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1 October 2014

The Research Director  
 Health and Community Services Committee  
 Parliament House  
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Dear Sir/Madam

## HEALTH LEGISLATION AMENDMENT BILL 2014 - ASBESTOS

Thank-you for the opportunity to make a submission on the Health Legislation Amendment Bill 2014.

Logan City Council has resolved not to enforce the provisions of the *Public Health Act 2005* in relation to asbestos management in non-workplace/domestic settings, until several fundamental issues are resolved to Council's satisfaction. Council wrote to the Attorney-General and Minister for Justice, the Honourable Jarrod Bleijie on 1 August 2014 explaining that the issues of concern are indemnity, training and cost recovery.

The proposals in the Health Legislation Amendment Bill 2014 do not resolve these issues to Council's satisfaction.

On behalf of Logan City Council, the Health Legislation Amendment Bill 2014 has been reviewed and the following comments are provided. Please be advised that due to the tight timeframes for submissions, the following comments are not endorsed Council policy but are based on previously endorsed policy positions wherever possible.

Whilst Logan City Council was pleased to read the provisions in the Health Legislation Amendment Bill 2014 regarding civil liability for asbestos-related harm, we remain concerned that the indemnity is limited to exclude civil liability under the *Workers' Compensation and Rehabilitation Act 2003*. Logan City Council's position remains, as stated in our aforementioned correspondence, that it is critical that this indemnity also provide cover for local governments' workforce.

We also note that under s454D the State has the capacity to recover contribution from local governments in particular circumstances. Under subsection (4) it states that the State can recover costs if 'the local government, at its cost, did not reasonably cooperate with, and assist, the State to defend the claim that resulted in the liability'. Whilst it is accepted that the local government would need to provide assistance to the State in defending a claim, this assistance should be limited to providing appropriate briefs of evidence of matters reasonably expected to be held by the local government and expert testimony in court proceedings if required. It should not extend to local governments paying, or sharing costs for legal costs incurred by the State in defending a claim.

The upcoming training on asbestos management, delivered by the Local Government Association of Queensland is welcomed. However, Logan City Council seeks the Committee's assurance that this training will be the training that is to be 'prescribed by regulation' as stipulated in 454G of the Bill. Logan City Council also seeks assurances that more training sessions will be run as soon as possible and that training continues to be provided on a regular basis to ensure new staff have access to 'prescribed training' and to ensure currency of skills and knowledge for existing staff and to enable local governments to meet the conditions of the State's indemnity provisions (ie 'authorised persons much have satisfactorily completed the training prescribed by regulation').

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Section 454H proposes that guidelines may be made, which local governments must comply with. Logan City Council seeks assurances that local governments will be consulted with appropriate timelines provided to contribute to the drafting and development of such guidelines.

Logan City Council reiterates its position that the current cost recovery provisions in the *Public Health Act 2005* are not adequate in relation to asbestos management. Legislative amendments are required to improve cost recovery mechanisms where there is asbestos debris that needs to be cleaned up and the responsible parties cannot be found or are not able to pay for site decontamination. Whilst Queensland Health's position is that the Act already includes cost recovery provisions, these rely on obtaining the owner's consent or obtaining a warrant from Court to be able to recover the costs as a charge on the land. The cost recovery provisions under the *Local Government Act 2009* (and thus Council's local laws) are more streamlined and allow local governments to undertake the work and recover costs in default situations without the time and expense of having to seek court interventions. The *Public Health Act 2005* also lacks separate provisions for cost recovery when the party responsible for asbestos issues is not the owner of the land. Logan City Council thus is seeking urgent legislative amendments to address the issue of cost recovery and again state that local governments must be consulted directly in the drafting and adoption of these amendments.

Logan City Council also remains of the view that a stand alone cost recovery fund should be established by the State Government to allow cost recovery when the responsible party for asbestos issues in domestic settings cannot be found or are not able to pay for site decontamination.

Should you have any questions, I can be contacted directly on [REDACTED] or alternatively please contact Mr Brett Esbensen, Acting Environmental Health Program Leader on [REDACTED] [REDACTED] or via [REDACTED]

Yours faithfully

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Claire Moffat  
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(on behalf of Chris Rose, Chief Executive Officer)