CHAPTER 1

INTRODUCTION

Terms of reference

1.1 On 22 June 2005 the Senate referred the following matters to the Community Affairs References Committee for inquiry and report by 1 December 2005:

(a) the health impacts of workplace exposure to toxic dust including exposure to silica in sandblasting and other occupations;

(b) the adequacy and timeliness of regulation governing workplace exposure, safety precautions and the effectiveness of techniques used to assess airborne dust concentrations and toxicity;

(c) the extent to which employers and employees are informed of the risk of workplace dust inhalation;

(d) the availability of accurate diagnoses and medical services for those affected and the financial and social burden of such conditions;

(e) the availability of accurate records on the nature and extent of illness, disability and death, diagnosis, morbidity and treatment;

(f) access to compensation, limitations in seeking legal redress and alternative models of financial support for affected individuals and their families; and

(g) the potential of emerging technologies, including nanoparticles, to result in workplace related harm.

1.2 The reporting date was subsequently extended by the Senate to 31 May 2006.

Conduct of the inquiry

1.3 The inquiry was advertised through the Internet, *The Australian* and regional newspapers: *Whyalla News*; *Illawarra Mercury*; *North West Telegraph* (WA); *Newcastle Herald*; *Katherine Times*; *Kalgoorlie Miner*; *Transcontinental* (SA); *Maitland Mercury*; *Mt Isa North West Star*; *La Trobe Valley Express*; and *Moe and Narracan News* (Yallourn). The Committee wrote to interested individuals and groups inviting submissions. The Committee received 46 public submissions and 2 confidential submissions from a range of organisations, individuals and Commonwealth and State Government bodies. A list of individuals and organisations who made public submissions is at Appendix 1.

1.4 The Committee held public hearings in Melbourne, Sydney and Canberra. A list of witnesses who gave evidence at the public hearings is at Appendix 2.

Background to the inquiry

1.5 The Committee's interest in workplace exposure to toxic dust arose from the case of Mr Richard White who was employed between 1971 and 1974 in the sandblasting industry in the Northern Territory. Mr White subsequently developed lung disease. He initiated a compensation claim in the Northern Territory Supreme Court in 1998 and alleged that as result of his employment, he had developed silicosis and/or emphysema and/or chronic air flow limitation. Mr White lost the first instance trial, the subsequent appeal to the Supreme Court of the Northern Territory and an appeal to the High Court of Australia.[1]

1.6 Following the unsuccessful litigation, Mr White placed a newspaper advertisement requesting people who knew or suspected that they had acquired lung or other disease through working for companies that used sandblasting techniques to contact him. By Christmas 2004, Mr White had obtained 916 names. Many of the respondents to the advertisement claimed to have experienced symptoms consistent with lung disease or cancer related to workplace exposure to toxic dust. It appeared that very few had received or sought compensation for their disability.

1.7 Mr White believed that 'many other Australians have suffered potentially harmful exposure to toxic dust, without ever seeking more specific diagnosis or financial compensation'.[2] Mr White and Dr Thomas Faunce, Senior Lecturer at the Medical School and Law Faculty, Australian National University, lobbied for the establishment of an inquiry into workplace risks of exposure to toxic dust.

Impact of exposure to toxic dust

1.8 There are many substances in dust form which lead to health problems for workers. The following provides an overview of some diseases arising from workplace exposure to toxic dusts:

- Asbestosis: Asbestosis is scarring of the lungs due to asbestos exposure;
- Asbestos Related Pleural Disease (ARPD);
- Mesothelioma: cancer of the pleura and the peritoneal lining. It is an invasive tumour related almost exclusively to asbestos exposure;
- Lung cancer: may result from exposure to asbestos or silica;
- Silicosis: caused by exposure to crystalline silica dust;
- Silicotuberculosis: the most common complication of silicosis;
- Mushroom Worker's Lung: caused by the inhalation of microbial spores living in the compost used to cultivate mushrooms;

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1 *Submission* 25, Additional information 10.11.05, p.4 (Mr R White et al for ASDC).

2 *Submission* 25, Additional information 10.11.05, pp.4-5 (Mr R White et al for ASDC).

- Bagassosis: caused by mouldy bagasse, which is the fibrous cellulose residue of sugar cane after the extraction of juice. This disease is uncommon;
- Farmer's Lung: caused by exposure to mouldy hay, straw or grain;
- Bird Fancier's Lung: caused by exposure to bird excreta and bloom;
- Byssinosis: airways disease due to the inhalation of certain textile dusts;
- Siderosis: caused by the long-term inhalation of iron oxide fumes;
- Aluminosis: seen in workers exposed to fine aluminium powder or dust;
- Berylliosis: an inflammatory disease of the lung caused by the inhalation of dust or fumes containing beryllium;
- Hard Metal Pneumoconiosis: the consequence of the inhalation of cobalt containing dust, either in the manufacture of hard metals or the sharpening of tools made from hard metals;
- Coal Dust Pneumoconiosis: caused by the inhalation and retention of coal dust in the lungs;
- Hexavalent Chromium associated lung cancer; and
- Occupational Asthma: an inflammatory disorder of the lungs resulting from a hypersensitive reaction to an inhaled foreign substance. It is the most common occupational lung disease in Australia.[3]

1.9 The most commonly known dust which causes harm is asbestos. Asbestos was mined in Australia principally at Wittenoom (Western Australia) from 1940 to 1966 and at Baryulgil and Barraba. The use of all forms of asbestos was banned in Australia from 31 December 2003, except in prescribed circumstances.

1.10 The fibres of asbestos cause asbestosis, lung cancer, asbestos-related pleural diseases and mesothelioma. Claims for asbestos compensation are not limited to the mining of asbestos; many claims arise from use of asbestos products. Estimates of Australia's total liability for future asbestos claims start at around $6 billion.[4]

1.11 The case of asbestos is well documented and mechanisms are now in place to manage asbestos related compensation claims. Therefore the Committee has not addressed the specific issue of asbestos in this report rather it has reviewed workplace exposure to other toxic dusts including silica dust, beryllium and timber dust.

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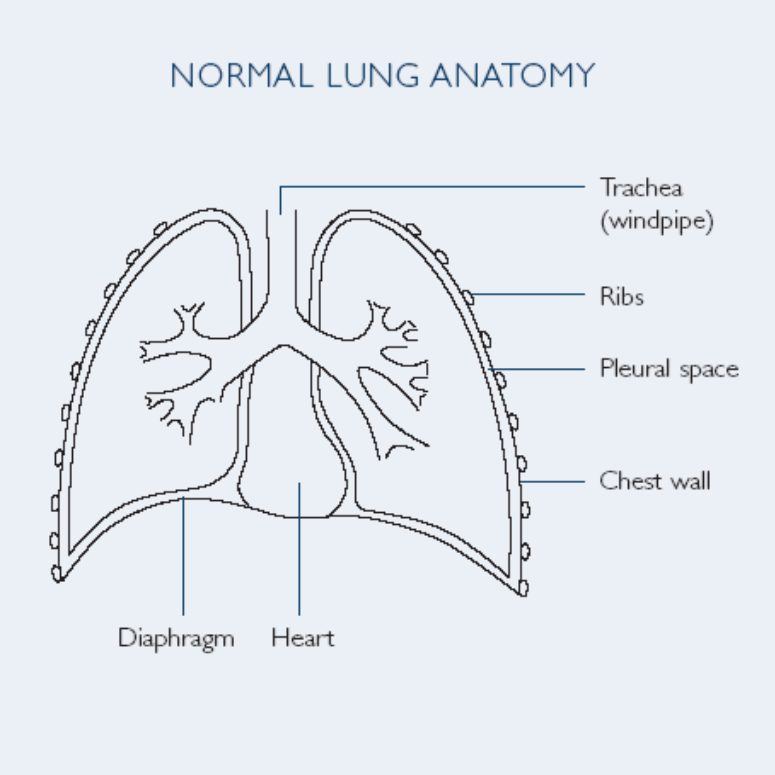
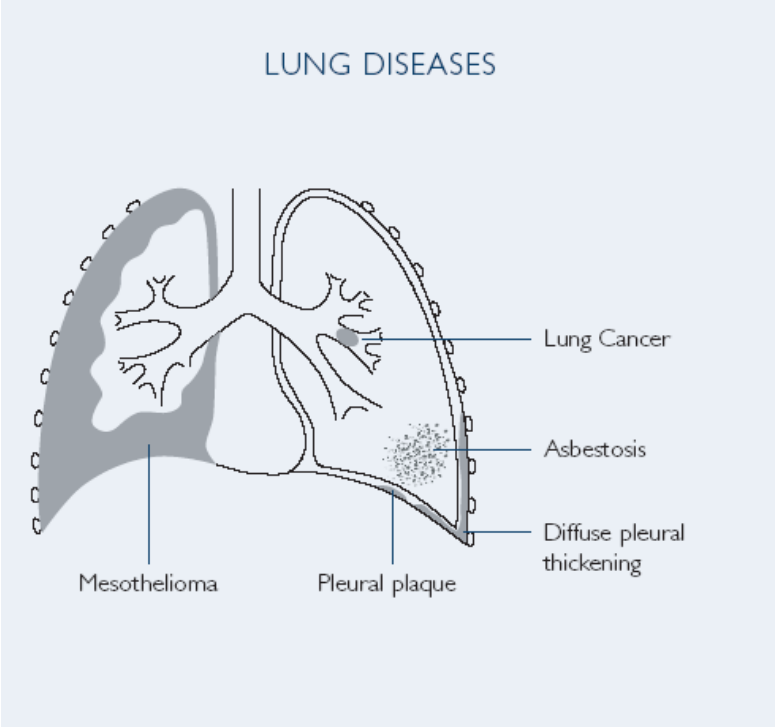
3 *Submission* 32, pp.1-5 (Dust Diseases Board of NSW).

4 O'Neill P & P Prince, *Asbestos-related Claims (Management of Commonwealth Liabilities) Bill 2005 and Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill 2005,* Bills Digest, nos 175-176, 2004-05, at www.aph.gov.au/Library/pubs/bd/2004-05/05bd175.htm

1.12 The following two diagrams show healthy lungs and the impact of lung diseases:





Source: A Guide to Compensated Occupational Lung Disease in NSW, Dust Diseases Board of NSW, viewed at http://www.ddb.nsw.gov.au/home.asp

Australian Safety and Compensation Council (ASCC)

1.13 During the course of the Committee's inquiry, the Australian Safety and Compensation Council was established as a national advisory council on occupational health and safety (OHS) and workers' compensation. It had its first meeting in October 2005. The ASCC succeeded the National Occupational Health and Safety Commission (NOHSC). Like its predecessor, the ASCC comprises representatives from Federal, State and Territory Governments, the Australian Council of Trade Unions and the Australian Chamber of Commerce and Industry.

1.14 The key role of the ASCC is to provide leadership and coordination for national efforts to prevent workplace death, injury and disease. The ASCC will lead and monitor research and develop broad OHS and workers' compensation policy and strategic directions under the guidance of the Workplace Relations Ministers' Council. The work of the ASCC is aimed at achieving national consistency in OHS and workers compensation. It also has the power to declare national standards and codes of practice, as was the case with NOHSC documents developed as the basis for nationally consistent OHS regulations.

1.15 The Office of the Australian Safety and Compensation Council (OASCC), based in the Department of Employment and Workplace Relations, will support the work of the ASCC and is also a source of national research and statistical information relating to OHS and workers' compensation.[5]

1.16 As most submissions were written before the ASCC was established, the Committee has used NOHSC in the text rather than ASCC.

5 *Committee Hansard* 10.11.05, p.2 (DEWR); see also *Submission* 11, p.2 (DEWR).