

Perils of Asbestia

Bernie Banton, the former James Hardie employee who died from cancer in 2007, became the public face of victims of the company's asbestos products but, as **Matt Peacock** writes, the company spread the risk across the community — where it remains

In late 2005 James Hardie's embattled chairman Meredith Hellier spoke warmly to me of a letter of support that he received from an elderly woman — "This wonderful 93-year-old woman ... was married to two James Hardie plant managers in a row," Hellier said. "She said they both loved asbestos. One of her husbands lined their driveway with asbestos."

For Hellier, the letter provided reassurance that he was continuing an honorable company tradition set by his predecessor John Reid and his family, one that reflected the best corporate behaviour. But what neither Hellier, nor anyone else had heard, said publicly was that such innocuous-looking driveways might kill. They are yet another part of the deadly legacy kept secret from an unsuspecting public by a company determined to minimise its legal liabilities.

The NSW coroner's inquest identified by the NSW superior court of inquiry led by David Johnston in 2007 as having developed many decades ago and persists to this day. James Hardie's victims will continue to accumulate because the company has not told the full truth about the asbestos hazards left to wake. Some, quite literally, have been swept under the carpet.

By the 1970s it had become common practice to build such domestic driveways with garage floors using Hardie's asbestos waste. The company encouraged its employees to help themselves to the "loose" as it was called. The compacted waste still remains as people's driveways. I have seen one in a quiet suburban street bordering the old industrial area of Elizabeth in Adelaide, where the Hardie factory had produced its asbestos pipes and sheets. It had the appearance of concrete, with its grey colour and hard surface. Only a close examination at the edges revealed the fibrous fibres, gleaming in the prime.

According to Neil Gilbert, the former Hardie engineer who established the Hardie dust extraction system and medical surveillance scheme before quitting in 1970, those kinds of driveways would have been built there, but he shrugged at the suggestion that something should be done about it.

"That's fate," he told me. "I know where there's one or two. It would take a massive amount of publicity to track them down. Most people of Hardie's biggest fears. You couldn't tell the difference between a good asbestos and a bad one."

One of James Hardie's long legs has been tangled against a candle extinguisher simply paying for the death and injuries it has caused by cleaning up the dangerous materials it has left behind. The settlement of a broadly defined duty to remediate, whether at common law or by statute, could have a catastrophic effect on the company? Hardie's litigation manager Wayne Atkin advised in 2005, just before the coroner's inquest,



subsidaries and moved offshore. The prospect of such litigation and remediation also featured in the early discussion held by Hardie and the counsel Peter Stratton and Michael Gill when they first canvassed the idea of separating the company's asbestos subsidiary.

For Hardie, the products were part of a bigger problem. Throughout the life of its asbestos waste were dispersed in all sorts of places in rivers and creeks, on vacant blocks, in parks and on footpaths. However, fill was used. Hardie's waste was available. The practice was not more dangerous because a large percentage of the waste came from moulded products such as pipes, which had contained the deadly fibres and great illness.

"Our report and broken scrap was also very much a filling for driveways, etc. in many of the market garden west of our factory," Father John Boyle, whose father worked at the factory, remembered the asbestos driveway and garage floor from his family house near Farmistita. His mother, Molly, had helped her father lay the asbestos waste and for years later used to sweep the garage floor clean. "I know well what it looks like. It's a heavy, powdery material that along with water becomes as hard as concrete. It is a cheap fill and in those days it probably wasn't seen to be so bad."

"It's good for 10 or 20 years, but then it breaks up, and so that's when the fibres are released. It's not as if you can't really know about them but didn't know people."

In fact Hardie had known long before that, but it was only during the 70s that it started to do anything about it. The company's reaction, as Boyle noted, was not that people to the dangers, instead, it did about quietly stopping the practice.

Boyle's mother died from mesothelioma.



Overdue clean-up: Despite its ongoing removal, old asbestos is still widespread in some Australian homes



Reassurance: Meredith Hellier

She had also been exposed to asbestos from her husband's overalls, but it seemed likely that her greatest exposure was from the driveway and garage floor. Hardie settled her compensation claim.

I asked Hellier if she was concerned about the possible danger to the public, especially given that children could be exposed. She was quick to answer: "If you're saying, 'Should James Hardie pay for a clear-up?' No, at the end of the day. And why not? Because we cannot be a bottomless pit."

"The fact of the matter is ... this was not some James Hardie conspiracy to foot a product on the world. Governments were there, companies were there. We were party to this great new product and at some point we have to just all recognise there was a mistake made about asbestos."

APART from the driveways and paths that

ASBESTOS USE AND ITS EFFECTS

ASBESTOS is a fibrous mineral used for heat and fire protection and for insulation. It was used in many kinds of products, including air conditioning ducts, ceiling tiles, bitumen-based waterproofing such as malthoid or roofs, floors and brickwork, roof tiles, cement render, oven door seals, compressed asbestos used in brakes and gaskets, compressed asbestos panels for flooring, verandas and demountable buildings, electric heat banks, flexible hoses, fire-spool insulation, fire blankets, leverage and wire filters, insulation around the heating elements in hair dryers, lift shafts, pipe insulation and other products.

It was banned from all further use in 2001. There is no safe level of asbestos

exposure and others were encouraged to contract, the company also had dispersed bulk asbestos waste in a multitude of locations across the country.

I first became aware of the practice in 1978, when former Hardie engineer Fred Samlunds contacted me after my ABC radio series was broadcast. Samlunds was 69 and had worked at Hardie for most of his life. He had remarried in 1975 and led the company to start a new life in Singapore, where he got a job with Barnes, another asbestos manufacturer. After a medical check-up at Barnes he was told that he had mesothelioma. He called me just after he had returned to Australia.

As I knew he was dying, he spoke calmly, but slowly, as one suffering a lot of pain. Samlunds expressed disbelief that he was a pauper for which he had led so much affection. He could be so tough in his compensation negotiations with us. The mortality of the Hardie cover-up was dawning on him. As he died, his wife died of cancer in his mind.

Samlunds had supervised the dumping of thousands of tonnes of asbestos waste throughout the suburbs surrounding Hardie's Sydney factory. When his story went public in the newspapers and on ABC TV, Hardie's



High risk: Workers at Witteroomen take part in asbestos abatement competition in 1992

fibrematation and cancer from it can take decades to develop.

High risk: Workers at Witteroomen take part in asbestos abatement competition in 1992

charman Reid circulated a letter to shareholders and staff because, he wrote, "Unfortunately the facts have not always been presented in full or objectively."

Behind the scenes, Hardie and the Health Commission were scrambling for cover. There were many more sites than the two mentioned. Frank Stewart, the NSW health minister, urged householders to be alert. "Asbestos dust does pose a health hazard, but it requires exposure over a long period of time" he said soothingly and inaccurately. The government soon identified dump sites at other Sydney suburbs, among them North Rocks, Wentworthville, Green Valley, Silverwater, Homebush and Farmistita Park.

Early this decade, Hardie waste in Perth was still being dug up in the road and rail reserves in Greenwood, where the company had dumped it in its nearby factory. Other landfill excavations in Coonah, Paradise in Riverdale to help construct a new freeway was discovered to be "massively contaminated"

Court disqualifies Hardie honchos

IN THE NSW Supreme Court on Thursday, 19 former executives and directors, including Meredith Hellier, were sentenced over a 2007 misleading press release that would see asbestos compensation fund would be "fully funded" by James Hardie that it was underwritten by \$1.8 billion.

Justice Jay Geoff disqualifed former chief executive Peter Macdonald for managing a company for 15 years, former James Hardie lawyer Peter Stratton seven years and former directors Hellier, Michael Brown, Michael Gilliland, Martin Kelly, Dan O'Brien, Greg Terry and Peter Wilford for five years each.

Former chief financial officer Phillip Morley was also banned for five years. Macdonald was also ordered to pay a fine of \$50,000, Stratton \$75,000, Morley \$35,000 and the remaining directors \$30,000 each.

Financial penalties were far less than the corporate regulator had asked the judge to impose, with Geoff saying the Australian Securities and Investments Commission was seeking "significantly excessive" fines.

Some directors have indicated they will appeal against the judge's decision.

Susanah Moran

West Australian health authorities expressed surprise had played down any possible dangers, expressing confidence that not would be discredited "no risk to public health". Federal and state government authorities had failed to regulate the safe disposal of asbestos until the late 70s. Hardie had been able to exploit the confusion.

The practice was the same throughout the country. Hardie thought the public was its secret number one customer. In Adelaide in 1974 revealed that even 20 minutes after leaving a site, the air contained a dust count of 30 fibres per cubic centimetre. Hardie's nominal sale level of exposure for a worker during a shift in its factory at the time was four fibres per cubic centimetre; soon to be halved. Hardie's dust committee issued of "the harm that such an event could cause to the company's good public relations" if the news leaked out.

The number of people killed by Hardie products in the major cities of Australia in the company's factories or outside, was sooner or later likely to become public knowledge. So, the company hid its products that had killed them.

Most of the top five firms, though, were also aware of those less visible potential hazards, in places such as driveways and doors. Where most of those exposed would have no knowledge of its presence. Yet time and again they were exposed to the same choice alone. One example starkly demonstrates the company's continuing failure to be open about the extent of the danger, possibly in thousands of homes.

Five years after the release of tonnes of raw asbestos shipped into Australia and transported from Perth to Witteroomen in Western Australia and Western staff Barry Gill in NSW were carried in buses. Once the asbestos had been dumped, the remaining millions were recycled for other uses.

John Downes worked for the Active Bag company, based over Sydney's Mascot airport for about three years until 1965. Downes, who later developed mesothelioma, remembered his work at the Active Bag factory at Canella. His company sent two trucks over to the factory every week, each of which would be filled with asbestos, containing 800 to 1500 heavy bags.

After the bags were dumped in a machine to remove the obvious raw asbestos, Downes said, they were sold to various firms for use as a filler. Downes said the company had dumped the company also would have processed about a million tonnes of asbestos bags every year.

Coppyright Matt Peacock
This is an edited extract from *Killer Company: James Hardie Exposed* by Matt Peacock. The book was first published on September 5. *Peacock* will appear on Thursday in Perth at the Perth Festival, which runs from September 9 and is co-sponsored by The Australian.