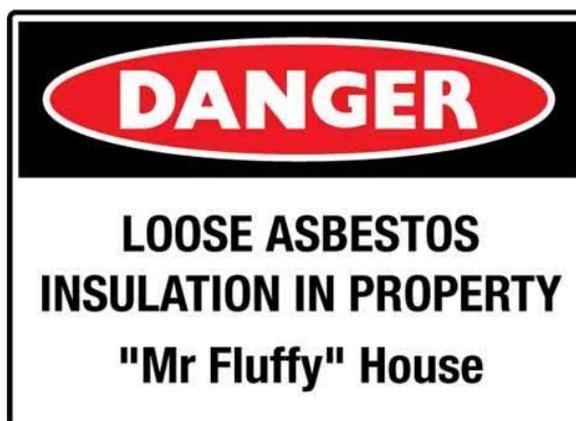
**That the committee recommend to the NSW Government announce their opposition to the COAG process to allow a Comcare takeover of Work Health and Safety and Workers Compensation and to vehemently oppose this action through NSW involvement at COAG.**

## **Terms of reference**

**d)The requirements for property owners to notify potential buyers, renters, tradespeople and emergency service officers regarding the presence of loose fill asbestos insulation in their property.**

71. The ACT has had a requirement to notify potential buyers of asbestos through an asbestos register for ten years.

72. The ACT also have a requirement to notify tradespeople of Mr fluffy homes via the labelling with a sticker at the power box.



73. As many houses are to become workplaces when tradespeople enter or when the occupant undertakes home renovations, the requirement of the WHS Regulation to notify if they are aware of asbestos should be extended to residential houses.

See the following example:

**WHS Regulation 2011,**

**424 Presence and location of asbestos to be indicated**

*A person with management or control of a workplace must ensure that:*

*(a) the presence and location of asbestos or ACM identified at the workplace under clause 422 is clearly indicated, and*

*(b) if it is reasonably practicable to do so, indicate the presence and location of the asbestos or ACM by a label.*



Example of a sign notifying persons of the presence of Asbestos Containing Materials in residential building in Sydney

74. If the NSW Government commits to financially contribute to the remediation or purchase of houses at market value as ACT has done then the NSW home owners will be less financially disadvantaged from the notification.

75. The issue that has risen in NSW regarding property inspections being carried out for who pays the piper could be alleviated by a standard for the asbestos assessment, a fee table of standard fees, and also a register of asbestos assessors who will be selected by the government when a person wishes to sell their house and requests an asbestos certificate or register.
76. This has been opposed by some in the real estate industry previously however, it is now time for everyone to weigh up that 1 death a year is too high let alone 1000.
77. The economic arguments are also invalid when all free market economists predicate perfect information as one of the assumptions underpinning their effective operation.
78. By requiring this step for houses being sold it is anticipated that the owner can negate the cost via any capital gain and that this may also encourage the owner to remove the asbestos legally in order to attract maximum market sale price.

**Recommendation**

**That the NSW Parliament recommends that all houses sold in NSW be required to have a certificate of no existing asbestos or an asbestos register certified by an accredited asbestos assessor. That the government look at a process for subsidizing households where loose fill asbestos is present for the difference of market value or remediation where action is taken to remove the loose fill asbestos, e.g. sale and demolition or remediation same as ACT.**

**Recommendation**

**To prevent dumping the results of the asbestos registers should be stored centrally by government and can be amended when the owner gets a certificate from a licensed asbestos remover.**

**Recommendation**

**As in ACT the power box should contain notification if asbestos is present.**

79. As asbestos has been dumped legally and illegally for a number of years it has now become part of our urban environment.
80. It is present in back yards, parks as land fill, school playgrounds and hospitals. The ex-defence sites are also prone to significant contamination with asbestos.
81. Loose fill asbestos and loose asbestos ACM is often part of the environment where previous buildings have been present.

**Recommendation**

**A state wide asbestos register should be developed for all built environment and terrain asbestos containing material.**

## Term of Reference

### **(e) any other related matter.**

82. Loose fill asbestos is systematic of the broader problem of asbestos in NSW. It is so obvious that there is no one coordinating body and there are a number of different agencies and organisations usually reacting to problems as they arise. Once the external focus dissipates there is no drive for continuing the eradication of asbestos from the community or single government office responsible for achieving progress.
83. Unions NSW believes that there should be a NSW Independent Asbestos Commissioner and that they should be guided by the advice of a reference group made up of community, victim and worker representatives, as well as government agencies. The reference group should be publicly minuted and provided with as much knowledge and resources as necessary to guide the state's response.

#### **Recommendation**

**That the NSW Government should establish an Independent Asbestos Commissioners and an advisory Reference Group.**

## Work Health and Safety Act

84. For several decades there has been a legislative OHS requirement for asbestos to be removed from workplaces, for there to be an asbestos register and an asbestos management plan which includes systematic containment and removal.
85. Unions NSW experience for a number of employers is that some will do little to remove the asbestos and then will act briefly when the union, media or some other spotlight is put on the presence and then return to a state of non-action.
86. It is thought that loose fill asbestos may be present in a number of workplaces. NSW Government through the WorkCover Authority has the capacity to enforce the WHS Regulations and should be encouraged to do so via a range of enforcement activities.
87. Every year we wait to remove asbestos is potentially further exposures for residents, DIY renovators, trades persons, and other workers.

#### **Recommendation**

**That the NSW WorkCover Authority utilise its enforcement powers to ensure that the asbestos control provisions including removal in the WHS Regulation and Codes of Practice are applied in all NSW workplaces.**

## **National Asbestos Plan**

88. The National Asbestos Plan was originally signed up as an agreed document after extensive consultation with all jurisdictions. It formed the Asbestos Safety and Eradication Agency that NSW sits on. However, now after the media attention has moved on to other matters the NSW Government has changed its commitment to the National Plan; in particular the removal of asbestos from all government buildings by 2030.

89. Unions NSW has seen as a result of this move from being committed to being in draft and reassessing, several agencies re prioritise their commitment by ceasing promised asbestos removal activities.

90. The NSW Government who ends up paying for the social services, and the health care for the industrial illness and death should be leading by example and removing the risk of exposure from our public hospitals, schools, community buildings, and police stations

### **Recommendation**

**We call on the NSW Government to re commit to the National Asbestos Plan in its original form by announcing a plan to remove asbestos from all government premises.**

## **Planning and Assessment**

91. We are advised that the planning and assessment rules allow builders to add on extensions without the requirement to remove asbestos from other parts of the building. This may create some confusion as to the presence of existing asbestos when there is clear new renovation, and may lead workers and renovators to a false sense of security about exposure.

### **Recommendation**

**That the Planning and Assessment rules be modified to mandate removal of existing asbestos in structures when a Development Application is made.**

## **Awareness**

92. With the move to making celebrities of weekend warriors in renovation reality television, we believe the NSW Government should include an advertising budget that targets these viewers in two ways to ensure greater asbestos awareness and behaviour. This should be targeted at point of sale where products are used to work on home insulation and via social and direct advertising with DIY home renovators.

## **Recommendation**

**That an extensive advertising budget and campaign is developed to increase asbestos awareness of DIY renovators.**

We thank the committee for considering Unions NSW submission.

Shay Deguara  
OHS Industrial Officer  
31 October 2014