

# Chapter 4

## Conclusion: moving forward

4.1 During Part (a) and Part (b) of this inquiry, the committee received submissions and heard evidence which focused on circumstances surrounding the contamination at RAAF Base Williamtown, Army Aviation Centre Oakey and issues around PFOS/PFOA contamination at other Commonwealth, state and territory sites in Australia. The committee concludes this inquiry with an air of uncertainty about what the future holds for the residents of Williamtown and Oakey, the scale of this national contamination issue and the response of authorities across different political jurisdictions which remains at best a work in progress.

4.2 The committee heard honest and at times emotional testimony from the residents of Williamtown and Oakey which highlighted the devastating impact of contamination on two communities which have little in common except for Defence's legacy contamination and feeling let down, ignored and abandoned by the authorities. The committee was moved by the stories people told about their encounters with a slow-moving contamination crisis, none more so than Mr Nathaniel Roberts, his wife, Stephanie, and four-day old daughter, Isla, who live in Oakey. Mr Roberts told the committee: 'My daughter is my whole world, and it breaks my heart to think that she may be hurt because I bought a house in Oakey'.<sup>1</sup>

4.3 The committee was struck by the similarities in how people from different communities were affected physically, emotionally and economically once the contamination became public and in the weeks and months that followed. What is clear from the Williamtown and Oakey experience is that Defence's failure to notify residents sooner; the lack of transparency, accountability and consistency; and the delay in addressing community concerns fuelled a sense of crisis and fear among residents about an uncertain future. One expert witness who has worked with communities on contaminated land for 30 years told the committee: '...information is much more powerful than lack of information. If people are not told something, then they can often think the worse or be concerned about the worse. The more information the better'.<sup>2</sup> This view is consistent with on the ground observations by the committee in Williamtown and Oakey.

4.4 The committee concludes that scientific uncertainty around the human toxicological impact of PFOS/PFOA and legal uncertainty around environmental regulation when contamination spreads from land controlled by Defence to non-Commonwealth land should no longer be viewed by government as obstacles to action. Obtaining scientific and legal certainty is likely to remain beyond the government's reach for the indefinite future. It is not acceptable for Defence to hide behind uncertainty as an excuse for inaction. As the committee noted in its first

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1 Mr Nathaniel Roberts, *Committee Hansard*, 9 March 2016, p. 17.

2 Dr Mariann Lloyd-Smith, Senior Advisor, National Toxics Network, *Committee Hansard*, 7 April 2016, p. 10.

report,<sup>3</sup> Defence knew about the likely human health impacts of PFOS/PFOA back in 2003 when a key finding of an internal Defence report on environmental issues associated with the use of firefighting foams was that 'Both PFOS and PFOA have been implicated with a variety of cancers and toxic health effects in humans that have had long term exposure to products containing PFOS/PFOA'.<sup>4</sup>

4.5 The report's authors also warned that in addition to environmental harm, pollution incidents across Defence establishments have the potential to seriously damage Defence's reputation as an environmental manager and good corporate citizen. These prophetic words were not lost on the committee as it heard evidence from angry residents of Williamtown and Oakey who had lost confidence in Defence. Notwithstanding the evolving science, alarm bells should have been ringing in Defence more than a decade ago about the potential harmful effects of PFOS and PFOA to both the environment and humans. Defence must now accept responsibility for its inaction and engage proactively with communities on the subject of compensation, or risk damaging its already tarnished reputation and exposing the Commonwealth to unknown financial risk.

4.6 Defence's stubborn approach to the issue of compensation is highlighted by evidence from the Defence Special Counsel on 3 December 2015 that the department had not been advised on liability '...because I do not have evidence on which to base that assessment', and evidence on 7 April 2016 that the objective of informal discussions between Defence and some Williamtown residents about their concerns for the future '...is to put options to government for consideration as part of the decision they are going to make shortly'. While Defence argued that a door was open for Williamtown residents who may seek to recover costs from the department, the evidence received by the committee suggests otherwise. The committee also notes the less than satisfactory Government response on the issue of compensation for the commercial fishing industry in Williamtown as further evidence of policy inertia and failure to address the concerns of residents about ongoing financial hardship and an uncertain future for many businesses.

4.7 Should the Government continue with its 'head in the sand' approach to liability and compensation, it need look no further than existing impacts on Williamtown and Oakey to see what the future may bring as Defence engages with other communities affected by contamination. Defence's unsatisfactory responses to questions by the committee on the issue of responsibility, liability and compensation, and its failure to adopt a blanket precautionary approach, are the most disappointing outcomes of this inquiry. The committee is of the view that Defence should be working with affected communities to prevent expensive and lengthy class action which may drive those communities to breaking point.

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3 Foreign Affairs, Defence and Trade References Committee, *Firefighting foam contamination Part A—RAAF Base Williamtown*, February 2016, p. 8.

4 Sonia Colvile and Nicole McCarron, *Environmental Issues Associated with Defence Use of Aqueous Film Forming Foams (AFFF)*, Environment Stewardship, Environment, Heritage and Risk Branch, May 3003, p. 1.

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4.8 While Defence needs to move forward in addressing its legacy contamination, the committee is not confident Defence is capable of managing contamination of its estate without a whole-of-government response and ongoing parliamentary oversight. The committee also remains concerned by the lack of response by state governments to emerging legacy contamination issues when authorities were aware of the contamination for years and, in some cases, decades but no action was taken.<sup>5</sup>

#### **Recommendation 8**

**4.9 The committee recommends that it continue to monitor the Department of Defence's handling of contamination of its estate and surrounding communities caused by PFOS/PFOA, and report to the Senate on an interim basis as required.**

#### **Recommendation 9**

**4.10 The committee recommends that it continue to monitor the response of, coordination between and measures taken by Commonwealth, state and territory governments to legacy contamination caused by PFOS/PFOA, including the adequacy of environmental and human health standards and legislation.**

**Senator Alex Gallacher**  
**Chair**

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<sup>5</sup> See, for example, *Action and inaction, transparency and secrecy in the NT*, <http://blogs.crikey.com.au/northern/2016/04/19/action-and-inaction-transparency-and-secrecy-in-the-nt/>, accessed 19 April 2016.

