



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**(Reference: [Inquiry into Auditor-General's Report No 1 of 2017: WorkSafe ACT's management of its regulatory responsibilities for the demolition of loose-fill asbestos contaminated houses](#))**

**Members:**

**MRS V DUNNE (Chair)  
MR M PETERSSON (Deputy Chair)  
MS B CODY  
MR A COE**

**PROOF TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 16 MARCH 2018**

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**Secretary to the committee:  
Dr B Lloyd (Ph: 620 50137)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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## **Privilege statement**

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*Amended 20 May 2013*

**The committee met at 9.32 am.**

**RAMSAY, MR GORDON**, Attorney-General, Minister for Regulatory Services, Minister for the Arts and Community Events and Minister for Veterans and Seniors  
**JONES, MR GREG**, Work Safety Commissioner, and Director, Construction, Environment and Workplace Protection, Chief Minister, Treasury and Economic Development Directorate

**THE CHAIR:** Good morning, everybody, and welcome to this public hearing of the Standing Committee on Public Accounts inquiry into the Auditor-General's report No 1 of 2017, *WorkSafe ACT's management of its regulatory responsibilities for the demolition of loose-fill asbestos contaminated houses*. Today we will be hearing from the Minister for Regulatory Services, Mr Ramsay, and his officers from WorkSafe ACT; Mrs Lorraine Carvalho, a private submitter to the inquiry; and Mr Jason O'Mara and Mr Garry Hamilton, representatives of the CFMEU.

Today's proceedings will be recorded and transcribed for the public record. Proof transcripts will be circulated to witnesses for comment before publication. I ask witnesses to familiarise themselves with the pink privilege statement that is on the table in front of them and state that they understand and agree to comply with these provisions.

I welcome Mr Ramsay and Mr Jones. Do you understand the privilege statement?

**Mr Ramsay:** Yes.

**Mr Jones:** Yes, I do.

**THE CHAIR:** Thank you, Mr Ramsay, for appearing today. Do you have an opening statement?

**Mr Ramsay:** No, I am very happy to go straight to questions.

**THE CHAIR:** This is, in a sense, an event which is almost in the past—the whole Mr Fluffy demolition process is almost completed. Could you outline for us, minister, what you and your agency have learned from this report and what changes we have seen in the operation of WorkSafe as a result of this report?

**Mr Jones:** The background to the Auditor-General's report was to focus on the governance arrangements within WorkSafe, specifically on our program with the Fluffy demolitions. WorkSafe had established, under the umbrella of Access Canberra, fairly substantial governance documentation covering all of its operations under its accountability commitments, and under WorkSafe documentation in terms of its compliance framework, its risk-harm approach to the way we conduct our activity.

When the auditor came in to look at the governance arrangements, it was after specific arrangements for the asbestos eradication program, particular to that program. While we had some reasonable documentation specifically on that program, WorkSafe was relying on the broader accountability arrangements from Access Canberra. The auditor's view was that it should have been more specific to that program, given the

specific focus of that program.

What we did in WorkSafe, based on the auditor's outcome and on the discussions that occurred during that audit process over a period of some six months, was to adapt some of the broader accountability requirements from Access Canberra very specifically to that program.

In terms of the learnings, WorkSafe now has policies and procedures so that whenever there is a specific program which is of significance or where there is separate funding or other arrangements for it, we make sure that all of our governance documentation is specifically focused and targeted on that particular program. Even though all the principles are the same, the level of detail per program has been enhanced as part of a positive outcome from this audit.

**THE CHAIR:** The audit report speaks about a draft document that seems never to have been finalised. Is it the case that it was never finalised?

**Mr Jones:** The program in its early days was what I think I would call fairly dynamic in terms of how it was changing based on the experience. There was no benchmarking or other similar programs that we could rely upon in Australia, or anywhere in the world, for that matter. In consultation with the asbestos task force, procurement and capital works and various expert asbestos removalists and assessors, collectively we put together a program, as best informed as we could, with the information that was available at that time. It was a very robust and very conservative program when it first started because we really did not know what sorts of issues we were going to come upon as that program was enhanced. At the beginning of the program, with well over a thousand demolitions to undertake, it was pretty daunting for everyone to enter into that program.

It was fairly early in our experience that we were able to refine and enhance that program. We would have weekly meetings where we would do one or two, perhaps even three, demolitions in the early days and all of the stakeholders would get together, review what they learned, what worked, what did not work, what was necessary and what was not necessary. That program was probably refined significantly over the first six months.

There were almost weekly changes to what was going on. We were identifying additional risks with perhaps some of the utility shut-offs, with unique characteristics of individual blocks. Some were two storeys, some had significant basements, some had other infrastructure on the block which was not loose-fill asbestos affected, so it was about how to deal with that. We were coming across unique issues on a weekly basis.

Our fieldwork, our activity and how we dealt with those additional risks or issues were ahead of what our policies and procedures were at that time. Our focus was on making sure that the demolitions were undertaken in a safe manner and refining that process down to the efficient process that has been in place for the last 12 to 18 months. There was a lot of enhancement earlier. The individual procedures did not keep up with the changes that were done because we were focused on safety and the fieldwork rather than the office governance work. That was another learning from the

process.

**THE CHAIR:** By the time we had the auditor's report early last year, had you consolidated your procedures at the office end rather than just out at the coalface? To what extent, from your perspective, was the auditor's report a reflection of history rather than what was actually happening at the time that the report came down?

**Mr Jones:** That is actually a fairly good summary of how we felt, with the auditor's look at our governance arrangements. By the time the auditor came in, we were over halfway through the program. In the field we were very comfortable with the risk assessments and the processes. To date, and at the time the auditor's report first started, we had had one injury in the field, and that was with something like 500 or 600 demolitions. That injury was an injury to the hand of one worker, and that was actually on a garage door which was not involved with the demolition process.

The safety outcomes in the field were absolutely exemplary. Based on the auditor's view, our governance documentation had not kept pace with what was actually occurring in the field, and that is something we acknowledge. We were definitely fieldwork focused in terms of those safety outcomes. At that stage we were doing something like 15 to 20 demolitions a week, so things were moving fairly rapidly. Our focus was on the fieldwork and making sure that was safe, and the outcomes and the records prove that that was the case, and very robust. However, our specific documentation on the Fluffy program had not kept up with what was occurring in the field.

I guess it was a fair comment that the existing policies and procedures did not exactly reflect what was occurring in the field; and, subsequent to the audit, we have fixed that or we have remedied the governance documentation.

**THE CHAIR:** Could you, Mr Jones, be a bit more precise about how you have fixed that? If the Auditor-General came back today, what would she see that was different?

**Mr Jones:** There were a total of eight recommendations from the auditor. As the committee would note from the government's response, we have accepted all eight recommendations. As of September 2017 all recommendations were fully implemented.

The key process or outcomes from that, in terms of the heart of the recommendations, was the development, the testing and the adoption of a regulatory strategy and a program of activities which specifically focused on the demolition program. There are three specific documents. Their titles are "Regulatory strategy for ACT government loose-fill asbestos insulation eradication scheme". That is a WorkSafe document, so that is very specifically targeted at that program. That met a number of the recommendations of the Auditor-General. We then developed a very specific program of activities, which is the asbestos team's "Regulation of loose-fill asbestos removal and demolition works". That is detailed documentation of the program of activities. Of significance are very detailed and very specific operating procedures for the inspection processes for the demolition and removal of asbestos work.

There are three significant governance documents that have been developed, tested

and trialled, if you like, to make sure that they are appropriate and robust. As of September last year, they have been fully implemented into our business as usual in that program. If the Auditor-General came in, she would see those three robust documents specifically addressing her recommendations. She would see from evidence and the reporting processes, checklists and documentation that they have been fully implemented from September last year.

**MR PETTERSSON:** You mentioned it was a dynamic process with the standard operating procedure as things got underway. What mechanisms were informing those changes?

**Mr Jones:** All stakeholders, including the asbestos assessors, the removalists, procurement and capital works, the task force which was then established and WorkSafe attended regular meetings. I think at that stage they were weekly meetings, where they would debrief what occurred in terms of their experiences from all of those different perspectives. NoWaste from TCCS, in terms of controlling the actual disposal of the material, was also involved in various stages. It was basically a debrief of the week's activity: what occurred, whether there were any surprises, whether there were any unknowns discovered. As I said, throughout the whole program there were unique characteristics of individual blocks that came up, just by the shape, the design and what was in houses, especially when it came to basements, cellars and things like that, or when there were extensions on houses. That can be quite tricky.

Discussions would occur based on the experience at that time, and particularly the experience of the licensed asbestos removalists, the demolition contractors, and what they were finding and discovering. Obviously, input from the air monitoring was part of that. Where they said, "This is an issue," or "We could improve this," or "We don't need to do whatever steps," where they thought it was a bit of an unnecessary slow-down of activity, that was all discussed, and the outcomes were in terms of how improvements could be made either to increase safety or to improve the speed within the safety parameters of those demolitions.

**MR PETTERSSON:** Who was in those meetings?

**Mr Jones:** WorkSafe, the task force, procurement and capital works, because they let the contracts for the demolition works, the asbestos removalists and assessors as necessary, and, on occasions, if it was relevant, NoWaste were integral to those discussions.

**MR PETTERSSON:** When you say "assessors", does that mean inspectors, or is that a different term?

**Mr Jones:** It is a different term. They are an independent licensed contractor. You would have licensed asbestos assessors. There are a number of companies around that do that. Their specialist work is to come in, identify asbestos by doing testing, sampling, air monitoring or what have you. They have expert laboratories and personnel that can test whatever samples they have taken to determine whether there is asbestos and what type of asbestos it is. They have some quite technical electronic-type equipment to do that. You have the removalists, that are the similarly skilled experts that are trained in what processes and procedures are needed to

undertake that contract demolition work.

**MR PETTERSSON:** Were the asbestos team inspectors consulted in this evolving operating procedure?

**Mr Jones:** Yes.

**MR PETTERSSON:** Numerous times?

**Mr Jones:** I am not aware of the exact frequency; I was not actually in the agency at that time. But my understanding, and from going through the history, is that there was regular and extensive contact, certainly between WorkSafe, the task force and the various contractors. Because of the way we were doing the number of site visits per demolition, the interaction between procurement and capital works, the task force on site to a lesser degree and certainly the various contractors, was regular—daily.

**MR PETTERSSON:** We have a submission that says the asbestos team inspectors were involved in two meetings in July and September and that none of their recommendations were actually adopted.

**Mr Jones:** That is certainly not the evidence that I would consider, nor is it the experience of my team in terms of their interaction. In terms of a demolition per site, there was almost always discussion either as a preliminary assessment or at the toolbox talk on the day, where my inspectors attended, where any particular issues, either generally or unique to that site, were discussed and a plan undertaken or discussed, finalised and then undertaken as part of those works.

**MR PETTERSSON:** My substantive question is about prohibition orders. How were prohibition orders and notices put in place under the task force?

**Mr Jones:** By WorkSafe?

**MR PETTERSSON:** Yes.

**Mr Jones:** One of the regulatory tools that WorkSafe has under the work health and safety legislation is a range of notices that can be issued. There are improvement notices and there are prohibition notices, going directly to your question. An improvement notice is where there is no imminent risk of danger but there are ways of doing it better in the future or to improve the immediate situation at the time.

Where there is imminent risk to anyone involved, the inspectors have the power to issue a prohibition notice on whatever contractor is relevant at the time that was undertaking that work. A prohibition notice can cover the whole site, depending on what the issue is, or it can be specific to a particular area or region of a site—for example, a corner where a trench or excavation is occurring. The inspectors have power as authorised officers under the Work Health and Safety Act to issue both improvement and prohibition notices as they see fit at that time, in their assessment of the risk.

**MR PETTERSSON:** Was there any internal regulation of the issuing of these

notices?

**Mr Jones:** Over the past few years we have brought in a quality assurance scheme whereby any notice, unless there is absolutely imminent danger, is quality assured by a manager within WorkSafe. This ensures that the wording of that notice is appropriately robust and tight. It refers to the correct area of legislation and it is the most appropriate and proportionate response at that time. There is that quality assurance, and that goes through a manager within WorkSafe, usually within hours, depending on its urgency at that time. All inspectors are informed that if there is an imminent risk and their view is that they need to immediately cease work on that site, they have the power to do that. They can issue a verbal notice, with a follow-up written notice within 24 hours. So they can issue a verbal as well, if there is imminent risk.

**THE CHAIR:** When did that process start, Mr Jones?

**Mr Jones:** It has always been there in terms of the issue of notices. But in terms of quality assurance it has been of the order of the last 18 months to two years.

**MR COE:** Mr Jones, I imagine you have seen the submission by Ms Carvalho.

**Mr Jones:** Yes.

**MR COE:** Are there any points in that submission that you disagree with?

**Mr Jones:** I understand where she is coming from. I have read it but I do not have the submission in front of me, so I could not exactly say line by line or point by point what she said. But I am more than happy to answer specific questions if you wish to raise them, Mr Coe.

**MR COE:** Some of the activities that are outlined in the submission are of particular concern, I would think, to WorkSafe. How does the government intend to address the issues raised here?

**Mr Jones:** As I say, I do not have a copy of the submission with me. If you wish to raise some specific ones now, I am more than happy to respond to them at the moment.

**MR COE:** Minister, what is your plan to address these particular concerns? Are you just going to leave them on the record or are you actually going to address them?

**Mr Ramsay:** Those matters are something that WorkSafe will continue to work through and respond to as appropriate.

**MR COE:** Right. But you have not come today with any plan to disagree with any of the evidence here?

**Mr Ramsay:** With any of the evidence, as Mr Jones has said, if you would like to put particular questions, we can respond to those.

**MR COE:** It is a pretty serious set of concerning actions that have taken place. For

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instance, there is reference here to people being in skip bins with asbestos. Did you investigate that?

**Mr Jones:** That would have been investigated at that time. I know that the task force who controlled the specific sites undertook investigations. With some of those issues or incidents, action was taken by the task force against the particular contractor individually, meaning the individual persons who did it, or against the contractor broadly. But that specifically was a matter for the task force.

**MS CODY:** How many people were exposed to asbestos during the demolition process to date?

**Mr Jones:** Exposed?

**MS CODY:** To the loose-fill asbestos.

**Mr Jones:** I am not sure I understand the context of your question.

**MS CODY:** Mr Coe is talking about a particular submission we have received in which they clearly state that people were exposed to loose-fill asbestos and were wearing no protective clothing. Is there a record of how many people have actually been exposed to loose-fill asbestos?

**Mr Jones:** Not that I am aware of, no.

**THE CHAIR:** You are not aware that there is a record, or you are not aware of the extent of the record?

**Mr Jones:** I am not aware of the extent of the claim of the exposure in terms of how many people. I do not have a particular investigation result in front of me, so—

**THE CHAIR:** The submission clearly shows photographs and video footage of someone in regular tradie hi-vis in a skip bin. Apparently people had been shifting stuff out of a contaminated house into the skip bin, and there was a chap walking around. He had a safety helmet on and hi-vis but he was not wearing safety gear of the sort you would expect to see in asbestos removal. Apart from that incident, how many other incidents were there where people who were in and out of houses that were being demolished were not wearing safety gear?

**Mr Jones:** I would need to take that on notice.

**THE CHAIR:** That would be good.

**Mr Jones:** I note that there have been some allegations of that, not all of which have been substantiated.

**THE CHAIR:** What would you require for substantiation?

**Mr Jones:** Evidence that it actually occurred.

**THE CHAIR:** Photographs?

**Mr Jones:** Yes. It is difficult to determine exact locations and things like that. But we are happy to look at any evidence that is produced. I am happy to take on notice what investigations we did about exposure. We will look at that. I do not have—

**THE CHAIR:** In that case, minister, as Mr Jones is taking this on notice, can we specifically ask that you look at the Carvalho family's submission and the substantial photographic and video evidence that accompanies that and get back to us with what has happened in those instances? And can you also find out whether there have been other assertions, allegations or proved occasions when people have not complied on the safety issues? Some of the photographs that are attached to that left me very surprised. A lot of houses were completely encased in plastic. Sometimes the roof was encased in plastic. But on these occasions there were tarpaulins not particularly well attached to the roof. It gave me considerable concern. Are there other instances like this one?

**Mr Jones:** I would need to go and investigate our records. I am happy to take that on notice.

**MR COE:** On that issue, it seems that part of the confusion, at least here and perhaps within government and the community at large, is the responsibility of WorkSafe vis-a-vis the directorate and the task force. With regard to safety procedures, the preventative measures as opposed to the reactive measures, what role does WorkSafe have? Is that the same role they have had since the beginning of this scheme?

**Mr Jones:** WorkSafe's role with the Mr Fluffy program, the demolition program and, in fact, any other either construction or workplace activity is to monitor and enforce work health and safety legislation. WorkSafe is not the designer or the manager of the demolition program, but we monitor the safety aspects and safety requirements of that demolition program. The task force itself was the organiser and manager of that program. We as a regulator ensure that the work health and safety aspects of that program are appropriately adhered to in accordance with the legislation.

**MR COE:** Were there asbestos removal control plans for each property?

**Mr Jones:** Yes.

**MR COE:** WorkSafe were involved in reviewing those?

**Mr Jones:** I believe so, yes.

**MR COE:** Each one?

**Mr Jones:** I believe so, yes.

**MR COE:** What was WorkSafe's role in briefing contractors and their staff?

**Mr Jones:** WorkSafe did not brief contractors or staff. The actual demolition was a matter for the expert licensed contractor. WorkSafe attended toolbox talks and the

demolitions to ensure that the planned demolition was undertaken in accordance with the plan and therefore in accordance with work health and safety. WorkSafe did not have an active role in that; it was a regulatory and monitoring role in terms of work health and safety responsibilities and requirements.

**MR COE:** Minister, what regular reporting do you receive from WorkSafe about the Mr Fluffy scheme?

**Mr Ramsay:** I have weekly briefings from Access Canberra, including WorkSafe, across the range of matters. Those regularly include matters in particular for WorkSafe as one element of those briefings, and on regular occasions they include matters in relation to the Mr Fluffy program as well.

**MR COE:** But is there a written report, like a pro forma, completed within WorkSafe that gets submitted to you on a regular basis?

**Mr Ramsay:** Given the independent statutory responsibilities of WorkSafe, it is certainly not the case that I am oversighting or reviewing—

**MR COE:** But reporting—

**Mr Ramsay:** The reporting happens in those weekly briefings.

**MR COE:** So you do not receive a regular written report from WorkSafe?

**Mr Ramsay:** No. I receive regular the briefings through Access Canberra and WorkSafe.

**Mr Jones:** The reporting includes whole-of-WorkSafe activity over particular periods of time, highlighting exceptions or out of the ordinary noncompliance.

**MR COE:** Given that this is a large and really one-of-a-kind project in the demolition of a thousand homes, how many homes have been knocked down, how many homes have been rebuilt, safety issues and all of those sorts of pretty quantifiable metrics, does WorkSafe feed into anything like that, or does the task force prepare that?

**Mr Jones:** That is part of our weekly briefing. We talk to the task force very regularly, as you would well imagine, in terms of the program to date—any issues and certainly what is coming up in the foreseeable future, whether it is weekly, monthly or what have you—so that we can plan our staff and resources to be in the right location at the right time. Progress in terms of numbers of demolitions and where we are up to is reported to the minister weekly, as he stated. Any issues or incidents are reported on an exception basis.

**MR COE:** In terms of what happens in your office, particularly with regard to the Carvalhos' concern, if a telephone call was put into WorkSafe saying that there was a concern about a demolition taking place next door, where the people making the complaint are concerned about their health and any fibres that are airborne, what would usual or best practice be after receiving that call?

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**Mr Jones:** We have a quick response arrangement. If there was a demolition undergoing on a Mr Fluffy site we would have an inspector there. They would have been there for the toolbox talk and usually they would be there for most, if not all, of the actual demolition. As part of the attendance and the set-up of that site we would be checking that appropriate air monitoring and dust suppression by water cannons, water vapour, was in place. So we would have been on that site, and we can check with a quick phone call with the inspector on site what is occurring. One of the frequent issues that we get, not just with Mr Fluffy but also with construction generally, is that the fine water spray or water misting to keep dust down is often mistaken for dirt or dust leaving the site. At certain angles or whatever, or for those who are less familiar with construction activity, water misting can be mistaken for dust. That is one of the more frequent comments that we get. We have a very rapid response and we just make a phone call to the inspector in the field.

**MR COE:** Are you able to say when you visited Barrow Place in Lyons?

**Mr Jones:** We would have records for that. I do not have them with me today. If that is of importance, I can take it on notice and provide it to the committee.

**MR COE:** Yes, that would be useful.

**THE CHAIR:** I think it would.

**Mr Jones:** Okay.

**THE CHAIR:** You say the WorkSafe inspector is on the ground for most of the time during the demolition. Is that during the demolition, or during the decanting of the property as well?

**Mr Jones:** That is up to the discretion of the inspector. They are certainly there for the toolbox talk and usually the start of the demolition. They would not necessarily sit there all day watching the trucks being loaded and going out, because there are up to 30 or 40 trucks per site. They would not just sit there all day. The discretion is theirs. Once it starts and all the systems are working properly in terms of the demolition, the appropriate loading, the air monitoring and trucks being covered before they leave the site, then it is up to them how long they stay on that site for.

**THE CHAIR:** It seems from the photographs of Barrow Place that these photographs were taken fairly early in the process. There are still curtains in the windows and the like, so this was early in the process of taking out, presumably, carpets, soft furnishings and bits and pieces like that. Could you tell us, probably on notice, the extent to which inspectors were there for that decanting process rather than the demolition? At this stage there does not seem to be any plastic wrap of any sort on the house.

**Mr Jones:** I am more than happy to take that on notice and give you an idea of the number of visits to that site by our inspectors. But I just note that for each property there is testing first and then certain soft furnishings or whatever are removed prior to demolition by the licensed asbestos removalists.

**THE CHAIR:** And they should be wearing kit?

**Mr Jones:** It depends on the circumstances and their particular assessment of the site, which changes from site to site. So that varies.

**MS CODY:** You suggested that misting of water occurs during demolition. Is that correct?

**Mr Jones:** Yes.

**MS CODY:** Is that on every—

**Mr Jones:** It should be. It is a normal dust suppression mechanism, water misting.

**MS CODY:** I might raise that matter with the minister after this hearing.

**MR PETTERSSON:** I have one quick question that you can take on notice. There were media reports about property and fixtures from a Mr Fluffy home being removed and potentially sold interstate. It was referred to the police. Can you give me an update, on notice, of the outcome of that referral and any implications for safety of that property being removed?

**Mr Jones:** I am happy to take that on notice and provide information for the committee. That referral was by the task force. I am happy to coordinate a response for that, if you like.

**MR COE:** Could you also take on notice Olympus Way, not just Barrow Place?

**Mr Jones:** Okay.

**THE CHAIR:** There are three addresses in the Carvalho family's submission. I suppose what we are really looking for is a thorough response to the Carvalho family's submission.

**Mr Jones:** To that particular submission, yes. That is noted. That is fine.

**THE CHAIR:** Thank you. There may be some questions on notice that arise out of this, but we will communicate those through the committee secretary. Thank you very much for your attendance today.

**CARVALHO, MS LORRAINE**

**THE CHAIR:** Welcome, Ms Carvalho, to this hearing of the public accounts committee inquiry into the Auditor-General's report, *WorkSafe ACT's management of its regulatory responsibilities for the demolition of loose-fill asbestos contaminated houses*. Thank you for your submission. I understand that you have an opening statement which is not necessarily brief, but the committee will sit back and take it in. Could I ask you to acknowledge that you have read and understood the pink privilege statement?

**Ms Carvalho:** Yes, I have read it and I do understand it. I am the owner of a Fluffy house. I am sorry that the statement is a little bit long, but, as you will know, it is a pretty involved subject. I am sorry that I am involved in it. I will read it as quickly as I can. If you want to stop me at any time, that is fine.

**THE CHAIR:** No, take your time.

**Ms Carvalho:** I thank the committee for the opportunity to provide my comments and to inform you of my family's experiences dealing with management of the asbestos task force and WorkSafe and their responsibilities for demolition of loose-fill asbestos contaminated houses. We are the owners of an asbestos contaminated home in Lyons. We now know our home belonged to Dirk Jansen, the owner of the business commonly referred to as Mr Fluffy.

On 27 April 2016 my neighbours intervened to stop workers de-fitting demolition work of a Mr Fluffy house at 4 Barrow Place, Lyons. They witnessed workers knocking down the front and side doors of the house with sledgehammers, crowbars and wearing no protective clothing, even though signs on the fence indicated that this was necessary when entering the property. It was the residents of Barrow Place who were trying to protect the workers' safety and the safety of their nearby neighbours, and not WorkSafe, who were charged with this responsibility.

At a kerbside meeting with members of the asbestos task force and WorkSafe, allegations made by Barrow Place residents that a breach of the ceiling area had occurred in the property were totally disregarded. During the former occupants' removal process, dust and debris fell onto the carpet from the contaminated ceiling.

At the time that pre-demolition commenced at the Barrow Place property, there had been no pre-demolition asbestos reports conducted, yet contractors were allowed to commence pre-demolition works. On 2 May 2016 Robson Environmental conducted tests, but tests were not conducted on the carpet where the contamination took place. They collected only seven grams of material over the entire house to do their testing. This was totally inadequate for a house of that size.

It is imperative that all Mr Fluffy demolitions by the task force and WorkSafe take into account the assumption of risk to all involved, which include but are not limited to workmen, site visitors, property owners, surrounding demolition sites and the residents living in those properties.

In our case the property being de-fitted was not wrapped in plastic as suggested by the

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task force and WorkSafe. There was no warning that the house was coming down on the day. This resulted in our home and me being covered in dust and debris when I went to investigate what was happening. At the time the demolition commenced, my son and my two-year-old granddaughter were at the house. Debris, including bricks, fell over the fence within a foot of some of my relatives. This was reported but no subsequent action was taken.

The position on the block of the house that was being demolished was up high on the block and looked over our roof. The close proximity of the property to ours made this a candidate for full enclosure. In some parts it is only about three metres from their house. WorkSafe and the task force were contacted by me and by concerned neighbours, but they stood by and did nothing. Due to their non-action I can only surmise that they allowed the demolition to continue purely out of spite, as my family had brought unwanted attention to safety issues associated with the demolition of Mr Fluffy houses. This is still able to be viewed on YouTube and various other online applications globally.

The ACT government's premise with the buyback scheme was that, if exposed to asbestos material, there is a significant possibility of being exposed to a deadly disease. Therefore we considered it reasonable that my husband attempted to stop a skip with incorrectly packed contaminants leaving Barrow Place until such time as the contents were fully tested and signed off by WorkSafe. To my knowledge, this never occurred. This should have occurred not just for clarity and transparency purposes but to alleviate common concerns that all procedures had been fully followed to the core. Where an issue of safety has been raised, as occurred in this case on several occasions in Barrow Place by a company with tangible documents and evidence, it is imperative that procedures have been adhered to and any human error has been fully investigated by an independent body prior to any skip leaving the property.

Leo's arrest could have been easily avoided, saving the ratepayers thousands of dollars, simply by engaging an independent assessor and not authorities who have a conflict of interest when conducting their duties. The task force and WorkSafe manipulated the system, involving the AFP, the DPP and the courts. The actions of the task force and WorkSafe when demolishing Mr Fluffy houses are decided purely for financial reasons, whereby it is cost saving versus lifesaving. This is evident from an article in the *Canberra Times* on 8 May 2016, where a task force spokeswoman stated that "there is no temporary stop to works for safety reasons".

It is extremely disappointing that Mr Fluffy home owners cannot openly approach authorities such as the task force and WorkSafe without fear of retribution when we bring issues of serious demolition breaches to their attention. An example of retaliation and abuse of power experienced by my family took the form of a task force member swearing out interim domestic violence workplace orders on false and vexatious allegations against Leo, our son and me. To my knowledge, this was approved by Mr Kefford.

Further to the abuse of these powers, these orders were left as interim orders for 11 months. These orders were set in place so that we could not disclose to the public the inadequate processes overseen by WorkSafe that had the ability to endanger people's lives and their property. The interim domestic violence workplace orders

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were dropped, without any reason being given, on the day before they were due for hearing.

It is my opinion that the task force, Mr Kefford and WorkSafe abused their powers by, firstly, swearing out false affidavits to obtain the orders and by our not having the right to defend our reputations in court, costing my family thousands of dollars. Interestingly, the court files for these orders have recently been sabotaged and virtually all of the documents contained within them, including affidavits made by Mr Kefford and Ms Springett, have disappeared from the files.

Recent media articles in both print and social media describing contamination being found on cleared Mr Fluffy blocks reinforces the assertions made by the residents of Barrow Place. Furthermore, it is disturbing that these revelations may not have come to bear but for the actions of an honest builder. To my knowledge, there are inadequate safeguards to protect owners of neighbouring properties from residue contamination left over from the demolitions.

Evidence of this can be demonstrated by a series of photographs depicting a group of young children walking through the dust, both surface and airborne, on their way home past a Mr Fluffy property in the process of being demolished. The workers' response was to quickly hide within the perimeters of the fence so as not to be caught on camera, whereby they proceeded to joke about the incident, not having realised they were in fact caught on camera. This was the address at 19 Olympus Way, which runs off Barrow Place. Nor are there adequate safeguards for dumping loads of possibly contaminated soil at local dumps, as I believe is the case with the Barrow Place property which is currently being built on.

Our experience with WorkSafe has been one of bitter disappointment for the following reasons: the supervision of Mr Fluffy worksites is severely lacking. Safety procedures have not been followed by workers, nor are they properly supervised by trained personnel. There is a total disregard for the safety of the community; when complaints are made to WorkSafe they are ignored, as they have been in our case. When complaints are made about safety issues, there is no follow-up by WorkSafe to those making the complaint. Their administrative procedures are poor and there is a lack of a detailed note-taking system in order to follow up the issues. WorkSafe do not return your telephone calls. When you eventually get in contact with them, they advise you that they know nothing about your previous calls. This has happened to me on two separate occasions.

The demolition of Mr Fluffy homes in the ACT, if protocols around safety procedures are not followed, can have deadly consequences for many of Canberra's community members. Mr Fluffy home owners were promised by Mr Barr and Ms Gallagher that either a royal commission or a board of inquiry would be held in relation to Mr Fluffy. We are now told it is not a priority.

We have been deceived on more than one occasion. Many feel as though they have been defrauded of their assets or that they have been taken under false pretences due to this deception on the part of ACT Labor and Rattenbury from the Greens, who is only supportive of a BOI—a board of inquiry—if it does not weaken their relationship with their political counterparts. As public finances are funding this program, all

authorities such as the asbestos task force and WorkSafe need to be held accountable and an immediate board of inquiry or royal commission, with or without federal government support, needs to occur. WorkSafe also need to have the ability to safely oversee the demolition of Mr Fluffy houses, as this is essential.

Lastly, I would like to state for the record that no member of the Carvalho household has ever attempted to stop work on Mr Fluffy demolition sites, as implied by the task force and WorkSafe. On the contrary, we would like it to be completed as soon as possible, but it must be completed in a safe manner, where community lives are not put at risk.

**THE CHAIR:** Thank you, Ms Carvalho. You live in Barrow Place?

**Ms Carvalho:** It can be either 2 Barrow Place or 24 Olympus Way.

**THE CHAIR:** It is on the corner?

**Ms Carvalho:** Yes.

**THE CHAIR:** And you were overlooked by the house that was causing problems?

**Ms Carvalho:** Yes.

**THE CHAIR:** How would you characterise your relationship with the asbestos task force before the decanting, the pre-demolition of the house in question in Barrow Place? Were you a willing participant in the asbestos buyback?

**Ms Carvalho:** No.

**THE CHAIR:** How would you describe your relationship?

**Ms Carvalho:** We did not have a good relationship. We refused the buyback scheme on the grounds that our house was very undervalued and the replacement cost alone was more than what they offered. At the time we were offered \$293 a square metre for our block, which is 1,406 square metres, and at the time it was worth \$1,100 a square metre. It would not even have covered the land, the amount of money we were offered, so we refused to go into it. They contacted on us on several occasions trying to get us to rethink our view. We said no, and things just deteriorated from there. I went to a few meetings. I was not welcome. I was yelled at by a particular task force member and told to get out.

**THE CHAIR:** From a public meeting?

**Ms Carvalho:** Yes. I was told that I was psychotic: "Get back on your meds." I am neither psychotic nor taking meds, and I think it is an insult to people who have got illnesses like that.

**THE CHAIR:** A public official said this to you at a public meeting?

**Ms Carvalho:** Yes. One of the task force members said that to me on two occasions.

The second occasion she said it to me, I lost my temper a bit. I slammed the desk that they had papers on and they bounced up a bit, and I walked away. The police had been called to that meeting because of the meeting that we had outside Barrow Place and when Leo got arrested on 13 May 2016.

There was a public meeting at Curtin the following day. I was not going to go to it but I decided I would. I had been asked by a particular group to go, so I went. Before the meeting had even started they had already called the police. There were four policemen. Those four policemen were also there the day before. I spoke to them on numerous occasions. When I slammed the table with my open hand, it was because two public officials were laughing at the lady whose furniture was put across the *Canberra Times* a few days before. I think her name was Mrs O'Mara. She had to leave her furniture behind but then found out that the contractor took it from the house and was keeping it. They were laughing at her and thought it was funny. And I just said, "Please treat her with the respect that she's due," and that is when this lady told me to get back on my meds.

**THE CHAIR:** This is tangential to the inquiry, but do you still live in your property?

**Ms Carvalho:** Yes.

**THE CHAIR:** Do you have plans for the property yourself? Is your family planning to demolish the property?

**Ms Carvalho:** No. My house has been gutted three times. There is not one brick, one window or one piece of gyprock that was from the original house when Mr Jansen had it or the other owner had it. It has been cleared. We have been certified that it has been cleared. But they found a piece, probably about a 50-cent piece, of what they said was asbestos on some leftover air-conditioning ducts that were out of the house but had been placed underneath the house where nobody has ever been. It has been locked ever since the day we moved in.

**THE CHAIR:** Getting to the issues here, you have provided a fairly comprehensive submission and a lot of photographs. For the record, can you verify that those photographs were taken on the dates that are indicated?

**Ms Carvalho:** Yes.

**THE CHAIR:** In your opening statement here today you have made a number of allegations. When were interim orders taken out against you and members of your family? Can you give us dates?

**Ms Carvalho:** My understanding is that it was 12 May 2016 when they did the paperwork. When they took them out it might have been, I believe, 19 May 2016.

**THE CHAIR:** And you were formally served with those papers when?

**Ms Carvalho:** Possibly the week after that.

**THE CHAIR:** And they were in operation until, you said, the day before they were

supposed to go to court?

**Ms Carvalho:** Yes.

**THE CHAIR:** When was that?

**Ms Carvalho:** I think it was about April 2017. We had been back several times, but either the task force person did not turn up or, in my case, because my husband works at the court there were judges who would not hear it as they thought there was a conflict, so then they were stood down. It just went on and on.

**THE CHAIR:** And you have subsequently said that there appear to be documents missing from the files?

**Ms Carvalho:** There are documents missing from the files.

**THE CHAIR:** How do you know this?

**Ms Carvalho:** Because I have seen the file before and I had copies from my solicitor.

**THE CHAIR:** So you have had cause to go back and look at the files?

**Ms Carvalho:** Yes.

**THE CHAIR:** How recently was that?

**Ms Carvalho:** About six or seven weeks ago. It was early January.

**THE CHAIR:** Prior to early January, when was the previous time you had seen the files or had access to the files, or your solicitor had?

**Ms Carvalho:** Possibly not long before. I'd say about April 2017.

**MR COE:** You say you viewed the files. Where are the files kept?

**Ms Carvalho:** Over at the Magistrates Court.

**MR COE:** But you have copies of the documents, or your solicitor has copies of the documents, as per the original file contents?

**Ms Carvalho:** Yes.

**MR COE:** You also mentioned that, prior to the interim order being dropped 11 months after it was issued, you had spent thousands of dollars on—

**Ms Carvalho:** Yes.

**MR COE:** That was, in effect, on preparing your case for court?

**Ms Carvalho:** Yes.

**MR COE:** But it was dropped the day before. So in effect all that preparation was null and void?

**Ms Carvalho:** It was null and void and I never got the money back. It was at my expense.

**MR COE:** Are you able to say roughly how much that was? You said thousands.

**Ms Carvalho:** With the three of us, probably \$10,000.

**MR PETTERSSON:** I want to ask you about the kerbside meeting on 28 April. Could you go over again what allegations you put to the task force and to the WorkSafe inspectors?

**Ms Carvalho:** I said that the house at Barrow Place had contamination on the carpets. One of the neighbours showed them pictures of the contamination. I am not sure if it is in that submission.

**THE CHAIR:** Yes, there are pictures of grey fluffy stuff on carpets.

**Ms Carvalho:** I said that the house needed to be wrapped because it overlooked our house. For safety reasons, because we were very close, it needed to be done that way. They said that it was not necessary. That was it.

**MR PETTERSSON:** They said it was not necessary. Did they not believe you when you said—

**Ms Carvalho:** Maybe. I do not know. You would have to ask them that. I did note that when we came home those people at the meeting from WorkSafe had gone to the house at Barrow Place. They did not come to speak to us or say anything to us after that, but they were at that house.

**THE CHAIR:** Did you take the photographs? You said other neighbours took the paragraphs.

**Ms Carvalho:** I did not take the photographs of the asbestos on the carpet, but I took most of the other photos that you have. If it was not me, it was my son.

**THE CHAIR:** How did the neighbours get access to the property?

**Ms Carvalho:** When the ceiling was penetrated and part of it fell down and the stuff came down on the carpets, the people who lived there were moving. The neighbours were helping them move out and they happened to be the people who took the photos.

**THE CHAIR:** So it was in the moving-out phase rather than the pre-demolition phase?

**Ms Carvalho:** Yes.

**THE CHAIR:** Did you get any sense at the meeting that Mr Pettersson referred to, the kerbside meeting, that either the members of WorkSafe or the members of the task force were aware of the state of the house?

**Ms Carvalho:** No. At the time there was an issue going on about a second report being carried out. The contractor had said that he had not received a second report, but WorkSafe said there was one. We never found out whether there was or was not. We had asked that some samples be taken. That was done on 2 May, well after they had started the de-fitting process.

**MR COE:** Thank you for coming today and reliving this. I know it has been a real struggle for your family. I remember chatting with you eight or nine months ago about this issue. I know you have some of the details in your submission. But can you please describe, in as much detail as possible, the events when you first alerted the authorities to problems next door and then the issues the next morning, at 6.45 am on the 13th, which led to the arrest of your husband?

**Ms Carvalho:** The day before, on 12 May, there was a bit of noise going on up there. We went up to investigate. They had started early. I said, "Look, I don't go to bed till 2 or 3 in the morning and I'm usually up by 6.30. Could you start when you're supposed to start, at 7?" I said, "We've got a little girl across the road who has Lyme disease who is awake most of the night and sleeps until 9 o'clock."

We had a discussion with the CFMEU representative who was there, and PBS, who were the contractors, agreed to start work at 10 o'clock. If they needed to go further into the afternoon, that was fine. After 5 o'clock was fine with us, provided they started at 10. We agreed upon that and shook hands. The CFMEU guy left the site, they left the site, and that was virtually all. The police were called. I am not sure exactly what happened there, because it was with them and my husband, but they said there was no issue, and everyone went home and did what they had to do.

Then the following morning my son said to me, "The police are outside." This was at about 10 to seven or 7 o'clock. I said, "It's not my problem. I don't know what they're out there for." They were on the gutter across the road. I had some testing I had to have done at the hospital. My husband took me to the hospital at about a quarter to eight. One of our neighbours wanted to speak to us. That was in Barrow Place. So we drove up Barrow Place and I said, "I'm off to the hospital. I'll see you when we get back. It should be around lunchtime." Off we went to the hospital. Before we went to the hospital, when I was talking to our neighbour, Ms Springett from the task force came towards my car. I put the window up and said to my husband, "Let's go." I did not want to speak to her. I did not know that it was Ms Springett either at that stage. I did not know who she was. I just knew that she was from this task force because the neighbour told me.

We went off, did our bit and came back, and my son said to his father, "Look at the pictures I've just taken." It was with the man jumping in the skip. He tried to talk to the fellow, but I believe he is Burmese and they could not speak English, the majority of the people on site. In fact, every time the police or the media came to Barrow Place they jumped the back fence and took off. I do not know what the deal was there; it is between him and the person doing the demolitions.

Anyway, my husband went up to see what was happening. I cannot remember exactly now, offhand, but he discovered that there was stuff thrown in the skip. It was not wrapped in plastic like they said. He said, "That skip's not leaving the site until it's tested and you make sure that it's wrapped properly." I think the fellow was from procurement. I'm not 100 per cent certain. He asked Ben, my son, what he was doing. He said, "Look at the pictures I've just taken." Within half an hour of him doing that, there was someone there trying to remove that skip.

My husband stood in the gate and said, "No, it can't go until it's tested. We want to make sure that it hasn't got contamination and that it's properly secured." Then the police were called and the next minute there were 11 policemen for him. I think it was Harry Haines, the superintendent, who spoke to Leo. He asked him whether he was obstructing the driveway, and he said no. He explained to him why he wanted the skip tested. In court, after Leo was charged, Harry said that he did not understand what he wanted. It was perfectly clear on the tapes that were shown in court that Leo wanted that bin tested. It was our understanding that that is what they do. They put little things in the skips that they can take out and test to see what the contamination levels are. It was perfectly clear that that is what Leo wanted. Anyway, the policeman said he had to arrest him, so he arrested him and took him away. Then it went to court.

Again, it was deferred a few times because none of the magistrates here would hear it, because of the conflict of interest they had with Leo working there. They ended up getting somebody from WA, who also had a conflict of interest. The ACT Magistrates Court are using the system they have in WA and they have got people going backwards and forwards from the courts checking the system, because they are putting a new system in. So, as far as I am concerned, he had a conflict of interest. They should have gone to New South Wales if they wanted another magistrate.

Leo went to court. Ms Springett from the task force changed her statement in court, saying that he was a perfect gentleman, whereas when she swore out the affidavits she said that she feared for her life and he harassed and bullied her. In court she said he was perfect. The policeman said that in 27 years of policing he was the only gentleman he had ever had to arrest and that he was sorry he had had to do so. It is a whole fiasco as far as I am concerned. It was designed to shut us up. It did not do that but it has cost us a lot of money in the process to let people know what is actually going on.

**MS CODY:** Ms Carvalho, I echo Mr Coe's words: thank you so much for coming along today. I have a couple of questions. If it is too much, I am happy for you to—

**Ms Carvalho:** No, go for it.

**MS CODY:** When did you move into your current property?

**Ms Carvalho:** We purchased that house the day before the fires in Canberra.

**MR PETTERSSON:** You timed that well.

**Ms Carvalho:** Yes, I should have been forewarned about that house. It was rented.

We moved in on 31 July 2005, after renovations and all that.

**MS CODY:** You mentioned here today that you had done quite a lot to the property.

**Ms Carvalho:** There are extensive renovations. It has virtually doubled in size. We also have a one-bedroom unit, separate to the house, on that block.

**MS CODY:** For your son?

**Ms Carvalho:** Yes.

**MS CODY:** Not necessarily?

**Ms Carvalho:** No, not necessarily. You know what they are like. They do not leave home. It does not get any better.

**MS CODY:** When did the task force contact you to offer to buy the property?

**Ms Carvalho:** They did not contact me. When the first lot of letters went out, I did not receive one. The second lot was, I think, around June or July 2014. We got one. I contacted the task force and said, "This house has been completely gutted three times," et cetera, just like I told you. I said, "It's got a clearance for asbestos." He said to me, "Don't worry about it. You're in the clear."

Three days after that phone conversation a man knocked on my door and wanted to know where the people in number 19 had gone. That was the first house that was demolished. I said, "I'm not sure but I think she went to Sydney." He said, "Do you know that that house has got asbestos?" I said yes. He said, "I used to live in that house. I'm just letting you know—do you know that your house has got asbestos?" I told him the same story. He said, "Are you aware that this house belonged to Mr Jansen?" I said no. That was the first time I had heard about it.

He told me the story that the next-door neighbour to his house also has asbestos. Michael Calkovics from Barrow Place and this fellow, when he lived across the road, helped Mr Jansen with the Mr Fluffy when they needed some spare cash. He told me how they used to throw it around, play in it et cetera. He said that his wife had severe breathing issues and it looked like she may have an asbestos-related disease but was not sure how she got it. I said, 'Perhaps the fact that she used to wash your clothes might have something to do with it,' and the light bulb went on with him too. He was the first one who told me about it.

So I contacted the task force again and said, "You'd better send somebody over." They sent someone over to check. He checked everything. The whole house got "Assume asbestos in the cavities" because it was single brick. I was very proud that the testing they did found only household dust. I do not say I am a good cleaner, but that was all they found, except for this little bit that was in a locked area underneath the house. Even a cat could not get under there. Anyway, we were offered an amount and we rejected it, and then we were harassed quite a lot after that.

**MS CODY:** Ms Carvalho, we have seen the photos. This is just a question; it is not an

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accusation in any way, shape or form. In the photos there looked to be loose-fill asbestos in the atmosphere. Are we sure it was not the mist that they were using?

**Ms Carvalho:** No. I was covered in the stuff. It was not wet. In fact, with the water spray they say they do, the fella had it turned the other way from where they were actually demolishing the house. It was not actually going on the parts that they were knocking down. As I said, when I walked outside it was like snow dropping over my fence and onto the house.

**THE CHAIR:** Was the house in Barrow Place ever plastic sealed in any way? Was the roof cavity or—

**Ms Carvalho:** Not that I know of, no. Maybe there was a bit of flapping plastic on the roof but there was nothing else. As I said, my house is at a lower level and they overlooked it. All they could see from their windows, really, was my roof. That is how high it was.

**THE CHAIR:** The other photographs of Olympus Way and Tarraleah Street—were any of those houses plastic wrapped in part or whole?

**Ms Carvalho:** The one in Tarraleah Place had just that bit of plastic on the roof. That was it. That is how it was. The one across the road did not have any wrapping either. It had a bit of plastic on the roof; that was it. As soon as the diggers come in and start squashing it from the roof, it all flies away anyway, unlike with the bubble, where it collapses, implodes.

**THE CHAIR:** Your submission is very thorough. Thank you for assisting the committee. There will be a proof transcript which will be sent to you. Sometime towards the end of next week you will get a copy from the committee secretary of the proof transcript. We ask you to read it and, if there is anything you feel you need to clarify, you can do so through the committee secretary. Thank you very much for your attendance today.

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**O'MARA, MR JASON**, Acting Secretary, CFMEU ACT branch  
**HAMILTON, MR GARRY**, Legal and Safety Officer, CFMEU ACT branch

**THE CHAIR:** Thank you, Mr O'Mara and Mr Hamilton, for attending today. I draw your attention to the pink laminated sheets in front of you, which refer to privilege. I will give you a minute or so to peruse that so that you can understand the nature of privilege. Can I ask for your acknowledgement that you have read and understood the privilege statement?

**Mr O'Mara:** Yes, I understand it.

**THE CHAIR:** Would one of you like to make an opening statement?

**Mr O'Mara:** We wanted to come today to make a submission regarding the Auditor-General's report into WorkSafe's management of loose-fill asbestos contaminated houses. We feel there were a number of issues regarding WorkSafe's responsibilities which they mismanaged. We think it is an example of how they undertake their entire operations. Obviously, today we are here to talk about how this was mismanaged.

If you go through the Auditor-General's report there are numerous examples—a billion dollars worth of work and basic preplanning tools not finished, not given to inspectors; issues around the lack of work flow processes and standard operating procedures for the asbestos team; and the experience of the inspectors who were tasked with the project.

There has been information given to the CFMEU about the lack even of drafting and implementation of standard operating procedures. Even when issues were brought up that should have been implemented by inspectors in that team, they were refused and the like.

There were also issues around the scheme. It has been reported to us that inspectors were instructed not to issue improvement or prohibition notices, so that the scheme looked like it was a success, which we think is a disgrace. There were issues around regulatory compliance, how inspectors' abilities under the act to perform their duties by implementing improvement or prohibition notices and the like were taken away from them. Now they have to sit in front of a committee to do it. We believe that not only is in contravention of the act but also takes away the inspectors' powers as envisaged by the act to immediately rectify safety issues using their powers.

There are many things that we believe were wrong with the scheme and the implementation by WorkSafe, and that is why we are here today.

**THE CHAIR:** Thank you, Mr O'Mara. I will begin by asking you what role, formal or informal, the CFMEU had in the day-to-day running of the asbestos demolition program? The previous witness, Ms Carvalho, mentioned in passing that on one occasion there were CFMEU officials on site and that there had been discussions which included CFMEU officials. How often were CFMEU officials on site?

**Mr O'Mara:** We were called to, I would imagine, less than five issues relating to the

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Fluffy scheme. The main reason for that was coverage issues around single-dwelling housing and the coverage of our officials in those areas. We were called to one issue. I think it may have been one of our ex-members, but a member of the community believed there were some issues happening in the house next door. I think they may have even stood in front of some trucks, and there was a bit of a kerfuffle, for want of a better word, because they believed things were done wrong. I think they called out some of our officials to try to assist them.

There was another issue whereby an inspector believed he had been contaminated with asbestos due to a demolition going wrong. I think he had instructed the contractor to stop work and they continued anyway and managed to potentially contaminate him. We will talk more about that. That issue is probably something Garry will talk about in depth as he was involved in that more than I was.

I believe there was one other issue that we were specifically brought in on, which was an issue where one of the contractors was alleged to have been removing items of furniture from people's houses and selling them or doing something with them other than destroying them.

With respect to a formal role in the proceedings, we had a position on the initial asbestos task force, one of probably 15 positions. But that task force was not tasked with setting out standard operating procedures, risk assessments or any of the evaluations that were undertaken by WorkSafe. That was done by the government, the government departments and the asbestos task force.

**MR PETTERSSON:** Why would members of the community call the CFMEU in these instances?

**Mr O'Mara:** They were looking for someone to try to do something about the issues that were occurring. Some of these issues were not strictly OHS issues, but they were issues of community importance. They must have felt that either WorkSafe or the government were not listening to their calls for help, so they needed to go somewhere.

**MR COE:** What did you do on those five or so occasions when you were called?

**Mr O'Mara:** We attended the sites and used our authorised representative powers under the OHS act to investigate the alleged breaches.

**MR COE:** The one we heard about earlier from Ms Carvalho, can you recall what action the CFMEU took there?

**Mr O'Mara:** I believe we just attended the site because there was an issue. If I am correct, the husband or partner of Ms Carvalho may have been taken away by the police. We did not enter the site. It was more of a civil dispute than an occupational health and safety dispute, so I do not think we did anything.

**MR COE:** We heard some evidence that there were issues at this site. In the event that you do attend, what sorts of records do you keep or how do you actually act on something?

**Mr O'Mara:** With our attendance at that dispute, when we got there it was a civil dispute being undertaken between the people and the contractors. The police intervened, so we took no records and did not produce permits on that occasion. As far as Darke Street is concerned, we have records of the visits. Garry might go into the Darke Street incident in a little more depth.

**MS CODY:** In which street?

**Mr O'Mara:** Darke Street, Torrens.

**MR PETTERSSON:** What happened at Darke Street, Torrens? Can you expand on that?

**Mr Hamilton:** The events of that day, as we understand it, are that an inspector attended the site on the demolition day to check whether the correct safety procedures, documentation and everything on the site was correct to go ahead.

**THE CHAIR:** A WorkSafe inspector or an asbestos assessor?

**Mr Hamilton:** A WorkSafe inspector by the name of Dominic Hides. Whilst attending the site, the principal contractor had gone ahead with the demolition of the site and covered him in a dangerous substance.

**MS CODY:** We heard from witnesses earlier that there were no records of anyone being contaminated with any asbestos.

**Mr Hamilton:** That is inaccurate.

**THE CHAIR:** Was that verified by anyone, that the substance on the inspector was loose-fill asbestos?

**Mr Hamilton:** That comes down to a fundamental issue regarding the integrity of everything that was going on at the time. What happened, and what should not have happened, was that there were air monitors engaged by Robson. Robson had a conflict immediately in relation to the incident because Robson were the actual engaged Mr Fluffy asbestos person for the whole scheme. This was a private dwelling, by the way, so Robson were not involved in it at the first instance.

**THE CHAIR:** This was a private demolition?

**Mr Hamilton:** Yes, that is right. It was not part of the task force demolition. This was a private demolition. Robson were then called, and there was an immediate conflict there, because the regulator—essentially, that was the PCBU—had a potential failure to perform his duties under section 19.

**THE CHAIR:** PCBU?

**Mr Hamilton:** Person in control of the undertaking. He was the boss of the WorkSafe inspector. So there was a potential conflict there. What happened was that Robson used air monitoring samples to suggest that the inspector was not exposed, but air

monitoring samples are not used to detect exposure; they are just there for air monitoring. Just because the air over there is okay, it does not mean the inspector has not been exposed. The inspector was covered in dust. His iPad was covered in dust; his clothes were covered in dust.

**THE CHAIR:** Was that dust tested?

**Mr Hamilton:** No.

**THE CHAIR:** Not by anyone?

**Mr O'Mara:** This is the issue.

**Mr Hamilton:** There are plenty of issues.

**THE CHAIR:** When did this incident in Torrens occur?

**Mr O'Mara:** This was in August 2015.

**THE CHAIR:** This was very early in the process?

**Mr Hamilton:** Yes.

**Mr O'Mara:** The issue occurred that the inspector had made the complaint that he could potentially have been affected by asbestos contamination. The person who was in charge of the inspectors and second in charge of WorkSafe at the time attended the site but had another meeting. He left to go to another meeting, so none of the material they should have collected was collected. The site was not shut down and secured. The evidence was not secured, so the whole investigation was flawed from the outset.

The issue that we are talking about is that WorkSafe, as the person in control of the business undertaking, was then in charge of investigating themselves, so there was a massive conflict of interest with WorkSafe being in charge of the investigation into what potentially was their own mismanagement or own breaches of the Work Health and Safety Act. There was just a failure of the systems.

**THE CHAIR:** In your submission you talk about the potential conflict of interest by investigating yourself.

**Mr O'Mara:** Yes.

**THE CHAIR:** Is this an instance of this or is this the only instance?

**Mr O'Mara:** This is an instance of this.

**THE CHAIR:** Are you aware of other instances?

**Mr O'Mara:** This would occur at any time when WorkSafe put their inspectors into a dangerous situation. There have been other instances where inspectors have had issues and tried to put notices on their own undertaking but have been overruled because of

the people in control of the undertaking.

**MR PETTERSSON:** In your submission you talk about improvement and prohibition notices and the procedure that was undertaken for those to be given out. Can you expand on what that process was in this case?

**Mr O'Mara:** The inspectors, from our information, were given a directive to not hand out or not to issue improvement or prohibition notices with regard to the Mr Fluffy demolition scheme.

**MR PETTERSSON:** Were they told to pursue internal review before doing it?

**Mr O'Mara:** No.

**Mr Hamilton:** The understanding of the informant was that they wanted to give an illusion that the Mr Fluffy program was going along without any non-compliance issues and was going smoothly. Interestingly, the report, as you will know, says there was an issue of under-reporting to Safe Work Australia too in relation to the number of notices issued. It is of particular note that we had the worst construction industry record in the country at the time. That certainly raises suspicions in relation to why all of that was going on. The evidence we received was that they were not to issue any notices. I think they issued nine in the first 12 months. There is no record of any after that. So there is a timing issue in relation to that. But our information was that inspectors understood they were not to issue notices for the Mr Fluffy scheme.

**MR COE:** Was any of that documented?

**Mr Hamilton:** Not that I am aware of.

**Mr O'Mara:** If you do some freedom of information you may find some internal emails in the system that go towards that. That is quite possible.

**MR COE:** Have you seen those emails?

**Mr O'Mara:** I have not seen them, but we have been told by inspectors that that occurred.

**MR COE:** If you have any further information on that, any further light to shed on that—

**Mr Hamilton:** I tried to investigate the issue of Mr Hides, because he was our member. As soon as I started to look at those sorts of things, obviously the ACT government shut it down and said, "Privacy. Can't give you this." I had massive problems with access, so we have no documentation in that regard.

**MR COE:** Roughly what months are we talking about here? To try to find these documents we would need to know what we were looking for. It is just a needle in a haystack.

**Mr O'Mara:** We may be able to come back to you with some dates.

**MR COE:** It is pretty critical information.

**Mr O'Mara:** We contend that that goes to one of the whole issues with WorkSafe: inside Access Canberra there is a bureaucracy which oversees the WorkSafe authorities and undermines their ability to regulate. The regulatory authority should be standalone. They should not be told when and where. There is a WorkSafe act which outlines what the powers of the WorkSafe inspectors are. That should be what dictates how they respond to issues in the workplace, not an engage, educate and enforcement policy which stipulates that only 10 per cent of engagements with WorkSafe are enforcement activities.

That goes a long way to understanding why the ACT is the most unsafe jurisdiction, especially in the construction industry: the fact that the bureaucracy undermines the ability of the WorkSafe inspectors to do their jobs. We have a lot of competent WorkSafe inspectors there, but when their hands are tied behind their backs it is virtually impossible for them to do their job.

There is a group that sits above the WorkSafe inspectorate which now has to meet. If an inspector wants to put a prohibition notice or improvement notice on a job, they have to wait until this group meets and then gives the go-ahead, which we believe is in contravention of the WorkSafe act. Also, the reason why you have the ability to put a prohibition notice or improvement notice on is so that the work ceases until people find out what the issues are. So from the time when the inspector believes there is an issue to the time when the group meets, it leaves people at risk of serious injury or worse.

**MR COE:** Do all these demolition companies have EBAs?

**Mr O'Mara:** A lot of these companies were not in the sphere of our coverage. Most of them would not have, no.

**Mr Hamilton:** Because they are residential.

**MR COE:** Obviously the CFMEU is quite active in Canberra and will stop work on sites on occasion. Did you seek—

**Mr Hamilton:** We do not actually stop any work.

**MR COE:** You seek to stop work on sites. Did you seek to stop work on any sites as part of the demolitions?

**Mr O'Mara:** We have to go back to what we talked about earlier: there is a coverage issue around this being residential stuff. We work in commercial and high residential sort of stuff. Single-dwelling houses are not an area where we spend any of our time.

**MS CODY:** Because you do not have coverage?

**Mr O'Mara:** Although the scope of the project was massive, like a thousand single residential houses, it is not something we would have the manpower or the coverage

to go and do. We went when people rang up and said there were specific problems, but it was not in our scope of work to be overseeing that.

**Mr Hamilton:** Our position probably would be to ring WorkSafe anyway and get them down there to look at the issues. In relation to the Darke Street incident, it happened. It was done. It was covered. He was left there with a dangerous substance on him which caused a Comcare injury to the ACT government and lost a valuable employee to the ACT government. The way in which they now issue notices, the scheme is set up so that, when an inspector has a reasonable suspicion that there is a breach, he issues a notice there and then, which then protects people from that point on. For them to set up a quasi-internal review prior to a notice happening—you are going to kill somebody.

**MR COE:** Mr Pettersson, in what years and months were you working at the CFMEU?

**MR PETTERSSON:** It would have been May 2015.

**MR COE:** Through to October 2016?

**MR PETTERSSON:** Yes.

**MR COE:** So it was in part of this period?

**MR PETTERSSON:** Yes. I did not have anything to do with it.

**Mr O'Mara:** Mr Pettersson's role was certainly nothing to do with the occupational health and safety regime. We have separate work areas. That was certainly nothing to do with what Mr Pettersson would have been undertaking.

**MS CODY:** In your submission you say at point 4 that "whilst the submissions are primarily focused on the specific findings of the report, the CFMEU seeks the indulgence of the parliamentary committee to consider a matter not raised in the report which involved an issue covered by the CFMEU concerning the removal of contaminated products from Mr Fluffy homes". Could you expand on that? I did not seem to find—

**Mr Hamilton:** The reason why I believe that that ties into the report is not just the potential for exposure of inspectors but also the potential for exposure of the public. A member came in and complained that he was involved in the Mr Fluffy program and one of the principal contractors who was dealing with the demolition on the site was removing furniture from the house and then taking it to their yard in Griffith. He had a daughter—

**MS CODY:** Griffith ACT?

**Mr Hamilton:** Griffith ACT, yes. He had taken the furniture up to his daughter in Brisbane, who had a second-hand furniture shop, and she was selling it. These products had been marked; they had the paint on them. So we began to investigate it. I attended the site at Griffith. From outside the site looking in, it looked fine. But we

## PROOF

thought, “We’ll go in. We’ll go and have a look inside.” I noticed a big shipping container at the side, and then we had a look around. We spoke to a guy on site, a young guy who had only just started working there and did not really know much, with his mate. We said, “Can we just have a look around here?” And I said, “What’s in the container?” He said, “I don’t know. Let’s go and have a look.” I opened it and I immediately was very shocked, because I saw furniture there with red paint on it. I immediately took a picture of it, shut the site straightaway and told him not to go anywhere near it, because it was potentially contaminated.

**THE CHAIR:** That was subsequently investigated by the police?

**Mr Hamilton:** I did deliver a report to WorkSafe and the police. I am not sure what happened after that. I was not given any evidence. But we did have a report from a woman called Mrs O’Mara, who is no relation to Jason, who saw the furniture in the paper and identified it as furniture coming out of her house. I do not understand why nothing happened with it. I do not know what happened to it after that point. I reported it to the relevant authorities and something, in my personal opinion, should have been done. But I do not know what.

**THE CHAIR:** I recollect that something happened, but my memory is not great on what exactly was done.

**Mr Hamilton:** Once we report it to the people who have the power to regulate it, obviously it is out of our hands.

**THE CHAIR:** But you reported this to WorkSafe and to the police?

**Mr Hamilton:** Yes.

**MS CODY:** There are lots of issues with that statement you just made. The big one, of course, is the contamination side of things.

**Mr Hamilton:** It is the potential exposure.

**THE CHAIR:** You are not aware of any other incidents, apart from this one contractor?

**Mr Hamilton:** No, that was the only contractor. But I think, surprisingly, he continued to work on the Mr Fluffy program. For me, that was surprising.

**Mr O’Mara:** We contend that, at a minimum, the task force should have suspended him, suspended that company, from any future Mr Fluffy demolitions until they at least investigated thoroughly the allegations at hand. I think it goes to the culture of the whole project that no-one wanted to ruffle feathers by having a suspension of a contractor for that type of incident. So he was allowed to continue working. As far as we were concerned, it was brushed under the carpet and everyone was told to move on.

**MS CODY:** You also raise in your submission the Auditor-General highlighting the existence of draft documentation. I think you also mentioned that in your opening

statement. What is your role? I am not up on exactly what you do, and I noticed you were talking about coverage to Mr Coe. Do you see that documentation? Does it go to inspectors? What happens with that?

**Mr Hamilton:** We did not have any involvement in the pre-planning of this scheme. That issue was internal to WorkSafe. The issue around it was that, if you had had a standard operating procedure and documentation to give out to subcontractors, a lot of the issues that arose in the Mr Fluffy program could have been anticipated and dealt with, such as risk assessments, as all the contractors would have had the same documentation and the same procedures in place so that the project ran smoothly. None of them were implemented. I think a couple of checklists were implemented in the two initial trial stages of it, but then it never happened again.

There was a how-to guide for PCBUs about what WorkSafe were expecting them to do, what documentation they should have in place when they came along so that the project could run smoothly. They were not implemented. The standard operation procedure that was intended is called a workflow process. It is named in the Auditor-General's report. That was meant to be a standard operation procedure. That never got implemented. On a couple of occasions we were instructed that WorkSafe inspectors were consulted on the documentation that was going out to the PCBUs and their comments were ignored and not added in. Then it just was not utilised anyway.

**THE CHAIR:** Mr Hamilton, are you saying that they were not implemented? Do you mean that the documentation was not finalised?

**Mr Hamilton:** Correct, yes.

**THE CHAIR:** From your understanding of the WorkSafe act, if there are interim or draft documents, do they have any effect under the legislation?

**Mr Hamilton:** No.

**Mr O'Mara:** If there was high-risk activity—and inspectors having to be in the vicinity of the removal of asbestos would be to undertake a high-risk activity with the potential for injury to the people—there should have been a set of working procedures, risk assessments and undertaking inductions for the inspectors done and followed.

The issue the inspector encountered in Darke Street, if there had been an implemented set of standard operating procedures and risk assessment hazard reduction programs in place, should not have happened. If the contractors had had a set of appropriate standard operating procedures, potentially they never would have proceeded to undertake the work after an inspector had told them to stop the works.

In any construction setting, safe systems of work and safe work member statements and management systems are put in place to make sure this does not occur. A billion dollars of work, a thousand houses, and one of the major participants could not get a standard operating procedure in place.

**THE CHAIR:** You said, Mr O'Mara, that the CFMEU was on the asbestos task force, some sort of advisory body.

PROOF

**Mr O'Mara:** It was on the initial advisory body before any of the demolitions were undertaken. We had one position on that.

**THE CHAIR:** Could you clarify what that body was called? If you cannot remember off the top of your head, could you—

**Mr O'Mara:** I think it was the asbestos safety advisory—

**THE CHAIR:** That was directly associated with the Mr Fluffy demolition process?

**Mr O'Mara:** Yes, the pre-demolition process.

**THE CHAIR:** On notice, could you get back to the committee with the time when the CFMEU was involved in that process, on that committee, and how long they were on that committee? That would be helpful to us.

**Mr O'Mara:** Yes.

**THE CHAIR:** Thank you very much for your attendance today and for your submission. There will be a proof transcript sent out. If there are issues there that you feel you need to clarify, you can contact the committee secretary so that we can finalise the transcript.

**The committee adjourned at 11.27 am.**