

**REPORT OF PROCEEDINGS BEFORE**

**JOINT SELECT COMMITTEE ON LOOSE FILL ASBESTOS**  
**INSULATION**

**INQUIRY INTO LOOSE FILL ASBESTOS INSULATION**

**CORRECTED**

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**At Sydney on Friday 14 November 2014**

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**The Committee met at 9.00 a.m.**

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**PRESENT**

Reverend the Hon. Fred Nile (Chair)

**Legislative Council**

The Hon. N. Blair  
Ms J. Barham  
The Hon. T. J. Khan  
The Hon. M. Veitch  
The Hon. S. J. R. Whan

**Legislative Assembly**

Mr G.D. Barilaro  
Mr D.W. Maguire

**CHAIR:** Welcome to the first public hearing of the Joint Select Committee on Loose Fill Asbestos Insulation inquiry into loose-fill asbestos insulation, known as Mr Fluffy. Before we commence I acknowledge the Gadigal people who are the traditional custodians of this land. I pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginals present. This Committee was established to examine issues related to loose-fill asbestos insulations in homes in New South Wales. Its terms of reference require the Committee to inquire into and report on the number and location of homes affected by loose-fill asbestos insulation, the role of State and local governments to advise and assist home owners and occupants, to reduce the risk posed by loose asbestos, and requirements for property owners to notify people who could potentially be affected by it.

In its deliberations the Committee will also consider action taken by governments to deal with loose-fill asbestos insulation in other Australian jurisdictions. Today we will hear from the Asbestos Safety and Eradication Agency, representatives from the Australian Capital Territory Asbestos Response Taskforce and WorkCover NSW. The Committee will also hear from peak bodies, including Local Government NSW, Unions NSW, the Housing Industry Association and the Real Estate Institute of New South Wales. Before we commence I will make some brief comments about the procedures for today's hearing.

In accordance with the Legislative Council's Guidelines for the Broadcast of Proceedings, only Committee members and witnesses may be filmed or recorded. While members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing. I urge all witnesses to be careful about any comments they may make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation.

There may be some questions that a witness could only answer if they had more time with certain documents to hand. In those circumstances witnesses are advised that they can take questions on notice and provide answers within 21 days. I remind everyone that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid, where possible, naming individuals unnecessarily. Please be advised that Committee members and witnesses while at the table cannot be approached and any messages should be delivered through Committee staff. I welcome our first witness, Mr Peter Tighe.

**PETER TIGHE**, Chief Executive Officer, Asbestos Safety and Eradication Agency, sworn and examined:

**CHAIR:** Would you like to make a brief opening statement?

**Mr TIGHE:** My only statement would be to commend the actions of the New South Wales Government in setting up this Committee to inquire into a very important issue that affects not only public safety but also the safety of people who are closely associated with premises suspected of containing loose-fill asbestos.

**CHAIR:** The inquiry has been set up by Parliament.

**The Hon. STEVE WHAN:** What is the view of your organisation about the safety of houses that still have loose-fill insulation in their roofs? Should people be living in those houses?

**Mr TIGHE:** It is my view that those houses are extremely unsafe. The product risk from asbestos is the most virulent form of all asbestos contained materials [ACM]. It has an asbestos purity of around 90 to 95 per cent and when disturbed becomes friable in nature, which is a huge risk to the individual and anyone else who might enter the premises. It is my view that this is an urgent matter that needs to be dealt with, and dealt with constructively. I think the lessons learned by the task force in the Australian Capital Territory give some direction to the Parliament of New South Wales.

**The Hon. STEVE WHAN:** What is your view of the public health danger from those houses not only to the occupants of the houses but also to the communities in which they are situated?

**Mr TIGHE:** The very difficult situation is that all domestic premises from time to time will have people come in to perform service work, whether they work for telecommunication companies, electrical work, plumbing work, air-conditioning work or general building work. They are working within the built environment of that house and are likely to go into areas such as ceiling cavities, cutting penetrations in walls, and the subfloor. In particular, they are in an extreme position in relation to the product that is installed in those houses because we are aware that loose-fill asbestos migrates right throughout a house into the wall cavities, into the subfloor, and when you disturb any of those areas or you go into those areas without the appropriate protective equipment then you are at risk.

**The Hon. STEVE WHAN:** Why was the work undertaken in the Australian Capital Territory in the 1980s, where they removed the loose-fill asbestos from the roof cavities, not adequate in the long term?

**Mr TIGHE:** Unfortunately, and we learn from experience, the first remediation that took place in the Australian Capital Territory was about removing visual loose-fill asbestos from ceiling cavities. There was an attempt to extract where they could sight loose-fill asbestos from the internal wall cavities and then there was a PVA substance sprayed over the internal areas of the ceiling but, unfortunately, the migration of asbestos had taken place well before that first level remediation had taken place. So, in essence, it did not remove all the loose-fill asbestos that could possibly have been removed. They probably did the job they could do without a deconstruction of the building but, unfortunately, the work done has not resolved the issue in relation to public risk.

**The Hon. STEVE WHAN:** Mr Chairman, at this point I want to put on record that I formerly owned one of those houses in the Australian Capital Territory but I no longer have any interest in it. Mr Tighe, most people who live in the Australian Capital Territory local area, Mr Barilaro and myself included, have seen plenty of comment in the media about the potential health impacts of those houses. Do you have any information about the number of people who have been affected by asbestos-related diseases who have lived or worked in those houses?

**Mr TIGHE:** At the request of the Australian Capital Territory task force the agency has a register for those people who believe they may have been exposed to all types of ACMs. They log onto our website and put in the details about their beliefs about exposure, when it took place, et cetera. Since it has been advertised generally in the Canberra area where the register is in operation we have seen a large spike in relation to the number of people reporting that they have been exposed to loose-fill asbestos in the Canberra area. We have also had some reports from New South Wales—I think there have been six specific inquiries to our inquiry line. One of the difficulties I think that the inquiry might find is that there is a lack of commitment to identify where

the individuals are. That was something that manifested itself in the Australian Capital Territory. In the first instance people were very concerned about the value of their asset, the issues that might affect them, but since then I think people have come to an understanding about the risk not only to themselves but also to their families and to other people who might come into contact with them. That has been mitigated to a large extent, but from the reports that we receive there are still concerns about identifying your residence as a Mr Fluffy premises.

**The Hon. STEVE WHAN:** In your submission you made some recommendations about the identification process. Could you outline what you think should be done in New South Wales to undertake that work, to identify it?

**Mr TIGHE:** I think a process has been put in place about allowing voluntary testing for people who have some insecurity about whether they have the product in their house. To be able to get testing to take place and at no cost to themselves is a good initiative. I think there would be people still mulling over whether they are going to pick up that offer from the New South Wales Government. I think there would be a group of people out there who, to a large extent, would be putting their head in the sand and saying, "Well, I'm prepared to take that risk." The problem associated with that is they are making a decision that impacts on many more people than just the householder themselves.

I think the initiative is good but I think if clusters can be identified where you know loose-fill asbestos has been installed, there would have to be some consideration about some form of mandated testing to ensure that the risk to the general public is considered in light of this because I think there is going to be that reluctance. It is something that we saw in Canberra. It is a difficulty that I think we have to overcome. If people are not going to volunteer to have some independent testing then I think there is an obligation to ensure that the public is protected by requiring some testing take place in areas where clusters or suspect installation of this product has taken place.

**The Hon. STEVE WHAN:** What sort of legislative backing do we need to be able to do that mandated testing?

**Mr TIGHE:** I could not see it without some form of regulatory requirement coming out of Parliament to do that. As much as you can raise the level of awareness and get the information out there, there will still be people who decide that they just do not want to know about it, especially people who have been long-term residents or elderly, who may not want to see their environment disturbed. I think there is a real difficulty in getting them to participate in a voluntary program. Mind you, the issue would be, I think, one where you have identified that there is a cluster of homes. We do know that the people that were selling this product were moving about different suburbs—"I'm doing it next door. Would you like to have it installed into your premises?" So I think that is the sort of thing that you have to look at to make a judgement call about where you would go in relation to mandatory testing.

**The Hon. MICK VEITCH:** What are the lessons that New South Wales can learn from the Australian Capital Territory experience? As you say, you learnt from the mistakes of the past. What are the things that we could take on board from the Australian Capital Territory?

**Mr TIGHE:** I think you have to have a specific body that is tackling this issue; I think that is one of the major lessons from the Australian Capital Territory. Whether it is a task force or whether it is a specific government agency that has got a responsibility in that area that builds a level of expertise that can put the information out there, reassure people, go to public meetings, give them the accurate information so they can make a decision in their best interests. Unfortunately, in relation to asbestos there are people who, in fact, move away from what we describe as the precautionary approach and indicate that an exposure or short-term exposure may not necessarily be harmful for you. The evidence that is coming through in relation to asbestos-related diseases shows that medium exposure over a short term can lead to mesothelioma, and there is no time-weighted average when you look at exposure to this carcinogen. That sort of information needs to be available. I think it needs to be available to people who have families that are residing in those houses; we all have guests in our home. You want to make a decision that is based on fact. We do not want to create hysteria but we do need to do something about it.

**The Hon. MICK VEITCH:** The hysteria issue, of course, means how this is communicated and we, as parliamentarians, and the Parliament engage the people of New South Wales. Do you have any suggestions on what that communication strategy would look like?

**Mr TIGHE:** I think community meetings, if you can identify those clusters that I referred to before, to indicate to people what the issues are, why it is important not just for themselves but for their neighbours, for service people who are coming into the building, the person that may buy the property into the future, and that the only cure for this process is removal, eradication. That has to be managed with a degree of tact. Of course, elderly people would say, "I've been in this house for a long period of time. Does that mean that I'm going to be affected by one of the asbestos-related diseases?" Not everyone exposed to asbestos necessarily finishes up in a hospital bed. I think information is very important to get the cooperation of people to really address this problem, and you have to have a body with the expertise and they have to be subject matter experts to ensure that they can give people full facts to make a conscious decision, which probably would be the direction that the Government or the Parliament might go in relation to this. But to bring them along with you I believe you have to have one that is set up specifically to deal with this problem.

**The Hon. MICK VEITCH:** If I heard you correctly in response to the first question from Mr Whan, you are saying that people should not be living in the houses once they are identified. Is that what you are saying?

**Mr TIGHE:** The longer you are in the house the more likely you are to be affected by the exposure to friable asbestos. In an overarching role my area of responsibility is to try and take people out of those sorts of environments regardless of what the asbestos-containing material might be. Once you are not in the residence then the likelihood of a catastrophic occurrence in relation to your health diminishes; it is just common sense. If you are not in the area of danger then your likelihood of being affected is lower. I know that is a real difficulty and it is a thing that we saw in Canberra that people, quite frankly, in the first instance say, "Well, that's my call. I'm prepared to take the risk." But really, if you provide them all that information and you say, "Well, it's not just the effect on you. This is not a personal decision; this a much broader decision", I think people are more amenable then to make the right decision.

**The Hon. MICK VEITCH:** What is the effectiveness, in your view, of tagging the houses once they are identified?

**Mr TIGHE:** Tagging is helpful for some of the service trades that come to a building. The tagging that has taken place in the Australian Capital Territory is in meter boxes and the point of connection. Most people—plumbers, electricians—have to isolate circuits or have the circuits isolated. There is a point that they know that they can go to to identify whether there is a problem associated with asbestos. It has been a controversial issue in the Australian Capital Territory because people feel it is branding. I do not believe it is a branding because I believe that the tagging is subtle enough so that people can find out that information. The people who would not be aware of it, though, might be people coming in to visit the householder, selling door-to-door, moving furniture in, those sorts of things.

I think for the trade group, it is a very effective way; for the other groups, though, it is a bit difficult. But if you do not do it then I think you are remiss in relation to your responsibility because the tradesperson who comes into the building would not have an idea as to whether it is one contaminated by loose-fill asbestos or not. At least if they are aware of that and the householder asks them to do something they can put on appropriate protective equipment. If they are going to go into the ceiling space and they see these products then they can make a judgement call as to whether they want to participate in any work that may be undertaken in the house. So it is about public awareness and I think it strengthens public awareness.

**The Hon. MICK VEITCH:** Do you think our tradespeople are suitably qualified at this point in time to work in areas around loose-fill asbestos?

**Mr TIGHE:** It is unfortunate that a lot of younger tradespeople believe that asbestos and asbestos-related diseases are something of the seventies, eighties and nineties; it is an old guy's disease. That is because of the period of gestation in relation to asbestos-related disease. I am an ex-tradesman and when I was working in the trade we were very aware of it because the bans had taken place. The action that took place in the seventies, eighties and nineties had it high on the agenda. Now we have got a new group of people who have been trained in those occupations and we have not had the installation of asbestos products since the early nineties. So there is a degree of naivety in relation to the process.

One of the things that the agency is doing is seeking to put back into trade training programs a module specifically on asbestos and how to work with asbestos and the safeguards that must take place. But, as a general

rule of thumb, I think what we have found in our awareness survey is that there is not the level of understanding, even in trade groups, that should be there.

**The Hon. MICK VEITCH:** My last question relates to disposal. I am from Young. The regional councils have raised with me a concern about where this sort of material is to be securely disposed of once it has been identified.

**Mr TIGHE:** I think that is a big issue. Transport and disposal of asbestos is a burning issue. Again, it is another area that the agency will be focusing on. Especially in a lot of rural areas where you have a local town tip, they do not have the capacity to deal with asbestos-contaminated materials. If they do, the normal process is to make sure that people have the appropriate protective equipment and that they double-bag all the material. People who are licensed contractors know what they have to do in relation to that. The normal method of disposal is deep burial with overburdening back over the top of it. It would have to be done in a specific area.

One of the problems we do have, and I know there are a number of initiatives on this taking place in New South Wales, is that if you are disposing of asbestos then there is an environmental levy that sits on top of the fee structure. The disposal sites themselves charge additional fees because they say they have to meet work, health and safety regulations, which is true. Because of these additional costs we have all sorts of problems, as you are probably aware, with illegal dumping. That is an issue that we really need to address.

**The Hon. STEVE WHAN:** I have a question about emergency services responding to damage to roofs and things like that. Do you have much awareness of the protocols in place for when emergency services go to houses which may be affected? From the submissions it appears that, for example, in Queanbeyan the council communicated with emergency services about the houses the council was aware of, but there are presumably others there that they are not aware of.

**Mr TIGHE:** There is a protocol that has been introduced in New South Wales in relation to emergency services work and dealing with asbestos. It was introduced at the time of the small cyclone down the South Coast—it was kind of a mini tornado—and also utilised in the Blue Mountains bushfires. What used to happen is that there would be partial demolition caused by the act of God and emergency services people and tradesmen would go in there and would not be aware of the processes associated with asbestos. But through the Heads of Asbestos Coordination Authorities there is now a protocol in place in New South Wales that is working effectively in that area.

So it is really about targeting someone who is going into the area where the asbestos contamination has taken place so that they are aware of it. I do not know how you can do that just by using tagging in meter boxes, for example, because if there has been a disaster then the emergency response people would not have time to glean where the contaminated buildings were vis-a-vis those that were not. So I think that, as much as people do not want identification of the properties on the public record, there is certainly an issue in relation to having that information available to people who are first responders, including fire brigades et cetera.

**Mr JOHN BARILARO:** I am the member for Monaro, which is one of the areas highly affected by this issue. Over the past two decades governments have relied on advice from health advisers in relation to the risks associated with living in homes affected by Mr Fluffy asbestos. It has probably led to inaction by governments for the past two decades. Could you comment on that advice that the New South Wales Government has relied on and compare it with, and point to what is different in, that of the Australian Capital Territory and at the Federal level?

**Mr TIGHE:** I am not being critical of some of those individuals who have given that advice, because I do not think they are subject matter experts on all occasions, but some of the advice that came out in the health area—it certainly came out of the Australian Capital Territory in the first instance, and I think it was some preliminary advice that was made available in New South Wales—to householders who suspected they had Mr Fluffy insulation in the roof, was that if they did not go into the ceiling space, did not penetrate the walls and did not remove anything that left them exposed to subfloors or walls then basically they were in a very safe environment. Quite frankly, at worst that is irresponsible and at best it is naive because that is not the case.

If you are talking about putting together a body with expertise, you really need to have subject matter experts who can provide information that is accurate and reflects what we know about asbestos. There has been a lot discovered in the last 10 to 15 years in relation to low exposures and the effect of asbestos-related diseases. One of the critical areas we are looking at now is home renovation, where people are involved in do-it-yourself

renovations. We need to make sure that they understand the risks associated with asbestos and apply the same safety protocols as someone working with this on a regular basis.

**Mr JOHN BARILARO:** There has been some commentary on that point—that in the Australian Capital Territory in the late 1980s and early 1990s a \$100 million Federal Government clean-up went through and removed the bulk of the loose-fill asbestos in homes and that led to a perception that those homes were safe. Therefore people renovated and did all sorts of things to their homes. They climbed through the roof cavities. Like you, I come from the building industry and I am sure that in my time, as a young man, I crawled through this stuff and showered in this stuff, unfortunately. The point is that the perception was that these homes were safe. There is commentary around at the moment in New South Wales about leaving it alone and making sure it does not become airborne in the living areas—and that the bulk of it does not come out through the pathways through the ceiling space, wall cavities et cetera. Have you any commentary on what happened in the Australian Capital Territory versus being left untouched in New South Wales and whether there was an advantage or disadvantage either way?

**Mr TIGHE:** After the initial clean-up there was certainly some testing done. The normal way we test an environment is by air monitoring. Air monitoring is always subject to air movement. You could put an asbestos air monitor in this room and run it for an eight-hour period. You would then take the filter out and put it under an electronic microscope, because you cannot see the fibres with the naked eye. It might show absolutely no fibres in there. The problem is what happens tomorrow with building movement, and the Minister would understand this from his previous experience. Buildings do move. A lot of the fibro asbestos housing and houses that have loose-fill asbestos sit on brick piers with a timber frame. If you have ever lived in an old house you would have heard the house speaking during the night as the timber expands and contracts. You only need to have very small movements in relation to the building frame and around the cornices and other areas. You will find micro-millimetre gaps that allow fibro asbestos particles to move through the atmosphere.

In the Australian Capital Territory they went in and tested. I think they probably took the view that they had done 90 per cent of the job. There is evidence to show that there was concern about the migration of asbestos. I do not think they realised the level of migration until the process of the deconstruction of the Downer house took place. They found that the asbestos had basically migrated throughout the house in the cornices to a level that really made it unsafe. So that is the issue. You can encapsulate any room and stop the migration of asbestos fibres with silicon sealer, masking tape et cetera. The problem is that you then have to be continually vigilant in relation to monitoring that because building movement will take place. The ceiling materials will move. You will get different air movements and the next minute you will find you have migration of fibres into the atmosphere—and that was one of the things that was established in Canberra.

A couple of air monitoring samples post the initial remediation showed that there were no fibres in the air. But dust samples from on top of cupboards and internally from cupboards and clothes showed that there were fibres in there. This obviously means that they are generated into the atmosphere and they settle. It depends on what sort of day it is. Today is going to be a very windy day, for example, so there will be a lot of air migration internally in homes. When we are looking at the issue of the giving of health advice we really need to look at all of the circumstances that might come into play.

**Mr JOHN BARILARO:** This is probably my final question. My understanding is that there is asbestos in the environment.

**Mr TIGHE:** Yes, there is.

**Mr JOHN BARILARO:** And those fibres can be quantified. Have we got any technical advice around the asbestos that may be around a home in the Australian Capital Territory versus a home in New South Wales—so where we still have bulk amounts of asbestos in the home versus the cleaned-up asbestos homes in the Australian Capital Territory?

**Mr TIGHE:** I do not believe there has been any specific sampling around the environment associated with those homes. Yes, we do have environmental asbestos. It is a naturally-occurring mineral. Some cuttings through the rock bed expose veins of asbestos. But environmental asbestos is really at very low levels. Obviously the more fibres you ingest the greater the likelihood that you are going to end up with an asbestos-related disease. For years we had asbestos fibres being generated by brake shoes, but we have now had a 30-year period of their non-use. A lot of that environmental asbestos would have been settled by weather patterns et cetera.

To answer your question specifically, that broader environmental testing has not taken place in the Australian Capital Territory but what they do have is obviously the initial list of houses that were part of the first remediation. So they know those that have been demolished; they know that 1,050 are still standing; they know where the clusters are. I suppose they have an advantage that New South Wales does not have at the present time because of the lack of identification of the property.

**Mr JOHN BARILARO:** Has the Australian Capital Territory identified where it is going to dispose of the building materials associated with those homes?

**Mr TIGHE:** I understand Andrew Kefford will probably be making a submission. I think he is the one who can answer that. As I understand it, the task force is going to be the ongoing agency to manage the deconstruction and demolition processes over the next number of years. One of the critical things that I think is important here—and it is a discussion I have had with Mr Kefford—is having the people who are doing that work well qualified and well supervised so that they do not take shortcuts and we do not finish up with some of the legacy problems we had out of the initial clean-up. I think he is very well placed and understands the problem.

**Mr JOHN BARILARO:** Do we have sufficient numbers of qualified persons to do the work in the Australian Capital Territory?

**Mr TIGHE:** In the Australian Capital Territory, probably. There are a number of registered asbestos removalist contractors out there. This is hearsay to a degree, but from my discussions with Andrew my understanding is that they were going to employ their own group so they could ensure that they had a consistent process for demolition and disposal and that from the start of the project to the finish of project they had clear criteria about how each of the steps were going to take place. The concern with having a variety of contractors is that you might have some who are doing it really well and some who might not necessarily be doing it really well.

**Mr DARYL MAGUIRE:** This morning you have mentioned mandatory testing at known clusters. Is there any value in making mandatory reporting by tradespeople a regulation or a requirement should they come across the product?

**Mr TIGHE:** I think so, provided the individual has the capacity to identify it. There are a number of products that look similar to loose-fill asbestos. There is Rockwool and there was a product that was a loose-fill that was paper based with a fire retardant. If you saw a loose insulation material the alarm bells would start to ring. If you saw it was a fibrous type of material they would probably ring a bit louder. But the only way you could clearly identify that would be to take a sample.

I think in relation to buildings that are in that demographic there should be a clear message out there to all service trades that they should not go into any of those areas unless they have appropriate protective equipment in place and if they do suspect it there should be a way that they can report their views to the appropriate agency. I think it would be another way to identify the public health threat. There might be a new person who owns the property who does not have any experience and does not have any knowledge about past insulation. It would be another way to gain information.

**Mr DARYL MAGUIRE:** How long have you been the chief executive officer of the organisation?

**Mr TIGHE:** About 16 months.

**Mr DARYL MAGUIRE:** Are you aware of what efforts were made prior to you becoming the CEO to assess if Mr Fluffy is still alive? Is the operator still in existence, and what efforts were made to access his records?

**Mr TIGHE:** Again from the information I have got, which is sort of secondary information, Dirk Jansen, who was the owner and picked up the name as Mr Fluffy, actually marketed it as Asbesto-Fluff. It was a product imported from South Africa. There is some evidence that it came via New Zealand because it was brought in at a time when we had some embargoes in relation to South African products because it was at the time of the apartheid regime. It was manufactured in bales. It came into a hopper and was churned up and then basically with a reverse vacuum just sprayed into the roof. It was a very simple system of installation.



As you are probably aware, there is some evidence of another company looking at getting into that market, Bowers at Rozelle. There is also some evidence that it was sold in hardware stores for people who might want to do self-installation. But the records in relation to installation are very poor. Mr Jansen was a small business owner with a relatively small crew and very little infrastructure. Though it is not unusual in the construction industry, a lot of these jobs probably were cash only where there was no record of invoices, et cetera. I know the Australian Capital Territory has sought to pull as much information as it can about the operations of Dirk Jansen's business but the records are just not there.

**Mr DARYL MAGUIRE:** Nor the people who worked for him?

**Mr TIGHE:** They have identified a young fellow—he is not young anymore. He is in about his mid-forties and living in Queensland. He was able to assist to a degree about the installation process, but there is nothing that is really concrete that you could use to assist.

**Mr DARYL MAGUIRE:** You mentioned a register that had been advertised that people can access. Do you have any hard evidence of people that have been affected by mesothelioma or asbestos-related diseases that lived in Mr Fluffy premises? Is there anything you can point to for us to find further information?

**Mr TIGHE:** There are some media reports in the Australian Capital Territory of a number of mesothelioma sufferers who have lived in Mr Fluffy houses. Actually, there is a person who is an ex-electrician who has been diagnosed with mesothelioma. There was an earlier death from mesothelioma reported in relation to a Mr Fluffy household earlier this year. A lot of that evidence is anecdotal that comes from media reports and media investigation. I am not sure whether the task force has tried to correlate that information but there is certainly anecdotal evidence out there.

**Mr DARYL MAGUIRE:** You mentioned legacy problems from the initial clean-up. Can you explain those legacy problems?

**Mr TIGHE:** The problem is that the clean-up process was lifting roofing tiles off the building, bringing in a team, screening their work area and them basically going in and vacuuming what they could sight in relation to loose-fill asbestos. They would attempt to use longer vacuum extractions to get into the cavity itself. But that work took place in the late 1980s and 1990s. The installation of this product by that time had been in situ for nearly 20 years and so that migration process I talked about before had already started to take place and the first clean-up was not able to get to the bulk of the migrated asbestos. That is the legacy in relation to Mr Fluffy.

There are also others. If you have got a building that is in that construction demographic there will be other asbestos-containing materials in your house but it depends on how well they are encapsulated and whether there has been any degradation of the bonding agent. They might be characterised as very low risk and some, depending on the type of product, might be high risk. But this one is right at the top of the tree. There is nothing more dangerous than loose-fill asbestos out of all the asbestos-containing materials that have been marketed.

**Ms JAN BARHAM:** Are there any issues particularly associated with rental properties rather than owner occupied properties in terms of the people coming forward to recognise and register the problem?

**Mr TIGHE:** It is difficult to glean a difference. I think people who were renting in properties that were in that demographic quickly attempted to ascertain whether they were renting a Mr Fluffy house. The normal reaction to that is to give notice in lieu. I have to say there has been some very positive work by people who actually own those properties and rented them out—I have spoken to a number of people involved in this—and when they became available they notified the lessor or the renter and said, "Look, this is a problem and I think you should move out." I spoke to a gentleman who has a unit in Queanbeyan which he bought as an investment property and he said, "Look I would not live it and I would not ask anyone else to live in it." He is in this circumstance where he has got a loan to cover the cost of that investment property but he has got no income coming in there. While probably initially it is not a major issue, as time goes on what is the possibility of marketing that property when you have got this sort of issue associated with it? I think there are dynamics associated with rental properties that are completely different from residential properties.

**Ms JAN BARHAM:** Are we absolutely sure that this product was not used in any public housing? Has that check been done?

**Mr TIGHE:** There has been a check in relation to the identification. Because this was marketed commercially certainly there are not any government records around the Australian Capital Territory where they can identify they engaged Mr Fluffy or a similar sort of contractor. Most of Mr Fluffy's work was small advertisements in local newspapers, door-to-door selling, the next door neighbour, "Why are you getting this done?" The same marketing takes place with insulation today: "You save electricity, you have a warmer house." I am sure people who have lived in the Canberra-Queanbeyan-Young area would know that at night it gets very cold so here is a product that can mitigate against that issue. I do not think there has really been any penetration into public housing—I am not aware of it certainly.

**Ms JAN BARHAM:** In your submission there is reference to local government being the best place for authorities to respond. Is that relationship with local government positive? I come from local government and we often put information on rate notices if we want to cut through and get information to people as you cannot always rely on the media being the source of the information. Has that been looked at?

**Mr TIGHE:** Correspondence was sent out by the Australian Capital Territory Government to people who had been involved in the first round of remediation about some of their concerns. To be honest with you most of the people I spoke to that had been in receipt of that correspondence did not really understand the issue because of the levels of awareness. I think in rural and regional areas local government is the go-to source for information. It is very important to be able to glean that information and find out exactly what is going on. There are a number of areas in local government we have been working with who are really concentrating on the problem of asbestos-contaminated materials, mainly because of the dumping issue we talked about before. Holroyd Council has been very proactive and a number of rural and regional councils want this information. There comes in probably the divider between local government and households. Once it is someone else's property they have only got responsibilities to a certain level.

Certainly if there are going to be renovations and people complying with development applications, and if you identify properties that are in that demographic, I think there is a role for local government to ensure that appropriate mechanisms are put in place to protect safety. My view is that whilst you can set up an agency if you are really going to address a problem, it needs to have that linkage into local government to ensure that the passage of information and resource material can be conveyed to the community. I think you have already got networks in place with local government and why would you not use them?

**Ms JAN BARHAM:** I know this issue is separate from this inquiry but people on the North Coast where I come from are concerned about asbestos issues related to the renovation of old fibro cottages. Is that issue being considered alongside this? Do we have an issue that is sitting there and will become the next round of investigations down the track? Are we marrying them in?

**Mr TIGHE:** No, they are separate issues, certainly, but it is a major issue of concern. It is really about awareness and people understanding how to deal with asbestos-containing materials in a domestic built environment. We have regulations in relation to workplaces and commercial buildings but the real gap is in the domestic built environment. One in every three houses in Australia contains asbestos-containing material. It is making people aware of it and getting that information out there. You would probably be aware that the topical thing in the media, especially the electronic media, is renovation shows. It is not something that has not been addressed because some people have been involved in that sort of area that are ambassadors, especially this month as it is Asbestos Awareness Month. It is about telling people that they really should inform themselves before they engage in any form of home renovation. It is something that we have not addressed properly. It is a critical target area for my agency because of the lack of regulation and information in that area.

**Ms JAN BARHAM:** Earlier you mentioned tagging, particularly with emergency services. Is there a GPS register that emergency services can access?

**Mr TIGHE:** The problem is, if we talk about Mr Fluffy, we are at the tip of the iceberg. We do not know where it is but it is common sense if you can address those clusters, and we have got a pretty good understanding, I suppose then you can through some sort of GPS-type process notify emergency services if they are going in there. If there has been a first response because of a disaster it is an additional thing that they take on board.

**Ms JAN BARHAM:** We already have 500 known properties. Are they immediately put on a GPS register? That system works for many other issues; are we implementing that straight away?

**Mr TIGHE:** What we have on our register is 500 people who have reported they believe that they have been exposed to loose-fill asbestos. Some of those people who have provided that information have been prepared to indicate where they reside but a lot of people have said, "Look, I will put up my name and my time." Really it is a bit of line in the sand to say, "I believe at that time I was in an environment where I was exposed." It does not do anything for protecting your health but what it does do at least if there is a family history, or a need into the future if you are diagnosed, there is a record that you believe at that period of time that you may have been exposed to asbestos.

**Ms JAN BARHAM:** I took heart from your comment on page 13 about the precautionary approach and I would have thought that as much documentation and correlation of information would be the first step to ensure a precautionary approach.

**Mr TIGHE:** Identifying the problem and then doing a risk assessment of the problem are the first steps towards doing it. Once you have done that then you can put in the remedial action that needs to take place.

**Mr DARYL MAGUIRE:** When after the Australian Capital Territory Government became aware of the problem did your organisation begin to discuss or engage with New South Wales councils and/or government about the issue? What was the reaction?

**Mr TIGHE:** I think initially the view was it may have been confined to the Australian Capital Territory. The discussion with local government and even with HACA New South Wales is about the general problem of asbestos-containing materials widespread in the domestic built environment. We really were not looking at that problem but as more information started to roll through in relation to the work that Mr Fluffy had undertaken—and obviously there was an earlier report when the first level of action, the first remediation processes took place in the late 1980s and 1990s there was identified in the Queanbeyan area a number of properties that were exposed to asbestos.

Unfortunately it was a bit debatable about what the Australian Capital Territory was doing in relation to removal versus what should happen elsewhere. Going back into those time lines I think there was a degree of complacency. I know there was an offer of testing in the Queanbeyan area and reports are that "Well there was air monitoring testing". If you did and it showed it was clear then you do not have anything to worry about. It was the same sort of assurances about, "Well, if you don't disturb anything, you might be okay." I do not think there was an understanding about how widespread this sort of problem might be. I think Mr Fluffy concentrated on the market in the Australian Capital Territory, but as that market started to dry up, he was looking at further afield. One of the issues that are debatable is this: Was he the only entrepreneur that started to put this product in place? That is what we do not know. It has been a gathering of information as we have moved further down the track. Obviously it came to Parliament's attention and hence this committee inquiry into it.

**Mr DARYL MAGUIRE:** Who made the offer of the air monitoring at that time?

**Mr TIGHE:** My understanding is it was made through the local government area down there. I stand to be corrected on that, but I know there were some responses. I think one of them may have been from the New South Wales Department of Health that was, "Look, we don't believe that what's happening in the ACT is actually required." I think that was an issue where people were not aware of the virulent nature of the product itself. As far as they were concerned it was a ceiling insulation and what is so different about this product than other fibro sheeting, et cetera, et cetera?

**Mr DARYL MAGUIRE:** To a Bradford batt or something. Okay, thank you.

**CHAIR:** Thank you very much for coming in and for giving us your evidence. Can you confirm some of the figures? We hear there are 1,000 homes being considered for destruction in the Australian Capital Territory. Is that correct?

**Mr TIGHE:** Chair, my understanding is that the figures reported now are 1,049. There were around about 1,100 but some houses have been demolished because of just normal building construction renovation, but I understand that 1,049 is the number of properties they have identified. With further investigation, that might grow, but I would think it would only grow marginally.

**CHAIR:** Have you done any estimates of what you think would be the number of homes affected by this type of asbestos in New South Wales—just an estimate?

**Mr TIGHE:** That would be a wet finger in the breeze, Chair. I would be surprised if it is not in the hundreds because of the fact that the general built population around where Mr Fluffy was marketing, he is not going to stop when he hits Queanbeyan, if it is going to be another fertile area—if he could sell at Yass or if he could sell down on the South Coast. I do not think he was a person who operated in the CBD of Sydney, but the fact that there were other entrepreneurs out there, we just do not know. I understand that the Heads of Asbestos Coordinating Authorities has been able to glean some information from some of the areas where they suspect he may have been operating in some of the local government areas and specific warnings have been put out there, but quantification is really a difficulty at the present time.

**CHAIR:** Is it possible that there are also other products, not just Mr Fluffy asbestos?

**Mr TIGHE:** Certainly there are other ACN products that are just naturally in the built environment, whether that is asbestos cement [AC] sheeting, or whether that is lagging on pipe or whether they are tiles. There is something like about 3,000 products that are used in the building industry that contain asbestos. The real issue with this product is that it is 90-plus per cent pure asbestos in a form that makes it very able to become friable, which will generate fibres. Most of the others are in a bonded agent and you need a deterioration of that bonded agent or someone drilling, cutting or demolishing it to create a problem. This product can create a problem just by natural movement of air.

**CHAIR:** With the possibility of a house being demolished, has there been any investigation as to how that will be handled with regard to compensation claims against Mr Fluffy or other companies, or claims against insurance companies, or is it just that nothing can be done?

**Mr TIGHE:** Unfortunately, Mr Fluffy has been and gone. I know some legal firms have been talking to Mr Fluffy householders, but really now with the settlement—where the Commonwealth is underwriting a loan for the Australian Capital Territory Government—the process is to buy back at fair market value and allow the demolition to take place. The real issue is that there will be some loss to the householder. The extent of that loss is hard to quantify at the present time. That is the next stage, I suppose, of the process. But in relation to access to underwriting and litigation against those that installed the product, I think, unfortunately, the boat sailed long ago.

**CHAIR:** Do you have any role in recommending to the Federal Government, as you are a Federal Government agency, that a program similar to the loan of \$1 billion to the Australian Capital Territory should be put in place for New South Wales?

**Mr TIGHE:** Chair, I have been told that my job is to go out and promote awareness and the issues associated with that, but issues in relation to finance are matters for Ministers and people outside the remit of my agency; so, broadly, no. We have not been asked to comment on negotiations that took place between the Australian Capital Territory Government and the Commonwealth.

**CHAIR:** Obviously you know that your agency has in its title "Eradication". You seem to be more like an information-gathering body. Do you feel that your agency should be strengthened to have a role in eradicating—in this case the Mr Fluffy problem—but there may be other problems as well?

**Mr TIGHE:** Chair, the real problem we have with asbestos is that we have not quantified where it is. To an extent we do not even have consistent tools for grading asbestos, and a lot of the infrastructure that needs to be put in place to get a worthwhile eradication program in place has not been put together. The initial role of my agency is to pull that information together, to source it not only to the Commonwealth but to States and Territories, so that we can then focus on the areas of high risk. The aim of that is to reduce, obviously, the asbestos-related diseases, which is a growing trend. We have not hit the peak as yet.

We lose 1,000-plus people a year to asbestos-related diseases and to a large extent that is probably a figure that is on the lower side because there is a lot of misdiagnosis. The only way we can change that trend and have it reverse itself is to remove the product out of the built environment or to manage it to an effective level to where it is not a public risk. My job is multifaceted. It is about piloting those programs, informing government, and encouraging local governments to be proactive in that area, looking at issues, and audits in relation to properties. We now have under the work health and safety regulations for commercial buildings a

requirement to keep an asbestos register to identify your asbestos in there and to have an asbestos management plan.

But there needs to be some agitation to make sure those regulations we have in place are in fact more effective than they have been. Of course, there is an issue about compliance. All governments are concerned about costs, of course: they have a responsibility to the public in relation to that. But my job is—we are a regulatory body—to raise that in the public forum, to focus on issues and to give advice where we are requested to give advice, and to educate the general public about the threat of asbestos and what it means to people in the longer term.

**CHAIR:** From what you have said already, would you agree, though, that the public has been made vulnerable by faulty advice by government agencies in regard to the seriousness of the situation?

**Mr TIGHE:** I think it has been naive advice. I think the problem is—and this is probably a broad criticism—that unless you have a subject matter expert who understands and you are watching the trends, especially overseas trends, we are now seeing dramatic growth in what we call non-occupational diagnoses for asbestos-related diseases. That is probably, in the general public, someone who has worked in an area where they thought that they did not work on any asbestos-containing material. They were not a plumber or a lagger. But anywhere it becomes friable, you only have to go through that environment to ingest the fibres. Not everyone is affected by it but we have a growing trend to show that it is now affecting the general community to an extent that we never thought that it would.

**CHAIR:** The most serious aspect, as we have learnt already from asbestos in previous cases, is that it can take up to 40 years for the person's health to indicate that they have been affected. They do not know themselves.

**Mr TIGHE:** It is true. It can be as short as 15 years. We have seen some cases less than that and you are right, to some extent it could be 40 years. We are now having people diagnosed with mesothelioma—the youngest was a young fellow in Queensland who was diagnosed in his early twenties who was helping mum and dad do some renovations. We have had people in their thirties now being diagnosed with asbestos. Most of those have been non-occupational exposures. They have been in a building where there has been some renovation of building and the fibres have been generated. It is now moving away from the vernacular of an old person's disease to a situation where it is affecting other groups in the community who have just been associated with asbestos-containing materials or work on ACMs.

**CHAIR:** In your earlier comments you said some residents say, "We are not worried about it" and you said it could affect others. Were you thinking of children in the house or were you thinking that other people living near the house could be affected?

**Mr TIGHE:** It is pervasive and, yes, it is children in the house, people who might visit the house; more if you were demolishing a Mr Fluffy house and you were not aware of the product then there is a likely effect on neighbours because once you start to do that, those friable fibres of asbestos become pervasive in the general environment. That is when it becomes a problem. Specifically, whilst we do not have really detailed evidence in this area, it appears there is susceptibility for young people with immature lungs; if they ingest the fibres, then it is likely to have a more adverse effect on younger people than people in different age demographics.

**CHAIR:** Thank you for coming in. We appreciate the alarming information you have provided; it is not comforting information, but we thank you.

**Mr TIGHE:** It is, but the fact we are addressing the issue is a reflection that the Parliament understands the urgency of it.

**(The witness withdrew)**

**MARK McCABE**, Work Safety Commissioner and Head of Work Safe, Australian Capital Territory, and

**ANDREW KEFFORD**, Deputy Director General, Chief Minister, Treasury and Economic Development Directorate, and Head of the Australian Capital Territory Asbestos Response Taskforce, sworn and examined:

**CHAIR:** Thank you for taking part in our inquiry. We appreciate you coming from the Australian Capital Territory. Because of what is happening in the Australian Capital Territory I am sure you will be very helpful to us in trying to reduce some of the problems in New South Wales. Do either of you wish to make a brief opening statement?

**Mr KEFFORD:** If it might assist the Committee I thought Mr McCabe and I might just briefly outline our responsibilities to assist Committee members in directing questions. The task force was formed at the end of June by the Chief Minister to oversee the Australian Capital Territory Government's response to what was a significant emerging issue at that time. The Chief Minister has asked me to lead that task force, which comprises officials from across the Australian Capital Territory public service. Our role has essentially fallen into three: one is preparing the advice that was provided by the Chief Minister in the Government's submission to your inquiry. The second one has been to administer the emergency financial assistance program and now the demolition program the government has announced and the third one has been very much in the community information and education space as we have worked our way through this issue.

**Mr McCABE:** My role in relation to this matter has been to regulate or to apply health and safety laws as they pertain to asbestos both in the domestic and work environment. We have been dealing with Mr Fluffy houses for many years. Now that the task force has been formed and we have become more aware of the risks my staff work very closely with the task force. We assist with interpreting some of the technical material that comes before the task force and basically we work with them on a day-by-day basis.

**The Hon. STEVE WHAN:** Could you start by explaining to the Committee what it is that has changed in the last couple of years that makes the Australian Capital Territory now feel that the best solution is to demolish the houses that had previously had Mr Fluffy insulation removed?

**Mr KEFFORD:** Certainly there has been a very significant change in the Australian Capital Territory Government's and officials' state of knowledge about the extent of contamination inside the homes really since April but commencing at the end of 2011, and I will come to that in a moment. It has been the position of the Territory government since the original removal program was conducted in the nineties that the houses had been remediated but there were residual fibres in the walls and that had been communicated on various occasions, and those letters are attached to the report before the Committee.

There had been a small number of houses come to light between 1990 and recently that had been missed as part of the original survey program but there have only been seven of those since the whole program, so there was not a suggestion that there was a significant departure from the general understanding. At the end of 2011 as part of normal building work an unremediated house was discovered in the suburb of Downer and the Territory government's position up until that point on missed houses had been to pursue what was termed to be a program standard remediation and so we embarked on that process, having confirmed it was in fact a missed house.

What was very quickly discovered as the assessments were done on that home is that the inside and the living spaces were very severely contaminated. The asbestos fibres had got into the air conditioning and it was very badly contaminated through the subfloor such that a program standard remediation was determined to be not possible. As a result, in the middle of 2012 the government decided to offer to purchase that home and to demolish it because it could not be saved. The approach that we took to that process, which did not commence until the first quarter of 2013, was to encase the whole of the house in a protective shelter and basically forensically deconstruct it to get a better understanding of the extent to which the fibres had moved through the house, where they had moved and how they had moved, and so on. We received the final report on that process in December 2013.

That showed the fibres had migrated in very significant numbers through the structure of the house as well as into the air-conditioning ducts in the roof and significantly through the subfloor areas and in addition to a longstanding commitment of the government to continue its process of writing to owners periodically to remind them of the presence of the fibres in their homes the government decided to write to all homeowners in

February—indeed it was the commissioner who wrote to all of the homeowners in February—essentially reminding them of the presence of fibres in the homes and suggesting that certainly if they were contemplating work but in any event it might be worth having an assessment done.

What we found between February and perhaps Easter is the best bracket to put around it—is as those assessments began to be conducted, we began to find reasonably consistent evidence of contamination, not just in the walls but inside the living areas and certainly in the period between Easter and the end of June when the task force was finally established we gathered growing and consistent evidence from those assessments that in fact the houses were not just contaminated within their structures but in fact the fibres were penetrating the homes in a consistent way in a significant number of cases.

That changed state of knowledge from what was thought to be an aberration with an unremediated house—although I acknowledge that that is the state of the homes in New South Wales—through to the February letter when the government raised this issue once again through to July, the changed knowledge amongst officials and certainly amongst the government and indeed amongst our asbestos assessors was very significant. Really it is that evidence base that has driven the rest of what has now unfolded in the Territory. Coming to your question about how did we get to demolition as the answer, one of the things that task force did was to engage with a range of experts in the field, both the commissioner and his colleagues as well as physicians and academic experts in asbestos, a list that was nominated to us by Safe Work Australia.

We went through a process of consultation with them, the product of which is the report that has now been provided. The clear consensus from that discussion was that the risk posed by the continuing presence of fibres, even in remediated houses, is such that it cannot be effectively managed. Our advice to the government, which has been accepted, is that there is no effective or practical way to attempt to further remediate the houses because, even if we were to go down the path of fully internally demolishing the homes, there would still be fibres left in the subsoil attached to what was left of the structure. Our advice has been that the only way to provide an enduring solution to this issue, which was very much the government's intent, was to demolish the homes and eradicate the risk because it is not one that can be managed.

**The Hon. STEVE WHAN:** What is your view? Do you believe that there is any merit in advice that you can be safe if the loose-fill asbestos is sealed into roof cavities?

**Mr KEFFORD:** Mr Whan, in one sense that is a sensible answer; if it stays in the roof, then the risk of it being inhaled is lower, provided one does not go in the roof. We are now getting up towards 800 assessments and I heard Mr Tighe's evidence before; we have now revised our number to 1,021 standing homes in the Australian Capital Territory. The evidence is that in more than half of those homes the fibres are not staying in the ceilings; they are entering the living spaces.

**The Hon. STEVE WHAN:** So you have done 800 assessments?

**Mr KEFFORD:** We are getting up towards 800 assessments since February and in more than half those we have found fibres inside the living spaces, in some cases in visible quantities. And in, I think it is close to 60 homes, the contamination has been so bad, the advice has been to leave.

**The Hon. MICK VEITCH:** Do you give people time to leave or once you have identified it, in that circumstance they are essentially told they cannot go back in?

**Mr KEFFORD:** In most of those cases they have been advised to go and not come back. The worst incidences of that is where it has been found in the air conditioning, in the way it was in the Downer house, or alternatively, there have been visible fibres on the tops of cupboards and so on where the risk is such that people have had to leave on that day.

**The Hon. MICK VEITCH:** It must be traumatic for people.

**Mr KEFFORD:** Absolutely, it has been. Part of what led to the task force being established was the number of homes where this was the answer happened to be some of the first ones we got and at that point we did not have the infrastructure that the government subsequently put in place in terms of financial assistance and the task force's presence, to assist in that process.

**The Hon. STEVE WHAN:** Why is it a public health issue and not the responsibility of the owner of the house?

**Mr KEFFORD:** The view that we have adopted—and it colours the advice that we have given in relation to the future management of the homes as well—is that certainly the primary exposure risks sit with the owners and the long-term occupants of the house. However, one of the things we found, in terms of the behavioural and social response to this issue is, it is not just the people who are living in the homes, it is the people visiting the homes and the trades wanting to work on the homes. Indeed, we have had circumstances in recent times where personal carers have refused to go and provide services inside the homes because of the presence of asbestos.

**The Hon. STEVE WHAN:** Can you tell us what work you have done so far on the overall cost to the Australian Capital Territory Government of the program? We know you have the loan from the Commonwealth and we know that there is a significant capital cost that the Australian Capital Territory Government is going to end up bearing. Have you got estimates of what that cost is going to be per house?

**Mr KEFFORD:** We probably do not have it that finely grained yet. We have done some work, as you would imagine, in preparing the government's submission to the Commonwealth for assistance. The best estimate we have at the moment is that the net cost of the program to the Territory is of the order of at least \$300 million and essentially where that cost comes from is in the value of the demolished homes, the cost of demolition and the remediation of the blocks and the various holding costs and other things. We are in the process of preparing tender documents to approach the market and will get a better sense then as to what it is going to cost to demolish homes and so on. That is our best estimate at this stage of what the net cost to the Territory will be. To put that in context, the whole of the Territory budget is about \$4.5 billion. In terms of the overall magnitude of this, proportionately the issue for the Territory budget is more significant than the cyclone Yasi Brisbane floods were for Queensland, in terms of the proportion of State revenue.

**The Hon. STEVE WHAN:** Have you had discussions with insurance companies about their attitude to the homes that are being demolished and whether they will participate in any way in the process?

**Mr KEFFORD:** We have. The Chief Minister has written to a number of companies, banks, telecommunications companies and insurers, asking them to be compassionate in their response. We have held discussions with the Insurance Council but, in general terms, what we are finding and what we are being told is that most domestic home and contents policies exclude contamination by asbestos. Our understanding is that, in a small number of cases families have indicated to us that their insurance companies have shown some degree of almost discretionary assistance, but the overriding—

**The Hon. STEVE WHAN:** What sort of assistance?

**Mr KEFFORD:** In terms of honouring or even engaging in potentially honouring some claims. But the basic position is that the loss is not insured and not insurable, because it is asbestos contamination and that is part of why the government is, in effect, stepping in to buy homes at market value, because they are not insured.

**The Hon. STEVE WHAN:** The volume of the work you are doing is going to be a big program. You said you are going to tender. Are you looking at having a number of companies involved in it or are you looking to set it up for yourself? The second part is, presumably the volume will bring down the price per home. Is there an opportunity there for New South Wales to talk to the Australian Capital Territory about engaging in that process as well?

**Mr KEFFORD:** Certainly we are in close discussions with our New South Wales colleagues and we will continue to do that. Certainly part of why the government has embarked upon the approach it has, which is to offer to buy back all the affected homes and to procure and oversee, rather than do the demolition ourselves, is it reflects the experience we had after the bushfires in 2003 when, very early on after the fire, the government stepped in to procure the demolition of all the homes because the market response in terms of time and cost was—economists would say "rational"—but it was proving a difficulty. So we are proposing a similar sort of model, where we will procure the demolition of all the homes and we expect to let the head contractor contract to demolish 50 homes in a suburb, that type of approach. Certainly, our expectation is that in doing it that way the overall cost to the Territory will be less.



**The Hon. MICK VEITCH:** This Committee is made of people predominantly from Queanbeyan, Young and Wagga Wagga, so we have a real interest in Mr Fluffy's activities across the border. If the Young Shire Council or Wagga Wagga City Council has identified a Mr Fluffy house, would you be able to provide them with some assistance as to what to do, to give advice?

**Mr KEFFORD:** Absolutely and we are already in that space. At the start of the year, the Chief Minister wrote to all the mayors of the South East Regional Organisation of Councils [SEROC] and said, "This is what we are doing and this is what we know." Separately, we have had conversations, not with Young council but certainly with our colleagues at Queanbeyan and Boorowa and elsewhere in the region. That was the offer the Chief Minister made and, similarly, with our State Government counterparts we are continuing to share the expertise and information that we have, recognising at this point it is one of the occasions where the Australian Capital Territory is in front of an issue and does have the knowledge and expertise, which we are very happy to share.

**The Hon. MICK VEITCH:** Some councils would be concerned about the demolition of a house and disposal of the material?

**Mr KEFFORD:** Yes.

**The Hon. MICK VEITCH:** Obviously, you have a large amount of material to dispose of?

**Mr KEFFORD:** Yes.

**The Hon. MICK VEITCH:** Would they be able to utilise your facilities as opposed to using their own?

**Mr KEFFORD:** In principle, I do not see why not. We have not formed a concluded view as to where we will take all of the rubble. Certainly, our current asbestos-licensed landfill at West Belconnen is capable of taking the waste from the homes, but at the same time we will also be seeing if there are other options, including in New South Wales, to see if there are other facilities that are appropriately licensed and regulated to receive what is a significant volume of waste.

**The Hon. MICK VEITCH:** How effective has tagging of the houses been? Does it create a little hysteria amongst neighbours once they see their neighbour's house tagged?

**Mr KEFFORD:** I might defer to the commissioner on the effectiveness question. Essentially, what we did is that from the outset there have been calls, including from the press, to publish the list of homes because of that broader community concern about working on the houses, living in the houses, that kind of thing. We have sought to balance, at the request of the affected home owners, their privacy with the need to provide information for people who genuinely have a need to know. If I might digress slightly, the way our regime works at the moment under our Dangerous Substances Act is that a person who is in control of asbestos, in this case the owner of the house, has an obligation to inform people who may be exposed. So part of the correspondence that the home owners have had from us points out that obligation. Certainly, once an asbestos assessment report exists they are obliged to hand it over.

The Government has decided also to put in place the obligation to place a tag sticker inside the meter box and in the fuse box, if it is separate, on all of the homes. That has provoked a strong reaction from some owners, including those who continue to assert that their house is not affected by asbestos. But we have sought to balance that view. Although the law commenced at the beginning of September, it is not mandatory to have installed the stickers before January. I might defer to the commissioner in terms of the response that has been taken in managing that process.

**Mr McCABE:** I guess the one observation that is important is that the purpose of the sticker is really to identify the house for tradespeople who might come to the house. We have been quite amenable to placing the sticker in a way that does not brand the house to other residents et cetera. So if the sticker can be put inside a meter box, as long as the meter box is one that can be opened, we have had no difficulty with that, or if we can put it on the side of the meter box. Our only proviso has been that it is readily observable by a tradesperson. Some trades have said to us, "Look, we never look at a meter box" and we have said, "Well, you need to change your behaviour" because that is a reasonable control, that if you go to a property, go and check the meter box. It is early days with it because, as Mr Kefford said, the requirements have to be complied with by 1 January. So

we are still in the process of getting those out. Our inspectors will be going out to all the properties and making sure that they are there.

The other thing that is happening, quite frankly, is we are being overtaken a bit by events in that if the government buys back these properties and people move out, the need for it will be obviated, but it will become very important for the ones that do not participate in the scheme or take some time to participate. But it has been very much welcomed by the trades.

**Mr KEFFORD:** I suppose the only thing I would add to that, and I should have mentioned before, is that the government also has created an obligation for mandatory asbestos and awareness training for any occupation that may come into contact with the homes, and that is not just a Mr Fluffy course; that is a general asbestos-awareness course. A clear part of that course is now, "Don't forget Mr Fluffy homes and here's how you find out" because very much part of our information education piece has been the best way for a tenant to find out, a trades person to find out, is to ask. This is just another part of that overall package of responses.

**Mr McCABE:** If I could just offer a comment on that training. We had over 14,000 people go through the training. It is mandated for anyone who works in the construction industry, which has been a contentious point but we think it has been fairly successful. We just had an incident recently where some imported asbestos-containing material was provided to a builder to install on a site. The builder was alerted to the fact that this did not look right, went and got it tested, found out it was asbestos, and it turns out that came in from China through a supplier in another State to the Territory. It is an example of what we think has been a benefit of doing the asbestos-awareness training, that the builder was alerted and actually went so far as to get the material tested himself. So we think it is paying off. It has been contentious having this training; people do not want to have to spend the money to train all their workers, but it is not a large cost and we think the benefits are already starting to flow through. We are hearing constant stories of workers now saying, "I didn't realise that kind of thing might have been asbestos. Now I'm raising my hand."

**Mr JOHN BARILARO:** I want to go back a step to what happened in the Australian Capital Territory with the clean-up in the late eighties-early nineties and the remediation work that has been part of the Australian Capital Territory process. Was that initially just removing the bulk of the loose-filled asbestos? Did that include also limiting pathways for it to get into living areas?

**Mr KEFFORD:** The original remediation program was, one of the many complications in this issue, designed by Commonwealth officials at the point the Commonwealth was responsible for the Territory, but most of its implementation fell to the new Territory Government just after self-government. So it kind of crosses that establishment of the self-government arrangements for the Territory. Essentially, the process that was undertaken was, in part, because there were not sufficiently detailed records from the companies in that it was a reasonably small company that did work other than just this insulation and there was a succession of similar bodies in that chain.

Essentially, the approach taken was to conduct a survey of the 65,000 houses that were standing in Canberra in 1980 and then at the point those tests proved positive the approach was taken, in effect, the families were moved out for a period, the top of the house was encased in a bubble, the roof was removed, they vacuumed the roof. The language was always about removing visible and accessible asbestos. So basically the roofs were vacuumed. To the extent that they could vacuum the top of the walls, they did so but, obviously, they were not able to penetrate the whole of the walls because one of the program design parameters that were set was that apart from taking the roof off there was not to be further damage to the structure of the house.

Once the vacuuming has been completed the roof space and as much of the area as could be reached was sprayed with the bonding, basically glue, to stick down what was the remainder of the fibres and the roof put back on. Mr Tighe was right, about 1,100 homes were remediated as part of that process and, as I say, there have been a handful that have popped up as missed houses since. So you are right, it was about removing the bulk of the asbestos from the roof space and such other as was accessible and then it had always been the position starting from the correspondence that is repeated in the report to say while a clearance certificate was issued it does say there are residual fibres remaining in the building and certainly if there was to be any work done on the building then particular care would need to be taken and the builder controller needed to be engaged.

**Mr McCABE:** I just offer a comment on the aspect of your question about limiting the pathways. One thing that became apparent to us when we looked in the house in Downer was that the wall cavities are open to

the ceiling. By the time we did the remediation, a lot of material could have already gone down into the wall cavities. In fact, when we deconstructed that house, it became apparent that that was the case. So any house that we come to now or even any one that we would have come to at that point, a proportion of the fibres would have already gone down deep into the wall cavity. So it is a good idea to block the pathways so there is no further ingress of those fibres, but you have got this problem of the fibres that are already down there.

**Mr KEFFORD:** Certainly some of the most common entry points for fibres into the homes as we have been doing the testing to the point where the assessors can tell how bad the inside report is going to be by looking in the roof now, the volume of asbestos left behind the cornice was a very significant indicator of how bad the inside is going to be. The way in which the cupboards were constructed in that period means there are significant openings in the tops of the cupboards, so one of the common reasons people needed to leave is because all of their cupboards are full of asbestos. Reflecting on the structure of the houses has been part of the issue. The other thing we have found, as you would expect, a good number of these houses have been renovated over time. In some cases it is the downlights. The owners of one house had installed quite an elaborate music system in the roof and every time the speaker vibrated, the asbestos fibres worked their way around the edges of the speaker and into the living room.

**Mr JOHN BARILARO:** Do you have any technical information or reporting about the differences between a brick veneer home and a solid brick home in relation to fibres becoming airborne? The opportunity for fibres becoming airborne would be less, I assume, in a double brick home than a solid brick home?

**Mr KEFFORD:** Yes, generally, but not consistently. Certainly the contamination in the subfloor areas of a brick veneer home you would expect to be worse than a double brick home. What we have found as we have done the assessments is a well-maintained but old brick veneer home may well have a better testing result inside than a newly renovated but perhaps less well-constructed home. There are indicators but it really has been a house-by-house story.

**Mr JOHN BARILARO:** Mr Peter Tighe and you guys mentioned earlier that people have had to leave a home because the fibres are at an unacceptable risk level.

**Mr KEFFORD:** Yes.

**Mr JOHN BARILARO:** Can you explain to me what happens in the Australian Capital Territory over the next period with the demolition of homes? Is it a five-year or 10-year program? Will the government purchase all the homes and will people leave their homes in the first instance?

**Mr KEFFORD:** The offer the government has made is to buy all of the affected homes immediately. We are not seeking to differentiate between the worst contaminated and those where perhaps we have not found fibres in the living areas, although as it comes to priority for valuation and purchase, as we have said, we will prioritise those families who have been out of their homes and have had the financial burden for longer. The five-year frame that we have used publicly is almost a central case. We will not really know how long it will take us until we see how quickly people are prepared to relinquish their homes. As of yesterday, through the course of this week, we have had 250 families come back and say, "Yes, please." At the moment, the biggest variable in respect of the timing of the program is that there are only a very small number of firms that are doing this work in Canberra. Part of the tender process to which I referred earlier is about expanding the capacity in the local industry or the local area to get this work done.

**Mr JOHN BARILARO:** The reason we are going down the process of demolishing homes and the government is buying back these homes is because the advice is that there is a high health risk to individuals who live in these homes. Over this next period, for those who choose not to leave their home will there be another transitional program in relation to additional remediation work to stop those fibres becoming airborne?

**Mr KEFFORD:** We have foreshadowed two things. First, the government's buyback offer closes on 30 June next year. We do not have to have settled by then and nor does the family have to have vacated by then but they have to indicate a preparedness to engage by that date. We have also foreshadowed, which is addressed in respect of the documents that the task force has published on its website and sent to the owners and referenced in the report, it is a program that has much more significant interventions than we have currently been doing and the government has announced an intention for that to be a mandatory obligation.

Essentially what we have done, based on the evidence from the assessments, is identified all of the potential areas for entry of fibres into the homes. The work we have been doing up till now has been about visual assessment and dust samples to get a sense of the level of contamination in the home. We have been doing hazard reduction works to address those particular hazards. That is making the house better than it was; it is not making the house habitable in the medium term. The way we anticipate this will play out, and this has not been to our government yet but they have foreshadowed this course, is akin to a commercial property having to have an asbestos management plan in place for the building that has to be building specific, but we will look at all of the particular aspects of the house to see what is necessary. The starting point will be sealing any potential entry point for fibres into the house, an environmental clean of the property.

We have not pretended that that is a practical long-term answer but the government has also been keen to recognise the particular circumstances of families, especially elderly residents who have lived in the home for a long time. They are saying to us, "I am not happy about it but I am certainly not going to move twice before I move to a home", or whatever it might be. We have said, "That is fine. Participate in the scheme, but you need to know that for you and also for the other people who will come to the home—be they tradespeople or family, visitors or personal carers or whatever—there will be an obligation on you, which the government has indicated it will not fund, to take significant steps to manage those entry pathways."

**Mr JOHN BARILARO:** Mr Kefford I asked this question of Mr Tighe: Governments over the two-plus decades have relied on health advice and specialist advice in relation to the risk of loose-fill asbestos and it has led to Government inaction for two decades. Are you able to identify what the differences are between the health advice that the New South Wales Government has received over the past couple of decades versus the advice that the Australian Capital Territory Government and maybe the Federal authority now has?

**Mr KEFFORD:** Mr Barilaro, it is a little difficult for me to reflect on the work of our counterparts in New South Wales. What has changed for us, and it really has changed this year, is the evidence base from nearly 800 assessments inside the homes. In the documents that we have put in the report, there have been concerns about this particular product in the residential setting since 1968, before it was installed. Decisions have been made along the way and others will comment and pass judgement on the way in which it has been handled up to now, but really what has led the Australian Capital Territory Government to the position in which it now stands is the evidence base that came as a response to it re-airing this issue with the commissioner's letter in February.

**Mr JOHN BARILARO:** Do you believe there is any safe level of asbestos fibres in a home?

**Mr KEFFORD:** The consensus is that there is no safe level of asbestos fibres in any context, recognising, of course, there is a level of asbestos in the background air because it is such a ubiquitous building product. The position that the Territory has adopted is there is a risk from this particular form of asbestos in the home environment and, following a very detailed process of consultation, there is no effective way to manage that risk in the long run. In the medium term it can be done with vigilance, but in the long run there is no effective management regime.

**Mr McCABE:** In a nutshell, the game changer has been that we always thought that if the fibres were left undisturbed there would not be a problem. We still think that. We have come to realise that, even if we do that, they will find their way into the house. Houses are cracking. There are so many entry points where they can get into a house it is unbelievable; downlights, cavity doors—the list goes on. The real game changer has been we thought as long as we told people not to disturb the walls, et cetera, they would be safe. We have now found out there are lots of fibres in the houses. That was the change this year. As we have realised that and tried to examine how that has happened, we have come to realise it is almost impossible to stop that from happening permanently. We might be able to reduce the likelihood of that very significantly for a short period but it will make the house quite difficult to live in and it cannot be sustained over the longer period.

**Mr JOHN BARILARO:** On that point, the clean-up in the late 1980s and 1990s when the Federal Government may have given a false sense of security to home owners, tradies and builders in the Australian Capital Territory that these homes were now safe, in hindsight we could say that because we were on the New South Wales side of the border and did not get that clean-up, we were aware of the loose-fill asbestos and probably we were more careful. In hindsight, that clean-up did not achieve anything.

**Mr McCABE:** No, I think it achieved a fair bit. It took a lot of fibres out of those houses, so I think it would have been much worse. I guess I am saying it probably is not much worse than the others that have not been cleaned.

**Mr JOHN BARILARO:** Did it lead to a very relaxed approach to working on those homes versus those that you know had the bulk fill?

**Mr McCABE:** I think that is right. There were conditions put on the advice given to people at that time saying there were fibres. However, if you were sitting here today and you were rewriting those letters you would have provided that information differently to home owners.

**Mr JOHN BARILARO:** Were home owners told that their homes were now asbestos free?

**Mr McCABE:** There was always a rider put on it.

**Mr JOHN BARILARO:** Always?

**Mr McCABE:** That is my understanding.

**Mr KEFFORD:** The certificate issued at the end of the program—which we can table; we do not have it with us—

**CHAIR:** Please take that on notice.

**Mr KEFFORD:** Essentially it says that asbestos was removed from the property as part of the program. The language we used was that residual fibres remain in the walls and if they are going to do work on the house they should talk to the building controller. It is a balance to be struck.

**Mr DARYL MAGUIRE:** As a keen renovator of many houses over the years, I understand the different methods of construction from the early 1920s up to the 1970s and 1980s. I am familiar with the different techniques used in building houses. I note that you have suggested that even the air conditioning systems in the houses were contaminated. Were any particular systems worse than others, for example, evaporative versus reverse-cycle air conditioning, or were they all contaminated to the same degree?

**Mr KEFFORD:** I am not sure that we have that level of detail. Relatively commonly the testing has discovered fibres in the air conditioning returns, which obviously suggests that at some point there have been fibres in the air. There are more disturbing cases. In the case of the Downer house and least one other that I can think of there were visible fibre bundles in the floor vents of a heating system. Many of the houses have underfloor gas heating. That suggests that at some point there has been a breach in the ducts.

**Mr DARYL MAGUIRE:** In what year was the Downer house built?

**Mr KEFFORD:** The report is public; it is on our website. However, I will have to take that question on notice. The issue with the ceiling ducts has been as much about the actual plate in the ceiling—the entry points around the edge of the vents—rather than inside the duct itself. The other area where we have found issues is the way in which the intake has been installed in the cupboards—gaps have been left exposing the cavity. In one house it was effectively sucking fibres out of the wall cavity and into the air conditioning return after the filter and then blowing them out through the house.

**Mr DARYL MAGUIRE:** How many tonnes or cubic metres of contaminated waste do you expect to extract from the Australian Capital Territory homes should you purchase all of the properties that have been identified?

**Mr KEFFORD:** Obviously every house will be different. One of the big unknowns in answering that question is how much dirt we also have to take. The assumption is that it will be somewhere between 50 tonnes and 100 tonnes from each house. It is a big pile.

**Mr JOHN BARILARO:** So every part of the home would be treated as if it were contaminated?

**Mr KEFFORD:** The approach that we have adopted is that there is no way to take half a house. Even if there is a whole new wing out the back, we have offered to buy the whole lot. It will all go. We have been working up a draft code of practice and the commissioner might wish to comment further on that. However, essentially the practice will be to remove 100 millimetres of soil from the footprint of the house and an area

around it. We will test at that point to see whether fibres are present. If there are, we will keep digging until we stop finding it.

**Mr DARYL MAGUIRE:** You have referred to elderly people who may not want to move from their residence. Is there a way of rating the danger in the house based on the construction method, the air conditioning system, the underfloor heating, or the lack thereof? Could you categorise them one, two, three or four, with one being an absolutely unliveable house compared to four, which would be a house presenting minimal risk? Is there a way of achieving that?

**Mr KEFFORD:** As part of the process of preparing the control plans to which I have referred we must assess the extent of the contamination and the general state of repair of the property. I had a conversation with a family yesterday where no fibres were found in the house except in one cupboard. They are very keen to stay. They are both 78 years old and they have had the conversation with their children about wanting to age in place until they need much more intensive care. In their case, the interventions required under their control plan would be modest. It is not quite the classification you have chosen, but it is a similar approach.

In another home where there are multiple entry points and significant issues, the practicalities of what must be done to allow them to stay might render the proposal not worth pursuing. We have been very careful in designing what we have done to make that the choice of the home owner to the extent that if the home owner needs to take a prepayment on the purchase then we will have a mechanism whereby they can do that so they are able to fund the work and stay. It is not quite a reverse mortgage. There is a scheme in the United Kingdom that allows a similar thing to be done with modifications to allow ageing in place. We pay part of our purchase price on the property now so that they can do the work and stay if that is their wish.

**Mr DARYL MAGUIRE:** You must have read my mind. I was thinking the same thing. There must have been a mechanism like a reverse mortgage that on the lowest of risk where the owner is elderly—like the case of the 78-year-olds—they can stay and the house could be demolished once they no longer needed it.

**Mr KEFFORD:** In effect we would exchange on the sale of their property so that they know that at whatever point they need to go to a retirement home they will have the funds coming from the government, but there would be an effective prepayment of a proportion to fund the work that must be done.

**Mr McCABE:** Those houses will require ongoing, constant vigilance to ensure that they do not deteriorate in some way that changes their risk rating. Already we have found with some houses where we have sealed cracks that there has been movement within a couple of months and the cracks have opened up again. That is why we have said that our preference is for them all to be demolished. However, there are of course social and other issues such as elderly people wanting to stay in their home.

**Mr JOHN BARILARO:** Could you put a cap on the length of time they can stay? Is there a maximum of five or 10 years?

**Mr KEFFORD:** The language we are using is "medium term". Of course, the predicable question is, "What is medium term?" At the moment we are saying that this is a five-year program. That is the kind of window we think is appropriate, recognising that at the end of the day the government's first advice is that the house is dangerous and should be demolished. We have created a vehicle whereby people can leave immediately. Respecting that they might want to stay, that will be okay in some circumstances but there is an ongoing risk to them and others in the community that means it is not a practical longer-term answer. The decision the government took was to provide all of that now so that people can assess the buyback offer with the knowledge of what is coming.

**The Hon. NIALL BLAIR:** I apologise for my absence and I thank the Hon. Jan Barham for her indulgence. How do you address the issue of visitors during that period? What about grandchildren coming to visit the 78-year-olds? I know you will take remedial action and I know it is a fine line, but how do you intend to address that?

**The Hon. MICK VEITCH:** What is their obligation?

**Mr McCABE:** The social response is one of the hardest issues to address. We have had people say that they have raised their children in the house and they have just told their grandchildren they cannot visit. That is particularly difficult. However, the obligation would be to have a plan in place and to manage it to inform

people. Again, that is part of why it is not a sustainable, long-term answer. However, at the same time we must provide opportunities for people to make their own decisions.

**Ms JAN BARHAM:** I am finding it confusing to hear you talking about the seriousness of this problem and the huge decision to demolish and then on the other hand you say that it is their choice. That does not sit comfortably with me and I doubt it would with other people. I wonder how a government takes that position and whether there is a point of liability with your not making it mandatory that people leave if they are at risk.

**Mr KEFFORD:** There are a number of concepts mixed-up in this whole issue and, indeed, in your question. The first point is that our advice is that the houses are dangerous, the risk cannot be managed, they should be demolished and we have offered to buy them straight away. The terms of the buyback offer: the purchase price is as at 28 October, the date of the scheme, regardless of when they participate, is one of the incentives for people to leave. The Government has also put in place a relocation grant to assist people to get out and move while that process happens. Having said that, the advice that we have is that it is possible, but with quite some effort, to render the houses safe for habitation in the medium term in most cases—in some cases it is not. The Government has been very careful to attempt to respect the wishes of individuals in what is a bounded choice but to give them a choice to make.

**Ms JAN BARHAM:** It is polar opposites for me to say at one end you are recognising a risk, a danger and these extreme measures, and at the other end it is up to them to make a choice. That does not compute for me. Obviously, you are not able to explain it so I will return to the issue of the prior remediation. People were led to believe that these places were rendered safe for re-habitation. I have heard that people purchased those properties only to find they had a property that was still contaminated and they are at risk. Those people made the first purchase of their life and found they had a dud. What is the level of notification on purchase? How many people had their places fixed and then immediately on sold without any notification? I note that Queanbeyan is looking at the appropriate measure of putting it on the contract of sale, the 149 certificates. What happened back then so that people have now found themselves in a situation where the generous offer of purchase might not be enough to cover their investment? Were there any requirements for notification on title?

**Mr KEFFORD:** Certainly there have been. There are stories about people selling houses just after the remediation program. I do not know, I was not in Canberra at the time, but certainly those stories kick around.

**Ms JAN BARHAM:** But it is easy enough to investigate if it is a priority, is it not?

**Mr KEFFORD:** Indeed. The requirements as they stand are: When the contract for sale is drawn in the Australian Capital Territory a building file search is done, which forms part of the contract. That process brings up the clearance certificate from the original program, which has the rider about residual fibres in the walls. In most cases the various letters that have attached to the report are also on that building file. Certainly since this issue has come to prominence the Territory's planning directorate has put further flags in its system so when those requests are made to produce those packs and it comes up there is a much more explicit "this is a Mr Fluffy house" conversation. There was a process put in place in the mid 2000s as part of this process called a lease conveyancing inquiry, which has a particular form of words that says either "this house was tested during the program and was not found to contain asbestos" or, alternatively, "asbestos was removed and talked to the planning authority about it".

**Ms JAN BARHAM:** Is there any chance that information was not revealed to prospective owners?

**Mr KEFFORD:** We have had owners assert that they either did not see or did not understand that but it has been there on the building file, it has been part of the process, and, as I say, it has been the Territory's practice to write to owners from time to time to bring this back to attention—as it did in February.

**Ms JAN BARHAM:** You spoke about people being in a home one day and not the next. What services is the government providing for their relocation? Are the relocation costs and everything they need to continue on with their lives being paid for? Also what about any counselling or trauma services?

**Mr KEFFORD:** The package announced by the government in July has all those elements to it. The Government announced emergency financial assistance of \$10,000 and then an additional \$2,000 for each child living in the home to be spent either on new accommodation and replacement of emergency goods, clothes and so on or, alternatively, if they were able to stay in the home, to pay for those short-term hazard reduction works

and replacement of contaminated goods in a cupboard and so on. The Government has also formed a partnership with ACT Medicare Local in terms of the provision of psychological and mental health support, and we are working closely with our chief health officer and our health and community services directorates—also on the task force—to provide the sort of support that one would expect to be provided by a government in those circumstances.

**Ms JAN BARHAM:** That is a separate budgetary item?

**Mr KEFFORD:** Indeed. I have a personal support team, drawn from our community services directorate, that is providing the kind of case management, personal support information, accommodation booking, buying washing machines and all sorts of things that officials might not normally do, but we are attempting to provide what assistance we can. We have not pretended that is full compensation for everything that has gone on. It is absolutely in a space akin to a post-bushfire emergency rather than full recompense for what has been happening. In some cases for those families who have been displaced for a long time, particularly before the governments had reached their decision, the Territory in effect paid a second package of assistance to provide for ongoing accommodation costs and so on, to at least tide them over that period until we had a decision that had a buyback offer on the table.

**Ms JAN BARHAM:** With the risk analysis that an individual has a right to do, is there an information sheet they can go through or is it a verbal communication and then they make the choice?

**Mr KEFFORD:** No. A report is done by the asbestos assessors about the home—I think this is one area where the Territory's regime is in advance of the national scheme. The class A asbestos assessors in the Territory are empowered to make risk-assessment evaluations. They do the testing on the house and then write a report on the house that says, "This is what it looks like and this is what we think you should do."

**Ms JAN BARHAM:** But what information are they given where there is a choice? Do you have something you could table about what they are given in a plain speaking document?

**Mr KEFFORD:** I will take the question on notice. We will de-identify some reports and provide them to the Committee.

**CHAIR:** You have obviously developed a lot of expertise in this area. New South Wales has similar problems in Queanbeyan. Is there any advantage in your task force becoming a combined Australian Capital Territory and New South Wales task force so we do not start from scratch with another group?

**Mr KEFFORD:** That is not particularly something that we have contemplated. I and my officers are in very regular contact with Mr Dunphy and his colleagues. We have a regular pattern of sharing of information and particularly on this issue and especially in the region around Canberra we are very happy at a government level, and I know the Chief Minister has had contact with the Premier and other Ministers in the State Government to offer assistance, expertise and advice. In fact, we have done so in providing a copy of the report to the New South Wales Government in confidence before it had become a public document. Clearly we have been down that path already and it would be sensible for us to continue to share that information.

**CHAIR:** I was thinking of taking on a more direct role but that would involve financial sharing of the costs of your task force and so on.

**Mr KEFFORD:** In the end that is ultimately a matter for the two governments rather than for the officials, but certainly we are happy to continue to work with our colleagues.

**CHAIR:** In the material you have supplied there is a copy of a 1991 memorandum of understanding.

**Mr KEFFORD:** Yes.

**CHAIR:** Is there a more recent copy available?

**Mr KEFFORD:** Do you mean for the current agreement?

**CHAIR:** Yes.



**Mr KEFFORD:** We are still in negotiation with our Commonwealth colleagues about the form of that funding agreement, but I do not see any reason why we could not provide it at the point it has been settled.

**CHAIR:** When it is finalised?

**Mr KEFFORD:** Yes.

**CHAIR:** You spoke about the amount of material per house. Obviously that material also has to be transported.

**Mr KEFFORD:** Yes.

**CHAIR:** How do you handle the problem of all the fibre materials being transported through the streets of the Australian Capital Territory—you even suggested it could go through New South Wales?

**Mr KEFFORD:** Possibly, Chair. The way in which the demolition is done is there is at least partial internal demolition and as much of the remaining asbestos is vacuumed up first while the skin of the building is, in effect, its own containment vessel. Once that work has been done, the remaining fibres will be bonded to the structure—a bit like I was describing before—and then when the demolition actually happens there is further dust suppression and wetting and so on that takes place. Transportation is done in covered trucks so it can be done safely. The material is wet when it goes on the truck and if we are taking it to our West Belconnen facility, even from the furthest suburbs in the south of the city it is less than an hour to the dump, and then when it is dumped, again there is dust suppression in place.

So it certainly can be done safely. The demolition is done with air monitoring in place, but what we are going to do before we start doing this on a wholesale scale is—the Territory owns five affected houses as part of its community housing portfolio, so we will be doing a pilot demolition process just to confirm our methodologies before we go to market and part of that will be proving that we can do it safely, because clearly this is an issue that is now beginning to register with neighbours and others who live near the facility that we are demolishing houses that we have said are dangerous next door to them and they quite rightly want to know that we can do it properly and safely.

**CHAIR:** There is no charge for the assessments, they are all free assessments?

**Mr KEFFORD:** There is no charge to the home owners. The government is bearing the cost of those.

**CHAIR:** Thank you very much for your help today; it has been very, very valuable. All the best with what you are doing. It is a major task.

**(The witnesses withdrew)**

**(Short adjournment)**

**WAYNE SMITH**, Director, Environmental Health Branch, NSW Health,

**KERRY CHANT**, Chief Health Officer, NSW Health,

**PETER DUNPHY**, Acting General Manager, Work Health and Safety Division, WorkCover NSW, and

**AMY LOVESEY**, Project Manager, Asbestos Policy, Local Government NSW, affirmed and examined:

**CRAIG LAMBERTON**, Director, Hazardous Incidents and Environmental Health, NSW Environment Protection Authority, sworn and examined:

**CHAIR:** We are pleased to welcome our next set of witnesses from the Heads of Asbestos Coordination Authorities. We thank you very much for your attendance. Do any of you wish to make a brief opening statement?

**Mr DUNPHY:** Yes, I would. I will talk a little bit about the Heads of Asbestos Coordination Authorities [HACA]. The HACA's working group was formed over three years ago. There are a couple of goals that we have set as part of that group. Firstly, it was around the safe management of asbestos—all forms of asbestos. We focus on the whole life cycle of asbestos, whether it is naturally occurring asbestos, asbestos in the ground, whether it is importation—we still have issues around the importation of asbestos materials—the in situ asbestos, which we are talking about today, asbestos in the homes and in the workplaces, the transport and disposal, dealing with asbestos after emergency issues and also the disposal of those materials. We take a full life cycle approach in terms of asbestos within the group.

Our key role is around reducing the incidence of asbestos-related diseases. We know there are still too many asbestos-related diseases from the legacy of past exposures, and certainly a part of our role is providing advice and ensuring that we provide coordinated advice around asbestos-related issues. The key role, and the reason why we brought the HACA together, was to ensure that we have a good coordination mechanism across government. It is really about not only State Government but local government as well. You will see that we have got representations here today from the various government agencies who have a role in terms of providing advice or regulation around asbestos but also from Local Government NSW, because obviously councils have a role to play as well.

Also, as part of the group—we did not bring everybody along here today—we have representation from NSW Trade and Investment, from Planning and Environment, from the Ministry of Police and Emergency Services and also from the Dust Diseases Board. So it is quite a broad-based group. In terms of what we have done around the coordination is developing the State-wide Asbestos Plan, which is 61 initiatives which are designed to manage a range of asbestos issues in New South Wales, and also focusing not only on managing the issues but also on research of the issues, coordination of the issues and hazard communication around those particular issues.

One of the things that we identified when the group first came together was that there were work coordination issues. We developed a blueprint, which is about trying to identify the roles of each agency and also local government in terms of the management of asbestos issues. More recently we have developed a model policy for local government, which Ms Lovesey has been very instrumental in. We fund a position in Local Government NSW, which coordinates the development of the model policy for local government but also the implementation of that policy specifically relating to asbestos.

As part of the HACA we have also funded and supported the annual asbestos education awareness campaign, which we call the "renovation roulette" campaign, which has been focused on home owners and trying to raise awareness of asbestos in homes and particularly about trying to ensure that not only people who live in the homes but also tradespeople who may enter those homes are aware of the asbestos risks and know what appropriate controls they need to take in terms of that. Around the loose-fill asbestos insulation issue we have done a range of things. I know I can only give a short introduction, and I am sure you will want to ask me in more detail, but there are a whole range of things that we have been doing over many years and before HACA in terms of raising awareness of the loose-fill asbestos issue and we are continuing to do that as a joint and a coordinated effort in terms of the group. I might stop there. I am happy to answer any questions people may have about the work that we have been doing.

**The Hon. STEVE WHAN:** We heard evidence from the previous witnesses that in the Australian Capital Territory they have done 800 assessments of homes since February—homes which, in most cases, have had the visible asbestos removed in the programs in the eighties and nineties—and that they found that over half of those had asbestos present in the living areas of the home and, in a number of cases, the contamination was so bad that the families have had to move out. Given the evidence from the Australian Capital Territory of an untreated house that they took to pieces in Downer and from the evidence that we have been presented this morning, when will the authorities in New South Wales revise the advice which still suggests, as I understand it, that loose-fill asbestos is safe if it is sealed in roof cavities?

**Mr DUNPHY:** First of all I will take you through what we have doing in relation to that, and then I might hand over to my colleague to talk about the health-related issues. As part of the Heads of Asbestos Coordination Authorities the NSW situation is a bit different to that of the Australian Capital Territory, where there was one area that had it—the Canberra central business district. We are looking at 26 local government areas across New South Wales. We have been running a campaign, firstly, to try to identify the number of properties affected. There is a process for doing that. The properties that have been identified are primarily in the Queanbeyan area. There has been a long history of trying to identify those properties, and the Queanbeyan City Council has done some fantastic work over the years in terms of their own identification.

**The Hon. STEVE WHAN:** But that has all been voluntary identification.

**Mr DUNPHY:** Yes, it has been voluntary identification. Nevertheless we have certainly identified properties in the Queanbeyan area. There was a joint study conducted with New South Wales Health, including Safe Work Australia and WorkCover, to try to identify the risks around those particular properties.

**The Hon. STEVE WHAN:** So that was the 1993 study?

**Mr DUNPHY:** Yes, that was the 1993 study.

**The Hon. STEVE WHAN:** That is several years ago now.

**Mr DUNPHY:** Yes, it is several years ago now. As part of the investigation we are doing at the moment we are actually going back to these properties and doing a further technical assessment to confirm and to quantify those issues.

**Dr CHANT:** I think it is also important to understand that, whilst we have much to learn from the Australian Capital Territory experience, the Australian Capital Territory has taken a different historical approach to this issue in that it did do remediation. I am not close enough to each specific case to know the details. The issue is that even if it is contained in the roof space and you are very confident that you can contain it, it will get down into the wall cavities. The advice is that you cannot do things to the wall cavities. So in New South Wales it clearly does put a great impost on home owners.

**The Hon. STEVE WHAN:** The evidence from the Australian Capital Territory is very clearly that the asbestos has gone into wall cavities, under floors and into air conditioning systems. We have heard that it is inside cupboards and that it is in living areas.

**Dr CHANT:** Because it is very much about the exposure pathways, we are saying that you cannot do the things that you would do to a normal house. You might want to put air conditioning in but we are saying that you should not be putting that in. You should not be drilling into your walls. You should not be putting in that sound system. So we are not underestimating the constraints that the advice about containment does provide. Clearly home owners have a range of other options that they can choose to follow. But we do need to understand that the Australian Capital Territory did follow a remediation pathway. I do not have enough information on a case-by-case basis about the houses and whether those home owners have undertaken actions, such as drilling to put in sound systems or other things, that would have allowed exposure. I agree that the study is from 1993. We are now going back to the houses to verify what is happening. The 1993 study demonstrated that there was no difference between control houses and houses with loose-fill asbestos in terms of the background levels in air monitoring. We are now going to confirm that.

**The Hon. STEVE WHAN:** What are you doing to go back and verify that?

**Dr CHANT:** We are going back to verify that. I have put together an expert panel this year to review and design a methodology for testing those houses to ensure that the air monitoring provides a representative assessment of exposure. We can provide the Committee with the methodology for it to review. The expert panel includes people like Bruce Armstrong, Guy Marks, and Mark Hibberd from the Commonwealth Scientific and Industrial Research Organisation [CSIRO]. I can also provide to the Committee the full list of the experts who have reviewed the protocol. So that work has been commissioned, and we are now approaching householders to get them to agree to do that.

**Mr DUNPHY:** Yes, that is right.

**Dr CHANT:** I know there have been issues raised about the representativeness of air monitoring, and the methodology that has been designed has a number of long durations of air monitoring, and over periods so that it truly does reflect the normal day-to-day activities that you would be undertaking in that house, to reflect what air exposure you would be getting in those houses.

**The Hon. STEVE WHAN:** Do you just disagree with the advice coming from people like Mr Peter Tighe, who we spoke to this morning, and from the Australian Capital Territory? They have looked in depth at houses, including dismantling a house in Downer. They are essentially saying that there are a number of houses there that people simply should not be living in.

**Dr CHANT:** I am not disagreeing with the advice around the fact that we know that asbestos from the roof space will potentially travel down the walls of the house. The assessment in 1993 was 20 years on in terms of the journey of the houses. I think we really need to verify in homes where home owners have been advised to maintain their houses what the level of exposure is and what is happening with the control pathways. We are providing advice that containment is an option that home owners can take. That is one option. But clearly home owners can take other action—it does not preclude them from taking other action.

**The Hon. STEVE WHAN:** Why is it that the Australian Capital Territory sees this as a public health issue which should involve the government and that in New South Wales it appears, from what you are saying and from your submission, essentially it is all care and no responsibility in some ways—so the government will help home owners with testing and things but does not see any further role. That is essentially the gist of what I am getting.

**Mr DUNPHY:** I do not think that is what we are saying. Certainly we have to work within our regulatory framework at the moment, and at the moment in the regulatory framework there is nothing to prohibit having Mr Fluffy asbestos in your property. We cannot mandatorily say that people are not allowed to have this asbestos in their properties. It is the same in the Australian Capital Territory. They have a voluntary system where they have offered to buy back properties. They have not actually mandated that. The controls, in terms of the prohibition of asbestos, do not extend to in situ asbestos or material that is in place. So within our framework we have to work within the risk management approach, which is the requirement which is in the legislation, which is about identifying the level of hazard and also the level of risk. We are going through the process now of trying to establish that. That is part of the overall way in which we need to ensure that we are able to provide advice to government. Whether the Government decides at the end of the day that something more that needs to be done that is a matter of policy for the Government.

**The Hon. STEVE WHAN:** I acknowledge that the Government has recently put in place a system to ask people to voluntarily identify. That work is being undertaken. Do you feel it has now gone past the point where people should be voluntarily identifying and we should put something in place with some urgency to compulsorily identify houses that have loose-fill asbestos?

**Mr DUNPHY:** Again, you would need to have a legislative basis to do that.

**The Hon. STEVE WHAN:** Do you think that should be recommended or do you not want to offer a view on that?

**Mr DUNPHY:** That is an opinion, I guess, and it is something for the Government to make a decision on. I can only point to the practicalities of that. We have got four million houses in New South Wales, which raises the question of how you would actually go about doing that.

**The Hon. STEVE WHAN:** I have heard you talk on the radio so I know that you are aware that we are talking about a particular era of houses and we pretty much know the areas the product was used.

**Dr CHANT:** It is probably useful to say that Mr Dunphy has advised us of the numbers of people that have come forward for the testing. It is pleasing that 700 people have nominated for testing. I believe that about 114 houses have been tested to date. We would really encourage people to put their hand up for the testing. We appreciate the work that local councils have also done over the years. There have been various efforts historically to enable people to call and then free testing has been provided.

**The Hon. STEVE WHAN:** I have spoken to a resident who said that they were worried they had asbestos in their roof but they did not want voluntary testing because their neighbours would see that they were the only ones in the street who were being tested and people would think they had asbestos. Surely it is time for us to step past that stage. Peter Tighe from the Asbestos Safety and Eradication Agency also made the same point this morning. He said that people are frightened to volunteer for testing.

**Mr DUNPHY:** I think it is important that all options are considered. This has obviously been an issue that the Government has been dealing with for a number of years. We always have to reflect on changing needs and changing policy responses. I think it is a thing that we need to put into the mix and consider.

**The Hon. STEVE WHAN:** This morning Australian Capital Territory Work Safety Commissioner Mark McCabe said that the events that have happened in the Territory this year are a real game changer. He also said it is almost impossible to stop fibres from getting into a house when loose-fill asbestos is in the roof. Would you agree with that?

**Professor SMITH:** The real issue that we need to recognise is that asbestos is a hazard and particularly the Mr Fluffy type of loose-fill asbestos is a hazard. There is a difference between a hazard and a health risk. A hazard requires both an exposure pathway and concentration levels and duration of exposure that is going to lead to likely health outcomes. If you can be sure that there is no exposure pathway then there is no risk. If you can be sure that the exposure pathway limits any exposure to very small amounts then it is a very low risk.

The issue that we are dealing with at the moment is to try to ascertain what level of likely health risk there is in these houses. That is why we have developed our protocol that has been reviewed, as Dr Chant says, by our expert advisory panel to quantify what the likely health risks are. In other words, what we are looking at is whether there are levels of asbestos in the air that can be breathed in over a chronic period of time that are likely to be higher than background levels of asbestos.

**The Hon. STEVE WHAN:** It seems to me that the Australian Capital Territory has already shown that there are. It worries me that we are doing it again.

**Professor SMITH:** I do not think they have shown that. That is the point.

**The Hon. MICK VEITCH:** Our issue is the contrast between the way in which the Australian Capital Territory is handling this issue and the way New South Wales is handling it. One of the things we are trying to come to grips with is the Australian Capital Territory said that they got some information earlier in the year that was a game changer. Hence, they have become quite aggressive in the way they are approaching the issue.

**Professor SMITH:** They have shown hazard in different locations in a house. They have not actually done a formal health risk assessment at this stage that we are aware of. We have no information from them about a health risk assessment. We are just quantifying what the health risks are. We are not making a statement that there are no health risks. We know there were no health risks relatively speaking back in 1993 from the work that was done then. We are now looking at those houses again to see if anything has changed and if there are any exposure pathways that have become apparent and any potential health risks now.

**The Hon. MICK VEITCH:** In your submission you list 26 local government areas. How did you identify those areas?

**Mr DUNPHY:** We were very expansive in terms of coming up with the list. When we first started the process we had 14 and that has grown to 26. In many of those local government areas we have not identified one house in those areas. But we started with looking at all of the information that we had on hand at the time in

terms of government reports and information, including information from the Australian Capital Territory Government that said it believed Mr Fluffy may have operated in certain areas and so we included those areas.

Anywhere there was any anecdotal information or even a suggestion in a media report that there may have been Mr Fluffy or loose-fill insulation used we have included those areas. Where we have identified a positive find in terms of records we have included those too. We have tried to be as expansive as possible and not rule out areas but at some stage some of these areas probably will be ruled out. But at this stage we wanted to make sure that people were given the opportunity to have access to the service and that we had the broadest range and the biggest coverage of the most credible areas where it is likely to have occurred.

**Dr CHANT:** It is probably appropriate for Mr Dunphy to talk about the PricewaterhouseCoopers review of records.

**Mr DUNPHY:** We first started the process with very little information. We have commissioned PricewaterhouseCoopers, which is doing an independent forensic investigation. We have issued section 155 notices under the work health and safety legislation to more than 13 government agencies and local councils to gather all of the records that they may have relating to loose-fill insulation. PricewaterhouseCoopers is now going through that information. They are following up leads on people to talk to. They have spoken to some of the workers who worked for Mr Fluffy to try to develop some models around what we think could be the coverage of loose-fill insulation. They are developing some models around one's proximity—that is, how close areas are to Canberra and the likelihood that people may have accessed the service.

They are also looking at the capability of Mr Jansen, the contractor. They are looking at what he could have reasonably done over that 12-year period and how many houses he may have been able to install the material in. Thirdly, they are doing a financial analysis, which we are yet to get data on. It will include data around the operations of the contractor, Mr Jansen, to see based on his financial records what he could possibly have done in terms of that. All of that will triangulate with the actual sampling that we are doing. We hope that at the end of the day we will be able to have a much better picture in terms of the numbers. But at the moment the numbers are still quite small. There are 21 houses and two that have been demolished. They are quite small.

**The Hon. MICK VEITCH:** In New South Wales do we tag an identified house for the benefit of emergency services and tradespeople? Does the Australian Capital Territory do that?

**Mr DUNPHY:** We are doing a couple of things around that. Firstly, as part of the technical assessment and the health risk assessment where houses are identified as having loose-fill insulation they are required to sign a consent form. One of the things on the consent form is that they consent to having a hazard warning label put in the meter box of their properties. We will be ensuring that is done as part of the technical assessment process. WorkCover has a relationship with NSW Fire and Rescue through which we already provide all dangerous goods sites to them and that goes onto their response database so they know when they go to a fire whether there are dangerous goods at the location. We are now also providing them with the register of loose-fill insulation homes, so that is on their register as well.

**The Hon. MICK VEITCH:** Does the State Emergency Service have access to that?

**Mr DUNPHY:** Fire and Rescue share that with all of the emergency services.

**Mr JOHN BARILARO:** We know that home owners have volunteered to get their homes tested as part of the investigation we are undertaking to find and quantify the amount of homes in New South Wales that may be affected by loose-fill asbestos. I think you said 800 have signed up.

**Dr CHANT:** Seven hundred.

**Mr JOHN BARILARO:** Seven hundred, and done 114?

**Mr DUNPHY:** One hundred and fourteen. We have actually tested more than that but it takes a number of weeks, or up to 10 days, for the results to come back.

**Mr JOHN BARILARO:** Out of 114 have you identified homes that have asbestos?

**Mr DUNPHY:** No, out of those there have been no positives.

**Mr JOHN BARILARO:** In relation to trying to having a more proactive approach in identifying homes, if a home were identified that potentially had loose-fill asbestos is there a mechanism where we may then look at the rest of that street? As the Hon. Steve Whan indicated we would probably contact them and try to do tests regardless of whether they volunteered?

**Mr DUNPHY:** The problem we have got is that from a legislative basis we do not have the powers just to go into your home. I cannot go into your home and say, "I am going to take a sample from your ceiling." I do not think anybody would actually expect that any council officer or health officer can actually do that. What we have been trying to do is to try to encourage people, and certainly we know over the 20-year period, particularly in Queanbeyan there have been a number of efforts over the years. They have had a previous effort when 400 people in the Queanbeyan area came forward for ceiling sampling tests. This time, again we have had quite a big uptake in Queanbeyan. We have already got, I think, over 100 houses registered in the Queanbeyan area for the sampling service so we are expecting that we will get a good cross-section.

So we could actually go down the voluntary path but we need to legislate. The problem with that is what you do if people do not want you on their property. We know even in the Australian Capital Territory where they did legislate—and this was leaseholders, but we have got freehold so it is a different ballgame altogether; in the Commonwealth all the land is owned by the Commonwealth so they have got much greater access to all of the Mr Fluffy houses as it is actually its land that the houses are on. When the Australian Capital Territory did the mandatory testing they still, even this year, found new houses that were not picked up in the mandatory testing. So you cannot give the community an assurance by doing mandatory testing that we are going to find every loose-fill insulation house by doing that.

In some ways you give people a false sense of security. I think the Downer house was a good example. That was a house that was not picked up in the mandatory testing regime and, because of that, those people installed air conditioning and had created a much greater risk by not being aware that they had the risk in their home.

**Dr CHANT:** I think that you do raise a very good point that the intelligence gathered can actually allow you to do more targeted communication in the vicinity of Mr Fluffy homes, which potentially portrays that we have identified actively other houses in your area that have been affected by Mr Fluffy to get more of a sense of likelihood to encourage people. So even without doing the mandatory I think we can do some more sophisticated communication around the intelligence gathering.

**Mr DUNPHY:** That is good, which is true and we will do that. To date though from the houses that we know in the Queanbeyan area there does not seem to be a cluster effect in terms of the properties that we are aware of.

**Mr JOHN BARILARO:** Has there been other investigation by governments during the past couple of decades to try to quantify the number of homes in New South Wales?

**Mr DUNPHY:** Yes, there has, certainly in the Queanbeyan council. I think if you look at their submission they have done an extraordinary amount of work.

**Mr JOHN BARILARO:** That was at the local government level?

**Mr DUNPHY:** The local government level.

**Mr JOHN BARILARO:** State level?

**Dr CHANT:** Some of those initiatives were underpinned by the offer of free testing by government agencies and, in some of those cases, by Health up until 2005. I think the submissions from Queanbeyan detail that.

**Mr JOHN BARILARO:** I refer to technical assessments. Once a home is identified with loose-fill asbestos have we commenced the technical assessment process at this stage or is it still going through getting the protocol checked?

**Mr DUNPHY:** The protocol has been confirmed now. Now that we have the protocol confirmed we have actually contracted the licensed asbestos assessment expert Greencap Noel Arnold that will be doing the assessment. They have been given the property details. We have got the consent forms from the owners and they are in the process now of actually setting up the visit. We are expecting within the next week that they would be going out to those homes and doing the assessments. It is not just a visit on the day it is actually a seven-day assessment. It is quite a process and obviously we will need to fit in with the needs of home owners. Also we have got the block of units at Queanbeyan which we are also working with and we are doing that as one group through the strata management.

**Mr JOHN BARILARO:** Is that technical assessment to monitor the air, looking at the age of the home, working out the limiting pathway and at the end of that assessment will a report go to the home owner that says, "These are the practical things you can do to limit pathways."

**Mr DUNPHY:** It is doing a couple of things. I might pass to Professor Smith in a moment. Part of it is actually documenting the type of home, the condition of the home so that we have got some really good data. One of things we have learnt from the Australian Capital Territory experience is that when the issue first arose they offered assessments of all homes. They got many licensed asbestos assessors out to the sites and they all gave different results and looked at them differently. We did not want to replicate that problem because often people had to get second assessments because there was no methodology or consistency in the approach, so we have learnt from that.

We have ensured that in this process we have got a rigorous agreed methodology which has been run through our expert committee, through Health. When we go into the homes part of that assessment is actually doing a visual inspection of the property to see its condition, to look at all of the points of entry, potential points of access to areas where loose-fill insulation could be contained. It will include dust sampling which was done in the Australian Capital Territory. In the Australian Capital Territory they started doing air monitoring but they stopped because they were not getting any results. We believe that is a really important part. You can do dust monitoring but when we did the original study one of the houses where we did find positive asbestos was in the control which was a non-loose-fill insulation home. Unfortunately because we all live in a society where everybody has a car with brake linings there is some environmental backgrounds levels of asbestos fibres in every environment that we are in where you will find those bits of dust. We are doing the dust sampling but we are also doing the exposure monitoring as well.

**Mr JOHN BARILARO:** I think we can conclude that some of these homes where people have been aware they have loose-fill asbestos have probably had very little maintenance and have come to a point where really there is no real chance—financially, economically or in any practical way—to actually stop the movement. Would the report go as far as saying that some homes should probably be demolished?

**Mr DUNPHY:** The assessor will provide, as all consultant reports do, strategies in terms of control. Normally it will give them some short-term controls and some longer-term controls. One of the things that we will be doing with all of the information that is gathered from those assessments will be go back to the expert review committee to look at advice, I guess, about the health risk assessments and what we should be doing.

**Mr JOHN BARILARO:** But it is almost clear from the Australian Capital Territory experience that it will be very difficult to limit the movement of these fibres throughout a home. Homes have so many points of entry.

**The Hon. STEVE WHAN:** They are 50-year-old homes.

**Mr JOHN BARILARO:** Especially 50-year-old homes and those that have never been well maintained. Common sense says it would be difficult to limit the movement of the fibres, even within the cavities themselves, subfloor, walls, ceilings and, of course, living areas.

**Dr CHANT:** I think it is really important that we keep a very open mind. If there is a risk that is demonstrated then clearly appropriate advice has to be taken to control that risk. Clearly asbestos and loose-fill asbestos is a risk if there is an exposure pathway. If the testing confirms that there is an exposure pathway then we obviously have to provide the advice to stop that exposure.

**Mr JOHN BARILARO:** Could that advice go as far as "We recommend that you leave the home"?



**Dr CHANT:** We would be open, depending on the level of risk, to the full suite of actions because clearly we are interested in stopping the exposure pathway.

**Professor SMITH:** The study itself will purely report what the actual level of health risk is. The next step is how to actually deal with that health risk and that goes back to options that can be invoked. I do not think we need to consider what those actions are necessarily going to be until we get the results back from the risk assessment.

**The Hon. NIALL BLAIR:** What is the time frame?

**Professor SMITH:** As Peter said, the health risk assessment study will begin in the next week.

**The Hon. NIALL BLAIR:** Begin?

**Professor SMITH:** Yes, and hopefully it will finish before Christmas.

**The Hon. NIALL BLAIR:** Then you are saying you have then got to work out what to do from there. We have 21 domestic properties listed in the submission, including a block of 38 units?

**Dr CHANT:** Yes.

**The Hon. NIALL BLAIR:** We have known that since whenever we did this assessment—'93.

**Dr CHANT:** Ninety-three.

**The Hon. NIALL BLAIR:** We will begin within the next week or so and we will be finished by Christmas, and then we are going to work out what we do from there. That is the drum of it?

**Mr DUNPHY:** HACA is actually expediting the process so that we can provide advice to government so that we can make timely and very quick responses. And we will, obviously, as soon as we get—when we engage these houses, the assessment is over a seven-day period and we will get results fairly quickly from them. We obviously want to act on each house on a case-by-case basis as that information comes back to us.

**Mr JOHN BARILARO:** But that block of units that Mr Blair identified has so many common areas. It was built at a time when we did not worry about fireproofing or partitioning off units and apartment after apartment. I come from the building industry. The reality is there is nothing practically that we can do to stop the movement of those fibres in that particular block of flats that could actually achieve anything more than a bar, limiting maybe the quantity of fibres in the air but probably still at a level that is a high risk.

**Dr CHANT:** Clearly, the study aims to document that and we will act urgently in terms of any risk.

**Mr JOHN BARILARO:** Is there going to be interim reporting when you will actually come back to government and say, "Hey, we've got some urgent issues"?

**Dr CHANT:** We have a duty of care to the residents when we find a risk to actually immediately mitigate that risk and act.

**Mr JOHN BARILARO:** We do not have to wait until the end of the process.

**Professor SMITH:** No, no. If we are finding them as we go, then that will be a trigger for consideration.

**The Hon. NIALL BLAIR:** But that is different to, "We'll have the report done by Christmas and then we'll decide what we are doing."

**Dr CHANT:** No, no.

**The Hon. NIALL BLAIR:** Please take the opportunity to clarify. If we identify an immediate risk—

**Mr DUNPHY:** We will act on it, yes.

**The Hon. NIALL BLAIR:** —there is a mechanism and a process in place to take remedial action, whatever that may be, in all of those options, immediately.

**Dr CHANT:** That is correct, yes.

**Mr DUNPHY:** Yes. That is part of the protocol.

**Ms JAN BARHAM:** And what is that? One, move out?

**Dr CHANT:** Depending on the level of risk.

**Mr DUNPHY:** I cannot speculate.

**Professor SMITH:** It will depend on the level of risk.

**Dr CHANT:** But, clearly, please be assured that our primary goal here is to protect the public from being exposed, and we will be providing actionable advice, action, and a range of actions to deal with that.

**Mr JOHN BARILARO:** But at this stage the Government has not got a response in relation to, say, any financial assistance or anything like that.

**Dr CHANT:** No. I cannot pre-empt government assistance.

**Mr JOHN BARILARO:** All you can do is give advice to the home owner at a risk level, advising that, "This is what we would do, if you want to pay for it."

**Mr DUNPHY:** That is right, yes. There is nothing in the legislation or nothing—

**Dr CHANT:** But obviously there are other supports that, as a whole of government, depending on the family circumstance and other things that we can draw upon, given the circumstance of particular families.

**Mr JOHN BARILARO:** What about counselling services and all that sort of thing?

**Dr CHANT:** Certainly counselling services and support, and a whole range of other things that we would normally put in place in other—

**Ms JAN BARHAM:** Disaster situations.

**Dr CHANT:** —emergency situations.

**Professor SMITH:** It is an emergency situations response.

**Dr CHANT:** But at this point that is why we are pushing very fast, but I really would not want to—I mean, I acknowledge the points you have raised, but there has been continual advice presented through from the local public health unit and the Queanbeyan council. I think their submission does show that they have been active in providing advice for the strata, and others, to take action on. I do understand that there has been a level of awareness, so I would not want to predict or go ahead of us establishing any issues with those properties.

**Mr DARYL MAGUIRE:** Mr Dunphy, when was your coordination authority formed?

**Mr DUNPHY:** In 2011.

**Mr DARYL MAGUIRE:** Who issued the order to form it? Who set the parameters that you operate in?

**Mr DUNPHY:** The Heads of Asbestos Coordination Authority was formed in response to the Ombudsman's report, which was a report into asbestos coordination across government agencies. It identified a number of areas where we could improve in terms of coordination, not only at State Government level but in

terms of local government. The Government response to that was the establishment of the Heads of Asbestos Coordination Authority, which will oversight the development of a statewide plan and implementation of it.

**Mr DARYL MAGUIRE:** Are the conditions that you operate in adequate, or do you need additional support from government at the moment?

**Mr DUNPHY:** You should never ask a bureaucrat whether they need more resources because they will always say yes.

**CHAIR:** Or greater powers?

**Mr DARYL MAGUIRE:** I mean parameters to work within.

**Mr DUNPHY:** Yes, certainly the parameters. When we looked at the whole issue of setting up the HACA there was talk about, "Did you need a separate asbestos Act?" I think the problem is that asbestos covers so many areas. Mr Fluffy is one issue that we are dealing with in the whole life cycle of asbestos, whether it is emergency response or imports. We felt that this was the best mechanism in terms of resourcing that and in terms of ensuring we had a coordinated method, but that each agency was still accountable for the areas for which they are responsible and they have the expertise in those areas. With these issues there is always something you do not always encounter. We certainly get additional funding at certain times: for instance, when we had the bushfires and we identified there were issues there that needed to be responded to quickly. With this, we are identifying again whether there are additional resources and we will be talking to government about that.

**Mr DARYL MAGUIRE:** Recently we heard from the chief executive officer of the Asbestos Safety and Eradication Agency of the Australian Government. He suggested that there was very little information available from the operation of Mr Fluffy, meaning records, and Mr Jansen. You are suggesting that you have been able to locate, it seems successfully, through an audit by PricewaterhouseCoopers a reasonable amount of information. Does that include monitoring of newspapers and advertisements on the day when they were operating in regional areas?

**Mr DUNPHY:** Yes. Firstly, we have gathered all of the information from government agencies and local government that may have any records relating to the activities of Mr Jansen or any properties that may have been assessed or had loose-fill insulation. That information was gathered. That includes some interviews that we had done at the time with Mr Jansen, so we have got some information about that. We do not have any of his financials, and that is what we are keen to get. We do not have any of his operational logistics, which is also really useful in terms of trying to work out what it is capable of doing. We have sourced that by interviewing some of his former workers, but we are also seeking that information from the Australian Capital Territory Government. We are yet to get that, but it is something we have asked them for. They obviously also have told us that there are not very many records around the operation of Mr Jansen, but they are happy and they are cooperating with us in terms of providing that information.

**Mr DARYL MAGUIRE:** In evidence given earlier, we had discussions about the suggestion of mandatory reporting by tradespeople, et cetera, if they discover asbestos-affected properties. Do you think that is a tool that may assist to identify and to deal with the issue?

**Mr DUNPHY:** Yes. It is certainly an option and it is certainly something that could help in terms of gaining an awareness of the issue. WorkCover does licence all the licensed asbestos removalists and they do need to know the basis of every job. We are using that database, and PricewaterhouseCoopers is also interrogating that database of every job that we have done, or every job that the licensed removalist has done, to try to identify properties. That is an option. The only question I would say in that is that where we do have mandatory reporting requirements, compliance is often low, but certainly it is an opportunity to get further information.

**Mr DARYL MAGUIRE:** Do you think it is possible to assess a property and perhaps rate that property on its construction method and the accessories it has fitted—such as air-conditioning, speakers, et cetera, but particularly the method of construction; these properties can be from the 1920s to the eighties, et cetera—by implementing a rateable scheme of danger, meaning: one, evacuate the house and demolish and four, habitable but with restrictions or management criteria?

**Mr DUNPHY:** The protocol, of which we will give you a copy, does actually try to do that in terms of trying to assess the potential for exposure. It actually identifies the construction and types of materials, the construction of the property and the condition of the property, and from that an assessment of the potential can be made.

**Mr DARYL MAGUIRE:** The Australian Capital Territory Government has taken a different approach.

**Mr DUNPHY:** Yes.

**Mr DARYL MAGUIRE:** They do not have that protocol.

**Mr DUNPHY:** No.

**Mr DARYL MAGUIRE:** It is basically purchase and demolish.

**Mr DUNPHY:** Yes. In terms of the Australian Capital Territory Government—and I cannot really comment on its scheme, only to say what I know about it—from what I understand, when it did the assessments they offered home owners that they would refund the money, if an asbestos assessor went out. What happened was many assessors went to all the properties and gave them advice but it was very different advice from various assessors. They got a collection of information but they do not have a coordinated database of consistent methodology and advice about the condition and the state of each of the properties.

**Mr JOHN BARILARO:** In relation to the health advice that we have relied upon for over two decades and we are now reviewing, how does that differ from the health advice that the Australian Capital Territory Government has looked at and possibly the Federal task force?

**Mr DUNPHY:** I do not think it is that inconsistent. If you look at their report, they actually say that the risks are low but they are taking a precautionary approach. They do say in their report that they have not yet done a health report.

**Mr JOHN BARILARO:** They have not done one?

**Mr DUNPHY:** They have not; that will be done by the Australian Capital Territory Health Commissioner and we do not know when that will be done but they will be doing that. They have not quantified the level of risk and they have made that clear in the report. They have very much done it on a precautionary basis.

**Ms JAN BARHAM:** Is it not a responsibility of government to take a precautionary approach, particularly when you have another jurisdiction having taken such a strong position? Are we not duty-bound to at least conform to that precautionary approach?

**Professor SMITH:** I think before you actually make a decision on whether you need a precautionary approach—a precautionary approach is usually taken where you do not know what the level of risk is and you are unsure whether it is a high risk or a low risk. If you actually can do a proper health risk assessment and come up with a quantitative estimate of what the likely risk is, then you can actually make a more informed decision that you do not need to take a precautionary approach on. You have to be clear about when a precautionary approach should be taken and that is when you do not know what the risks are. What we are trying to do at the moment is to ascertain whether we can get a handle on the level of health risk actually posed by these Mr Fluffy affected houses.

**Mr DUNPHY:** I think the other point is that if we are spending large amounts of government money we have to be able to justify the rationale for doing that, which is why we are gathering the evidence at present. We know that the original remediation program which occurred in the 1990s, the removal from the ceilings—that was a precautionary approach too—but as we know \$100 million was spent and it did not achieve the desired outcome. We as public servants have to make sure that if we are recommending advice obviously the first thing is about the safety of the people who are in the buildings but, secondly, we also need to be able to quantify and justify to government what would be the benefit of doing that.

**Ms JAN BARHAM:** Sure, but we have another government that has taken action and that then raises the issue: why is what they are doing in the same situation not a good decision? It is a rhetorical question and I do not need you to try to answer that but it is a point of concern. I take you to page 14 of your submission and I am curious about the wording where in the last three paragraphs you say that you are seeking advice on the methods for appropriately notifying future purchasers of homes identified as containing loose-fill insulation. It is a known action to use section 149 certificates for that purpose. Are there any constraints to having the identification of these loose-fill properties identified this way even as an interim?

**Mr DUNPHY:** The only constraint is you have got to amend the schedule in the legislation and we were seeking advice on whether it was possible to do that. Planning and Environment is the department that looks after the planning legislation and they have been obtaining that advice for us. We now obviously need to go through the process of recommending that and getting that done but it seems like a very sensible approach.

**Ms JAN BARHAM:** Do the regulations not contain significant guidance in relation to a contaminant?

**Mr DUNPHY:** No.

**Ms JAN BARHAM:** Would it not fall under the heading of consideration as a contaminant?

**Mr DUNPHY:** I think to avoid doubt you would want to have it in the schedule specifically because you could also say the same about fibro asbestos; you would need to notify fibro in a 149 as well because that is also asbestos-containing material. To avoid doubt the schedule needs to be updated to actually say loose-fill asbestos insulation would be something that would be registered on every 149 certificate.

**Ms JAN BARHAM:** But then you are referring to the fact that we need an amendment to the legislation rather than taking an action that is only required by regulation so that we do not have to wait for another six months, if you determined that that is the best outcome. In six months a lot could happen with this research.

**Mr DUNPHY:** I do not think there is anything to stop councils putting it on the 149 certificate at present.

**Ms LOVESEY:** Yes, councils could include a notation on the 149 certificates and I think some of the affected councils are looking to do that and they may have already got so far as to do that but what some councils have said to us is that they would like some guidance as to what wording could go on the 149 certificates and we see that as useful because then we would have some consistency across different councils. If some suggested wording were provided by the Department of Planning and Environment through the HACA working group to councils then councils could adopt that standard wording and it minimises confusion for residents if it is similar wording across different council areas.

**Ms JAN BARHAM:** So the previous advice?

**Ms LOVESEY:** On what Mr Dunphy was referring to?

**Ms JAN BARHAM:** Yes?

**Ms LOVESEY:** It was about mandating that, so getting advice from the Department of Planning and Environment to make that mandatory for councils to do that.

**The Hon. STEVE WHAN:** Have you received that advice already?

**Mr DUNPHY:** No, I have not received that advice.

**The Hon. STEVE WHAN:** Are you able to provide it to the Committee when you do if it is within our time frame for the report?

**Mr DUNPHY:** I would need to take that on notice and advise you on that. It is not my advice.

**Ms JAN BARHAM:** No, but we would certainly like to know as soon as possible that people would be notified if they could be.

**Mr DUNPHY:** Yes.

**Ms JAN BARHAM:** I am wondering about the other areas of asbestos. First, do you have documentation that you have produced to inform people about this risk? We have heard from the Australian Capital Territory about their processes and I was a little bit alarmed to hear that a property is deemed to be a significant risk and people might be required to remove themselves from the premises but then it is at their discretion. How people make that decision is usually based on what information they are given. Do you have an information package for property owners?

**Mr DUNPHY:** We do.

**Ms JAN BARHAM:** Is that available?

**Mr DUNPHY:** Yes, it is, and I am happy to provide that to you. Even in the Australian Capital Territory I think there are about 40 to 60 properties where people have left the properties but that is out of 1,050 properties so for the majority of people it is still deemed sufficiently safe for them to be living in those properties; they are still occupying them. They are providing advice to people who are living in them at present and we are certainly still doing the same. In June we published some information through the HACA website for loose-fill installation. We have developed a flyer as part of the local government model policy. We also include information on loose-fill insulation for local councils to know what to do about it. We have actually met with all of the 26 local government councils and briefed them on the issue and also sought further information from them in terms of their records. As part of our "renovation roulette" campaign we have Betty the asbestos house, which is an interactive house.

**Ms JAN BARHAM:** Is it that one?

**Mr DUNPHY:** Yes, that is the renovation roulette campaign. This is a house which shows you where asbestos can be identified on the property. We have flyers to do with loose-fill insulation.

**Ms JAN BARHAM:** Sorry to interrupt you but I was more interested in some sort of information for people who may be at risk and their choices?

**Dr CHANT:** I think there was a face-to-face meeting with Queanbeyan residents attended by Professor Smith and Mr Dunphy.

**Mr DUNPHY:** And Amy Lovesey.

**Dr CHANT:** That was actually a very good way of communicating in a more direct way to affected residents, so I believe a range of issues were discussed at that meeting.

**Ms JAN BARHAM:** I am interested to see whether there is something in writing so people actually have information. I spent 13 years in local government so I know how often in a verbal situation people misunderstand.

**Mr DUNPHY:** I can provide you with the facts sheets, the flyers and the frequently asked questions.

**Ms JAN BARHAM:** I just ask, on notice—you referred to the resources available to deal with anyone being relocated, Dr Chant. Could you make available what resources you are drawing on?

**Dr CHANT:** I suppose it is just the fact that we work sometimes in a whole-of-government framework in disaster and emergency situations where there are ways in which we can, across Government, depending on a range of financial and complex issues that the family may be dealing with in relocation, support them.

**Ms JAN BARHAM:** But you are already pretty stretched, which is why I am interested in hearing you saying this.

**Dr CHANT:** I am not trying to overplay that but I am just saying that clearly, if we find a risk we have a duty to work within a whole-of-government framework to support families that do not have the capacity to do it themselves—within limits. You are right, it is a challenge.

**Ms JAN BARHAM:** If there is anything else you can provide on that, it would be appreciated.

**Dr CHANT:** Yes, okay. Thank you very much.

**CHAIR:** I have a few questions. Dr Chant, in your earlier remarks, you made some observation about the Australian Capital Territory solution that has come through in June and July. Would you repeat that? How would you describe their approach? Did you describe it as "radical"?

**Dr CHANT:** No, I certainly would not have described it as "radical" and I am sorry if anyone has misheard any comment in relation to that.

**CHAIR:** How would you describe it then?

**Dr CHANT:** I think that the Australian Capital Territory has looked at the issue and taken action that meets the needs of their local context so, from a New South Wales perspective, I want to share the information and learnings from the Australian Capital Territory. But I think the point I was trying to make was that the history of the approach in the Australian Capital Territory has differed from that of New South Wales. So it is important to understand that, as I understand, the Australian Capital Territory did take a remediation path and did issue advice commensurate with saying, "In many houses we have remediated." And then I suppose New South Wales has not taken that particular approach and therefore, in looking at where we are now, it is important to know that there have been historical differences in the approach. That might explain some of the perceived inconsistencies in the comments made but I certainly would not have said that.

**CHAIR:** Mr Dunphy, you implied in some of your answers that you were restricted by a lack of legislation. Is there a need for legislation and, if so, what legislation?

**Mr DUNPHY:** I guess what I was saying is that we can only operate within the legislation we have at the moment. At the moment there is no particular legislative basis on which we can prohibit Mr Fluffy in houses. That legislation is the national exposure or the national prohibition on asbestos so at the moment the prohibition on asbestos only applies to new materials coming in; it does not include asbestos in buildings. If there is a particular concern about a particular type—and I think the Commonwealth has raised that concern about loose-fill insulation—there probably is some value in reviewing the national prohibition to see whether it does warrant reviewing it from the perspective of loose-fill insulation. That would be one area that would certainly be worth looking at.

**CHAIR:** I was not sure whether you were also suggesting that you do not have any powers in regard to what the Australian Capital Territory is, in fact, doing as your coordination body and whether, if you want to order demolitions, you cannot do that.

**Mr DUNPHY:** The difference is, I suppose it is not so much our powers but it is the actual way the properties are arranged. In the Australian Capital Territory, all the properties that we are talking about, every property in the Australian Capital Territory is Commonwealth land, so it is a freehold, a 99-year lease. The Australian Capital Territory actually owns those properties in the long run, so the land will come back to it after the 99 years. In New South Wales we are dealing with freehold properties and people have more property rights—which we would not want to trample on. So we need to make sure we work within those different confines.

**CHAIR:** You would need further legislation or stronger powers if you wanted to deal with it?

**Mr DUNPHY:** Yes, we would need to look at something different I think.

**CHAIR:** For our Committee, if we felt led in that direction, we would have to recommend some legislation.

**Mr DUNPHY:** Potentially, I guess.

**CHAIR:** There was a suggestion that I made when we were talking to the Australian Capital Territory task force as to whether there would be any advantage of that task force having its powers extended to include

New South Wales, to become a combined task force, rather than New South Wales setting up another task force. Do you see any merit in that?

**Mr DUNPHY:** To do that is very appealing to me but the problem we have is that each jurisdiction has responsibility for asbestos in their jurisdiction and while we work very closely with the Australian Capital Territory task force and we are in contact on a regular basis and sharing information, asbestos is a State issue and a jurisdictional issue and it would be something we would still need to manage within our own jurisdiction.

**CHAIR:** I notice, in one of the charts you have provided, you have listed the roles and responsibilities of government agencies and local councils. Under the heading of "Management of Buildings and Vehicles", in "domestic premises", the responsibility is local government. Do you think that is adequate that it is left to local government? Should it not be State government?

**Mr DUNPHY:** I guess, in terms of issues around resident safety, so things like infills, it is not dissimilar that asbestos in a property is something that local government has a responsibility for. Obviously, when there is demolition being carried out or you have contractors on site, then it is WorkCover. So a domestic premises can become a workplace and can be the responsibility of WorkCover. Certainly, providing advice to communities about all sorts of risks, whether it is lead in lead-based paint in the home, swimming pool safety or electrical safety, all those things are within the purview of the local government. What we have tried to do as part of HACA is to ensure that we are clear about those obligations and we have developed that model asbestos policy to really clarify what the role of local government is and then what the role of State government is and we try to work cooperatively together on that.

**CHAIR:** A final question: We are obviously concerned about Queanbeyan but I notice in the chart you have provided that as at 27 October 2014 the highest number of requests for ceiling insulation testing is 96 requests coming from Wagga Wagga. Did that surprise you?

**Mr DUNPHY:** It did a little bit and we are getting results back from Wagga Wagga but in any of the colder areas, there was the use of loose-fill insulation but not necessarily asbestos insulation. So one of the things we need to be mindful of is that in that era people used rockwool, fibreglass, all sorts of ceramic wool and cellulose. All those materials can look like loose-fill asbestos insulation. A lot of the companies that operated used "fluffy" in the name, because it was a fluffy material. So people often think: "My goodness, I have got Mr Fluffy insulation in my property because I have loose-fill insulation in the ceiling" or "I have had a contractor who I seem to recall had 'fluff' in the name". They think it is loose-fill insulation. It is too early to speculate on those and we will soon find out whether there is an issue there or not.

**CHAIR:** Thank you for your attendance today, we appreciate having the whole team here. You have been a great help.

**Mr DUNPHY:** Thank you to the Committee.

**Dr CHANT:** Thank you.

**(The witnesses withdrew)**



**SUSY CENEDESE**, Strategy Manager, Local Government NSW, sworn and examined, and

**AMY LOVESEY**, Project Manager Asbestos Policy, Local Government NSW, on former affirmation:

**CHAIR:** Do you wish to make a brief opening statement?

**Ms CENEDESE:** Yes. We are here representing Local Government NSW, which is the peak body for local councils in New South Wales. We represent all 152 general purpose councils, the special purpose county councils as well as the Aboriginal Land Council. Councils are empathetic to the needs of those who live and work in their local government areas and we therefore have a really strong interest in ensuring that there are viable solutions to managing loose-fill asbestos insulation in homes. It is imperative that all spheres of government work together to prevent the issue being perpetuated for decades to come. Local Government NSW, as you have heard, is working with the Heads of Asbestos Coordination Authorities and we recommend and commend this group for the work it has done to date to address the issue. So the issue can be properly resolved, Local Government NSW calls on the New South Wales Government to continue to devote adequate funding and commitment. Obviously, today Amy Lovesey is our Project Manager Asbestos Policy and she will be happy to answer many of your questions given that she has the lead on this issue for us.

**The Hon. MICK VEITCH:** Page 10 of your submission talks about labelling, which is similar to tagging of residences. You actually go a bit further than just putting a label or tag on the meter box; you are suggesting that access points to cavities—underneath the house or into the roof—also should be labelled or tagged. Why do you think that should be done and how will that happen?

**Ms LOVESEY:** The councils we have spoken to really support notifying tradespeople because they obviously do not want the tradespeople who live and work in their local government area being exposed to loose-fill asbestos material. So they see providing a label as an effective means to do that. In workplaces the legislation requires that the workers need to be notified of where the asbestos material is, but if it is a home it is a slightly different scenario. Having a label would be an effective way to notify tradespeople. As you have heard, people have been talking about a label in the electrical meter box, which makes sense from our view because that is where tradespeople can check that. We made a note in the submission that if people are concerned about their privacy, they can have a lock and have it as a locked meter box in case they do not want other people to know that they have loose-fill asbestos insulation. I would imagine that for some home owners it would be less palatable to have signs inside their home, the access points or in their living areas, but I think having them in the electrical meter box would be a good solution.

In our discussions with councils it just seems like that is quite an easy action for the home owner to do, particularly if the New South Wales Government provides that label, which would make sense because then you could have a standardised label that is easily recognisable and would be particularly of assistance to regional areas where they might not have a major hardware store nearby. That is something we have been discussing with the Heads of Asbestos Coordination Authorities working group as to how that could come about, whether that could be mandated, because some councils have mentioned to us that if you rely on the goodwill of the home owner to do that they may not necessarily do that.

**The Hon. MICK VEITCH:** On access points as well, such as manholes and cavities underneath houses?

**Ms LOVESEY:** Possibly, yes, but I think the electrical meter box is probably the main point.

**The Hon. MICK VEITCH:** Local government has responsibility for waste facilities. What are your views about the safe transportation and then disposal of contaminated waste from houses in asbestos removal? What issues would local government face?

**Ms CENEDESE:** I guess a difficult issue, obviously, is the disposal of asbestos waste. At the moment the costs of disposal for asbestos are quite high compared to other waste, which can be a deterrent for actually managing the material properly. In addition, I guess transport. It needs to be wrapped—Amy probably could cover this as well—and sealed. Removal of the material from homes also is an issue to make sure that it is done in a safe and appropriate manner.

**Ms LOVESEY:** One of the things with friable asbestos, which loose-fill asbestos is, is that there are requirements that it must be a licensed friable class A removalist who has to undertake that work. That is regulated by WorkCover. That works well, but then the problem comes about when people do not do what they should and engage the qualified, competent class-A removalist to remove it, if they decide to remove it themselves, and then illegally dump it. We do not have examples of that happening, but it is a potential concern that councils have raised with us. They think, "What if someone suspects they might have a Mr Fluffy home and want to remove the material themselves and dump it in bushland?" Councils so often have to respond to this problem of illegally dumped bonded asbestos material. It costs councils a lot of money. A lot of their resources go into responding to illegal dumping. There is this concern of what happens if that also happens with the loose-fill material.

**The Hon. MICK VEITCH:** Are you aware of any instances of illegal dumping?

**Ms LOVESEY:** Not that we know of. We had discussion just this week with Parramatta City Council when we went to brief them about the issue. They said potentially they might have come across some friable asbestos material buried somewhere within their local government area. We do not know if it was necessarily Mr Fluffy or it might have come off pipe lagging or be some other kind of decayed asbestos material. But it is something that we are thinking of, seeing there is so much dumping of bonded asbestos material, the non-friable asbestos material. It is obviously a public health concern and very costly for councils to respond to. We not only want to stop the illegal dumping of non-friable material but also Mr Fluffy insulation if that does become a wide problem for New South Wales.

**The Hon. MICK VEITCH:** Can legislative or regulative arrangements be made to assist councils with the transportation and disposal of loose-fill asbestos?

**Ms CENEDESE:** Local Government NSW has been calling for a waiver of the section 88 waste levy on asbestos disposal. Obviously, there are challenges with that because it needs to be thought through in its implementation to not provide a perverse outcome of incentives for people to dispose their other waste with asbestos. Certainly, we see that the high price at the moment of asbestos disposal is a bit of a deterrent for people necessarily to do the right thing.

**The Hon. MICK VEITCH:** This morning we heard conflicting testimony on how disposal is being dealt with in the Australian Capital Territory and New South Wales. Are your constituent councils from around the Australian Capital Territory raising concerns or issues about the differing ways this material is being dealt with cross-jurisdictionally?

**Ms LOVESEY:** Queanbeyan City Council for quite some time has been lobbying on behalf of their residents to have a solution to this problem. We do commend the work that the council has been doing, particularly the hardworking staff there. I think something that community members are asking is why there is one approach in the Australian Capital Territory and what is the approach for the New South Wales Government. But we are hopeful that through the Heads of Asbestos Coordination Authorities working with the New South Wales Government we can advise councils and communities of a solution in the very near future. Those councils that are very close to Canberra—some people work in Canberra or have lived in Canberra—they read the *Canberra Times* and they are following the issue very closely. Then we have other councils that are potentially affected that have staff who live further away from Canberra who have much less awareness of this issue because they do not have a connection with Canberra. We are also working with those councils to raise their awareness of the issue.

**The Hon. STEVE WHAN:** The Federal Government is funding removal only in the Australian Capital Territory at the moment under this new program on the basis that they had the municipal responsibility for the Territory during the time that this was installed. That implies they are essentially saying the responsibility lies with the level of government that had municipal responsibility. What advice has the association had to respond to that, apart from the fact that we all know that our councils cannot afford it?

**Ms LOVESEY:** Our board has not come to a position on what we think should be happening in respect of the dollars going between Commonwealth and State governments. I suppose we are continuing to work with the Heads of Asbestos Coordination Authorities and the HACA working group to find some long-term solutions for this problem. We are pushing for a long-term solution. I guess those negotiations are up to the State and Federal governments.

**The Hon. STEVE WHAN:** In respect of having legislative power over local government, the State Government has a direct role, but local government, presumably, would want to engage in that along the way?

**Ms LOVESEY:** As I said, Queanbeyan City Council has been lobbying. I know staff have written to the Prime Minister in the past. The mayor and staff have been writing a lot of letters and following what has happened in Canberra with the Commonwealth Government and the Australian Capital Territory Asbestos Response Taskforce. We are following what is happening there. In respect of Local Government NSW coming up with a position, it would be for our board to determine the position.

**The Hon. STEVE WHAN:** Where are the waste disposal tips that have the right classification? Do our local governments in the south-east have access to tips or is that something that has to be developed?

**Ms LOVESEY:** It varies from local government area to local government area. Some councils own and manage a waste facility and some of those waste facilities are licensed to accept asbestos waste and therefore they are set up to accept the asbestos waste and others are not. In some areas, they might use a privately run waste facility as well, so it is different. There is a search facility on the Asbestos Safety and Eradication Agency website where anyone can put in their location and it comes up with all the nearest waste facilities. It also says if they accept asbestos waste and if there are any requirements, as each waste facility has its own requirements.

**The Hon. MICK VEITCH:** I am from Young. I know that residents of Young, Harden, Boorowa and Tumut take their waste to Jugiong, which has a regional waste facility. I am not aware of how they would handle waste of this nature. The Australian Capital Territory is about to deposit large amounts of contaminated material. Is there an opportunity that the councils could access the Australian Capital Territory's disposal arrangements?

**Ms CENEDESE:** That could be a possibility. That would need to be discussed, obviously, with the Australian Capital Territory. It is a matter really for the Environment Protection Authority to comment on. I understand that it would depend on distance because the recently commenced waste regulations include a proximity principle, so if the waste is transported by road, the nearest landfill must be used if it is going further than 150 kilometres. That may be a limiting factor as to whether it can happen. Then it would come down to the capacity of the landfill that they are using, whether there is sufficient capacity.

**The Hon. MICK VEITCH:** The reason I ask is that some of the small councils such as Tumbarumba, Boorowa and Gundagai, if they are involved, would not have the capacity or the means to deposit waste such as this because of the cost.

**Ms CENEDESE:** Yes, that is an issue that needs to be considered.

**The Hon. NIALL BLAIR:** I will follow on from that. We heard from witnesses from the Australian Capital Territory this morning about the large amount of waste they will have. Are you aware if there have been any discussions with your member councils about some of your members taking that waste from the Australian Capital Territory?

**Ms LOVESEY:** No, and there are certain requirements about interstate transport of waste as well and tracking requirements.

**The Hon. NIALL BLAIR:** It is your understanding that all of the Australian Capital Territory waste will stay in the Australian Capital Territory?

**Ms CENEDESE:** I do not think we have information either way. We have not been approached, to my knowledge.

**Ms LOVESEY:** I do not have any information about that.

**The Hon. NIALL BLAIR:** Representing the organisations that you do, if the waste was coming across into New South Wales, would your councils expect assistance from the Federal Government before they accepted it?

**Ms LOVESEY:** It would be up to each waste facility to decide if they are going to accept that waste or not. We would have to consult them about that.

**Mr JOHN BARILARO:** Councils own a lot of property. Are they going through an audit of their own properties to determine if they have loose-fill asbestos?

**Ms LOVESEY:** Councils are required to have a register of properties built prior to 2004 that have asbestos. Councils have those registers and keep them up to date if they are council-owned properties. To date, the councils we have met with have no records of having loose-fill asbestos insulation in their council-owned properties.

**Mr JOHN BARILARO:** We spoke to the previous group about protecting home owners, disclosure of information, particularly tradespeople, and we were talking about section 149 certificates. You have indicated a process has commenced. Can you elaborate on that?

**Ms LOVESEY:** Councils can put a notation on their section 149 certificates. They can choose the wording about this issue. A couple of councils are looking into that at the moment. They could have a generic statement that says "Homes built prior to 1980 in this local government area may contain loose-filled asbestos", especially if they know that there are properties in their local government area.

**Mr JOHN BARILARO:** Are you saying that will go on all 149 certificates or would it go to the homes that have been identified already through—

**Ms LOVESEY:** It is up to the council whether they put it on all buildings built prior to 1980 or the identified homes. We have had some discussions that maybe it loses its value if it was put on all homes, because then it is just a blanket statement. Maybe it is better to put it on those homes that have been identified positively. These are issues we are discussing at the moment and we are also getting advice from the Department of Planning and Environment.

**Mr JOHN BARILARO:** No councils have done that at this stage?

**Ms LOVESEY:** I cannot say. I would need to check with the councils. I know some are thinking it through.

**Mr JOHN BARILARO:** Do they have the ability to go further than that? Instead of saying all homes that were built prior to 1950, whatever the date may be, may have loose-fill asbestos, could it be more direct such as, "This home has loose-fill asbestos"? Do they have the power to do that?

**Ms LOVESEY:** I think they could. They could also encourage the person who is looking potentially to buy the property to enquire at council for a report about that property. Then the report about the property could give the history. In some cases the material has been removed, so it could note that. If a clearance certificate was provided to say that the bulk of the material had been removed, that also would be attached to the property file. These are the sorts of things to work through.

**The Hon. MICK VEITCH:** Earlier in response to Mr Barilaro you said that you were not sure which councils were looking at it. Can you take that question on notice and let us know how many?

**Ms LOVESEY:** Yes.

**Mr JOHN BARILARO:** I am not sure if it is your area, but in relation to building certification, building assessors, building inspectors, some councils do that work in-house?

**Ms LOVESEY:** Yes.

**Mr JOHN BARILARO:** Some of course contract the work out. Is there more information going to those building assessors in relation to identifying loose-fill asbestos and does that have to appear in a building report?

**Ms LOVESEY:** Yes, in respect of building awareness amongst those council staff who are health and building inspectors, we have met with the 26 councils that are potentially affected. The purpose of that was to provide information to the council workers in case, whilst undertaking their duties, they came into contact—

**Mr JOHN BARILARO:** Have they been trained to identify it?

**Ms LOVESEY:** Loose-fill asbestos cannot be identified simply by looking at it. We took samples to them and talked to them about it so that they can be mindful of it and try to avoid exposure to it. Some of the health and building inspectors at Palerang Council worked at Queanbeyan City Council when they were doing the sampling program and they worked on it. Some of them have a good level of awareness from their previous work history. We have also been advising councils to ensure their rangers know about it in case there is illegal dumping. Waste facility staff and customer service are also involved. They are potentially taking calls from the community with concerns about loose-fill asbestos. We have had a couple of unfortunate incidents where people have brought in bags of insulation material to the council and said to the customer service staff, "This might be asbestos. Can you have it tested?"

**Mr JOHN BARILARO:** I have heard that.

**Ms LOVESEY:** We have been clear in our messages to councils that they should ensure that communities know that that is not what should be done. They should ring the 13 10 50 WorkCover number and register. Getting those messages across has been an important part of the task.

**Mr JOHN BARILARO:** I know what the task force is doing, but are councils actively going through their own records in an attempt to find homes that may have been affected?

**Ms LOVESEY:** As Peter Dunphy said in the last session, WorkCover issued a notice asking councils to look through all their records. As far as I am aware, they did not come up with anything. There are no records. As I said, that is the difficulty with the whole Mr Fluffy situation—not having any business records. Another council is looking at advertisements in old newspapers because they can be useful. Some of that information was advertised in the Wagga Wagga and Albury papers. Finding evidence of that would be very useful. The difficulty with some of the work people do on their homes is that it does not always require council approval, so there is no need for council to have information about it.

**Mr JOHN BARILARO:** I know you attended the meeting with homeowners identified as having loose-fill asbestos in their homes. I was at that meeting. I understand it was held behind closed doors to ensure the privacy of those residents. Did all the residents who were notified turn up?

**Ms LOVESEY:** Queanbeyan City Council wrote to all the affected residents on the confidential register inviting them to that meeting. I felt it was quite a good turnout, and estimate that 40 to 50 people came along.

**Mr JOHN BARILARO:** Some were representing a larger group of residents.

**Ms LOVESEY:** It included some real estate agents and perhaps some strata managers from that unit block. They all had the opportunity to attend. That was useful in hearing from the owners and occupiers about what they wanted. They really want those property assessments and they want to know when they will start and what ongoing assessment will be provided. I think they just want certainty.

**The Hon. NIALL BLAIR:** On page 10 of your submission you state:

It would be useful if the NSW Government maintained a confidential online database of homes affected by loose-fill asbestos.

You also state that that information should be circulated to emergency services. We heard earlier that that occurs through Fire and Rescue NSW. As a member of the Heads of Asbestos Coordination Authorities, was that not communicated to your organisation? Is there a problem within HACA about what is happening where?

**Ms LOVESEY:** No, there is no problem; it is under way. The point I am trying to make is that it should not be up to each individual council.

**The Hon. NIALL BLAIR:** I want to be clear. You said that it is under way. Do mean that it has not already happened? Is that your understanding? I agree 100 per cent with your submission—emergency services should know where this stuff is.

**Ms LOVESEY:** There are the homes that we already know are affected. I also want to ensure that as we become aware of new properties they are included on a central database. That is happening. Each time one was identified it would be added to that database and that would be communicated to all the emergency services that need to know about it rather than each individual council having to navigate.

**The Hon. NIALL BLAIR:** That is good. I am not trying to put pressure on you. I simply want to clarify that is the case and what is happening so that the end user is not put at risk.

**Ms LOVESEY:** Yes.

**Mr DARYL MAGUIRE:** I am concerned that in the discussions with councils there was a suggestion that a blanket message would be given to property owners about the risks with properties pre-1980 or whatever being contaminated with Mr Fluffy asbestos. That could be very detrimental to local property prices and may cause some financial distress and perhaps affect transactions. How do you intend to deliver the outcomes to councils, and how will you reach agreement about the direction each council will take? Will the State Government be involved in that as well? How will you deal with the councils that have only one affected house or commercial building? How do you intend to engage with Government about a final decision? Will the Real Estate Institute be involved? On what basis will councils make that decision?

**Ms LOVESEY:** In respect of 1980 being used?

**Mr DARYL MAGUIRE:** Or any decision to issue a blanket message saying, "Beware, this property could be contaminated with Mr Fluffy asbestos."

**Ms LOVESEY:** That is a good reason not to put it on every section 149 certificate with a specific date such as 1980. One council has asked how clear we can be about that date. If the PricewaterhouseCooper report comes back with information that Mr Fluffy or another contractor operated in the early 1980s as well, we would need to revise that date. Many things have to be considered. We had to give some guidance about those pre-1980 homes being more at risk. Other dates are used for bonded material as well in the renovation roulette campaign its 1987. It is often used for building material that was phased out in the 1980s. Different dates can be used. The purpose is to give people some guidance. But all that needs to be considered, as does the impact on property values in relation to section 149 certificates. That is probably why we have not rushed to do something. We need to balance doing something quickly and thinking it through as well.

**Mr DARYL MAGUIRE:** Ms Cenedese, in your opening remarks you called on the Government to provide sufficient funding, future funding or more funding. What specifically were you calling for?

**Ms CENEDESE:** The call was for adequate resourcing and a commitment to resolving the issue. Obviously HACA has undertaken a number of projects to date, and they are working very well. This is obviously a big issue. As Peter Dunphy said, loose-fill asbestos is one component of the broader asbestos issue. There is quite a bit of work to be done, particularly if through this process it becomes apparent that homes need to be demolished or replaced in some way. We have talked about the removal of the waste levy for asbestos disposal, which could have significant cost implications. It is those sorts of things.

**Mr DARYL MAGUIRE:** But you do not really know.

**Ms CENEDESE:** I do not have a figure.

**Ms JAN BARHAM:** On the North Coast we have an Environment Protection Authority funded 50 per cent levy reduction for residents. It is a once-only opportunity. Would something like that work—that is, having the State Government financially support the disposal so that it is not a cost for residents? Is the scale of the program known?

**Ms LOVESEY:** With programs like that we are looking forward to getting the data back to see if there has been a noticeable decline in illegal dumping by bringing down the cost of disposing of asbestos material. Another thing in regards to the call for the New South Wales Government to devote adequate funding and

resources to this issue, we do not necessarily want that to detract from other asbestos issues. There are some really important projects on the HACA work program at the moment that we do not want to see slip—naturally occurring asbestos and programs working with Aboriginal communities. We want to make sure that there are adequate resources and that those projects continue at the same time.

**Ms JAN BARHAM:** In your submission you referred to assessment costs of \$300 to \$600 to a home owner for this service. Are you looking to that as being another source of government funding so that people do not avoid it because of the cost?

**Ms LOVESEY:** At the moment there is free testing, so that is paid for if the home owner is in one of those eligible local government areas. The advice to council is if a home owner asks about getting free testing and they are not in an eligible area then they can pay \$300 to \$600 to get a licensed asbestos assessor to take the sample, and those in an eligible local government area who want to protect their confidentiality can pay for the sample themselves.

**Ms JAN BARHAM:** Do you think there should be some way in which they can get reimbursed at a later stage or if some future opportunity opens up?

**Ms LOVESEY:** I think WorkCover has said that if someone took a sample and it came back positive then they would reimburse them for the test result.

**Ms JAN BARHAM:** Are other areas doing the fee reduction trial or is that a North Coast—

**Ms LOVESEY:** Yes, there are a number of areas across New South Wales.

**Ms JAN BARHAM:** Are they all working to the same time frame of finishing up on 1 July next year?

**Ms LOVESEY:** I think so, but it is an EPA program so it is probably best to consult them.

**Ms JAN BARHAM:** Is Local Government NSW concerned about the outbreak of renovators of old fibro homes and the fact that development applications are no longer needed to do a lot of that work, it can be done exempt and complying, and council might not be notified? There have been a few instances where work has been undertaken that possibly should have been done by a certified asbestos worker but with exempt and complying who knows.

**Ms LOVESEY:** Yes, it can be difficult where council is not necessarily aware of the work that has been undertaken. That is why it is also important for councils to raise awareness in their communities and use the resources from Asbestos Awareness Month, which is November, and the Asbestos Awareness website to raise awareness about all of those asbestos issues as well as loose-fill asbestos.

**Ms JAN BARHAM:** Interestingly, in my area the council does not have anything about loose-fill.

**The Hon. STEVE WHAN:** You do not need insulation where you live.

**Ms JAN BARHAM:** Exactly, that is the perception, but for quite the opposite reason. Is there no evidence of Queensland and northern New South Wales having insulation for the exact opposite reason—for heating?

**Ms LOVESEY:** I am not aware of any anecdotal evidence or otherwise.

**Ms JAN BARHAM:** It does seem odd but it is often the case that insulation is one of the major issues for the opposite reason. Do you think there is any current impediment to councils putting that information onto 149 certificates or is it only guidance that is required?

**Ms LOVESEY:** I think it is just guidance that is required. Some councils are concerned about the sort of wording to put on. It is difficult, so just to give some guidance.

**Ms CENEDESE:** I think for the same reasons that were raised earlier, it does have the potential to impact on property prices if it is a broadbrush kind of statement of concern as well as notifying people that there

is a potential risk, but it does elevate concern levels. You have to be careful about how it is applied. That is why we are seeking the advice of the Department of Planning and Environment as to how that might be done.

**Ms JAN BARHAM:** But when one looks at this leaflet entitled, "Are You Playing Renovation Roulette?" not too many house types are not potentially affected. I think a general statement for people to be aware of it would be an important point to be added to 149 certificates. In fact, I raised the question earlier of whether it would be useful to put it on rates notices, particularly in those locations where there is a sense of a risk.

**Ms LOVESEY:** Some of those councils have done a lot of newsletters and letters to all residents in their local government areas.

**CHAIR:** In your submission you raise the subject of insurance and say that the association is investigating that. The Committee has been told that most insurance companies have been clever enough to exempt anything to do with asbestos from their policies. Are you aware of that?

**Ms LOVESEY:** No. I think we have put those down as issues that need to be resolved. They are questions that councils have raised with us in our meetings. I think the HACA working group does plan to meet with the insurance industry to try to talk about some of these issues.

**CHAIR:** We have evidence, and the department has discussed it many times, about the James Hardie asbestos problems in the 1970s. I am wondering why no warning was given to people when this Mr Fluffy stuff was being sprayed into the roofs of their houses. Why did the local government authorities not say to those people, "You need to check this out for safety reasons"?

**Ms LOVESEY:** At that time it was not illegal. So I suppose council just thought he was an operator running a legal business, and he was permitted to do so under the law at that time.

**CHAIR:** But there was no testing as to whether it was safe. It may have been legal but was it safe?

**Ms LOVESEY:** Obviously we know now that it was not safe. I think some people at the time raised their concerns and I think some of the other submissions point to that as well.

**CHAIR:** Was there any council activity about asbestos as a product in view of the James Hardie court cases and so on?

**Ms LOVESEY:** In our council briefings I guess it has been difficult because a lot of the council staff who work there now were not working there at that time. So we have really been focusing on the future rather than sort of thinking about that time. In our council briefings we have been very focused on how we can get that message out to people now. I think, as we point to in our submission, asbestos has been grossly mismanaged in the past and it is an unfortunate legacy that we are left with now. It is worth looking at what happened then so we can learn from the mistakes of the past, but we also just want to get on with it and get some viable long-term solutions for these affected home owners.

**CHAIR:** There are a lot of issues concerning where the Mr Fluffy and other products were used. In the table at the bottom of page 5 of your submission you quote from information provided by the Ministry of Health. You refer to 140 houses at Albury, Tumbarumba and Wagga Wagga and 60 at Berrigan, which is a relatively small place. The table also refers to Queanbeyan, which the Committee has been focusing on, and there may be a serious problem in some other parts in that southern region.

**Ms LOVESEY:** We have heard some anecdotal evidence that maybe a container of the material went to Finley, which is in Berrigan Shire Council. So we conveyed that to the council and I think that is what that estimate of 60 homes is based on. If a container load went there, which was enough to insulate 60 homes, then the council needs to be aware of that. I am hoping with the PWC investigation we might get some numbers that we can work with and maybe some more advice about where Mr Fluffy advertised and where he went. Were there other contractors?

**The Hon. NIALL BLAIR:** Was that a subcontractor in Finley?

**Ms LOVESEY:** I do not know.



**CHAIR:** So it could be somebody who thinks it is a great idea in the town and everybody copies it and says, "We'll have it as well."

**Ms LOVESEY:** Yes. And there was one media report where someone had come forward in Batemans Bay saying that they had bought a bag of the material and spread it in their roof space themselves. So it is possible that apart from Mr Fluffy and his workers pumping it into roof spaces he was also selling bags of it that people were spreading themselves. That is all part of the investigation; they need to look at that, his different operations.

**CHAIR:** They could buy that from the local hardware shop?

**The Hon. STEVE WHAN:** That was bought in Canberra and they took it down themselves to Batemans Bay. That is quite a well-known case now.

**CHAIR:** Thank you very much for appearing before our inquiry. We appreciate all the information you have given us. We hope our report in due course will assist local government.

**(The witnesses withdrew)**

**(Luncheon adjournment)**

**SHAY DEGUARA**, Industrial Officer, Safety, Workers Compensation and Industrial Relations, Unions NSW, and

**MARK MOREY**, Assistant Secretary, Unions NSW, affirmed and examined:

**CHAIR:** Thank you for your attendance today and for sharing in our inquiry. We appreciate your help. Do either of you wish to make an opening statement?

**Mr MOREY:** Thank you, Chair, and honourable members of the Committee for allowing Unions NSW to appear today regarding this important issue. As you would be aware, over 1,000 Australians die a year due to exposure to asbestos. Compounding the severity of this statistic is the disturbing reality of the increasing percentage of individuals dying as a result of non-occupational exposure. There are over 400 asbestos-exposure deaths in New South Wales each year. This is why the asbestos story continues to be a catastrophic one.

Unions NSW believes that the breadth and long-term implications of the Australian and New South Wales asbestos history and future warrants an all-inclusive royal commission. Asbestos is not a problem which government should solely be held responsible for. Many companies are also culpable for this ongoing tragedy and should be made to contribute to rectify the problem. Mr Fluffy and the loose-fill asbestos issue is a symptom of the business-as-usual model of governments of asbestos. While there has been bipartisan action with regard to major issues such as James Hardie, there has been a lack of action in regard to the management and removal of the asbestos threat in New South Wales and that needs to change.

New South Wales has one of the highest concentrations of asbestos material in the world, while Sydney is amongst the highest per capita cities in the world for asbestos. Asbestos is not a small problem within our community. Unions NSW believes the current model of addressing asbestos over the past 10 years has primarily focused on crisis management and public relations rather than an appropriately funded whole-of-government and industry approach to this matter. Unions NSW is advocating for a whole-of-government approach that sees the systematic removal of asbestos from homes and work environments. The framework for this approach is well-documented in the NSW Ombudsman's report "Responding to the asbestos problem: The need for significant reform in NSW".

The current multiagency approach is underfunded, misguided and muddled. The fundamental issue is that no one agency has carriage of the issue or the imprimatur of government to drive change to ensure the safe removal of asbestos from our community. The current issue in NSW Health is a classic example of a reallocation of moneys meant for the removal of asbestos removed to meet budgetary shortfalls in other parts of the health system. Unions NSW believes we should have a tripartite approach inclusive of Federal, State and local governments, business and the community. This process starts with acknowledging that asbestos is not a short-term problem or the problem of a few companies but that it is a problem which will provide ongoing health risks for at least the next half a century.

The whole-of-community approach needs a plan to affect how we buy and sell houses, how houses are renovated and how we dispose of asbestos from residential, industrial and commercial sites. The plan needs to be smart about how we fund the removal of asbestos. Any plan needs to understand the different requirements and processes for addressing asbestos removal in commercial, as opposed to domestic, settings. We need to consider a mix of funding options to meet the domestic and commercial realities of eradicating asbestos. It should not be simply the role of government to pick up the tab while others wash their hands of any legal or economic obligations. Any plan must ensure that there is accountability for the actions of regulators so that persistent inaction will not be allowed. There is a need for a tripartite structure to oversee any approach established to address this issue.

Unions NSW believes there is a need to appoint an independent commissioner with the power to drive agencies and hold them accountable for their actions or inactions regarding asbestos. This is the approach taken by the Australian Capital Territory Government and they are leading the way in addressing a range of residential and industrial changes to the way in which asbestos is managed. The current structures and approaches in New South Wales do not work for myriad reasons. This should not be about allocating blame or pointscore; the issue is far too important for that. There is a need for urgent action and a plan to comprehensively reshape the way we deal with asbestos in New South Wales. If we do not take decisive action, people will continue to be exposed and those who will replace all of us in the coming years undoubtedly will be reconvening to again contemplate what should have been. Thank you very much.

**The Hon. STEVE WHAN:** Thanks for coming and for your submission. From your opening comment are you suggesting that New South Wales should have something like the national Asbestos Safety and Eradication Agency—a specific agency set up across the New South Wales Government?

**Mr MOREY:** We think there needs to be some sort of coordinating body. Whether that is a complete agency or not, it always becomes problematic the bigger it gets. But I think the fundamental issue is to have some agency which is the key point of contact and responsibility for removing asbestos but which also has the power to drive and hold departments accountable in the way in which they deal with those things. There has to be some sort of oversight body established to actually manage this if it is going to be done systematically across the State.

**Mr DEGUARA:** The Canberra model of the task force, the committee reference group, which had stakeholders from the community—be they workers or residents—and they contribute to monitoring that process as it goes on as well.

**Mr JOHN BARILARO:** Have they got power to influence the Government? They can only advise—

**Mr DEGUARA:** They can advise. I think they can put sunlight into certain parts.

**Mr MOREY:** I think that is why we are advocating for someone who has the actual power and the imprimatur of government to say, "You have the responsibility and power of government to drive departments to actually do that", otherwise it just gets lost.

**The Hon. STEVE WHAN:** You need some reporting.

**Mr MOREY:** Reporting back to Parliament, I would think—an oversight committee that looks at that. We all know what it is like. It gets lost in the bureaucracy. There needs to be someone driving it.

**The Hon. STEVE WHAN:** We had Australian Capital Territory Asbestos Response Taskforce representatives appear before us this morning. They outlined the work they are doing to tackle the issue of the Mr Fluffy asbestos in the Australian Capital Territory. We also had the Heads of Asbestos Coordination Authorities in New South Wales appear before us. Do you have any comments to make about what appears to be the quite significant difference in approach to dealing with Mr Fluffy asbestos between the Australian Capital Territory and New South Wales?

**Mr DEGUARA:** I am also on the Demolition and Asbestos Consultative Committee with WorkCover, which has Master Builders Australia [MBA], the Housing Industry Association [HIA] and some unions on it as well. The way they do it in Canberra is a lot more open. They have minutes posted on the website for everyone in the community to see, because this affects everyone. Whereas when the Heads of Asbestos Coordination Authorities have a meeting you do not actually know what goes on, except that there is a report with dot points back to some key stakeholders. There is no ability to contribute to the agenda of that meeting if you are a member of the public. So that is another issue as well.

**The Hon. STEVE WHAN:** In terms of the overall approach, the Australian Capital Territory is saying to us that it believes it is impossible to stop fibres getting into houses from Mr Fluffy insulation. From the evidence we heard this morning, New South Wales is still working through the advice it gives to home owners. What is your comment on that?

**Mr DEGUARA:** There is a similar sort of substance around an industrial site in Melbourne, which was uncovered about three or four weeks ago. It had blown around the site—I think it is called the Wunderlich site in Melbourne. There have been about 18 or 20 deaths due to mesothelioma and the like there. The problem with the Mr Fluffy asbestos is that, given the age of the houses involved—and it was done for genuine reasons of trying to reduce heat loss and improve energy usage et cetera—it was installed without sarking. So if it was installed in a house with a tiled roof, they did not put in any plastic sarking under the roof. If you put in new tiles or insulation now then you put in sarking underneath the tiles. We do not have that sarking in houses over about 20 or 30 years old, and that is part of the problem because it means that the wind is constantly blowing across the insulation and blowing dust in and dust out. Sarking is a more modern thing, since we had this industrial insulation plastic available. So there is every possibility that the asbestos will be blowing into neighbouring houses and streets et cetera.

**The Hon. STEVE WHAN:** As well as being inside the house itself.

**Mr DEGUARA:** Yes, and that is the other aspect of the Mr Fluffy asbestos. Because it is not bonded when the house itself starts to move, for example when there is a drought and the clay substructure moves, the cornices fall off and there is the possibility that the dust will come into the living area, and into the outside area as well. I think the Canberra authorities have identified that it has actually gone into the wall cavities and some of the houses affected are not redeemable. It is not worth spending the money on them to try to get all the stuff out.

**The Hon. MICK VEITCH:** I think what the Hon. Steve Whan was talking about is the contrast between the way the Australian Capital Territory is going about this and how, it would appear, we are going about it in New South Wales. There seems to be a difference in the approach taken.

**Mr DEGUARA:** The approach here is to try to find out how much of a problem there is. The Government recently commissioned PricewaterhouseCoopers.

**The Hon. STEVE WHAN:** Does Unions NSW think that there should be other things being done now?

**Mr DEGUARA:** Absolutely, there should be an approach made by the NSW Government to the Federal Government to try to get extra funding so that people who do have this stuff in their homes have some way to either get it out of their house or to get a new house. There should be a commitment from the State Government to at least partially compensate people in this situation. I think that is the first step, but it will take a long time. The other steps are about trying to educate people in a community, because there will be people out there still removing this stuff from their own roofs every weekend.

**The Hon. STEVE WHAN:** Your submission makes a number of very strong points about labelling and the safety of people who are going to work in premises which have this sort of asbestos. Did you want to make any further comments on that?

**Mr DEGUARA:** In the Australian Capital Territory and in any workplace setting you need to label your asbestos and to have an asbestos register and do those sorts of things. When a house contains asbestos there are not the same requirements under the Work Health and Safety Act. It makes it very difficult for a sparky, a carpenter or even someone just rehangng a door who is taking the door frame off to know if there is asbestos behind the wall or under the floor et cetera. If we had that sort of notification system then it would assist them in minimising their exposure. The asbestos agencies do not cover the Fair Trading agency, for example; and that is where one of the other aspects recommended by the Ombudsman in New South Wales is also not covered.

In 2010 the Ombudsman recommended a vendor requirement to notify of asbestos in the premises. I do not know if the model proposed was considered or not but I think it got lost in the election period in 2011. One of the things it would provide is the opportunity to notify prospective buyers that there is asbestos in the house. The other benefit of notification is that if a seller has asbestos in their house and they want to get best market value then they might spend the \$5,000 or whatever it takes to get rid of the stuff that is in the house. The Mr Fluffy asbestos might be a different scenario. But it could work for the bonded asbestos anyway. Then they would have better market value and there would not be that asbestos problem.

**The Hon. MICK VEITCH:** What about do-it-yourselfers? That is the real issue now, is it not?

**Mr MOREY:** That is the ongoing problem.

**Mr DEGUARA:** In Canberra they have said there will be no more do-it-yourselfers. They have made it zero. You need to have local government involved with that and you need to have a suitable regime of licensing people.

**Mr JOHN BARILARO:** Are we talking about do-it-yourselfers with asbestos removal or do-it-yourselfers as renovators?

**The Hon. MICK VEITCH:** I am talking about renovators. I think Mr Deguara was talking there about people removing the asbestos.

**Mr DEGUARA:** At the moment a do-it-yourselfer removalist can remove up to 10 square metres of bonded asbestos. I am sure the Committee knows all the facts about how many fibres to take and stuff like that. That is one of the problems with the code of practice as it currently stands. There was a problem in New South Wales to reduce it to zero. I think what happened with WorkCover and the harmonisation process was that other things took over and it became too hard.

**The Hon. MICK VEITCH:** And the other people to talk about here are renovators.

**Mr DEGUARA:** Yes, but how will renovators know about this? With all the home renovation shows on television every night like *Renovation Rescue* et cetera home renovation is now a national sport—basically you get your new power tool and start drilling through a wall. Unfortunately there is just not the level of awareness out there.

**Mr MOREY:** A number of asbestos groups have made representations to the different television production houses asking them to put warnings on when they are showing these shows where people are hacking into walls and so on. They always write back and say, "Yes, it is a very good idea", but it never happens. Given the ratings and the number of people watching these shows, if there was some way of getting the production companies to put that sort of warning on those home renovation shows then that in itself would have a much bigger impact than a government funded campaign with leaflets et cetera in local government. People would take that on board. I know we tried a couple of times with Channel 7 and Channel 9. We got a positive response from Channel 7 at one stage but nothing ever came of it. Thinking it through practically that would seem to be one of the easiest and most far-reaching approaches to get the message out. Perhaps those stations could be part of some sort of community announcement type thing.

**The Hon. MICK VEITCH:** That is a very good point because many people are watching those shows. It would be a good opportunity to say, "Listen, do not go sticking your head in the roof cavity."

**The Hon. TREVOR KHAN:** Or there could be a government-funded advertisement during the show.

**Mr MOREY:** People are going to listen to Scotty Cam more than they will to some voice-over, aren't they?

**The Hon. MICK VEITCH:** Yes, that is right. In your submission you also talk about increasing the training for tradies to raise their awareness about how to work with asbestos.

**Mr DEGUARA:** Currently there is a requirement under the code of practice to have asbestos awareness training but there is no specification about what it is. Canberra has a module in their asbestos awareness training which requires a certain level of competency for loose-fill asbestos. Potentially you could write one on the back of this submission and that could be counted as asbestos awareness. "If it looks like it, don't touch it", or whatever

**The Hon. MICK VEITCH:** You are saying there is no standardised training.

**Mr DEGUARA:** There is no standardised asbestos awareness. That is one of the things that would be helpful for people who deal with it, or try not to deal with it as often as possible. There are arguments against some of the workers as well, because some of them are complacent about it. Hopefully, you can avoid a lot of that as well. They have always worked with it. That is the other problem.

**The Hon. MICK VEITCH:** You also talked about local councils and the processes for transporting and disposing of waste.

**Mr DEGUARA:** I think local government put a press release out last week that talked about Holroyd City Council taking small bits. I am in one of the Sydney council areas. If I have two bits of fibro not even a square metre in size I have got to wrap it up in plastic, take it out to one of the transfer stations that will take it, which is probably at Lucas Heights, and then I have got to pay for a minimum amount of 10 square metres. That is not really viable. What I get told by the sparkies or whoever comes to my house is, "Don't worry, I'll look after it." You can see they want to walk down the road with it and I say, "No, don't do that." That is how they dispose of it: they just put it in the neighbour's bin and it just ends up in the system. You need to have a system

like Holroyd council that says that if you have got a small amount of asbestos you can bound it up in thick plastic, take it to your local council site and we will take it away.

The other thing is in the regions where a lot of the Fluffy problem is they do not have dumps that are staffed and are compliant with Environment Protection Authority standards. At some of the ones out west they just have a paddock and the door is open 24 hours a day. There is no-one staffing it ever. You dump your fridge, you dump your asbestos and you dump whatever. It is a really big problem. I do not know whether it is a regulation issue but you would need to be able to give them a help up because I think those councils are probably struggling with the rest of the services they provide.

**The Hon. MICK VEITCH:** One of the concerns is that the Australian Capital Territory is about to dump large amounts of this type of stuff somewhere.

**Mr DEGUARA:** I do not know if they have got the facilities either.

**The Hon. STEVE WHAN:** I do not think they will illegally dump it.

**The Hon. MICK VEITCH:** No, but they are going to need a lot of space to dump it. That is the problem.

**Mr DEGUARA:** The levy that has been reduced for 24 council areas is a great idea. It should be reducing dumping because you had to pay not only for the amount of waste but also a levy on top. That just creates a disincentive to doing the right thing.

**CHAIR:** They said up to 100 tonnes a house this morning, did they not?

**Mr DEGUARA:** It is supposed to be about the same as a local residential garage.

**The Hon. STEVE WHAN:** In terms of size?

**Ms JAN BARHAM:** Ten square metres.

**Mr JOHN BARILARO:** As someone who has come through the construction game and the building industry I have crawled through cavities, cut through walls, pulled out windows and removed fascia and fibro in my time and I was probably showered in this stuff as a young bloke. That was probably silly or stupid or whatever you want to call me. I commend the union movement and the union in general across the country for the way this country has been able to address asbestos, especially James Hardie bonded asbestos. You guys deserve credit for driving that campaign and forcing industry, government and everyone to come to the party.

We are probably a long way off where we need to be but this inquiry is more about the Mr Fluffy loose-fill asbestos because of what has happened in the Australian Capital Territory. We know that loose-fill is different from the bonded product because we cannot contain it, as much as we might want to kid ourselves. We cannot contain it and it therefore poses a higher threat to tradies who work on these homes. We know that a lot of those homes are not being maintained because the owners know this stuff is in their homes and they are not going to spend any more money on homes that have been devalued. Throughout your membership is there good awareness and good training in relation to identifying asbestos and loose-fill asbestos? Is there a reporting mechanism back to you, through which you could then relay that information back to Government and other agencies?

**Mr DEGUARA:** The problem is it is not the tradies' responsibility.

**Mr JOHN BARILARO:** I agree.

**Mr DEGUARA:** An example of where it does not quite work is the home insulation scheme, which happened in about 2008 or 2009 and a royal commission was held over it. There was State and Federal funding for that. I think the State paid about a quarter of the price. In that program a number of places were identified but what happened was they went inside, they saw the asbestos insulation and then they said, "Sorry, you've already got insulation so we can't put it in." There was no record kept. The records need to be kept by the occupier or the owner of the building. That is part of the problem.

I think it would be good to have some sort of register where it is actually identified and that would be also what you would include in the residential part of it. I have heard the stories of tradies going to places and about some of their experiences. I had a plumber who said that every day it is like going to war. I have a lot of sympathy for you in your past career, Mr Barilaro. I think there needs to be some sort of ability to identify asbestos, but the home owner often has no idea. They have no records. As far as the different areas, we try our best to inform our members but we do not provide the training. That is usually provided via the training provider as they get their apprenticeship.

**Mr JOHN BARILARO:** Did the unions play a role in the Australian Capital Territory task force?

**Mr DEGUARA:** Kim Sattler is the Secretary of Unions ACT and she is on the task force. She is on the community reference group, I think.

**The Hon. MICK VEITCH:** Are you a member of the Heads of Asbestos Coordination Authorities?

**Mr DEGUARA:** No.

**The Hon. STEVE WHAN:** Are you on one of the subcommittees?

**Mr DEGUARA:** We are on the WorkCover Demolition and Asbestos Consultative Committee.

**The Hon. MICK VEITCH:** And that feeds in.

**Mr DEGUARA:** They do not talk to each other very well. It just looks at an overview report.

**Mr DARYL MAGUIRE:** In your remarks you said that this is not a role of government completely or only and that industry needs to be involved. How do you suggest industry would be involved in Mr Fluffy and any compensation regarding that?

**Mr DEGUARA:** There are different types of compensation. There is the one for the remediation of the environment and the one for the health effects. As far as the remediation of the environment, there have been pretty much good things done in recent times for past pollution and the like about extender producer responsibility. That is something which can be done into the future through levies on certain products, et cetera, which allows for it to be put back into—

**Mr DARYL MAGUIRE:** You are talking about a communal type of fund that could be drawn on?

**Mr DEGUARA:** Yes. You have got to make sure that it does not encourage bad behaviour, but say if you put a small levy on the new fibro, which is just HardieFlex or whatever brand it is, you could probably fund remediation of a lot of things in the past. As far as the health stuff goes, that is a more complicated thing and that has been sorted out to some degree through the Dust Diseases Board and other dust diseases tribunals.

**Mr DARYL MAGUIRE:** But we are dealing with an historic event. You are talking about a proposal for a fund for the future. Our brief is to deal with the Mr Fluffy issue itself.

**Mr DEGUARA:** The problem for Mr Fluffy is the company is gone, the owner of the company is gone and so there is not even a corporate veil to worry about. The State and the community will end up having to pick up the bill with the houses and also the health effects.

**Mr DARYL MAGUIRE:** In that regard one of you said that approaches for funding should have been made to the Federal Government. My question is funding for what, because the size of the problem is unknown?

**Mr DEGUARA:** That is part of the issue. The Federal Government, though, did contribute to the problem. The Federal Government supported the advertising and the dissemination to the community of Mr Fluffy. That was quite noted at the time when it was occurring. Mr Fluffy was a preferred provider or something of the like because the Canberra Government was setting up a town, basically.

**Mr DARYL MAGUIRE:** But you were referring to the New South Wales Government. I think you said that the New South Wales Government should be making approaches to the Federal Government for

funding. Funding for what, because my understanding is we and the agencies are still trying to come to grips with the size of this problem and where it actually is?

**Mr MOREY:** This is the problem. We think that this is going to be a recurring theme. Like there will be something else in another State or somewhere else in two or three years. There has to be some mechanism set up to garnish funding in some way, be it a levy or a series of strategies that puts a pot of money together to remediate situations where there is nobody to actually pay for it. Mr Fluffy has gone and the classic problem is who is going to pay for it? But it will continue going on in the coming years and someone at some point has got to say we need to establish some sort of a fund that is actually going to deal with this going into the future, otherwise we will be here every couple of years trying to work out who will pick up the can.

**Mr DARYL MAGUIRE:** The building industry had the home owners builders fund which was disbanded in the past 10 or 15 years and a new scheme came in to which everyone contributed but it was mainly builders.

**Mr MOREY:** Yes.

**Mr DARYL MAGUIRE:** I do not believe that kitchen cabinetmakers, bathroom tilers, plumbers et cetera actually contributed to it. I think that is what you are trying to get to. Correct?

**Mr MOREY:** Some sort of home warranty scheme, something like that. But I think you have got to be creative and it cannot be just one group slugged for it because they will oppose and that will sink it before it starts. It needs to be creative in the way in which we think about construction and how we can put on the levies and what they are to minimise the impact on people.

**Mr DARYL MAGUIRE:** You mentioned transparency and a website that the Australian Capital Territory Government was running and that New South Wales is behind. Is New South Wales behind because HACA was only established in 2011 and it is still trying to come to grips with the size and location of the problem? Is that correct?

**Mr DEGUARA:** The task force itself in the Australian Capital Territory was set up after that as well.

**Mr DARYL MAGUIRE:** After 2011?

**Mr DEGUARA:** Yes.

**The Hon. STEVE WHAN:** This year.

**Mr DARYL MAGUIRE:** But historically it would have had the benefit of the work that has occurred previous to that?

**The Hon. STEVE WHAN:** The 1980s work.

**Mr DARYL MAGUIRE:** The 1980s work.

**Mr DEGUARA:** Referring to your other question, that work was actually done with the assistance of the Commonwealth Government because it was the Government of Canberra at that time so it had all the funding and resources to do that.

**Mr DARYL MAGUIRE:** You said that this material was dumped at council tips. You said some tips are 24-hours unmanaged. Where are they?

**Mr DEGUARA:** They are west of Dubbo, that is all.

**Mr DARYL MAGUIRE:** But we are not sure that Dubbo is actually included in the reach of Mr Fluffy.

**Mr DEGUARA:** No.

**Mr DARYL MAGUIRE:** You are talking about other materials that have been dumped.



**Mr DEGUARA:** I am aware of councils with a dump which is "dump whatever you want".

**Mr DARYL MAGUIRE:** Will you provide the Committee with information in that regard? My understanding is that most councils monitor and control very tightly the garbage that is dumped. If that is occurring the Committee would like to know about it.

**Mr DEGUARA:** Yes, I think the local government release last week actually said about 80 per cent, and I would say that would be right, of councils, which is probably 99 per cent of population, is probably covered by this. I am saying it will probably be in the smaller regions.

**Mr DARYL MAGUIRE:** If you have examples the Committee would like to know about them.

**Mr DEGUARA:** Yes.

**Mr DARYL MAGUIRE:** There was a suggestion of a section 149 notice being attached to council rate notices and/or to sale notices that properties built before 1980 could be affected by asbestos. What are your views on such a move?

**Mr DEGUARA:** I think it is a good thing. It was actually recognised by the Ombudsman and I will table this document and the Committee can read it at its leisure. The thing about loose-fill asbestos is, I think, that is where there will need to be some level of government support when that happens because you might write off the whole value of the sale. So for the purposes of this Committee that might be something that you could look at. It is recommended through a number of committees, it has been recommended at the Federal level and by the Ombudsman as well, to actually have some sort of certificate about asbestos-containing materials.

**Mr DARYL MAGUIRE:** But only on properties that are affected or blanket?

**Mr DEGUARA:** If a building has been built post 1980s why would you really need to? There is virtually a zero per cent chance of there being asbestos in the building. The only exception to that is, sort of, defence places where they have been dumping it in the ground forever. So I do not think you would have need for that. The Land Titles would have it built in X year.

**The Hon. TREVOR KHAN:** The Land Titles will not show that.

**Mr DARYL MAGUIRE:** No.

**The Hon. STEVE WHAN:** One of the key questions is would you put it on all those pre-1980s or just the ones identified as having it?

**Mr DEGUARA:** I think you need to get some sort of clearance certificate.

**Mr MOREY:** The certificate says, "This house has been inspected and it does not have asbestos in it."

**Mr DEGUARA:** The problem is some of the inspections even when you buy a house are not always the best. You would need to make sure that the inspection service—

**Mr MOREY:** Is accredited and knows what they are doing.

**The Hon. STEVE WHAN:** There are cases of building inspectors missing Mr Fluffy asbestos in houses in our area.

**Mr DARYL MAGUIRE:** The fear is that if you have a blanket section 149 you would actually drive down and devalue all properties and perhaps send a terrible signal to the market when perhaps only one or two in the whole local government area could be affected.

**Mr MOREY:** If you say it is a blanket one and you then say to people but that blanket can be removed by you getting your house inspected properly, having a certificate that you can then attach to the land title of your house. The incentive is then for the person to get their house inspected and cleared so the value remains where it is.

**Mr DEGUARA:** If you have just got a backyard dunny or a garage that is going to cost you \$3,000 or \$4,000 to get removed, and you are selling your house in Sydney's market or out of Sydney's market, you would probably consider removing and getting rid of it. The World Health Organization says the best way to stop people dying from this stuff is to just get it out of the systems.

**Mr MOREY:** Yes, by creating incentives.

**Ms JAN BARHAM:** I apologise for being late. I think too often people see section 149 certificates as devaluing but they are also a very useful tool for informing and creating that caution for people. It could mean that the purchaser has some notification and can call it up so they will not necessarily devalue. I refer to the coordinating body: will you elaborate on what is missing from the current situation?

**Mr DEGUARA:** You have had WorkCover.

**Ms JAN BARHAM:** And HACA came in. What are they not doing?

**Mr MOREY:** The classic example most recently has been in the health system. A number of area health services have been provided with money to remove asbestos or label asbestos in their health areas. Because of the way budgets are, the money goes to the health areas and they make a decision to reallocate that money to what they see as higher priority areas. The rationale often for doing that is that the asbestos is bonded, or it is an area where no one goes and those sorts of things. What happens is what happened to us: you get some young apprentice who is sent down to do a job, drills into a cornice and starts spraying asbestos everywhere. Some of the fire doors are full of asbestos as well.

While generally it is contained and it will not spread, you do have those situations where someone unluckily drills or cuts into it. But the money that is allocated to remove that is not spent on that asbestos removal, it is re-diverted somewhere—

**Ms JAN BARHAM:** Do you have evidence of that?

**Mr MOREY:** Yes.

**Mr DEGUARA:** And the other aspect as well is that as time goes on the way of managing it differs. For Mr Fluffy when the Federal Government did it in the 1980s or 1990s it said it will provide you money to remove it if it is not sealed in the roof but if it is sealed in the roof it will leave it there. What has happened if it was not sealed in the roof is it has gone down into other parts of the house. You can remove it from your roof. If it was sealed in your roof back in the 1980s it is probably not sealed in your roof now so it has gone into the rest of the house so that is part of the problem. So with the hospitals they sprayed vermiculite—cement containing asbestos—everywhere and the glue that binds it together is starting to crumble. So you are now actually not able to keep it in its state. So as time goes on, it is not the asbestos that is breaking down, it is the stuff that is containing it, so that is part of the problem; unless you have someone like an agency that is driving a removal in government places and seeing how they will coordinate and fit together. The thing about selling a house is that Fair Trading is not part of that coordinating body, so that is another one, and there is no accountability to drive it with the public because there is no public on there. There is no business as well.

**Ms JAN BARHAM:** That is a model that has been set up in the Australian Capital Territory?

**Mr DEGUARA:** In Canberra, yes.

**Ms JAN BARHAM:** We would just mirror what they have done?

**Mr DEGUARA:** Yes.

**Ms JAN BARHAM:** There is also the other point you raised about the national asbestos plan. What are we missing out on?

**Mr DEGUARA:** Most of the national asbestos plan has been adopted, but the big one that is the problem is there was a commitment to remove asbestos from government buildings by 2030. What has happened is all the agencies at the moment are saying, "Well, this is a draft plan now. We did sign up to it, but we did not actually sign up to it in its full form. It is another draft. We will review the actual plan and then we

are going to assess and decide which ones we are going to remove and which ones we will leave in state." The prioritising was the right thing to do, but there is no commitment to continue to remove the stuff. While all this reassessment is going on, there is not really much happening. There are no budgets really being put in from the local agencies to removing the stuff.

**Ms JAN BARHAM:** So it needs to be a 20-year plan?

**Mr DEGUARA:** Well, yes. If they go over to 2030, at least they have given it a try. It would be realistic to say that there is a lot of the stuff around.

**Ms JAN BARHAM:** I am interested that this is all southern New South Wales and relates to cold climates for insulation. Have you heard anything about the opposite—the use of it as insulation in warm climates?

**Mr DEGUARA:** Yes, we have heard of it being used in Sydney, but as with all of this, it is very hard to find out where it is. It has been so random. Fluffy sold it as a product he or she put in themselves and also sold it sort of out of the warehouse where you could just take it away and do it yourself. From speaking to the Canberra people, the unions down there, they say that a lot of public servants in Canberra had holiday houses on the South Coast and took it with them.

**Mr MOREY:** They took truckloads of it with them and installed it themselves. We will not know where it is.

**Mr DEGUARA:** They did it themselves. There is anecdotal evidence around an installation program that has been put in the roofs of Sydney and it could be in other places as well. It is for that purpose—to keep the house warm and reduce heating requirements.

**CHAIR:** The Committee is trying to establish just how big the problem is in terms of the number of houses. I note in your submission on page 11 you estimate 90 houses in Queanbeyan have been identified. At the top of that page you say that you have had reports of people, particularly Canberra people, going to holiday houses. They live in Canberra but they have holiday houses. They have put it into these holiday houses on the coast. It could be in Batemans Bay and Jervis Bay, you mentioned.

**Mr DEGUARA:** That was just from the typical places where Canberra public servants used to go and have a holiday house.

**Mr MOREY:** We have been informed by Unions ACT that there was the option to drive in with your ute, fill it up with asbestos and off you go and take it wherever you want to take it, and stick it in your roof. It could be anywhere.

**Ms JAN BARHAM:** The good old days!

**Mr MOREY:** Yes.

**Mr DEGUARA:** But I am sure it is around the Cooma area and Yass and sort of local areas. How many houses, we do not know.

**Mr DARYL MAGUIRE:** It could be in farmhouses.

**The Hon. STEVE WHAN:** I know one rural one.

**CHAIR:** I gather that the tradesmen who put it in have equipment to spray it in.

**Mr DEGUARA:** Yes.

**CHAIR:** There must be some kind of a machine to do that with, like a reverse vacuum cleaner or something. How would residents do that without equipment? Do they just throw it around the roof?

**Mr MOREY:** Take it up in buckets and spray it around and rake it over with the back of a rake.

**The Hon. MICK VEITCH:** Yes, they did.

**Mr DEGUARA:** Great!

**Mr JOHN BARILARO:** And it would be patted all down.

**The Hon. MICK VEITCH:** Wearing a pair of Stubbies and a pair of thongs.

**Mr DEGUARA:** At the moment we have an efficient system called Coates Hire where you can just buy one of those hoses, but in those days they would just use a rake or hands.

**Mr MOREY:** Buckets.

**CHAIR:** So a lot of those people who did that probably have had a big dose of asbestos dust.

**Mr MOREY:** Yes.

**Mr DEGUARA:** Yes.

**CHAIR:** It will show up a bit later in health reports.

**Mr DEGUARA:** Yes. That is the other aspect as well. It has not really been put in here but it is on all the public health information—what happens if you do get exposed. People do not have that much knowledge about getting chest X-rays and the like. Often, even with the mesothelioma cases, you find very late diagnoses.

**CHAIR:** What surprises me—and you would be very much aware of all the James Hardie stuff in the seventies—is why there were no warnings on Mr Fluffy when it became so popular in homes and so on.

**Mr DEGUARA:** I do not know if you have Matt Peacock from the ABC coming to your inquiry, but he has written a book, *Killer Company*, and they had their doctors and their scientists on the government committees in New South Wales and federally.

**The Hon. MICK VEITCH:** That is James Hardie?

**Mr MOREY:** Yes.

**Mr DEGUARA:** James Hardie. Whenever they went to, say, label what you can do safely with it, they would be opposing too draconian sort of labelling. That is just the history of all that sort of stuff.

**CHAIR:** I know the unions were very involved in the James Hardie case from day one—

**Mr DEGUARA:** Yes.

**CHAIR:** —for the workers who were getting affected by it and who worked at James Hardie.

**Mr MOREY:** But even their wives were.

**CHAIR:** Yes, from washing their clothes.

**Mr MOREY:** There are cases of wives who were washing the overalls of the blokes who were getting it.

**Mr DEGUARA:** And their kids as well.

**Mr MOREY:** You only need one fibre.

**CHAIR:** Yes. In your submission you are very strong that we should recommend the same action as for the Australian Capital Territory Government with the relocation of housing and so on. All the government representatives we have just been talking to were very negative about doing anything in that direction. It seemed

to be a uniform attitude from about six departments, which may indicate to me that there is a government policy that is frightened of a lot of the possible expenditure.

**Mr DEGUARA:** Yes.

**CHAIR:** If we go down that pathway and the Federal Government does not put up the money— apparently there is a rumour that the Federal Government already has said no. I do not know whether you have heard that, have you?

**Mr DEGUARA:** No.

**CHAIR:** The Federal Government is not interested in funding the demolition of houses in New South Wales. They felt obligated to do it in the Australian Capital Territory because that was and still is a Territory. The Federal Government had a financial responsibility for the Australian Capital Territory but said that they do not have any financial responsibility to New South Wales; it is a self-governing State, so it has to pay its own bills.

**Mr DEGUARA:** I think I put it in the submission somewhere that there was a Federal health body which recommended continued importation of asbestos. They recommended no warnings for asbestos, so they do have some culpability in this mix.

**CHAIR:** I agree.

**Mr DEGUARA:** It is just the way that the federation works. We dealt with industrial hazards at the time but they also dealt with the national health policy as well and importation as well as broader issues. I think by all means they have something to bear.

**CHAIR:** They have an obligation.

**Mr MOREY:** An obligation to look after them.

**Mr DEGUARA:** The New South Wales Government will have to pay for people when they get sick. They will have to pay for the waste sort of things. That is why it is not really the best outcome if the Federal Government does not get involved as well.

**CHAIR:** Thank you very much for attending our inquiry and for your submission. We appreciate all your help.

**Mr MOREY:** Thank you.

**Mr DEGUARA:** Just before we go, this is the Ombudsman's report in 2010, if you do not have it. It has recommended a number of the things that we have already recommended. I will table it.

**Document tabled.**

**CHAIR:** You have tabled it and that helps us. Thank you.

**(The witnesses withdrew)**

**MELISSA ADLER**, Executive Director, Workplace Relations, Housing Industry Association, and

**NEIL EVANS**, Executive Director, Australian Capital Territory and Southern New South Wales Region, Housing Industry Association, affirmed and examined:

**CHAIR:** Thank you for your attendance today. Would either of you like to make an opening statement?

**Mr EVANS:** Yes, I would. The Housing Industry Association [HIA] thanks the Committee for the opportunity to appear this afternoon. HIA represents builders, designers, trade contractors, manufacturers and material suppliers across the residential construction industry. HIA understands the concerns relating to loose-fill asbestos in houses and the hazards it presents. In particular, we have concern with the potential to impact on the health and safety of builders and trade contractors and others who might be engaged to do work on or around a home that has loose-fill asbestos installed.

HIA has worked closely with the Australian Capital Territory Government in training thousands of builders and contractors and others in raising asbestos-related issues to industry across the Australian Capital Territory. Also, through HIA's charitable foundation, HIA has provided some \$375,000 for research into asbestos-related diseases. Loose-fill asbestos is not only a hazard in its installed state in roof spaces but it also has potential to migrate in homes and into other areas of the house, and this makes it prone to exposure across a broader range of circumstances. This presents a risk to those who may be approached to undertake work on houses where loose-fill asbestos has been installed. Thank you.

**The Hon. MICK VEITCH:** Thank you for coming today. In your submission on page 5 at 4.1.2 you say:

HIA submit that a homeowner would be negligent where they know, or ought to have known, that their home contained loose fill asbestos and did not provide this information to a tradesperson prior to works commencing.

Is there a legal basis upon which you make that statement?

**Ms ADLER:** We do not have strict legal advice but strictly speaking if a home owner knows there is a risk in their property and they do not advise a tradesperson coming to do work where their health and safety could be at risk, we would suggest there is an element of negligence there.

**The Hon. TREVOR KHAN:** Could I put one question?

**The Hon. MICK VEITCH:** Yes.

**The Hon. TREVOR KHAN:** Let me put this circumstance: Supposing a home owner does not know there is asbestos there, particularly loose-fill asbestos, and a tradesman attends at the property and identifies it. What obligation falls upon the tradesperson to advise the home owner of the existence of that, including removal of it? Sorry, I might have stolen your thunder.

**The Hon. MICK VEITCH:** No, that is exactly where I was going.

**CHAIR:** Let the member continue his line of questioning.

**The Hon. MICK VEITCH:** I would like to hear your answer to Mr Khan's question?

**Ms ADLER:** If a home owner does not know there is loose-fill asbestos?

**The Hon. TREVOR KHAN:** You will often find that a home owner was not the original owner of a home. They have bought the home and then decide to put an extension on the back. They rip off half the roof and, hey presto, there are bucket loads of loose-fill asbestos in the ceiling. What obligation falls upon the tradesperson to then provide appropriate advice to the home owner of the existence of that product?

**Ms ADLER:** It is in the interest of everyone's health and safety to notify the home owner if they are aware of what they found. They should stop work and talk to the home owner about what they found. It is in everybody's interest.

**The Hon. MICK VEITCH:** We have heard lots of testimony today about people's obligations and "How do we know about this stuff?" and that at the time of sale there be some sort of a certificate that says whether or not the house has loose-fill asbestos in the ceiling, for instance, so that when you purchase you are made aware, at the point of purchase, that there may be stuff in the ceiling. You have made a pretty firm statement there, particularly the phrase "ought to have known" because essentially you are putting the onus on the home owner.

**Ms ADLER:** The terms of reference ask about notification of the problem or the presence of loose-fill asbestos and what we are saying in that statement is where a home owner knows that there is loose-fill asbestos or should have undertaken an investigation because of certain criteria, they should advise somebody coming on site to do work, and that is as far as we go with it.

**The Hon. MICK VEITCH:** What about labelling or tagging of the houses?

**Mr EVANS:** In the Australian Capital Territory they have made it mandatory for stickers to be applied in the electrical meter box so a tradesman or anybody doing work on or around the home can be alerted to the fact that it is a Mr Fluffy home.

**The Hon. MICK VEITCH:** Local Government NSW today stated that they propose to go a bit further than that. They said that labelling within the meter box is good but they also say that every access to the roof cavity or under the house should also be labelled so that in the event that somebody does not go to the meter box but just sticks their head up in the roof cavity to have a look, it is clearly marked and they know the stuff is in there as well. What is your view about that? This is to do with do-it-yourself renovators.

**Mr EVANS:** I think that the solution that the Australian Capital Territory Government is using is adequate. The proposal you are talking about goes further. It is up to the Government to decide how far they want to go but it has been widely publicised and communicated through industry and websites that if you are going on to a construction or doing repairs of a home, check the meter box.

**The Hon. MICK VEITCH:** I am keen about your onus of responsibility here. I think Mr Khan's proposition is also worthwhile. If you are a tradesperson and you find it, not only should you notify the home owner, is there someone else you should notify?

**Mr EVANS:** I am not an expert in this area but I do believe that there are a lot of forms on loose-fill asbestos. There are different types of products that have been sprayed into homes over the years. They look very similar. I do not think a tradesperson without appropriate training and experience would be able to identify the fact that it was asbestos. They should alert the owner to engage an expert to get it tested or checked and clarify whether it actually is loose-fill asbestos or another material that is not a problem to health, life and safety.

**The Hon. STEVE WHAN:** You cover the Australian Capital Territory and the surrounding region in your area of responsibility. The Australian Capital Territory has undertaken a number of initiatives to eliminate these houses with Mr Fluffy asbestos and also to undertake that marking and tagging we just heard about. Are you getting feedback from your members and tradespeople working on houses that they feel perhaps more confident about going to houses in Canberra because they know they are more likely to have been identified and tagged as containing asbestos and, in contrast to New South Wales, they may not know when they go into those houses?

**Mr EVANS:** I personally have not heard that. That is not to say it is not happening but I have not heard that.

**The Hon. STEVE WHAN:** The Australian Capital Territory has the advantage of having identified most of the houses in the eighties but is the fact that they would know, something that would give some comfort to your members?

**Mr EVANS:** For a long time the Australian Capital Territory Government had a list of the homes. They never publicly—

**The Hon. STEVE WHAN:** It was never published.

**Mr EVANS:** They never published it, so there was a process—and again this is just my view—I think maybe they did that so that their property values did not plummet if they went out and published the Mr Fluffy homes; I am not quite sure but there was some legal reason why they—

**The Hon. STEVE WHAN:** I think we know why, people did not want their homes listed.

**Mr EVANS:** Possibly. So, if you were going to do work or renovation on a house—and the Australian Capital Territory Government put out a map with some coloured areas in and around Canberra—if you were working in one of the areas that were shaded blue and you made a request to the government: Is this a Mr Fluffy home?, you would be told yes or no.

**The Hon. STEVE WHAN:** What I am getting to is, from the point of view of the industry association, are you satisfied with an approach in New South Wales which is essentially about voluntary registration for tests or voluntary participation in testing for loose-fill asbestos or do you think there should be some mechanism which more proactively identifies where the asbestos insulation is?

**Mr EVANS:** That is something I have not really turned my mind to. I do not think I can give you an answer right now on that one.

**The Hon. MICK VEITCH:** Take it on notice?

**Ms ADLER:** That is probably a matter for government to determine, once you know the extent of the problem. That is part of this inquiry, to determine how widespread the problem actually is. Once that is known I think those sorts of issues can be dealt with by government.

**The Hon. STEVE WHAN:** As an industry association representing the tradespeople who are going to those houses, I would have thought it is something that would probably directly concern some of your members.

**Ms ADLER:** I think it is in everybody's health and safety interest to know where the asbestos is but we are still determining the extent of the problem.

**The Hon. STEVE WHAN:** In terms of the contrast—let us hope it is not a contrast for long—but the difference of approach across the border between the Australian Capital Territory and New South Wales in the way they are approaching this issue, is it something your association has thought much about?

**Mr EVANS:** We have not. We acknowledge it is a risk to our members and the general public visiting those. But we would hope that the issue was resolved in the most expedient, practical and cost-effective way.

**The Hon. STEVE WHAN:** This is slightly further down the track but what sort of capacity does the housing industry in the Australian Capital Territory have to cope with the rebuild of what essentially amounts to almost a natural disaster—it is probably more houses than were destroyed in the bushfires.

**Mr EVANS:** Yes, I think there were about 500 houses destroyed in the bushfire. This is twice that amount. We have not got a problem with the capacity to rebuild 1,000 homes. Going back to calendar year 2010 and 2011, the housing starts in the ACT were around 5,200 per annum. We are back to about 3,200 at the moment because of the Federal Government downturn in public servants and budget costs, and we are currently doing 2,000 a year less than back in 2010-11.

**The Hon. STEVE WHAN:** So it is a good time to do it, is that what you say?

**Mr EVANS:** I think it will help stimulate the housing sector and put a bit of money back into the local economy.

**The Hon. MICK VEITCH:** You say in your statement, "Little to no information is being directed at trades who may be exposed to loose-fill asbestos while carrying out residential building works." You say that more should be done to ensure trades are aware of the loose fill. How do you propose that occur?



**Ms ADLER:** That the trades are provided with more information about asbestos?

**The Hon. MICK VEITCH:** Yes.

**Ms ADLER:** I think there needs to be one clear point of contact for tradespeople to go to, to find out the information. It is in our submission and our experience is that, at the time of writing, it was not clear and there were multiple agencies involved in the management of the issue.

**The Hon. MICK VEITCH:** So one point of contact, almost like one task force or one commission?

**Ms ADLER:** However you want to describe it but some sort of clear point of contact where you can go to find out the information you need to address the issue, should you be presented with it.

**Mr JOHN BARILARO:** The Housing Industry Association is the peak body for the building industry, predominantly builders, tradies and suppliers.

**Mr EVANS:** Yes.

**Mr JOHN BARILARO:** Going on what Mr Veitch said earlier and the conversation about the onus being on the owner or Mr Whan saying the onus could be on the builder or the tradesman—

**The Hon. STEVE WHAN:** I am just saying it is not an exclusive onus.

**Mr JOHN BARILARO:** That is right—good point. The Housing Industry Association is not only a peak body but also a training organisation, if I recall correctly. I come from the industry, so I think I recall.

**Mr EVANS:** Yes.

**Mr JOHN BARILARO:** What part of your training involves asbestos training, asbestos identification, from bonded to loose-fill asbestos?

**Mr EVANS:** We have recently conducted training around asbestos awareness. We have not gone down the path of talking and engaging with members in a training capacity a lot about loose fill, because most of it has been removed from the homes. However, that is still part of the training but there is a lot more training about the bonded asbestos that is still in homes in the Australian Capital Territory and that is in eaves linings, bathrooms, laundries, it is the substrate that is behind your tiles or the old lino that could be still on the floor. Asbestos is in a lot of elements, even the putty around the glass in windows. As a joint venture between the Australian Capital Territory Government and industry, we developed this training program. It has been registered through ASQA and we have been rolling that out across the last six months.

**Mr JOHN BARILARO:** So any tradesperson in the Australian Capital Territory that works on a residential home now must do this particular course?

**Mr EVANS:** Must do this course.

**Mr JOHN BARILARO:** How long is it? A three-day course, two days?

**Mr EVANS:** It is 4½ hours, as I recall. There is an assessment at the end. Previous asbestos awareness courses that we were running prior to the latest one did not have an assessment at the end. So it is a bit more rigorous and puts people through a small test at the end.

**Mr JOHN BARILARO:** This is about loose-fill asbestos or asbestos again in general?

**Mr EVANS:** Mainly bonded asbestos because that is the predominant asbestos that is left in homes at the moment. But there is still training around the fact that the loose-fill asbestos that was pumped into the roof cavities has got down into the cavity between the brick and the timber walls and into the subfloor spaces.

**Mr JOHN BARILARO:** Do we have an equivalent 4½ hour training day in New South Wales? Is it part of the White Card training for tradies?

**Mr EVANS:** As part of the White Card there was a small element of asbestos awareness in that, but the course that we are running currently is more focused on asbestos awareness. In New South Wales, HIA is doing it in a voluntary capacity at the moment and I am not sure of the numbers but there is quite a bit of interest in it. And the reason that this training became an issue that we thought was worthwhile rolling out to the wider industry was that, as part of the apprenticeship program, the apprentices were doing a fairly sizeable chunk of training around asbestos awareness and when they were on site with the tradespeople, they were saying, "Boss, that could be asbestos behind that tiled wall there." The boss would say, "Oh, why do you say that?" And the apprentice would say he had learnt about it. They would get the relevant experts in and have it confirmed that it was an asbestos product, which had the risk to potentially affect their health or their life and safety. I think it is a good thing. I think it is a positive step because information is very important in this area.

**The Hon. TREVOR KHAN:** Would many people who undertake pre-purchase building inspections be members of your association?

**Mr EVANS:** Some.

**The Hon. TREVOR KHAN:** Is there any training of which you are aware that a builder—because normally it will be a builder—undertakes before holding themselves out as a pre-purchase building inspection provider?

**Mr EVANS:** In the Australian Capital Territory there is no licensing or registering regime for pre-purchasing inspectors. They could be a public servant, they could be a builder, they could be a building inspector or an architect.

**The Hon. TREVOR KHAN:** Is that the same in New South Wales?

**Ms ADLER:** There is no licensing regime for pre-purchase inspections. They removed that some years ago.

**The Hon. TREVOR KHAN:** Potentially, we have people crawling around in ceilings for a start doing a pre-purchase building inspection who may not know what they are looking at?

**Ms ADLER:** I do not know how many pre-purchase inspectors crawl around when they go in and do pre-purchase inspections.

**The Hon. STEVE WHAN:** They do not seem to get in there, do they?

**The Hon. TREVOR KHAN:** That is a bit of a problem in itself, is it not?

**Mr EVANS:** Yes, I agree. Years ago I actually had the unfortunate experience of sitting on the Australian Standards Committee that looked into how these inspectors would conduct their work and where they could go. They had out-clauses in the Standard where they did not have to get into confined spaces, they did not have to get into subfloors if the floor was less than 600 millimetres off the ground, roof spaces. There were all these—

**The Hon. TREVOR KHAN:** Get-out-of-jail cards.

**Mr EVANS:** Get out of here, you cannot go there; all these get-out-of-jail cards. Even the Australian Standard is very light on how far they have to go and where they have to look.

**The Hon. TREVOR KHAN:** Another group of people involved in those pre-purchase inspections who are exposed probably more frequently are those who undertake pest inspections, particularly in country areas?

**Mr EVANS:** Yes.

**The Hon. TREVOR KHAN:** Is there a licensing scheme for those pest inspectors beyond being capable of spraying pesticides?

**Mr EVANS:** No licensing in the Australian Capital Territory, but I think there is some training, and I do not know to what degree. The companies put their people through training to apply the particular product, but I do not know whether it goes down to training about asbestos.

**The Hon. TREVOR KHAN:** Paragraph 2.1.3 of your report says that Bowers Asphalt was a supplier of loose-fill asbestos insulation in commercial properties. Do you know whether its product source was from Mr Fluffy, came directly from overseas or was it a local product?

**Ms ADLER:** No, we do not have any knowledge as to where they got their product from.

**CHAIR:** South Africa was mentioned.

**The Hon. STEVE WHAN:** Anecdotally, they separately imported it, from what I have read, but no-one seems to know.

**The Hon. TREVOR KHAN:** Potentially, we have at least two independent importation sources, perhaps even more, of loose-fill asbestos insulation?

**Mr EVANS:** From what I have heard, and the Chair is correct, it did come in from South Africa—this is Mr Fluffy's product. I have been told—I was not in the Australian Capital Territory at the time—that it came in sheets and he had a machine, I do not know whether it ran off a petrol motor or what, that actually crushed the sheet up and blew it through a tube and it was pumped into the roof space. That is the only thing that I am aware of that I have been told about where it has come from.

**The Hon. TREVOR KHAN:** Did it come in containers?

**Mr EVANS:** I have heard it came in containers.

**Mr DARYL MAGUIRE:** With this installation method, neighbours could have been exposed whilst the machine was crushing these blocks, if it is as agricultural as you suggest, and the breeze could have carried these fibres?

**Mr EVANS:** Absolutely.

**The Hon. TREVOR KHAN:** I return to the labelling in the meter box.

**CHAIR:** With a tag.

**The Hon. TREVOR KHAN:** Yes. If a roofer is replacing gutters, do you say that person would check the power box before he replaces the gutters?

**Mr EVANS:** That is what we are encouraging tradespeople to do because there still are remnants of fibres in the homes that were allegedly cleared years back by the Federal Government and it is just a quick check and gives you some certainty whether it is or is not there.

**CHAIR:** Would they then be asked to wear a mask or something or not do any work?

**Mr EVANS:** From my understanding, WorkSafe has some procedures on its website and you would have to use or would be advised to use a mask.

**CHAIR:** Some protective clothing?

**Mr EVANS:** Yes, I think depending on the risk, once the risk is identified. Whether it is in the home or outside the home, I think the risk levels would be different and you would take the appropriate steps, depending on the situation and the risk.

**The Hon. TREVOR KHAN:** I chose guttering because the previous witnesses said that if there is no sarking underneath the roof tiles, the potential is for the loose-fill asbestos to, essentially, blow out from underneath the eave and collect in the gutters.

**Mr EVANS:** That could be the case.

**Ms JAN BARHAM:** What action do you take to advise your members? Do you support the distribution of the leaflet or some regular contact to make sure they are aware? It is an issue where enough cannot be done, but while we are waiting for other things to happen at least we have the November awareness campaign and the leaflet.

**Mr EVANS:** Obviously, we are training people in the Australian Capital Territory.

**Ms JAN BARHAM:** But I am interested about in New South Wales.

**Mr EVANS:** In New South Wales we are promoting asbestos-awareness training in a voluntary capacity. Obviously, in the Australian Capital Territory it was mandatory. We talk about it at trade nights and we talk about it through our publications in electronic form and hard-copy documents.

**Ms JAN BARHAM:** Do you have examples of the sort of information you are producing?

**Mr EVANS:** Not here.

**Ms JAN BARHAM:** Would you be able to provide it?

**Ms ADLER:** Generally, particularly with electronic information, we will provide links to whatever is the relevant agency. The WorkCover website is where most of our members would go for information about safety-related issues. We can provide a copy of the article that we sent out.

**Ms JAN BARHAM:** I am interested in seeing what you provide.

**Mr EVANS:** The other way that industry is being informed is not just by industry associations; the Work Safe Commissioner has been very proactive down there running industry breakfasts and sessions around asbestos and other work, health and safety issues.

**Ms JAN BARHAM:** I live on the North Coast. I am told that travellers have been employed and are paid cash-in-hand to work. There was a circumstance where a fibro shack was being pulled down and thongs and shorts was all that was required. They were paid cash-in-hand then disappeared. Is that culture still going on? Are you made aware that people engage in those practices and, if so, what are you doing about it?

**Mr EVANS:** I am not aware of it. The problem is I am not sure whether that practice is continuing, but it could be. The problem we have is that everybody who is working in the building industry is not necessarily a member of the Housing Industry Association. We have a good percentage of members in terms of estimated total number of industry people but there is always an element of people who can drive into the Australian Capital Territory, or anywhere else, from Queensland or Western Australia, or wherever else they come from, and they can put an ad in the local paper and pick up work. They could be unlicensed, they could be uninsured. Nobody is engaging with them and talking to them or trying to keep them up to speed with changes to legislation and their responsibilities, so there could be a small cohort that is operating illegally, and we would not know about it.

**Ms JAN BARHAM:** Any ideas of what could be done? When you are dealing with an issue like this, people's health and wellbeing is at risk.

**Mr EVANS:** Absolutely. Whether it is demolition or construction around a building, whether it has got asbestos-related issues attached to it or not, there are still health, life and safety issues around the structure about complying with wind loading standards and other structural elements. If these guys are not trained and qualified and licensed to do the work, they should feel the full force of the law.

**Ms JAN BARHAM:** In your submission at 3.2.3 and 4.1.4 you refer to the need for WorkCover to take a more proactive role. Is there anything else that you would like to raise? There are references to the Heads of Asbestos Coordination Authorities as well. I am wondering if there is something we have not yet been able to provide or elaborate on.

**Ms ADLER:** It is more of an observation rather than a recommendation. As I mentioned earlier, having one clear point of contact is really where we were going with those comments about the different government agencies being involved for tradespeople to find information about asbestos.

**Ms JAN BARHAM:** Do you think having messages such as "Call before you dig", would work; so there is one place to go?

**Ms ADLER:** I think having one clear point of contact would definitely assist.

**Ms JAN BARHAM:** Have you looked at the Ombudsman's report from 2010 about asbestos problems and the recommendations?

**Ms ADLER:** I am aware of it, yes.

**Ms JAN BARHAM:** Do you support the recommendations?

**Ms ADLER:** I do not know if we are in a position to comment on that at this point.

**Ms JAN BARHAM:** Would you take that on notice, whether we have a good standard here and how to move forward if there are issues, if there is an industry body you are able to support?

**Ms ADLER:** All of the recommendations in the Ombudsman's report?

**Ms JAN BARHAM:** There are only 10.

**Ms ADLER:** The Government did adopt some of them.

**Ms JAN BARHAM:** The outstanding one is the coordination authority.

**Ms ADLER:** Is that not the Heads of Asbestos—

**Ms JAN BARHAM:** That is separate from HACA, is it not? The roles defined in here are different from the coordinating body.

**The Hon. STEVE WHAN:** HACA was set up in response to the report, but whether it does the job—

**Ms JAN BARHAM:** That is right. It has a similar name but does it do the same job as being a central authority or coordinating group?

**Ms ADLER:** You are asking for HIA's view on each of the recommendations in that Ombudsman's report?

**Ms JAN BARHAM:** If you are able to provide that it would be helpful.

**Ms ADLER:** We will have to take that on notice.

**Ms JAN BARHAM:** As an industry body, it would be helpful to know.

**CHAIR:** Following up on Ms Barham's questioning, you are critical of the situation. In 3.1.1, you say:

HIA is concerned that the current, seemingly uncoordinated and ill-directed approach to this issue in NSW could result in deleterious outcomes for both home owners and contractors..."

It seems to me, in a roundabout way, you are recommending something similar to the Australian Capital Territory's Asbestos Response Task Force because it has some muscle to take over the issue and deal with it rather than all these different uncoordinated organisations and bodies. Have you looked at the Australian Capital Territory Asbestos Response Task Force and how it works?

**Mr EVANS:** I am on the reference group that meets with the task force. We raise industry issues. There are some community representatives there that raise community issues. It is only very new, but, again, it gets back to the point that if you want to find out more about the process and the procedure, you go to one point,

and that is the task force. I believe that the head of the task force, Mr Kefford, has been given some pretty broad powers to change or amend certain legislation to facilitate the demolition and buyback program within the Australian Capital Territory, and everything seems to be working and going well in relation to the work that the task force is doing, but time will tell. The process has only just started.

**CHAIR:** Yes, it is a new development. You have already mentioned the reference group. You are on that because you are representing the HIA in the Australian Capital Territory, so would you like to have a New South Wales reference group if we had a task force set up where, again, industry and other groups and stakeholders have some role?

**Mr EVANS:** I think if a similar department or group or organisation was set up it would be valuable for them to engage with industry and get feedback, ideas and some solutions to problems that they could consider and implement.

**CHAIR:** The other question I have raised earlier with witnesses is because the Australian Capital Territory Asbestos Response Task Force is set up and you are already overlapping ACT and New South Wales, should that be expanded to become the Australian Capital Territory-New South Wales Asbestos Response Task Force so we do not duplicate the structure?

**Mr EVANS:** That structure and southern New South Wales region is the structure of HIA. I do not know whether governments could replicate that. I am not too sure.

**CHAIR:** I am not sure whether I am reading too much into your submission, but there are two points on page 3 where you seem to be suspicious or negative about what is happening in the Australian Capital Territory. At 2.1.12, you say that caution should be exercised if the Australian Capital Territory approach is considered. In 2.1.15, you repeat the point that what is happening in the Australian Capital Territory "should, in no way be determinative of an outcome for NSW". Am I reading too much into those two negative views about what is happening in the Australian Capital Territory and that you do not want us to follow that pathway?

**Ms ADLER:** I think you might be. They are not negative views. The position is that we are obviously aware of what is going on in the Australian Capital Territory. We are part of that process. However, the New South Wales context has arisen under different circumstances. We would not want to see the Australian Capital Territory approach necessarily adopted as a foregone conclusion because at this stage we still do not know the extent of the problem.

**CHAIR:** The major change in the Australian Capital Territory is the demolition of potentially 1,000 homes. That would be a dramatic development in New South Wales if a body or the Government decreed the same situation here. Would that be too much to contemplate or too heavy-handed a response?

**Mr EVANS:** From my understanding, the Australian Capital Territory Government has taken this approach because it is the only absolute way to ensure that loose-fill asbestos does not continue to potentially cause harm. Before self-government the Federal Government tried to remove the risk by removing the product. However, all those good intentions did not succeed and there are still remnants of fibres in the roof cavities, in the wall cavities and under the suspended timber floors. It was a good attempt, but it did not go far enough. Hence, the Australian Capital Territory Government's move to demolish them because they think that is the only absolute way the issue can be rectified.

**CHAIR:** Would that be a possibility in Queanbeyan and so on?

**Mr EVANS:** That could be a possibility if the New South Wales Government chose to go down that path.

**The Hon. STEVE WHAN:** Should it?

**Mr EVANS:** I cannot answer for the Government.

**The Hon. TREVOR KHAN:** Yes you can, go on!

**CHAIR:** Think of all the new houses you would build.

**Mr EVANS:** The only thing I will say is that I do not know whether, depending on certain construction types and certain homes, there could be a possibility to undertake remedial works without full demolition. I was a builder years ago and that is why I am saying this. There could be possibilities depending on the type of construction and the situation and scenario. However, it would be minute. The only way to be absolutely sure is to go down the demolition path. I do not think there is any other alternative.

**CHAIR:** Thank you very much for your evidence today.

**(The witnesses withdrew)**

**(Short adjournment)**

**GARY ADAMSON**, Chair, Strata Management Chapter, Real Estate Institute of New South Wales, and

**GARY TRIGANZA**, Chair, Property Management Chapter, Real Estate Institute of New South Wales, affirmed and examined:

**CHAIR:** Would either of you gentlemen like to make a brief opening statement?

**Mr ADAMSON:** I would like to thank the Committee for the invitation to appear, notwithstanding that it was only received yesterday. We have a number of concerns within our industry because of its unique nature in the context of the WorkCover requirements. The legislation seems to have been written for situations where you have employees and employers; real estate agents, unfortunately, are neither. We are agents but for the purpose of the legislation we seem to be held out as being a principal. As a result we are placed in a rather unique position where we are responsible for things that we have no genuine authority to address. As we are not the property owner we do not have the authority to authorise work without the approval of the principal, whether it be a landlord, strata scheme, community association or even a company title property, to make alterations to their property, nor do we have access to their funds—those funds are held in trust and we cannot spend them without obtaining the authority of our principal.

So we are in the rather unique position of being responsible for, but not able to make, changes that need to be done. In addition to that, we have a situation where the legislators in respect of this particular aspect seem to be of the opinion that we also should be responsible for those particular aspects. They have put in place legislation so that we are unable to really comply with it because they are not prepared to provide any guidelines at all, notwithstanding numerous communications to those responsible for drafting legislation. It is a very difficult position for us both as property and strata managers to be able to deal with these matters in any way, shape or form unless we can get some clarification as to how we can go about it.

**The Hon. STEVE WHAN:** In your submission you talk about not being able to get clarification from WorkCover on items. As you know, this Committee is focused on loose-fill asbestos insulation issues primarily in the south-east of New South Wales. I am interested to know what feedback you are getting from your members about that issue, particularly in south-eastern New South Wales, as to how they are dealing with the owners of rental properties who have this insulation. I have certainly heard of a case in Queanbeyan where once the real estate agent found out that a property had loose-fill asbestos insulation they told the person they did not want to work for them anymore. The real estate agent basically told that person they were on their own. Have you taken a policy position? What sort of feedback are you getting from your members in that area?

**Mr ADAMSON:** The Real Estate Institute has not at this stage taken a policy position on it. We have left that for the individual members to negotiate with the landlords in the case of property management schemes, and in the case of strata schemes it is a similar position. It is up to each licence holder to make their own decision as to how they go about it, whether they wish to continue providing the services to the respective clients. On the strata side, which is my specific area, we are finding situations where because the legislation says that residential properties are exempt proprietors do not wish to spend any money whatsoever in regard to determining whether there is any asbestos on the site at all, and as strata managers being placed in the position of the person in control of the business or undertaking we are actually liable for it.

**The Hon. STEVE WHAN:** In what way?

**Mr ADAMSON:** As soon as anybody goes on to a site and they start conducting work the perception is—

**The Hon. STEVE WHAN:** Because it is deemed to be a workplace?

**Mr ADAMSON:** That is right, notwithstanding that it is a residential property and the strata scheme, if it is self-managing, has no liability, but because we are involved as managers then we are instantaneously responsible for it. Again, notwithstanding that we do not have access or control over what happens on the property without instructions from the principal of the strata scheme, community title, company title, nor do we have access to or can we spend funds that are held in our trust account to be able to address these things without any instructions.



**The Hon. STEVE WHAN:** Are any of your members in the south-east coming to you and asking for advice about properties with asbestos?

**Mr ADAMSON:** Yes.

**The Hon. STEVE WHAN:** What are they asking you for and what are you able to provide them?

**Mr ADAMSON:** We are not able to provide any definitive advice on it because those responsible for drafting the legislation simply refuse point blank to provide any information that would be of any benefit. I think the Committee has received a copy of our submission. If you have a look at the request from Eva Sklavos, who is the legal counsel, we got a response from WorkCover, from Rosalie Mayer Ramsey, and this is indicative of the response we get. It says, "Sorry for the letter being a bit confusing but I ran it past our legal people and that is what they came up with." If we cannot get a direction for our members—and we are talking about close to 8,000 members in New South Wales—it is creating a very significant problem for our industry and it is certainly going to start to show signs of expense in the professional indemnity area.

**The Hon. STEVE WHAN:** If a landlord has a property with asbestos in it and they are, as I know some of them are, struggling about what to do, whether to rent it, where should they go for advice on that? Should they bother to go via you at all or should they just go direct to the Heads of Asbestos Coordination Authorities?

**Mr ADAMSON:** We cannot provide advice because the powers that be refuse to provide advice as to how we can go about it.

**The Hon. TREVOR KHAN:** You can take independent legal advice; that is the nature of any organisation. You do not have to go to a government department to work out what a piece of legislation is.

**Mr ADAMSON:** But unlike government departments we do not have bottomless pits as far as money goes; we are running commercial businesses.

**The Hon. STEVE WHAN:** Those lawyers are pretty expensive.

**Ms JAN BARHAM:** You are referring to section 62.

**Mr ADAMSON:** Are you talking about the Strata Schemes Management Act?

**Ms JAN BARHAM:** Yes.

**Mr ADAMSON:** The strata schemes are required to maintain the common property. Whether or not they know it is damaged or otherwise, they have a statutory obligation to maintain it.

**The Hon. MICK VEITCH:** I will quote to you from the submission from Maurice Blackburn. This is one of their recommendations to the Committee:

That there be a positive legal requirement on owners/vendors (and their advisors like lawyers, real estate agents, conveyancers etc) that on the sale of a property that they are required to give notification of the fact that a home has, or did have, LFA insulation and that such notification must be clearly and unambiguously identified on the contract of sale and in communications to prospective purchasers.

**Mr ADAMSON:** It sounds very good in theory but real estate agents, if you are talking about generally, it would be salespeople. These salespeople, in order to be able to obtain a sale certificate, need to go to a course that is supposed to be, theoretically, 35 hours studying exclusively the Property, Stock and Business Agents Act. Unfortunately, as a result of former State governments' changes to the educational aspects, we have private certifiers who are providing the approval for those within 10 hours. What you can learn in 10 hours is beyond me. If you have a licence holder and they are prepared to employ somebody with a certificate, which is pretty indicative throughout the industry, you have got somebody who is let loose on the public who would not have a clue what is going on and certainly has no training in regard to asbestos or work health and safety.

**The Hon. TREVOR KHAN:** And it is not really the obligation of a real estate agent to go clambering around in the ceiling to find out what is there.

**Mr ADAMSON:** I do not know any real estate agents that actually volunteer to do that, no.

**The Hon. MICK VEITCH:** Another one of the recommendations that Maurice Blackburn is putting forward to us, and I would like to get your views states:

A central register of all homes and properties which have been identified as having or having had LFA insulation in them should be publicly accessible and searchable by prospective purchasers, renters, emergency services personnel, tradespeople etc.

**Mr ADAMSON:** That, again, would be nice in theory, but who is going to pay for it?

**The Hon. STEVE WHAN:** A central register is not too expensive, but is it not an issue for your salespeople selling properties?

**Mr ADAMSON:** Again, they are not providing that service; that is not their area of expertise. If indeed you intend to place that into the legislation, that obligation will have to be placed upon the property owner.

**The Hon. MICK VEITCH:** Say I wanted to buy a house somewhere in Wagga, I could go onto this central register and look at the property and see if it has been listed, I guess is what they are saying, so it is publicly available. It is not saying that the real estate agent would hold the central register. What they are recommending to us is that there should be a central register publicly available for everyone to go and have a look at.

**Mr ADAMSON:** I do not know that I would necessarily agree that that is the way it should run. People who bought into these properties are probably fully aware that it is there to start off with.

**The Hon. MICK VEITCH:** That is the problem, they are not.

**Ms JAN BARHAM:** Is that not the issue? Someone sold it to them without telling them or advising them to check.

**Mr ADAMSON:** You hear of buyer beware, but I am more concerned about those who are buying those properties. Perhaps we should be looking at something that is a mandatory requirement where a report is obtained prior to a property being listed for sale and it should be disclosed in the sale contract.

**The Hon. MICK VEITCH:** So you would support a mandatory report?

**Mr ADAMSON:** I would have no problem with that; on the contrary, I think there probably should be a number of things that are mandatory disclosure. I own real estate agents and strata management offices throughout New South Wales so I am familiar with both sides. We often see situations with auctions where you might have four, five, six, seven, eight people who are interested in it, so each individually gets their own pest reports and building reports.

**The Hon. TREVOR KHAN:** And perhaps a survey as well in some circumstances.

**Mr ADAMSON:** Invariably that is the case. You are looking at duplicating that many times. I would prefer to see an onus upon the vendor to provide that on a one-off basis and the successful purchaser would reimburse them for the cost, or something along those lines.

**The Hon. MICK VEITCH:** It is sort of like a mandatory pre-assessment for the sale. Who would do that?

**Mr ADAMSON:** There is a range of people who would provide that particular service: building inspectors—there is a stack of those around—anybody with a building licence can provide that. Pest inspections: I presume there are many thousands of certificate holders around as well. That would be up to the vendor to make the decision, I would expect.

**Ms JAN BARHAM:** I would have thought it was your role to facilitate that.

**Mr ADAMSON:** No.

**The Hon. TREVOR KHAN:** A contract has to be put together and likely put together by a conveyancer or a solicitor to supply to the agent. The agent has an obligation to have a full marketing contract available for inspection by a purchaser and it is just a question of what inclusions are contained in that.

**Ms JAN BARHAM:** But for an agent to inform someone that that is what is required.

**Mr ADAMSON:** I do not know that we should be in a position where we are informing. My perception would be that is legal advice. We are not qualified in that area.

**The Hon. MICK VEITCH:** Are you concerned that your members may be exposed to some sort of legal redress at some stage in the future?

**Mr ADAMSON:** Not maybe, but rather are being exposed on a daily basis.

**The Hon. MICK VEITCH:** I guess that is where I am going. With regard to loose-fill asbestos and selling homes and commercial buildings you are concerned that they may well have been exposed due to a failure of the legislative framework?

**Mr ADAMSON:** Yes.

**The Hon. MICK VEITCH:** Because people have known about this for some time.

**Mr ADAMSON:** Yes, that is right.

**The Hon. MICK VEITCH:** And some of these residences may well have been conveyed two, three, four times or more since the 1990s.

**Mr ADAMSON:** This is not just about loose-fill asbestos; asbestos is prevalent through numerous properties. If you look at any strata title property built prior to late 1970s or early 1980s, you will see that most of them have a thing called vermiculite sprayed onto the ceiling, and that also has asbestos in it.

**The Hon. MICK VEITCH:** One thing that has been raised in a number of the submissions is the need for tagging or labelling of houses once they have been identified. Would you support that?

**Mr ADAMSON:** I would be concerned about the durability of the tagging.

**The Hon. STEVE WHAN:** Do you mean just physically?

**Mr ADAMSON:** Yes. For example, if a plumber was to go to a property to do some work then it is unlikely that they would go to the electricity box to see if there is any tagging in there.

**The Hon. TREVOR KHAN:** I thought that too.

**The Hon. MICK VEITCH:** I think we have similar views. It has also been put to us that rather than just being in the meter box it could also involve the cavity access points. So either underneath the house or into the roof cavity there could be some sort of seal or tagging of the manhole et cetera.

**Mr ADAMSON:** I think it would need to be some form of permanent fixture in a prominent position, whether it be on the front door or otherwise.

**Ms JAN BARHAM:** So we could just let everyone know.

**Mr ADAMSON:** Why not? If we are going to clear it up then we may as well be up front about it.

**Ms JAN BARHAM:** Could you clarify then what you believe your legal obligation or your professional role is and where that would start and end in relation to this issue?

**Mr ADAMSON:** Is that in the property management or the strata management area?

**Ms JAN BARHAM:** If you believe they are different, could you define the difference under each role?

**Mr ADAMSON:** They are very different because they are dealt with under different Acts. There is the Residential Tenancies Act, the retail Act, the community titles Act and the Strata Schemes Management Act. So there is a whole range of different legislation. Notwithstanding that the licences and/or certificates are the same, we are dealing with different areas of expertise. So to the extent that we are dealing with that we are not really in a position to be able to deal with all these other things that we are talking about. These are not our areas of expertise at all. They should be offloaded to third parties who have the expertise to be able to provide it.

I am at an utter loss, as are all members of the Real Estate Institute of New South Wales, as to why we are being nailed on these things. We can look at property management as a good example. The huge majority of people who are in property management these days are women under the age of 26. They have studied their certificate for 10 to 35 hours, and that is the extent of their knowledge of what is going on.

**Ms JAN BARHAM:** So what are they doing then?

**The Hon. TREVOR KHAN:** That is a bit of a concern. If I have a house to rent out and I retain my local real estate agent for the purposes of managing that, what percentage of the rental received do they charge me?

**Mr ADAMSON:** Nowhere near enough.

**Ms JAN BARHAM:** For doing what?

**CHAIR:** It is 10 to 12 per cent?

**Mr DARYL MAGUIRE:** No, it is more like 7½ per cent.

**Mr ADAMSON:** One of the problems is in regard to "you get what you pay for". In most cases you get what you pay for.

**Ms JAN BARHAM:** That is what I am trying to work out: what do you actually get? We sort of know what people pay for, but what do you get? You made the comment about it not being your role—

**The Hon. TREVOR KHAN:** You get a 26-year-old female who has done a 35-hour course. Is that what you are telling us you should get?

**Mr ADAMSON:** Predominantly that is it.

**Ms JAN BARHAM:** I think when people place their property in the hands of someone they want to know that the property is being properly cared for, managed and looked after.

**Mr ADAMSON:** But that is not the role of the person doing that. The misnomer is that this person is a property manager. We are not managing properties; we are dealing with the tenants. We are a tenancy manager.

**The Hon. TREVOR KHAN:** You are talking me out of going into property investment, I must say.

**Mr ADAMSON:** We can go into that in further detail later if you like.

**Ms JAN BARHAM:** What about a responsibility to the tenants then? I am just trying to tease this issue out. I know you have said a lot of things that you are not but I am trying to work out what you are and what you do to define whether there is a responsibility for you in this, and if not then why not. You are saying that your relationship is with the tenant.

**Mr ADAMSON:** No, it is not with the tenants; it is with the landlord. They are the principal. We are acting as an agent. We cannot act for both parties so we have to act in the best interests of the principal.

**The Hon. TREVOR KHAN:** You may not be acting for both parties but that actually does not define your responsibilities. It defines your contractual obligations but it does not define your responsibilities at tort.

**Mr ADAMSON:** Our responsibilities are set down in the agency agreements, which vary quite a bit.

**The Hon. TREVOR KHAN:** No, that does not define your responsibilities at tort law.

**Mr ADAMSON:** That is a fair comment.

**Ms JAN BARHAM:** So on the strata issue is the problem that you have that you are meant to control something? Or is it that you are meant to inform the owner or to tick a box to make sure that you have fulfilled your responsibility to make sure that the owner has undertaken an assessment?

**Mr ADAMSON:** This is the other problem. The perception of the Work Health and Safety Act is that there is an individual who is responsible. If you take a typical strata scheme, there is not an individual responsible—it is a group of people; it is called the executive committee. So there is no individual who is responsible. The agent is sitting underneath the executive committee and taking instructions from them.

**Ms JAN BARHAM:** Exactly, but my question is: does the agent have a role to be sure that the board or the committee has considered their responsibility before you can perform your role? What I am hearing is that there is not much of a role for you other than to take your percentage.

**Mr ADAMSON:** No, that is not correct.

**Ms JAN BARHAM:** Well, what do you do?

**Mr ADAMSON:** I could probably point to a couple of hundred strata schemes, some that I manage and some that other strata scheme managers manage, where we provide advice to the executive committee and/or general meetings of the proprietors that they should have an inspection of the property for asbestos.

**Ms JAN BARHAM:** That is what I wanted to hear, thank you.

**Mr ADAMSON:** But they turn around and say, "We are a residential property. We are exempt under the Act. So we are not going to spend the money." That is the typical response from residential strata schemes.

**Ms JAN BARHAM:** So the point is that the exemption is for a residential property?

**Mr ADAMSON:** Yes.

**Ms JAN BARHAM:** So that is a relevant point.

**Mr ADAMSON:** They would make up probably 85 to 90 per cent of the strata schemes in New South Wales.

**Mr DARYL MAGUIRE:** So what you are suggesting is that the exemption needs to be removed?

**Mr ADAMSON:** I would have no problem with it being removed but I have a real problem with one individual being identified as the responsible party when in fact it is a group of people making these decisions. I think there needs to be a change in the legislation to identify that, and so that we as strata managers are not just providing the information to them saying that there is a responsibility to do it but also there is a liability in the event that they do not.

**Ms JAN BARHAM:** But the responsibility of the strata manager would be to properly inform the board that they have a responsibility.

**Mr ADAMSON:** Yes, and that is what we do.

**Ms JAN BARHAM:** Then you can tick off the box and that is your bit done.

**Mr ADAMSON:** Yes.

**Ms JAN BARHAM:** So you are in effect shifting that responsibility to those who are responsible

**Mr ADAMSON:** Yes, that is right.

**Ms JAN BARHAM:** And saying that you have fulfilled your responsibility.

**Mr ADAMSON:** Yes.

**Ms JAN BARHAM:** So that is easy, is it not?

**Mr ADAMSON:** Not necessarily.

**Ms JAN BARHAM:** I am just trying to make sense of what your argument is, and I am struggling.

**Mr ADAMSON:** Let us take as an example a strata scheme that is self managing. It can go ahead and engage various people to work on the common property and it has no responsibility at all in regards to asbestos or any other work health and safety issue because it is exempt. Whereas if the strata manager as the intermediary party is taking up all the work that the executive committee would otherwise do, whether it be the administration, arranging work or otherwise, then, because it is a person conducting a business or undertaking under the provisions of the Act, it is responsible as a party for doing it—only because it is the intermediary party and notwithstanding that the strata scheme is exempt.

**The Hon. TREVOR KHAN:** I do not want to interrupt the flow but I do have one question to ask here. I am looking at the terms of reference. Are you aware of any strata properties in which loose-fill asbestos has been identified?

**Mr ADAMSON:** Not at present.

**The Hon. TREVOR KHAN:** What about rental properties rather than strata properties?

**Mr ADAMSON:** I have spoken to quite a number of property managers with a range of different officers who are members of the Real Estate Institute and, yes, it seems to be fairly prevalent.

**The Hon. TREVOR KHAN:** In any particular areas?

**Mr ADAMSON:** I could not identify the areas, no.

**The Hon. TREVOR KHAN:** Can you take it on notice if the REI is aware of the localities? I am not asking for addresses but for the localities of where you are getting reports of loose-fill asbestos in properties under property management.

**Mr ADAMSON:** We are not getting reports in terms of, "Here's a report and put it on the file." I am only aware of that because of various functions I attend where we have discussions and people advise me of it. We would be in a position possibly—again there is a financial issue associated with that—of circulating our members to find out what properties they have and we can provide that report.

**The Hon. TREVOR KHAN:** Can I invite you to do that? It would be useful to the Committee.

**Mr ADAMSON:** The difficulty we have is that there is a financial cost involved in that.

**The Hon. TREVOR KHAN:** It is called an email, is it not?

**Mr ADAMSON:** Not necessarily. Emails are not free; there is a cost of staffing involved as well.

**The Hon. TREVOR KHAN:** I can only invite you to consider it. It would be useful to this Committee if you could poll your members to find out not by agent and not by address but by locality where loose-fill asbestos properties have been identified.

**Mr ADAMSON:** Mr Triganza is chairman of the Property Management Chapter so he can look into that.

**CHAIR:** When you are handling the sale of a property and you are aware that there is Mr Fluffy loose-fill asbestos in the roof do you feel an obligation to advise the prospective purchaser that it is there?

**Mr ADAMSON:** I personally would, yes.

**CHAIR:** You would normally do that?

**Mr ADAMSON:** Yes.

**CHAIR:** Is that because of your ethical position or is it a rule for all agents?

**Mr ADAMSON:** Not every agent has the same ethics as me.

**CHAIR:** But is there a rule within the industry that agents should do that?

**Mr ADAMSON:** No, there is not. In fact, one of the problems we strike in that area where there might be an impediment to the property along those lines is that quite often the solicitors are asking on behalf of the vendor, who will specifically instruct the agent not to disclose it.

**CHAIR:** Do you know of cases where an owner has advised to keep it confidential?

**Mr ADAMSON:** Not the owner but the solicitor acting for the vendor has instructed the agent. I know of anecdotal evidence of that, yes.

**CHAIR:** I note in your submission you have been trying hard to get guidelines from the Government on how to deal with dangerous substances such as Mr Fluffy asbestos and you do not seem to be having much success.

**Mr ADAMSON:** It is like a long bit of string but it keeps on getting longer.

**CHAIR:** You are not satisfied with their replies?

**Mr ADAMSON:** Absolutely not. We are totally dissatisfied as an organisation.

**Mr DARYL MAGUIRE:** Can you provide some examples of the efforts you have made to get clarity?

**Mr ADAMSON:** The documents are available in the submission.

**Mr DARYL MAGUIRE:** Is that the complete file?

**Mr ADAMSON:** I do not know if that is the complete file. I have not been involved in that aspect. That is left up to the general manager of the Real Estate Institute to address. I was simply provided with that documentation. There may in fact be more but I am not certain. I do know that there have been numerous phone calls not just from the administration of the REI but from most of our members as well.

**Ms JAN BARHAM:** The 23 October reply you received is quite substantial and it does not appear that anything flowed from it to show you were not happy. The response of 23 October 2012 is the last piece of correspondence. If you were not happy with that do you have some correspondence in response to it?

**Mr ADAMSON:** Not that I am aware of at present but I think—

**Ms JAN BARHAM:** But that would be the normal process when you are in the toing and froing of trying to get clarity.

**Mr ADAMSON:** The toing and froing goes to committees that do not meet every day. There is often several months between them.

**Ms JAN BARHAM:** But 23 October 2012 is more than two years ago. If you are maintaining, as you have said a number of times, that you are not satisfied, it is not good enough and it is an unacceptable situation. Where is the response to what is quite a detailed reply letter?

**Mr ADAMSON:** It is detailed but it actually says nothing from my perspective.

**Ms JAN BARHAM:** If I were them and did not get a letter back I would be thinking that you were happy with the response. That is the way it works, in my understanding.

**The Hon. TREVOR KHAN:** What do you say are the ethical obligations of your members if they are told to not tell a prospective purchaser that there is a profound defect with a property they have listed—that is, it has got asbestos in it? What is the ethical obligation of the agent?

**Mr ADAMSON:** To disclose it to any prospective purchaser.

**The Hon. TREVOR KHAN:** How do you do that in the context that you have a marketing contract in your file which fails to make that disclosure?

**Mr ADAMSON:** I would suggest to the prospective purchaser that they have an inspection done as part of the building inspection.

**The Hon. STEVE WHAN:** An inspection for asbestos?

**Mr ADAMSON:** Yes.

**The Hon. TREVOR KHAN:** Is that recorded anywhere in your documentation? For instance, is it in publications to your members?

**Mr ADAMSON:** No, it is dealt with more at seminars that are conducted by independent parties.

**The Hon. TREVOR KHAN:** If it is done by independent parties do you have copies of any teaching material or the like that is handed out that sets out the obligations of your members?

**Mr ADAMSON:** I would have to refer back to the general manager to see what documentation—

**The Hon. TREVOR KHAN:** Will you take it on notice and see what you can find?

**Ms JAN BARHAM:** I have been told about someone who bought a property in Canberra about six years ago and they were not informed that the property was subject to the 1993 clean-up. It was their first home and their major investment that they had sunk their whole life into.

**The Hon. STEVE WHAN:** In Canberra it is noted.

**Ms JAN BARHAM:** Apparently this one was not. But they got the clean-up certificate saying that it had been done but now it has been revealed that the clean-up was not sufficient.

**The Hon. STEVE WHAN:** They knew it had been cleaned up but they did not reveal it. That is absolutely right.

**Ms JAN BARHAM:** I suppose this is where we are going. This could affect someone's major asset as well as the health of themselves, their families and friends. Is anything given to people so they know what to ask for? I am wondering more and more whether the consumer is being informed.

**Mr ADAMSON:** Documentation of that nature I would expect should be prepared and issued by the Office of Fair Trading. It is not our responsibility.

**Ms JAN BARHAM:** I am not saying that it is your responsibility.

**Mr ADAMSON:** Again, things along those lines I would like to see as mandatory inserts into the sales contract.

**CHAIR:** Does your association have any views on what is being discussed in the Australian Capital Territory at the moment, the potential demolition of up to 1,000 homes because they feel it is impossible to remove all the residue of Mr Fluffy asbestos?



**Mr ADAMSON:** The Australian Capital Territory is not within our area of jurisdiction.

**CHAIR:** I just wondered if you have a view.

**Mr ADAMSON:** A personal view?

**The Hon. STEVE WHAN:** Have you been observing it as an organisation?

**Mr ADAMSON:** Not that I am aware of.

**CHAIR:** You do not have any opinion on it?

**Mr ADAMSON:** No. Anything that is outside the New South Wales jurisdiction, while it might be of general interest, is not something we specifically deal with.

**CHAIR:** There is a possibility that the same thing may occur in New South Wales. That would directly affect you.

**Mr ADAMSON:** If it were to occur in New South Wales it may affect some members, yes, in terms of their revenue.

**CHAIR:** That is why I was asking whether you had a view on it, because it could affect your members. You do not have a view?

**Mr ADAMSON:** Not a personal view, no. My perception is that if there is a known problem with the property it should be addressed in some way, shape or form. You do not necessarily need to remove all of the asbestos from a property to make a property safe. There are various materials that can be used to mask that. There is a lot of asbestos sheeting in many properties. Even for the Super Six asbestos roofing any potential harm can be minimised simply by applying various products. It is only when you start to break them up or burn them or otherwise that it becomes a problem.

**Mr DARYL MAGUIRE:** Mr Adamson, you are a member of the board. Because of the focus being applied to Mr Fluffy asbestos products has the board had in-depth discussions about it?

**Ms ADLER:** It has not been an agenda item, no.

**Mr DARYL MAGUIRE:** Will it be an agenda item?

**Mr ADAMSON:** Potentially.

**Ms JAN BARHAM:** Do you have a counterpart organisation in the Australian Capital Territory.

**Mr ADAMSON:** There is a counterpart organisation in each State.

**Ms JAN BARHAM:** Is there any information from them as an organisation that might inform—

**Mr ADAMSON:** Not that I am aware of, no.

**CHAIR:** Thank you for your attendance.

**(The witnesses withdrew)**

**MATTHEW RIGTER**, sworn and examined:

**CHAIR:** Matthew does not represent an organisation and is here as an individual who has been personally involved in this matter. Do you wish to make an opening statement?

**Mr RIGTER:** If the Committee would like I can basically run through it.

**CHAIR:** Yes.

**Mr RIGTER:** I started out by going to university in Bathurst. After finishing university in Bathurst I proceeded to go back to Canberra where I got a graduate position in an accounting firm. After two years of hard saving I tried to make my first leap into the hot property market, particularly seeing my family was a Defence family and had got into the property market particularly late. I thought having a base was the best thing I could do early in life. When I bought the property I went through and got a property inspection. The property inspection said that the roof was sealed because there was asbestos and as such did not provide any comment on it. I followed this up with queries with both the real estate agent from whom I was buying the house—he was probably not the best adviser I could get. His response was, "All houses built before 1980 had asbestos through them."

Mine is a unit—I call it a house, a home but I am talking about a unit. And that rang true with me from my knowledge of asbestos. I then proceeded to read advice from New South Wales that said the asbestos—which I read to mean that the asbestos was safe. It is the NSW Health advice. What it actually says in a review that I reviewed after July when I got a previous announcement that we will get to is, the house is safe as long as you do not breathe it in and you can contain it. There is a big difference in that but the advice was really in my opinion designed to allay the fears of residents. You had a lot of fear out in the community in 1991 because the Australian Capital Territory had made big moves and New South Wales had not. And they put out some carefully worded advice that basically made it so that people who were reading it were put at ease by thinking, "Yes, my house is safe" or "Yes, the home I am about to buy is safe." That is exactly how I read it.

After doing those two things; getting the building inspection, I thought I can buy this place. I was particularly attracted to it because it had a garage. I do a lot of outdoor activities and I needed a place with a garage because I had a whole heap of storage moved and I did not have much money so a one bedroom place with a garage was great. I did not think about the issue too much until we had a water leak in the unit and it leaked through, not in my unit but in the unit block, and the holder of unit nine said, "I have got water pooling and the ceiling is starting to degrade." We spent \$36,000 or around that figure—do not quote me on the exact number but over \$30,000—to repair that roof which is a simple repair on a house without asbestos.

At that point I said, "Hey guys, asbestos is only going to get more expensive to deal with. This expense was really expensive. Let's get rid of it." At that point there was a lot of fear, scare from the committee. I actually got physically shoved by one member of the strata plan because my speech particularly sort of started people saying, "Well, it is only going to get more expensive, mate, and we should start looking at it." It was about 50:50 about the people in the body corporate who wanted to look at removing it because we thought that would solve the problem. Some people said, "I'm a pensioner. I can't afford to remove it. I just cannot deal with this problem." Basically the vote then was to start building up money, instead of taking out a loan, because the pensioners said they could not afford a loan.

**CHAIR:** How many units in the strata?

**Mr RIGTER:** Thirty-eight, I believe. We started saving up money. That has been somewhat successful. We also have had a lot of expenses that have come up because of the asbestos. Every time you get a little bit ahead in saving up money for potential removal, it goes back because you have to repair something that costs you three times as much. There is only one company that our body corporate manager has found that is capable of doing that. That causes huge problems. My place is due for cornice repairs because I can see cracks in the cornice. I cannot actually get that cornice repair done because there is one company and they are not returning the body corporate manager's phone calls because they are so busy with all the Canberra stuff.

**Mr DARYL MAGUIRE:** What year was the unit block built?

**Mr RIGTER:** I could not tell you. I can take it on notice. I believe it is 1968.

**Mr DARYL MAGUIRE:** Are they full brick, or brick veneer?

**Mr RIGTER:** They are double layer brick.

**The Hon. TREVOR KHAN:** As you will be aware it will be in the strata records.

**Mr RIGTER:** Yes, I will take it on notice. Basically, once I got the advice in July from Queanbeyan City Council, which was a re-issuing advice saying that you have got Mr Fluffy, I suddenly twigged that the asbestos in my roof was not bonded asbestos, not that I ever knew of bonded and friable asbestos because I am not a construction person, but I suddenly worked out the stuff was really dangerous. I had heard about Mr Fluffy because of the Canberra stuff and I immediately said, "Oh shit", and I can remember my stomach turning up in knots and just cramping and that I felt suddenly helpless.

I rang my mum and she said, "Sell the property. We will cover your loss." I did not feel that I could sell the property because I am just passing the issue on to someone who may not understand the problems. My girlfriend is very much "You can't move back in." I told my tenant. He initially was okay with it but every time I did a bit more research on it, it actually got worse, not better. I could not find anything supporting the New South Wales Government's statement that it was safe. So I continued on trying to find information that backed up the State containment option and I still to this day have not found anything that supports it. And I am angry that it has been put out and continued on a 17-year report that it is safe.

**CHAIR:** Safe if you do not breathe it in.

**Mr RIGTER:** Yes.

**CHAIR:** Have you finished what you wanted to say?

**Mr RIGTER:** Yes, I suppose so.

**Mr DARYL MAGUIRE:** Have you had expert testing? Today the Committee heard that depending on the construction of houses, the amount of contamination varies and that they actually have a system where they can test the level of contamination? It comes down to air venting, the construction and whether air conditioning is fitted. Have you done that?

**Mr RIGTER:** The body corporate has—my place has not been selected for that yet. We are waiting for New South Wales WorkCover. They have said that the testing has commenced. Our body corporate manager as of Wednesday when I rang him and said I am going to this hearing, I want to know exactly where we are up to on this, because obviously calling him up all the time is not helpful. A lot of it is being sort of dealt with through them. He said that they have said, "Yes, we have appointed someone who will get in contact with you shortly." They have asked WorkCover who it is and have got no information. Basically they have not started that testing.

Of our own accord we have an asbestos management plan which every two years calls for testing. Because of the amount of media coverage and the fact that we requested it, we have done some more testing. We did testing in two units, is my understanding. One of the units actually was cleared out above it so you would expect it to come back negative. The reason it was cleared out was so we could replace the roof after the water leak. It came back negative and we had one other, but actually spoke to the asbestos inspector and one of the problems you have is that a lot of people, before the inspections occur, vacuum up everything. That reduces the dust. He was also sceptical. I also have a garage. After purchasing the property—and something that the building inspection did not show up—there was actually a significant crack in there. There is dust coming out of there. Now, I do not know if that is asbestos dust. Buildings move and shake; that is normal. But you just cannot tell. Every time you see something that is coming out, you do not know.

I suppose the other thing that I will say in this is off topic a bit. When the doctor was mentioning that, if you are not sure of a problem you should always take a cautious approach, I was angry at that statement in particular out of all the statements from HACA today. The reason for that was that three months ago at a meeting, one of our members actually put up their hand and said, "I've got asbestos in my garage. It's coming out through an open hole in the wall." That was not taken up by HACA. If you are looking at taking a cautious approach, would you not think that you would test that? Like, that is saying, "It's in the living area. I can

physically see it." She may be wrong—I do not know—but it just has not been taken up. When you talk about a cautious approach, their statements to me are, "Well, we need to get the protocols right."

When I have requested the protocols—because they have finally been developed—they will not give me any information. When I request anything that says, "Can you back up your statement that says it is safe, if contained?", they used to have the report online. They took it down because there were concerns that it was identifying people's houses. But the report was an interim report. Relying on an interim report—

**The Hon. STEVE WHAN:** That is the 1993 report?

**Mr RIGTER:** The 1993 report. It said, "As an interim measure, you can contain this." But you cannot rely on an interim report that says, "Yes, as an interim measure, you can contain it." What is the long-term measure? What are we going to do in the future? These houses will get to a point of disrepair and even knocking them down is probably going to be too expensive for any home owner.

**The Hon. TREVOR KHAN:** Certainly, with a 38 unit block, it is going to be an interesting exercise.

**CHAIR:** Was that Mr Fluffy asbestos sprayed into the whole block of 38 units?

**Mr RIGTER:** One of the complicating factors is there is a definite divide in the unit block. The people in the lower levels do not seem to be quite as concerned about Mr Fluffy as the people on the top levels.

**The Hon. TREVOR KHAN:** That is inevitable, I would think.

**Ms JAN BARHAM:** Where are you?

**Mr RIGTER:** My unit is on the top level.

**CHAIR:** You are near the roof.

**Ms JAN BARHAM:** You are directly under the roof.

**Mr RIGTER:** I am directly under the ceiling, so if my light comes out or if there is a water leak or if there is a crack in the cornice, or if I ever want to remove my kitchen cupboards because they are built into the ceiling, I cannot do it. I cannot get it fixed and I need to get a class A asbestos inspector to do any maintenance work on my place.

**The Hon. TREVOR KHAN:** Do you have a copy of your original building report?

**Mr RIGTER:** I do not. I have actually looked for it, and I do not have a copy of that, no.

**The Hon. TREVOR KHAN:** You had a solicitor retained?

**Mr RIGTER:** Yes, I did.

**The Hon. TREVOR KHAN:** Have you requested whether they have got a copy of the building inspection report?

**Mr RIGTER:** No, I have not.

**The Hon. TREVOR KHAN:** Would you be prepared to go and request a copy of that and perhaps a copy of the front page of the contract and the special conditions? Would you be prepared to do that?

**Mr RIGTER:** Yes, I can do both of those things. I definitely have a front page of the contract. But I think the thing with the building report was it said, "It's not our responsibility. We can't access the roof space."

**The Hon. TREVOR KHAN:** I am a lawyer, so I am interested in what advice you received, if any, from your solicitor with regards to buying a property affected by asbestos in the context of being in Queanbeyan and there being a problem with Mr Fluffy.

**Mr RIGTER:** I have never heard Mr Fluffy in the whole process from anyone involved in the sale of my property. I may have heard non-friable asbestos, but I definitely did not get any advice from my lawyer that I should be concerned about that.

**The Hon. TREVOR KHAN:** As a lawyer, if somebody told me about non-friable asbestos, I would not know what that was.

**Ms JAN BARHAM:** In what year did you buy?

**The Hon. STEVE WHAN:** The problem is that when you bought was before all this Australian Capital Territory study occurred, which showed that even asbestos sealed in was not safe. The situation has changed so much this year as well.

**The Hon. TREVOR KHAN:** I am not pointing fingers, but I want to know what people were being told at various times.

**The Hon. STEVE WHAN:** Yes.

**CHAIR:** What articles were in the local papers?

**Mr RIGTER:** I will have a look.

**Ms JAN BARHAM:** In which year did you purchase?

**Mr RIGTER:** July 2010, I think, but I can take that on notice and confirm with the sale contract.

**CHAIR:** You said you did hear some reports from Canberra, though, about it.

**Mr RIGTER:** I was aware of Mr Fluffy.

**CHAIR:** But you never dreamt it was going to be in your building.

**Mr RIGTER:** No. It did not even occur to me. I just thought that they were talking about the sheeting in the roof and that it was the same as most other fibro sheeting. A lot of houses in Canberra have fibro sheeting. Because it is bonded—it is 30 per cent asbestos as opposed to 80 to 90 per cent asbestos; it is white asbestos, not brown or blue asbestos—there is a whole heap of differences with fibro. Mr Fluffy asbestos is weaponised asbestos and, no, I did not think at any stage that I had that in my roof.

**The Hon. MICK VEITCH:** Is there anyone in your unit now?

**Mr RIGTER:** No. I basically gave my tenant all the information and said, "I'm not going to kick you out but as soon as you feel uncomfortable or you want to go, you can leave and I won't hold you to any notice period." I just felt uncomfortable with the fact.

**The Hon. STEVE WHAN:** You have taken the decision not to try to refill it because you are concerned about the health of someone going in there.

**Mr RIGTER:** That is correct.

**The Hon. MICK VEITCH:** I notice you have been in the gallery all day today listening to the respective testimony from people. Could I just get your views on the way the Australian Capital Territory is handling this issue as compared to the way we have been handling it in New South Wales? What are your views about that?

**Mr RIGTER:** My view is that there has been no empathy or thought for the people that are living in these houses throughout the whole New South Wales response, and I think that it has been woefully inadequate, considering the risk involved with the product.

**The Hon. TREVOR KHAN:** I suspect you may become a case study in the report.

**The Hon. MICK VEITCH:** Yes.

**Ms JAN BARHAM:** You referred to the information that was on the website.

**Mr RIGTER:** It has now changed slightly.

**Ms JAN BARHAM:** Do you still have a copy of it?

**Mr RIGTER:** No, I unfortunately do not, but it has changed slightly.

**Ms JAN BARHAM:** Do you know the date that you would have sought that on the website?

**Mr RIGTER:** No, I do not.

**The Hon. STEVE WHAN:** I think we can find it. I know where we can find it.

**Ms JAN BARHAM:** We are able to get it?

**The Hon. STEVE WHAN:** Yes.

**Mr RIGTER:** It was available up until January this year in its unedited format. It has changed its tone slightly as a result of all the pressure. It still says somewhat the same thing—that it is safe—but it has a lot more careful wording.

**Ms JAN BARHAM:** The Hon. Trevor Khan is a lawyer and he will tell you that one word makes a difference.

**The Hon. TREVOR KHAN:** Absolutely.

**CHAIR:** Especially after the inquiry started.

**Ms JAN BARHAM:** But if we could get a copy?

**Mr RIGTER:** I would be pretty sure under your records Act that the government department would have to keep records of their websites.

**The Hon. MICK VEITCH:** Matthew, how are you coping?

**Mr RIGTER:** Look, I have had ups and downs. I suppose the one thing that has saved me is that it was a small investment for me.

**The Hon. TREVOR KHAN:** What? A one-bedroom unit?

**Mr RIGTER:** Comparatively to other people I have met. I have had people cry in my arms over this issue from both the Australian Capital Territory and New South Wales. It is hard. It has been hard but I was in a financial situation where I was actually looking at buying more of a family home, so it has delayed that. But, emotionally, because I am not living there anymore, it is not as bad as for other people. But I am struggling. I have good days and bad days.

**The Hon. STEVE WHAN:** You are still paying rates and all that sort of thing?

**Mr RIGTER:** I am still paying everything. I have received no support whatsoever.

**Ms JAN BARHAM:** Did you hear today I asked the question about what trauma support is provided? Is that something that should be happening now to people?

**Mr RIGTER:** I believe it is. If you get told that suddenly your house is worthless, you may have inflicted damage on people because you may have had health concerns about it. The other thing I will take away is that you just suddenly feel sick and I have not recharged. Like, you do not rest at all. I have woken up at night thinking about it. Where other people recharge their batteries, suddenly I am, like, "Maybe I could do this?",

"Maybe I could do that?" There are no definite answers and you have got two very different stories being told. One side of the story is giving you all of the information. The Australian Capital Territory, whenever I have requested it, gives me information on the basis of their decision. New South Wales, when I request it, nothing. Basically, as far as I can tell, the only thing they are basing their decision on is that '93 report, and I do not think it is enough.

**CHAIR:** We have been discussing what possibly will happen in the Australian Capital Territory with the demolition of 1,000 houses. They have come to the conclusion that you cannot remove all the final fibres from the houses so they are recommending that they be demolished. How do we handle demolishing a 36-unit strata building?

**Mr RIGTER:** Look, it is going to be complicated.

**CHAIR:** What happens to it?

**Mr RIGTER:** There will be issues, but I think we can work through them. I think that that is the answer that is staring everyone in the face. How you do that and the costs involved in that—how we do that and the costs involved in that—is something that has to be carefully thought out: The cost to the home owner. There are some home owners in there who can afford nothing. Even that will be a stretch for them because they are disabled and they are moving out of their home. That is going to be traumatic for them in its own right, regardless of any financial impost.

I believe that demolition is the only way forward to make it safe. I also believe that a mandatory intervention program has to be implemented so that no-one else gets into my situation where they buy a place unknowingly. I also strongly believe that a scientific statement saying, "This house may contain friable asbestos", is not worth the paper it is written on for most homebuyers, unless lawyers are trained or real estate agents are trained or someone is trained to actually decode that.

In the Australian Capital Territory they have notices on their sale of contract. The fact is that most people (a) did not understand the risks involved in that and (b) also did not understand the scientific jargon. Non-friable asbestos—what does that mean? Like, I know what it means now; I have done days and days of research on it, but at the time, even if that notice had been on my place, I probably would not have picked up that it was Mr Fluffy.

**Ms JAN BARHAM:** What about our previous witness who said that he would advise someone to go and get additional reports. What does that say to you?

**Mr RIGTER:** Look, if I got advice to go and get additional reports from a sales agent, I would definitely go and get additional reports. I think you are silly not to rely on your advisers. Having said that, the only adviser in your court when you are buying a place is your lawyer, and I think it would be a long stretch for a lawyer to take on a public health issue and stuff like that, unless they are aware of it from it being a topical issue.

**The Hon. TREVOR KHAN:** I do not.

**Mr RIGTER:** Okay.

**The Hon. TREVOR KHAN:** There are some things that you become aware of in practice where you have got to give advice. I am not being critical of your lawyer because I do not have the precise details and the time frames, but there are some matters where you have got to give advice. You give advice partly because you want to avoid getting sued yourself, so you make sure you give cautious advice.

**CHAIR:** It is a real dilemma because the name Mr Fluffy sounds so lovable and innocent.

**The Hon. TREVOR KHAN:** Benign.

**CHAIR:** But it is so deadly. People probably may not even have responded when they have heard Mr Fluffy is in the roof.

**Mr RIGTER:** I think people that have been in the region—probably even prior to this latest bout—probably would have picked up when Mr Fluffy was written about.

**The Hon. STEVE WHAN:** True.

**Mr RIGTER:** It has been around in the media and I can remember talk of it.

**The Hon. TREVOR KHAN:** I am sorry to interrupt, but could I invite you, when you seek to obtain a copy of the building report and the special conditions in the contract, to request your lawyer in writing to ensure that your file is retained?

**Mr RIGTER:** Yes. Okay.

**CHAIR:** In case there is compensation and so on down the track.

**The Hon. TREVOR KHAN:** That is right.

**Mr DARYL MAGUIRE:** Matthew, this is a very substantial and well thought-out submission—one of the better ones that I have seen in my time as a member of Parliament. Thank you, and for taking the time to be here today. You said the units were built in about what year?

**Mr RIGTER:** I think 1968.

**Mr DARYL MAGUIRE:** In 1968.

**Mr RIGTER:** I will take it on notice and try—

**Mr DARYL MAGUIRE:** When were the units installed with this product? Do you have any indication?

**Mr RIGTER:** Yes, when it was built. But I would be guessing.

**Mr DARYL MAGUIRE:** Are there any long-term residents in that building—

**Mr RIGTER:** Yes.

**Mr DARYL MAGUIRE:** —who would have been present when it was installed?

**Mr RIGTER:** Yes, there are. I believe that they would yell me out if I asked them to provide any information about it.

**Mr DARYL MAGUIRE:** How many units would turn over in that unit block per annum in ownership in the past? One, five, 10?

**Mr RIGTER:** Three, maybe—as a guess.

**Mr DARYL MAGUIRE:** Perhaps three per year?

**Mr RIGTER:** And that is a guess. There have been a couple more this year. People are still selling these units.

**Mr DARYL MAGUIRE:** Of your inquiries with long-term residents, have you any anecdotal information or evidence of mesothelioma or asbestos-related diseases being contracted by those residents?

**Mr RIGTER:** No, I do not. I believe that there are only about four residents who are long term. I did not particularly talk to them. It was not that kind of unit block. In saying that, in most unit blocks you do not talk to your neighbours. Like, you say "Hi", but you do not talk to them at length.

**The Hon. TREVOR KHAN:** Do you actually say even "Hi" to your neighbours, do you?



**The Hon. STEVE WHAN:** This is Queanbeyan. You do that there.

**Mr RIGTER:** The one person that I can picture as being a long-term resident of the resident block, no, I do not believe that they do. Having said that, they have a really bad cough: Whether that is related or not, I do not know.

**Mr DARYL MAGUIRE:** Do they live on the top floor or a bottom floor?

**Mr RIGTER:** They live on the third floor down. They are the one unit on the third floor down.

**The Hon. STEVE WHAN:** The lowest?

**Mr RIGTER:** The lowest, yes.

**The Hon. TREVOR KHAN:** Are you still living in Queanbeyan?

**Mr RIGTER:** No. I am currently living in Woolcock Street. I actually moved.

**The Hon. STEVE WHAN:** In Canberra?

**Mr RIGTER:** I suppose that is the other thing. I live in Canberra. The other thing I would like to raise with the Committee is that the Australian Capital Territory response really treats landlords as second class to those people still living there. I actually moved out of my unit because it was cheaper for me to live in a house with four other people than it was to live with my one-bedroom unit. I was really struggling with repayments at the time. Now, I am not quite in as bad a financial situation as I was when I moved out, but to think of landlords as rich people—well, no. I actually moved out for a \$60 a week discount when you come across it.

I had made the decision to invest in my future but then I suddenly worked out that I could not afford to live in that unit. I moved out so I could continue to have the unit. I think it is really important to remember that—that it is not automatically a decision to suddenly build masses of properties. It is my only property and it is my only asset worth over \$2,000. My car is a ridiculously old Camry. Like, it is it, in terms of my assets and really I consider it as two liabilities. One is a unit block that can potentially infect a lot of people and one is a loan, which I can service but is not over an asset.

**CHAIR:** Once again, thank you for appearing before our Committee. I am sorry you have had to have all this emotional and mental turmoil through this issue. We thank you very much.

**(The witness withdrew)**

**The Committee adjourned at 4.46 p.m.**

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