



**Senate Select Committee**

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**TASMANIA**

**CEPU Submission**

**February 2014**

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## **1 SUMMARY**

The National Broadband Network (NBN) has the opportunity to be one of the most significant infrastructure projects in Australia's recent history. Unfortunately, like Australia's memory of the workplace fatalities of the Snowy Hydro Scheme, the NBN is currently destined to be recognised not for its vision and scale but for its failings.

Unless urgent action is taken to address the work health and safety deficiencies, the extensive sham contracting and the complete lack of oversight, the NBN project will actually deliver outcomes that fall significantly short if not in some circumstances, contrary, to what the project was designed to do.

### **Missed Opportunities**

The NBN has the capacity to launch Australia into a digital revolution and on the way generate significant productivity and growth to Australia's job and economic prospects. Some examples of missed opportunities include;

#### **1. Management, Supervision and Training**

The NBN project has the capacity to significantly enhance Australian workers skill sets and to prepare literally thousands of workers to transition into future employment.

Most of the subcontractors of NBN and Visionstream engage no trainees or apprentices. Indeed the experience on the ground is that the sham contracting arrangements lead to almost no spend on up skilling / cross skilling.

On the few occasions that trainees / apprentices are engaged they are often found working in small groups unsupervised by qualified personnel. In some extremes these trainees have been found running complete sections of jobs by themselves and in charge of other trainees and laborers / trades assistants.

#### **2. Inefficient engagement of private companies**

The use of pyramid contracting and the prevalence of sham contracting means that productivity on this project is unacceptably low. The often low wages paid means the project fails to entice workers and companies with the requisite skill sets to deliver on time, on budget and with adequate quality. The result is multiple layers of unnecessary overheads and a roll out that is lacking substantially from both a quality and safety perspective.

#### **3. Standardisation of work practices**

With so many different companies / contractors performing this work without any real coordination or oversight there is no consistency in the way the NBN is being implemented. There are no guarantees that the various components being installed have been completed with any consistency whatsoever.

The impact this will have on future maintenance and/or upgrades will be significant.

#### **4. Maximise the use of existing infrastructure**

It is well known that Telstra have not adequately maintained their network since privatization commenced in 1997.

There is significant opportunity to utilize existing infrastructure that is more accessible and in a better state of repair. This could avoid the costly exercise of remediation of both asbestos pits and pipes. Using alternate methods has been demonstrated to be cost effective and safer with the added benefit of providing an expedited rollout of the NBN.

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## **2 INTRODUCTION**

The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia – Electrical, Energy and Services Divisions – Tasmanian Divisional Branch (CEPU) currently represents over 750 members employed in work directly associated with Tasmania's Telecommunications Industry. CEPU members working for Telstra, NBN Co, Visionstream and their subcontractors are predominantly employed in field based roles including Power Workers, Technical Servicepersons, System Designers/Advisers, Supervisors and Para-Professionals. The CEPU also represents a range of members currently employed in the Administrative Streams and the Professional / Managerial Classification Areas.

The CEPU thanks the committee for the opportunity today to speak to you on the NBN and the proposal by the current federal government to install fibre to the node and rely on Telstra's copper network to deliver the service from the node to the customer's premises. Our Union welcomes the opportunity to provide extensive experience of our observations relating to the roll out of the National Broadband Network and the risks and opportunities that present themselves in this exciting infrastructure project.

As the committee would have already seen and heard from previous hearings, the network is in a poor state.

The photos and submissions we provide are of the dilapidated state of the copper network and also examples and details of the many safety and quality concerns that we observed during our regular site inspections. We also submit examples and detail of some overhead fibre cabling which was rolled out successfully in 2009.

## **3 SAFETY AND COMPLIANCE – ASBESTOS, WORKING AT HEIGHTS, SUPERVISION AND OTHER RISKS**

The National Code of Practice for Construction Work rates all asbestos removal as a High Risk activity.

The Australian Government's, National Health and Medical Research Council states that Australia and the UK have the highest rates of asbestos-related death in the world. It is estimated there have already been at least 4,700 deaths from mesothelioma in Australia since records began in the early 1980s, and more than 25,000 Australians will die from it over the next 40 years.

Currently, each year 500 men and 100 women develop mesothelioma in Australia, and this is expected to rise to 900 new cases a year by 2020.

All contractors that win Federal Government work are meant to adhere to the OH&S Accreditation Scheme. This sets out certain standards that apply to contractors including accreditation to AS 4801. Safety Management Systems.

### CEPU Investigation May 2013

Attached to this submission is an investigation undertaken by the CEPU in May 2013 around the suburbs of Battery Point, Sandy Bay, Kingston and Bellerive. Our investigation highlights the lack of supervision and training by subcontractors involved in pit remediation.

As a result of the sheer volume of serious issues surrounding asbestos removal/handling a subcommittee of the new Asbestos Safety and Eradication Agency was formed - *National Asbestos Taskforce - Asbestos Safety in Telstra Infrastructure*. There was also a commitment by NBNco and Telstra to fund a number of monitors to observe the work being rolled out and inform the contractor and /or Comcare of any issues. In Tasmania there are 2 monitors. During the previous Government there was a commitment from Telstra and NBNco to assist these monitors, now that commitment has waned and the funding for these monitors will finish shortly.

### Work Practices and Procedures

The Safe Work Method Statement (SWMS) used by Visionstream (VPL) is non-compliant, inadequate and not validated by an independent hygienist. The risk assessments in the SWMS are inconsistent with the Code of Practice. This impact is not minor.

For example, the list of Relevant Legislation and Statutory Instruments that the employer has relied on requires a proof reader, compliance officer or hygienist to have been involved in the process. This has not occurred. Despite this the relevant Project Manager has signed-off on 09/12/13

The other significant matters to arise include;

- Heat exhaustion during asbestos removal
- Standards for Personal Protective Equipment
- Adequacy and Usefulness of Job Safety Analysis
- Traffic Management

We will detail these issues in terms of the Asbestos Removal Process and Traffic Management

### Asbestos Removal Process

The activity at each site begins with VPL supervisors locating pit numbers and notifying the nearest neighbours of impending works with a leaflet in the letterbox. This is known as letterboxing. It constitutes a survey. It is an appropriate time for VPL to visibly assess the condition of the pit and begin the JSA for that job.

Currently, a later task of opening the pit notes the potential risk of asbestos fibres. This risk could be reduced at survey by VPL which would also offer an opportunity to seal the asbestos fibres prior to commencing removal.

The High Risk category of this work is not supported while representatives of VPL are quoting the atmospheric standard as ACM content. VPL does not know the amount of ACM in each pit, nor does Telstra as they were fabricated many years ago and Telstra has no record of who manufactured the pit and where they are located.

### Inadequate Personal Protective Equipment

P2 Dust Masks: The National Code of Practice for Asbestos Removal specifically notes that these masks are not preferred. Another effect of P2's is that upon exhaling, the safety glasses fog up. Given that the quality of a breathing mask is the last line of defence against mesothelioma, it is vital that the masks are upgraded.

Dust Suits: The dust suits are not of the standard quoted in SWMS. The standard is for asbestos suits. The dust suits are look-alike generics without a test certificate. In the field, the dust suits are easily ripped and torn in the open pit environment.

Gloves: Packets of latex surgical gloves are not fit for purpose. They are easily torn. Some crews wear 2 pairs. A suitable glove type with an elastic wrist is available in safety stores for all the procedures at the pit and should be used and then disposed of as normal.

Wet Wipes: Wet wipes and baby wipes are not fit for purpose. These are inconsistent with the training given in asbestos removal. Bags of clean cloth rags are advocated which can be dampened with the spray bottle. Wet wipes cannot manage the decontamination process in this environment.

This type of Asbestos removal is a high risk/high impact activity when the only control measures being used are PPE and administrative. In this case the PPE should be of the highest standard and not just the cheapest available.

### Heat Related Illness

Heat stress/heat exhaustion arising during the removal process is not identified as a hazard. This matter has been raised on a regular and frequent basis. On medium and hot days this issue is the main conversation of removalists at any pit. The requirement to maintain clean and tidy long work pants and a long sleeved work shirt, without a change facility, has put employees under extreme stress when suited-up over work clothes. Monitors have raised these conditions with VPL and its subcontractors, and client representatives for some time as an emerging issue. There has been no action taken by anyone. Comcare are not interested.

The issue of portable change rooms to ensure privacy has been raised by the monitors and the workforce and nothing has been done. It would be obvious that employees should not be forced to disrobe in the street.

### Training and Supervision

VPL has 3 supervisors in the field. Only one is a qualified asbestos removal supervisor. The other two rely upon a sub-contractor being or engaging a qualified person. The undertaking of High Risk Work must be understood by supervisors.

All employees are new to the hazards of asbestos, and most have no more than 1 days training. Each of the groups are on different rates of remuneration. Most are ABN operatives on a fixed hourly rate or \$200 per pit remediation and pay their own tax, superannuation, suitable vehicle, insurances and other liabilities. Some teams of 2 work 6 days a week to complete 10 pits. In these circumstances these workers are unable to avoid weather conditions and may adopt other procedures which affect working time and costs.

This form of employment only leads to cost cutting and safety issues due to the cost impediments. The pyramid subcontracting model creates more problems than what it's worth. The removal and storage of asbestos has constantly been a problem across the project. Without adequate disposal centres close to the work areas some subbies have been known to carry asbestos around in their Ute for days and others store it at their home until they have the opportunity to dispose of it. This is not a recommended option and is against the Code of Practice which requires that it must be disposed of as soon as is practicable at a site authorised to accept asbestos waste.

## Traffic Management

The relevant legislative requirement in Tasmania requires supervisors to be trained to assess suitable traffic management systems in accordance with AS 1742.3 – 2009. The National Code of Practice for Construction Work requires the Principal Contractor to manage traffic systems. The National Code of Practice for Traffic Management specifically excludes temporary works on public thoroughfares. A separate code has yet to be completed. Leighton's (the owner of VPL) Safety Essentials specify compliance with AS 1742.3. VPL does not have supervisors qualified to assess traffic management.

Except for the current contract, most workers have not encountered temporary traffic management systems. An assessment of the traffic environment should occur during survey, letterboxing, and pit condition assessment and be initiated on the JSA by the supervisor. This would serve to separate self-managed from professional support.

There appears to be no consideration for an asbestos exclusion zone which should be managed as part of a thorough vehicle and pedestrian traffic management plan.

We appreciate the SWMS are constructed in Victoria, but the management of them must occur locally. External auditing of the application and effectiveness of SWMS will be necessary going forward and Comcare will need to be reviewing them. Currently they are not.

So who is ensuring that VPL comply with its OHS obligations?

## **4 LACK OF OVERSIGHT AND ASSISTANCE FROM THE FEDERAL REGULATOR - COMCARE**

Comcare is the safety regulator for this work in Tasmania. Currently Comcare have no permanent presence in Tasmania and their involvement as the Safety Regulator for this work has been ad hoc and limited.

We met with Comcare when they visited Tasmania shortly after raising a significant volume of complaints in relation to asbestos and safe work practices and invited them to come to site with us but they chose not to.

It is our understanding that there will be no ongoing inspections/monitoring of work associated with Asbestos and that the only commitment from the Regulator is that officers of Comcare will fly in, fly out at intervals. In Tasmania it will not take long for the word to get out that the Comcare inspectors are in town. If in fact they come at all. Tasmanian workers and the community deserve better.

We are unaware of any safety improvement notices served on any contractors in Tasmania. Yet there is constant breaches of safety procedures in Tasmania.

It is our understanding that Comcare have been given extra funding to engage inspectors whilst the monitors are in place but this will cease once the monitors go. In light of the problems highlighted we say that Comcare should have a permanent presence in Tasmania or engage Workplace Standards Tasmania as their agent in Tasmania or ensure that the ASEA monitors remain engaged. The NBN Workforce and the general public deserve this as a minimum.

There needs to be a constant oversight of this work.

## **5 SHAM CONTRACTING**

A significant impact of the flawed contracting model adopted by NBN and their principle contractors has been the introduction of literally dozens of sham contracting arrangements.

Sham contracting has been subject to its own inquiries and the CEPU does not wish to use this valuable time to discuss at length the dangers imposed on workers, principle contractors, the community and the Australian economy that sham contracting arrangements pose. We would encourage any member of this committee to familiarise themselves with one of the many reports highlighting the negative consequences of sham contracting.

Certainly in Tasmania we have experienced firsthand a huge increase in sham contracting arrangements with the NBN project. The Union acts almost weekly for members caught up in these arrangements.

The usual issues arise such as;

- Workers compensation avoidance;
- Payroll Tax Avoidance;
- Superannuation Avoidance;
- Contravention of the sham arrangement provisions in sections 337-359 of the Fair Work Act 2009 (Cth) (FW Act);
- The evasion by employers of responsibilities owed to employees in the building and construction industry by use of devices including subcontracting and labour hire arrangements;
- The evasion by workers in the building and construction industry of taxation and other responsibilities by use of devices including creating businesses and partnerships;
- Competition and 'undercutting' in the building industry and the role played by labour hire companies and subcontractors; and
- Fairness: inequality of bargaining power as a driver in contractual negotiations between employers and workers.

As highlighted earlier in our submission, these arrangements also lead to a situation of almost total noncompliance with Work Health and Safety Obligations.

## **6 ROLLOUT OF NBN – THE OVERHEAD NETWORK AND OTHER OPPORTUNITIES**

For the fibre roll out, it is our understanding that the Tasmanian Government has put forward a proposal to the Commonwealth that could see the full National Broadband Network rolled-out at a lower cost and much faster with greater use of Aurora's aerial optic fibre deployment.

There was a Trial that was progressed by NBN Tasmania in June 2009 and the rollout was completed ahead of schedule and on budget. There was about 4,000 premises passed in the trial.

We are also aware that the committee has been informed of the new technology being used in Western Australia that has the potential to slash NBN roll out costs. The pipe-cleaning technology is enabling NBN Co to pass about 2500 premises in six to eight weeks as opposed to six months and at less than half the cost.



## 7 CONCLUSION

In conclusion the CEPU believes there are significant opportunities for improvement. Areas which need to be targeted to ensure the quality, safety and compliance of the NBN project is met, include;

- The CEPU fully supports Fibre to the Premise;
- The CEPU supports a mixture of installation techniques including fully utilising the overhead power network as appropriate;
- Full review of the contracting arrangements with a view to removing sham contracting and pyramid contracting arrangements;
- Constant oversight from Comcare and continued funding for the Monitor positions or seconding Workplace Standards to perform these functions with adequate resources; and
- Implementation of clear and concise training, supervision and safety guidelines that are consistent across the entire project and compliant with best practice.

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