

Improving Asbestos Management in Tasmania

Report to the Minister for Workplace
Relations by the Asbestos Steering
Committee

January 2010

Minster for Workplace Relation's Asbestos Steering Committee

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Disclaimer

This report was developed using the resources of Workplace Standards Tasmania, a Division of the Department of Justice. The views expressed in this report do not necessarily represent the views of the Department, or the individual organisations that contributed to its development.

Foreword

Exposure to asbestos is an issue for many Tasmanians. Inhalation of asbestos fibres can cause serious health problems, such as mesothelioma, asbestosis and lung cancer. Asbestos is a class one carcinogen with no safe level of exposure. Unfortunately Australia has some of the world's highest numbers of asbestos related diseases (ARD), with the incidence of ARD predicted to increase.

On 18 March 2009, Workplace Standards Tasmania (WST) held an Asbestos Forum aimed at determining how industry, government and the broader community currently deal with asbestos and what further improvements can be made to existing policy and legislation. This forum was held to more widely explore the issues raised at an asbestos seminar conducted by Unions Tasmania during Safe Work Week in October 2008.

A number of priority areas were identified at the forum and, as a result, the Minister for Workplace Relations, the Hon Lisa Singh MP, asked WST to oversee the formation of a high level Steering Committee, and officer level Reference Group, to develop policy recommendations that address these priority areas.

The Minister for Workplace Relation's Steering Committee was charged with making recommendations that would lead to the development of a Whole of Government policy for the future management of environmental and in-situ asbestos. In the course of making these recommendations the Steering Committee was informed by the Asbestos Reference Group.

The main priority areas raised for consideration by the Steering Committee included:

- prioritised removal;
- disposal;
- compensation;
- compliance;
- data and information collection;
- increasing public awareness; and
- improving education.

The intention is that by targeting these issues, the well-being of asbestos disease sufferers will be enhanced, and members of the Tasmanian community will be better informed, preventing future harm from asbestos.

It should be noted that compensation is not dealt with in this report. A separate report, detailing a proposed scheme, has been developed.

This report proposes a change of thinking from current asbestos management models. However, the nature of the proposed recommendations will provide the Government with the opportunity to redefine current asbestos management systems, resulting in better outcomes for the Tasmanian community.

This report has been completed in a short time-frame, particularly given the complexities inherent in each priority area. It was not possible to carry out a detailed literature review or consult with all relevant parties who may have an interest in the asbestos issue. However, the Steering Committee and Reference Group did work hard, and consult widely, on this issue within these constraints.

The intention of this report is to inform the Minister, and Government, on ways to better manage asbestos (in buildings), and contribute to the development of improved policy in these priority areas.

Dedicated Asbestos Unit

In establishing the Steering Committee the opinion was that the issues raised as priority areas would, or could, be handled individually. However, during consideration of these issues it became apparent to the Steering Committee that a focussed, centralised approach is required to manage asbestos.

A number of agencies have responsibilities concerning asbestos and, as asbestos is a whole of community concern, the Steering Committee believes a Whole of Government response is required.

Recommendation 1

The Steering Committee recommends that:

the Tasmanian Government forms a dedicated Asbestos Unit, that sits in WST, with responsibility for policy coordination for the Whole of Government, and the capacity to make recommendations to Government about asbestos issues.

Proposed Terms of Reference for Asbestos Unit

The Tasmanian Government is dedicated to improving the lives of all Tasmanians. There are already policies and programs in place that continue to address the critical issue of asbestos, through awareness raising, practical guidance and compliance activities. With increasing research and knowledge, Government policies need to adapt to ensure the best outcomes are delivered for the community.

The formation of a dedicated Asbestos Unit will enable coordination across Government to better manage asbestos issues. It will also provide a central point for policy development, and for the community.

In the development of any policy recommendations, the Asbestos Unit will take into consideration the work being undertaken by Safe Work Australia, particularly model legislation, including asbestos regulations, to help ensure national consistency. In addition, current national codes of practice and guidance notes must also be included in any considerations.

The Asbestos Unit will examine the following priority areas:

I. Long Term Removal of Asbestos Containing Materials (ACMs)

There has been increasing support for a shift from the current approaches to managing ACMs, to consideration of setting time frames, and accurate classification of ACM conditions, to achieve full removal of ACMs. The Asbestos Unit will provide advice regarding the cost of an appropriately resourced prioritised removal program for Government buildings, and achievable timeframes for the removal of ACMs. The Asbestos Unit will also coordinate Government policy relating to the disposal/sale of Government buildings with ACMs.

Following this, the Asbestos Unit will investigate the feasibility of the removal of ACMs from privately owned buildings, including workplaces and residences. This will include examining various incentive schemes.

Current regulations may need to be varied, and new regulations developed in support of a long term goal of removing ACMs in buildings.

When developing policy in this area, the Asbestos Unit will take into account the circumstances where some ACMs can not be removed due to accessibility and affordability issues. National initiatives from organisations, such as Safe Work Australia and enHealth, will also be taken into account.

2. Exempt Limits

The Asbestos Unit will examine options for reducing current exempt limits, including moving to zero for commercial buildings and phasing out in domestic premises. This will include analysing the way in which other States and Territories treat exempt limits, and, as part of this, will also determine the most appropriate legislation to contain exempt limits for private dwellings.

3. Training – Removalists

The Asbestos Unit, in consultation with the WST inspectorate and Skills Tasmania, will review and monitor the training and licensing for asbestos removalists.

4. Training – Apprentices

The Asbestos Unit, in consultation with the WST inspectorate and Skills Tasmania, will review the adequacy of asbestos training provided to all trades apprentices to ensure they are trained about the hazards of asbestos adequately. This will also include an examination of whether employers are adequately trained.

5. Training – General

The Asbestos Unit will be charged with coordinating a mandatory professional development program/workshop for tradespeople and employers. The program will include clear information on legal requirements and duty of care. As part of this program, each employer/tradesperson will develop a protocol for determining if asbestos is present at a worksite, for informing employees, and for dealing with the asbestos.

In addition, the Asbestos Unit, in consultation with the WST inspectorate and Skills Tasmania, will coordinate the development of specific asbestos training as part of the general training for attaining the Construction Industry Induction Card.

6. Asbestos Licences (Removalists and Assessors/Auditors)

Some ACMs are considered unstable, damaged, or friable, and have the potential to release fibres. Existing Tasmanian regulations do not require assessors/auditors to be accredited. They also allow B class licence holders to remove ACMs, even when they are unstable or damaged.

The Asbestos Unit will examine national systems in determining the introduction of a system for accrediting assessors/auditors.

The Asbestos Unit will examine the feasibility of a single class licence system. Under such a system, all contractors would have to hold an A class licence, but would determine whether a removal job was A or B rated and operate accordingly.

7. Fire Damaged and Derelict Buildings

The Asbestos Unit will examine the issue of asbestos and fire damaged and derelict buildings. This will include jurisdictional responsibilities, minimum standards, and the work done by other States and Territories on the issue.

8. Education and Awareness

Education and awareness is highlighted by the Government as a priority area for the Asbestos Unit, and any campaign must address the fact that the hazards associated with asbestos are the same whether it is a workplace or private dwelling.

The Asbestos Unit will undertake a risk assessment, to identify high risk groups. The current awareness and education of these groups will be detailed, and an appropriate campaign developed, in liaison with relevant agencies.

The Asbestos Unit will also analyse community understanding about asbestos hazards.

9. Research

The Asbestos Unit will liaise with the Menzies Research Institute to conduct interviews of mesothelioma sufferers to feed into the National Mesothelioma Register, managed by Safe Work Australia.

The Asbestos Unit will consider strategic cross sectional mapping of asbestos across Tasmania via a sampling program to advise on quantities, locations, and condition of ACMs.

The Unit will examine way to strengthen current laws relating to asbestos registers to ensure a higher level of compliance.

10. Naturally Occurring Asbestos

The Asbestos Unit will analyse issues concerning potential hazards posed by naturally occurring asbestos. As part of this the Unit will consider:

- the development of a “Hotspot” map detailing areas of Tasmania that may present risks if rocks are disturbed;
- air sampling of hotspot areas and abandoned mines sites;
- the use of trained geologists in determining the potential for asbestos in new developments; and
- air sampling on existing gravel roads in hotspot areas.

11. National Association of Testing Authorities, Australia (NATA) accreditation

NATA accreditation of laboratories testing asbestos is recommended by Safe Work Australia. There is also a Memorandum of Understanding (MoU) between NATA and the Tasmanian Government stating that Tasmania recognises NATA as the

national authority for accreditation of laboratories and will use, and encourage the use of, NATA accredited laboratories.

The Asbestos Unit will examine the capacity for Tasmanian laboratories to attain NATA accreditation.

12. Disposal of Asbestos Waste

The Asbestos Unit will review asbestos disposal to determine if localised dumping is the best method, all regions have sites for asbestos waste, and sites are accessible and affordable. The Unit will also examine the way asbestos is managed at sites.

13 Other Asbestos Issues

The Asbestos Unit will also have a mandate to examine other asbestos issues that are not included in these terms of reference, but which are deemed to be priorities. In particular, the Minister, after examining Steering Committee Recommendations 2-6 below, may choose to pass some of these to the Asbestos Unit for wider consultation, or more detailed analysis and development, where this is considered appropriate.

Consultation and Relationships

In all of its work, the Asbestos Unit will liaise and coordinate policy across Government Agencies. It is expected that formal MoU's will be developed with relevant Agencies to ensure effective working relations.

When conducting consultation, the Asbestos Unit will,

- consult broadly with stakeholders, including the community, particularly those who are identified as high risk for asbestos exposure;
- undertake a range of awareness raising activities;
- seek out the diverse range of views held by stakeholders; and
- identify key issues raised by stakeholders in relation to asbestos.

Specialist Asbestos Inspectorate Group

WST has some workplace inspectors with expertise in asbestos. Its aim is to ensure all inspectors gain this expertise. However, the Steering Committee believes that, while this is commendable, such knowledge must be built and maintained.

Recommendation 2

The Steering Committee recommends that:

the Tasmanian Government support the development of Specialist WST Asbestos Inspectors in each region of the State.

It is expected the development of any such Group would be oversighted by the Dedicated Asbestos Unit. In addition, the Group would feed into the policy work of the Asbestos Unit.

Demolitions

Under the current system, mandatory, physical, building inspections, by a competent person, to identify ACMs are not required.

Recommendation 3

The Steering Committee recommends that:

the Tasmanian Government introduces mandatory building inspections by a competent person, for the purposes of identification of ACMs, prior to the issuing of demolitions permits by Local Government. This can be achieved, following advice from a Council Surveyor, by amending current forms, and modifying the Director's Specified List to include identification of asbestos as a requirement.

Building Maintenance Certificates and Asbestos Registers

Building Maintenance Certificates can be used as a tool to improve awareness and compliance. Responsible persons are required to update these annually and display them in commercial properties and properties accessible to the public.

Asbestos is not currently included as an Essential Safety Requirement for Building Maintenance Certificates. The Steering Committee believes if asbestos is included it will help raise awareness of the issue.

In the current Workplace Health and Safety Regulations, all workplaces are required to have an asbestos register. However, these registers do not have to be publicly displayed. The Steering Committee believes asbestos registers should be publicly displayed, or at least information displayed stating the workplace has an asbestos register.

Recommendation 4

The Steering Committee recommends that:

- 1. the Tasmanian Government includes asbestos as an Essential Safety Requirement as part of Building Maintenance Certificates. Awareness of any new requirements must also be communicated.**
- 2. the Workplace Health and Safety Regulations should be amended to include the requirement that asbestos registers be displayed.**

Penalties

The current penalties for incorrect or illegal removal of asbestos are too low. They do not provide a disincentive to correctly remove asbestos, when for some larger jobs the cost of the job is more than the penalty for incorrect removal.

Recommendation 5

The Steering Committee recommends that:

the Tasmanian Government increases current penalties for incorrect removal and disposal of asbestos. In addition, operator's licenses should also be suspended for a certain period.

Asbestos Registers and Advice for Residential Properties

Current legislation does not provide for disclosure that a residential property contains asbestos prior to that property being rented. Consumers have a basic right to make an informed choice and to protect themselves from potential exposure to carcinogenic substances.

Recommendation 6

The Steering Committee recommends that:

the Tasmanian Government implement the following measures:

- **that the review of asbestos as it relates to the *Residential Tenancy Act (1997)* occurs;**
- **that the review includes examining measures for informing tenants of the location and condition of asbestos in the property they are renting;**
- **that, as an interim measure, basic advice for tenants be developed and distributed to landlords and tenants;**
- **that, under the revised Act, landlords be obliged to develop asbestos registers and management plans for their properties to enable them to monitor and report on the condition of asbestos in their properties, both to tenants and the Asbestos Unit;**
- **that the Government review and consider a range of financial incentives (such as interest free loans) to ensure that landlords are encouraged to remove asbestos; and**
- **that the Government consider the options for providing a low cost inspection and asbestos identification program.**

Aspirations for the Future

Like many, the Steering Committee would ultimately like to see all ACMs removed in a safe manner from all buildings, including those of Government, business, and those privately owned. The Tasmanian Government, as an owner and manager of buildings, should be setting an example for these other groups.

The outcomes of this process (the Steering Committee and Reference Group) will strengthen the emphasis being given to asbestos, while a concerted effort across Government will drive new directions that benefit all Tasmanians.