



9 November 2016

Ms Monica Barone
Chief Executive Officer
City of Sydney

Dear Monica

Our industrial dispute about asbestos contamination in Town Hall House on 7 October

You will be aware that, in proceedings before the IRC on 7 November, a number of questions were placed on transcript with the Commission's request for a response in writing to the unions by close of business on Thursday 17 November, before the dispute resumes in the Commission on 21 November.

From my notes, there were a number of questions within what was seen as question 1, so I thought with my usual abundant caution in dealing with the City, that I would reproduce below what I believe the questions were which were recorded and which I conveyed to our members in an email on Monday.

In addition to these questions, the City is a usual way, a trade area it was also expected to respond with a timeframe for the implementation of the recommendations made in the Grant Management Consultant's report.

The 10 questions are these:

1. An explanation for the delay between the time the City was first aware of the potential asbestos contamination (that is, 10:45am when the work ceased and the Council was advised) until 3:28pm when the fire doors were sealed.
2. In particular, what action, if any, did the Council take during that time?
3. Why did the Council describe it as "air sampling testing" when it was in fact an attempt to manage an asbestos contamination?
4. An explanation of how the City allowed the two team members of the WHS team to not be on site that day and what steps will be taken in future to ensure that one or both are contactable in emergency situations.
5. Given that people in the Property Section were advised about 11:14am on Friday 7 October, why was there no earlier response than the sealing of the fire doors at 3:28pm?
6. Why weren't staff employed in Town Hall House excluded from the building sooner than Monday morning 10 October?

7. Looking at the report prepared by Grant Management Consultants, particularly the two findings that first, "there were no serious deficiencies or improvement opportunities relating to the crisis response to the incident" and second, the apparent conflict with the observation "the incident notification to WHS team was reliant on email only", the city should explain this apparent conflict.
8. Given that the report was sent to the City at 7 pm on Thursday 3 November, advice and explanation of who received the report, who had it and what was happening to it, until it was provided to the unions at 7:45 pm on Friday and 4 November?
9. In particular, what was done with the report during that time because it appears that it was not in the possession of the CEO at least until after 1:48pm?
10. That the City advise each staff member present on 7, 8 and 9 October of the potential exposure to asbestos dust and be offered lung screening, to determine a base condition at the time of the contamination, at the City's expense.

Having received considerable feedback from members now, there are some additional questions which I would like the City to respond to in writing as well by close of business on Thursday 17 November.

The "sealing" of the fire stairs doors

The word "sealing" was put on the City's behalf in the proceedings in the Commission on Monday. The word used in the Grant Management Consultant's report was "closed except for in the case of an emergency" but I'm happy to go with "sealed".

It appears that most staff were advised at 3:28pm on 7 October that "we have to temporarily prevent staff using the fire stairs." But that "in the case of an emergency and evacuation the Fire Stairs can still be used."

I understand that emergency tape was placed across the doors and signs erected to prevent access, or in the language preferred by the Building Code to "obstruct".

This raises a number of questions:

- Why did the City not decide to evacuate the building at the same time that it "temporarily" prevented staff using the fire stairs?
- Who made the decision to prevent access to the fire stairs but have employees remain at work?
- Who made the decision that the stairs may be contaminated by asbestos fibres, but that it would remain acceptable for the stairs to be used by employees "in the case of an emergency or an evacuation"?
- Did the City consider whether or not restricting access would be a breach of those sections within the Division 7 Miscellaneous fire safety offences of the Environmental Planning and Assessment Regulation 2000?

In particular, the sections I have incorporated below:

OFFENCE RELATING TO FIRE EXITS
<p>It is an offence under the <i>Environmental Planning and Assessment Act 1979</i>:</p> <p>to place anything in or near this fire exit that may obstruct persons moving to and from the exit, or</p> <p>to interfere with or obstruct the operation of any fire doors, or</p> <p>to remove, damage or otherwise interfere with this notice.</p>

184 Fire exits

(cf clause 80GH of EP&A Regulation 1994)

A person must not:

- (a) place anything that may impede the free passage of persons:
 - (i) in a stairway, passageway or ramp serving as or forming part of a building's fire exit, or
 - (ii) in a path of travel leading to a building's fire exit, or
- (b) interfere with, or cause obstruction or impediment to, the operation of any fire doors providing access to a stairway, passageway or ramp serving as or forming part of a building's fire exit, or
- (c) remove, damage or otherwise interfere with a notice referred to in clause 183.

185 Doors relating to fire exits

(cf clause 80GI of EP&A Regulation 1994)

A person must not:

- (a) without lawful excuse, interfere with, or cause obstruction or impediment to, the operation of any door that:
 - (i) serves as or forms part of a building's fire exit, or
 - (ii) is situated in a path of travel leading to a building's fire exit, or
- (b) without lawful excuse, obstruct any doorway that:
 - (i) serves as or forms part of a building's fire exit, or
 - (ii) is situated in a path of travel leading to a building's fire exit.

186 Paths of travel to fire exits

(cf clause 80GJ of EP&A Regulation 1994)

The owner of a building:

- (a) must ensure that:
 - (i) any stairway, passageway or ramp serving as or forming part of a building's fire exit, and
 - (ii) any path of travel leading to a building's fire exit,
 is kept clear of anything that may impede the free passage of persons, and
- (b) must ensure that the operation of any door that:
 - (i) serves as or forms part of a building's fire exit, or
 - (ii) is situated in a path of travel leading to a building's fire exit,
 is not interfered with, or otherwise obstructed or impeded, except with lawful excuse, and
- (c) must ensure that any notice required by clause 183 to be displayed is so displayed.

I'm not an expert in this area of course, but I would think there are significant risks of breach of sections 184(a) and (b), section 185 in its entirety, and section 186 (a) and (b.) What do you think, and were these legislative obligations even considered in this process?

Replacement of carpet in foyer areas

I understand that carpet has been replaced in some or all of the foyer areas where asbestos contamination was confirmed. This has been done as a patching arrangement (potentially up to 6

metres of carpet) rather than replacing all of the carpet on the affected floors, raising the possibility that the City did this because of concerns that the carpet may contain asbestos fibres.

This raises a number of questions:

- Did the City carry out the replacement of carpet because it was related to asbestos contamination and may contain a continuing risk?
- On what floors and in what quantities, was the carpet replaced?
- If this was done because of anxiety that there may be asbestos fibres retained in the carpet, what asbestos handling safety steps accompanied this exercise in the removal of the carpet, cleaning up before the replacement, how was the old carpet contained to ensure that any risk was contained before it was transported and what steps were taken in transporting the old carpet from where it was located and out of the building?
- Was the carpet replaced during business hours or out of hours, please provide details?

Could you please confirm that you will also respond to these additional questions in writing by close of business on Thursday 17 November?

Yours sincerely



Ian Robertson
Secretary