

Submission
No 25

INQUIRY INTO LOOSE FILL ASBESTOS INSULATION

Organisation: Fluffy Owners and Residents' Action Group

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URGENT DUE TO HEALTH RISKS—PARTICULARLY FOR CHILDREN

SUBMISSION TO THE NSW JOINT SELECT COMMITTEE ON LOOSE FILL ASBESTOS INSULATION

REQUEST FOR UNIFORM NATIONAL RESPONSE ON MR FLUFFY ASBESTOS PROPERTIES IN AUSTRALIA

31 October 2014

PART 1—THE ISSUE

1. Background

- 1.1. Between 1968 and 1979, a small business based in the Australian Capital Territory (ACT) trading as D. Jansen & Co Pty Ltd (**the company**) pumped crushed raw asbestos insulation into approximately 1,100 properties in the ACT and in Queanbeyan in New South Wales (NSW). The owner—Dirk Jansen—was known locally as “Mr Fluffy”.
- 1.2. In 1968, the Commonwealth Government governed the ACT. In July 1968, it commissioned a report on the possible health hazards associated with the company’s use of asbestos as insulation.
- 1.3. In that report, physicist Dr G Major recommended that the Commonwealth Government dissuade or even prevent the company from using asbestos as insulation due to the harmful nature of the substance and the risk to the community. Dr Major ended the report with the following warning:

With the present demand for insulation, Canberra may become a large market for asbestos insulation with many people in the community exposed because some asbestos will be carried out of the roof space by air currents.¹

- 1.4. On 20 December 1968, Acting Director Mr Arthur Spears from the Commonwealth Department of Health forwarded Dr Major’s report to the Secretary, Department of the Interior, with a final recommendation:

The results of our investigations have disclosed what appears to be a serious exposure to asbestos dust. In view of [sic the] harmful nature of this substance the use of asbestos fluff for the purposes of insulating should be discontinued...²

¹ Report by Dr G Major, Occupational Health Section, “Asbestos Hazard”, July 1968 at p2 (**Attachment A**).

² Memorandum from Arthur D Spears, Commonwealth Department of Health, 20 December 1968 sent to the Secretary, Department of the Interior, 20 December 1968 (**Attachment B**).

- 1.5. The Commonwealth Government did not appear to act on this advice. Further, it is not known whether the Commonwealth Government shared this information with the NSW Government to equip it to cease the company's operations in Queanbeyan.
- 1.6. Over the following decade, the company went on to install asbestos insulation in more than 1,100 family homes.

2. A particularly toxic form of asbestos

- 2.1. Asbestos is a general term describing two different classes of minerals with distinct physical properties. Chrysotile, commonly referred to as white asbestos, is found predominately in bonded asbestos products and is the only member of the serpentine class. Amosite and crocidolite, commonly referred to as brown and blue asbestos respectively, belong to the amphibole class.
- 2.2. The company installed raw loose fill amosite and crocidolite as home insulation (**Mr Fluffy asbestos**). These forms of amphibole asbestos are particularly dangerous.
- 2.3. Unlike soluble curly-fibre chrysotile which may pose significant health implications following chronic high exposure, amphibole asbestos fibres are sharp, needle-like and acid resistant, resulting in high biopersistence. Thus, amphibole asbestos can initiate deadly disease even after short-term exposure.³
- 2.4. According to Booker and North,⁴ while chrysotile has a half-life in the human lung of around a few days, amosite and crocidolite have an estimated half-life in the human lung of up to 150 years:

When breathed in, the longer of their straight, narrow, sharp, acid-resistant fibres can penetrate the lungs and surrounding tissue in such a way that they cannot be dissolved or removed by the body's defences. It is the build-up of such ineradicable fibres which gives rise to potentially fatal disease.⁵

3. A serious health risk to residents—particularly children

- 3.1. Two medical reports provided to the Commonwealth Government more than 20 years ago note the serious health risks posed by the presence of Mr Fluffy asbestos insulation in the homes to occupants, tradespeople and the community.
- 3.2. One report predicted that >1 in 1,000 lifetime residents of Mr Fluffy asbestos homes would die from mesothelioma or lung cancer as a consequence of their exposure to asbestos in their homes.⁶

³ See American thoracic society documents, 2004. Am J Respir Crit Care Med; 177: pp691-715 and National Research Council, *Asbestiform Fibers: Occupational Health Risk*, National Academy Press, 1984.

⁴ Christopher Booker and Richard North, "One Fibre Can Kill: The Great Asbestos Scam" in *Scared To Death: From BSE To Global Warming – Why Scares Are Costing Us The Earth*, Continuum Books, London, 2007 at pp274-275.

⁵ Christopher Booker and Richard North, note 4 at p275.

⁶ Report by Professor Bruce Armstrong, Director and Professor of Epidemiology and Cancer Research, National Health & Medical Research Council, "Asbestos insulation in Canberra houses", 24 July 1988 (**Attachment C**) at p2.

- 3.3. Another report predicted a measurable excess of asbestos-related diseases in the resident population, with children at particular risk as their developing lung tissue is very susceptible to damage and because of the long latency period associated with asbestos-related diseases.⁷
- 3.4. Mr Peter Tighe, Head of the Federal Asbestos Safety and Eradication Agency, believes advice on lifetime risks is outdated. Mr Tighe's view is that a single episode of exposure to Mr Fluffy asbestos can produce an asbestos-related disease such as mesothelioma.⁸ We note that there is no known safe level of exposure to asbestos.
- 3.5. A number of our Group members in the ACT have reported instances of cancers which they believe may be linked to the inhalation or ingestion of asbestos fibres in their family homes. These include cancers of the lung mesothelium, bowel, kidney, breast, brain and prostate.

4. Known scale of the problem

- 4.1. 1,021 properties in the ACT and 12 properties in Queanbeyan have been identified as being contaminated with Mr Fluffy asbestos. The vast majority of affected properties in the ACT are houses, with a few duplexes involved. One block of flats in Queanbeyan is affected, with the remaining identified properties being houses.
- 4.2. Our Group believes that another 50 or so Queanbeyan properties may be affected. These properties are hidden in the landscape. In the absence of supporting NSW Government policies, we are concerned that Queanbeyan owners are unlikely to opt in for asbestos assessments due to the serious risks to property values.
- 4.3. Asbestos assessors have tested the majority of our homes in the ACT. Of those assessed, it is our understanding that all but one home has tested positive for ongoing asbestos contamination. Assessors have detected asbestos fibres in kitchen cupboards, wardrobes, linen cupboards, bathtubs and children's cots and on pillows, bedding, clothes and toys.

5. Absence of insurance coverage and lack of security for mortgages

- 5.1. Flood and bushfire victims often attract high levels of government and community support while also having the safety net of insurance coverage. While owners and residents have comprehensive home and/or contents insurance policies, these policies contain absolute exclusions on asbestos-related claims.
- 5.2. In the ACT, some banks have refused to provide finance for new sales transactions involving Mr Fluffy homes on the basis that they do not offer sufficient security for mortgages. By way of an example, one bank recently declined to provide a mortgage for 55 per cent of the sale price on this ground.

⁷ Report by Dr David Douglas, Australian Occupational Health Management Pty Ltd, "Asbestos home insulation in the ACT", 26 July 1988 (**Attachment D**) at p3. Dr Douglas was a former Chairman of the Occupational Health Guides Committee of the National Health & Medical Research Council.

⁸ See statements by Mr Peter Tighe in *Fluffy-insulated residents in Queanbeyan need to get out now, says agency*, Emma Macdonald, The Canberra Times, 23 October 2014.

6. Refusal to deliver goods and services in Mr Fluffy homes

- 6.1. A growing number of workers are refusing to enter Mr Fluffy homes in Canberra to deliver goods and services. These include carers, electricians, pest controllers, tradespeople, licenced valuers and real estate agents. We believe this trend is highly likely to be repeated in Queanbeyan.

PART 2—POLICY RESPONSE

7. Call for demolition of Mr Fluffy properties in NSW

- 7.1. According to Dr Douglas, the only way to eliminate the health risks posed by Mr Fluffy asbestos is the complete removal of asbestos insulation from affected homes.⁹ Advice from asbestos experts suggests that it is not possible to fully remove all of the asbestos fibres from contaminated homes.
- 7.2. For this reason, our Group believes that the only way to remove the risk is to demolish Mr Fluffy asbestos properties, discard the rubble as asbestos waste and to decontaminate the underlying soil.

8. Requests for assistance in line with ACT Government response

- 8.1. On 28 October 2014, the ACT Government announced its decision to buy back the ACT's 1,021 Mr Fluffy properties and to carry out a phased demolition scheme.
- 8.2. Our Group calls on the NSW Government to work with the ACT and Commonwealth governments to deliver an urgent policy response in the form of a buy back and demolition scheme to protect the NSW community from the serious health and financial security risks posed by Mr Fluffy asbestos properties.
- 8.3. We call on the NSW Government to first focus on the implementation of a policy response in Queanbeyan, which we believe to be the epicentre of the Mr Fluffy disaster in NSW.
- 8.4. We ask the Committee to consider a recommendation to the NSW Government to adopt an assistance package for affected families in Queanbeyan in line with the assistance provided by the ACT Government to ACT occupants on 3 July 2014:
 - Reimbursement for the cost of asbestos assessments.
 - Support package to assist occupants who need to leave contaminated homes including a payment of up to \$10,000 per household, and \$2,000 per dependent child, to cover the costs of emergency accommodation and necessities such as food and clothing and immediate remediation work.
 - A \$1,000 payment to support the replacement of contaminated essential items such as clothes that have had to be destroyed on the advice of an asbestos assessment where families have not needed to vacate.

⁹ See Dr Douglas's report, note 7 at p4.

- Counselling and support services.
- Deferral of rates for the period of vacancy following advice from a licensed asbestos assessor.

9. Requests for varied assistance measures

9.1. We also request that the Committee considers making a recommendation to the NSW Government to provide the following assistance measures to owners and residents of Mr Fluffy properties in NSW. Please note that these measures build on what the ACT Government has provided to ACT owners, noting that decisions on the form of assistance will ultimately be a matter for the NSW Government:

- an equitable buy back scheme that offers fair market value based on the highest of two independent valuations, without any diminution in value due to the Mr Fluffy factor (c.f. the ACT offer of the average between two independent valuations);
- owners to be given the first option to buy back their decontaminated land at a future point for an amount to be agreed between each owner and the NSW Government at the time of surrender (c.f. the ACT offer for owners to elect to buy back their decontaminated blocks for market value in a private transaction with the ACT Government i.e. not on the open market);
- in the case where an owner wishes to return to his or her land, we ask that the parcel of land is not rezoned without the owner's prior consent to prevent the owner from being priced out of the reacquisition (c.f. the ACT Government decision to rezone land as it thinks fit to increase the value to attempt to recoup some of the costs of the overall scheme);
- reimbursement for contaminated household contents that have to be destroyed on the advice of licenced Class A asbestos assessors (c.f. the ACT offer of a contribution towards these replacement costs);
- in cases where owners are prepared to move on, a waiver of stamp duty on the next purchase in NSW up to the value of the stamp duty that would be payable on the affected property (this reflects the ACT offer);
- a \$25,000 payment per household for loss attributable to disturbance and incidental transaction costs and a payment for solatium (not offered in the ACT. We also note that these payments are only available in NSW in the case of compulsory acquisitions. Our requests reflect the view that owners believe there is no other option than for Mr Fluffy properties to be acquired and demolished).

Thank you for considering this submission.

Brianna Heseltine | Founder and Spokesperson

Fluffy Owners & Residents' Action Group