



**PARLIAMENT OF WESTERN AUSTRALIA**

**SEVENTH REPORT**

OF THE

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS  
AND STATUTES REVISION**

IN RELATION TO

**A PETITION CONCERNING THE TOWN OF WITTENOOM**

**Presented by the Hon M D Nixon (Chairman)**

**7**

**APRIL 1994**

# STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES

**Date first appointed:**

21 December 1989

**Terms of Reference:**

The functions of the Committee are to consider and report on -

- (a) what written laws of the State and spent or obsolete Acts of Parliament might be repealed from time to time;
- (b) what amendments of a technical or drafting nature might be made to the Statute book;
- (c) the form and availability of written laws and their publication;
- (d) any petition;
- (e) any matter of a constitutional or legal nature referred to it by the House.

A petition stands referred to the Committee after presentation.

**Members as at the date of this report:**

Hon M D Nixon MLC (Chairman)  
Hon A J G MacTiernan MLC  
Hon B M Scott MLC

**Staff involved in the preparation of this report:**

Mr J F Edwards, Advisory/Research Officer  
Mr A C Evans, Committee Clerk  
Ms K A Schmidt, Advisory/Research Officer

**Previous reports:**

See Appendix III

**Address:**

Parliament House, Perth WA 6000, Telephone (09) 222 7222

# CONTENTS

<b>Subject</b>	<b>Page</b>
<b>Part A</b>	
<b>Introduction</b>	<b>1</b>
<b>The Petition</b>	<b>1</b>
<b>Select Committee of The Legislative Assembly</b>	<b>2</b>
<b>Part B</b>	
<b>Recommendations</b>	<b>3</b>
<b>Part C</b>	
<b>Report</b>	<b>4</b>
<b>Background to the Petition</b>	<b>4</b>
<b>Inter-departmental Committee</b>	<b>5</b>
<b>Review of the Petition</b>	<b>5</b>
<b>Chronology - the Closure of Wittenoom</b>	<b>6</b>
<b>Wittenoom - The Town 1993</b>	<b>8</b>
<b>Heritage</b>	<b>8</b>
<b>Health Risks</b>	<b>9</b>
<b>Basis of the Nevill Report Recommendations</b>	<b>9</b>
<b>Response of the Interdepartmental Committee to the Nevill Report</b>	<b>10</b>
<b>Legal Advice to the Government</b>	<b>11</b>
<b>Exposure Standards - the "One Fibre Theory"</b>	<b>12</b>
<b>Difficulties in the Assessment of Risk</b>	<b>12</b>
<b>Conclusion</b>	<b>13</b>
<b>APPENDIX I</b>	<b>14</b>
<b>APPENDIX II</b>	<b>15</b>
<b>APPENDIX III</b>	<b>16</b>

# STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

## REPORT ON PETITION CONCERNING THE TOWN OF WITTENOOM

---

### PART A : INTRODUCTION

#### The Petition

On 12 August 1993 the Honourable Mark Nevill presented a petition (#506) from 668 citizens of Western Australia in the following terms:

*"We the undersigned citizens of Western Australia who are "Friends of Wittenoom" request the Legislative Council to call on the State Government to:*

- 1. Reconsider the decision to close the Fortescue Hotel and demolish all Government Buildings in Wittenoom".*
- 2. To adopt the principle recommendations of the Nevill Report "Inquiry into Asbestos Issues at Wittenoom".*
- 3. To that purpose, Mark Nevill MLC and Alan Rogers to address Cabinet on the report of the "Inquiry into Asbestos Issues at Wittenoom".*
- 4. To transfer title of the Fortescue Hotel and all other Government Buildings to the Shire of Ashburton.*
- 5. To promote tourism in the Karijini National Park which is a world class attraction."*

The petition, inter alia, requests that the Council call on the State Government to adopt the principal recommendations of the report "Inquiry into Asbestos Issues at Wittenoom" by Hon Mark Nevill MLC and Alan Rogers ("the Nevill Report"), which are:

- 1. The town should remain open and be cleaned up in one program as submitted by the Shire of Ashburton.*

*The central business district, the recreation centre, the caravan park, the hospital and the residential area bounded by Fifth, Sixth and Seventh Avenue should preferentially be developed.*

- 2. The tailings at the mine site should be cleaned up over a five to ten year period.*

*Options include pumping tailings into the mines, or dams, or consolidating and reprofiling dumps, covering them with soil and re-vegetation.*

3. *Wittenoom should be allowed to develop as a tourist centre and include a museum and memorial to commemorate those effected by asbestos related diseases.*
4. *The system of compensation of past workers and residents needs to be rationalised. In particular, a Compensation Board needs to be formed to deal with past non-working residents.*

The Committee has not dealt with all the issues raised in the petition. Rather, it has sought to identify and deal only with those issues that go to the heart of the petition. In assessing the essential issues, the Committee has, to some extent, been guided by its discussions with some of the petitioners at the public meeting held at Wittenoom on Wednesday 13 October 1993.

### **Select Committee of The Legislative Assembly**

On 22 October 1993, subsequent to the Committee commencing its inquiry with respect to this petition, a select committee of the Legislative Assembly was appointed under the Chairmanship of the Member for Pilbara, Mr L Graham, MLA. Under its terms of reference, which are detailed in Appendix I, the Select Committee was originally required to report its findings by 2 December 1993. However, the time for reporting has been extended to 30 June 1994.

Because the Select Committee's terms of reference are broad and embrace the issues raised in the petition, the Committee has felt it unnecessary to deal with all the issues raised in the petition. By restricting its enquiry the Committee has thereby avoided some duplication of effort and resources and focussed its efforts on key areas.

## **PART B : RECOMMENDATIONS**

The Committee has found that:

1. There is no scientific basis for finding that the risk to Wittenoom residents and visitors of developing mesothelioma today, from current levels of airborne asbestos fibre, is greater than that specified at Para 2.24 of the Nevill Report;
2. The level of accepted risk adopted by the Department of Environmental Protection in assessing environmental hazard is one death per million per year which assessment reflects the risk level generally accepted by Western nations;
3. The risk of developing mesothelioma to which today's residents and visitors to Wittenoom are exposed is in the order of the acceptable risk assessment referred to in 2 above;
4. The town site, the settlement area and the mine sites are of significant social and historical interest to the State.

**Based on these findings the Committee recommends that:**

- (a) the town remain open and the existing services of water and electricity be retained;**
- (b) no further buildings be demolished by the State Government and investigations be undertaken as to how the State Government can be relieved of its obligations in respect of such buildings;**
- (c) the Shire of Ashburton's offer to assume the ownership and management of the Fortescue Hotel be accepted;**
- (d) the Fortescue Hotel be relicensed;**
- (e) that the Government accept responsibility to remove and/or stabilise asbestos tailings in both the town and mine site;**
- (f) any further development of the town be viewed cautiously and the impact of any increased activity on the levels of airborne fibre be closely monitored.**

## **PART C : REPORT**

### **Background to the Petition**

The problems associated with the closure of Wittenoom have been both difficult and enduring. The issue has evoked much emotion and attracted considerable media and public attention. The State Government announced the closure of Wittenoom in November 1978. Sixteen years later the matter is still being debated. Successive State Governments have been firmly and constantly advised by the relevant public health and environmental authorities to close<sup>1</sup> the town. However, the residents have consistently and vigorously resisted all closure moves.

Blue asbestos or crocidolite was mined at various times between 1943 and 1960 from three separate sites in the Hamersley Ranges. The first was the Yampire Gorge mine which operated from 1943 to 1946. Next, the Wittenoom mine was opened in 1947 and ceased operations in 1958. Finally, the Colonial mine was worked between 1953 and 1960. Both the Wittenoom and Colonial mines are situated in Wittenoom Gorge. The town of Wittenoom was established in 1947 to service the mining and milling at the Wittenoom mine, and later also serviced the the Colonial mine.

Blue asbestos airborne fibres are known to cause asbestosis, lung cancer and mesothelioma. Concerns that miners and millers at Wittenoom were being exposed to levels of asbestos liable to cause asbestosis were raised by the Public Health Department of WA at least as early as 1948.

The link between blue asbestos and mesothelioma was originally confirmed in South Africa in 1959. The first case of mesothelioma involving a Wittenoom mine worker was reported in 1960. From that time, the Public Health Department, through a senior office of the Department, Dr J McNulty, began warning Australian Blue Asbestos Limited, the subsidiary of CSR Limited which operated the Wittenoom mines, of the dangers associated with workers being exposed to high levels of asbestos dust.

The only risk relevant to residents and visitors to Wittenoom today is that of developing mesothelioma. They are not considered to be at risk of developing asbestosis or lung cancer. Asbestosis, in particular, is associated with heavy exposure to asbestos dust. The incidence of this disease amongst Wittenoom miners and millers was high.

In the years following the closure of the Colonial Mine in 1960, the Public Health Department became increasingly concerned at the health risk to which it believed that residents and visitors to Wittenoom were being exposed. Its concerns were ultimately expressed in a booklet entitled "Health Hazard at Wittenoom". It was following the publication of this booklet that the State Government decided in November 1978 to close the town. Given the considerable contamination in the town and the settlement at the time, such an approach would be seen to be prudent.

Recently (since 1980) the risk situation in the town has been reduced considerably due to the removal of tailings, including those used on gardens and roads, by concerned parties including the Shire of Ashburton.

---

<sup>1</sup> Sometimes described as the "phasing down or out" of the town. The Committee sees no real distinction between the two descriptions as ultimate objective appears to be the same, ie. the closure of the town.

One can't help but admire the resilience and tenacity of the comparatively small number of people that have fought to maintain the continued existence of the town. It is important, however, to realise that opposition to the closure of the town is not restricted to its current residents. Both the Shire of Ashburton and many Pilbara residents argue that the town should remain open. Further, the opposition to the closure has not simply been based on an emotional attachment to the town. Rather, the residents and their supporters have sought to argue their case on rational and logical grounds.

### **Inter-departmental Committee**

For some years now, the State Government has been advised on the Wittenoom issue by an inter-departmental committee which is chaired by a representative of the Department of Commerce and Trade (formerly part of the Department of State Development) and includes representatives from the following departments and agencies:

Health Department of Western Australia,  
 Department of Occupational Health, Safety and Welfare,  
 Western Australian Tourism Commission,  
 Treasury Department,  
 Department of Minerals and Energy,  
 Department of Conservation and Land Management,  
 Department of Environmental Protection.

### **Review of the Petition**

The following is a synopsis of the inquiry action taken by the Committee in considering this petition:

1. As background research, the Committee reviewed the Nevill Report together with certain papers provided by the Hon Mark Nevill being :
  - the submissions of the various departments and agencies that comprise the Inter-departmental Committee on the Nevill Report including recommendations to Cabinet;
  - The response by the Hon Mark Nevill and Mr Alan Rogers to the submission to Cabinet on the recommendations made in their report.
2. Following its consideration of the background material, the Committee took formal evidence from representatives of the Inter-departmental Committee being:
  - Mr Michael Beach,  
 Executive Officer,  
 Department of Commerce and Trade;



- Dr Paul Psaila-Savona,  
Principal Medical Officer, Environmental Health,  
Health Department of Western Australia;
  - Mr John Young,  
Senior Assistant Crown Counsel,  
Ministry of Justice.
3. The Committee decided that it would be appropriate to undertake a brief visit to Wittenoom in order to inspect the town and to speak to its residents. Accordingly, the Committee advertised in the West Australian and the North-West Telegraph that a public meeting would be held at Wittenoom on 13 October 1993. A copy of the advertisement is appears in Appendix II.
  4. When advertising the public meeting, the Committee also invited written submissions from the public. Submissions were received from twelve interested persons. Nine supported the petition, three supported the closure of the town.
  5. The public meeting was attended by twenty-eight people, most of whom are residents of the town. A number of media representatives were also present.
  6. During its brief visit to Wittenoom, the Committee spoke to the promoter of the petition - a long time resident of Wittenoom - Mr Frank Soter, and representatives of the Shire of Ashburton, Ms Helen Soter (daughter of Mr F Soter) and the Shire Clerk, Mr L Vicary.
  7. Whilst at Wittenoom, the Committee:
    - flew over the Hamersley Ranges, in the vicinity of Wittenoom;
    - toured the town and inspected the Airport, the Fortescue Hotel, the present General Store, the old general store and bakery, the old open-air picture theatre, the shire office and the hospital; and
    - visited 'the Settlement', and viewed the Wittenoom mine, mill and power house.

### **Chronology - the Closure of Wittenoom**

A detailed "chronology of events relating to Wittenoom" from 1917 to September 1992 is contained in Appendix 1 to the Nevill Report and will not be reiterated here. However, for the purpose of this report, it is worthwhile summarising the events relative to the closure of the town:

1978 - November	Government announces the closure of Wittenoom based on an appraisal of world-wide medical information on the harmful effect of airborne blue asbestos fibres.
-----------------	---

1980 - December	Cabinet decides to ban connection of essential services (water and electricity) to new residents arriving in Wittenoom.
1980	Hancock & Wright demolish 13 houses in the town.
1980 - 83	Shire of Ashburton close some Wittenoom streets and complete a kerbing and resealing program. Tailings removed from town street reserves.
1981 - March	State Government reaffirms the closure of Wittenoom and initiates planning for a new tourist resort.
1984 - October	Government phasing out policy modified to ensure that State Government existing facilities and services and the Fortescue Hotel are maintained until alternatives are available.
1985	Hancock & Wright demolish about 60 houses in the town.
1985 - December 14	Wittenoom Primary School is closed.
1987 - May	State Government demolishes buildings and removes asbestos tailings from 34 acquired properties.
1988 - June	State Government demolishes buildings and cleans up 15 acquired properties including the primary school.
1989 - December 16	Wittenoom Police Station is closed.
1990 - January	Dumar Motel is demolished.
1990 - March 19	Wittenoom Nursing Post, based at the old hospital is closed.
1990 - April	Shell garage is demolished.
1992 - August	Nevill Report published.
1992 - October 31	Fortescue Hotel closes.
1992 - November 4	Hon Ernie Bridge MLA, Minister for the North-West announces that Government will continue its policy to phase-down activity in Wittenoom and demolish all Government-owned buildings there, including the Fortescue Hotel.
	Recommendations of the Nevill Report rejected by Cabinet.
1993 - August	The Deputy Premier, the Hon Hendy Cowan, MLA visited Wittenoom and announced that he wanted to accelerate a strategy to deal with the problem of asbestos contamination in the town and surrounding areas.

The issue needs to be resolved so that the tourism based around the Hamersley Ranges and the Karijini National Park can be placed on a firmer basis.

Wittenoom residents would not be forced to leave the town but the Government would not encourage new residents to the town nor would the Fortescue Hotel be re-opened.

- |                    |  |
|--------------------|--|
| 1993 - August      | Hancock sell 74 blocks and 4 houses in Wittenoom. The blocks sold for \$150 - \$300.   |
| 1993 - November    | Airport is officially closed.  |
| 1993 - December 17 | Government appoints engineering consultants CMPS & F to assess the practicability and cost of cleaning-up asbestos from the Wittenoom town site. |

### **Wittenoom - The Town 1993**

Wittenoom is situated at the entrance to Wittenoom Gorge. In the 1950's it was the largest town north of the Tropic of Capricorn. However, by the time of the Committee's visit in 1993, the population had declined to approximately 40 (including one child). It had a general store and fuel outlet, tourist shop and holiday cottages, shire office, three back packers hostels and a caravan park.

The continued existence of the town is based on serving tourism to the adjacent gorges and Karijini National Park. Tourism continues to the area despite no positive assistance from the WA Tourism Commission. In fact, it seems that the Commission actively discourages tourism to the town.

An important part of Wittenoom's tourist industry was based on the continued operation of the Fortescue Hotel which is owned by the State Government and administered by the Department of Commerce and Trade. The Hotel was closed at the end of October 1992 and is currently being held on a care and maintenance basis. Although tourism to the town has continued to increase, the closure has undoubtedly influenced the economic impact of tourism on the town.

The closing of the Hotel has not only affected tourism to the town, it has also had an affect on the town's social life. It is understood that it was the closure of the Hotel along with the Government's outright rejection of the Nevill Report that precipitated this petition.

### **Heritage**

Wittenoom has been described as a bedraggled and ugly town. The Committee visited Wittenoom on a lovely spring day. It found the town both interesting and scenic. The settlement area, situated where Wittenoom Gorge meets Eastern Gorge and which includes a former residence of the late Lang Hancock, was found to be particularly attractive.

It is understood that three buildings in the town - the open air picture theatre, the old general store and the Fortescue Hotel - were recently referred to the Heritage Council of Western Australia for assessment. The Council found that none of the buildings individually satisfied the criteria necessary for registration on the state register. The Australian Heritage Commission, however, acknowledges that the town as a whole has "great significance in terms of national health standards and the mining industry of Western Australia"<sup>2</sup>, and has indicated that it would welcome a nomination for registration of the town and associated mines in the Register of the National Estate.

The Committee believes that Wittenoom and its surrounds is of important heritage significance and, if possible, should be preserved for future generations. This is also the view of the Shire of Ashburton.

### **Health Risks**

It is clear that Wittenoom's future depends, to a large extent, on the assessment of the health risk to which residents and visitors to the town are currently exposed. Herein lies the difficulty of this issue. The position expressed in the Nevill Report, which position is adopted by the petitioners, is that the risk to both residents and visitors is now minimal and will continue to be minimal. This view differs widely from the advice given by the Inter-departmental Committee to Government. The Inter-departmental Committee considers that there is a risk to residents and future visitors of an order that should be avoided. This Committee therefore sees its prime task as being to determine, if it is possible, which of these conflicting views is preferable.

### **Basis of Nevill Report Recommendations**

The mining and milling processes used at Wittenoom were inefficient. As a result, the tailings contain a considerable quantity of unrecovered ore. The tailings from the Wittenoom mines have been dumped indiscriminately in certain areas of the Gorges and were used extensively in the townsite and settlement area in the construction of roads, lanes, parking areas and school playgrounds. The Fortescue Hotel is built of cement blocks in which asbestos tailings were used as the aggregate. Over 60,000 tonnes were used in the upgrade of the airport in 1959-60 and an estimated 600 tonnes were used in the construction of the golf course.

There has been a substantial clean-up of tailings in the town (see para 2.23 of the Nevill Report). Some further work is required, particularly at the airport and the hospital. As yet, the clean-up of the settlement, mining, milling and dumping areas has not been addressed. As stated in the above, the Minister recently appointed an independent consultant to assess the cost of cleaning up the town. It is understood that the assessment does not include the settlement or the contaminated areas of the Gorges.

In May 1992, Nevill and Rogers conducted air monitoring tests, the results of which are published on page 16 of the Nevill Report. Four static samplers and one personal sampler were used in the town. One personal sampler was also used by the Hon Mark Nevill, MLC whilst walking over tailings dumps and at the mine and the mill. None of the static samplers showed any detectible levels of airborne blue asbestos fibre. The personal sampler worn in the town

---

<sup>2</sup>

Letter from The Australian Heritage Commission to the Shire of Ashburton, dated 15 February 1994.

showed a fibre/cc count of less than 0.003. The personal sampler worn by the Hon Mark Nevill, MLC showed a reading 0.014 fibres/cc. The other personal sampler showed a level of <0.003 fibre/cc.

Based on the results of these tests, Nevill and Rogers engaged Dr N de Klerk of the University of WA to calculate the risk to which certain classes of residents and visitors to Wittenoom would be exposed subsequent to 1992. These risk calculations, which are published at para 2.24 of the Nevill Report, show that the lifetime risk to 10 year residents post 1992 is 280 mesotheliomas per million persons and the lifetime risk to visitors is 260 mesotheliomas per million persons. In comparison, the lifetime risk observed in the general Australian population is 260 mesotheliomas per million persons (4.4 deaths per million per year). Although it is not actually stated as such in the report, these calculations show that the additional risk to residents and visitors to Wittenoom is minimal.

In one of its published guidelines (Bulletin 611) entitled "Criteria for the assessment of risk from industry" the Department of Environmental Protection states at page 3 under the heading "Individual fatality risk":

- "(a) A risk level in residential zones of one in a million per year or less, is so small to be accepted by the Environmental Protection Authority."

The above Nevill and Rogers calculations of **additional lifetime risk** to residents and visitors to Wittenoom, over and above the risk to the Australian population, equate to less than one per million per year. Accordingly, they come to the conclusion that there is no justification for the closure of the town based on health risk.

### **Response of the Inter-departmental Committee to the Nevill Report**

On reviewing the Nevill Report, the Inter-departmental Committee advised the State Government that the Report did not contain anything new, and so did not contain anything that would change its previous advice to the Government<sup>3</sup>. The view of the Inter-departmental Committee, as expressed by the Health Department, the Department of Occupational Health, Safety and Welfare and the Environmental Protection Authority, on the Nevill Report's calculations relating to the additional health risk may be summarised as follows:

1. While the air monitoring and sample analysis conducted by Nevill and Rogers may be appropriate for measuring exposure, to the best of the Committee's knowledge the calculation of environmental risk from these exposures has not been conducted elsewhere. The Committee believes that it is inappropriate to use occupational exposure standards to calculate environmental risk.
2. As it is known that Wittenoom residents and visitors are exposed to airborne blue asbestos, albeit low or even very low, it follows that such persons are exposed to a greater than "normal" risk of developing mesothelioma.

---

<sup>3</sup>

Mr Nevill argues that this is not correct as the Nevill and Rogers report was the first attempt to assemble quantitative data on the extent of the contamination and the extent of the risk to past, present and future residents in an independent manner. The Committee supports this view.

3. At this stage, because a representative level or a worst case scenario level of airborne blue asbestos fibre at Wittenoom has not been established and because there is no known safe level of environmental exposure, it is not possible to determine the actual risk to current residents and visitors to Wittenoom.
4. As there is no known environmentally safe exposure level, exposure should be kept to a minimum.<sup>4</sup>

In addition, the following concerns have been expressed by the Inter-departmental Committee:

- (i) If Wittenoom is allowed to develop, the increased activity will result in increased levels of airborne fibre which will result in increased risk.
- (ii) Children may have greater risk of exposure to contaminated dust due to their play habits. In addition, children exposed to asbestos fibres have a greater risk of developing mesothelioma due to their longer years to live, compared to adults, after exposure.

### **Legal advice to the Government**

The Ministry of Justice and its predecessors have consistently expressed concern that the State may be liable to compensate those Wittenoom residents and visitors (since 1978) who contract mesothelioma. No doubt, it was the fear of this liability that prompted the 1978 decision to close the town.

The advice to Government is that, if there is an actual risk to which residents and visitors are exposed and the Government has knowingly allowed them to be exposed to that risk, then it is likely that the Courts will hold that the State has breached its duty of care to them. Because the State's health and environmental authorities have also consistently advised Government that an actual risk exists, the Government has had no option but to pursue the course it has adopted.

The Nevill Report states at page 23 that there are 4.4 deaths per million per year from mesothelioma where there is no significant occupational or environmental exposure to asbestos. Dr de Klerk disputes this figure and suggests that it is generally accepted as being one per million per year. However, both the Hon Mark Nevill and Mr John Young, when giving evidence before the Committee, pointed out that the Courts are likely to hold that a plaintiff claiming compensation against the State will simply be able to establish the necessary causal connection by showing that they visited Wittenoom prior to developing the disease. The possibility that they may have, in any event, developed the disease would not be regarded as persuasive.

As to whether the advice given to Government by its health, environmental and legal advisers is valid and good advice depends on the proper assessment of the risk involved to Wittenoom residents and visitors today.

---

<sup>4</sup>

It should be noted that all of these issues have been addressed in the Nevill and Rogers Report.

### **Exposure Standards - the "One Fibre Theory"**

There are a number of difficulties in assessing the risk of developing mesothelioma from environmental exposure to blue asbestos. As yet, no environmental exposure standard has been set in Australia or elsewhere. The occupational standard for blue asbestos is 0.1 fibre per cubic centimetre. This means that it is considered safe for a worker to be exposed to that level for eight hours a day, five days a week, without unacceptable risk. If it is possible to set an occupational standard, the Committee has some difficulty in understanding why an environmental standard cannot be set.

It has often been put that one fibre can cause mesothelioma. In a sense that may be true, because it may be one fibre that can trigger the malignancy. However, the fact remains that no cases have been found where the victims lungs contained only one asbestos fibre. In fact, autopsy results show that fibre concentrations in the lung tissue range from 100,000 fibres to 370 million fibres per gram of dried lung<sup>5</sup>. In fact, an adult mesothelioma patient with no occupational exposure could have up to one million fibres per gram of dried lung tissue.

It appears to the Committee that considerable inconsistency has been shown by the relevant authorities in the rejection or adoption of the one fibre theory. It is convenient to use when defending a decision to close Wittenoom, but convenient to reject when setting occupational standards or defending a decision not to remove all asbestos products from a school because the background level of airborne asbestos fibres is less than 0.001 fibres per cubic centimetre. If the authorities genuinely believe in the one fibre theory, then in the Committee's view, there is no justification for setting an occupational standard. Indeed, it could be argued that it would be immoral to do so.

It should be noted that no environmental standard has been set as no threshold exposure has been established for development of the disease. Again, if this is so, the Committee cannot understand how an occupational standard can be set.

### **Difficulties in the Assessment of Risk**

Mesothelioma is a rare disease. Accurate statistics have only been maintained since the 1970's. The analysis of these statistics is complicated by the long latency period between exposure to asbestos fibre and development of the cancer. The latency period varies from 20-50 years, with the mean latency period being around 35 years. Accordingly, with respect to the Wittenoom miners, millers and their families it will not be until approximately 2010 that total incidence of the disease amongst them will be known. Nevertheless, considerable data has been collected, collated and analysed by the Asbestos Disease research unit at Sir Charles Gairdiner Hospital and the Australian Mesothelioma Surveillance Programme in Sydney. It is upon this data that the calculations of risk in the Nevill Report are based.

Analysis of data so far has related solely to those residents, being mainly miners and millers, that were subjected to occupational exposure. Studies are currently being undertaken in respect to residents who were subjected, during the Wittenoom asbestos mining period, to environmental exposure. It is expected that the results of these studies will be available later

---

<sup>5</sup>

See paper presented to Occupational Health Society of Australia, Inaugural Conference, Burswood Convention Centre, Perth WA, by Dr K C Chan, Chief Occupational Health Physician, DOHNSWA.

this year.

The risk calculations in the Nevill Report are based on the data relating to persons subjected to environmental exposure. In doing those calculations it has been assumed that linearity in the incidence of mesothelioma exists between occupational and environmental exposure. The current studies being undertaken by the Asbestos Disease Research Unit referred to in the previous paragraph will either tend to confirm or tend to disprove that assumption. At this stage it is not considered unreasonable to assume linearity.

### **Conclusion**

The Committee accepts that the mesothelioma risk to current and future residents and visitors of Wittenoom is not significantly higher than the risk to the general Australian population. The Committee accepts the conclusions of the Nevill Report that the small increase in risk to current and future residents is within the standards of acceptability as adapted by the Environmental Protection Authority in Western Australia. The Committee also believes that the Wittenoom town site, settlement area, and mine sites are of significant social and historical interest to the State. Sustained support for the town has ranged beyond the town itself to include Pilbara residents and the Shire of Ashburton. The Australian Heritage Commission has confirmed the rationale for this support by indicating the town's suitability as a candidate for the Register of the National Estate. Accordingly, the Committee supports the town's continued existence and an on-going programme to clean up tailings, and recommends that any increase in activity in the area be closely monitored.



**APPENDIX I****LEGISLATIVE ASSEMBLY SELECT COMMITTEE:  
Terms of Reference.**

1.
  - (a) review, consider, report upon and comment on previous studies of the Wittenoom Townsite and environs, giving particular attention to studies which relate to public health and any associated risk from airborne blue asbestos fibres;
  - (b) review, consider, report upon and comment on the efficacy of those policies and standards that have been used to determine the existing policies and decisions with regard to the future of the Townsite;
  - (c) review, consider, report upon and comment on the implications of changing those policies and standards referred to in Terms of Reference (b);
  - (d) assess the various options for the future of Wittenoom, based on the investigation conducted under Terms of Reference (b) and identify a preferred option; and
  - (e) recommend any changes, including possible legislative, administrative and policy changes, which may be required to give effect to the preferred option referred to in Terms of Reference (d).
2. That the Committee have the power to send for persons and papers, to sit on days over which the House stands adjourn\ned, to move from place to place and to report from time to time, if it deems necessary.
3. That the Committee presents its final report by 2 December 1993.

## ADVERTISEMENT



## Standing Committee to Visit Wittenoom

The Standing Committee on Constitutional Affairs and Statutes Revision of the Legislative Council is required to consider and report on petitions received by the Council.

The Committee has received a petition from certain residents of the Pilbara Region requesting that the Council call on the State Government to reconsider the decision to close the Fortescue Hotel and demolish all Government buildings in Wittenoom.

The Committee, which is comprised of the following members:

Hon Murray Nixon — Chairman  
Hon Alannah MacTiernan  
Hon Barbara Scott

has decided to conduct an inquiry into the petition and for this purpose will visit Wittenoom on Wednesday, 13th October 1993.

*The Committee will meet with the residents of the Town of Wittenoom at 1.00pm on Wednesday, 13th October 1993 at the Fortescue Hotel, Wittenoom. All residents of the Town and other interested persons are invited to attend.*

The Committee welcomes written submissions on the petition. These submissions may be handed to the Committee personally during its forthcoming trip or forwarded by Thursday, 14th October 1993 to:

Mr J F Edwards  
Advisory/Research Officer  
Standing Committee on Constitutional Affairs  
and Statutes Revision  
Legislative Council Committee Office  
Parliament House  
Perth WA 6000

Telephone: (09) 222 7403  
Fax: (09) 321 9470

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES  
REVISION:  
Reports.**

1. Report regarding a petition seeking legislation on various aspects of substantive law and procedural law relating to sex offences against children.
2. Interim report into links between Government agencies and the failed Western Women Group.
3. Second interim report into links between Government agencies and the failed Western Women Group.
4. Report regarding a petition requesting the Legislative Council to investigate whether the proposed dissolution of the City of Perth contravenes the Constitution Act 1889 or any other Act or Statute.
5. Report in relation to a petition requesting a ban on the use of some fishing nets in the Pilbara Region.