

TRANSCRIPT

LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE

Inquiry into recycling and waste management

Melbourne—Friday, 10 May 2019

MEMBERS

Mr Cesar Melhem—Chair

Mr Clifford Hayes—Deputy Chair

Mr Bruce Atkinson

Ms Melina Bath

Mr Jeff Bourman

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Mr Andy Meddick

Dr Samantha Ratnam

Ms Nina Taylor

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PARTICIPATING MEMBERS

Ms Georgie Crozier

Mr David Davis

WITNESSES

Ms Marnie Williams, Chief of Business Operations Worksafe Victoria, and

Mr Michael Coffey, Head of Hazardous Industries and Industry Practice, Worksafe Victoria.

The CHAIR: I declare open the Environment and Planning Standing Committee public hearing. I just remind everyone that mobile phones should be turned to silent or turned off. I would like to extend a welcome to members of the public. The committee is hearing evidence today in relation to the inquiry into recycling and waste management, and the evidence is being recorded. I would like to welcome Ms Williams and Mr Coffey from WorkSafe Victoria. Thank you for your time in attending today. Just a reminder that all evidence at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is further subject to the provisions of the Legislative Council standing orders, therefore the information you give today is protected by law. However, any comments repeated outside this hearing may not be protected. Any deliberate false evidence or misleading of the committee may be considered a contempt of Parliament. All evidence is being recorded, and you will be provided with a proof version of the transcript in the next few days.

We have allowed, I think, about 10 minutes for an opening statement and then after that we will go to questions. After you finish your statement we will ask a couple of questions each and then come back, giving every member a chance to ask questions. Thank you very much. Who would like to go first?

Ms WILLIAMS: It will be me. My full name is Marnie Kay Williams, and I am the chief of business operations at WorkSafe Victoria. I am also joined today by Michael Coffey, who is our head of hazardous industries and industry practice at WorkSafe. Thank you for your invitation to appear today to assist the committee in its inquiry into the waste and recycling industry in Victoria.

I understand the committee is undertaking preliminary hearings to focus on the illegal storage of chemical and industrial waste, including the events leading up to the West Footscray and Campbellfield fires. I would like to take the opportunity in my statement to provide the committee with some clarity on WorkSafe's involvement in the waste and recycling industry and in particular the fire that you have specifically mentioned. As you know, WorkSafe Victoria is Victoria's workplace safety regulator. In this role, WorkSafe administers both the Occupational Health and Safety Act and its associated subordinate regulations, and we also administer the Dangerous Goods Act. There is some overlap in WorkSafe's functions under both of these acts, and I will explain these overlaps in a broader context of the management of waste materials.

The storage, transport and treatment of waste materials is also regulated by the Environment Protection Authority—the EPA. The level of regulatory oversight depends on how hazardous the material is and the activity that the duty holder is undertaking. In some instances waste materials may also be dangerous goods if they are either corrosive, flammable, explosive, oxidising, toxic, water reactive or have other hazardous properties. Finally, any person who is in management or control of a workplace also has duties under the Occupational Health and Safety Act to ensure that that workplace is safe and without risks to other persons' health and safety. Therefore if waste is also dangerous goods, a duty holder will have responsibilities under the dangerous goods, environment protection and occupational health and safety legislation, and the EPA and WorkSafe have a memorandum of understanding that describes how we work together to share information and cooperate on joint regulatory activity where we have overlapping responsibilities. WorkSafe can provide you with a copy of that MOU if you want to have a look at it in further detail.

In respect to health and safety, the waste and recycling industry has a number of unique safety risks, particularly in respect to the use of plant and equipment. The health and safety act places a general duty on employers, self-employed persons and persons who manage or control workplaces to take steps to eliminate risks to health and safety in that workplace. The general nature of the duties under the health and safety legislation means that they cover all reasonably identifiable risks to health and safety in a workplace. WorkSafe proactively regulates the waste industry through targeted and strategic inspections as well as responding to service requests via our advisory service. Between 1 July 2015 and 2 May 2019 a total of 661 workplaces were classified by WorkSafe as providing waste collection, treatment and disposal services. Over this same period, WorkSafe conducted

1385 inspections, which resulted in 620 improvement notices being issued to these workplaces. These figures are provided to you in a broader context of 270 000 workplaces in Victoria, with WorkSafe conducting in excess of 48 000 inspections per year, covering about 20 000 workplaces annually. WorkSafe has also prosecuted a number of employers in this industry, and I can provide more details on these prosecutions if it assists the committee.

I will now discuss dangerous goods, and specifically the warehouses that have been discovered around the northern suburbs of Melbourne. As you know, there have been two significant industrial fires involving dangerous goods waste over the last six months: the fire which occurred at West Footscray in August 2018 and the fire which occurred at Campbellfield in April of this year. I will talk to the Campbellfield fire. This site is operated by Bradbury Industrial Services. Bradbury has operated an EPA-licensed waste treatment plant from this site. Under the Dangerous Goods Act, occupiers of sites that store dangerous goods at quantities that exceed amounts specified in the dangerous goods regulations must notify WorkSafe. In addition, occupiers who store in excess of 10 000 litres or kilograms of class 3 flammable dangerous goods—in this instance—must ensure that the premises has a fire protection system that is designed for the types of goods that are being stored. Bradbury had notified WorkSafe that it was storing 425 100 litres—or up to—of predominantly class 3 dangerous goods. WorkSafe had visited the Thornycroft site in January and March of this year, and we had confirmed that this site was meeting its obligations under the Dangerous Goods (Storage and Handling) Regulations at the time of these visits. Since 2015, WorkSafe has conducted 37 inspections of this and other premises operated by Bradbury and has issued a total of 21 improvement notices to this company. All notices had been complied with at the time of the fire.

After the fire, WorkSafe inspected the site and issued Bradbury with a direction under the Dangerous Goods Act to render harmless the dangerous goods that were remaining on the site. This direction included securing the site 24/7 and providing WorkSafe with a detailed clean-up plan, which must also address all matters identified by both the MFB and the EPA to mitigate the risk to both the environment and the community post-fire. So WorkSafe is now monitoring compliance with this direction, and WorkSafe and the EPA have received a clean-up plan, which both agencies are currently reviewing.

The Campbellfield waste treatment site is in contrast to 12 warehouses situated in Melbourne's northern suburbs that have been uncovered in joint operations between WorkSafe, Victoria Police, the EPA and fire services. Campbellfield was a known waste-processing facility. It had regulatory oversight from both WorkSafe and the EPA. Since last December, 12 sites have been discovered across Epping, Campbellfield and Craigieburn where waste—dangerous goods—has been stored in contravention of the requirements of the legislation—that is, the operator or operators of these sites did not notify WorkSafe of the storage of dangerous goods, the sites had no manifest of the dangerous goods being stored there, there were no emergency plans, there was inadequate fire protection, there was no spill containment and there was no segregation of incompatible dangerous goods, and I could go on. But, in short, the premises are not fit for the purposes of storing dangerous goods.

WorkSafe, on that basis, has exercised its powers under the Dangerous Goods Act to take any action that is necessary for the destruction, disposal or removal of those dangerous goods at all of these premises. Four of these premises were occupied by Bradbury. Bradbury disclosed to WorkSafe during the course of our visits in January another location in Campbellfield where they were storing dangerous goods which were also not fit for purpose and did not comply with the dangerous goods legislation. That site was made safe by the company in response to significant enforcement action taken by WorkSafe in February 2019.

Aside from the actions required to remove and remediate dangerous goods from the sites, WorkSafe has put in place prevention measures to minimise fire risk at these sites, including 24/7 security and internal atmospheric monitoring inside the premises, with an alarm protocol that will trigger a fire service response. WorkSafe is actively working to remove and make safe the dangerous goods waste located across the 12 sites and has so far removed 2.5 million litres from three Epping and one of the Campbellfield sites. The majority of the dangerous goods waste being removed are class 3 flammable liquids, and about 65 per cent of the waste is class 3. The remaining goods are classes 8, 9 and 5. WorkSafe estimates that there is between 16 million and 25 million litres of dangerous goods waste across the 12 sites, and WorkSafe is removing approximately 300 000 litres of

dangerous goods per week from these sites. Just to put that in perspective, this is equivalent to the same level of dangerous goods that was involved in the Thornycroft fire.

Removing and processing the waste chemicals in accordance with the health and safety requirements is a very complex task, and it is expected to take months. To assist with this removal, WorkSafe is leading a task force, which includes the EPA, the fire services, Victoria Police and local councils. The priority of WorkSafe and of the task force is to ensure the safety of the community and of any of our workers undertaking the removal task. The main limitation on removing the dangerous goods is the market capacity to accept and process the waste—notably, the class 3 flammable, dangerous goods. Geocycle, a business unit of Cement Australia, is the main processor of class 3 dangerous goods waste in Australia. Bradbury Industrial Services was a competitor of Geocycle and provided the market with an alternative waste treatment facility for some class 3 flammable waste materials. The Bradbury treatment facility has clearly been shut down following the fire. WorkSafe is currently undertaking a comprehensive investigation into Bradbury Industrial Services and the occupiers of the other sites for possible prosecution both under the Occupational Health and Safety Act and Dangerous Goods Act. As this matter is still under investigation, I am unable to provide any further comment on the facts of the matter.

I would now like to talk to you about WorkSafe's compliance and enforcement strategy in relation to the regulation of dangerous goods. WorkSafe has a strategic, prevention-led approach to regulating dangerous goods and promotes safe dangerous goods work practices through targeted and proactive activities. There are currently over 3000 notifiable dangerous goods site locations in Victoria, of which approximately about 1400 are petrol stations. WorkSafe has conducted a risk assessment of the sites, breaking them into four tiers, to inform the prioritisation of our inspection and oversight regime. Between 1 July 2018 and the end of March 2019 we conducted in excess of 2000 inspections under the Dangerous Goods Act, and these have resulted in a total of 497 dangerous goods focus notices, which have been issued, and 235 contraventions that have been remedied at the time of the inspection. It is just important to delineate for the committee that these are just dangerous goods sites, not necessarily dangerous goods waste sites; it will be a mix of both, just so you understand. I just want to pause at this stage, and if I have got another minute I will keep going.

The CHAIR: Yes, thank you.

Ms WILLIAMS: Thank you, Cesar. WorkSafe is also strengthening its coordination of dangerous goods oversight with the other key agencies, most notably the EPA, the MFB, the CFA and local government. WorkSafe is conducting inter-agency compliance visits at sites identified in collaboration with other agencies. So we have got the sites that we know about, which is what I have talked about, and the sites that we do not know about, like the 12 warehouses. So we are conducting visits to the premises which we have no regulatory oversight on. These visits include premises that may be stockpiling DG waste illegally.

There is also work being done on strengthening the legislative framework in respect to dangerous goods. On 4 January, the Victorian Andrews Labor government announced a review of whether tougher penalties and greater terms of imprisonment are needed in the Dangerous Goods Act to align with the penalties under the Occupational Health and Safety Act. The announcement noted that the penalty amounts and the terms of imprisonment specified for offences under the Dangerous Goods Act would be considered as part of the review, and WorkSafe has been asked to provide advice to the minister about the current offence provisions and penalties under the act, and we are currently completing that work. That is it.

The CHAIR: Thank you. I will kick off the first couple of questions. You mentioned that you carried out an inspection at Bradbury in January this year, and February as well. How many tonnes were on the premises at the time of the inspection? Do you know at all?

Ms WILLIAMS: In January, Cesar, the inspector did an inspection against the requirements of the Dangerous Goods (Storage and Handling) Regulations, and in her entry report—and she was one of our dangerous goods specialists—she noted that they had a manifest and that they had a fire protection report. But she did not actually specify in her observations how much of the chemicals were there. What we do know is that when the inspectors returned on 22 March, they noted that there was less—I think it was about 320 000—

Mr COFFEY: Three hundred and twenty five thousand litres.

Ms WILLIAMS: Three hundred and twenty five thousand litres, and they specified that in their observation report.

The CHAIR: And they were still higher then, were they?

Ms WILLIAMS: There are two things to note. The EPA would have given evidence last week about their licensing regime and how much waste the occupier was allowed to store. That was a very different quantity in terms of how much they notified WorkSafe under the dangerous goods regime. Now, what you have to remember is they were collecting waste, treating it and producing commercial grade dangerous good. So their requirement under the storage and handling regulations to notify—it is not a permission; it is just notifying us that they are treating waste and how much they have. So the notification was for 420 000 litres, of which the inspectors observed in March that they had 320 000 litres—so in compliance with their obligations. But we do know, and the EPA were working very closely with us, that they had suspended their licence at that time because their EPA waste licence only permitted them to store a much lower quantity of waste. Does that help explain, because it is a little bit tricky?

The CHAIR: Yes, to me it is a bit messy, it is all over the shop, and that is what has been highlighted about how the industry is operating. During the inspection, or part of the licensing arrangement and the requirements under the Dangerous Goods Act, what sort of level of training does an employer have to have in place in relation to employee training? So, for example, if I paint a picture—for major hazard facilities, like the Mobil refinery, as part of their business case or safety case they have got to have a certain level of training for operators et cetera. Is there a requirement for that industry to have the minimum training requirement or skills? Because I have noticed a lot of the workers at Bradbury are migrant workers, with English not necessarily their first language. So is there a requirement on companies to do that?

Ms WILLIAMS: Okay, there are a couple of points you have raised there, and I will pull them apart just so the committee understands. I have outlined the dangerous goods regime as it relates to notifiable sites. There is a whole other regime. Cesar, you talked about major hazard facilities. Just to give the committee an understanding, at particular quantities, or in combination, dangerous goods premises can be considered a major hazard facility, but what I want you to understand is, as an example, a major hazard facility threshold quantity for holding petrol is 25 000 tonnes, so these are huge quantities of chemicals. Notification for petrol under the DG legislation occurs at 2500 litres, so we are talking about our major hazard facilities, of which there are 43 sites, I think—43 licensed major hazard facilities—the sites that are processing and storing massive quantities of dangerous goods. And they have a safety case regime that requires them to basically have a licence to operate through WorkSafe.

And yes, there is a requirement to train your workers and it is a very high bar, but equally places like Bradbury's and the Thornycroft site have got obligations under the Occupational Health and Safety Act and also the Dangerous Goods Act, which absolutely specify that those workers must be trained to deal with the hazards that they are faced with in their workplace. The Occupational Health and Safety Act also requires that if you have workers of non-English-speaking background, you tailor that training to enable them to understand the hazards they are faced with. So absolutely there are obligations for employers who are treating waste, in this example, but for all employers to make sure their employees understand the hazards in the workplace—but more importantly, what controls are in place in order to mitigate the risks associated with those hazards.

The CHAIR: So has that issue ever been audited by WorkSafe or EPA, to your knowledge? Whether or not the employer has training programs—

Ms WILLIAMS: We cannot talk to the EPA but what we do know—we talked about the 37 visits. I cannot say specifically if we specifically looked at training, but what I can say is a number of the visits that have happened over the course of that history have been in relation to alleged contraventions and service requests, where either the union or other workers have called WorkSafe in to look at matters. There has been certainly a lot of enforcement activity around plant—being forklift use or equipment being used in the workplace—so we may well have specifically looked at training, but I cannot say that off the top of my head. But I would imagine it would have formed part of an inspections visit.

The CHAIR: I will finish off with a last question. So I take it Bradbury had some history in relation to safety breaches over the years. Without specifically talking about the current case, because I understand you did mention something about prosecution, but I am interested in their history record, which is not—

Ms WILLIAMS: Well, Cesar, I talked about the 37 visits—I think I said 37 visits—with 21 improvement notices. That is quite extensive. When you look at it in the context, there are 270 000 workplaces in the state of Victoria; we get to about 20 000. You can see how much energy and effort is there. So the waste industry, shall I say, has quite a bit of focus from WorkSafe. It is a challenging sector.

The CHAIR: Thank you. Mr Hayes, over to you.

Mr HAYES: Thanks very much, Ms Williams, for your evidence today. I am particularly concerned about regulatory oversight of these sites, and I am just wondering: do you think that the oversight at the moment is sufficient under the Dangerous Goods Act—what is required in the way of information from these sites, particularly imposing the need for accurate manifests that may be updated on a daily basis or something like that so everyone knows, all the authorities involved in supervising these sites, what is there and how they are being stored? I do not get the impression that is sufficient at the moment, but I wonder if you could talk about that.

Ms WILLIAMS: In terms of those notifiable sites in the major hazards regime, I would say where we know about the sites, I would suggest there are some—

Depending on the thresholds and the quantities, various agencies get involved. So for example Bradbury's were at a quantity where they were required to seek the input from the fire brigade about their fire protection. And so that automatically joins in another agency so that they can understand what is on those premises. So what I would say to you, in terms of the sites that we are aware of—so they either hold a licence or they are notifiable—we have got an oversight regime that ranks them according to their risk, and that is how we then go and do our inspections in there.

In light of fires, you always look at what you have done and go, 'Yeah, well, we could probably do things a little bit better there', but that is about how agencies come together and do their work in a coordinated way. I guess what worries me more is the fact that we have uncovered 12 sites that are basically not complying with the law at all. So we did not know about them until we joined together as agencies. We came together and through our inquiries and our joined up work we were able to discover those. It is at those sites that I think there is an opportunity for how the relevant authorities come together to build the intelligence to actually get better at detecting and finding those companies or those people in the community who do not want to be detected. That is the challenge.

Mr HAYES: So those sites are illegal sites that have been covered up—their existence is not being admitted to?

Ms WILLIAMS: Yes. So I think we have to do both. Yes, we have got an oversight regime on the known sites that we are aware of, but I think the biggest opportunity is how we get better at finding those people who do not want to comply with the law.

Mr HAYES: And the levels that notification has to occur—are they in your opinion too low, the amounts that can be stored without notifying?

Ms WILLIAMS: Well, no. I talked about at least 1400 of the 3000 sites being petrol stations. So I think we have got a big range. You go from your petrol station right up to your major hazard facility. So you have got the whole range. And, really, it is an exercise in regulatory practice on how you organise your resources to get to those, with the right level of oversight. And I think, in light of the fire, that is something WorkSafe would review and go, 'Well, what could we have done better?', and that is certainly something we are looking at right now.

Mr HAYES: Just in regard to the three agencies that have concerns in this area, should there be one body that sort of supervises the whole lot or is it okay at the moment, each agency having to notify each other of—

Ms WILLIAMS: Well, I am currently chairing the task force and I think we work well together. There is always opportunity for improvement, and that is part of what I think will come out of the fire and what is next,

but my view is that ultimately will be a matter for people other than me. We work very closely through our memorandums of understanding, which we have with both the fire services, with Victoria Police, with EPA—we have got them with everyone—and we now meet on a fortnightly basis, particularly in relation to this particular issue.

Ms CROZIER: Thank you both very much for appearing before the committee this morning and your evidence, which has been most interesting. In your evidence you talked about 12 sites, I think, that were under investigation and you talked about 24-hour security. Could I just get some clarification in relation to: are all those sites under 24-hour security and what is the cost? Who is conducting the security, first? Who is paying for the security and what is the total cost of that security?

Mr COFFEY: They are engaged by WorkSafe Victoria. So we have 24/7 security at 12 of the sites. We also have the security guards, who are employed and monitor. There are monitors inside the building that are looking for VOCs, basically looking for fumes coming off the chemicals and for lower explosive limits. And there is a protocol: when certain triggers get in those alarms, they will trigger the fire service response.

Ms CROZIER: So when did that security start and how long will it be ongoing for?

Mr COFFEY: So it was immediately once we discovered those warehouses. We work very closely with the EPA and the fire services to establish those protocols. So they have been in place since January when we stepped into those warehouses.

Ms WILLIAMS: And they are linked to the ESTA through VicPol, so they are linked into that, and that will be in place until we remove every last waste chemical out of those warehouses.

Ms CROZIER: Did you say EPA is paying for that?

Ms WILLIAMS: No, WorkSafe.

Mr COFFEY: No, WorkSafe.

Ms CROZIER: WorkSafe. You are paying for that.

Ms WILLIAMS: Can I just be really clear: under the dangerous goods legislation, in the act—the head of power that we enacted in order to step into these sites—there is a cost recovery provision. So we are currently in the process of taking proceedings to seek to recover those costs.

Ms CROZIER: Okay. And what is the total cost so far, or what is the cost per week for that monitoring, of security?

Ms WILLIAMS: It is significant. So we are not going to go into the detail. I do not have the number off the top of my head, but it is—

Ms CROZIER: Could you provide that—maybe a question on notice and provide that figure to the committee?

Ms WILLIAMS: If we can, yes, we will provide it.

Ms CROZIER: Well, you said it is significant, so I think it would be worthwhile for the committee to understand what cost this is, if you would not mind providing that.

Ms WILLIAMS: Yes.

Mr COFFEY: Yes.

Ms CROZIER: Thank you very much indeed.

Ms TERPSTRA: Perhaps you can expand a little bit in terms of managing dangerous goods in the community, so it is a bit of a double-barrelled question, but perhaps expand on how that operates in the community and what

community members can do if they become concerned about perhaps a factory in their area or a site that they have got concerns about. What can they do to raise that issue?

Ms WILLIAMS: Thank you. We would encourage the community members, if they are concerned about any site, to call WorkSafe's advisory line. They can raise concerns, and if they would like, WorkSafe can go out and take a look. As I talked about, working with the other agencies, we look at those sites and we do a joint intervention to have a look.

Ms TERPSTRA: And do you then go back? Say, if you have got a notification from somebody in the community, do you liaise with them as to the outcome perhaps?

Ms WILLIAMS: Yes. Sometimes people like to do this anonymously, so that is fine—we respect that—but if they would like us to go back to them to tell them the outcome, we would also provide that information, yes.

Dr RATNAM: Thanks so much for your submissions this morning. Can I just try and cover that time line again, just to make sure that we have got the details right. My understanding is that you mentioned 37 inspections have been conducted on the Bradbury site, so that is prior and post this most recent incident.

Ms WILLIAMS: Yes.

Dr RATNAM: And in the days leading up to that fire at the Campbellfield site—so you had been inspecting that site. You conducted an inspection in March, I believe you indicated. Is that right?

Ms WILLIAMS: On 22 March, which was a follow-up inspection, yes.

Dr RATNAM: No problem. Their licence was then suspended—their licence to accept waste was suspended—but it sounds like they were allowed to continue to operate while their licence to accept waste was suspended.

Mr COFFEY: They were not allowed to receive anything new. They had to get their chemical stock down.

Dr RATNAM: Was WorkSafe inspecting the site during that period? So post the licence to accept new waste being suspended and the fire occurring, were there WorkSafe inspections occurring during that time?

Ms WILLIAMS: Our last inspection occurred on the 22nd. I am not sure of the date. What was the—

Mr COFFEY: It was 22 March.

Ms WILLIAMS: Because it was the EPA that suspended the EPA licence, and we conducted our visit on 22 March. To be frank, we were pretty focused on 12 warehouses and removing some chemicals out of those.

Dr RATNAM: I understand the workload is high given the new factories in this environment. There was a media report that correct safety equipment was only provided when EPA investigators attended to investigate compliance. Did WorkSafe conduct investigations around that time or were you in contact with the EPA around the provision of that equipment? Is that media report correct?

Mr COFFEY: I think I know the media report you are speaking to. We entered—I think it was Cesar's question—and we have visited that site 37 times since 2015. A number of them were service requests, allegations of unsafe workplaces. We have issued 21 improvement notices associated with the OHS act and the Dangerous Goods Act on the premises.

Dr RATNAM: Okay. And just one final question: do you think there are systemic health risks faced by low-income workers in industrial waste storage or processing facilities, and can and how should this be addressed, noting that a worker was very seriously injured at that fire? I am also interested to know whether that worker will receive compensation post the very serious accident. I am more concerned about the systemic health risks posed by these facilities operating like this.

Ms WILLIAMS: Okay, so there are a few questions in that. The first thing is there were two workers that were injured as a result of the fire. Both of those workers have made claims, and they have been accepted, for

compensation and are being supported appropriately. In terms of other ongoing health risks, well, the general duty of care under both the Occupational Health and Safety Act and the Dangerous Goods Act would require that those risks be mitigated by the employer. There would potentially be hygiene risks, so around the atmospheres, where, you know, if you were decanting class 3 dangerous goods and it is producing volatile vapour that would warrant some level of risk control around the atmosphere. So the employer has a positive duty to manage and mitigate those risks.

Dr RATNAM: But from your perspective, do you believe those things are being complied with or do you think there are outstanding systemic risks faced by these workers? And can I also ask: are you able to talk about the compensation amounts that are being claimed or being afforded to these workers?

Ms WILLIAMS: If I address your first question, when we look at the enforcement activity that has been undertaken at that particular site, the inspectors—to my mind, though I have not gone through every single element of their entry reports—had not specifically raised any contraventions or concerns about the atmosphere at the premises. So I can only assume on that basis that the inspectors were not concerned about that in particular.

In response to the compensation amounts, the workers will be entitled to their medical and like costs—any costs associated with any medical treatment—plus their income.

Mr LIMBRICK: Thank you both for appearing today. Ms Williams, in your statement you touched on something that I would like to focus on which is the root cause of all these stockpiling issues. You mentioned that there is only one facility at the moment, which is Geocycle. My understanding is that it is a waste-to-energy conversion plant.

Ms WILLIAMS: It is, yes.

Mr LIMBRICK: And they use that energy to produce cement; is that correct?

Ms WILLIAMS: That is correct.

Mr LIMBRICK: So unless either the government approves more waste-to-energy conversion plants or Geocycle massively increases their capacity to use that waste, how are these stockpiles going to get lower?

Mr COFFEY: We are currently removing chemicals at a rate of around 300 000 litres, and that is due to the constraints in the market. We are currently looking at a couple of options to increase that rate. We are firstly looking at other storage options that are licensed and appropriate to store those dangerous goods—not where they are currently stored. Our priority is to get those dangerous goods out of those warehouses as quickly as possible. We are also working with Geocycle, who are working with their kilns in Tasmania, to see if they can increase their rate of throughput through approval with the EPA. So if they can increase their rate and we can find some more storage options, then we will be able to increase the removal rate of the chemicals and get them out as quickly as we can.

Mr LIMBRICK: Okay. But if there were more waste-to-energy conversion plants approved, it would solve a lot of these problems?

Ms WILLIAMS: There is another one in Queensland I think.

Mr COFFEY: Yes, there is another Queensland kiln, and I think Bradbury's being taken out of the market obviously, with the fire, it adds more pressure onto the market around this particular type of waste. It is class 3, it is flammable and it is hazardous to deal with, so there are only limited options to process it. What we do not know with these other warehouses—at the moment it is 65 per cent class 3 because that is what we are seeing. We do not know what is in the other warehouses. We suspect it is going to be similar, but we will not know until we actually get inside there and have a look.

Mr LIMBRICK: But it is primarily class 3 that is being used in Geocycle facilities?

Mr COFFEY: Primarily class 3.

Ms WILLIAMS: It is only class 3 in Geocycle. We mentioned class 5s, class 9s and class 8s. They are being treated by Veolia, which is the company we had engaged. So they are being treated through their facility. It is the class 3s that are going through the Geocycle kiln.

Mr COFFEY: And we are now having discussions with other players in the market around how we can increase that capacity in the market to absorb this waste. As Marnie mentioned, what we are estimating is around 16 to 22 million litres in these warehouses.

Ms WILLIAMS: There is certainly an opportunity for the industry in terms of growing the market because what you can see is the capacity of the market is being outstripped by the demand.

Mr LIMBRICK: We had two facilities. One of those is now gone, and we have only got Geocycle in Victoria. If there is a problem in Geocycle, are we in trouble?

Mr COFFEY: We have certainly got the option of getting it stored somewhere safely. So from the perspective of these 12 warehouses that we are currently removing, we need to get them out of those warehouses because they are extremely dangerous—the way that they are stored—so we can store them. But, yes, there are some regulatory solutions that are being looked at, but there will also need to be some market solutions. I think Marnie mentioned with the major hazards regime we have a committee that advises that regime, the major hazards advisory committee, that consists of the fire agencies, unions and employer associations so that they can contribute to that, to the regulatory strategy, which I think is really important around engaging the industry in the solution.

Mr LIMBRICK: But without more processing facilities these stockpiles are just going to get bigger and bigger; right? We will need to process it somehow?

Mr COFFEY: Yes.

Mr MEDDICK: Thank you both for appearing and for your evidence here this morning. One of the things that has been brought up through some of the other agencies that appeared last time we met here was the fact that they could have benefited from—they were talking about, say, the fire brigade, for instance, in terms of the fire that happened out there—is that the only prior knowledge they had of what materials were actually stored on the premises was when they actually turned up to the fire and they were able to access the data sheets there. I asked them if they would be able to benefit from having a database online which is updated by WorkSafe. So primarily it is your agency that compiles or enforces the fact that these datasheets are available within the premises; correct?

Ms WILLIAMS: The Dangerous Goods Act requires companies at certain thresholds to have a manifest.

Mr MEDDICK: Yes, that is what I am talking about.

Ms WILLIAMS: And the legislation requires material safety data sheets to be made available.

Mr MEDDICK: Yes.

Ms WILLIAMS: But we do not collect the data sheets.

Mr MEDDICK: Why not?

Ms WILLIAMS: Because the duty holder has that obligation. We understand that the sites are notified and what chemicals they have on site.

Mr MEDDICK: So would you also then benefit from having access to something that is a database online for yourselves, that is shared between the agencies, so before anything happens you are completely aware of what is (a) stored on premises, to the best of your knowledge, and (b) that that is updated regularly on inspection so that those things can be updated and then if you are finding something else that is there you know automatically that they are committing an offence under the act. Would that be correct? And would that be of benefit, that this is a database that is shared between the agencies in the event of an emergency?

Ms WILLIAMS: It could be a potential benefit, but I want to be explicitly clear: Thornycroft had quantities in excess of fire protection levels, which required it to actually seek the written advice from the fire services. The fire services actually specified in a written report what fire protection measures needed to be on that site, and so the fire services actually had in its understanding and knowledge the manifest quantities and what fire protection was on that site. So I just want to make it clear that in the sites that are covered by the dangerous goods regime at certain thresholds the fire agencies actually understand what is on the site and the manifest actually requires it to be in a box so if there is a fire, the fire services actually can access that information there and then on site. That is the purpose of the requirement.

Mr MEDDICK: I am talking in terms of prior to them actually getting there, though.

Ms WILLIAMS: That is what I am saying, that they actually have already got all the sites that are storing quantities at a threshold that require fire protection. What you are suggesting is to broaden that.

Mr MEDDICK: Yes.

Ms WILLIAMS: And that would benefit—it would be of benefit.

Mr MEDDICK: Okay. Thank you for that. The other thing that came out of that evidence by those agencies is that there is sometimes quite a lack of distance between one agency that conducts an inspection that is on a regular basis of a site and another agency. So there is a delay in the communication, necessarily, of what they might find and reports being written. Would you be in agreement that a combined and coordinated inspection regime of the sites that you know about—I am not talking about the illegal ones here, obviously, but the ones that you know about that are registered—that staff and even from the task force are visiting together at the same time so things are identified immediately and that where notices need to be issued there is that cross-agency cooperation on the ground immediately, rather than any delays.

Ms WILLIAMS: I think in my evidence I suggested that we could always get better in how we coordinate our efforts.

Mr MEDDICK: So that would be a yes? Thank you.

The CHAIR: Just a follow-up question on Mr Meddick's question earlier about the fire brigade in relation to knowing what is on each site, can you tell me—the government recently announced electronic tagging or tracking of industrial waste throughout the state, which is due to commence shortly. Would that help in solving that problem, in basically knowing where the waste is at any given time? Are you able to shed some light on that?

Ms WILLIAMS: That is an EPA system around prescribed waste, but I would imagine connecting that information up with the manifests and connecting it would absolutely be of benefit. To me it is about: how do we improve the data and the intelligence we know about the sites we know about and how does that impact and improve our regulatory oversight in a coordinated way? So the more data and information and joined-up stuff we can get, the better information we have, which means we can better focus our efforts, and that is really important. And I think we would agree with that. So if there is an electronic way of tracking the prescribed waste and that intelligence and information is shared with all the relevant authorities, then that could only improve our outcomes.

The CHAIR: And would that put the responsibility back on the people who actually generated the waste in the first place to get some ownership instead of giving it to illegal people et cetera? So would that further—

Ms WILLIAMS: I think that is a really good point, Cesar. I mean the duty holders here are actually the employers and the people who are treating the waste. The regulatory authorities have a duty to make sure people are complying with their obligations, but the duties actually, in this instance, are with Bradbury.

Ms TAYLOR: Just so that I understand properly, in terms of proactively identifying sites I think you mentioned that working with other agencies is enhancing that capacity. So I do not mean to state the obvious with that, and you did mention local government as well. What is their role in that space, because at the last hearing we had it seemed a little bit unclear? So I am just wondering if you are able to clarify their role in helping to identify if they do have a role in that space.

Ms WILLIAMS: It is actually a really good question, and Cathy Wilkinson and myself and Michael and some other EPA members are actually meeting next week with the chief executives of local government to really, I think, explore what are some potential opportunities to improve how we better work together in that space. But what I can say is both Simon Overland and Domenic Isola, who are the two chief executives of the two impacted councils, have been working incredibly closely, as have their people, with Michael and his teams, who are doing different layers of oversight. So they have roles around planning—land planning—and they also have their local officers who are very connected to community and who understand what is going on. So again it is the same theme about how do we connect the intelligence and information that the local government and their officers are collecting on the ground and how we can connect what is happening through planning to get a better picture across the state of where these premises are located and then how do we plan our oversight with that intelligence. So that is something we are exploring as a consequence of where we are at.

Mr ATKINSON: Can I first ask in terms of the criteria for these storage places, not just fire protection but security criteria?

Ms WILLIAMS: That is a good question. I do not think it explicitly in the regulations specifies. There will be a general duty about securing the site, but it does not then specify what that looks like. So in our storage and handling compliance code, it might then go into ensuring the sites are secure, but it would not say by what means. This is outcomes-based legislation, so it is about saying, ‘Make sure people who are unauthorised should not be able to access your site’.

Mr ATKINSON: They are great targets. Can I just also go to Mr Limbrick’s comments about capacity. Clearly Bradbury’s were not coping with the quantities that they were receiving, so there is clearly already a problem in terms of the amount of waste that is being generated that cannot be processed. I mean they obviously did not for fun open up 12 extra sites, and interestingly enough they have ensured that they have got one showpiece one that you are able to see and a whole lot of others that are doing things that are not within the rules, and that is a deliberate action by them, but it does point to the fact that there is a capacity problem. What can we do about that capacity problem? You have sort of said we can store it, but that is just kicking the can along the road. What are we going to do?

Ms WILLIAMS: I would suggest WorkSafe is not the expert advisory organisation for the market in waste. I mean our expertise is in how you protect workers and the public from the risks associated with it.

Mr ATKINSON: Okay. The waste comes from somewhere else. You know, there is a—in inverted commas—‘supply chain’ for the waste. Are we capturing the information from the people who are generating the waste so that we are actually able to then determine exactly the scale of the problem we are dealing with?

Ms WILLIAMS: That goes to Cesar’s point about the EPA’s obligations around waste. They are the prime regulator of waste, so that goes to the system that Cesar was referencing—is my understanding—which is being able to track the waste.

Mr HAYES: I just wanted to ask: do you think the existing penalties are sufficient for people running illegal sites?

Ms WILLIAMS: Well, the government has asked us for our advice on that, and my understanding is they are very keen to at least look at and revise those penalties. So, Michael, you have in your little cheat sheet there what the penalties are, but that does involve imprisonment. It is up to four years imprisonment for a natural person. I think it is 160 000—

Mr COFFEY: It is 160 000, and 800 000 for a body corporate under the most serious offence, 31(c).

Ms WILLIAMS: Yes. They are much lower than the penalties under the Occupational Health and Safety Act, so I think the government is thinking about at least raising the penalties to make them equivalent to those in the Occupational Health and Safety Act.

Mr HAYES: They are fairly significant penalties.

Ms WILLIAMS: They are very significant.

Mr HAYES: You would think it would make people have a second think about that.

Ms WILLIAMS: Well, I think it is worth noting that in late last year we actually had our first employer sentenced to a term of imprisonment for a fatality at a scrap metal yard in Foster.

Mr HAYES: Yes, that is right.

Ms WILLIAMS: She was sentenced to six months jail following that fatality. So, yeah, it is pretty significant.

Mr HAYES: This is a very serious problem. Would you recommend penalties for companies or individuals that knowingly use or store these things at illegal sites?

Ms WILLIAMS: That is exactly what we are talking about. They are the penalties that we are talking about.

Mr HAYES: No, I am talking about penalties—initially talking about penalties—for the operators of the sites.

Ms WILLIAMS: But they are the penalties for either the occupier or the operator.

Mr HAYES: Or people that take material there to—

Ms WILLIAMS: Oh, you mean the people who are disposing?

Mr HAYES: Yes. Exactly, yes.

Ms WILLIAMS: That is something to think about, I think. There is a general duty, or a provision, in the dangerous goods legislation that anyone who is actually in possession of dangerous goods, if they need to dispose of it they must dispose of it safely, and the penalty provisions we just outlined are in that section. So there is that requirement already in the legislation that if you are going to dispose of it, you must do so safely. So they are already in the legislation, those provisions.

Mr HAYES: But no-one has thought of prosecuting anyone?

Ms WILLIAMS: Well, I think you will find that is currently what we are thinking about right now in the matters we are investigating.

Dr RATNAM: Just a follow-up question about class 3 level industrial chemical waste, which seems to be the source of the significant problem we are seeing at the moment: is there any alternative to burning that waste as a solution to treating it?

Ms WILLIAMS: You are asking the wrong agency. That would be a matter for the EPA, I am sorry.

Dr RATNAM: You are not inspecting other work sites? Because presumably there is kind of a line here of how you will inspect work sites, so the things you are all exposed to. So with this kind of chemical waste, from the place that it is initially produced to the place that it goes to be stored and treated, like Bradbury, then somewhere else, it needs to avoid that residue. You will probably have your eyes on all those spots that that waste is going to. So you are not aware of other ways of treating it in Victoria? You are not being asked to inspect sites like that?

Ms WILLIAMS: We actually engaged a consultant to do a scan, because obviously we are now the proud owner of in excess of 20 million litres of a class 3 dangerous good. So we have got a very keen interest in seeing how we can dispose of it. And, no, what we outlined is the market at this point, so there is opportunity, absolutely.

Dr RATNAM: And do you know if there are any by-products of burning that chemical class 3 level industrial waste? Are there by-products that also have to be handled safely?

Ms WILLIAMS: There will be, and again they would be the subject of the EPA legislation and what is permitted to go out into the atmosphere and what those by-products might be. So I think they would be questions best put to the EPA.

Dr RATNAM: So we do not have a clear picture at the moment about what happens to that level and who is handling that. Is it being handled safely, et cetera, at the moment, those by-products?

Ms WILLIAMS: If a company was processing it, we would very interested in making sure that was being done safely. In terms of what is permitted to then be released into the atmosphere that is subject to the Environment Protection Act.

Dr RATNAM: So with Geocycle, for example, you will presumably conduct inspections there in terms of their processing of industrial class 3 level chemicals. What are they doing with their hazardous by-products, et cetera?

Mr COFFEY: Yes, obviously when we took over these warehouses as part of the project, we did considerable due diligence on any operator involved in this operation. So, yes, we have done visits to Geocycle. We have also in April done visits to the top 10—that we classified—waste processing plants, and we have issued several enforcement notices on those plants, and we are continuing to follow up. So we are certainly looking at this industry in depth.

Dr RATNAM: Great, thank you.

The CHAIR: Just to follow up on the issue Mr Atkinson raised, and Mr Hayes, in relation to the capacity issue, should we start looking at holding the companies or the industry that is actually generating the waste in the first place? I am talking about the customers or suppliers of the Bradbury's of the world. I understand it is maybe an EPA issue, but it is a WorkSafe issue as well, because Bradbury, you have issued your 37 visits, 20 PIN—

Ms WILLIAMS: Improvement?

The CHAIR: Or provision improvement notices, it does create some safety issues for workers and the community. So should we now start focusing and legislating that if people are generating the waste, they have got responsibility to you to basically take it to a reputable operation and they have a chain of custody, if you like? So is that something we should look at to review and these people should have some responsibility towards what is happening?

Ms WILLIAMS: So what we have done very early this year is to remind industry—and Michael met with the waste sector with our chief executive very recently—that there are many companies around Victoria right now producing waste, and it is class 3 waste, and Bradbury is now no longer in the market. So we have reminded those companies that if you have got waste that you cannot provide to someone to treat, then you now have obligations on how you are going to have to store that safely, and this is what it looks like. So we have issued some guidance and information to those companies so that they understand their obligations, but we would encourage them to actually contact the waste sector. There are other premises where you can store dangerous goods that are waste, safely, but ultimately, yes, it needs to be treated.

Ms CROZIER: Thank you. Just following on from those previous questions, and you have spoken about the issues in the north, but are there hotspots in the south-east around Dandenong or Kingston where other facilities are that you have identified?

Mr COFFEY: Look, we work on a weekly basis with the other agencies, the fire agencies and the EPA, on intelligence that comes in to us to do inspections, particularly around premises that may be storing waste illegally and dangerous goods illegally. So at the moment the focus is the northern suburbs. The 3000 sites that we mentioned are all over Victoria, so we will focus on those, but at the moment the focus and the intelligence that we are getting is focusing towards Melbourne's northern suburbs.

Ms CROZIER: So the northern suburbs as opposed to any—

Mr COFFEY: Yes.

Ms WILLIAMS: A number of those 3000 sites are in Dandenong, sort of out that way, and a number of the liquid waste processing facilities are out there as well. So we have looked at those, but there are a few local government areas where there are high density, Brimbank being another one, so, yeah.

Ms CROZIER: What are those local government areas then? You have identified those, obviously.

Ms WILLIAMS: Northern suburbs are number one, then there is the Dandenong sort of space, and then I think Brimbank, are the three probably on our list.

Ms CROZIER: So they are really those three hotspots that I was referring to that you have got the most interest in.

Ms WILLIAMS: Well, they are the three, yeah.

Mr COFFEY: And after the West Footscray fire we did do a blitz in that area. We did 78 visits and identified 68 contraventions that we took enforcement action on.

Ms CROZIER: I am sorry, I just could not hear that last thing.

Mr COFFEY: So after the West Footscray fire we also did a blitz in that area, so we identified—

Ms WILLIAMS: So it should be Maribyrnong-Brimbank area.

Mr COFFEY: Yes.

Ms CROZIER: And when you say you talk about the intelligence, where is that from? Is that from companies themselves? Is it from community?

Ms WILLIAMS: It is a bit of everything. Part of how we discovered the four Bradbury sites was actually from the waste industry itself. They gave us that intel; they told us.

The CHAIR: I will take two quick questions because we are running out of time: Mr Meddick and then Mr Atkinson, and then we are going to have brief answers.

Mr MEDDICK: Just following on from Ms Crozier's question there for the east, clearly this is a problem that is going across the entire state. In western Victoria, in my region, for instance, we have had the problem with Broderick Road in Lara, and two other facilities have now surfaced—that I am aware of—where I have got my constituents. I am also concerned that there are places being investigated that we are not aware of at the moment—and you may well have listed these things. Are you able to provide the committee, please, with lists in these areas of ones you have got currently under investigation and where you are looking in terms of where there might be hotspots—anywhere else that you might? What I am trying to do is: the committee will then get a better idea overall of how large this is a problem across the state rather than just in the metro area.

Ms WILLIAMS: If I am able to do that, because they are under investigation, I will look into that and see if I can do that.

Mr MEDDICK: Thank you.

Mr ATKINSON: I am just interested in your comments on transportation of this hazardous waste. Clearly some has been distributed to all these warehouses right throughout Victoria. I take it from your evidence that some of this material is actually going to Tasmania to be burned. There are obviously transportation issues with this material. How adequate are our safeguards from a WorkSafe point of view on the transportation of these hazardous waste products?

Ms WILLIAMS: Just to give the committee some understanding, the 300 000 litres we are removing equates to 15 semitrailer loads of waste per week, and each one of those transport trucks needs to hold the appropriate licences to do so. The EPA looks at the regulatory regime for waste specifically being transported, and WorkSafe looks after dangerous goods transport. So for your big tankers that you see travelling around, including petrol and

gas tankers, WorkSafe licenses both the drivers and also the vehicles. Again, it is a similar regime over the transport sector. I do not know if that answers your question?

Mr ATKINSON: Not really.

Ms WILLIAMS: We do regular blitzes at transport depots. We do regular blitzes with Victoria Police, just basically at weighbridges and looking at transport when it is on the road. So equally, as we do over these sites, we have a regime over the transport of dangerous goods.

Mr COFFEY: So Veolia have in place around 11 operating procedures that operate from when we get to a site, set it up, take the containers, put them on the ground, test them and put them on a truck. They have been done in consultation with the MFB, CFA, EPA and us, and we have an independent third-party contractor that audits those operating procedures to make sure that they are being followed. So from the time that we take chemicals out of those warehouses to the time that they are processed down in Tasmania, we have a full set of operating procedures over the top of that.

The CHAIR: Thank you. On that note, I would like to thank you on behalf of the committee for giving us your time today and your evidence. I think a couple of questions on notice were put to you by the committee. The secretariat will forward these questions to you, and we might ask you to come again to do some follow-up matters. Thanks again. A copy of the transcript will be sent to you. If you find anything that needs to be corrected, please do so and that then will be put permanently on the record. Thank you very much.

Ms WILLIAMS: Thank you.

Mr COFFEY: Thank you.

Witnesses withdrew.