

Chapter 1

Introduction

1.1 On 23 June 2015, the Senate referred the matter of non-conforming building products to the Economics References Committee (the committee) for inquiry and report by 12 October 2015.¹ The committee was granted a number of extensions and the inquiry lapsed at the dissolution of the 44th Parliament. The committee tabled an interim report, *Safety—'not just a matter of good luck'* on 4 May 2016. On 11 October 2016, the Senate agreed to the committee's recommendation that this inquiry be re-adopted in the 45th Parliament.

1.2 Under its terms of reference, the committee was to inquire into:

- (a) the economic impact of non-conforming building products on the Australian building and construction industry;
- (b) the impact of non-conforming building products on:
 - (i) industry supply chains, including importers, manufacturers and fabricators,
 - (ii) workplace safety and any associated risks,
 - (iii) costs passed on to customers, including any insurance and compliance costs, and
 - (iv) the overall quality of Australian buildings;
- (c) possible improvements to the current regulatory frameworks for ensuring that building products conform to Australian standards, with particular reference to the effectiveness of:
 - (i) policing and enforcement of existing regulations,
 - (ii) independent verification and assessment systems,
 - (iii) surveillance and screening of imported building products, and
 - (iv) restrictions and penalties imposed on non-conforming building products; and
- (d) any other related matters.²

1.3 On 13 October 2016, as part of its broader inquiry, the committee resolved to inquire into the illegal importation of products containing asbestos. The committee adopted the following additional terms of reference for this part of the inquiry:

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

1 *Journals of the Senate*, No. 100, 23 June 2015, p. 2766.

2 *Journals of the Senate*, No. 100, 23 June 2015, p. 2766.

- (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.³

1.2 In light of the tragic fire at the Grenfell Tower in London in June 2017, the committee agreed to prepare an additional interim report on the implications of the use of non-compliant external cladding materials in Australia as a priority. The committee tabled its report, *Interim report: aluminium composite cladding* on 6 September 2017. In addition to this interim report on asbestos, the committee agreed to table its final inquiry report on 30 April 2018.

Conduct of the inquiry

1.3 The committee advertised the inquiry on its website and in *The Australian*. It also wrote to relevant stakeholders and interested parties inviting submissions.

1.4 The committee has received 164 submissions, as well as a number of supplementary submissions. The submissions range from government departments and agencies to peak industry bodies, unions, individuals working in the industry and consumers. A list of submissions to the inquiry is at Appendix 1.

3 *Journals of the Senate*, No. 12, 7 November 2016, p. 379. The committee presented an interim report on 18 October 2016 containing the additional terms of reference. The Senate adopted the additional terms of reference on 7 November 2016.

1.5 Public hearings were held on:

- 13 November 2015 in Canberra;
- 15 February 2016 in Melbourne;
- 30 January 2017 in Brisbane (asbestos);
- 9 March 2017 in Perth (asbestos);
- 14 July 2017 in Melbourne (asbestos and cladding);
- 19 July 2017 in Sydney (cladding);
- 31 July 2017 in Adelaide (asbestos and cladding);
- 3 October 2017 in Sydney (asbestos); and
- 17 October 2017 in Canberra (asbestos).

1.6 The names of witnesses who appeared at the hearings are at Appendix 2.

1.7 References to the Committee Hansard for the October 2017 hearings are to the Proof Hansard and page numbers may vary between the Proof and Official Hansard transcripts.



Mrs Vicki Hamilton, OAM, Chief Executive Officer; Secretary, Asbestos Council of Victoria/GARDS Inc showing Senator Ketter and former Senator Xenophon samples of products containing illegally imported asbestos including crayons and beaded jewellery.

Background

Committee comments from the 2016 interim report

1.8 The committee tabled an interim report, *Safety—'not just a matter of good luck'*, on 4 May 2016. The report raised concerns in relation to the illegal importation of asbestos:

The committee has major concerns relating to the importation of NCBPs [non-conforming building products]. Particularly the ability of Australia's enforcement agencies to effectively police Australian borders so that NCBPs are detected and prevented from entering Australia. At the moment, this area of enforcement appears to require substantial strengthening and should be a high priority for government.

...

The importation of banned materials, such as asbestos, raises very serious concerns about the capacity of Australian authorities to deal with this issue, particularly in light of our open and dynamic trade environment. The committee notes the important work of the Asbestos Safety and Eradication Agency and questions whether further resources are required for it to fulfil its current role.

The committee will further consider means by which foreign governments could be encouraged to ensure compliance certification carried out within their sovereign borders is bona fide. Mechanisms could range from formal representations through DFAT [Department of Foreign Affairs Defence and Trade] to more punitive approaches, such as restrictions on the importing of certified goods from countries where fraudulent certification is not being addressed.⁴

Recent discoveries of asbestos in imported building products

1.9 The committee's decision to adopt additional terms of reference on the illegal importation of products containing asbestos was in response to a number of high profile cases where asbestos had been found in imported building products in 2015 and 2016. These include:

- Chinese cement sheeting—Australian Portable Camps, South Australia—August 2015;
- Asbestos flooring installed in pre-fabricated switch rooms—Robin Johnson Engineering, South Australia—November 2015;
- Klingerit 200 CAF gasket jointing sheets—1 William Street, Brisbane—July 2016;
- Asbestos in unitised roof panels—Perth Children's Hospital—July 2016; and

4 Senate Economics References Committee, *Interim report, Safety—'not a matter of good luck'*, 4 May 2016, p. 16.

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- Asbestos contaminated plant equipment—Nyrstar project, Port Pirie, South Australia—August 2016.⁵

1.10 The incidents at 1 William Street Brisbane and the Perth Children's Hospital both involved products supplied by Yuanda Australia.

Asbestos Importation Review

1.11 In late 2015, the Australian Border Force (ABF) Commissioner established an independent review to examine the effectiveness of the Department of Immigration and Border Protection's (DIBP) internal processes and procedures for managing asbestos at the border to ensure that these reflected best practice. KHG Borders Services, an independent consultancy company, was engaged to conduct the review. The Asbestos Importation Review (the review) found that the department's management of the asbestos border control was effective, but identified some opportunities for organisational and technical improvements.⁶

1.12 The review made 11 recommendations addressing three themes: structure and strategy; strengthening engagement; and enhancing border processes.⁷

1.13 DIBP accepted all the recommendations, including one in-principle (due to information technology systems implications). The department is implementing the recommendations as a priority. These activities include:

- delineating and clarifying operational and policy roles and responsibilities in managing asbestos issues between the DIBP and ABF;
- improving the way the department coordinates with partner agencies, including using and providing information on asbestos detections;
- enhancing risk profiling and targeting of high risk goods to monitor and detect illegal imports of asbestos;
- enhancing engagement with industry to promote voluntary compliance with the asbestos border control; and
- increasing international engagement on Australia's asbestos prohibition.⁸

Structure of this report

1.14 This report comprises four chapters, including this introductory chapter:

- Chapter 2 provides an overview of Australia's asbestos regulatory framework;

5 Asbestos Safety and Eradication Agency, *Submission 90*, pp. 5–6. The submission provides further detail on each of the incidents.

6 Department of Immigration and Border Protection, *Submission 108*, p. 10.

7 The full list of recommendation is available here: Department of Immigration and Border Protection, *Submission 108*, attachment 1, *Asbestos Importation Review Report*, March 2016, pp. 11–12.

8 Department of Immigration and Border Protection, *Submission 108*, pp. 10–11.

- Chapter 3 examines the ongoing issues in relation to the illegal importation of asbestos; and
- Chapter 4 looks at measures to increase accountability for the illegal importation of asbestos and to reduce the risk of exposure.