



Asbestos Framework Review

Response to Safe Work Australia's discussion paper: February
2026

ACTU Submission, 24 April 2026
ACTU D. No 29/2026

ACTU
australian council of trade unions

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About the Australian Council of Trade Unions

The Australian Council of Trade Unions (ACTU) is Australia's sole peak body of trade unions, consisting of affiliated unions and state and regional trades and labour councils. There are currently 35 ACTU affiliates, which together have nearly 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sectors. As the collective voice of Australian workers, the ACTU plays a central role in shaping national policy and advocating for improved rights, conditions, and protections at work.

The ACTU is committed to advancing work health and safety for all Australian workers through a rights-based, participatory approach. The ACTU has two member positions for SafeWork Australia, representing the interests of workers and ensuring that the voices and experiences of working people are central to national WHS policy and regulatory development.

The ACTU's strategy is focused on supporting unions to actively organise workers around healthy and safe work. This includes winning and embedding new health and safety rights at work and building the capacity of unions to use both new and existing rights to organise. By empowering unions and their members to take collective action, the ACTU seeks to ensure that work health and safety is not just a matter of compliance, but a fundamental right that is actively realised in every workplace.

The ACTU acknowledges the Traditional Owners of Country throughout Australia and recognises their continuing connection to land, waters, and community. We pay our respects to Elders past and present. The ACTU's office in Melbourne is located on the lands of the Wurundjeri people of the Kulin Nation. We honour their custodianship and acknowledge that sovereignty was never ceded.

In making this submission, the ACTU acknowledges and supports the submissions made by our affiliates. We also acknowledge the input of representatives from the Australian Manufacturing Workers' Union (AMWU) and the Construction, Forestry, Maritime and Energy Union (CFMEU) (Construction & General Division) (CFMEU C&G Division) to the Safe Work Australia Asbestos Framework Review Reference Group and endorse their submissions.

Introduction

Asbestos remains a deadly threat in Australian workplaces, despite decades of union-led advocacy and a national ban. With millions of tonnes of ageing asbestos still present in homes, schools, and worksites, the risks are growing—not shrinking.

The ACTU's submission calls for urgent reforms: shifting from indefinite management to mandatory, risk-based removal; closing loopholes across the supply chain; lowering exposure

limits; strengthening enforcement; and empowering workers through training and union rights. Our recommendations are focused on delivering real change so that no worker, now or in the future, is left at risk of asbestos exposure.

We thank Safe Work Australia for the opportunity to contribute to this important review.

Best Practice Review recommendations supporting asbestos prevention and control

In the ACTU's submission to the Best Practice Review,¹ we recommended amendments to the model WHS framework to strengthen Health and Safety Representative (HSR) rights, enhance union rights and mandate compliance with codes of practice. These proposed reforms are directly relevant to protecting workers from the risks of asbestos exposure.

We encourage the Agency to consider this submission alongside the asbestos framework review. We have included specific asbestos-related recommendations below.

Key objectives

Rather than responding to each discussion paper question individually, this submission presents the ACTU's recommendations according to key objectives. This approach allows us to address the core issues and policy objectives in a strategic and coherent manner.

Objective 1: Risk-driven asbestos registers and increased frequency of review

Asbestos registers often fail to capture the true risk posed by ageing and deteriorating Asbestos Containing Materials (ACMs). The outdated friable/non-friable distinction overlooks critical factors that drive exposure risks, leaving workers vulnerable. Without regular, risk-based reviews, registers quickly become inaccurate and ineffective, undermining efforts to prioritise removal and protect health.

Recommendation 1: Require asbestos registers to include a comprehensive, risk-based assessment of all identified ACMs, using the four factors from the Victorian Asbestos Eradication Agency (VAEA) model:²

- Product risk level - how easily the material releases asbestos fibres in its original manufactured or installed form.
- ACM condition - the state of an ACM with regard to its appearance, surface treatment (sealing or encapsulation) and extent of deterioration or damage.

¹ Best Practice Review, Submission by the Australian Council of Trade Unions to the Best Practice Review of the model Work Health and Safety laws, November 2025.

² Asbestos Risk Assessment Model, VAEA, <https://www.vaea.vic.gov.au/risk-model>

- ACM disturbance potential - how likely ACMs may be damaged or disturbed by the activities of building occupants, maintenance personnel or environmental factors.
- Building use - considers the built environment where an ACM is located, such as public access, frequency and duration of use, level of activity and presence of mobile plant. This helps to distinguish risk between similar ACMs across different buildings.

The methodology for applying and weighting these risk factors should involve consultation with unions to ensure exposure risks are reflected.

Recommendation 2: Require asbestos registers to be reviewed every 3 years, or sooner if there are changes in ACM condition, disturbance potential, or building use.

Recommendation 3: The development of an online national database of asbestos registers for public, commercial and residential properties.

Definition of friable vs. non-friable

We are concerned that the use of the terms friable, non-friable, bonded and in situ adds unnecessary complexity to effective risk management and removal of asbestos and ACMs. Differences across jurisdictions and frameworks make it confusing and unhelpful. We reiterate that the only effective risk management is the removal of all asbestos and ACMs.

The only benefit of using the terms friable or on friable is in determining the class of licences required for the asbestos removal.

Recommendation 4: Replace reliance on the friable/non-friable distinction with a risk-based classification for asbestos-containing materials, using the Victorian Asbestos Eradication Agency four-factor model. The model WHS framework should require that low-density fibre board be assessed as a higher risk, in line with Queensland's approach.

Objective 2: Mandate the prioritised removal of asbestos-containing materials (ACMs) from workplaces—shifting from indefinite in-situ management to mandatory, risk-based removal.

Most asbestos-containing materials in Australian workplaces are now decades old, well beyond their intended lifespan. As these materials age, they become increasingly brittle and prone to damage, sharply raising the risk of fibre release and worker exposure. Continuing to 'manage' deteriorating ACMs in situ is no longer tenable. Urgent, prioritised removal is needed to prevent these ageing hazards from putting another generation of workers at risk.

Recommendation 5: Asbestos management plans must include enforceable timeframes for removal. Removal of high-risk ACMs should be prioritised within a 5-10 year period, with all

removals completed no later than 2040. This must occur in consultation with Health and Safety Representatives (HSRs).

Recommendation 6: A clear duty be placed on the PCBU with management or control of the workplace to act on any recommendation of an asbestos assessor following a risk assessment.

Recommendation 7: Asbestos management plans must be reviewed at least every 3 years to ensure removal schedules remain current and responsive to changes in risk. This must occur in consultation with affected workers and HSRs.

Recommendation 8: Amend Regulation 419 (Work involving asbestos or asbestos-containing material—prohibitions and exceptions) to remove exemptions that permit the maintenance and service of non-friable asbestos or ACMs fixed or installed prior to 31 December 2003³ and the management of in situ asbestos installed or fixed before this date.⁴

Objective 3: Stronger obligations on duty holders to ensure asbestos is not present in the workplace, including PCBUs that import plant

Loopholes across the supply chain allow asbestos to slip into Australian workplaces. Without clear, enforceable duties at every stage, contaminated materials and equipment continue to put workers at risk. Importation remains a critical weak point, with asbestos still detected in goods entering Australia. Closing these gaps is essential to eliminating asbestos exposure for good.

Recommendation 9: Amend section 20 of the model WHS Act to require that all materials, substances, plant, and equipment used in the workplace are free of asbestos.

Extend this requirement to all relevant duty-holder provisions, including:

- s.21 (management or control of fixtures, fittings, or plant)
- s.22 (design of plant, substances, or structures)
- s.23 (manufacture of plant, substances, or structures)
- s.24 (importation of plant, substances, or structures)
- s.25 (supply of plant, substances, or structures)
- s.26 (installation, construction, or commissioning of plant or structures)

Recent incidents, including asbestos-contaminated coloured sand entering the Australian market, demonstrate that contaminated imports can bypass border controls and then spread

³ model WHS Regulations (3)(c)

⁴ model WHS Regulations (3)(h)

quickly through supply chains into workplaces and the community. This highlights the need for stronger, formal coordination and information-sharing between border, product safety, WHS, and other relevant regulators to ensure rapid tracing, withdrawal, and safe management of affected products. Therefore, we recommend:

Recommendation 10: Strengthen cross-regulator coordination to prevent unlawful asbestos imports.

Overuse of exemption certificates

We are concerned about the apparent overuse of exemption certificates under Part 11.2 of the Model WHS regulations. We are aware of cases where exemption certificates have allowed asbestos-containing fire doors (with an asbestos core) to remain in situ, enabling new buildings to become operational. This is unacceptable: buildings should not be permitted to open while asbestos-containing materials remain under an exemption.

While clause 685 requires consideration of the standard of health and safety at the relevant workplace, we are concerned these provisions may be being applied too readily and without proper weight being given to health and safety risks.

Objective 4: Transition to a lower occupational exposure limit/removal of the OEL, and prohibit asbestos removal except by a licensed removalist

Australia's current workplace exposure standard for asbestos is out of step with international best practice, leaving workers at risk from even low-level exposures. At the same time, exemptions allowing unlicensed removal, like the 10sqm rule, create loopholes for unsafe and unregulated practices. Without stronger limits and a requirement for licensed removalists, workers remain exposed to preventable harm.

There is no safe level of exposure to asbestos. The Discussion Paper for this Review states, 'Internationally there is broad scientific agreement, including from the World Health Organization and the European Chemicals Agency, that there is no known safe level of exposure to asbestos.'

We reiterate our recommendation made in the ANSP review:⁵

Recommendation 11: Immediately reduce the workplace exposure standard to the level introduced by the European Commission, and conduct a review to determine whether a lower standard would be more protective.

⁵ ACTU submission to Phase 3 Asbestos National Strategic Plan 2023

Recommendation 12: WHS Regulations should be amended to prohibit asbestos removal except by a licensed removalist to end the 10sqm rule to ensure future generations of workers are not exposed to asbestos through unsafe and unregulated removal practices.

Objective 5: Increased asbestos awareness and competency

Too many workers are exposed to asbestos simply because they lack the knowledge to identify it or understand the risks. Inconsistent training and gaps in awareness leave workers, HSRs, and entire industries vulnerable to preventable harm. Building a culture of asbestos awareness through mandatory, occupation-specific training will empower workers and drive safer workplaces.

Recommendation 13: The model WHS regulations should be amended to require nationally accredited asbestos awareness training for all workers who are at risk of exposure to asbestos due to the nature of their work prior to commencement. This would include, but not be limited to, teachers in schools, workers in hospitals and the workplace for first responders (which may include homes, accommodation and public spaces, etc.).

Recommendation 14: Develop a one-day approved/recognised asbestos course for HSRs to be delivered alongside refresher training.

We refer to the submission by the CFMEU in relation to recommendations around asbestos awareness training for workers in the building and construction industry, as well as competency for workers involved in asbestos removal. Specifically, we support:

Recommendation 15: All workers involved in asbestos removal should be required to do the relevant unit of competency for licence holders. (i.e. CPCDCDE3029 Remove friable asbestos and/or CPCDCDE3028 Remove non-friable asbestos) for the class of asbestos being removed. There should also be a requirement for workers involved in asbestos removal to undertake the unit of competency CPCSIL2001 Use and maintain respiratory protective equipment. These requirements should be included in a Schedule to the model WHS regulations.

Recommendation 16: Asbestos assessors and supervisors to obtain the units of competency CPCDCDE4009 Supervise asbestos removal and CPCDCDE5001 Conduct air monitoring and clearance inspections for asbestos removal work. This requirement should be included in a Schedule to the model WHS regulations.

Objective 6: Stronger regulatory enforcement and transparency around asbestos exposure

Stronger enforcement and broader notification requirements are essential to break the cycle of unmanaged risk and ensure asbestos hazards are addressed. Workers must be provided with information when they may have been exposed to asbestos during employment.

Recommendation 17: To strengthen Division 2A Prohibited asbestos notices under the model WHS Act by making the following amendments:

- In s.197A add the following definition of legacy asbestos; ‘Legacy asbestos means asbestos or ACM fixed or installed in a workplace prior to 31 December 2003’
- In s.197A amend the definition of prohibited asbestos to the following ‘Prohibited asbestos’ means asbestos or ACM fixed or installed in a workplace on or after 31 December 2003, and asbestos or ACM imported into Australia on or after 31 December 2003.’
- In s197B make the existing paragraph (1) and add the following: (2) The regulator may issue a prohibited asbestos notice to a relevant person in relation to a workplace if the regulator reasonably believes that legacy asbestos is present in the workplace and the legacy asbestos is a risk to the health and safety of workers in the workplace.

Recommendation 18: Amend the model WHS Act to introduce an express duty for providers of work health and safety advice and services (including advice relating to asbestos), consistent with Western Australia.⁶ The duty should ensure WHS service providers take reasonable care that their advice and services do not create or increase risk, and provide for accountability where unsafe advice or services contribute to exposure or harm.

Obligation to report to the regulator and provide a statement of exposure to workers

Recommendation 19: Expand the scope of ‘dangerous incident’ in s.37 to include any asbestos incident that, based on a risk assessment using the Victorian Asbestos Eradication Agency four-factor model, is assessed as presenting an elevated risk of fibre release or worker exposure, including where asbestos-containing material is found to be deteriorated or disturbed.

Recommendation 20: strengthen notification requirements under s.38 - Duty to notify of notifiable incidents, to add a requirement to notify the workers in the workplace of the notifiable incident.

If recommendations 19 and 20 are not adopted, the model WHS Regulations should be amended to require a PCBU to inform workers of any exposure to asbestos (including in situations where exposure has occurred in organisation-provided accommodation).

We note that the model regulations require a PCBU to provide a worker with a written statement providing details of prohibited or restricted carcinogens which the individual may have been

⁶ Western Australia WHS Act s 26A

exposed to during their engagement, on termination of employment.⁷ We understand that this provision is not currently interpreted to cover exposure to asbestos. However, as the Discussion Paper notes, all forms of asbestos are carcinogenic to humans, so we believe this provision should apply to situations in which a worker uses, handles, or stores asbestos during their engagement.

Objective 7: Stronger union rights to take action around asbestos

Workers and their unions are too often sidelined when it comes to enforcing asbestos safety. Regulatory decisions can go unchallenged, and breaches may slip through the cracks because unions lack standing to review decisions or prosecute unsafe practices. Without union powers to hold duty holders to account, enforcement is weaker, and workers remain at risk.

Recommendation 21: Registered unions should be defined as ‘eligible persons’ entitled to seek review of reviewable decision listed at s 223 of the Work Health and Safety Act. This would include item 9A Section 197B (issue of prohibited asbestos notice) and item 9B Section 197E (extension of time for compliance with prohibited asbestos notice).

Recommendation 22: Amend the model laws to provide registered unions standing to initiate prosecutions for breaches of WHS laws, including those relating to asbestos.

⁷ Model WHS regulations 387.

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