



AUSTRALIAN
CONSTRUCTORS
ASSOCIATION

**Senate Economics References
Committee**

**Inquiry into Non-Conforming Building
Products**

SUBMISSION BY AUSTRALIAN CONSTRUCTORS ASSOCIATION

JANUARY 2017



**SENATE ECONOMICS REFERENCES COMMITTEE
INQUIRY INTO NON-CONFORMING BUILDING PRODUCTS**

SUBMISSION BY THE AUSTRALIAN CONSTRUCTORS ASSOCIATION (ACA)

BACKGROUND OF THE ACA

The Australian Constructors Association (ACA) represents leading construction and infrastructure contracting companies operating in Australia and is dedicated to promoting a sustainable construction industry.

The ACA member companies (many of which are multinational in nature) have a combined annual turnover from their Australian and international operations exceeding \$100bn and employ in their Australian and international operations over 200,000 workers with many more being employed through subcontractors providing services to ACA members.

ACA member companies operate in a number of market sectors including:

- Engineering construction incorporating public and private sector infrastructure
- Commercial and residential building
- Renewable and other energy generation systems
- Rail Infrastructure
- Water
- Contract mining
- Oil and gas operations
- Process engineering
- Telecommunications services
- Environmental services
- Maintenance and related services including facilities management

A list of ACA members is attached (**Annexure A**).

TERMS OF REFERENCE

The ACA's submission relates to the following terms of reference of the Committee's inquiry:

The illegal importation of products containing asbestos and its impact on the health and safety of the Australian community, with particular reference to:

- a. the prevalence and sources of illegally imported products containing asbestos;***

- b. the effect of illegally imported products containing asbestos on:**
 - i. industry supply chains, including importers, manufacturers and fabricators, and**
 - ii. workplace and public safety and any associated risks;**
- c. possible improvements to the current regulatory frameworks for ensuring products containing asbestos are not illegally imported to Australia, with particular reference to the effectiveness of:**
 - i. policing, enforcement, surveillance and screening of imported products, including restrictions and penalties imposed on importers and end users of products containing asbestos;**
 - ii. preventing exposure and protecting the health and safety of workers and other people affected by the illegal importation of products containing asbestos,**
 - iii. establishing responsibility for remediation of sites where illegally imported products containing asbestos has been found;**
 - iv. coordination between Commonwealth, state and territory governments and the role of the Australian Government in coordinating a strategic approach to preventing the importation of products containing asbestos;**
- d. any other related matters.**

ACA APPROACH TO THE INQUIRY

The ACA is a member of the Construction Product Alliance (CPA) and is aware that the CPA has lodged two submissions to the Committee in relation to the terms of reference of its inquiry (The first submission related to the original terms of reference and a second submission has been made concerning the additional term of reference relating to asbestos).

The ACA advises that it endorses the content of both submissions lodged by the CPA but wishes to emphasise some issues relating to the recent call for submissions concerning asbestos.

ASBESTOS

General

The ACA regards the health, safety and welfare of persons who attend construction sites, or use facilities constructed by the industry, as an issue of paramount importance for the industry. Accordingly, addressing the possibility of asbestos being delivered to construction sites or being incorporated into products at those sites is a matter of high importance for the industry.

The ability of industry or other parties to identify asbestos depends to a significant degree upon the type and form of construction products or materials in which it is incorporated. By way of example, identifying asbestos that has been incorporated into a manufactured product, or as a component of a product located within a piece of equipment, may be

extremely difficult without undertaking destructive investigation that may be both impractical and cost prohibitive.

Further, the number and types of products that could contain asbestos is extremely wide. It may be incorporated into products that may not generally be regarded as being likely to contain the substance.

In addition, construction products and materials may be brought into Australia through a range of different processes eg.

- They may be imported by head contractors for incorporation into construction projects.
- They may be supplied through subcontractors on construction projects outside the direct control of head contractors.
- They may be sourced by clients or consumers and then provided to contractors for incorporation into a construction project.

That said, while there are risks from asbestos where lack of oversight and regulatory failure occur, or where asbestos is found notwithstanding appropriate investigative processes being implemented, based on known information the ACA is not aware that the incorporation of asbestos into building products and materials brought into Australia is currently a major problem. Nevertheless, there is still a need for vigilance and maintenance of effective systems to prevent the issue from becoming a major problem.

Regulatory Control

The ability of the industry to address the asbestos issue is significantly dependent upon the quality and reliability of regulatory regimes as both a preventative and educational process as well as an effective deterrent in terms of enforcement.

It follows that the ACA submits that there should be an effective regulatory and enforcement system operating to assist the industry to reduce the potential for asbestos to be incorporated into construction products or materials wherever they are manufactured or extracted.

It is a fact of life that the advent of the global economy, in which businesses find themselves more increasingly operating, has resulted in the development of many new and innovative products and systems that are both essential for modern construction activity as well as being price advantageous. New products and systems are both requested by construction clients and are essential for long term sustainable growth for the industry.

Whether or not products and materials are sourced from Australia or overseas, there are some fundamental issues that need to be recognised and addressed as part of an effective regulatory regime. For contractors responsible for construction projects these include:

- Confidence that the regulatory systems operating in Australia or elsewhere are appropriate for the marketplace issues they are required to address in a global context and are applied consistently.
- Regulatory systems that are fully and vigorously enforced, especially where dangerous substances are involved.
- Effective education of the industry and clients/consumers as to the risks involved in purchasing products from jurisdictions where compliance is unreliable.
- A regulatory system that does not add significant and unnecessary costs to construction projects by requiring unrealistic testing regimes, reducing the capacity for innovation and development of new technologies or restricting the capacity of the marketplace to source products/materials from markets of choice.

CONCLUSIONS

1. The CPA submissions recommend an industry supported, holistic approach to the issue of non-conforming building products and the possibility of asbestos being incorporated into products or materials.
2. The existing regulatory structures operating in Australia provide the opportunity for the regulatory system to be effective in addressing the asbestos issue, but they need to be more robustly coordinated and implemented.
3. Greater consideration needs to be given to how the regulatory system addresses the risks of asbestos in products/materials being imported from countries that do not have blanket bans on asbestos, or which regard the concept of asbestos free as meaning that there should be a limit to the extent that asbestos may be incorporated within building products.
4. Whichever way the issue of the potential for asbestos to be incorporated into building products is addressed, the regulatory system should not operate in a way that:
 - adversely impacts on the ability of the industry to provide safe workplaces.
 - unnecessarily increases the cost of construction; or
 - places contractors at risk of loss or prosecution when acting appropriately and in good faith.

Should the Committee wish to discuss the ACA's submission, or any matters that are relevant to the Committee's deliberations, the ACA's Executive Director, Lindsay Le Compte, would be pleased to assist the Committee. Mr Le Compte may be contacted by email at
or by telephone on

Annexure 1: Members of the Australian Constructors Association

- ▶ Acciona Infrastructure Australia Pty Ltd
- ▶ BGC Contracting Pty Ltd
- ▶ Bouygues Construction Australia Pty Ltd
- ▶ Multiplex Australasia
- ▶ Clough Limited
- ▶ CPB Contractors Pty Limited
- ▶ Downer EDI Engineering Pty Ltd
- ▶ Fulton Hogan Group Ltd
- ▶ Georgiou Group Pty Ltd
- ▶ Grocon Pty Limited
- ▶ Hansen Yuncken Pty Ltd
- ▶ John Holland Group Pty Ltd
- ▶ Laing O'Rourke Australia Construction Pty Ltd
- ▶ Lend Lease Building Pty Ltd
- ▶ Lend Lease Engineering Pty Ltd
- ▶ McConnell Dowell Corporation Limited
- ▶ Probuild Constructions (Aust) Pty Ltd
- ▶ UGL Limited
- ▶ Watpac Limited