

Queensland Government submission on the Asbestos Safety and Eradication Agency Bill 2013

The Queensland Government is committed to safe and orderly management, removal and disposal of asbestos containing materials in the community. However, the Government is concerned that this legislation is being rushed and considers it should be withdrawn until the potential unintended consequences can be fully reviewed by the Commonwealth, States and Territories.

It is essential that a national response to address the widespread use of asbestos in workplaces and homes be developed with representatives of all Australian governments, including representatives of local governments. The proposed composition of the Council as outlined in the Bill will not achieve this objective.

The Queensland Government submits the following specific comments on the Bill and the draft National Strategic Plan on asbestos being developed by the interim national Office for Asbestos Safety.

Removal of asbestos from government and commercial buildings by 2030

- The draft National Strategic Plan available for public comment on the national Office of Asbestos Safety website incorporates recommendation 4 from the national *Asbestos Management Review Report – June 2012* regarding staged removal of all asbestos containing materials from government and commercial buildings by 2030;
- The Queensland Government considers that this proposal, which attempts to bind state, territory and local governments and industry to commit significant resources to the proposal through a strategic plan, is not appropriate. It would also appear to be beyond the ambit of the stated functions of the proposed Asbestos Safety and Eradication Agency to ‘encourage, coordinate, monitor and report on the implementation of the National Strategic Plan’;
- The allocation of \$12.3 million over four years to establish the proposed Asbestos Safety and Eradication Agency is inadequate to implement many of the deliverables outlined in the draft National Strategic Plan. Further, it has not been made clear how the Australian Government intends to fund the proposed strategies.

Concerns about compelling removal of all asbestos containing materials from government and commercial buildings by 2030 include the following –

- This is an arbitrary hazard-based approach which is inconsistent with the draft National Strategic Plan’s stated principles of ‘risk management’ and ‘evidence-based decision making’;

- There will be significant costs associated with implementing this proposal. Costs are likely to be billions of dollars for government and building owners to ensure safe removal of all asbestos containing materials from their buildings in Queensland. Further, how this proposed prioritised asbestos removal program will impact on commercial buildings owned by the not-for-profit sector/community and volunteer associations has not yet been investigated;
- A broad-scale asbestos removal program in a relatively limited time period will potentially result in a significant disruption to goods and services provided by the public and private sectors. For example, during removal works, children would need to be relocated from their school classrooms, patients from their hospital beds and electricity sub-stations turned off;
- Costs associated with a prioritised asbestos removal program are not limited simply to the removal of asbestos but will also include the cost of refurbishment and building work to replace a significant amount of asbestos containing material with asbestos-free products;
- The current numbers of asbestos removal licence holders, businesses, tradespeople and professionals in Queensland are insufficient for the type and volume of work to remove all asbestos containing materials from government and commercial buildings by 2030. A shortage of properly trained and licensed asbestos removalists could drive up removal costs. It could also create a risk of 'rogue' operators carrying out asbestos removal work in order to meet an imposed deadline;
- There are also concerns associated with the cost and capacity for the disposal of asbestos waste. For example, the proposal would place pressure on local councils, as the owner and operator of the majority of disposal sites in Queensland, to receive a significant volume of asbestos containing material at their existing sites and also plan for and develop future disposal sites. If not managed appropriately, this could lead to a significant increase in illegal dumping of asbestos and costs to all levels of government associated with the clean up, as well as the health consequences to persons exposed to asbestos fibres from illegal dumping of asbestos;
- There are concerns that an accelerated asbestos removal program may inadvertently expose a single generation of asbestos removal workers to a greater risk of exposure to asbestos fibres, and increase background levels of fibres in the air in the immediate vicinity of the removal areas or buildings; and
- A prioritised asbestos removal program for government and commercial buildings could give rise to community concerns about living in domestic premises containing asbestos materials and increase demands and expectations for a complementary prioritised asbestos removal program for domestic premises. This could compromise the safety messages that regulators have been conveying to the community about when it is safe to leave asbestos undisturbed and when it should be otherwise treated or removed safely.

An Australian Government publication released in 2008, *Asbestos Management and Control: A review of national and international literature*, concluded the following:

‘There is consensus amongst these countries that while the ultimate goal is for all buildings to be free of ACM, in some circumstances, such as where ACM is in good condition and assessment reveals it does not pose a significant threat to health, maintenance in situ is a better alternative than removal. Unnecessary asbestos removal may pose a higher risk than simply maintaining asbestos in place, particularly in light of concerns that a lack of awareness and knowledge may be resulting in non-compliance when handling and removing asbestos. No information was found to suggest that the systematic removal of ACM over maintaining these materials in situ is recommended in any country.

The advice available suggests that asbestos should only be removed if it is found to pose a significant risk to health or if the opportunity for removal arises due to demolition or refurbishment works in the affected building. In either situation, the appropriate guidelines for asbestos removal or maintenance must be followed.’ p13

The Queensland Government notes that the national *Asbestos Management Review Report – June 2012*, in making its recommendation about staged removal of asbestos from government and commercial buildings referred to a ‘target date’ of 2030. Use of the term ‘target’ appears to have been omitted from the documentation being developed by the national Office of Asbestos Safety. The report also acknowledges that the program would *‘entail cost implications for the businesses and government entities concerned...and its structure and implementation should be designed to minimise and spread costs wherever possible’* p30. In its liaison with Queensland to date, the Australian Government has not addressed fundamental questions about the significant costs, who should pay for these costs, and other concerns associated with a prioritised asbestos removal program in government and commercial buildings by 2030.

‘Encouraging’ removal of asbestos from government and commercial buildings by a target date of 2030 is quite different to imposing a prioritised asbestos removal program on owners of government and commercial buildings by 2030. If the Australian Government is seeking a mandatory prioritised asbestos removal program in government and commercial buildings by 2030, it would be necessary for jurisdictions to introduce legislation to this effect. This would require a regulatory impact statement to assess the costs and benefits. If the Australian Government wishes to pursue this recommendation, a national regulatory impact statement should be prepared which properly assesses the costs and benefits for all Australian jurisdictions and present this for consideration at the Select Council on Workplace Relations.

Key Queensland stakeholders, including representatives from the asbestos removal industry, non-government organisations and the Local Government Association of Queensland, attended a workshop conducted by the national Office of Asbestos Safety in Brisbane on 3 April 2013. Many of the concerns raised in this letter were also

expressed at the workshop by various participants, and it is requested that the Australian Parliament give careful consideration to addressing these concerns.

Title of the Bill

In relation to the title of the Bill, use of the term ‘eradication’ in the name of the proposed new agency is questioned. Asbestos is a naturally occurring mineral and there are background levels of fibres in the air that will always be present. Eradicating asbestos from the environment is impossible and, in any case, the functions of the proposed agency in section 8 of the Bill do not appear to canvass the agency having a role in ‘eradicating’ asbestos from society. Using the term ‘eradication’ may also give the community an unrealistic expectation about eradication of asbestos being feasible, in the short term.