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**VALUATION OF
ASBESTOS RELATED DISEASE LIABILITIES
OF FORMER JAMES HARDIE ENTITIES
("THE LIABLE ENTITIES")
TO BE MET BY THE SPECIAL PURPOSE FUND**

EFFECTIVE AS AT 31 MARCH 2006

PREPARED FOR JAMES HARDIE INDUSTRIES NV

15 MAY 2006



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15 May 2006

Mr Russell Chenu
Chief Financial Officer
James Hardie Industries NV
22 Pitt Street
Sydney NSW 2000

Dear Russell

**Valuation of asbestos-related disease liabilities of former James Hardie entities
("The Liable Entities") to be met by the Special Purpose Fund**

We are pleased to provide you with our actuarial valuation report relating to the asbestos-related disease liabilities of the Liable Entities which are to be met by the Special Purpose Fund.

This report is effective as at 31 March 2006 and has taken into account claims data and information from The Medical Research and Compensation Foundation ("MRCF") and Amaca Claims Services ("ACS") as at 28 February 2006, together with supplemental claims information as at 31 March 2006.

If you have any questions with respect to the contents of this report, please do not hesitate to contact us.

Yours sincerely

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EXECUTIVE SUMMARY

Important Note: Basis of Report

This valuation report ("the Report") has been prepared by KPMG Actuaries Pty Limited (A.B.N. 77 002 882 000) ("KPMG Actuaries") in accordance with "A deed in respect of a Final Funding Agreement in respect of the provision of long-term funding for compensation arrangements for certain victims of Asbestos-related diseases in Australia" (hereafter referred to as "the Final Funding Agreement") between James Hardie Industries NV, LGTDD Pty Limited and the State of New South Wales which was signed on 1 December 2005. This Report is intended to meet the requirements of the Final Funding Agreement and values the asbestos-related disease liabilities of the Liable Entities to be met by the Special Purpose Fund (which will be named the Asbestos Injuries Compensation Fund). This Report is not intended to be used for any other purpose and may not be suitable, and should not be used, for any other purpose. Opinions and estimates contained in the Report constitute our judgement as of the date of the Report.

The Report has made allowance for an estimate of the cost savings anticipated to arise as a result of the recent enactment of The Dust Diseases Tribunal Amendment (Claims Resolution) Act 2005 in New South Wales ("the DDT Act 2005").

In preparing the Report, KPMG Actuaries has relied on information supplied to it from various sources and has assumed that that information is accurate and complete in all material respects. KPMG Actuaries has not independently verified the accuracy or completeness of the data and information used for this Report.

Except insofar as liability under statute cannot be excluded, KPMG Actuaries, its directors, employees and agents will not be held liable for any loss or damage of any kind arising as a consequence of any use of the Report or purported reliance on the Report including any errors in, or omissions from, the valuation models.

The Report must be read in its entirety. Individual sections of the Report, including the Executive Summary, could be misleading if considered in isolation. In particular, the opinions expressed in the Report are based on a number of assumptions and qualifications which are set out in full in the Report.

Introduction

Both the Heads of Agreement and the Final Funding Agreement envisage the completion of an Annual Actuarial Report evaluating the potential asbestos-related disease liabilities of the Liable Entities to be met by the Special Purpose Fund.

The Liable Entities are defined as being the following entities:

- Amaca Pty Ltd (formerly James Hardie & Coy);
- Amaba Pty Ltd (formerly Jsekarb); and
- ABN60 Pty Ltd (formerly James Hardie Industries Ltd).

The Board of James Hardie have agreed that personal asbestos claims liabilities arising out of mining activities at Baryulgil will also be met by the Special Purpose Fund (these liabilities are referred to in the Final Funding Agreement as liabilities in relation to Marlew Claims).

Scope of report

We have been requested by James Hardie Industries NV ("James Hardie") to provide our actuarial assessment as at 31 March 2006 of the asbestos-related disease liabilities of the Liable Entities to be met by the Special Purpose Fund.

The assessment is on a central estimate basis and is based on the claims experience to 28 February 2006, together with supplemental claims information as at 31 March 2006. The Discounted Central Estimate takes into account the anticipated cost savings arising from the procedural reforms resulting from the DDT Act 2005.

A "central estimate" liability assessment is an estimate of the expected value of the range of potential future liability outcomes. In other words, if all the possible values of the liabilities are expressed as a statistical distribution, the central estimate is an estimate of the mean of that distribution. The central estimate liability represents the expected present value of the future asbestos-related claim payments by the Liable Entities in relation to future Proven Claims and Claims Legal Costs to be met by the Special Purpose Fund.

Throughout this report, we have made reference to terms which are defined in the Final Funding Agreement. Accordingly, we have attached, at Appendix H, a Glossary of Terms upon which we have relied.

Liability Assessment

At 31 March 2006, our central estimate of the liabilities of the Liable Entities to be met by the Special Purpose Fund taking credit for the anticipated cost savings from the implementation of procedural reforms resulting from the DDT Act 2005 in NSW (the Discounted Central Estimate) is \$1,517.0m (June 2005: \$1,568.4m).

Within that assessment, we have estimated the cost savings arising from the procedural reforms in NSW as being \$74.5m (June 2005: \$83.3m) and accordingly our central estimate of the net liabilities of the Liable Entities before any allowance for anticipated cost savings is \$1,591.5m (June 2005: \$1,651.7m).

The estimated cost savings equate to a reduction in Claims Legal Costs in NSW of approximately 38%.

If similar reforms as those enacted under the DDT Act 2005 were implemented in States outside of NSW (based on our assessment of the extent that such reforms would be relevant, applicable and equally called for by the other State Governments), then our central estimate of the liabilities of the Liable Entities would be \$1,468.0m (June 2005: \$1,513.3m). That is, we estimate the potential savings from the implementation of procedural reforms in other States at \$49.0m (June 2005: \$55.1m)

However, it should be noted that there has been no indication of a commitment by the Governments of the other States to accept or implement any procedural reforms at this time.

All of the above liability figures are discounted and are net of cross-claim recoveries, Insurance and Other Recoveries.

The following table shows a summary of our central estimate liability assessment and compares the current assessment with previous assessments.

Table E.1: Comparison of central estimate of liabilities

	March 2006			June 2005	March 2005
	\$m			\$m	\$m
	Gross of insurance recoveries	Insurance recoveries	Net of insurance recoveries	Net of insurance recoveries	Net of insurance recoveries
Total projected cashflows in current dollars (uninflated and undiscounted)	1,723.7	245.2	1,478.5	1,596.9	1,666.9
Future inflation allowance (base and superimposed inflation)	2,037.5	274.3	1,763.2	1,709.1	1,936.8
Total projected cash-flows with inflation allowance	3,761.2	519.5	3,241.7	3,306.0	3,603.7
Discounting allowance	(1,928.6)	(278.4)	(1,650.2)	(1,654.3)	(1,918.8)
Net present value liabilities (pre cost savings)	1,832.7	241.2	1,591.5	1,651.7	1,684.9
Net present value liabilities allowing for the DDT Act 2005 applying in NSW only*	1,749.6	232.6	1,517.0	1,568.4	n/a
Net present value liabilities allowing for procedural reforms applying nationally**	1,694.5	226.5	1,468.0	1,513.3	n/a

*This is based on our estimate that NSW represents 50% of the future liabilities. All future figures showing "NSW only" use this estimate.

**As noted in Section 6.4.9, the estimation of the legal cost savings arising from the other States is subject to considerably greater uncertainty than those assessed for NSW.

As we have noted in Section 1.3.1, Workers Compensation claims, being claims by current and former employees of the Liable Entities, are included to the extent that such liabilities are not met by a Workers Compensation Scheme or Policy (as a result of the existence of limits of indemnity and policy deductibles on those contracts of insurance). The amounts of Workers Compensation claims which are met by the contracts of insurance are not included with the definition of a Personal Asbestos Claim and are therefore not met by the Special Purpose Fund. Workers Compensation claims in excess of the insurance limits of indemnity are included in the definition of Personal Asbestos Claim and these amounts are therefore met by the Special Purpose Fund.

We have not allowed for the future Operating Expenses of the Special Purpose Fund or the Liable Entities in the liability assessments.

Comparison with previous valuations

Comparison with 30 June 2005 valuation

In the absence of any change to the claim projection assumptions from our 30 June 2005 valuation, other than allowing for the changes in the discount rate, we would have projected a Discounted Central Estimate liability of \$1,611.2m as at 31 March 2006. Consequently, our revised assessment at 31 March 2006, before any allowance for cost savings resulting from the DDT Act 2005, represents a reduction of \$19.7m from that assessment.

The reduction from that net liability estimate is principally a consequence of:

- An increase in the projected insurance recoveries owing to the inclusion of a separate allowance for public liability insurance recoveries;
- Emerging experience on reported claims being lower than estimated reflecting that claims which were pending are now estimated for amounts less than previously and that there were fewer claims reported in the period than was estimated and such claims will cost less than was previously estimated; and
- A lower assumed overall average cost per claim based on recent trends;

offset by

- A reduction in the proportion of claims which are expected to settle for nil cost; and
- An increase in the rate of claims inflation assumed based on recent emerging trends in average weekly earnings (AWE) inflation.

In addition, we have:

- Made an adjustment to rate of recovery from third parties (cross-claim recovery rate) based on recent emerging experience; and
- Made slight changes to settlement patterns based on more recent experience.

The following table shows an analysis of the change in our liability assessments from March 2005 to March 2006, including our 30 June 2005 assessment.

Table E.2: Analysis of change: March 2005 to June 2005 and March 2006

	March 2005 to June 2005	June 2005 to March 2006	March 2005 to March 2006
Net liability at start of valuation period	1,684.9	1,651.7	1,684.9
Expected net claims payments	17.3	48.3	65.6
Unwind of discount	23.6	63.3	86.9
Expected liability at end of valuation period	1,691.2	1,666.7	1,706.2
Change in discount rate	107.6	(55.5)	52.1
Expected net liability at end of valuation period adjusted for discount rate	1,798.8	1,611.2	1,758.3
Impact of Change in valuation bases:			
- Claim numbers	(107.5)	(3.2)	(110.7)
- Nil settlement rate	18.1	36.6	54.7
- Average claims costs	(26.3)	(38.3)	(64.6)
- Claims inflation		44.1	44.1
- Emerging experience on reported claims	(17.2)	(17.5)	(34.7)
- Cross-claim recovery rate		(9.8)	(9.8)
- Insurance Recoveries (including bad debt)		(28.6)	(28.6)
- Other (Baryulgil, settlement patterns, DDB reimbursement)	(14.2)	(3.0)	(17.2)
Total development in net liability	(147.1)	(19.7)	(166.8)
Net liability at end of valuation period	1,651.7	1,591.5	1,591.5
Net liability at end of valuation period allowing for cost savings in NSW only	1,568.4	1,517.0	1,517.0
Net liability at end of valuation period allowing for cost savings Australia-wide	1,513.3	1,468.0	1,468.0

Claims and legal costs

We have identified the elements of legal costs (defined as Claims Legal Costs) within our valuation.

Table E.3: Breakdown of components of net central estimate liabilities

	Net Liability at March 2006		Net Liability at June 2005		Net Liability at March 2005
	\$m		\$m		\$m
Net claim costs (excl Claims Legal Costs)	1,190.6		1,222.2		1,249.2
Total Claims Legal Costs (plaintiff and defendant costs)	400.9		429.5		435.7
Net Liability before cost savings	1,591.5		1,651.7		1,684.9
	NSW Only	Australi a-wide	NSW Only	Australi a-wide	
Estimate of cost savings	(74.5)	(123.5)	(83.3)	(138.4)	n/a
Net Liability after savings	1,517.0	1,468.0	1,568.4	1,513.3	1,684.9
Claims Legal Costs after savings	326.4	277.4	346.2	291.1	435.7
Claims Legal Costs, as % of gross costs of settlements	22.8%	19.4%	24.2%	20.3%	29.9%
Claims Legal Costs, as % of net costs of settlements	27.4%	23.3%	28.3%	23.8%	34.9%

Note: The net present value of the Insurance Recoveries have been assessed as \$241.2m for the March 2006 valuation; \$209.8m for the June 2005 valuation and \$207.6m for the March 2005 valuation

Final Funding Agreement calculations

The Final Funding Agreement sets out the basis on which payments will be made to the Special Purpose Fund. Additionally, there are a number of other figures specified within the Final Funding Agreement that we are required to calculate. These are:

- **Discounted Central Estimate:** This is the central estimate of the present value of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, after allowing for Insurance and Other Recoveries.
- **Term Central Estimate:** This is the central estimate of the present value of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, in each case which are reasonably expected to become payable up to 31 March 2045, after allowing for Insurance and Other Recoveries.
- **Period Actuarial Estimate:** This is the central estimate of the present value of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, in each case which are reasonably expected to become payable in the next three years, before allowing for Insurance and Other Recoveries.

Table E.4: Final Funding Agreement calculations (\$m): NSW cost savings scenario

	Post cost savings (NSW only)
Discounted Central Estimate (net of cross-claim recoveries, Insurance and Other Recoveries)	1,517.0
Period Actuarial Estimate (net of cross-claim recoveries, gross of Insurance and Other Recoveries) comprising:	248.7
Discounted value of cashflow in 2006/07	80.6
Discounted value of cashflow in 2007/08	83.3
Discounted value of cashflow in 2008/09	84.8
Term Central Estimate (net of cross-claim recoveries, Insurance and Other Recoveries)	1,514.3

It should be noted that the actual funding required at a particular date will depend upon a number of factors, including:

- the net asset position of the Special Purpose Fund at that time;
- the free cash flow amount of the JHINV Group in the preceding financial year;
and
- the actuarially assessed liabilities in the latest Annual Actuarial Report.

Uncertainty

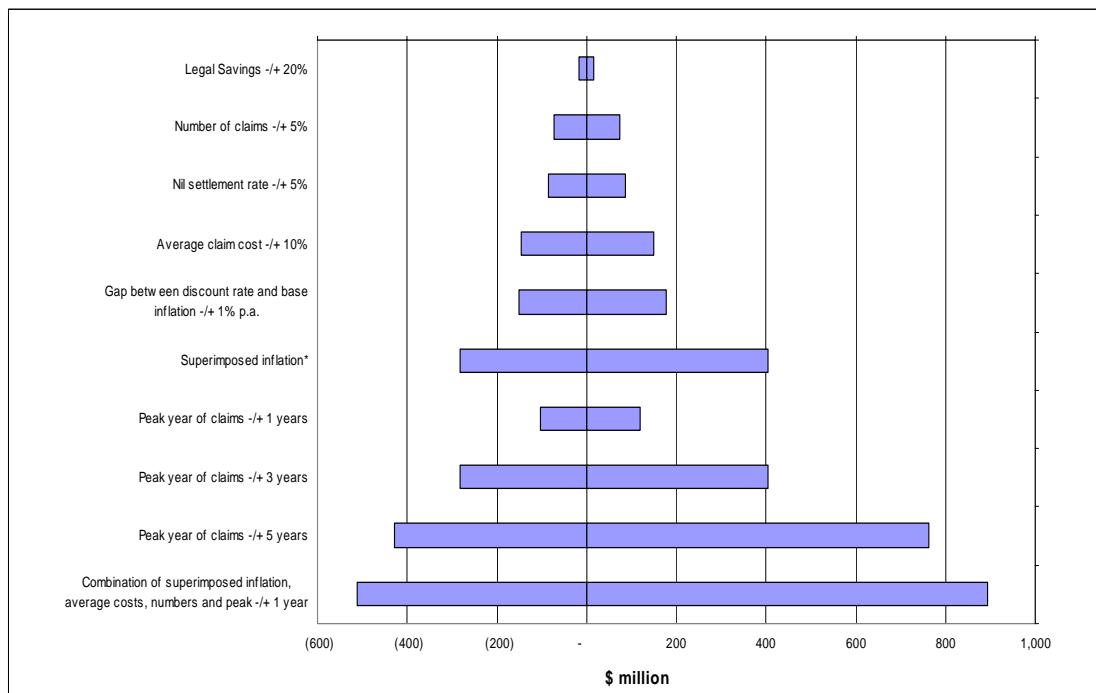
Estimates of asbestos-related disease liabilities are subject to considerable uncertainty. This includes uncertainty due to:

- The difficulty in quantifying the extent and pattern of past Asbestos exposures and the number and incidence of the ultimate number of lives that may be affected by Asbestos related diseases arising from such past asbestos exposures;
- The propensity of individuals affected by diseases arising from such exposure to file common law claims against defendants;
- The extent to which the Liable Entities will be joined in such future common law claims;
- The fact that the ultimate severity of the impact of the disease and the quantum of the claims that will be awarded will be subject to the outcome of events that have not yet occurred, including:
 - medical and epidemiological developments;
 - jury decisions;
 - court interpretations;
 - legislative changes;
 - changes to the form and range of benefits for which compensation may be awarded (“heads of damage”);
 - public attitudes to claiming;
 - the impact of new (and future) procedural reforms in NSW upon the legal costs incurred in managing and settling claims;
 - the potential for future procedural reforms in other States affecting the legal costs incurred in managing and settling claims in those States;
 - potential third-wave exposures; and
 - social and economic conditions such as inflation.

It should therefore be expected that the actual emergence of the liabilities will vary from any estimate. As indicated in Figure E.1, depending on the actual out-turn of experience relative to that currently forecast the variation could potentially be substantial. Thus, no assurance can be given that the actual liabilities of the Liable Entities to be met by the Special Purpose Fund will not ultimately exceed the estimates contained in this report and that any such variation may be significant.

Given this, we provide the following sensitivity tests of the actuarial assessment of the liabilities to changes in some key assumptions.

Figure: E.1 Sensitivity testing results – Impact around the net central estimate (discounted) (in \$m) at 31 March 2006, based on application of the DDT Act 2005 in NSW only



* The superimposed inflation sensitivity tests are for 6% per annum for 5 years reducing to 2% per annum; and 2% per annum for 5 years reducing to -2% per annum.

Whilst our combined sensitivity test of a number of factors (including superimposed inflation, average claim costs and numbers of claims) indicates a range around the central estimate of liabilities of -\$500m and +\$900m, the actual cost of liabilities could fall outside that range depending on the out-turn of the actual experience.

The above chart may imply that the single most sensitive assumption is potentially the peak year of claims. This is related to the fact that one of the most substantial uncertainties is the ultimate number of claims that may eventuate against the Liable Entities. Shifting the peak year by 5 years to 2015/2016 for mesothelioma would imply an increase in the future number of mesothelioma claims reported (both at a national level and to the Liable Entities) of around 50%.

Data, Reliances and Limitations

We have been provided with the following information by the MRCF and Amaca Claims Services ("ACS"):

- MRCF claims database at 28 February 2006 with individual claims listings;
- MRCF accounting database at 28 February 2006 (which includes individual claims payment details);
- Supplemental claims and accounting information from 1 March 2006 to 31 March 2006;
- MRCF Monthly Management Information Reports to 28 February 2006;
- MRCF Home Renovator Reports at various dates; and
- Detailed insurance bordereaux information (being a listing of claims filed with the insurers of the Liable Entities) provided by the MRCF as at 31 January 2006.

While we have tested the consistency of the various data sets provided, we have not otherwise verified the data and have relied on the data provided as being complete and accurate in all material respects. Consequently, should there be material errors or incompleteness in the data, our assessment could be affected materially.

Executive Summary Not Report

Please note that this executive summary is intended as a brief overview of our report. To properly understand our analysis and the basis of our liability assessment requires examination of our report in full.

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1 SCOPE AND PURPOSE

Important Note: Basis of Report

This valuation report ("the Report") has been prepared by KPMG Actuaries Pty Limited (A.B.N. 77 002 882 000) ("KPMG Actuaries") in accordance with "A deed in respect of a Final Funding Agreement in respect of the provision of long-term funding for compensation arrangements for certain victims of Asbestos-related diseases in Australia" (hereafter referred to as "the Final Funding Agreement") between James Hardie Industries NV, LGTDD Pty Limited and the State of New South Wales which was signed on 1 December 2005. This Report is intended to meet the requirements of the Final Funding Agreement and values the asbestos-related disease liabilities of the Liable Entities to be met by the Special Purpose Fund (which will be named the Asbestos Injuries Compensation Fund). This Report is not intended to be used for any other purpose and may not be suitable, and should not be used, for any other purpose. Opinions and estimates contained in the Report constitute our judgement as of the date of the Report.

The Report has made allowance for an estimate of the cost savings anticipated to arise as a result of the recent enactment of The Dust Diseases Tribunal Amendment (Claims Resolution) Act 2005 in New South Wales ("the DDT Act 2005").

In preparing the Report, KPMG Actuaries has relied on information supplied to it from various sources and has assumed that that information is accurate and complete in all material respects. KPMG Actuaries has not independently verified the accuracy or completeness of the data and information used for this Report.

Except insofar as liability under statute cannot be excluded, KPMG Actuaries, its directors, employees and agents will not be held liable for any loss or damage of any kind arising as a consequence of any use of the Report or purported reliance on the Report including any errors in, or omissions from, the valuation models.

The Report must be read in its entirety. Individual sections of the Report, including the Executive Summary, could be misleading if considered in isolation. In particular, the opinions expressed in the Report are based on a number of assumptions and qualifications which are set out in full in the Report.

1.1 Introduction

1.1.1 Chronology of events

In February 2001, the Medical Research & Compensation Foundation (“MRCF”) was established as a charitable trust to meet the asbestos-related liabilities of two former subsidiaries of the James Hardie Group of Companies, namely Amaca Pty Ltd (formerly James Hardie & Coy) and Amaba Pty Ltd (formerly Jsekarb).

In February 2004, the NSW Government established the Special Commission of Inquiry into the Establishment of the MRCF. In September 2004, one of the findings of the Inquiry was that the MRCF was under-funded insofar as it would not have sufficient assets to meet its expected future obligations.

During the Special Commission of Inquiry, James Hardie Industries NV (“James Hardie”) made an offer to fund the liabilities of the Liable Entities subject to certain conditions and shareholder approval. Subsequent to the Special Commission of Inquiry’s findings, negotiations began to establish the basis on which the funding may take place.

A “Heads of Agreement” was signed on 21 December 2004 between James Hardie, the ACTU, a representative of the Asbestos Victims Groups, UnionsNSW and the NSW Government. This was a non-binding agreement which set out the principles upon which the Final Funding Agreement would be based.

The Final Funding Agreement was signed by James Hardie and the NSW Government on 1 December 2005 and will, subject to lender and shareholder approval and the meeting of all of the Conditions Precedent, provide a basis for the ongoing funding of those asbestos-related disease liabilities which are intended to be met by the Special Purpose Fund.

1.1.2 Liability assessments undertaken by KPMG Actuaries

KPMG Actuaries Pty Ltd (“KPMG Actuaries”) was retained by James Hardie and Allens Arthur Robinson (“AAR”) during the Special Commission of Inquiry to provide an assessment of the asbestos-related disease liabilities of the MRCF at 30 June 2003.

Within the valuation as at 30 June 2003, KPMG Actuaries estimated the discounted value of the quantifiable liabilities of the MRCF on a “central estimate” basis as \$1,573.4m (equivalent to an undiscounted estimate of \$3,403.1m), based on the then current economic and legal environment, net of insurance recoveries and after allowance for claims-related legal costs.

Since that time, KPMG Actuaries has been retained to provide updated assessments of the liabilities at various dates.

The following table shows the valuation assessments made by KPMG Actuaries.

Table 1.1: Summary of valuation assessments by KPMG Actuaries

Valuation Date	Based on data as at	Report release date	Discounted Central Estimate (\$m)	Undiscounted central estimate (\$m)
30/06/03	30/06/03	07/06/04	1,573.4	3,403.1
30/06/04	18/10/04	21/11/04	1,536.0	3,585.6
31/03/05	31/03/05	14/05/05	1,684.9	3,603.7
30/06/05 ^(a)	24/06/05	01/12/05	1,568.4	3,131.0
31/03/06 ^(b)	28/02/06 ^(c)	15/05/06	1,517.0	3,079.2

Notes:

(a) The valuation at 30 June 2005 included an allowance for cost savings in NSW. The relevant discounted and undiscounted figures, before cost savings, are \$1,651.7m and \$3,306.0m respectively.

(b) The valuation at 31 March 2006 includes an allowance for cost savings in NSW. The relevant discounted and undiscounted figures, before costs savings, are \$1,591.5m and \$3,241.7m respectively.

(c) The valuation has included supplemental claims and accounting information to 31 March 2006.

The precise scope of the liability assessment of the various historic reports has varied, including varying from the scope of this Report which quantifies the liabilities which are to be met by the Special Purpose Fund as set out in the Final Funding Agreement. Accordingly, comparison between the various estimates of liabilities requires some care and should be regarded as indicative only.

1.2 Purpose of this report

Both the Heads of Agreement and the Final Funding Agreement envisage the completion of an Annual Actuarial Report evaluating the potential asbestos-related disease liabilities of the Liable Entities to be met by the Special Purpose Fund.

1.2.1 *Liable Entities*

The Liable Entities are defined as being the following entities:

- Amaca Pty Ltd (formerly James Hardie & Coy);
- Amaba Pty Ltd (formerly Jsekarb); and
- ABN60 Pty Ltd (formerly James Hardie Industries Ltd).

The Board of James Hardie have agreed that personal asbestos claims liabilities arising out of mining activities at Baryulgil will also be met by the Special Purpose Fund (these liabilities are referred to in the Final Funding Agreement as liabilities in relation to Marlew Claims).

1.2.2 *Personal asbestos claims*

Under the Final Funding Agreement, the liabilities to be met by the Special Purpose Fund relate to personal asbestos-related disease liabilities of the Liable Entities.

Such claims must relate to exposure which took place in Australia and which have been brought in a Court in Australia.

The precise scope of the liabilities is detailed in Section 1.3 and in Appendix H.

1.2.3 *Purpose of report*

KPMG Actuaries has been retained by James Hardie to provide the first Annual Actuarial Report as envisaged under the Final Funding Agreement. The prior written consent of KPMG Actuaries is required for any other use of this report or the information contained in it.

Our valuation is intended to be effective as at 31 March 2006 and has been based on claims data and information provided as at 28 February 2006, together with supplemental claims information as at 31 March 2006 provided to us by Amaca Claims Services (“ACS”).

The Medical Research and Compensation Foundation, Amaca Pty Limited and Amaba Pty Limited are not responsible for, and did not request, the preparation of this report.

Nonetheless, the MRCF have requested to see, and will be provided with, a copy of this report.

We thank the MRCF and ACS for the provision of the data, the availability of their staff and for their general assistance and co-operation.

1.3 Scope of report

We have been requested by James Hardie to provide an actuarial assessment as at 31 March 2006 of the asbestos-related disease liabilities of the Liable Entities to be met by the Special Purpose Fund.

The assessment is on a central estimate basis and is based on the claims experience to 28 February 2006, together with supplemental claims information as at 31 March 2006. The Discounted Central Estimate takes into account the anticipated cost savings arising from the procedural reforms resulting from the DDT Act 2005.

A "central estimate" liability assessment is an estimate of the expected value of the range of potential future liability outcomes. In other words, if all the possible values of the liabilities are expressed as a statistical distribution, the central estimate is an estimate of the mean of that distribution. The central estimate liability represents the expected present value of the future asbestos-related claim payments by the Liable Entities in relation to future Proven Claims and Claims Legal Costs to be met by the Special Purpose Fund.

It is of note that our liability assessment:

- Relates to the Liable Entities and Marlew (in relation to Marlew Claims arising from asbestos mining activities at Baryulgil);
 - Is intended to cover:
 - The amount of settlements, judgments or awards for all Personal Asbestos Claims.
 - Claims Legal Costs incurred by the Special Purpose Fund in connection with the settlement of Personal Asbestos Claims.
 - Is not intended to cover:
 - Personal injury or death claims arising from exposure to asbestos which took place outside Australia.
 - Personal injury or death claims, arising from exposure to Asbestos, which are brought in Courts outside Australia.
 - Claims for economic loss, other than any economic loss forming part of an award for damages for personal injury and/or death.
 - Claims for loss of property, including those relating to land remediation.
-

- The costs of asbestos or asbestos product removal relating to asbestos or asbestos products manufactured or used by or on behalf of the Liable Entities.
- Includes an allowance for:
 - Compensation to the NSW Dust Diseases Board or a Workers Compensation Scheme by way of a claim by such parties for contribution or reimbursement from the Liable Entities, but only to the extent that the cost of such claims is less than the limits of funding for such claims as outlined within the Final Funding Agreement.
 - Workers Compensation claims, being claims from current and former employees of the Liable Entities, but only to the extent that such liabilities are not met by a Workers Compensation Scheme or Policy (see section 1.3.1).
- Assumes that the product and public liability insurance policies of the Liable Entities will continue to respond to claims as and when they fall due. We have not made any allowance for the impact of any disputation concerning Insurance Recoveries nor of any legal costs that may be incurred in resolving such disputes.
- Makes no allowance for potential Insurance Recoveries that could be made on insurance contracts placed from 1986 onwards which were placed on a “claims made” basis.
- Makes no allowance for the future Operating Expenses of the Liable Entities or the Special Purpose Fund.
- Assumes a continuation of the existing legal environment in relation to claims settlements.
- Makes no additional allowance for the inherent uncertainty of the liability assessment. That is, no additional provision has been included in excess of a central estimate.
- Makes allowance for an estimate of the potential savings arising from the procedural reforms in NSW resulting from the enactment of the DDT Act 2005 which became an Act on 26 May 2005 and had been substantially proclaimed and became effective on 1 July 2005.

Readers of this report may refer to our previous reports (as set out in Section 1.1.2) which are available at www.ir.jameshardie.com.au.

1.3.1 *Workers Compensation*

Workers Compensation claims are claims made by current and former employees of the Liable Entities. Such past, current and future reported claims were insured with, amongst others, Allianz Australia Limited (“Allianz”) and the various State-based Workers Compensation Schemes.

Under the Final Funding Agreement, the part of future Workers Compensation claims that are met by a Workers Compensation Scheme or Policy of the Liable Entities are outside of the Special Purpose Fund. The Special Purpose Fund is, however, to provide for any part of a claim not covered by a Workers Compensation Scheme or Policy (e.g. as a result of the existence of limits of indemnity and policy deductibles on those contracts of insurance).

On this basis our liability assessment in relation to Workers Compensation claims and which relates to the Special Purpose Fund, includes only the amount borne by the Liable Entities in excess of the anticipated Insurance Recoveries.

In making our assessment we have assumed that the Workers Compensation insurance programme will continue to respond to claims by current and former employees of the Liable Entities as and when they fall due. To the extent that they were not to respond owing to (say) insurer insolvency, insurer guarantee funds should be available to meet such obligations.

1.3.2 *ABN60 Liability*

Overall our current assessment is that the asbestos-related disease liabilities of ABN60 are not material within the context of the overall liability of the Liable Entities. We have formed this view based on the following considerations.

To date, there have been 97 claims filed against ABN60 or James Hardie Industries Limited, of which 3 were filed in 2001/02, 1 filed in 2002/03 and 2 filed in 2004/05. To our knowledge there have been no claims filed against ABN60 in 2005/06.

We note that the claims against ABN60 have been in relation to:

- Claims by former employees of JHIL employed prior to 1937 (9);
 - New Zealand claims (15);
 - Cross-claims by Pacific Power (37);
 - Claims from Baryulgil (9); and
-

- Other cross-claims (27).

We understand many of these claims (particularly from New Zealand, Pacific Power and Baryulgil) have not resulted in any judicial determination of liability against ABN60 and that the level of cost arising from these claims has been relatively insubstantial. In terms of employee claims the latest date of exposure should be 1937.

There remain 2 open claims (relating to one claimant) and the judgment on this case is expected to be handed down later this year.

1.3.3 *Baryulgil*

In light of the agreement by the Board of James Hardie to incorporate claims arising from mining activities at Baryulgil (called “Marlew Claims” in the Final Funding Agreement) into the Special Purpose Fund, where they are not otherwise recoverable from other sources, we have made allowance for the potential liabilities arising from exposure at Baryulgil, specifically:

- Claims made against Amaca or ABN60 resulting from their past ownership of the mine, or in the case of Amaca also in relation to their joint venture with Wunderlich, are to be covered by the Special Purpose Fund.
- Claims made against the subsequent owner of the mine (following its sale by James Hardie Industries to Woodsreef in 1976), being Marlew Mining Pty Ltd (“Marlew”) which is in liquidation, are to be met by the Special Purpose Fund except where such claims are Excluded Marlew Claims, which are recoverable by the Claimant from other sources.

Baryulgil claims are discussed further in Section 8.11.

1.3.4 *Risk Margins*

It has been common practice for insurance companies, and in some cases non-insurance companies, to hold claims provisions at a level above the central estimate basis to reflect the uncertainty attaching to the liability assessment and to include an allowance in respect of that uncertainty.

A risk margin is an additional amount held, above the central estimate, which is held so as to increase the likelihood of adequacy of the provisions to meet the ultimate cost of settlement of those liabilities.

We have not provided an assessment of any risk margins to supplement the central estimate of the liabilities.

We have, however, provided sensitivity tests on the central estimate of the liabilities based upon a range of different scenarios. This has been addressed in Section 13.

We note in this context that the Final Funding Agreement envisages the ongoing financing of the Special Purpose Fund is to be based on a “central estimate” approach and that the Annual Actuarial Report should provide a Discounted Central Estimate valuation.

1.3.5 *Cost savings*

Our 31 March 2006 liability assessment includes an allowance for an estimate of the future cost savings anticipated from the procedural reforms in NSW arising from the enactment of the DDT Act 2005 in NSW.

The DDT Act 2005 was introduced following the NSW Government Review which was conducted by Mr Laurie Glanfield AM, Director-General of the Attorney General’s Department and Ms Leigh Sanderson, Deputy Director-General of the Cabinet Office. This Review made a number of recommendations aimed at improving the efficiency of the litigation process.

These recommendations were incorporated into the DDT Act 2005 which became an Act on 26 May 2005 and became effective on 1 July 2005.

Our report makes allowance for the impact of the DDT Act 2005 applying in NSW. However, we have also been asked to quantify the potential impact if reforms similar to the DDT Act 2005 are applied in the other States. Throughout this report we refer to “Australia-wide” or “DDT Act 2005 applying nationally” in this regard.

We note that technically and legally the DDT Act 2005 cannot apply in the other States and readers should note that our comments are a short-hand way of expressing the impact of the application, where appropriate, of similar reforms to those enacted under the DDT Act 2005.

To date, there has been insufficient number of claims settled under the new procedures from which to make a revised determination of the potential savings in NSW from the DDT Act 2005 and we have accordingly maintained the methodology previously used to estimate the potential savings.

1.4 Areas of potential exposure not included

As identified in Section 1.3, there are other potential sources of claims exposure beyond those directly considered within this report. However, while many of them are possible they are by no means certain and in a number of cases they are unquantifiable even if they have the potential to generate claims. This is especially the case for those sources of future claim where there has been no evidence of claims to date.

Areas of potential changes in claims exposure we have not explicitly allowed for in our valuation include:

- Future significant individual landmark and precedent-setting judicial decisions;
 - Significant medical advancements;
 - Unimpaired claims, i.e. claims for fear, stress, pure nervous shock or psychological illness;
 - A change in the basis of compensation for asymptomatic pleural plaques for which no associated physical impairment is exhibited;
 - A proliferation of “third-wave” claims, i.e. claims arising as a result of indirect exposure such as home renovation, washing clothes of family members that worked with asbestos, or from workers involved in removal of asbestos or demolition of buildings containing asbestos;
 - Changes in legislation, especially those relating to tort reform for asbestos sufferers;
 - Introduction of new, or elimination of existing, heads of damage;
 - Exemplary and aggravated or punitive damages (being damages awarded for personal injuries caused as a result of negligence or reckless conduct);
 - Changes in the basis of apportionment of awards for asbestos-related diseases for claimants who have smoked;
 - Changes in the basis of compensation following the recent court case relating to the compensability of Sullivan vs. Gordon damages, CSR vs. Eddy (2005) HCA 64, or following the announcement by the NSW Government that they are introducing changes to the Civil Liability legislation (“Civil Liability Amendment Bill 2006”) which will have the effect of reintroducing some Sullivan vs. Gordon benefits into dust diseases compensation;
-

- Any changes to GST or other taxes; and
- Future bankruptcies of other asbestos claim defendants (i.e. other liable manufacturers or distributors).

Nonetheless, some implicit allowance is made in respect of some of these items in the allowance for superimposed inflation included in our liability assessment and to the extent that some of these have emerged in past claims experience.

We have made no allowance for the risk of further development in relation to New Zealand exposures and the rights of claims from New Zealand claimants in Australian courts (as per *Frost vs. Amaca Pty Ltd (2005)*, NSWDDT 36 although we understand this decision is under appeal) nor for the risk of additional exposures from overseas. This is because, as noted in Section 1.3, the Special Purpose Fund will not meet the cost of these claims as they are Excluded Claims.

We discuss these matters further in Section 3.2.1.

1.5 Data reliances and limitations

KPMG Actuaries has relied upon the accuracy and completeness of the data with which it has been provided. KPMG Actuaries has not verified the accuracy or completeness of the data, although we have undertaken steps to ensure its consistency with data previously received. However, KPMG Actuaries has placed reliance on the data previously received, and currently provided, as being accurate and complete in all material respects.

Our assessment of the asbestos-related disease liabilities of the Liable Entities does not have regard to the way in which the liabilities may be funded by James Hardie or the Special Purpose Fund. Depending on how the liabilities are funded or financed, including the earnings experience of any assets held to back the liabilities, the ultimate cost of meeting the liabilities may vary significantly from the liability amounts shown in this report.

1.6 Uncertainty

It must be understood that estimates of asbestos-related disease liabilities are subject to considerable uncertainty. This is due to the fact that the ultimate disposition of future claims, whether reported or not, will be subject to the outcome of events that have not yet occurred. Examples of these events, as noted in Section 1.4, include jury decisions, court interpretations, legislative changes, epidemiological developments, medical advancements, public attitudes, potential third-wave exposures and social and economic conditions such as inflation.

It should therefore be expected that the actual emergence of the liabilities will vary, perhaps materially, from any estimate. Thus, no assurance can be given that the actual liabilities of the Liable Entities to be met by the Special Purpose Fund will not ultimately exceed the estimates contained herein and that any such variation may be significant.

Nonetheless, we provide our best estimates based on our current expectations of future such events.

1.7 Distribution and use

The purpose of this report is as stated in Sections 1.2 and 1.3. This report should not be used for any purpose other than those specified.

This report is to be provided to the Board of James Hardie. We also understand this report will be provided to other professional advisers to James Hardie, and to PricewaterhouseCoopers in their capacity as auditors to James Hardie.

KPMG Actuaries notes that this report will also be provided to the NSW Government and its advisers.

KPMG Actuaries provide our consent for this report to be made available in its entirety to the above-mentioned parties, and for it to be filed with the ASX and placed on James Hardie's website in its entirety.

To the extent permitted by law, KPMG Actuaries will not be responsible to third parties for the consequences of any actions they take based upon the opinions expressed within this report, including any use of or purported reliance upon this report not contemplated in Sections 1.2 and 1.3.

Where distribution of this report is permitted by KPMG Actuaries, the report may only be distributed in its entirety and judgements about the conclusions and comments drawn from this report should only be made after considering the report in its entirety and with necessary consultation with KPMG Actuaries.

1.8 Author of the report

This report is signed by Richard Wilkinson, General Insurance Practice Leader of KPMG Actuaries, a Fellow of the Institute of Actuaries (London) and a Fellow of the Institute of Actuaries of Australia.

This report is co-signed by Greg Martin, Managing Director of KPMG Actuaries and a Fellow of the Institute of Actuaries of Australia, in his capacity as peer reviewer.

1.9 Professional standards and compliance

This report details a valuation of the outstanding claims liabilities of entities which hold liabilities with features similar to general insurance liabilities as a self-insured entity, and which has purchased related insurance protection.

This report complies with the current version of Professional Standard 300 of the Institute of Actuaries of Australia ("PS300"), "Actuarial Reports and Advice on General Insurance Technical Liabilities". The effective date of the current version of PS300 is April 2002.

However, as we note in Section 1.3, this report does not include an allowance for the future Operating Expenses of the Liable Entities or the Special Purpose Fund and nor does it include any allowance for a risk margin to reflect the inherent uncertainty in the liability assessment.

2 EXPOSURE HISTORY OF JAMES HARDIE'S FORMER SUBSIDIARIES¹

2.1 Overview

In 1916, James Hardie opened its first asbestos factory at Camellia in Sydney. Between 1916 and 1987, James Hardie and its subsidiaries produced and developed a variety of products including:

- Asbestos cement pipes;
- Asbestos cement sheeting and building products;
- Lagging and other insulation products; and
- Brake linings and other friction products.

2.2 Baryulgil mining activities²

Asbestos Mines Pty Limited owned and operated a small chrysotile (white asbestos) mine at Baryulgil NSW. We understand the history of the Baryulgil mine to be briefly as follows:

Table 2.1: History of Baryulgil mine

1940	Wunderlich Ltd begins developing the asbestos deposits.
1944	Wunderlich Ltd and James Hardie & Coy (now Amaca Pty Ltd) commence a joint venture to operate the mine at Baryulgil in the name of Asbestos Mines Pty Ltd.
1953	James Hardie & Coy purchases the remaining 50% interest in Asbestos Mines Pty Ltd from Wunderlich Ltd.
1954	Ownership of Asbestos Mines Pty Ltd is transferred to James Hardie Asbestos Ltd (subsequently renamed James Hardie Industries Ltd and now known as ABN60)
1976	Asbestos Mines Pty Ltd, later Marlew Mining Pty Ltd (now in liquidation), is sold by James Hardie Asbestos Ltd to Woodsreef Mines Ltd, which continued to operate the mine.
1979	Woodsreef ceased mining operations at Baryulgil.

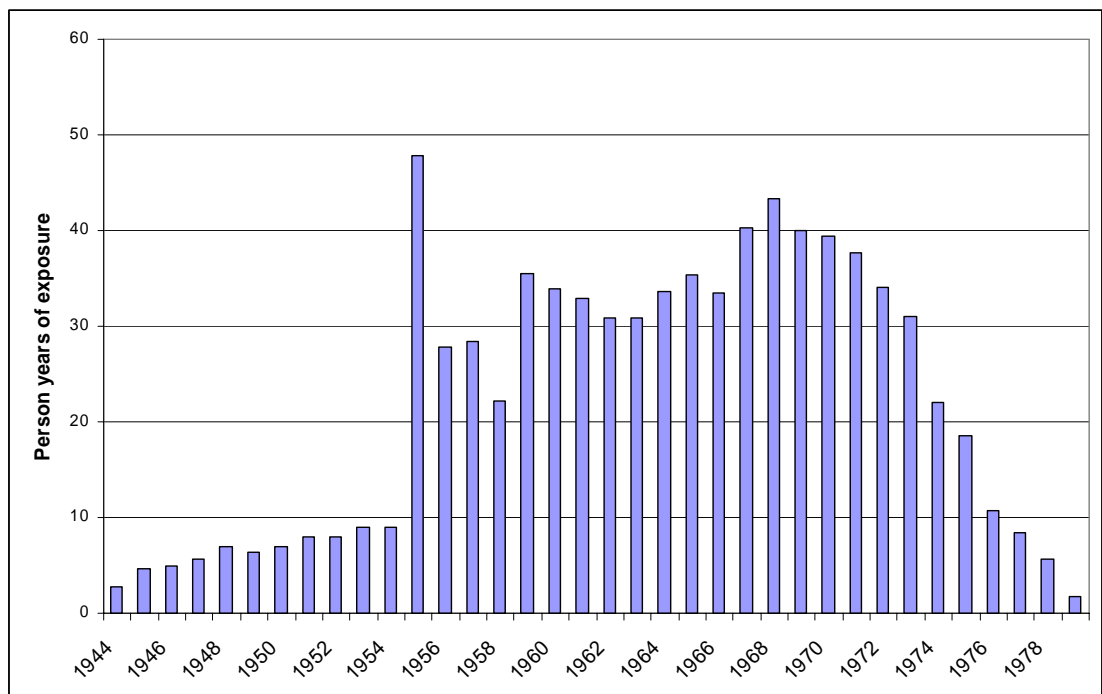
¹ This section is substantially based on a paper submitted to the Special Commission of Inquiry and was included as the Special Commission of Inquiry Appendix J, Paper entitled "James Hardie and Asbestos" (15 January 2001) prepared by Mr Wayne Attrill, a former employee of James Hardie Industries Ltd.

² This section is substantially based on the press release from James Hardie dated 24 March 2005 and on workforce statistics and information we were provided with.

It has been stated that the Baryulgil mine workforce was never more than approximately 40 people at any one time and that through the early 1940s to the closure of the mine in 1979 the employees included approximately 350 people in aggregate.

The chart below shows the number of person years of exposure for workers in each year based on the data provided and agreed upon during the Parliamentary Inquiry in 1984.

Figure 2.1: Person years of exposure by year of exposure for Baryulgil mine workers: 1944 to 1979



It can be seen that there appears to be a spike in 1955. We believe this is due to some prior data in relation to the workers' period of employment not being available and a dummy value (1955) being adopted in the database of workers submitted to the Parliamentary Inquiry.

What this means is that the number of workers in 1955 is over-stated and those in prior years is likely to be under-stated slightly.

The chart shows that there were up to 40 people working in the mine each year, and an overall average of 20-25 people, which is consistent with the commentary provided by James Hardie. The database also shows that there were about 350 workers who ever worked at the mine. This implies that over the 35 year period, the average length of service was about 2 years per individual. However, we note that there are some workers who worked at the mine for only a matter of weeks.

2.3 Asbestos cement

Production of asbestos cement based products was James Hardie & Coy's primary business. The products it produced came in the form of building products and asbestos cement pipes.

Production of asbestos cement pipes began in 1926 but the use of asbestos cement pressure pipes for water and sewerage use did not become widespread until autoclaving of pipes was introduced in the early 1950s.

Prior to the mid-1980s, James Hardie & Coy manufactured flat and corrugated asbestos cement sheets for internal and external wall cladding in buildings and for roofs, and asbestos cement water and sewer pipes.

The major fibre used in the manufacture of asbestos cement products was chrysotile.

Amosite (brown asbestos) was not used in James Hardie & Coy products until the 1950s, and small quantities of amosite continued to be used in asbestos cement products until about 1980.

James Hardie & Coy also used crocidolite (blue asbestos) in pressure pipes and building products, such as roofing products, from the mid-1950s until about 1968. The crocidolite was sourced from the CSR mine at Wittenoom.

Asbestos content of pipes was approximately 15% of which about 12% was chrysotile and the remainder amosite. During the period 1956–1968, crocidolite was also used (about 2%).

The asbestos content of James Hardie & Coy's asbestos cement sheet ranged from 8% to 15%, and was predominantly chrysotile with small amounts of amosite and crocidolite, with crocidolite only used up to 1968.

2.4 Insulation products

Asbestos containing insulation products were first manufactured by James Hardie & Coy in the 1930s, and by the 1950s James Hardie & Coy had established itself in the market with a product called 85% Magnesia.

In 1964 James Hardie & Coy formed a joint venture with CSR and Bradford Insulation known as Hardie-BI Company to make and market insulation products.

Major products produced were 85% Magnesia and K-Lite. Both products contained about 15% amosite. The partnership was dissolved in 1974 and James Hardie & Coy ceased production of asbestos thermal insulation products at that time.

2.5 Brake linings

James Hardie & Coy had initially entered the brakes and friction products market in the early 1930s and had a well-established business by 1950 under the brand name "Five Star".

In 1963 James Hardie & Coy entered into the Hardie-Ferodo joint venture with Ferodo of the UK. Hardie-Ferodo carried out considerable product development work, particularly with regard to railway rolling stock brakes. The partnership dissolved in 1978 and the business was renamed Better Brakes (and later became known as Jsekarb).

Jsekarb manufactured brake linings for motor vehicles, railway wagons and locomotives, and ceased using asbestos in their manufacturing process in 1987.

The only asbestos used in friction products was chrysotile.

3 AREAS OF POTENTIAL EXPOSURE

3.1 Overview

In Section 1.4, we identified some sources of exposure and uncertainty that may not explicitly, or implicitly, be factored into our valuation. The impact of the emergence of these might be to increase, or decrease, the future number of claims or the overall costs in relation to the liabilities of the Liable Entities.

3.2 Potential changes to the number of future claims

3.2.1 Overseas exposures

Whilst overseas claims remain a source of potential exposure for the Liable Entities, they will not impact the liabilities of the Liable Entities to be met by the Special Purpose Fund as the Special Purpose Fund will not meet claims relating to:

- Exposure to asbestos to the extent it took place overseas; and/or
- Claims made overseas relating to asbestos exposure (regardless of the place of exposure).

3.2.2 Third-wave claims

We have made some implicit allowance for so-called “third-wave” claims. These are claims for personal injury and / or death arising from asbestos exposure during home renovations by individuals or to builders involved in such renovations. Such claims are allowed for within the projections to the extent to which they have arisen to date and to the extent our exposure model factors in such tertiary exposures in its extrapolation.

Nonetheless, we have not allowed for a surge in such claims in the future arising from renovations, but conversely we have not allowed for a tempering of those third-wave claims included within our projection as a result of improved education of individuals of the risks of such home renovations, or of any local Councils or State Governments passing laws in this regard.

However, it should be noted that claims for the cost of asbestos or asbestos product removal from homes and properties or any claims for economic loss arising from asbestos or asbestos products being within such homes and properties will not be met by the Special Purpose Fund.

3.2.3 *Unimpaired claims*

Unimpaired claims are claims made by plaintiffs where the plaintiff does not exhibit any physical symptoms of injury or damage. This would include claims for fear and stress.

We have not allowed for the admissibility of “unimpaired claims” within the Australian Court system.

In the case of *Thompson vs. CSR* (NSWDDT 7/2003), the estate of Mr Thompson made a retrospective claim for fear of contracting mesothelioma 14 years before onset. In this case, Judge O’Meally ruled that the fear was not compensable. The NSW Court of Appeal ((2003) 59 NSWLR 77) upheld that fear was not compensable.

This case was appealed by the estate of Mr Thompson to the High Court of Australia (where it became *CSR vs. Eddy*) but the issue of whether fear was compensable was not the subject of that appeal.

3.2.4 *Pure nervous shock claims*

“Pure” nervous shock claims are claims which are unrelated to an underlying disease. Where there is a psychiatric illness, general damages may be payable and economic loss may also be payable where the inability to work is a result of the psychiatric illness.

In Western Australia in October 2004, an appeal case concerning Arturo Della Maddalena, a past employee of CSR at Wittenoom mine was heard. Mr Della Maddalena worked at Wittenoom, owned by CSR, from 1961 until it closed in 1966. During this period he was exposed to blue asbestos dust.

An investigation of 42 of Mr Della Maddalena's former workmates found 39 of them had died from asbestos-related diseases.

In the first Court hearing, the primary judge’s determination was that he did not accept there to be evidence of psychiatric illness, or evidence that it arose from asbestos exposure.

However, on appeal the second judge rejected the primary judge’s decision as to the acceptability of the evidence placed before him. The Court of Appeal accepted Mr. Maddalena’s claim for psychiatric illness.

The defendants to the claim appealed the case to the High Court of Australia on two narrow points of law:

- Whether an appellate court is entitled to substitute its own findings as to the credibility of a witness for that of the trial judge; and
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- Whether the appellate court had breached procedural fairness in expressing a preference for evidence of a particular expert witness described as being "well known to the Court".

The outcome of that appeal was that a new trial has been ordered, so it is possible that further judicial consideration will be given to this question if the matter is put before the courts again.

To the extent that other such cases arise in the future, in many cases they would likely represent a bringing forward of some future eventual claims, rather than outright additional claims.

We have assumed that stress or fear from potential exposure, which is not accompanied by a disease, will not result in a material additional net cost of claims for compensation.

3.2.5 *Pleural plaques*

Pleural plaques are formations of scarred tissue which form on the inside of the chest wall. They usually take about 20 years to emerge following exposure to asbestos but symptoms are rarely associated with pleural plaques. Current medical opinion is that pleural plaques do not shorten life and that their existence does not increase the possibility of developing an asbestos-related disease but rather acts as an indicator that exposure to asbestos has taken place.

If an individual presents benign pleural plaques without any demonstrable physical impairment, the individual would not currently be compensated within Australia for the existence of pleural plaques. Our liability assessment makes no allowance for benign pleural plaque claims without any associated physical impairment.

However, scarring which is associated with a certain level of physical impairment, such as reduced "total lung capacity" or "forced vital capacity", or diffuse pleural thickening would currently be compensated within Australia.

Such claims have arisen in the past and are included within our disease category "ARPD & Other". Accordingly, we have allowed for these within our liability assessment.

3.3 Potential changes to claims costs

3.3.1 Legal environment

We have not explicitly allowed for the emergence of new heads of damage or the significant extension of current heads of damage, or for any overturn or restriction of current heads of damage.

However, allowance for these is, in part, implicit within the rate of superimposed inflation we have assumed.

3.3.2 Sullivan vs. Gordon

The decision in Sullivan vs. Gordon (1999) 47 NSWLR 31, [1999] NSWCA 338 allowed a plaintiff to claim compensation for the value of the services which the plaintiff could no longer perform to family members as a result of their injury, incapacity and/or death.

Benefits could be claimed for past and future loss, including post-death gratuitous services, based on a normal life expectancy of the individual and not to the actual date of death.

However, on 21 October 2005, the High Court of Australia passed down its decision in CSR vs. Eddy [2005] HCA64 in which it overruled Sullivan vs. Gordon and determined that such losses, if compensable, would already be compensated as general damages rather than being compensable as a separate head of damage. The High Court accordingly reduced the claim from \$465,899 to \$300,419 (a reduction of \$165,480).

On 28 November 2005 the Attorney-General for South Australia, Michael Atkinson announced that there would be legislative reform in South Australia in relation to dust diseases claims. The Dust Diseases Act 2005 (SA) Bill was proclaimed on 8 February 2006, and the Bill indicated that the South Australian reforms would overturn the decision in CSR vs. Eddy.

Were the decision in CSR vs. Eddy to be applied in the future for claims involving mesothelioma and lung cancer, a significant proportion of Sullivan vs. Gordon benefits could be eliminated and some degree of savings would emerge. For diseases which do not shorten life expectancy so substantially (asbestosis, ARPD & Other), the reduction arising from the removal of Sullivan vs. Gordon would be proportionately less.

In this regard, we note that Sullivan vs. Gordon benefits have historically averaged around \$40,000 for a typical mesothelioma claim, with an average overall award of around \$400,000. Therefore, the amount of the liability which relates to Sullivan vs. Gordon benefits is estimated to be of the order of \$150m.

We understand that the NSW Government is introducing changes to the Civil Liability legislation ("Civil Liability Amendment Bill 2006") which will have the effect of overturning the CSR vs. Eddy decision and reinstate Sullivan vs. Gordon benefits in relation to dust diseases compensation, albeit at levels which are anticipated to be reduced relative to those which existed prior to the CSR vs. Eddy decision, owing to the inclusion of a "minimum hours" threshold of 9 hours per week.

Our approach has been to make no allowance for the potential savings that could result from the decision in CSR vs. Eddy owing to the introduction of the changes to the Civil Liability legislation by the NSW Government. We have therefore assumed that Sullivan vs. Gordon benefits are to be reinstated.

Whilst it is possible that some future savings may result from the imposition of thresholds, an estimate of such savings is currently too subjective and not yet quantifiable.

3.3.3 *Dust Diseases Board and Other Reimbursements*

In respect of the NSW Dust Diseases Board, there exists a right under Section 8E (Reimbursement Provisions) of the Dust Diseases Act 1942 for the Dust Diseases Board ("DDB") to recover certain costs from common law defendants, excluding the employer of the claimant.

This component of cost is implicitly included within our liability assessment as the claims awards made in recent periods and in recent settlements contain some allowance for DDB reimbursement where applicable. Furthermore, currently reported open claims have allowance within their case estimates for the costs of DDB reimbursement where relevant and applicable.

The Final Funding Agreement indicates that the Special Purpose Fund is intended to meet Personal Asbestos Claims and that claims by the DDB or a Workers Compensation Scheme for reimbursement will only be met up to a certain specified limit, being:

- In the first financial year of the Special Purpose Fund a limit of \$750,000 will apply;

- In respect of each future financial year, that limit will be indexed in line with the Consumer Price Index;
- There will be an overall aggregate cap of \$30m.

Owing to the inclusion of past DDB payments in historic claims data, and given the absence of sufficiently detailed “head of damage” claim data to separate the components of past DDB reimbursements from historic claims awards, it is impractical for us to separately model this component of claims cost within our liability assessment by direct assessment.

We have therefore estimated the component of product and public liability claims awards which relate implicitly to DDB reimbursements by approximate methods.

In arriving at our estimate of the allowance contained within the historic claims data for the DDB reimbursement costs, we have considered the following facts:

- The proportion of claims which are heard in NSW is currently around 45%;
- Of this, 36% relate to claims with some form of exposure in NSW;
- In addition, 2% of all claims have NSW exposure but are heard in other States at present;
- Therefore approximately 38% of all claims relate to NSW exposure;
- We cannot ascertain with certainty the proportion of these claims that will involve a worker claim or will involve subrogation from the DDB. However, it is likely that most worker-related claims will have entered the DDB first and received statutory compensation. We have estimated that 50% of all NSW exposure claims will be worker claims and have received compensation in the DDB. This is based on consideration of the relative size of the NSW workforce to the NSW population and recognition that the DDB does not provide compensation to:
 - Claimants whose exposure did not arise during their employment (non-occupational exposures); and
 - Claimants whose exposure took place outside NSW.

- The average DDB payment by the Liable Entities on recent mesothelioma claims with a DDB payment, and on open claims with a DDB reserve, is \$25,000 per claim. That is, around 8% of the claim cost of a typical mesothelioma claim.

Accordingly, we have assessed the reimbursement component as 1.5% of gross product and public liability claims costs, being 38% x 50% x 8%.

We have calculated the implicit reimbursement component otherwise included within our liability assessment and applied the capping rules outlined above to determine the projected payments in relation to reimbursements that will be met by the Special Purpose Fund.

The cashflow and liability figures contained within this report have already removed that component of reimbursements that will not be met by the Special Purpose Fund. We estimate that the reimbursement amounts, without any cap, have a net present value of \$22.9m but that \$7.8m of this will not be met by the Special Purpose Fund owing to the capping rules outlined above.

3.3.4 Exemplary and aggravated or punitive damages

To date, there have been no awards for exemplary or punitive damages against the Liable Entities as a result of asbestos-related disease claims.

To the extent that such awards are possible and could arise in the future such awards would increase the liability assessment.

Of particular note is the South Australian legislation, The Dust Diseases Act 2005 (SA) Bill, which directs the Courts to consider exemplary damage awards.

We have made no allowance for this, and further note that in relation to the potential for exemplary damage awards in other States, the liability that could arise, or would arise were such claims to eventuate, is unquantifiable and has not been included in our liability assessment.

3.3.5 Smoking-related diseases

There have been some notable cases involving the emergence of lung cancers from people with asbestos exposure but who have also smoked cigarettes.

There are two prevailing views of the interaction of smoking and asbestos exposure:

- That the emergence of asbestosis is a necessary precursor to lung cancer caused by asbestos exposure (“the necessary precursor hypothesis” as put forward by Hans Weill amongst others).
- That providing there has been exposure to asbestos sufficient to cause asbestosis it is reasonable to attribute a causal contribution to the asbestos exposure (“the fibre burden hypothesis”).

It is generally accepted that the risk of developing cancer after asbestos exposure is increased in the case of a smoker (see papers by Sir Richard Doll in 1985 amongst others).

In *McDonald vs. State Rail Authority* (1998) (16 NSWCCR 695), the judgement made by Judge O’Meally was that “*carcinoma of the lung may be attributed to asbestos exposure in the absence of asbestosis where the exposure was sufficient to have caused asbestosis.*”

In this case, Judge O’Meally further noted that the Helsinki Criteria set this at 25 fibre/mL-year.

However, Judge O’Meally ruled for the defendants in relation to compensation owing to the absence of evidence that the 25 fibre/mL-year threshold had been exceeded.

In *Judd vs. Amaca* (2002) (NSWDDT 25, Case Number 341), there were challenges by the defendants to the McDonald decisions as to the incidence of lung cancer being related to asbestos exposure even in the absence of asbestosis. They did not succeed in that regard.

What minimum exposure is sufficient to cause asbestosis is not an issue that was decided. It will therefore be necessary for future plaintiffs to prove at hearings what exposure is capable of causing asbestosis

We have continued to assume that the precedents set in *Judd* and *McDonald* will continue and also that the thresholds required to attribute lung cancer to asbestos exposure will be maintained. In these circumstances we have assumed continuation of the current level of awards for lung cancer claims.

3.3.6 *Future bankruptcies*

As bankruptcies and insolvencies amongst defendants occur, there is a concentration of the costs of claims amongst a decreasing pool of defendants. This would be expected to lead to an increase in the proportion of claims borne by each of the remaining solvent defendants.

Allowance might be made for such bankruptcies by way of using general credit risk methods, or by reduction in the discount rate, but such allowance would require a full model of the liabilities of Australia by entity, including the interactions between entities. This is not adequately determinable at present.

Consequently, within our central estimate assessment, we have not allowed for the future failure of any of the substantial asbestos defendants, insurers or governments who bear a share of the asbestos-related liabilities of Australia.

3.3.7 *Schultz vs. BHP Billiton*

On 7 December 2004, the High Court of Australia passed down its findings in relation to the matter of Schultz vs. BHP.

Mr Schultz, who worked and resided in South Australia, had worked at BHP's Whyalla shipyard from 1957 to 1964 and 1968 to 1977. He now suffers from asbestosis and ARPD. In 2002 he commenced proceedings in the NSW DDT against BHP in relation to his asbestosis and pleural disease.

BHP unsuccessfully applied to the Supreme Court to move the matter from the DDT into the Supreme Court under the Cross-Vesting Act and to then transfer it into South Australia Supreme Court under Section 5 of the Act.

Under section 5 of the Cross-Vesting Act, the court in which proceedings are to be determined is dictated by the interests of justice. BHP's application was refused and they thereafter appealed to the High Court.

The High Court unanimously allowed the appeal. It held that the emphasis given to Mr Schultz's choice of State in which the claim was to be heard involved error in the application of section 5 of the Cross-Vesting Act. They ruled that Mr Schultz's case should be removed from the DDT into the Supreme Court and then transferred to the South Australia Supreme Court as the appropriate State in which the claim should be heard.

As such, the law of South Australia was deemed to be the substantive law which would govern Mr Schultz's claim.

One consequence of the Schultz case is that it is now expected that a number of cases which would, until recently, be heard in the NSW DDT are likely in future to be heard in other jurisdictions.

We would expect that the number of cases in other States would therefore show a disproportionate rise in future years and the occurrence of NSW as the prevalent Court in which cases are heard would diminish somewhat. We would not expect the Schultz case to give rise to more, or fewer, claims in itself but rather change the profile of the Courts in which claims are heard and might potentially result in slight cost savings as, on average, settlement costs in NSW appear to be slightly higher than in other States. We have not factored in savings from this possible scenario.

3.3.8 *Frost vs. Amaca*

In the case of *Frost v Amaca Pty Ltd* (2005) NSWDDT 36, Curtis J held that the place of tort was New South Wales whilst the residency of the plaintiff was New Zealand and the exposure took place in New Zealand. This claim was notified to Amaca in 2002 and the judgment was entered on 17 August 2005. The decision was appealed on 3 May 2006 and the judgment is expected to be handed down later this year.

We have been advised that the judgment in *Frost vs. Amaca* prima facie appears to be inconsistent with earlier decisions of the Court of Appeal.

To the extent that the ruling in relation to *Frost vs. Amaca* is upheld on appeal, it is possible that the argument about the place of tort could be applied not just to New Zealand claims but also to Australian claims in respect of the State in which the case could be heard.

Accordingly it is possible that the decision of *Frost* could counter the decision of *Schultz* to some extent and return some claims to NSW.

However, to the extent that this arises, we note that the Special Purpose Fund will not meet the cost of claims brought in Courts outside Australia or to the extent claims relate to exposure which took place outside Australia.

3.4 **Medical developments**

Medical developments have the potential to affect claim costs, although it is uncertain as to whether such developments would likely increase or decrease claims costs. In these circumstances, we have taken what we believe to be a central estimate view.

For example, there may be drugs developed which increase costs and extend life without curing mesothelioma: this might increase overall claim amounts. On the other hand, a total cure for mesothelioma would be more likely to reduce overall claim amounts.

Alimta, a drug which treats mesothelioma, was approved for use in Australia by the Therapeutic Drugs Administration on 7 July 2004. The drug has been increasingly mentioned over the last couple of years and its cost impact is unlikely to be transparent in any current statistics. It costs approximately \$25,000 (about \$6,250 per cycle) and is given to patients within a six week course of other chemotherapy.

Although it does not cure mesothelioma, it can reduce pain and symptoms and according to results produced by the producers of Alimta, it can extend life by approximately 3 months.

Coramsine is currently in development by Solbec Pharmaceuticals in Western Australia. It is in the very early stages of testing for use in the treatment of mesothelioma, although we note that it is currently in a more developed stage of testing for other cancers. The research currently indicates that the treatment can cure or reduce the levels of mesothelioma in mice. The drug still requires significant research as of the four mice treated for mesothelioma in the tests only one actually survived and was cured of mesothelioma. Of the other three, one was cured but later died due to a Coramsine overdose. The other two died of mesothelioma but with a significantly increased survival time.

We have not, at this valuation, allowed for the potential impact of any new blood tests or other diagnostic tests. An example is the announcement on 18 April 2005 of a blood test (SMRP serum) for potential early diagnosis of mesothelioma devised by Professor Bruce Robinson.

Such tests have the potential to result in a change in the pattern of reporting of future claims by accelerating diagnosis of these claims. Furthermore depending on how the courts would treat claims settlement in relation to these earlier diagnoses, it could also be associated with a change in the profile of claims payments.

As Professor Robinson notes³:

“evidence to date in our own and one other study suggest that serum SMRP measurements may have a useful role in the diagnosis of mesothelioma and in monitoring disease progression.

³ Source: www.bruceroobinson.com.au/mesothelioma_blood_test.htm

The role of SMRP in the early diagnosis of mesothelioma is yet to be proved and is currently the subject of several big studies. It is therefore not recommended for use in widespread screening of asbestos-exposed populations or in concerned individuals at this stage.”

At this stage there is no evidence of the success of SMRP and that there is limited information on the extent to which acceleration of diagnosis might take place. Furthermore, there is no indication of how likely or when this test could be implemented in Australia.

Accordingly, we have made no allowance for the potential impact of such diagnostic developments within the current valuation.

4 DATA

4.1 Data provided to KPMG Actuaries

We have been provided with the following information by the MRCF and ACS:

- MRCF claims database at 28 February 2006 with individual claims listings;
- MRCF accounting database at 28 February 2006 (which includes individual claims payment details);
- Supplemental claims and accounting information from 1 March 2006 to 31 March 2006;
- MRCF Monthly Management Information Reports to 28 February 2006;
- MRCF Home Renovator Reports at various dates; and
- Detailed insurance bordereaux information provided by the MRCF as at 31 January 2006.

Additional to this, we have been granted access to the Operations Manager and the Information Officer of ACS. They have made themselves available to provide insight into the data, answer questions that we have had in relation to the interpretation of the data, and to discuss trends in emerging experience and any matters which we have observed arising during the most recent financial year.

We have allowed for the benefits of the product and public liability insurance policies of the Liable Entities based on information provided to us by the MRCF relating to the insurance programme's structure, coverage and layers.

We have also considered the claims data listings which formed the basis of our previous valuation assessments.

We have been provided with a report by DSA Legal and Pattison Hardman ("The Second Cost Consultants' Report") which was dated 15 July 2005.

4.2 Data limitations

We have tested the consistency of the various data sets provided to us at different valuation dates, as noted in Section 4.3 which outlines the nature of the testing and verification process undertaken. However, we have not otherwise verified the data and have instead relied on the data provided as being complete and accurate in all material respects. We have relied upon the robustness of the MRCF's and ACS' operational processes and systems as to the completeness of the data provided.

Consequently, should there be material errors or incompleteness in the data, our assessment could also be affected materially.

Certain data that would be relevant to our analysis and liability assessment is not readily available. This includes:

- In relation to open claims, the payment and case estimate history collected is not sufficient to allow us to track the development, or otherwise, of historic case estimates. This would allow us to determine a "ground up" incurred claims assessment as a cross-check and input to our calculations.
- The available history of James Hardie's products, such as the number of products by type, the extent of asbestos content within them and the parties who then used those products is limited. Reliable history would provide assistance in assessing the pattern of future claims notifications arising from asbestos exposure and provide further support to the actuarial assessments.
- We do not have access to detailed information in regards to the timing and form of the Health and Safety Standards implemented by James Hardie or other companies which might go towards reducing the extent of claims in future periods. We are not aware of any studies which have as yet been able to quantify the impact of the changing standards upon future claims incidence.
- The claims cost data is not split by individual component of award, i.e. heads of damage, which would enable increased understanding of the drivers of claim costs and inflation for individual award components (e.g. Griffith vs. Kerkemeyer, Sullivan vs. Gordon).

- Some of the date fields (e.g. date of birth, date of death) are not complete for all claimants. These would allow better analysis for the actuarial valuation if they were complete. However, the proportion of claims with complete data is increasing with time.
- In addition to these data restrictions, we note that the historic data changes from year to year. Sometimes this is due to re-designations, other times we understand it is due to inherent operational processing delays which are common for all claims administration systems. We have undertaken investigations to understand these movements in order to satisfy ourselves as to the causation of the “moving data” and we address them in the body of this report.

4.3 Data verification

We have undertaken a number of tests and reconciliations to verify the accuracy of the data to the extent possible, noting the limitations outlined above.

4.3.1 Reconciliation with previous year's data

We have performed a reconciliation of the current claims database as at 28 February 2006 with that provided at 24 June 2005.

We have reviewed the consistency of a number of key fields, on a claim-by-claim basis, including:

- Claim notification date;
- Claim settlement dates;
- Disease type; and
- Settlement amounts (award and legal costs separately).

We note that there are some movements in the data between valuations. There are some movements in the notification date of claims, the settlement date of claims, and in the disease diagnosed.

For example, 16 claims have changed their disease type between the previous valuation and this valuation (including 6 claims which have changed their disease type to mesothelioma claims).

However, we understand that a change in disease type is often due to the data being updated over time, often as more information comes to light as to the nature of the disease, or through the correcting of any previous data errors which have emerged.

Changes in the date of settlement can often arise because the previous settlement date recorded relates to the settlement with some, but not all, parties to the claim and that this information is updated when all parties have settled. As such, changing data is not unexpected or to be considered as adverse.

At this valuation, we have also noted that new claim records have been created in respect of some historic claims and some claim numbers have changed. We understand these changes have been made to aid operational procedures in regard to pursuing cross-claims recoveries for individual claims.

The effect of this operational change is to increase the numbers of claims reported relative to those quoted in our previous valuation report (although it should be noted that the effect is small and varies by individual claim years).

A consequential effect of this is that the average cost of claims shows some compensatory reductions.

Overall, the effect of this change is expected to be minimal in the context of the overall liability assessment.

We have identified these changes, discussed and reviewed them in conjunction with ACS and considered the extent of their impact on the data.

4.3.2 Reconciliation between claims and accounting databases

We have compared the claims awards, the legal costs and the recoveries amounts between the claims database and the accounting database from the earliest date to the current file position. Table 4.1 shows the results of this reconciliation for all claims to date.

**Table 4.1: Comparison of results from claims and accounting databases
at 28 February 2006**

	Claims database	Accounting database	Difference
	\$m	\$m	\$m
Award settlement (gross of recoveries)	387.0	366.7	N/A
Plaintiff and defendant legal costs	52.1		N/A
Legal and consulting fees		72.7	N/A
Award and legal / consulting fees	439.1	439.4	(0.3)
Estimated non-insurance recoveries and reimbursements ("cross claim recoveries")	(10.4)	(6.8)	(3.6)
Total costs before insurance recoveries	428.7	432.6	(3.9)
Estimated insurance recoveries	N/A	(32.5)	N/A

It can be seen that there are some differences in the values extracted from the accounting database and from the claims database.

In relation to claims awards and legal fees, the claims database includes plaintiff legal costs in relation to exclusive claims and also the defendant legal costs.

In relation to recoveries, the claims database does not include Insurance Recoveries. The accounting database shows recoveries and reimbursements. We have estimated the Insurance Recoveries recovered to date by consideration of the named drawer of the cheque and the overlap of this with the insurance programme. We have also made use of a description field which often refers to “insurance recovery” or “London syndicate” as an indicator that recovery transactions relate to the insurance programme.

This process could lead to a slight over-estimate of the amounts of payments made by insurers in relation to the insurance programme, but the amount of over-estimate is unlikely to be substantial.

In relation to cross-claim recoveries, there is a substantial difference between the two databases in percentage terms. It appears from an analysis of the claims database that there have been substantial recoveries made from CSR in recent months in relation to the Hardie-BI joint venture. Whilst these recoveries have been captured in the claims database at 28 February 2006, they had not been allocated in the accounting database at that date. We have been advised that more than \$3m of cross-claim recoveries have been allocated in the accounting database transactions during March 2006 and that the discrepancy between the two data sources has therefore been reduced.

Overall, the data appears to reconcile reasonably well in aggregate, particularly the gross claim amounts. Given our approach is to model the gross claim amounts and then make separate allowance for cross-claim recoveries, the reconciliation of the gross claim amounts is the more relevant.

Our approach for each claim record has been to take the maximum value of the two databases for each claim record. This approach is likely to result in some minor prudence in our overall analysis.

4.4 Data interpretation and analysis

We have discussed at some length below our approach to analysing the data and issues in relation to categorising and characterising the claims.

4.4.1 Grouping of claims data

We have split the claims into the following groups:

- Product and Public Liability;
 - Workers Compensation, being claims by current and former employees of the Liable Entities;
 - Wharf claims; and
-

- Cross-claims, being claims brought by, or against, one or more Liable Entities.

4.4.2 *Categorising a disease*

For many claims, there are a number of diseases listed in the disease description.

For the purposes of our analysis, we have allocated each claim once and therefore to one disease. We have selected the following order of priority, based on the relative severity of the disease:

- Mesothelioma;
- Lung cancer;
- Other cancer;
- Asbestosis; and then
- ARPD and Other.

This means that if a claim has mesothelioma as one of its listed diseases, it is automatically included as a mesothelioma claim. If a claim has lung cancer as one of its listed diseases (but not mesothelioma), it is included as a lung cancer claim. If a claim has asbestosis as one of its listed diseases, it is only coded as asbestosis if it has no reference to mesothelioma, lung cancer or other cancer as one of its diseases.

4.4.3 *Claims included as reported claims*

The following claims have been excluded from the main claims file:

- Wharf claims. These are defined as claims where the occupation or the exposure fields include reference to “wharf”, “waterside” or “stevedore” or derivations thereof. These are analysed separately.
 - Cross-claims brought by the Liable Entities against other defendants. Where the cross-claim is brought as part of the main proceedings the claim is automatically counted in our analysis of the number of claims. However, where the cross-claim by the Liable Entities is severed from the main proceedings, the existence of a separate record on the claims file does not indicate an additional claim (or liability against the Liable Entities). In these circumstances such claims records are not counted in our analysis.
-

- Claims with a blank report year. These are in the nature of “provisional loss advices” and are only included once a date of notification has been allocated to the claims. At 28 February 2006, there are four claims with no report date. Three of these claims have been settled, with the total settlement amount being less than \$0.1m.

We have, however, included claims which arise as contribution claims against the Liable Entities, and we have also included (as separate claims counts) multiple claims filed against the Liable Entities arising from the same event or individual's exposure. As such, there can be multiple claims in relation to an individual claimant. We note that as a consequence the “number of claims” projected will exceed the number of individual people affected.

4.4.4 *Defining claim status*

A claim has three potential stages of settlement:

- The plaintiff settling their award (“plaintiff settlement date”);
- The defendant company settling their share of the award (“client settlement date”); and
- The defendant company finalising their legal costs (“client closure date”).

We have used the following terms to describe the advancement through these three stages:

- Open: none of the 3 settlement date fields have information in them.
 - Unsettled: the plaintiff has settled their award, but the Liable Entities have not settled their share of the award and not finalised their legal costs. No aspect of the claim is settled or closed from the perspective of the Liable Entities. However, some information is available as to the total settlement which acts as a maximum liability amount.
 - Settled: the plaintiff has settled their award and the Liable Entities have settled their share of the award. The Liable Entities have not finalised their legal costs. Only legal costs remain to be finalised.
 - Closed: the plaintiff has settled their award, the Liable Entities have settled their share of the award and finalised their legal costs. This claim is finalised.
-

4.4.5 Insurance Recoveries

We have searched the description field in the accounting database for the incidence of the word “insurance” or of known insurers of the Liable Entities to allocate a recovery as an Insurance Recovery.

As a consequence it may be that some Insurance Recoveries might have been over-stated or under-stated, if the description field does not refer to the word insurance or a known insurer but the payment is in fact an insurance payment. We are unable to identify this based on the information we have available. This also affects the implied non-insurance recoveries (being amounts from insurers of other defendants by way of contribution from those defendants or amounts resulting from contributions from other parties to the claim in the nature of cross-claims) derived from the accounting database.

The financial impact of this potential discrepancy is likely to be small given that the total recoveries (excluding payments by QBE) are of the order of \$39m and that we allocated more than \$32m to insurance and almost \$7m to non-insurance recoveries.

At this valuation, we have also been given access to the detailed insurance bordereaux (being listings of claims provided by the insured to their broker to notify the insurance market of claims against the insured’s insurance policies) filed by the Liable Entities to their insurers. This information has enabled a more detailed and accurate analysis of the amount of insurance cover utilised to date and the information has been used in assessing the future insurance recoveries projected to fall due in future years.

4.4.6 Cross claims

A cross-claim can be brought by, or against, one or more Liable Entities.

Cross-claims brought against a Liable Entity (“Contribution Claims”) are included in our analysis of claims and such claims are treated as if the Liable Entities were joined by the plaintiff in the main proceedings as a joint defendant to the claim, as opposed to being joined as a cross-defendant by another defendant.

Cross-claims brought by a Liable Entity relate to circumstances where the Liable Entity seeks to join (as a cross-defendant) another party to the claim in which the Liable Entity is already joined.

Such claims against the Liable Entities are included in our analysis. However, to the extent that the Liable Entities are successful in joining such other parties to a claim, the contribution to the settlement by the Liable Entities will reduce accordingly.

Within our valuation, we have treated such recoveries as being analogous to the cross-defendant being joined in the main proceedings and the liability of the Liable Entities being reduced.

Our approach in the valuation has been to separately value the rate of recovery (“cross-claims recovery rate”) as a percentage of the award based on historic experience of such recoveries.

4.5 The Second Cost Consultants’ Report: July 2005

We have been provided with a report (“the Second Cost Consultants’ Report”) dated 15 July 2005 prepared by Deborah Vine-Hall and Susan Pattison.

This Cost Consultants’ report analyses the potential legal costs under the new procedures resulting from the implementation of the DDT Act 2005 for two typical case scenarios.

4.6 Data conclusion

We have noted above that we have not verified the data but have instead tested the data for internal consistency with the data provided at previous valuations.

Based on that testing and reconciliation, and subject to the limitations described in Section 1.5, we have formed the view that notwithstanding those limitations:

- The data is generally consistent between valuations, with any differences in the data being readily explained;
- The data appears to reconcile reasonably between the two data sources (the claims database and the accounting database);
- Any data issues that have emerged are not material in relation to the size of the liabilities; and
- The data is therefore appropriate for use.

5 VALUATION METHODOLOGY AND APPROACH

5.1 Previous valuation work and methodology changes

We have maintained the core valuation methodology that we adopted at our previous valuations since 30 June 2004. The data and tables in this report are comparable with those previous reports.

Our methodology in relation to the assessment of insurance recoveries has changed at this valuation following the provision of additional information, legal advice and detailed historical insurance bordereaux. The methodology for valuing Insurance Recoveries is discussed in greater detail below.

5.2 Overview of current methodology

The methodology involves assessing the liabilities in two separate components, being:

- Allowance for the cost of settling claims which have already been reported but have not yet been settled (“pending claims”); and
- Allowance for the cost of settling claims which have not yet been reported but are expected to arise out of past exposure (“Incurred But Not Reported” or “IBNR” claims).

For pending claims, we have used the case estimates (where available), whilst for IBNR claims we have used what can best be described as an “average cost per claim method”.

In brief, the overall methodology may be summarised as follows:

- Project the future number of claims expected to be reported in each future year by disease type (for product and public liability) and for Workers Compensation and Wharf claims taking into account the past rate of co-joining of the Liable Entities and the expected future incidence of mesothelioma and other diseases;

- Analyse past average attritional claim costs of non-nil claims in current money terms. Attritional claims are defined by us to be claims which are less than \$1m in current money terms. Estimate a baseline attritional non-nil average claim cost in 2005/06 (current) money terms. This represents the Liable Entities' share of a claim rather than the total claim settlement. For Workers Compensation claims, the average cost represents only that part of a claim which is borne by the Liable Entities (i.e. it excludes any insurance proceeds from a Workers Compensation Scheme or Policy);
 - Adjust historic average costs to recognise the impact of DDB reimbursements upon the average cost awards (reflecting the basis of the costs which are to be met by the Special Purpose Fund);
 - Analyse past historic average plaintiff and defendant legal costs for non-nil claim settlements;
 - Analyse past historic average defendant legal costs for nil claim settlements (which includes costs incurred in defending and repudiating liability);
 - Estimate a "large claims loading" for mesothelioma claims by estimating the frequency, or incidence rate, and average claim and legal cost sizes of such claims (being claims which are in excess of \$1m in current money terms);
 - Project the pattern and incidence of future claims settlements from the claims reporting profile projected. This is done by using a settlement pattern derived from consideration of past experience of the pattern of delay between claim reporting and claim settlement for each disease type;
 - Estimate the proportion of claims which will be settled with no liability against the Liable Entities by reference to past proportions of claims settled for nil claim cost (we refer to this as the "nil settlement rate");
 - Inflate average claim, plaintiff and defence legal costs and large claim costs to the date of settlement of claims (for known and IBNR claims) allowing for base inflation and superimposed inflation;
 - Multiply the claims numbers which are expected to be settled for non-nil amounts in a period by the inflated average non-nil claim costs and plaintiff and defence legal costs for that period;
-

- Make allowance in defence legal costs for that proportion of settled claims which are expected to be settled for no liability but for which defence costs will be incurred in disputing liability or contribution;
- Inflate average defence legal costs of nil claims to the date of settlement of claims (for known and IBNR claims) allowing for base inflation and superimposed inflation;
- Multiply the claims numbers which are expected to be settled for nil amounts in a period by the inflated average defence legal costs for nil claims for that period;
- Add the expected payments on pending claims;
- This gives the projected future gross cashflow for each future payment year;
- Estimate the recoveries resulting from cross-claims made by the Liable Entities against other parties (“cross-claim recoveries”);
- Project Insurance Recoveries to establish the net cashflows;
- Discount the cashflows using a yield curve derived from yields on Commonwealth fixed interest bonds to arrive at our present value liability assessment.

It should be noted that this description is an outline and is not intended to be exhaustive in consideration of all the stages we consider. Those other stages are outlined in more detail elsewhere in this report and readers are advised to refer to those sections for a more detailed understanding of the process undertaken.

As discussed elsewhere, the liabilities are established on a central estimate basis.

In our analyses, the “year” we refer to aligns with the financial year of James Hardie and runs from 1 April to 31 March, so that a 2004 reported claim would be a claim notified in the period 1 April 2004 to 31 March 2005. Similarly a 2003 settlement would be a claim settled in the period 1 April 2003 to 31 March 2004.

5.3 Disease type and class subdivision

It is critical when modelling the future liabilities to sub-divide the data into groups which exhibit similar characteristics, i.e. into homogeneous groups.

As noted earlier, we have sub-divided the claims into:

- Product or Public Liability;
- Workers Compensation;
- Wharfside Workers; and
- Cross-claims brought by the Liable Entities (specifically to determine the “cross-claim recovery rate”).

We have separated out wharfside workers claims because of their significantly different claim sizes relative to other classes.

We have separated the Workers Compensation claims from product and public liability claims because claim payments from Workers Compensation claims do not generate recoveries under the product and public liability insurance cover, so that in order to value those contracts we need to separately identify the cashflows from product and public liability claims and the cashflows from Workers Compensation claims.

We have not divided the Workers Compensation claims data by disease type given its relatively low financial significance and the low credibility of the data if sub-divided by disease type.

For product and public liability claims, we have separately considered the individual disease types. We have split the data by disease because it displays substantially different average claim sizes and because the incidence pattern of future notifications is also expected to vary considerably between the different disease types. As product and public liability claims are financially significant to the overall total of the liabilities and there is significant available data, the sub-division by disease type is appropriate.

We have sub-divided this portfolio into:

- Mesothelioma;
- Lung cancer and other cancer (hereafter referred to as “lung cancer”);
- Asbestosis; and
- Asbestos-Related Pleural Disease and Other (“ARPD & Other”).

We have considered the claim settlement and legal cost components separately within each of these sub-divisions.

As noted in Section 1.3.1, we have not considered the component of Workers Compensation claims against the Liable Entities which are covered by the Workers Compensation insurances. We have assumed that the Workers Compensation Schemes or Policies will continue to respond to future claim notifications arising out of past exposures.

5.4 Numbers of future claims notifications

We begin by first estimating the incidence of future notifications of claims.

We have based this on the use of what we have termed an “exposure model”, which we have constructed in relation to Australian usage of asbestos.

We do not have detailed individual exposure information for James Hardie, its products or where the products were used and how many people were exposed to those products. However, given the market share of James Hardie over the years and its relative stability, we have used a national pattern of usage as a reasonable proxy for James Hardie.

We start by constructing an index from the annual consumption of asbestos within Australia from 1900-2000.⁴ We split this between the various asbestos types and by year of consumption.

We have not allowed for multiple exposures with respect to James Hardie from each unit of asbestos consumed, e.g. where James Hardie was both mining and milling the same asbestos. While there was some (moderate) mining at Baryulgil, in relative terms it is not significant. Nonetheless, we have made separate allowance for mining activities at Baryulgil within our liability assessment.

With the exposure index that we have derived, we then allow for the latency period from the average date of exposure to claims notification.

Our model is that claims will:

- emerge proportional to past asbestos exposure measured by asbestos consumption per year (in metric tonnage); and
- have a latency pattern that is statistically normally distributed.

Our current assumptions are that:

⁴ World Mineral Statistics Dataset, British Geological Survey, www.mineralsuk.com
US Geological Survey – Worldwide Asbestos Supply and Consumption Trends 1900 to 2000;
Robert L. Virta (2003)

- The historic asbestos consumption shown in Figure 8.7 gives our assumed past asbestos exposure.
- The latency pattern for mesothelioma has a mean of 35 years and a standard deviation of 10 years. This appears to be generally supported by analyses and comments by Professor Berry et al⁵, by Jim Leigh et al⁶ and by Yeung et al⁷. Latency pattern assumptions for mesothelioma and other diseases have also been set with consideration of the experience to date.

The assumed latency periods for each disease type are shown in the following table.

Table 5.1: Assumed latency periods by disease type

	Mean (years)	Standard Deviation (years)
Mesothelioma	35	10
Lung Cancer	35	10
Asbestosis	30	10
ARPD & Other	30	11
Wharf	n/a	n/a
Workers Compensation	n/a	n/a

Our methodology is to take each year of exposure, weighted by consumption of asbestos in tonnage in that year, and project an index of the number of claims emerging in each future reporting year resulting from that exposure year using the latency distribution. We then aggregate the index of claims projected across all exposure years to derive an overall index of the number of future claims by report year.

⁵ Malignant pleural and peritoneal mesotheliomas in former miners and millers of crocidolite at Wittenoom, Western Australia; G Berry, N H de Klerk, et al (2004)

⁶ Malignant Mesothelioma in Australia: 1945-2000; J. Leigh et al (2002)

⁷ Distribution of Mesothelioma Cases in Different Occupational Groups and Industries, 1979-1995; P. Yeung, A. Rogers, A. Johnson (1999)

This index provides not only the shape of claims as an index but also shows that the peak year of incidence of mesothelioma claims derived by this methodology is 2010/2011.

For the other claim types, we allow for those diseases having different average latency periods to that of mesothelioma. This results in different projected peak years for the different diseases.

From this claims index we then project the future number of claims by calibrating the index to the current level of claims emerging.

5.5 Numbers of claim settlements from future claim notifications

We derive a settlement pattern by considering triangulations of the numbers of settlements by delay from the year of notification.

From this settlement pattern, we have estimated the pace at which claims that have been projected to be notified in the future will settle, and used this to project the future number of settlements in each financial year for each disease type.

Owing to limited data volumes, we have modelled “non-mesothelioma” claims as one cohort for determining claims settlement patterns. We have estimated the settlement pattern from claim reporting to be as follows:

Table 5.2: Settlement pattern of claims awards by delay from claim reporting

Delay (years)	Mesothelioma	Asbestosis	Lung Cancer	ARPD & Other
0	54.9%	21.7%	21.7%	21.7%
1	33.0%	36.8%	36.8%	36.8%
2	5.4%	18.7%	18.7%	18.7%
3	1.7%	8.2%	8.2%	8.2%
4	1.3%	3.0%	3.0%	3.0%
5	0.9%	1.8%	1.8%	1.8%
6	1.3%	1.4%	1.4%	1.4%
7	0.7%	1.4%	1.4%	1.4%
8	0.6%	0.9%	0.9%	0.9%
9	0.3%	1.1%	1.1%	1.1%
Future	0.0%	5.0%	5.0%	5.0%

5.6 Proportion of claims settled for nil amounts

We apply a “nil settlement rate” to the overall number of settlements to estimate the number of claims which will be settled for nil claim cost (i.e. other than in relation to legal costs) and those which will be settled for a non-nil claim cost.

Nil settlement claims can arise for a number of reasons and these include:

- Claims made against the Liable Entities by plaintiffs where the claim is ultimately determined by a Court to not be compensable. This can arise:
 - because the “injury” for which the claimant seeks compensation is not compensable (e.g. asymptomatic pleural plaques without any physical impairment); or
 - because the “injury” is not proven to be a result of asbestos-related exposure (e.g. smoking-related lung cancer with no evidence of asbestos exposure).

- Claims made against the Liable Entities by plaintiffs which are ultimately not pursued by the plaintiff. This would include claims where the plaintiff discontinues a claim:
 - Either in relation to the entire claim being discontinued by the plaintiff; or
 - In relation to the claim against the Liable Entity being discontinued by the plaintiff (but that the claim continues against other defendants).
- Claims made against the Liable Entities by plaintiffs but where liability against the Liable Entities is ultimately declined by the Court. This would, for example, include circumstances where the plaintiff joins the Liable Entity in a claim but it is later shown that the Liable Entity is not a relevant defendant and that another defendant is liable. This would, for example, cover:
 - Circumstances where it is demonstrated that that the product used which is alleged to have contributed to asbestos exposure and the subsequent claim was proven not to be a product manufactured or used by a Liable Entity.
 - Circumstances where through indemnity or contractual obligations another party is ultimately held liable for that element of the claim in which the Liable Entities were previously held liable.

The prospective nil settlement rate is estimated by reference to past trends in the rate of nil settlements.

5.7 Average claim costs of IBNR claims

We need to separately consider average settlement costs in respect of future claims and average legal costs of the defendants.

In essence we have estimated the following five components to the average cost assessment:

- Average award (sometimes including plaintiff legal costs) of a non-nil “attritional” claim.
 - Average plaintiff legal costs of a non-nil “attritional” claim.
 - Average defendant legal costs of a non-nil “attritional” claim.
 - Average defendant legal costs of a nil “attritional” claim.
-

- Large claim awards and legal cost allowances.

We define a large claim as those for which the award is greater than or equal to \$1m in current money terms. We define an attritional claim as a non-nil, non-large claim. We define a nil claim as one for which the award payable by the relevant Liable Entity is zero.

The data provided to us has three settlement year definitions:

- Plaintiff settlement year: being the year in which the claimant settles their claim against the defendants named or joined in the Statement of Claim;
- Client settlement year: being the year in which the Liable Entities settle their claim with the plaintiff or with the cross-claimant (where applicable); and
- Client closure year: being the year in which the Liable Entities have closed the claim file, having settled all their liabilities in relation to that claim (including the settlement of their defence legal costs).

We have analysed the average settlement cost by each of the three settlement year definitions in arriving at our assessment of the prospective average settlement cost.

All of our analyses have been constructed using past average awards, which have been inflated to current money terms using a base inflation index. This compensates for basic inflation effects when identifying trends in historic average settlements. We then determine a prospective average cost in current money terms.

We perform the same exercise for the defence and plaintiff's legal costs in respect of non-nil claims, and for defence costs for nil claims (together "Claims Legal Costs").

In relation to the large claims loading, we analyse the historic incidence rate of large claims (being measured as the ratio of the number of large claims to the total number of non-nil claims), and the average claim and Claims Legal Costs of these claims. We have determined a prospective incidence rate and average cost in current money terms to arrive at a loading per claim (being the average cost multiplied by the incidence rate per claim). This "per claim" loading is then added to the attritional average cost to arrive at an overall average allowing for the infrequent incidence of large claims.

Allowance for future claim cost inflation is made. This is modelled as the sum of base inflation plus superimposed inflation. This enables us to project future average settlement costs in each future year, which can then be applied to the IBNR claims as they settle in each future year.

5.8 Pending claims

We have considered all claims not closed at 28 February 2006 as having some potential to have future costs assigned against them, be it legal costs or further award payments.

As we have previously indicated, we have adopted 3 definitions of settlement status.

When there is no closure date but the claim has a settlement date, there is a possibility of further emerging defendant legal costs, even though the claim award has been settled.

When there is no settlement date, there is a possibility of award, plaintiff legal costs and defendant legal costs still being incurred.

Understanding this process means that we can model, for each claim not yet closed, sources where further costs could be incurred. Combining this with case estimate history or total award settlement information, where known, allows us to more directly model the liability for pending claims.

The excess amount of the liability for pending claims, over the case estimates held, is what the insurance industry term Incurred But Not Enough Reported ("IBNER").

Based on certain information provided to us by the MRCF, it would appear that during the last four years there has generally been some level of redundancy in the case estimates, i.e. that claims have ultimately settled for less than the estimates placed on them. At this time, we have not taken any credit for this potential margin as we cannot validate it by reference to the databases with which we were provided. Over time, we expect to be able to build a sufficient history of data that will enable us to validate the status of this matter.

5.9 Insurance Recoveries

Insurance Recoveries are defined as proceeds which are estimated to be recoverable under the product and public liability insurance policies of the Liable Entities, and therefore exclude any such proceeds from a Workers Compensation Scheme or Policy in which the Liable Entities participate or which the Liable Entities hold.

In applying the insurance programme we consider only the projected gross cashflows relating to product and public liability. In doing this we split out product liability cashflows from public liability cashflows as they are covered by different sections of the insurance policy under different bases (analysis shows that product liability claims have historically made up 95% of the product and public liability claims by number).

We make no allowance for the Workers Compensation cashflows in estimating the Insurance Recoveries, as the insurance programme provides protection on product and public liability exposures only.

5.9.1 Allocation of cashflows

We allocate the gross projected cashflow for Claims and Claims Legal Costs separately to product liability and public liability, assuming that 95% of future cashflows in each year will relate to product liability and 5% of future cashflows in each year will relate to public liability.

We then allocate these costs to each individual exposure year. This is based on a projection of how the pattern of exposure has changed in past years and is estimated to change in future years. In this regard, your attention is drawn to Section 8.8.2 which shows a recent history of how the allocation to exposure year has changed with time.

We separate the cashflow into claims costs, plaintiff legal costs and defence legal costs. This is because we understand that defence legal costs do not contribute to the erosion of the insurance cover but that such legal costs are recoverable in addition to recoveries from claims settlements.

In relation to plaintiff legal costs, for the purposes of the valuation, we have assumed that such costs contribute to the erosion of the insurance cover although we note that it appears that they may (in common with defence legal costs) not contribute to the erosion of the insurance cover. If this is the case, the value of the insurance assets may increase relative to that which we have assumed within this valuation report.

From this, we then model the Insurance Recoveries by exposure (policy) year.

We map the Insurance Recoveries to each layer of the historic insurance programme and thereby to each insurer and reinsurer to determine an estimate of the recoveries (both in timing and amount) due from each insurer and reinsurer.

As noted in Section 11, no allowance has been made for any potential Insurance Recoveries in relation to the period from 1986/87 onwards, when insurance was placed on a claims made basis.

5.9.2 Product liability recoveries

In relation to product liability, given the nature of the cover being on an “in the aggregate” basis, it is likely that the majority of the cover (both the primary and umbrella) covers will be utilised given that we are projecting more than \$3bn of future claims costs in actual money terms. We anticipate that only the highest layer of cover will not be fully utilised for some of the insurance policy years.

5.9.3 Public liability recoveries

In relation to public liability, given the nature of cover being on an “each and every loss” basis, it is not likely that layers above the primary layer (\$1m) will be substantially impacted. It is possible that the non-primary layers could be triggered, although we recognise that this would require:

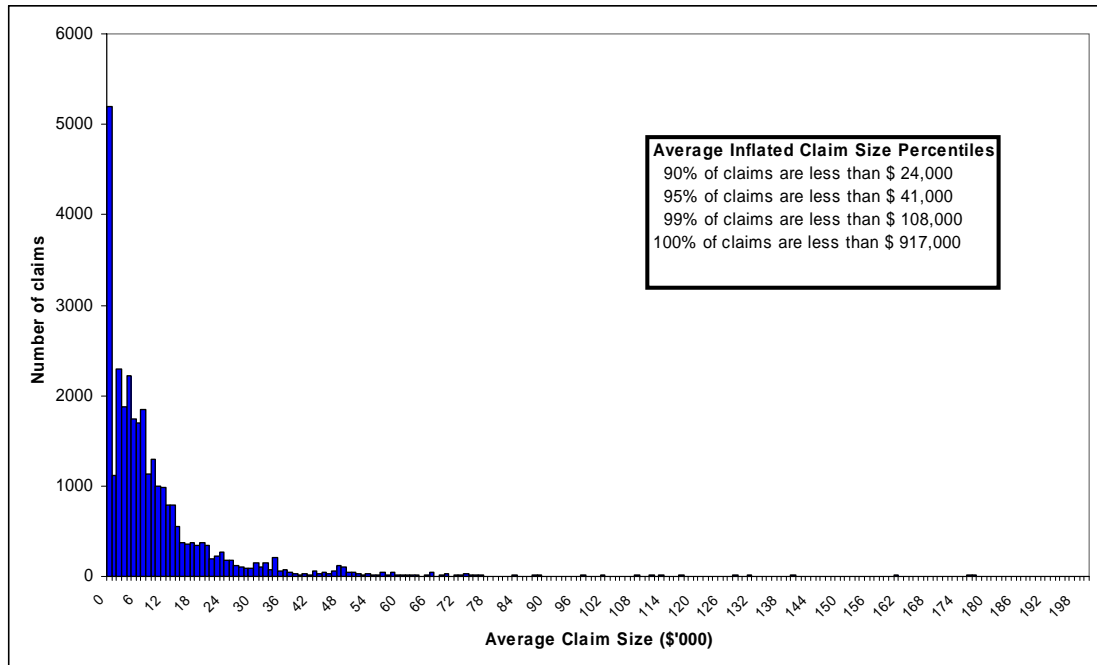
- a large public liability claim in excess of A\$1m; and
- that the period of exposure be of sufficient brevity or sufficiently concentrated that the allocated cost of the claim to any one year would be in excess of A\$1m.

Whilst it is possible that such claims may arise in the future, to date there has been no such evidence of a claim above \$1m in any one exposure year. Indeed, the largest allocation to any one exposure year has been approximately \$917,000 in relation to a claim with a total cost of \$1,068,000 which was spread over two exposure years.

The average exposure period for mesothelioma claims has historically been approximately 16 years. Accordingly, it is not surprising that more than 90% of these “claims” (being derived by segmenting each claim into a number of exposure years) are less than \$25,000 in size.

The following chart shows the distribution of non-nil mesothelioma claims costs to any one exposure year.

Figure 5.1: Size distribution of non-nil mesothelioma claims split by contribution from each year of exposure (award only)



Accordingly, at this time we have made no allowance for any layer above the primary layer to generate public liability recoveries.

5.10 Bad debt allowance

We have made an allowance for general credit risk based on the credit rating of insurers of the Liable Entities using Standard & Poor's' default rates.

We assume that Lloyd's of London and Equitas companies (which make up approximately 45% of the claims occurring insurance programme) will have 100% recoverability and that therefore no credit risk charge is made against those recoveries. For the remaining companies, we have allowed for credit risk costs on the Insurance Recoveries.

We have estimated this credit risk cost by using the Standard & Poor's credit ratings of the insurers of the Liable Entities as at 31 March 2006 and the Standard & Poor's default rates by credit rating and duration as at March 2004, as shown in Appendix A, to estimate the cost of credit risk for each of the insurers and reinsurers. Where additional information regarding the expected payout rates of solvent and insolvent Schemes of Arrangement is available we have instead taken the expected payout rates to assess the credit risk allowance to be made in our liability assessment.

5.11 Cross-claim recoveries

We have analysed the past rate of cross-claim recoveries being made by the Liable Entities as a result of issuing cross-claims.

We have valued these recoveries assuming that they become payable at the time of the claim.

As noted in Section 4, cross-claim recoveries at 28 February 2006 amount to \$10.4m on the claims database and \$6.8m on the accounting database. These represent 2.4% and 1.6% of gross claims costs respectively. As noted earlier, a payment from CSR of more than \$3m has been allocated in the accounting database during March 2006.

We have analysed the historic cross-claim recoveries by settlement year as follows:

Table 5.3: Cross-claim recoveries by settlement year

Settlement year	Cross-claim recoveries (\$)
Pre 1991	502,191
1991/92	30,000
1992/93	53,486
1993/94	364,708
1994/95	77,224
1995/96	242,746
1996/97	135,904
1997/98	129,877
1998/99	251,976
1999/00	442,381
2000/01	1,204,568
2001/02	616,449
2002/03	628,098
2003/04	359,730
2004/05	650,784
2005/06	4,725,193
Total	10,415,315

It is of note that the majority of recoveries have been in relation to the Hardie-BI Joint Venture with CSR and that \$3.3m of the \$4.7m recovered in 2005/06 related to CSR or Bradford Insulation.

Taking all of the above factors into account, we have assumed that future levels of cross-claim recoveries will be 2.0% of the average award.

5.12 Other Recoveries

Other Recoveries are amounts of recoveries that might be made by a Liable Entity against another party under a contract including a contract of indemnity where the other party is not a Concurrent Wrongdoer with the Liable Entity in relation to that claim.

We are not aware of any cases of non-insurance recoveries having been related to contracts of indemnity.

Accordingly, Other Recoveries have been estimated as nil.

5.13 Discounting cashflows

Cashflows are discounted on the basis of yields available on Commonwealth government bonds of varying coupon rates and durations to maturity (matched to the liability cashflows).

In discounting the liabilities at a risk-free discount rate, we have assumed that there will be sufficient assets available to generate the investment income implicit in the discounting of the liabilities.

If such assets are not available then the investment income generated may be insufficient to support the unwinding of the discount on the liabilities and the cost of meeting the liabilities will increase.

It should also be recognised that the yield curves and therefore the discount rates applied can vary considerably between valuations and can, and do, contribute significant volatility to the liability assessment at different assessment dates.

5.14 Adjustments for interim valuation

As this assessment is to be effective at 31 March 2006 and is based on claims data to 28 February 2006, we have derived the liability at 31 March 2006 as follows:

- The IBNR provision at 31 March 2006: this is set through consideration of our latest expectation of the number of IBNR claims to be reported after 31 March 2006; plus

- The Pending Claims provision at 31 March 2006: this is approximated to the provision for pending claims at 28 February 2006. In doing so, we have assumed that the payments made in March 2006 (approximately \$6.7m) are broadly equal to the liability arising from the 44 newly reported claims in March (which we estimate to cost approximately \$8.5m based on our assumed average costs for each claim type).

It is our view that whilst this method is an approximation, the potential variation in the approximation is not material in the context of the overall liability.

6 COST SAVINGS ARISING FROM THE DDT ACT 2005

6.1 Background to the DDT Act 2005

On 18 November 2004, the Premier of NSW, Mr Robert Carr announced a Review of Legal and Administrative Costs in Dust Diseases Compensation Claims (the Review). The Terms of Reference for the Review required it to:

- consider processes for handling and resolving dust diseases compensation claims; and
- identify ways in which legal, administrative and other costs can be reduced within the existing common law system in New South Wales.

The Terms of Reference specified that the Review was not to consider proposals introducing a statutory scheme to resolve dust diseases compensation claims or which would adversely affect Claimants' compensation rights.

The Review was conducted by Mr Laurie Glanfield AM, Director General of the Attorney General's Department and Ms Leigh Sanderson, Deputy Director General of The Cabinet Office.

An Issues Paper was issued by the Reviewers in November 2004. James Hardie made substantial submissions to the Review and after the release of the findings in respect of matters on which the Reviewers sought further comment. The James Hardie submission, other non confidential submissions and other materials relating to the Review are available from the NSW Government Cabinet website (www.cabinet.nsw.gov.au).

The conclusions of the Review were released on 8 March 2005. The key Review recommendations to support cost reduction were:

- the early provision of as much information as possible by claimants in a prescribed form prior to actively litigating the claim in court;
 - a formal process of settlement offers and mediation prior to active litigation in court;
 - streamlining of Dust Diseases Tribunal procedures for matters that are not resolved by settlement offers and which proceed to a court hearing; and
 - cost penalties if litigation proceeds and the result is not materially different from the settlement offers.
-

- Following the release of the Review findings further issues were addressed resulting in proposals for:
 - upfront apportionment of liability between prospective defendants to allow the settlement or determination of the plaintiff's claim to proceed without being delayed by disputation as to contribution between defendants.
 - representation of defendants by a Single Claims Manager for the purpose of making offers of settlement and attending pre-court compulsory mediation with the Plaintiff.

The recommendations of the Review have been given legislative effect by the Dust Diseases Tribunal Amendment (Claims Resolution) Act 2005 passed by the New South Wales Parliament on 26 May 2005. The Act incorporates new regulations for the claims resolution process in respect of asbestos claims.

As a result of the DDT Act 2005, significant changes were made to the procedures for Asbestos claims resolution on and after 1 July 2005 including:

- a required information exchange at the commencement of the claim between parties by way of statements of full particulars by plaintiffs and detailed replies from defendants;
- a compulsory mediation of claims failing settlement by agreement;
- a single claims manager model to represent multiple defendants in the negotiation of settlement and failing settlement, mediation of plaintiff claims;
- a process for defendants to reach agreement on contribution between themselves for the purposes of the settlement or mediation of a plaintiff's claim. If defendants cannot agree contribution, the Act provides that apportionment of liability will be decided by an independent Contributions Assessor using standard presumptions of apportionment as set out in the Dust Diseases Tribunal (Standard Presumptions – Apportionment) Order 2005. A defendant cannot challenge the decision of a Contributions Assessor until determination of the Plaintiff's claim by settlement or judgment;
- costs penalties will apply in circumstances where parties:
 - breach the rules of the new claims resolution process;

- fail to participate in mediation in good faith including where defendants may unreasonably limit a single claims manager's authority to settle the claim;
 - unreasonably leave issues in dispute following an unsuccessful mediation; and
 - where any subsequent litigation does not result in a materially different position to that of settlement offers made by the parties; and
- cost penalties are also imposed if a Defendant appeals the decision of a Contributions Assessor and fails to better its position by the greater of \$20,000 or 10% of the amount otherwise payable by it.

The above procedures will apply to all non urgent cases. Urgent cases are those where the Tribunal is satisfied that, as a result of the seriousness of the Claimant's condition, the Claimant's life expectancy is so short as to leave insufficient time for the requirements of the claims resolution process to be completed and the claim to be finally determined by the Tribunal on an expedited basis. Urgent cases may be removed from a claims resolution process but in each case, the Tribunal must consider whether to order the application of provisions relating to compulsory mediation and apportionment between defendants to that claim. Urgent cases as defined by the Act will still be dealt with by the Dust Diseases Tribunal if they cannot be addressed in an expedited timetable for the new claims resolution process but in keeping with revised Dust Diseases Tribunal hearing procedures.

Legal representatives of parties to dust diseases claims will also be required to provide information to the Dust Diseases Tribunal in relation to the compensation awarded or agreed and the amount of legal costs recovered following the settlement or determination of a claim.

The Act also amends:

- procedures for the issue of subpoenas and the making and acceptance of offers of compromise;
- the procedures for the hearing of claims that have failed to settle by removing the ability of parties to invoke pre trial procedures such as interrogatories, discovery or request for particulars, except in very limited circumstances;

- provisions to clarify that the Dust Diseases Tribunal does have jurisdiction to deal with claims for contribution between defendants or other tortfeasors liable in respect of any damages;
- requirements for Dust Diseases Tribunal judgements to identify those issues of a general nature that are determined on the basis of judgements made in earlier proceedings, thereby reducing the number of common issues being re litigated or re argued.

The Dust Diseases Tribunal proceedings will be further affected by the proposed Civil Procedure Act 2005 which introduces the ability for courts to engage in electronic court management systems and the ability to deal with evidence of multiple expert witnesses in a hearing. These measures if implemented and utilised by the Dust Diseases Tribunal are expected to improve court efficiencies and reduce hearing times.

While the reform is concerned solely with NSW procedures and legislation, the NSW Government has indicated its willingness to promote the recommendations of the Review to other States and Territories.

The New South Wales Government indicated in its Review that there will be a further review of the reforms and the dust diseases compensation system more generally to be conducted after data in relation to the reforms' first 12 months of operation is available.

6.2 Methodology

We have estimated the cost savings arising from the DDT Act 2005 by reference to work undertaken by the Cost Consultants to estimate the costs of each stage of the new procedures. The Cost Consultants have modelled the new procedure (hereafter referred to as the "New Process") based on their understanding of the NSW Government Review and based on legal instruction provided to them. They have then mapped the anticipated range of costs for the New Process. These costs were then compared with the anticipated costs under the Old Process.

The costs structure has been assessed for two cases:

Case 1, which included:

- A case where medical issues and disputes are limited in nature, such as a mesothelioma claim where diagnosis is straight forward;
 - There are only a few defendants;
-

- There would be no economic loss claim and only a limited need for non-medical expert evidence; and
- There are no significant liability issues with the main issues being quantum.

Case 2, which included:

- Significant medical issues such as on diagnosis, extent of disability, other health issues contributing to the disability (co-morbidity) and prognosis/future care;
- More defendants, as where damages are divisible;
- Expert evidence of a non-medical or occupational therapy nature, such as an economic loss report; and
- Liability issues, at least involving some of the defendants.

Having constructed the cost structure a number of assumptions are required in order to gain a view of the potential cost savings under each scenario. The particular assumptions that are required are:

- The proportion of claims which settle at each stage in the process for both the old and the new process;
 - The proportion of claims typically received of “Case 1” and “Case 2” claims, being claims of a more simple nature and claims of a more complex nature;
 - The costs associated with settling urgent cases relative to non-urgent cases;
 - The proportion of claims where the Single Claims Manager is used in the hearing as well as in the mediation;
 - The proportion of claims where the standard presumptions for apportionment are disputed;
 - The term to the full implementation of the new regulations and delivery of cost savings;
 - The effect on each separate disease type;
 - The extent to which the NSW Government Review recommendations are relevant and accepted in other States; and
 - The effectiveness and extent of applicability of the legislation.
-

Based on these assumptions, we have compared the costs of each stage of the process and the relative costs of a “typical” case under the previous system and under the DDT Act 2005.

When making our estimation of costs and cost savings, we have based this on the “typical” cases as described in the Cost Consultants’ Report. We caution that there will inevitably be some cases which are atypical, being exceptionally complex cases, cases involving issues of a test nature (e.g. low-dose exposures, contributions of smoking) or cases involving considerable amounts of disputation. Those cases are impossible to predict in terms of their timing and the quantum of legal costs but we note that to the extent they have arisen in the past they are allowed for within our legal cost assessment pre-cost savings.

6.3 Results of the cost consultants’ analysis

The Cost Consultants’ report provides an estimate of the legal costs for Case 1 and Case 2 dust diseases claims in NSW as described in Section 4.5. The following tables are summaries of the estimated typical legal costs per claim in the Old Process and the New Process.

Table 6.1: Cost Consultants estimates of legal costs – Old Process (\$)

Stage of proceedings	Plaintiff’s Costs		Defendant’s Costs	
	Case 1	Case 2	Case 1	Case 2
1 – Pleadings	10,745	19,945	3,605	4,760
2 – Evidence Preparation	16,740	29,970	16,360	27,200
3 – Hearing Preparation	1,915	4,100	2,800	5,415
4 – Hearing	5,370	20,540	4,950	20,260
Total	34,770	74,555	27,715	57,635

Note: Costs include any relevant Court or filing fees

Table 6.2: Cost Consultants estimates of legal costs – New Process (\$)

Stage of proceedings	Plaintiff's Costs		Defendant's Costs / SCM's Costs	
	Case 1	Case 2	Case 1	Case 2
1 – Pleadings (particulars, Reply, Cross-Claim)	2,512	3,877	735	1,470
2 – Evidence Preparation / Information exchange	2,100	7,610	3,395	9,255
3 – Settlement offers / mediation	3,770	6,710	3,770	6,710
COURT PROCESS (where settlement does not occur at prior stages)				
4 – Preparation for hearing of plaintiff's claim in court	4,431	10,001	3,860	9,430
5 – Court hearing of plaintiff's claim only	6,125	14,690	6,125	14,540
Total	18,389	42,887	17,885	41,405

Note: Costs include any relevant Court or filing fees

6.4 Assumptions

The following section discusses the assumptions chosen for particular variables. The majority of these variables have been selected based on anecdotal evidence, application of judgment based on matters that might affect each of the assumptions and based on advice we have obtained.

6.4.1 Proportion of claims settling at each stage

The NSW Government Review reported that in a review of the DDT files where matters had been finalised, 93% were settled, 6.5% proceeded to judgment and 0.5% were discontinued. However, it is understood that of the 93%, a large percentage currently settle "on the steps of the Court".

There exists a possibility that immediately following the implementation of the New Process more matters may go to hearing as parties seek to test certain parts of the process. However, it is felt that such circumstances will be temporary.

We are advised that settlement rates are likely to increase rather than decrease and that settlements are likely to take place at an earlier point in time. This is due to the following factors:

- Early provision of information should place the parties in a stronger position to resolve matters in dispute more expeditiously.
- The Apportionment and Single Claims Manager processes should remove many of the disputes amongst defendants as being a reason why the plaintiff's claims do not usually settle until just before hearing.
- The mediation process should be effective in promoting early settlement.
- The revised cost penalties rules and procedures should encourage more cases to settle.

We are advised that the potential range of settlement rates likely are shown in the table below, reflecting the proportion of claims which settle at each stage of the Old Process and New Process.

Table 6.3: Range of proportion of claims settling by each stage

	Old Process			New Process		
	Low	Medium	High	Low	Medium	High
Pre-mediation settlement				20%	40%	60%
Settlement up to end of Issues & Listing Conference / mediation	20%	30%	40%	40%	35%	25%
Settlement after hearing preparation	60%	55%	50%	25%	15%	10%
Settlement during hearing or Judgment at end of hearing	20%	15%	10%	15%	10%	5%

We have taken the average of the low and high range of the results as our central estimate (i.e. the medium rates above), although we have also sensitivity tested the impact of the high and low scenarios upon potential cost savings.

6.4.2 *Relative weighting between Case 1 and Case 2*

The Cost Consultants' report indicates that the proportionate savings from a more complex case (Case 2) is higher than that under a more simple case (Case 1).

The actual portfolio of cases of the Liable Entities will consist of a mix of Case 1 and Case 2 claims, and in fact an array of claims with characteristics lying somewhere in between Case 1 and Case 2.

We have estimated the proportionate level of cost savings of the portfolio of claims against the Liable Entities by blending the savings under Case 1 and the savings under Case 2.

The factors which influence the "type" of claim are:

- The disease type;
- The number of defendants;
- The number of experts;
- The range of experts; and
- The issues in dispute.

Within that, the following observations are relevant to the mix of claims by type, and for each disease:

- Mesothelioma and asbestosis cases should generally have limited medical issues as those will already have received significant consideration in recent years by the DDT so such cases ought not raise complex medical issues;
 - The divisibility of asbestosis (meaning that a proportionate liability applies to each period of exposure) might increase the relative complexity of asbestosis and reduce the relative complexity of mesothelioma cases;
 - Medical issues relating to lung cancer and ARPD claims can be substantial as to causation or dosage;
-

- Claims by retired individuals should generally be of a less complex nature owing to limited disputation regarding economic loss assessments; and
- Cases involving a larger number of defendants tend to be associated with increased issues regarding the level of contribution and settlement with the plaintiff.

We have analysed the number of defendants involved in claims in which the Liable Entities have been joined.

Table 6.4: Analysis of the number of defendants co-joined

Number of defendants	Proportion of claims
1	33%
2	26%
3	15%
4	9%
5+	17%
Total	100%

Note: This table is not an analysis of unique defendants. Accordingly, a company or its subsidiaries joined a multiple of times will be counted a multiple of times, rather than counted once. This is similarly the case for the Liable Entities, when more than one of Amaca, Amaba and ABN60 may be co-joined in a claim.

It is of note that 59% of cases involve 2 defendants or less and that 74% involve 3 or less (some cases of which involve the joining of two Liable Entities in the claim). There are, on average, 2.7 defendants per claim.

We have also considered the mix of claimants by age and the incidence of large claims (these being associated with cases involving younger people with substantial economic loss issues to consider). The results of these analyses are that:

- 35% of all claimants are younger than 65 years of age;
- 20% of all claimants are younger than 60 years of age; and
- 10% of all mesothelioma claims result in a liability award against the Liable Entities in excess of \$0.5m.

Based on these analyses we have adopted a relative weighting for mesothelioma cases of 70% of claims being of Case 1 and 30% being of Case 2.

6.4.3 Urgent claims

Given the nature of mesothelioma claims and the relatively short life expectancy that is typical on diagnosis, it is likely that a relatively high proportion of mesothelioma claims may be seen as being urgent.

Advice contained within the Cost Consultants' report suggests that the legal costs of managing and settling urgent claims will not significantly differ compared with non-urgent claims, with lower total hours spent on the case but that the case would require more senior legal representation.

We note that such advice relates to "typical" urgent cases, rather than urgent cases involving exceptional circumstances of the plaintiff.

Furthermore, where an urgent case will take a number of months to complete, the Regulation requires the DDT to consider whether the Apportionment and Mediation procedures under the DDT Act 2005 should be applied. In these circumstances, it is believed that defendants will be as likely, or more likely, to have the information they need to settle an urgent claim and thereby achieve earlier settlement compared with the current DDT system.

Accordingly, we have assumed that there will be no differential in the costs, and therefore the proportionate cost reductions, of an urgent claim relative to a non-urgent claim with the same characteristics.

6.4.4 Proportion of claims using Single Claims Manager at hearing

The Regulations make it possible for the Single Claims Manager to be used in the hearing process as well as during mediation. By using a Single Claims Manager in the hearing process, the legal cost savings would be higher than if all defendants reverted to their own legal representation at this point in the process. For the Single Claims Manager to continue representing all defendants within the hearing, all parties must provide their agreement.

The extent to which this happens will depend on:

- Whether one or more defendants are pursuing a liability defence;
 - Whether one or more defendants are pursuing a cross-claim or there is a contribution dispute;
 - The performance of the Single Claims Manager in the Mediation process; and
-

- The degree of confidence of defendants in each other's legal practitioners.

Accordingly, it is unlikely that the Single Claims Manager will always be used in the hearing process as there will often be contribution or liability issues which lead to conflicts between defendants. Furthermore, it may take time for the confidence in each others' legal practitioners to develop.

However, given the imperative is upon all defendants to act commercially, and given the potential to achieve further savings by retaining the Single Claims Manager throughout the hearing, it has been assumed that over the long term the Single Claims Manager will be retained in 50% of all cases which reach this stage of the proceedings and in which the Single Claims Manager has been appointed.

It should be noted that this assumption is extremely difficult to predict as it is affected by qualitative rather than quantitative factors.

However, the potential variation in the discounted value of legal cost savings in NSW as a result of changes in this assumption (to 0% and to 100%), whilst holding all other assumptions constant, is +/- \$2m.

6.4.5 Proportion of claims where initial apportionment is disputed

Under the new claims resolution process, provisional apportionment will be determined at the outset by independent assessment, if agreement cannot be reached amongst defendants, using standard presumptions.

The following factors are expected to influence the potential savings:

- The early provision of information in relation to the exposure history should enable the early identification of potential contributors (cross-defendants);
- The significant reduction in cross-claim filing fees (except for those cases where the contribution dispute proceeds to Court);
- The process of determination of a set of standard presumptions relating to contribution made by the contributions assessor; and
- The cost penalties which will deter smaller contributors in contesting the standard presumptions as they need to improve their allocation by \$20,000 or 10%, whichever is the greater.

Based on consideration of the above factors, we have used the ranges shown in the table below to reflect the proportion of claims which settle at each stage of the new claims resolution process.

Table 6.5: Proportion of apportionment issues resolved at each stage

Stage of settlement	Probability of dispute
Defendants agree on contribution	60% - 80%
Notification of dispute / Plaintiff examined under oath	10% - 20%
Pre-hearing steps	0% - 5%
At Hearing	5% - 20%

We have taken the average of the low and high range of the results as our central estimate, although we have also sensitivity tested the impact of the high and low scenarios upon potential cost savings.

6.4.6 *Term to full implementation*

The transition arrangements for implementation as defined within the legislation introduced into Parliament are as follows:

- All claims commenced on 1 July 2005 or after will be subject to the new claims resolution process.
- Claims commenced prior to the 1 July 2005 can be resolved through the new claims resolution process if:
 - A hearing date has not been set as yet; and/or.
 - One or more parties seek that the new claims resolution process should be used

However, it is clear that there will be a period of time where full efficiency of the legislated new process, and of the associated cost savings, will not accrue as the various parties involved understand the nature of the process.

It is also possible that in the short term there may be some increased costs associated with the process as defendants and plaintiffs become familiar with and learn about the New Process and that certain parts of the process may be contested as parties dispute the application of those procedures.

However, given that there are few practitioners, there ought to be a quicker transition than that which would be seen if there were a larger number of practitioners.

6.4.7 *The effect on each separate claim type*

Legal costs vary significantly by the type of claim, and in particular in comparison with the size of the award. In our submission to the NSW Government Review, we noted that lung cancer legal costs for the Liable Entities were 71% of the Liable Entities' share of the award, that the relevant figure for asbestosis was 73% and that the relevant figure for ARPD & Other was 53%.

Estimation of the potential savings in relation to the other disease types is much more subjective than mesothelioma claims, given:

- The low volume of non-mesothelioma claims notified or settled within any one year; and
- The range of matters in dispute owing to medical issues, the number of defendants potentially involved in the claim, issues of divisibility, and the incidence of test cases. Such test cases might involve considerations of the impact of the smoking history of a plaintiff upon the incidence of lung cancer and matters relating to asbestosis claims which may be dependent on any discussion regarding the level of asbestos exposure.

As discussed in greater detail in Section 6.4.2, it is possible that cases are generally more complex for the other disease types compared with mesothelioma cases. Accordingly, it is more likely that a greater proportion of those cases would be "Case 2" in nature, and that proportionate savings may potentially be higher.

That said, lung cancer cases (which are often subject to resolution of complex legal issues) make up only 20% of all non-mesothelioma cases, and most asbestosis cases (which makes up 60% of all non-mesothelioma cases) ought to be more straight-forward in nature, albeit slightly more complex than a typical mesothelioma case owing to issues of divisibility.

Taking into consideration the above factors, including the increased incidence and possibility of complex test cases for these types of claim, we have taken the view that the proportionate savings from non-mesothelioma cases will be equal to that for mesothelioma.

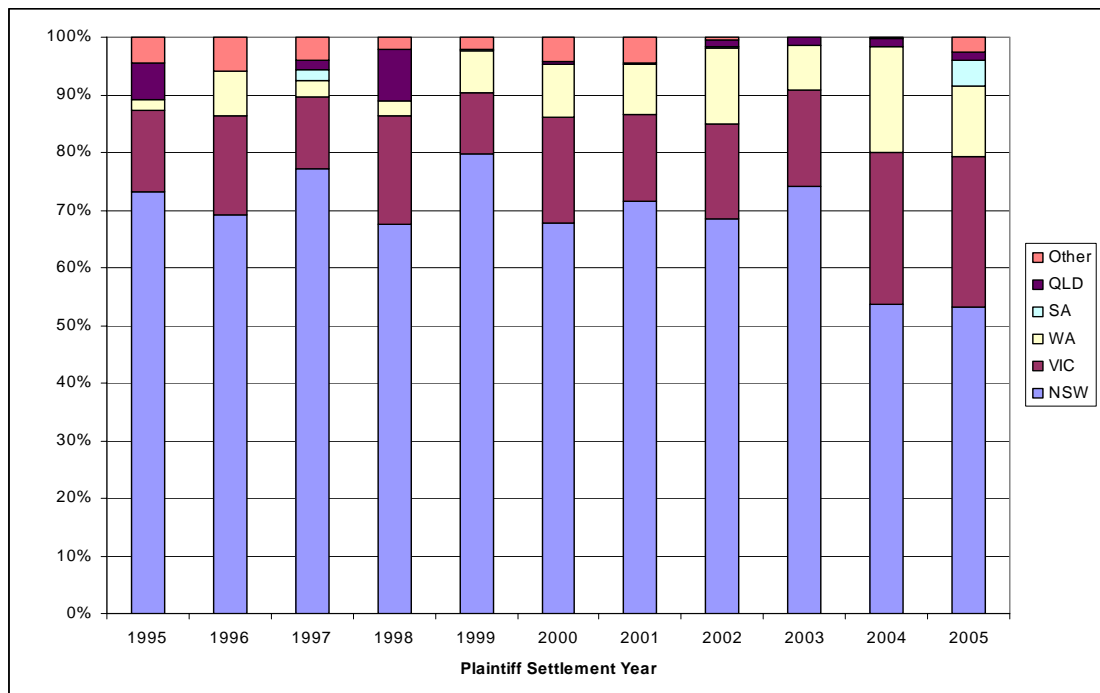
6.4.8 The proportion of claims within each State

At present, legislation modifying the current claims process has been introduced in NSW only, although we note that the Final Funding Agreement envisage the NSW Government undertaking to seek active participation of other States in the processes and protocols arising from the NSW Government Review.

Nonetheless, in quantifying the cost savings, it is important to consider the proportion of claims costs which relate to NSW and the proportion which relates to other States.

The following figure shows how the total award cost of claims settled varies by state and by settlement year in current real terms.

Figure 6.1: Split of total award cost of claims by State in current money terms



This figure shows that NSW has historically represented 70% of the total claims costs, although in the most recent two years this has fallen to around 55% largely as a consequence of the substantial increase in claim numbers in Victoria and the increasing average mesothelioma awards in Victoria and WA relative to NSW.

In some part, this increase in average award size in the other States may have been due to the impact of the Schultz vs. BHP decision, such that claims previously being brought and settled in NSW have either commenced in other States or have, in a small number of cases to date, been cross-vested into other States.

We have taken the view that the trend of claims in Victoria and, to a lesser extent, WA is not part of a one-off fluctuation. Accordingly, we would not (in those circumstances) expect the percentage of costs relating to NSW to return to the 70% levels historically seen.

We would expect that the proportion of costs relating to NSW would trend down further with the impact of Schultz vs. BHP. This is because the impact of Schultz will not have fully been reflected in the historic experience and the reduction to 55% has been caused by increased activity and average awards in Victoria rather than solely by the effect of Schultz. We therefore expect some potential further reductions in the proportion of liabilities which relate to NSW with increased utilisation of the Schultz decision. However, the decision in Frost vs. Amaca, should the appeal not prove successful, could act to counter the Schultz vs. BHP decision somewhat. Accordingly, we have estimated the following proportions of claims costs from each State in future years.

Table 6.6: Estimated future proportion of liabilities by State

Proportion	
NSW	45% - 55%
Victoria	20% - 30%
WA	10% - 20%
Queensland & Others	10%

For our central estimate assessment, we have taken the middle of each of these ranges.

6.4.9 Legal cost savings in other States

We have been asked to quantify the potential savings that might be achievable in the other States if procedural reforms were implemented in Victoria, Western Australia, Queensland and South Australia.

The legislation passed in NSW was passed after considerable review of the processes in NSW and how they could be modified. It is difficult to assess whether such legislation, or parts of it, could be applied in other States and the relative level of cost savings that would arise as a result of such implementation.

Furthermore, it is by no means certain whether all States will participate in implementing most, or any, of the procedural reforms adopted in NSW or the extent to which such processes will be effective in streamlining the administration and settlement of dust diseases claims in those States.

In this regard, it should be noted that there has not yet been any indication of a commitment by the Governments of the other States to accept or implement any procedural reforms at this time.

Therefore, whilst we have estimated the potential savings, it should be noted that the estimation of the level of legal cost savings that will eventuate from each of the other States is subject to considerable uncertainty.

Victoria

In Victoria, the legal system is believed to be as formal and complex as that in NSW prior to the New Process. We have been advised that the following NSW reforms would be effective in reducing costs in Victoria:

- The early exchange of information;
- Absence of formal pleadings and process for information exchange and evidence gathering;
- Evidence and expert reports only required on matters of dispute;
- Mediation occurring earlier in the process than currently happens in Victoria;
- The Apportionment process to determine contribution between liable parties, which shall be used as the standard presumption; and
- The use of a single claims manager, although this might have less impact than in NSW as there is believed to be lower disputation between defendants than in NSW.

It is believed that these reforms could, if implemented, result in similar proportionate cost reduction levels as those anticipated in NSW.

Western Australia

In Western Australia, claims appear to settle at an earlier stage than in NSW and Victoria. Furthermore, it appears that whilst exchange of information takes place by formal procedure, provision of information to defendants on a more informal basis before the lodgement of a Statement of Claim also occurs in many cases. There also appears to be an active dispute resolution process which acts as a mediation framework.

We have previously observed that legal costs in Western Australia are lower than those in Victoria and NSW and this is consistent with the above observations.

It is expected that were the Western Australia State Government to implement procedural reforms, savings would be achievable but there would not be proportionally as great as that anticipated in NSW as some of the streamlined NSW procedures under the New Process already take place in Western Australia.

That said, the procedures which would have the ability to bring about legal cost savings include:

- Absence of formal pleadings and process for information exchange and evidence gathering;
- Evidence and expert reports only required on matters of dispute;
- A formal process of mediation to promote earlier settlement and to resolve disputes amongst defendants more expeditiously;
- The Apportionment process to determine contribution between liable parties, which shall be used as the standard presumption; and
- The use of a single claims manager.

Queensland and South Australia

To date there have been very few cases run in Queensland or South Australia. The majority of Queensland related cases have instead been commenced and settled in the NSW Dust Diseases Tribunal.

It appears that the Personal Injury Proceedings Act 2002 ("PIPA") provides a framework which, if applied to dust diseases claims (noting PIPA does not currently apply to dust diseases claims), would be broadly equivalent to the New Process in NSW. Furthermore, PIPA permits the appointment of a Single Claims Manager.

If an apportionment process consistent with that being adopted in the New Process in NSW was also implemented concurrently with PIPA, one would expect that savings similar to those anticipated in NSW could be achieved if the Queensland State Government were to implement such reforms.

Other States and Territories

In view of the minimal volumes of claims run in ACT, Tasmania and NT to date, and the limited exposure that has arisen from those States to date (only 10 mesothelioma claims have been reported since 1980 with Tasmania, ACT or NT exposure), we have made no allowance for any potential savings from these States.

6.5 Resultant Legal savings

Taking into account the above discussions and assumptions, together with the results from the Cost Consultants' report (as detailed in Section 6.3), the proportionate reductions in legal costs that we have estimated are shown in the following table:

Table 6.7: Estimated proportion of legal costs saved by State

Proportion saved	
NSW	40%
Victoria	40%
WA	10%
Queensland & South Australia	20%
Other States	0%

7 ECONOMIC ASSUMPTIONS

7.1 Overview

The two main economic assumptions required for our valuation are:

- The underlying claims inflation assumptions adopted to project the future claims settlement amounts and related costs.
- The discount rate adopted for the present value determinations.

These are considered in turn below.

7.2 Claims inflation

We are required to make assumptions about the future rate of inflation of claims costs. We have adopted a standard Australian actuarial claims inflation model for liabilities of the type considered in this report that is based on:

- An underlying, or base, rate of general economic inflation relevant to the liabilities, in this case based on wage/salary (earnings) inflation; and
- A rate of superimposed inflation, i.e. the rate at which claims costs inflation exceeds base inflation.

7.2.1 Base inflation basis

Ideally, we would aim to derive our long term base inflation assumptions based on observable market indicators or other economic benchmarks. Unfortunately, such indicators and benchmarks typically focus on inflation measures such as CPI (e.g. CPI index bond yields and RBA inflation targets).

We have therefore derived our base inflation assumption from CPI based indicators and long term CPI / AWOTE⁸ relativities.

7.2.2 CPI assumption

We have considered two indicators for our CPI assumption.

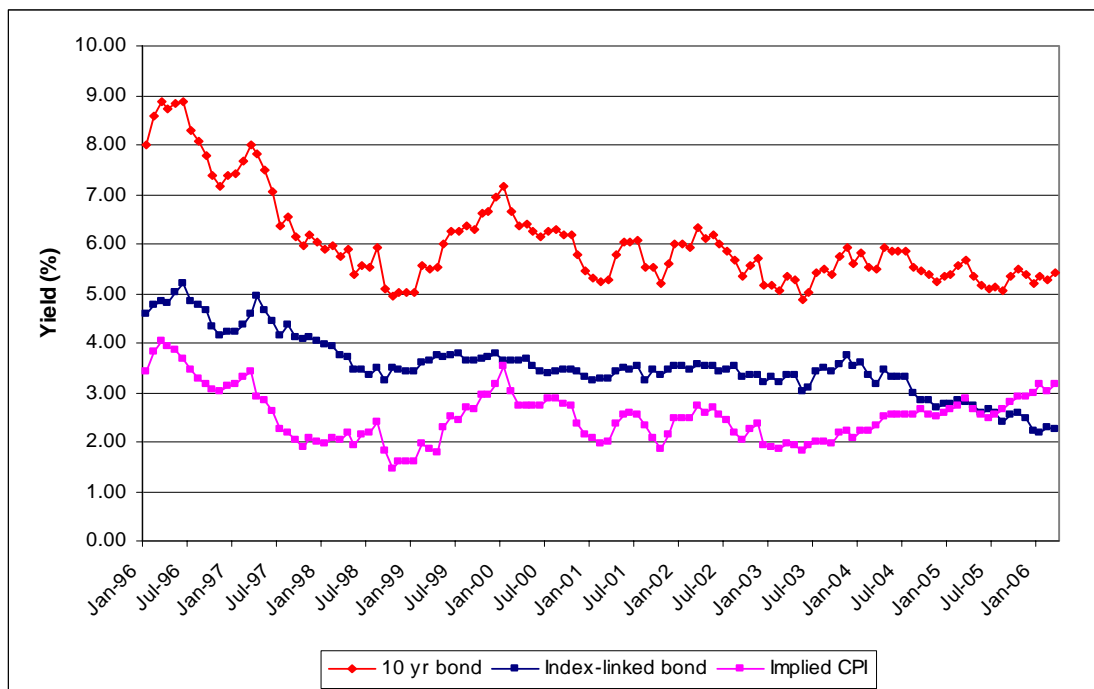
- Market implied CPI measures.
- RBA CPI inflation targets.

⁸ AWOTE = Average Weekly Ordinary Time Earnings

We have measured the financial market implied expectations of the longer-term rate of CPI by reference to the gap between the yield on government bonds and the real yield on government CPI index-linked bonds.

The chart below shows the yields available for 10-year Commonwealth Bonds and Index-linked bonds. The gap between the two represents the implied market expectation for CPI at the time.

Figure 7.1: Trends in Bond Yields: 1996 – 2006



Source: RBA Website www.rba.gov.au

It can be seen that the implied rate of CPI has varied between 1.5% per annum and 4% per annum during the last 10 years, although it has broadly remained between 2% and 3% per annum since March 2000.

Currently, the effective annual yield on long-term government bonds is 5.4% p.a. and the equivalent effective real yields on long-term index-linked bonds is approximately 2.3% per annum. This would imply current market expectations for the long-term rate of CPI were of the order of 3.1% per annum.

In considering this result we note that:

- This implied CPI rate has varied significantly in recent months (e.g. from around 2.5% as at 30 June 2005 to 3.1% at March 2006).

- The yields on both nominal and CPI-linked government bonds are driven by supply and demand, and both are in increasingly short supply in the market. The yields on both, and their relativities, are subject to some volatility and likely some short term distortion.
- The RBA's long term target is for CPI to be maintained between 2% and 3% per annum.
- While the RBA has been relatively successful with this target over the recent past, over the longer term future the risk of events leading to inflation emerging occasionally outside this range needs to be allowed. Given a likely upside bias to such events, longer term inflation at the higher end of the RBA's range would not be unexpected.

Weighing this evidence together, this suggests a long term CPI inflation benchmark of 2.75% to 3.00% per annum.

7.2.3 Wages (AWOTE) / CPI relativity

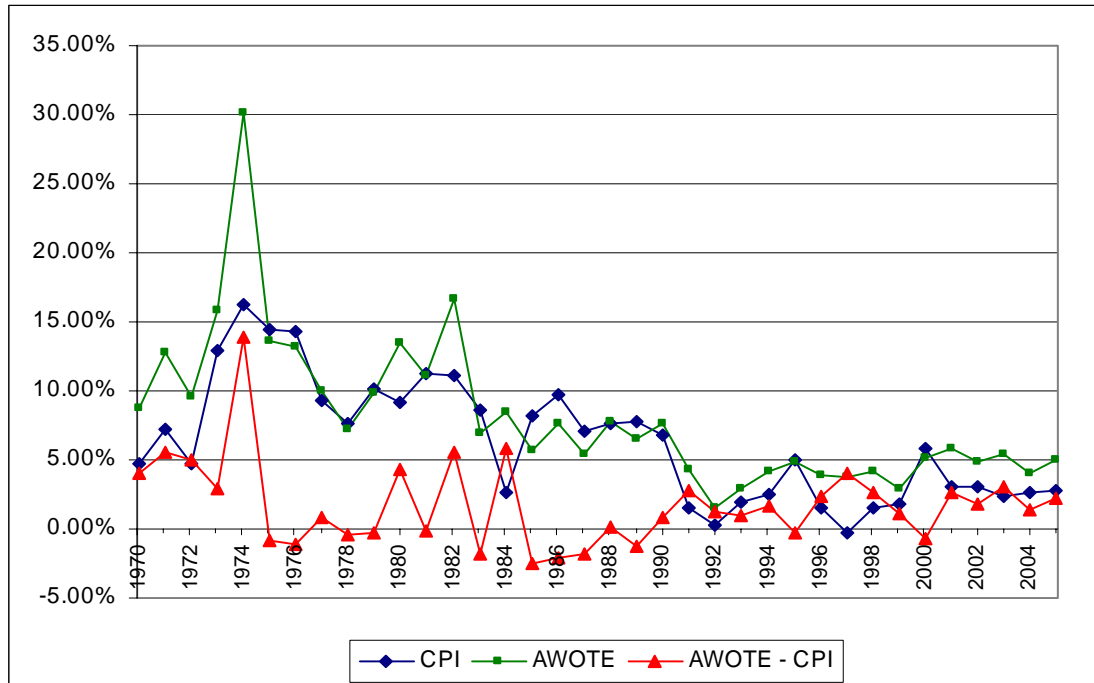
The following table summarises the average annualised rates of AWOTE and CPI inflation, and their relativities, for various historic periods:

Table 7.1: Annualised rates of CPI and AWOTE

	AWOTE	CPI	AWOTE – CPI
1970 – 2005	7.91%	6.20%	1.71%
1980 – 2005	5.99%	4.68%	1.31%
1990 – 2005	4.28%	2.51%	1.77%
1995 – 2005	4.47%	2.50%	1.98%

Figure 7.2 shows these yearly results, graphically, for the 1970 to 2005 period.

Figure 7.2: Trends in CPI and AWOTE: 1970 - 2005



In considering the above, we note:

- The last period from 1995 reflects largely a continuous period of economic growth which may not be reflective of longer term trends.
- The longer periods cover a range of business cycles, albeit that the period from 1970 includes the unique events of the early 1970's.

Allowing for these factors, the historic data suggests a CPI / AWOTE relativity, or gap, of 1.5% to 1.75%.

On this basis, given a longer term CPI benchmark of 2.75% to 3.00%, it would suggest a longer-term wage inflation (AWE) assumption of 4.25% to 4.75% p.a.

We note that such an assumption is not inconsistent with actual wage inflation over recent years (see Table 7.1 above) which has arisen during economic conditions not dissimilar to those reflected in the current market interest rates looking forward.

7.2.4 Impact of claimant ageing and non-AWOTE inflation effects

The overall age profile of claimants is expected to rise over future years with the consequent impact that, other factors held constant, claims amounts should tend to increase more slowly than pure average wage inflation. This is due to both reduced compensation for years of income or life lost and a tendency for post retirement age benefits to possibly increase closer to CPI than AWOTE.

Furthermore, we note that some heads of damage would be expected to rise at CPI or lower, such as general damages and compensation for loss of expectation of life. Other heads of damage, including loss of earnings, would be expected to rise at AWOTE; whilst medical expenses and care costs would be expected to rise in line with medical cost inflation which in recent times has been in excess of AWOTE.

Taking these factors into account, we have reduced our base inflation assumption by 0.25% to 0.50% p.a. from the AWOTE rate indicated above for the combined effect of ageing and other non-AWOTE inflation drivers of the benefits.

Weighing all of this together, we have adopted a base inflation assumption of 4.25% p.a.

7.2.5 Superimposed inflation

As discussed later in Section 9, actual claims inflation has been approximately 6% per annum historically. This is against corresponding general wage inflation (making some minor allowance for ageing effects as above) over the same period of approximately 4%. This implies average superimposed inflation has been approximately 2% per annum.

Prospectively, we have assumed that superimposed inflation will also be 2% per annum over the long-term, although it should be noted that the actual rate of claim inflation exhibited in any one year will be inherently volatile.

In addition, the 2% superimposed inflation allowance is not inconsistent with superimposed inflation experience we have seen under other relevant liability portfolios.

Given our future base inflation assumption looking forward of 4.25% per annum, adopting a 2% superimposed inflation would indicate a longer term overall claims cost inflation assumption of 6.34% per annum (as the inflation components are combined multiplicatively).

We discuss the claims inflation assumptions further in Section 9.

7.2.6 Summary of claims inflation assumptions

The table below summarises the claims inflation assumptions we have used within our current and previous liability assessments.

Table 7.2: Claims inflation assumptions

	31 March 2006	30 June 2005	31 March 2005
Base inflation	4.25%	4.00%	4.00%
Superimposed inflation	2.00%	2.00%	2.00%
Claim cost inflation*	6.34%	6.08%	6.08%

* Base and superimposed Inflation are applied multiplicatively in our models so that claim cost inflation is calculated as $1.0425 * 1.02 - 1$

7.3 Discount rates: Commonwealth bond zero coupon yields

We have adopted the zero coupon yield curve at 31 March 2006, underlying the prices, coupons and durations of certain Australian government bonds for the purpose of discounting the liabilities for this report.

The use of such discount rates is consistent with standard Australian actuarial practice for such liabilities, is in accordance with Professional Standard PS300 and is also consistent with our understanding of the Australian accounting standards in this regard.

Table 7.3 shows the zero coupon yields adopted for each duration of cashflows.

Table 7.3: Zero coupon yield curve by duration

Year	Yield at 31 March 2006	Yield at 30 June 2005	Yield at 31 March 2005
1	5.44%	5.33%	5.73%
2	5.41%	5.08%	5.71%
3	5.44%	5.09%	5.71%
4	5.46%	5.11%	5.71%
5	5.49%	5.14%	5.72%
6	5.51%	5.17%	5.74%
7	5.54%	5.20%	5.77%
8	5.56%	5.23%	5.80%
9+	5.57%	5.25%	5.82%

The equivalent single uniform discount rate, based on cashflows weighted by term, is 5.52% per annum at 31 March 2006 (30 June 2005: 5.20% per annum).

It is important to note that the discount rate can vary, perhaps significantly, between valuations, and can thus cause fluctuations in the present value of the liability. This has been seen at this valuation where yields at longer durations:

- have reduced from 5.82% at the March 2005 valuation to 5.25% at the June 2005 valuation, a reduction of 0.57% per annum; and
- have increased from 5.25% at the June 2005 valuation to 5.57% at the March 2006 valuation, an increase of 0.32% per annum.

It is also important to understand that if assets actually held to back the liabilities are not matched to those assumed (by type and/or amount), the future investment earnings earned may deviate from those implicitly allowed for within the actuarial valuation. This might generate either profits or losses relative to the discount rates adopted.

7.4 Consistency of economic assumptions

An important consideration to bear in mind when setting economic assumptions is the consistency of the various assumptions. For a valuation involving the long-term inflating of cashflows and then discounting these cashflows to current money terms, a key consideration is the relativity between the assumptions.

Whilst future investment yields on government bonds will change, so too will the rate of future wage inflation and consequently also the overall rate of claims inflation. The key factor is whether the gap between the two factors remains reasonable.

Within our current valuation, we have allowed for base inflation at 4.25% per annum, superimposed inflation at 2% per annum, and average yields at 31 March 2006 of 5.52% per annum. As such, the gap between claims inflation and the yield is 0.82% per annum (being 6.34% – 5.52%).

This compares with our valuation at 30 June 2005 where the gap was 0.88% per annum and with March 2005 where the gap was 0.31% per annum.

As such, there has been a strengthening in the valuation basis over the last financial year resulting from the change in economic assumptions of about 0.51% per annum.

This is not inconsistent with the narrowing of the real yields on CPI index-linked bonds over the same period which have reduced by approximately 0.5%.

8 ANALYSIS OF CLAIMS EXPERIENCE – CLAIM NUMBERS

8.1 Overview

We have begun by analysing the pattern of notifications of claims as shown in Table 8.1. This table shows the claim notifications by year since 1991/92 and all prior claim notifications in aggregate.

Table 8.1: Number of claims reported annually

Report Year	Mesothelioma	Asbestos	Lung Cancer	ARPD & Other	Wharf	Workers Compensation	All claims
Pre-1991	69	47	9	34	4	350	513
1991/92	25	13	5	6	4	29	82
1992/93	41	19	10	9	2	34	115
1993/94	56	39	16	30	5	67	213
1994/95	81	13	8	15	4	30	151
1995/96	72	24	16	23	3	32	170
1996/97	84	36	15	20	1	39	195
1997/98	108	32	20	17	2	51	230
1998/99	94	26	12	13	3	30	178
1999/00	94	42	16	11	14	38	215
2000/01	126	46	29	21	26	38	286
2001/02	160	92	23	31	16	60	382
2002/03	178	91	35	41	15	51	411
2003/04	183	98	26	29	10	36	382
2004/05	261	119	30	30	6	61	507
2005/06*	200	92	29	21	4	34	380
All Years	1,832	829	299	351	119	980	4,410

* Data for 2005/06 from 1 April 2005 to 31 March 2006

8.2 Mesothelioma claims

It can be seen that for mesothelioma, the incidence of notifications showed a step change upwards from 2000 and a steady rate of increase to the 2003/04 financial year, to 183 claims.

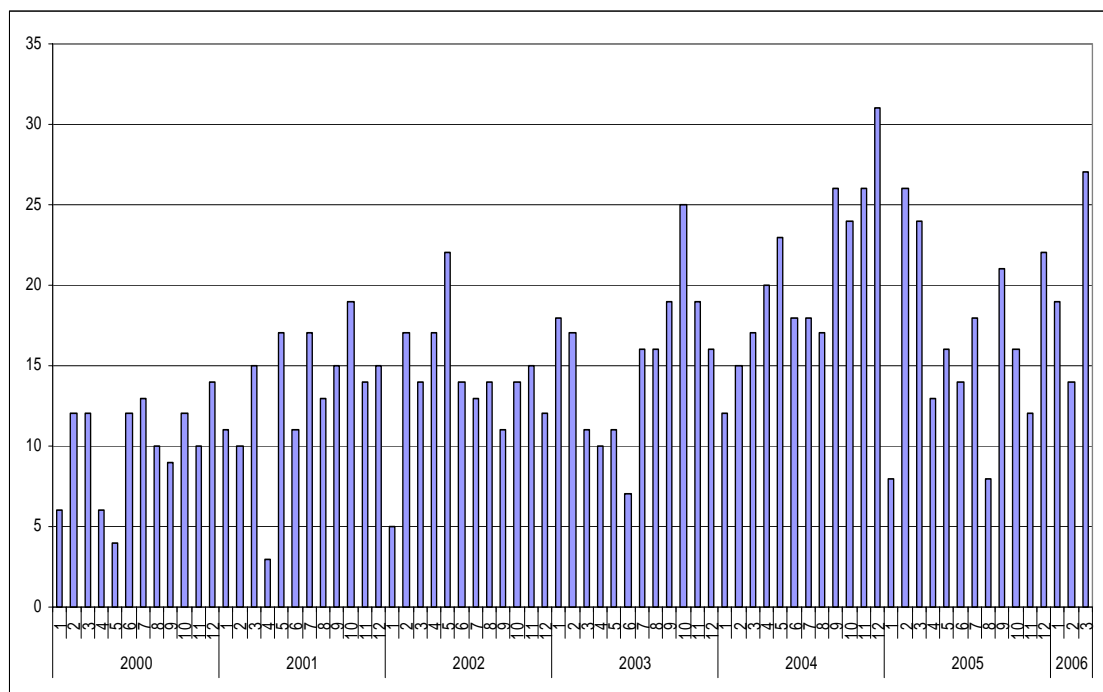
However, it is also apparent from the claims information that there was a further upward step in claim numbers during 2004/05 with 261 claims reported in the year.

There have been 200 claims reported during 2005/06.

8.2.1 Monthly analysis of notifications

We have examined the mesothelioma claims reported on a monthly basis to better understand the nature of the trends.

Figure 8.1: Monthly notifications of mesothelioma claims: 2000-2006*



* Data for 2005/06 from 1 April 2005 to 31 March 2006

In our previous report we noted that there had been a consistent high trend in claim numbers. We noted that February and March 2005 exhibited a high number of claims reported mainly as a result of a late filing of 18 claims for statutory recovery by WorkCover Queensland.

This trend of high claims reporting has not continued throughout the 2005/06 financial year, for which there have been 200 claims reported. That said, the experience in the most recent 6 months, with 110 claims reported in this period, has been higher than that exhibited during the first quarter of the financial year (43 claims) and has reverted to levels closer to that forecast in our valuation at June 2005 (20 claims per month).

8.2.2 Claims notifications by State

We have monitored the claims notifications patterns by State in which the claim is filed. Table 8.2 shows the number of claims notified by year by State.

Table 8.2: Number of mesothelioma claims by location of claim filing

Report Year	NSW	VIC	WA	QLD	NZ	USA	Other	Total
Pre-1994	108	52	26	1		1	3	191
1994/95	57	18		2			4	81
1995/96	48	17	2	3			2	72
1996/97	55	11	9	2			7	84
1997/98	81	16	4	3			4	108
1998/99	61	25	4	2			2	94
1999/00	58	21	8	2		1	4	94
2000/01	70	28	14		3	7	4	126
2001/02	103	27	21		5	2	2	160
2002/03	110	41	23	2			2	178
2003/04	110	47	26					183
2004/05	111	93	33	19			5	261
2005/06*	91	57	35	5			12	200
Total	1,063	453	205	41	8	11	51	1,832

* Data for 2005/06 from 1 April 2005 to 31 March 2006

It can be seen that the most significant States, in relation to where claims have been filed to date, are NSW (58%), Victoria (25%) and WA (11%).

However, the trend changed somewhat in 2004/05 with NSW making up 43%, Victoria making up 36% and WA making up 13% in 2004/05.

Experience in 2005/06 has continued the pattern observed in 2004/05 with NSW making up 46%, Victoria making up 29% and WA making up 17%.

It is of interest that Queensland has contributed only 2% of total claims to date, but that almost half of these claims relate to 2004/05, reflecting a substantial number of filings (18) of claims for contribution by WorkCover Queensland against Amaca in February and March 2005 in relation to claims which had already been settled with the relevant plaintiffs. A number of cases related to years much earlier than 2005 and they appeared to involve a clearing of a backlog of claims.

In part these trends will have been contributed to by the decisions of Schultz vs. BHP which will lead to claims being more regularly heard in the State of exposure rather than NSW.

8.2.3 *Base valuation assumption*

In setting a base valuation assumption for 2006/07, we need to consider whether the observations in 2004/05 were one-off fluctuations or were part of a new trend, and especially the extent to which 2005/06 has been impacted by 2004/05, i.e. how much faith can be placed in the latest emerging experience. We have the option of:

- Ignoring the latest experience and dismissing it as simply a one-off fluctuation, maintaining the previous assumption for notification years 2006 and onwards.
- Recognising it in part, and giving some credibility to the emerging experience.
- Recognising it in full, and asserting this to be part of a new trend which will continue in relation to all future years of claims.

The areas where we need to consider this are:

- The somewhat resurgent experience over the latter part of 2005/06 (see Figure 8.1);
 - In relation to the sharp increase in claims from Victoria in 2004/05 and the subsequent reduction in 2005/06; and
 - In relation to the statutory recovery claims from WorkCover Queensland and the underlying expectation of cross-claims activity from WorkCover Queensland prospectively.
-

Claims experience in the second half of the 2005/06 financial year

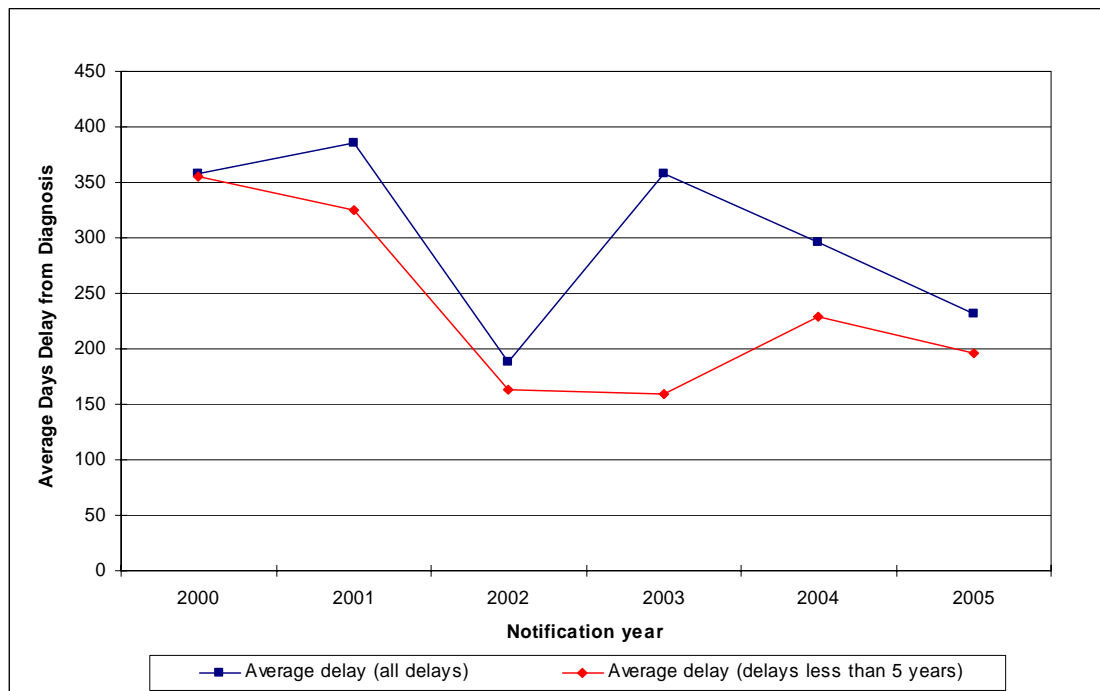
In relation to the claims experience in the 2005/06 financial year, we have noted that whilst the experience seems favourable relative to expectations, trends in recent months (notably the second half of 2005/06) have been less favourable.

We have considered whether there was an acceleration of claims reporting in 2004/05 in relation to mesothelioma claims which may have increased the number of claims reported in 2004/05 and consequently reduced the reporting activity in the early part of 2005/06.

Given the nature of the disease, accelerated reporting can only realistically involve one or two months shift in the delay between diagnosis and claim notification.

We have reviewed the average delay from diagnosis to notification since 2000 and the following chart summarises the results of that analysis.

Figure 8.2: Average delay from diagnosis to claim notification: mesothelioma claims only



The average delay from diagnosis to notification is affected by:

- The underlying average delay of the short-delay claims (as indicated by the red line in the above chart); and

- The incidence of a number of long-delay claims (which affects the magnitude of the gap between the two lines in the above chart).

Analysis of the underlying data shows that the large increase in the average delay for 2003/04 was due to a number of long delay claims (more than 5 years). These claims are mainly “Compensation to Relatives” claims made by relatives of deceased plaintiffs.

In 2001/02, there was a significant increase in claims activity (as shown in Table 8.1). It is possible that the increase in claims activity was in part due to filing of claims that were in progress before 2001/02 but which had not yet been filed and that therefore a number of longer duration claims emerged, thereby increasing the average delay from diagnosis to notification. This can be evidenced by the fact that the overall average increased whilst the average of short-delay claims decreased.

Given this clearance of “backlog” the claims reported in 2002/03 would therefore predominantly relate to claims arising from more recent diagnoses of illness and the delay accordingly shortened.

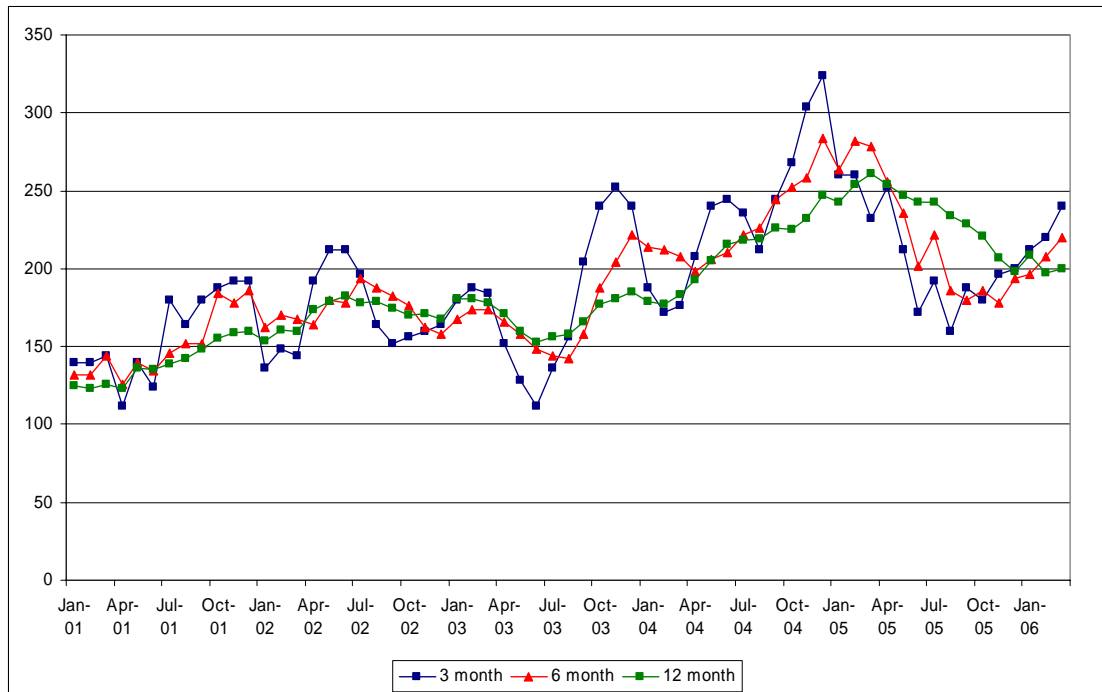
The average delay (of all claims) for 2004/05 was lower than for previous years, with the exception of 2002/03 which might provide some support for the assertion that the level of claims activity in 2004/05 was, in part, a result of accelerated reporting relative to 2003/04. The average delay in 2004/05 was some 1.5 months less than 2003/04.

The reduction in the delay in 2005/06 is likely to also be due to the clearance of “backlog” in 2004/05, arising from the perceived concerns over the solvency of the MRCF at that time, such that claims reported in that period would arise from more recent diagnoses of illness and the delay accordingly shortened.

The evidence is not, however, conclusive in this regard.

We have reviewed the number of mesothelioma claims reported on a monthly basis and reviewed the rolling 3-month, 6-month and 12-month averages in recent periods.

Figure 8.3: Rolling averages of mesothelioma claim notifications



* Data for 2005/06 from 1 April 2005 to 31 March 2006

It can be seen that the current rolling averages at March 2006 are between 200 (12 month average) and 240 (3 month average). It can also be seen that the 3-month average has shown an upwards trend since August 2005.

By contrast, the 12 month average has shown a steady decline since March 2005, although the decline has now halted and the 12-month average is now increasing.

Victoria and WorkCover Queensland

It is our view that in relation to the Victoria claims it is likely that the increase is in part due to the impact of Schultz vs. BHP and is partly a new trend of increasingly co-joining the Liable Entities in claims.

In setting our assumption for 2006/07 we have made some allowance for increased activity in Victoria and have assumed that some of the increase in 2004/05 was an acceleration of claims that would otherwise have been reported in 2005/06.

In relation to WorkCover Queensland, we have taken the view that the 2004/05 cross-claims were, in part, a clearance of a backlog of statutory recoveries. We also note that contribution or reimbursement to such Schemes will be met only to a limited extent by the Special Purpose Fund.

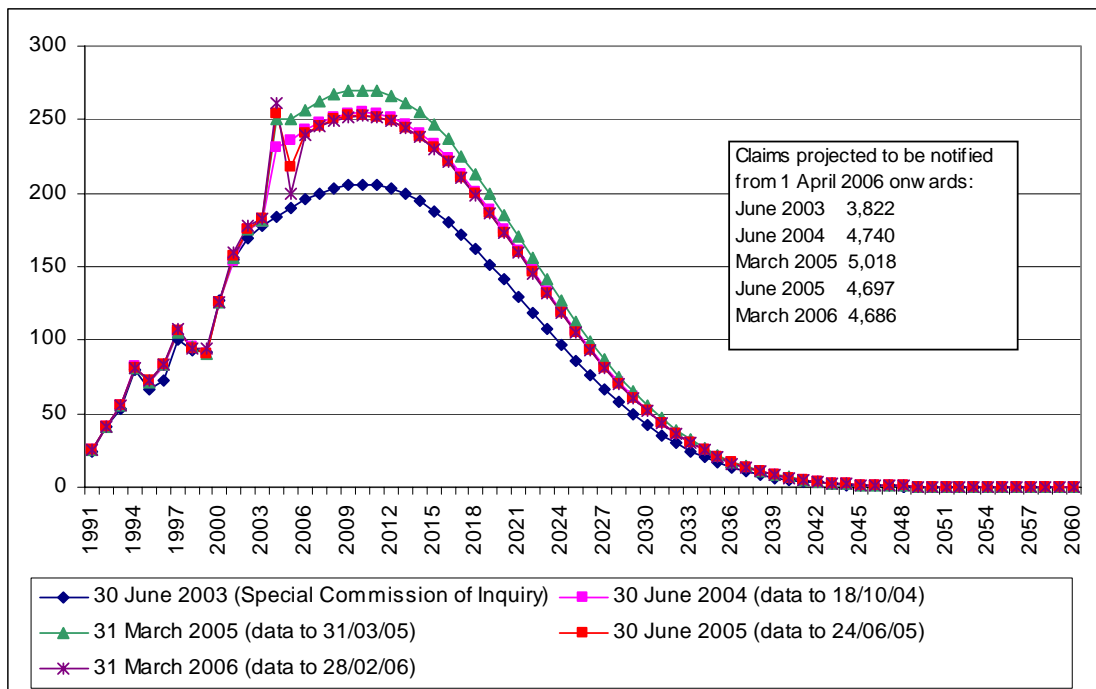
Base valuation assumption adopted

In setting an assumption for 2006/07, we have taken into account the experience in 2005/06 generally, but with particular regard to the more recent experience in the last six months, which seems to have shown a return closer to levels that we had previously forecast (of about 20 claims per month). We also consider that the level of claims activity in the early part of 2005/06 was affected by the accelerated reporting in 2004/05.

We have projected 240 claims to be reported in 2006/07, being equivalent to 20 claims per month. This is unchanged from our previous projection at June 2005.

The chart below shows the change in valuation basis assumptions for mesothelioma since we conducted our first review during the Special Commission of Inquiry.

Figure 8.4: Change in mesothelioma claims projections at successive valuations



8.3 Asbestosis claims

It can be seen in Table 8.1 that for asbestosis, the incidence of notifications has shown a step change upwards since 2000/01 and a gradual increase to 2003/04.

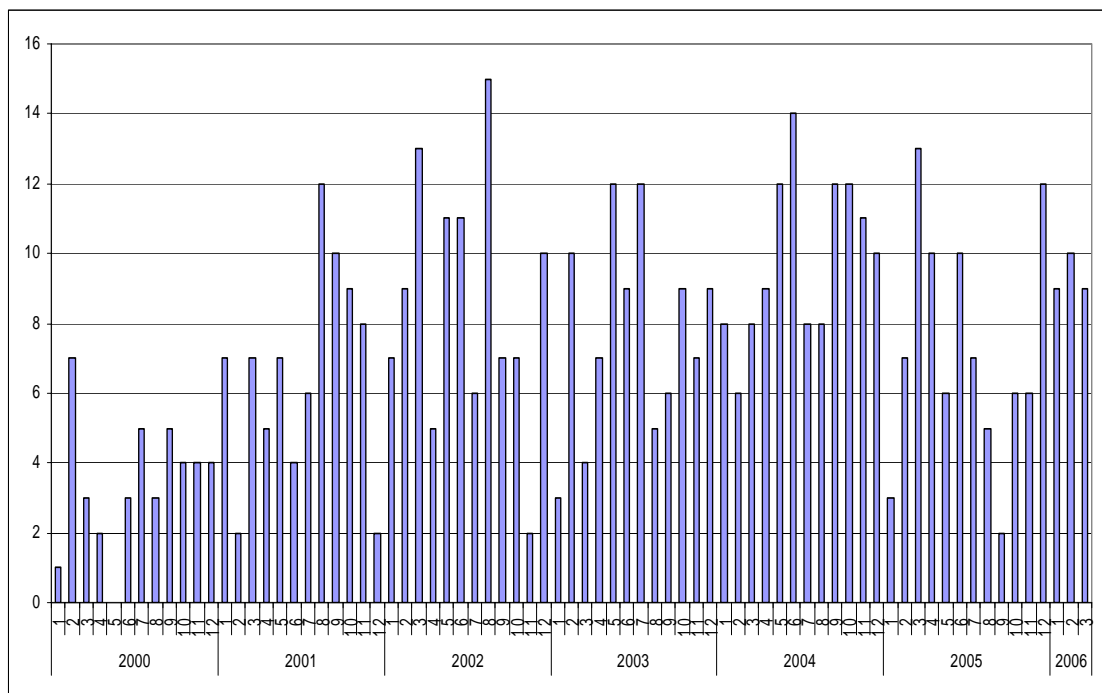
The number of asbestosis claims increased substantially from 98 in 2003/04 to 119 in 2004/05.

There have been 92 claims reported during 2005/06.

8.3.1 Monthly analysis of notifications

We have examined claims on a monthly basis by disease type and by State in which the claim is being filed, to better understand the nature of the trends.

Figure 8.5: Monthly notifications of asbestosis claims: 2000-2006*



* Data for 2005/06 from 1 April 2005 to 31 March 2006

There has been considerable volatility in reporting in the last 2 years, with the second quarter of 2005/06 showing a considerable reduction in claims reporting.

It is of note that claims activity in recent months appears to have reverted closer to levels we had previously forecast (of about 9 claims per month).

8.3.2 Claims notifications by State

Again, it has been observed that the claims being filed in Victoria (see below) showed a considerable increase in numbers in 2004/05, although NSW also appeared to have increased, albeit not at the same rate as Victoria.

Table 8.3: Number of asbestosis claims by location of claim filing

Report Year	NSW	VIC	WA	QLD	SA	Other	USA	Grand Total
Pre-1994	65	41	7			4	1	118
1994/95	11	2						13
1995/96	19	3			1	1		24
1996/97	27	8	1					36
1997/98	28	4						32
1998/99	22	3				1		26
1999/00	29	12					1	42
2000/01	36	7				1	2	46
2001/02	76	15			1			92
2002/03	78	9			3	1		91
2003/04	73	21	3	1				98
2004/05	81	25	4	7	1	1		119
2005/06*	33	31	2	21	5			92
Total	578	181	17	29	11	9	4	829

* Data for 2005/06 from 1 April 2005 to 31 March 2006

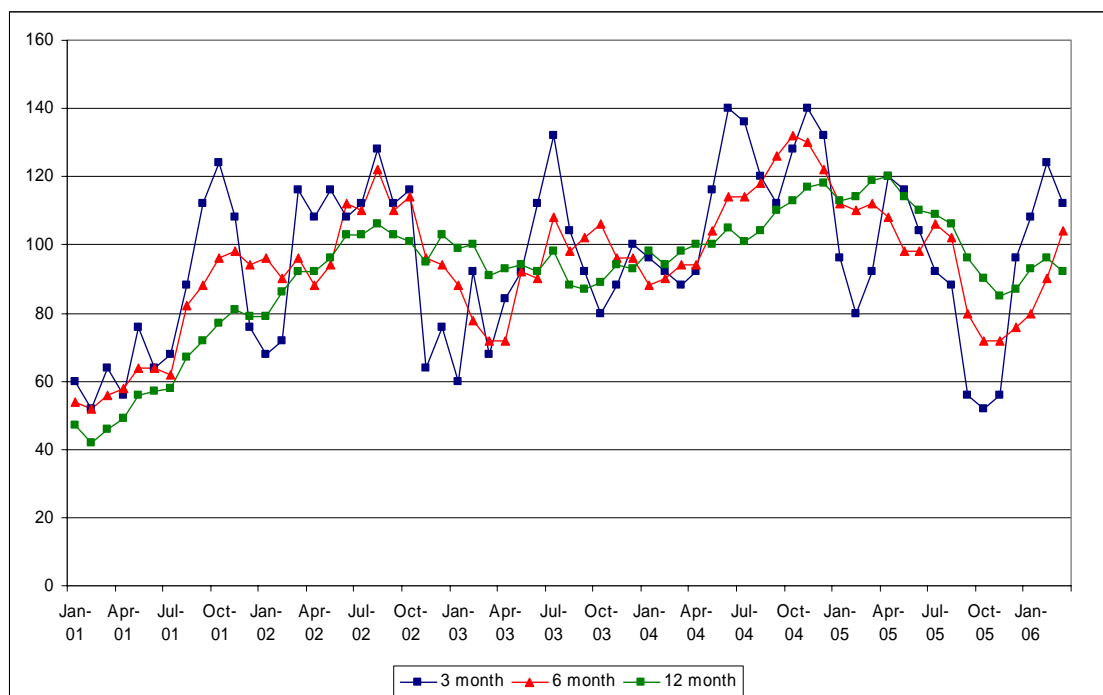
It can be seen that there has been a large increase in asbestosis claims in Queensland in 2005/06. This, in part, appears to be a function of cross-vesting as there appears to have also been a substantial reduction in NSW.

As with mesothelioma, we need to assess whether the increase in claims in 2004/05 or the subsequent reduction in 2005/06 is part of a new trend or simply a fluctuation. We also need to assess how much to take into account the emerging experience of the most recent financial year.

We have made some allowance for the emerging experience and have adjusted our valuation in light of the experience in the most recent financial year, particularly in relation the experience in the latter part of 2005/06.

As with mesothelioma, we have considered rolling 3 month, 6 month and 12 month averages in considering the projected level of claims activity in 2006/07.

Figure 8.6: Rolling averages of asbestosis claim notifications



* Data for 2005/06 from 1 April 2005 to 31 March 2006

It is not surprising that asbestosis shows greater volatility than mesothelioma, given the smaller number of claims involved. It can be seen that recent 3 month averages have varied between 50 and 120 claims per annum, with it currently running at 112 claims per annum.

For 2006/07, we have based our projections on an underlying 9 claims per month, or 108 claims per annum. This is unchanged from our previous assumption.

8.4 Lung cancer claims

For lung cancer claims, the notifications have been steady and do not appear to have shown the same pattern of notification as mesothelioma and asbestosis. Indeed, the experience in 2004/05 turned out to be just 4 claims higher than 2003/04, at 30 claims.

There have been 29 claims reported during 2005/06.

In our previous report, we projected 29 claims for 2005/06 and 31 claims for 2006/07. At this valuation, we see no evidence to vary this assumption.

8.5 ARPD & Other claims

In relation to ARPD & Other claims, the number of claims fell from 41 in 2002/03 to 29 in 2003/04 and then increased to 30 in 2004/05.

There have been 21 claims reported during 2005/06.

We have projected 33 claims to be notified in 2006/07, unchanged from our previous assumption.

8.6 Workers Compensation and wharf claims

The number of Workers Compensation claims, including those met in full by the Liable Entities' Workers Compensation insurers, had previously exhibited some degree of stability over the past few years, at around 50 to 60 per year. However, in 2003/04, the numbers fell to 36 and in 2004/05 they increased to 61.

In 2005/06, there were 34 claims reported, of which 16 claims were reported in the first quarter of the financial year.

It is not clear as to the reason why there has been a substantial reduction in claims activity in 2005/06, particularly since July 2005.

However, we note that if the underlying level of claims activity was expected to be 50-60 claims per annum, the range of observations would be 35 to 75 claims (broadly representing a 95% confidence interval). It therefore appears that the experience in the last five years simply reflects statistical variation.

Accordingly, whilst we have reduced our prospective assumptions slightly, we have not given full credibility to the most recent activity. In particular, we note the volatility of the last three years.

It should be noted that the financial impact of this source of claim is not substantial given the proportion of claims which are settled for nil liability against the Liable Entities (generally in excess of 90%), which results from the insurance arrangements in place.

For wharf claims, we have projected 6 claims to be notified in 2006/07. Again, the financial impact of this source of claim is not material.

8.7 Summary of base claims numbers assumptions

In forming a view on the numbers of claims in 2005/06, we have taken into account the emerging experience in the financial year and a revised view of the expected numbers of claims reported monthly based on recent trends. In forming a view as to the base number of claims in 2006/07 from which we calibrate the curve of claims notifications, we have also considered the extent to which the 2004/05 and 2005/06 experience, or previous trends in claims numbers, will continue.

We have adopted the view that the increase in the 2004/05 year was partly a permanent effect, relating to the move to a new scale of joining of the Liable Entities in claims and partly an acceleration of claims that would otherwise have been reported in 2005/06.

Nonetheless, in forming our views, we have given greater credibility to the claims activity in 2004/05 and 2005/06 than the claims activity in prior years.

As outlined in Sections 8.2 to 8.6, our assumptions as to the levels of claims numbers to assume are as follows:

Table 8.4: Base claim numbers assumptions

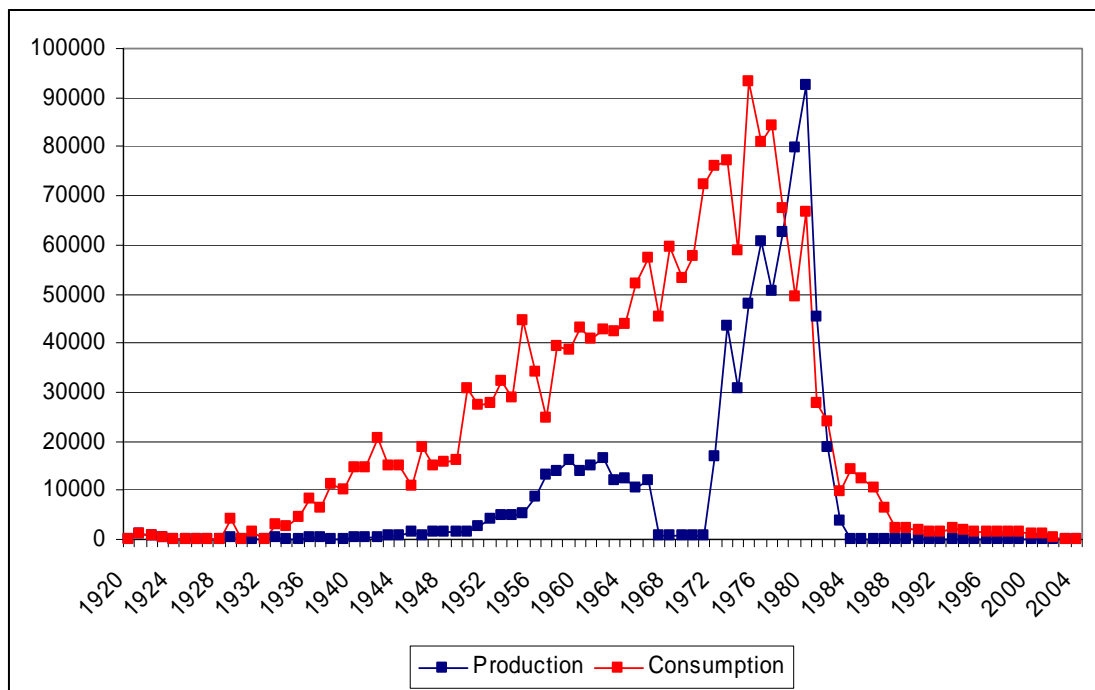
	Average 2004/05 and 2005/06 (annualised)	Second half-year of 2005/06 (annualised)	2006/07 (projected)
Mesothelioma	230	220	240
Asbestosis	106	104	108
Lung Cancer	30	28	31
ARPD & Other	26	20	33
Workers Compensation	47	28	60
Wharf claims	5	4	6
Total	444	404	478

8.8 Exposure information

8.8.1 Australian use of asbestos

Figure 8.7 shows measures of the production and consumption of asbestos in Australia in the period 1920 to 2002. It can be seen that the exposure, being measured in net consumption, appeared to peak in the early to mid 1970s.

Figure 8.7: Consumption and production indices – Australia 1920-2002



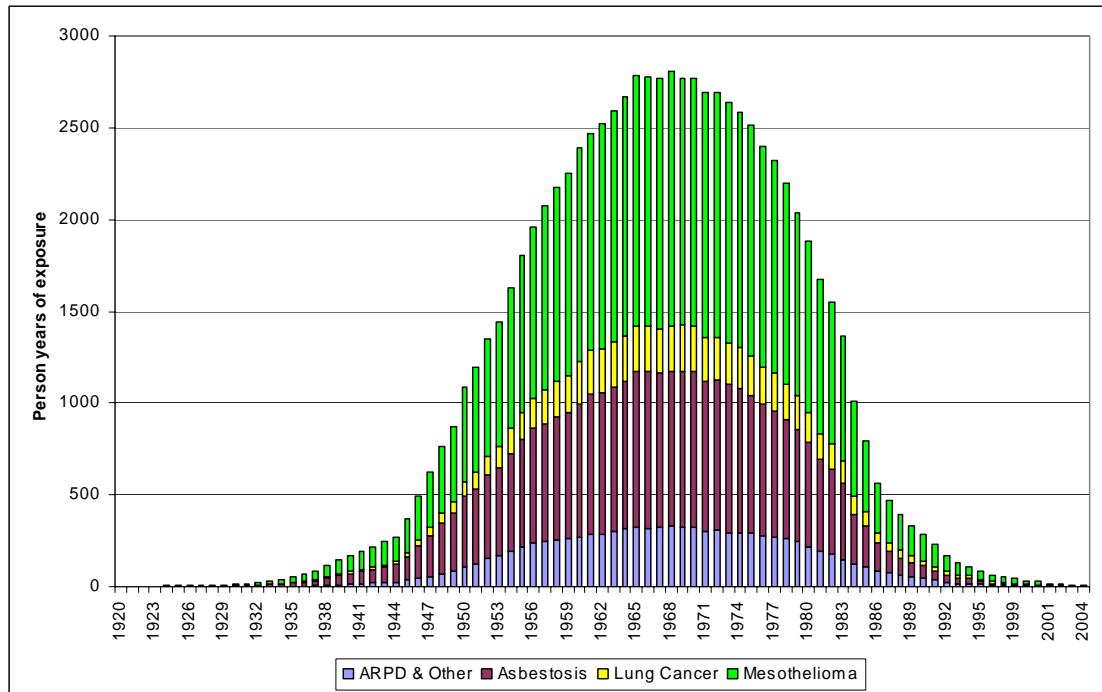
Source: World Mineral Statistics Dataset, British Geological Survey, www.mineralsuk.com
 R Virta, USGS Website Annual Yearbook

At a simple level, a peak of consumption in approximately 1975 might appear to correspond to a peak in notifications of mesothelioma claims in around 2010, being 35 years later (and equal to the mean of the latency period from the average date of exposure of the claimant to the date of notification). The data underlying this chart is shown in Appendix F.

8.8.2 Exposure information from current claims

We have also reviewed the exposure information available in relation to claims notified to date. This has been conducted by using the exposure dates stored in the MRCF's claims database at an individual claim level and identifying the number of person-years of exposure in each exposure year. We have reviewed the pattern of exposure for each of the disease types separately, although we note that they tend to follow similar patterns for each disease type.

Figure 8.8: Exposure (person-years) of all Liable Entities' claimants to date



The chart shows that the peak of exposure from claims reported to date has so far arisen in 1968. It should be recognised that there is a significant degree of bias in this analysis in that the claims notified to date will tend to have arisen from the earlier periods of exposure.

Over time, one would expect this curve to develop to the right hand side and the peak year of exposure to trend towards the early to mid 1970s, whilst also increasing in absolute levels at all periods of exposure as more claims are notified and the associated exposures from these are included in the analysis.

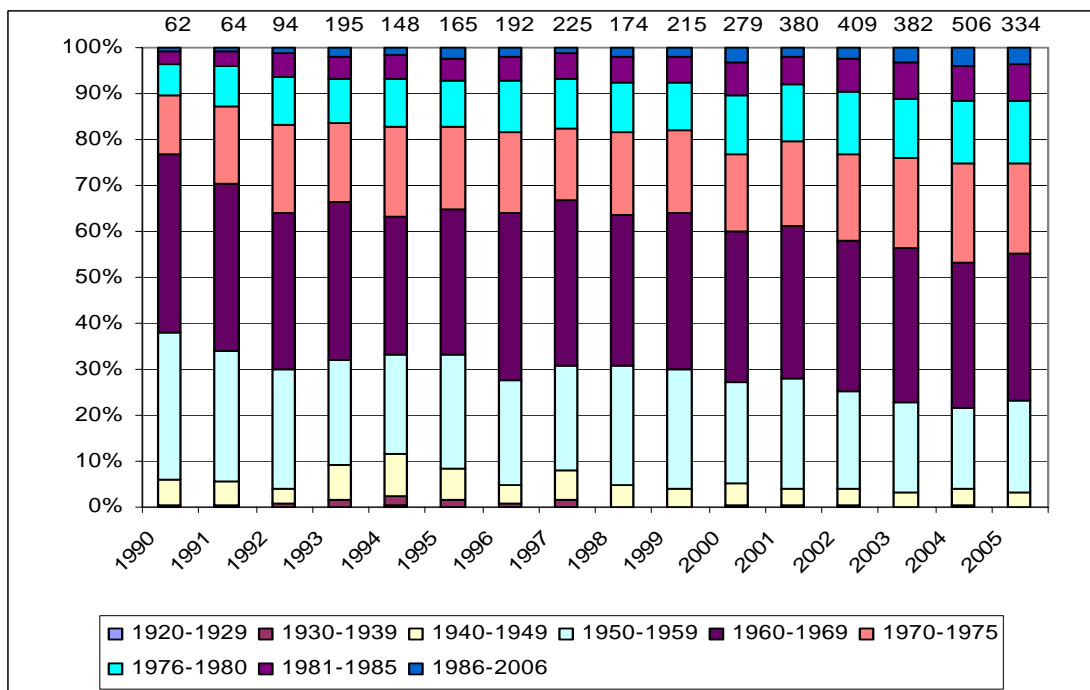
The relatively low level of exposure from 1987 onwards (about 5% of the total) is not unexpected given that products ceased to be manufactured in 1987 but the exposure after that date likely results from usage of products already produced and sold before that date.

This chart is a cumulative chart of the position to date and does not show temporal trends in the allocation of claims to exposure years.

For example, one would expect that more recently reported claims should be associated with, on average, later exposures; and that claims reported in future years would continue that trend to later exposure periods. If this did not occur, it would suggest mean latency periods would increase substantially over time and that the claimant's age at diagnosis would also rise considerably. This does not appear to be commensurate with trends to date or for that matter with epidemiological research of mesothelioma.

To understand better these temporal trends, we have modelled claimants' exposures for each past claim report year since 1990/91 to 2004/05 separately.

Figure 8.9: Exposure (person years) of all claimants to date by report year and exposure year



As can be seen in the above chart, there has been an increasing shift towards the claims occurring years of coverage, evident by the downwards trends in the chart from left to right indicating that an increasing proportion of the claimants' exposure relates to more recent exposure periods.

We would expect that this trend should continue for some time to come and that an increasing proportion of the exposure will relate to the period 1981 to 1985.

8.9 Latency Model

Our method for projecting claim numbers is described in Section 5.4. In brief terms, we use the exposure curve together with a model of the latency period of claims to derive an index of future claim notifications which we then calibrate to a base number of claims notifications to estimate the future incidence of claims.

Our latency model for mesothelioma is for latency to be normally distributed with a mean latency of 35 years and a standard deviation of 10 years.

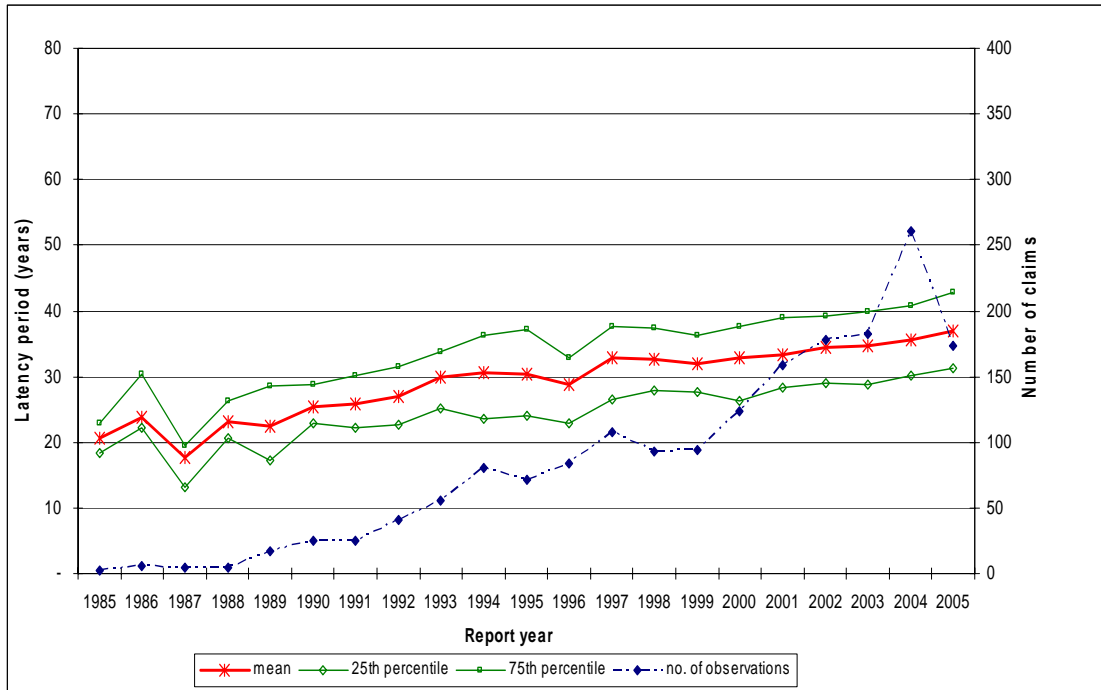
We have monitored the latency period of the claims of the Liable Entities in order to test the validity of those assumptions.

We have measured the mean latency period from the average date of exposure to the date of notification of a claim.

In strict epidemiological terms, the latency period should be measured from the date of exposure to the date of diagnosis. Given that the date of notification lags the date of diagnosis by around 1 year for non-mesothelioma disease types, and slightly less for mesothelioma (see Figure 8.2), the latency trends shown in the following charts might slightly overstate the true latency.

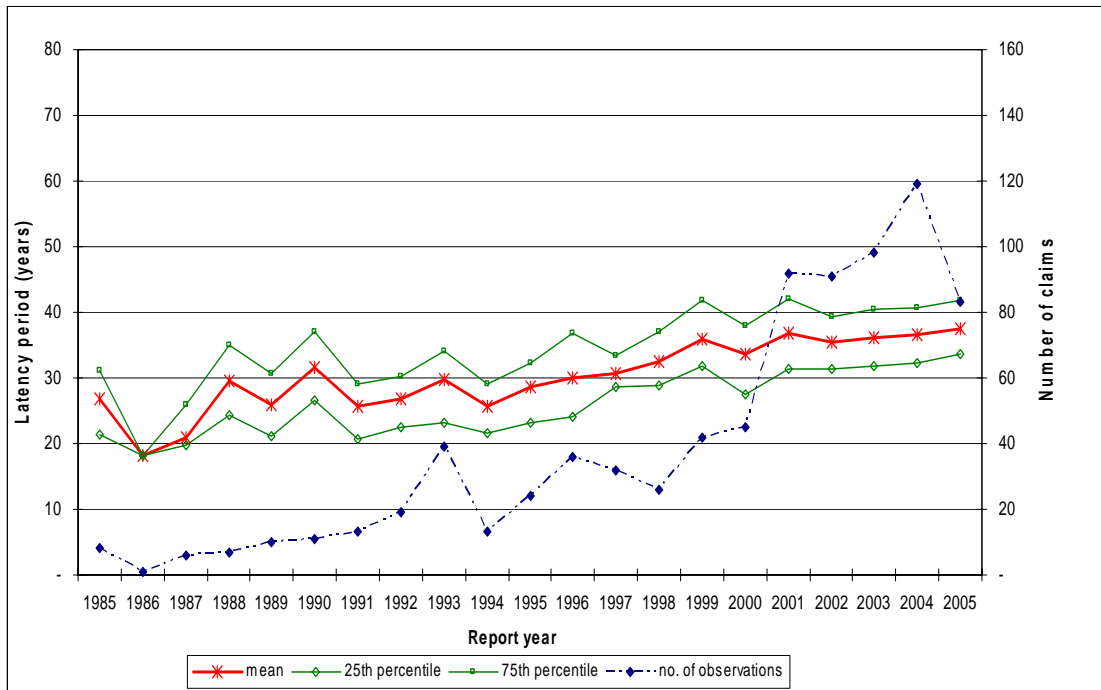
The charts below show the average (mean) latency and the 25th percentile and 75th percentile observations.

Figure 8.10: Latency of mesothelioma claims



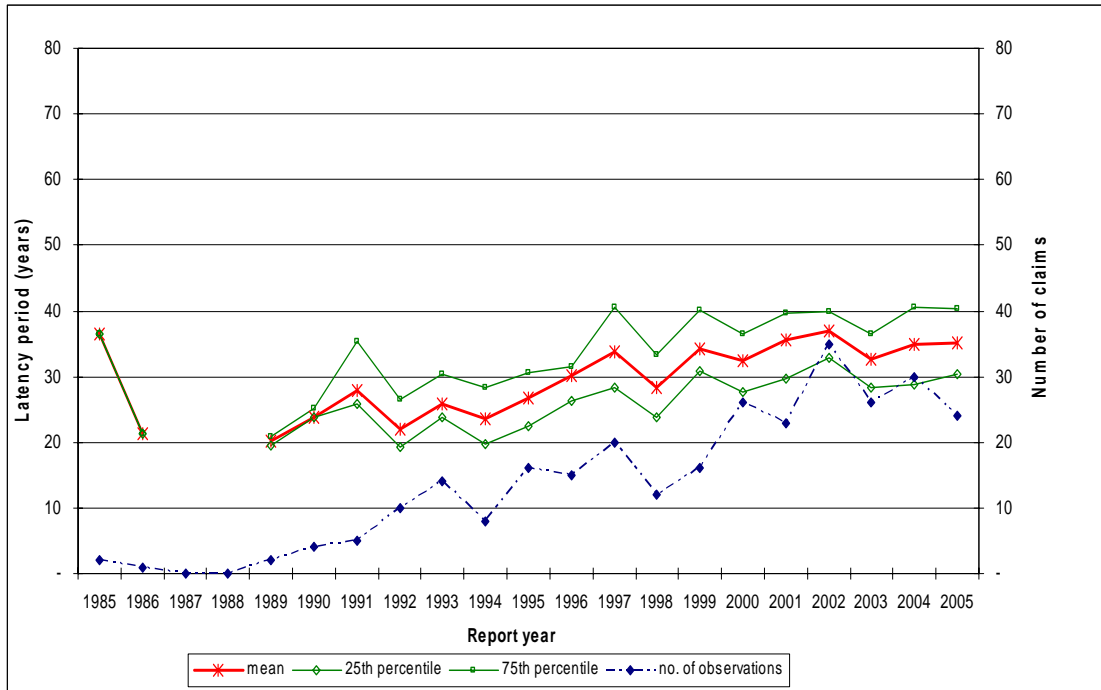
* Data for 2005/06 from 1 April 2005 to 28 February 2006

Figure 8.11: Latency of asbestosis claims



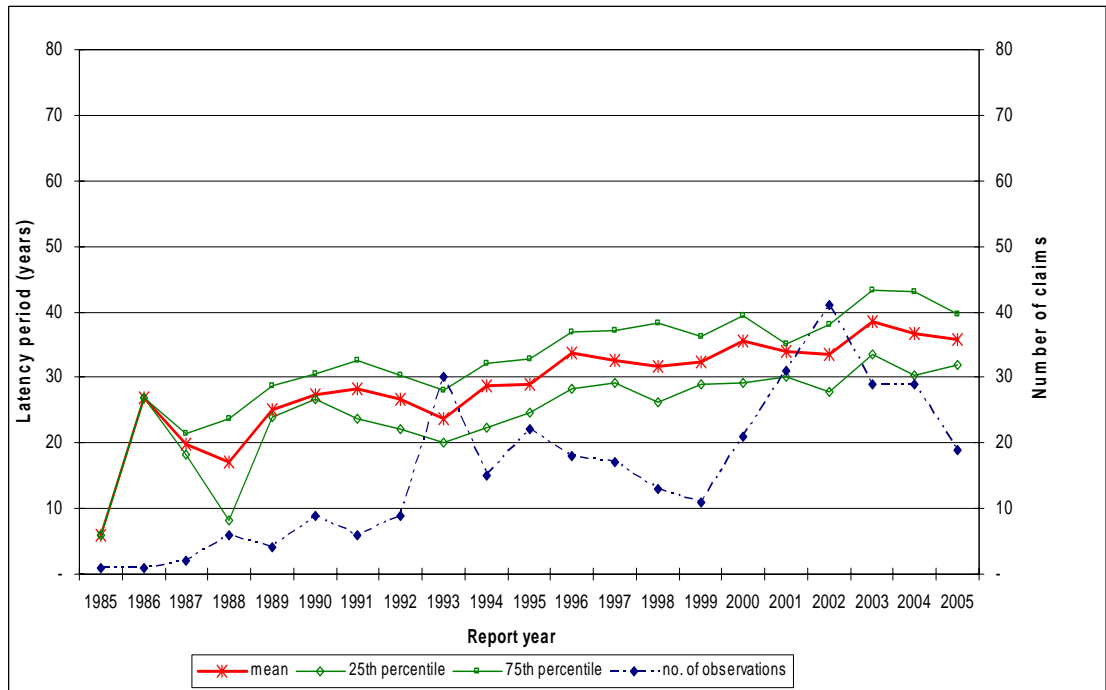
* Data for 2005/06 from 1 April 2005 to 28 February 2006

Figure 8.12: Latency of lung cancer claims



* Data for 2005/06 from 1 April 2005 to 28 February 2006

Figure 8.13: Latency of ARPD & Other claims



* Data for 2005/06 from 1 April 2005 to 28 February 2006

The above charts indicate that the average latency period from the average exposure is around 35 years for mesothelioma.

It is not surprising that the average latency period observed is showing an upward trend. An analysis of the latency period would be biased in early years as the claims that are reported in those years would have to result from the first exposures (e.g. in the 1930s) and be of short latency.

By contrast, in the later years (e.g. 2040 onwards), claims reported in that period would have to result from later exposure (e.g. in the 1980s) and result from the longer-latency claims.

At present, given that we are some 30 to 40 years after the main period of exposure, claims currently being reported reflect a broad mix of claims of varying latencies. Accordingly, any analysis of the latency period during the most recent 5 to 10 years:

- Should provide a good indicator of the underlying average latency period of each disease type; and
- Should show some slight upwards trends given the fall-off in exposure in the late 1970s and 1980s.

Accordingly, at this time the claims experience provides some support to our assumption as to the mean latency period of mesothelioma and other asbestos-related disease claims and seems to accord with epidemiological research in relation to mesothelioma.

A summary of our overall latency assumptions, which have in part been derived with reference to the actual experience and in part from epidemiological studies and medical literature, are shown in Appendix E.

8.10 Peak year of claims and estimated future notifications

Based on the application of our exposure model and our latency model, and also taking into account epidemiological views from both Australia and the UK, recognising that there are some conflicting views as to when the peak might arise, the peak year of notification for each disease type is as follows:

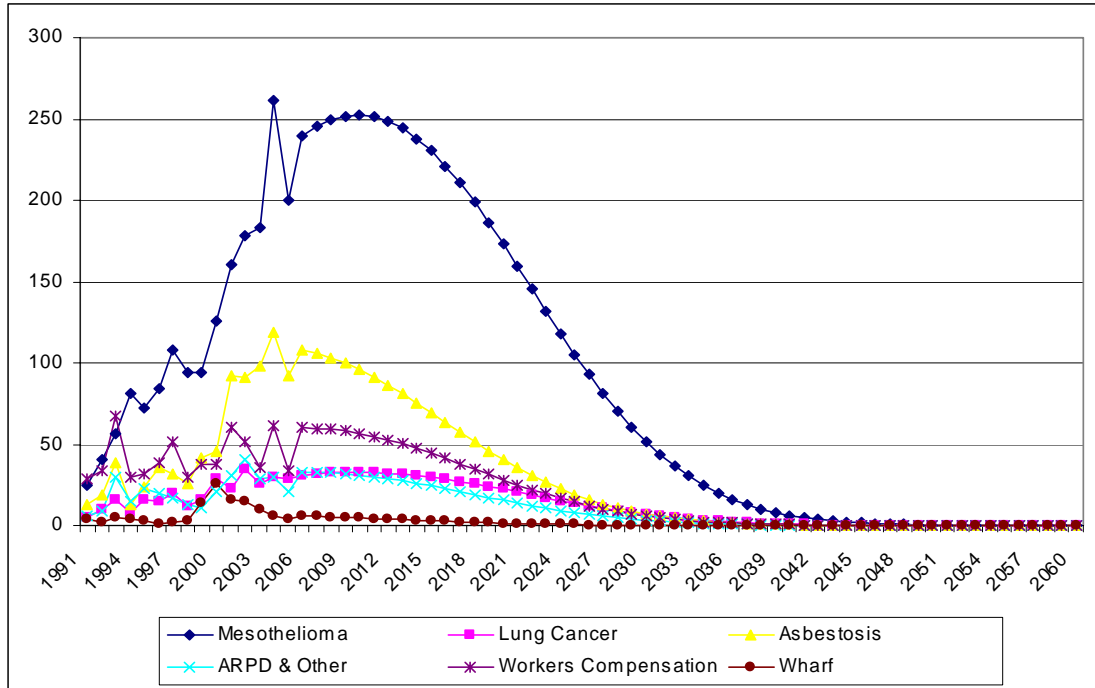
Table 8.5: Peak year of claim notifications

	Current peak assumption	Previous peak assumption
Mesothelioma	2010/11	2010/11
Lung Cancer	2010/11	2010/11
Asbestosis	2005/06	2005/06
ARPD & Other	2006/07	2006/07
Workers Compensation	2006/07	2006/07
Wharf claims	2000/01	2000/01

We have projected the future number of claim notifications from the curve we have derived using our exposure model and our latency model. We have applied this curve to the base number of claims we have estimated for 2006/07 as summarised in Section 8.7.

Figure 8.14 shows the pattern of future notifications which have resulted from the application of our exposure and latency model and the recalibration of the curve to our expectations for 2006/07.

Figure 8.14: Expected future claim notifications by disease type



The number of future claim notifications and the ultimate number of claims is shown below, both at our previous valuation and at this valuation.

Table 8.6: Number of claim notifications by disease type

	Current number projection		Previous number projection	
	2006 onwards	Total	2006 onwards	Total
Mesothelioma	4,686	6,518	4,697	6,528
Lung Cancer	605	904	602	893
Asbestosis	1,388	2,217	1,372	2,214
ARPD & Other	484	835	485	849
Workers Compensation	879	1,859	1,058	2,075
Wharf claims	61	180	49	168
All claim types	8,103	12,513	8,264	12,727

It can be seen that the recognition of the emerging experience to 31 March 2006 has reduced our projected ultimate number of claims compared with our previous valuation of 30 June 2005 by 214 claims, the majority of which results from workers compensation (216), together with some minor changes in relation to the other disease types.

As we have stated earlier, there is particular uncertainty in the trends in mesothelioma and workers compensation claims, and the impact that the DDT Act 2005 might have on recent uplifts in claim volumes.

8.11 Baryulgil

To date, there have been 33 product and public liability claims (23 unique claimants) filed against James Hardie costing \$1.3m, inclusive of legal costs of \$0.6m.

These claims have not generated substantial claims costs because most of the claims were settled in the 1980s when awards were considerably lower than current levels – with average payments by James Hardie of the order of \$50,000 to \$100,000 per claim.

It is also of note that James Hardie tended to bear only around one-third to one-half of the liability, reflecting the contribution by other defendants to the overall settlement (including those which have since been placed in liquidation).

For the purposes of our valuation, we have estimated there to be a further 30 future claims, comprising 12 mesothelioma claims, 8 other product and public liability claims and 10 Workers Compensation claims.

We have assumed average claims and legal costs, net of Workers Compensation insurances, broadly in line with those described in Section 9.

Our liability assessment at 31 March 2006 of the additional provision that could potentially be required is an undiscounted liability of \$9.2m and a discounted liability of \$5.9m.

9 ANALYSIS OF EXPERIENCE – AVERAGE CLAIMS COSTS

9.1 Overview

We have modelled the average claim awards and plaintiff and defendant legal costs (where separately disclosed) by disease type in arriving at our valuation assumptions.

Average attritional claim awards (which we have defined to be claims below \$1m in current money terms) may vary considerably with the development of new heads of damage.

Past examples include the decision in relation to Sullivan vs. Gordon (1999) (47 NSWLR 31, [1999] NSWCA 338) and, the recent offsetting decision in CSR vs. Eddy [2005] HCA64.

In relation to the CSR vs. Eddy decision, some consequences of that decision appear to have begun to be reflected in our analysis in relation to the experience in the 2005/06 year.

We note that if the proposed changes to the Civil Liability Amendment Bill 2006 (see section 3.3.2) come into force it will have the effect of increasing awards relative to that experienced in 2005/06 in respect of claims where Sullivan vs. Gordon amounts were not paid following the decision of CSR v Eddy. Accordingly, the average awards of non-nil claims would be expected to increase in 2006/07 relative to that observed in 2005/06 (other things being equal).

Table 9.1 shows how the average settlement costs for non-nil attritional claims have varied by plaintiff settlement year. All data have been converted into 2005/06 money terms using base inflation at 4% per annum.

The reader's attention is drawn to the fact that the average amounts shown hereafter relate to the average amounts of the contribution made by the Liable Entities, and do not reflect the total award payable to the plaintiff unless this is clearly stated to be the case.

In particular, for Workers Compensation the average awards reflect the average contribution by the Liable Entities for claims in which they are joined but relate only to that amount of the award determined against the Liable Entities which is not met by a Workers Compensation Scheme or Policy.

**Table 9.1: Average attritional non-nil claim award
(inflated to 2005/06 money terms)**

Plaintiff settlement Year	Mesotheli oma	Asbestosi s	Lung Cancer	ARPD & Other	Wharf	Workers Compensa tion
1991/92	266,901	139,561	75,328	45,384	0	93,078
1992/93	195,175	221,722	27,641	20,825	0	193,386
1993/94	199,372	136,716	63,378	209,635	152,098	107,364
1994/95	226,632	123,823	46,713	257,973	51,315	117,101
1995/96	171,799	71,355	94,494	194,611	9,622	70,448
1996/97	166,361	71,123	46,775	31,243	0	65,903
1997/98	185,146	69,038	41,299	60,612	68,428	121,363
1998/99	178,463	44,481	50,400	114,841	0	70,355
1999/00	206,706	67,879	71,557	126,883	69,224	99,966
2000/01	238,022	71,123	91,886	73,131	100,374	97,941
2001/02	266,060	90,215	136,306	111,143	57,498	49,719
2002/03	248,684	93,191	74,883	81,084	174,962	104,237
2003/04	229,022	108,572	110,465	88,003	120,860	147,098
2004/05	243,038	85,481	134,739	75,552	76,584	138,904
2005/06*	249,191	90,601	96,497	93,561	33,236	102,701

* Data for 2005/06 from 1 April 2005 to 28 February 2006 only

It is noted some of the above historic data has changed from the previous report. This is, in part, a result of additional processing, even on the older years where claims have been previously settled, or from restatements of the plaintiff settlement year. The main additional processing impact which has arisen at this valuation relates to the creation of new claims records for some historic claim records to bring these older claims into line with more recent claims processing protocols. This has involved sub-dividing the claims records affected and has therefore reduced the average claim size of a non-nil claim (see section 4.3.1).

9.2 Mesothelioma claims

For mesothelioma, the year 2001/02 resulted in the highest annual average cost. The step changes in 1999/00 through 2001/02 would appear to reflect in part legislative changes that occurred as well as in the percentage of the total award which the Liable Entities were required to contribute.

9.2.1 Contribution rate

We have estimated the percentage share which the Liable Entities have taken of the gross settlements. The following table shows that share, for those claims where such information is available, and how it has changed over time.

Table 9.2: Contribution percentage for mesothelioma claims: 1995-2005

Plaintiff Settlement Year	Total award settlement	Liable Entities' contribution	Percentage Share
1995/96	15,898,196	7,311,854	46.0%
1996/97	13,180,164	6,969,163	52.9%
1997/98	17,624,838	10,327,618	58.6%
1998/99	18,099,360	9,221,973	51.0%
1999/00	19,918,410	14,905,324	74.8%
2000/01	33,869,893	23,100,581	68.2%
2001/02	43,545,567	28,073,292	64.5%
2002/03	54,984,177	38,586,944	70.2%
2003/04	58,411,266	37,055,136	63.4%
2004/05	73,724,609	47,790,397	64.8%
2005/06*	55,071,734	43,644,292	79.2%
Total	404,328,214	266,986,573	66.0%

* Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The step change in the average costs from the levels exhibited between 1995/96 and 1998/99 and those exhibited after 1998/99 may, in part, be a result of the change in the percentage shares contributed by the Liable Entities as well as the introduction of new heads of damage.

Similarly, the higher average costs for the 2005/06 financial year (notwithstanding the savings arising from the removal of Sullivan vs. Gordon benefits following the CSR vs. Eddy decision) may also result from the high contribution rate by the Liable Entities, at 79.2%.

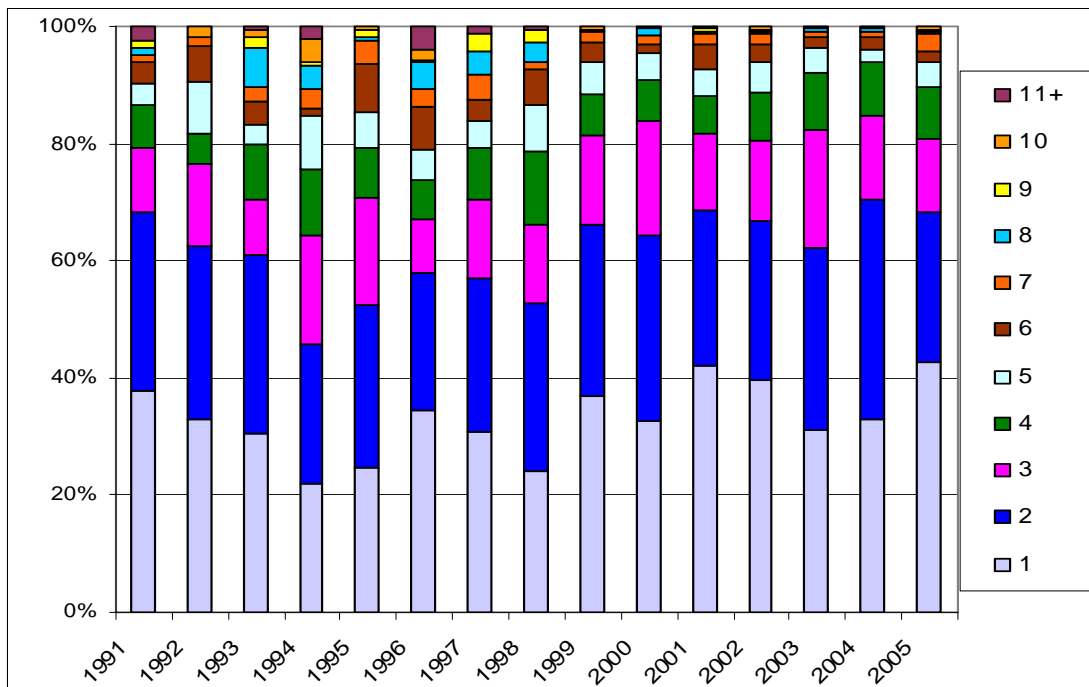
9.2.2 Number of defendants

We have analysed the total number of defendants for claims in which the Liable Entities are joined to gauge whether this may explain, in part, some of the trends observed above.

The chart below shows the proportion of claims split by the number of defendants and how that has changed over time.

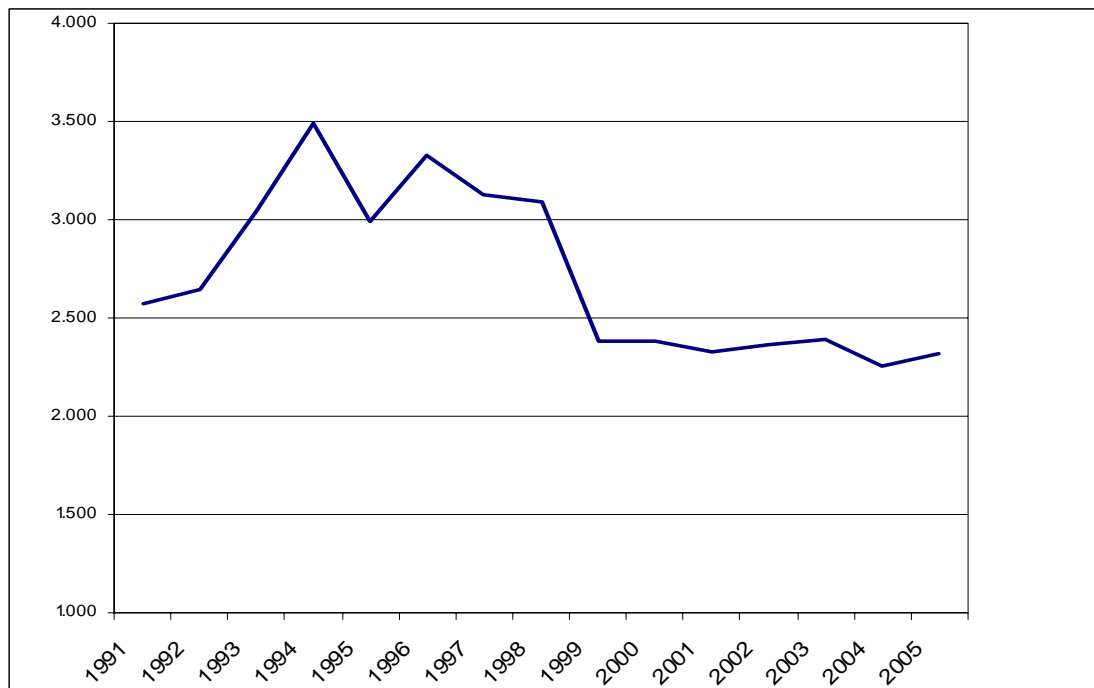
The proportion of claims where the Liable Entities are sole defendants has increased in the 2005/06 year to 43%. This implies that when the Liable Entities are co-joined in a claim, they appear, with increasing frequency relative to the most recent two years, to be the sole defendant. This observation may also, in part, explain the increase in the contribution rate by the Liable Entities in 2005/06.

Figure 9.1: Distribution of claims by number of defendants



We have also considered how the average number of unique defendant companies per claim has changed. Unique defendants are defined such that to the extent two or more (Liable Entity or other) defendants have more than one company joined in a claim, they are counted as only one company. In that regard, this analysis of unique defendants would slightly understate the “true” number of defendants involved in a claim.

Figure 9.2: Average number of unique defendants per claim



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

9.2.3 Distribution of claim sizes for mesothelioma claims

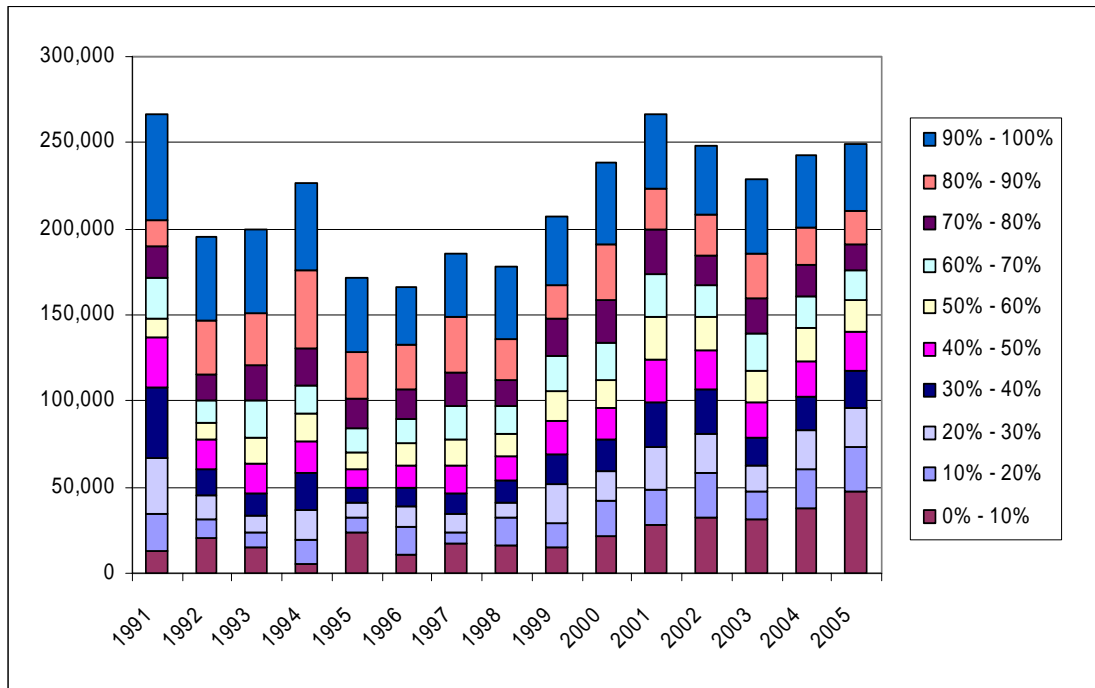
We have analysed the make-up of the average costs for mesothelioma claims by banding claims into cohorts of 10% groups. That is, identifying the contribution to the average cost from the smallest 10% of non-nil claims by size, then the contribution from the 10% to 20% cohort of claims by size etc.

The aim of this is two-fold:

- To understand the trends in the average costs; and
- To identify if the change in mix of claims by size has contributed to the observed level of superimposed inflation.

Figure 9.3 shows the relative contribution of the various bands to the overall average costs identified in Table 9.1.

Figure 9.3: Contribution of individual bands of claims to overall average attritional mesothelioma claim costs (inflated to 2005/06 money terms)



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

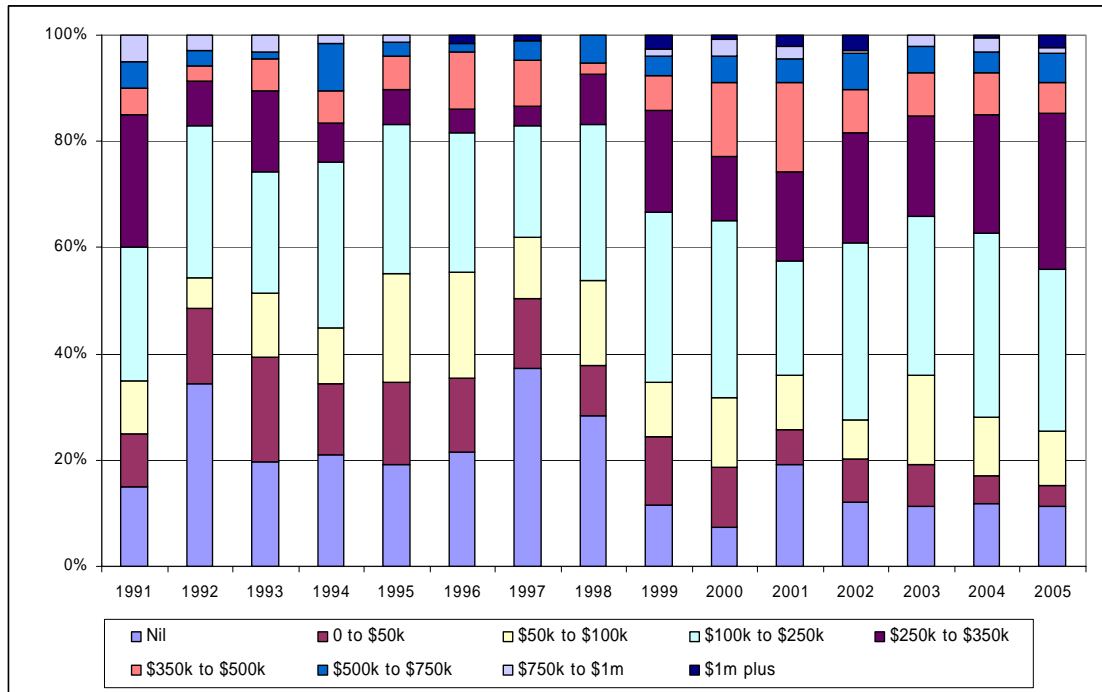
This chart shows that the key drivers to the pattern in inflated average claims costs, in recent years, are largely the “smaller sized” and “medium sized” claims, and not the “large sized” claims.

The increased average cost for the 2005/06 financial year can be seen to be a consequence primarily of an increase in size of the smallest claims.

The chart shows that the 2001 settlement year appears to have a much heavier proportion of larger claims, with the largest 40% of claims by size contributing around \$120,000 to the overall average claim size.

An alternative way of looking at this is to consider the distribution of claims by size.

Figure 9.4: Distribution of claims awards for attritional mesothelioma claims (inflated to 2005/06 money terms)



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

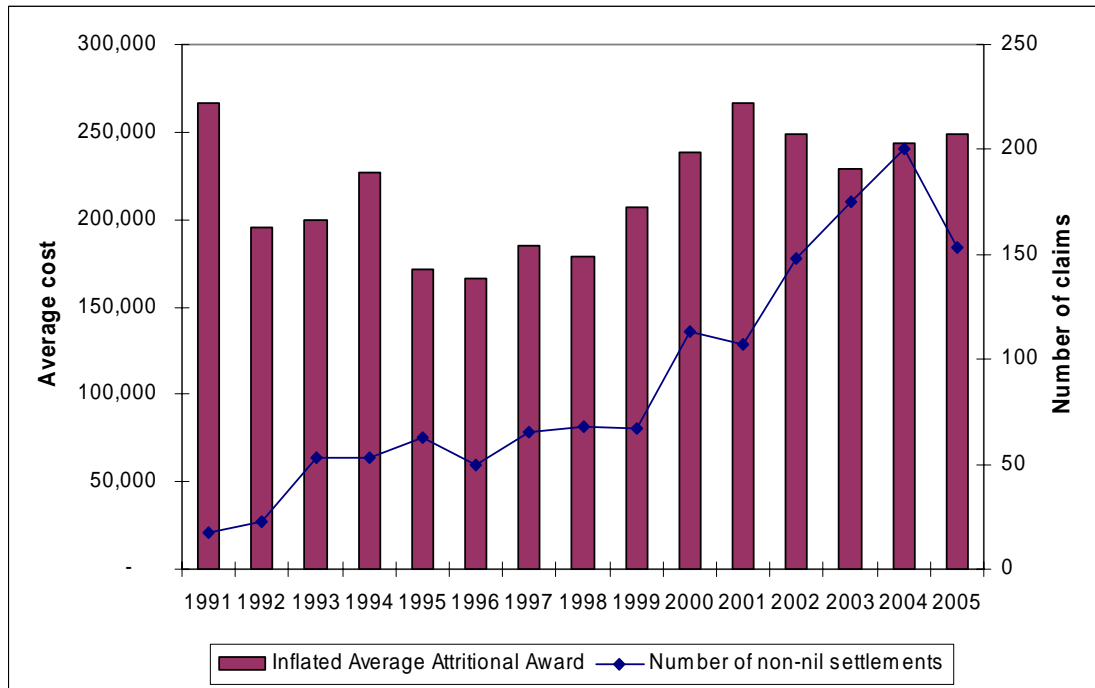
This chart shows that claim sizes are (in inflated money terms) trending towards higher award sizes.

A reducing proportion of claims in 2005/06 have settled for \$100,000 or less (currently less than 30% of all claims, including nil claims, are less than \$100,000).

9.2.4 Trends in average awards

In setting our assumption for mesothelioma, we have considered average awards over the last 3, 4 and 5 years in arriving at our valuation assumption.

Figure 9.5: Inflated average awards and number of non-nil claims settlements for mesothelioma claims: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The chart above shows the historic variability in average claim sizes for mesothelioma varying from \$166,000 to \$267,000 in 2005/06 money terms.

The average of the last three years is \$240,000; the average of the last four years is \$242,000 and the average of the last five years is \$245,000.

We note that the experience in 2005/06 will have been affected (reduced) by the decision in CSR vs. Eddy. To the extent that Sullivan vs. Gordon benefits are reintroduced as indicated in the revised NSW legislation, future average costs will likely be higher than in 2005/06. The extent of such understatement is estimated to be approximately 2.5%.

Taking these averages and the underlying trends into consideration, we have adopted a valuation assumption of \$260,000 in 2005/06 money terms.

This compares with our previous valuation assumption of \$265,000. This represents a reduction in inflation adjusted terms:

Table 9.3: Average mesothelioma claims assumptions

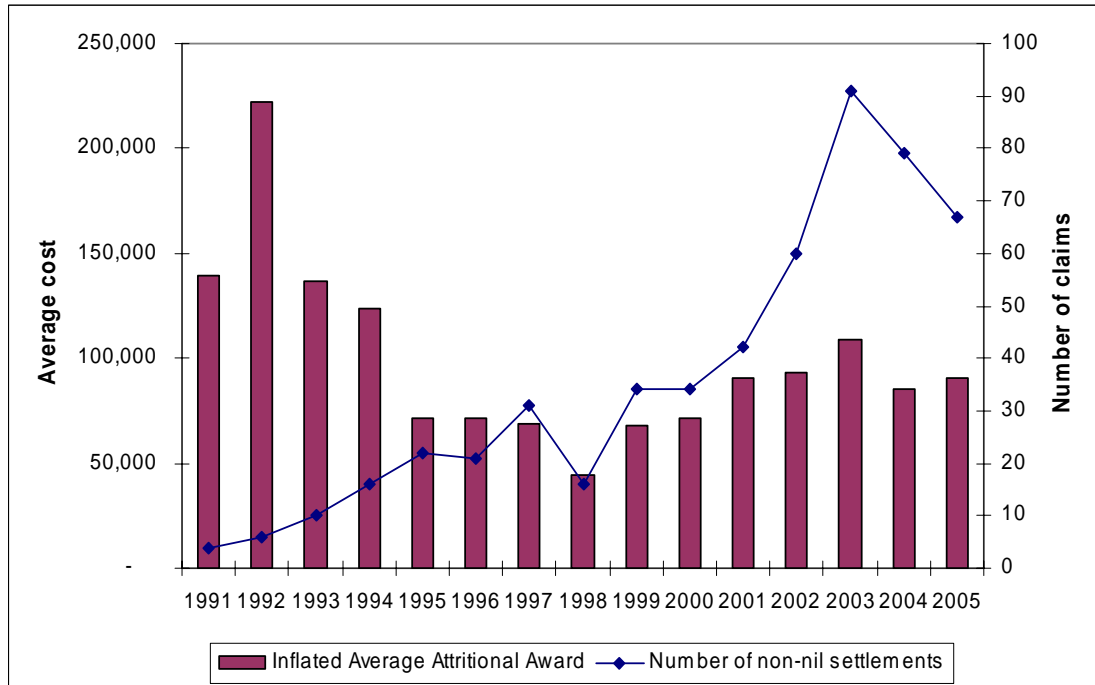
Valuation Report	Claim settlement year		
	2004/05	2005/06	2006/07
31 March 2005	250,000	265,200	281,300
30 June 2005	n/a	265,000	281,100
31 March 2006	n/a	n/a	276,500

9.3 Asbestosis claims

For asbestosis, it can be seen from Table 9.1 that in 2003 the average settlement was high relative to recent experience.

We have again considered the averages of the last 3, 4 and 5 years.

Figure 9.6: Inflated average awards and number of non-nil claims settlements for asbestosis claims: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The chart shows the substantial variation in average awards though in part this is affected by the low numbers of claims settled in the earlier years.

The average of the last three years is \$96,000; the average of the last four and five years is \$95,000. These are not surprising given the relatively high average cost in 2003 and the substantial increase in claim numbers thereby giving greater weight to the recent years' experience.

We have maintained our previous assumption of \$100,000 as our valuation assumption in 2005/06 money terms. This represents no change in our assumption from our previous valuation in inflation adjusted terms:

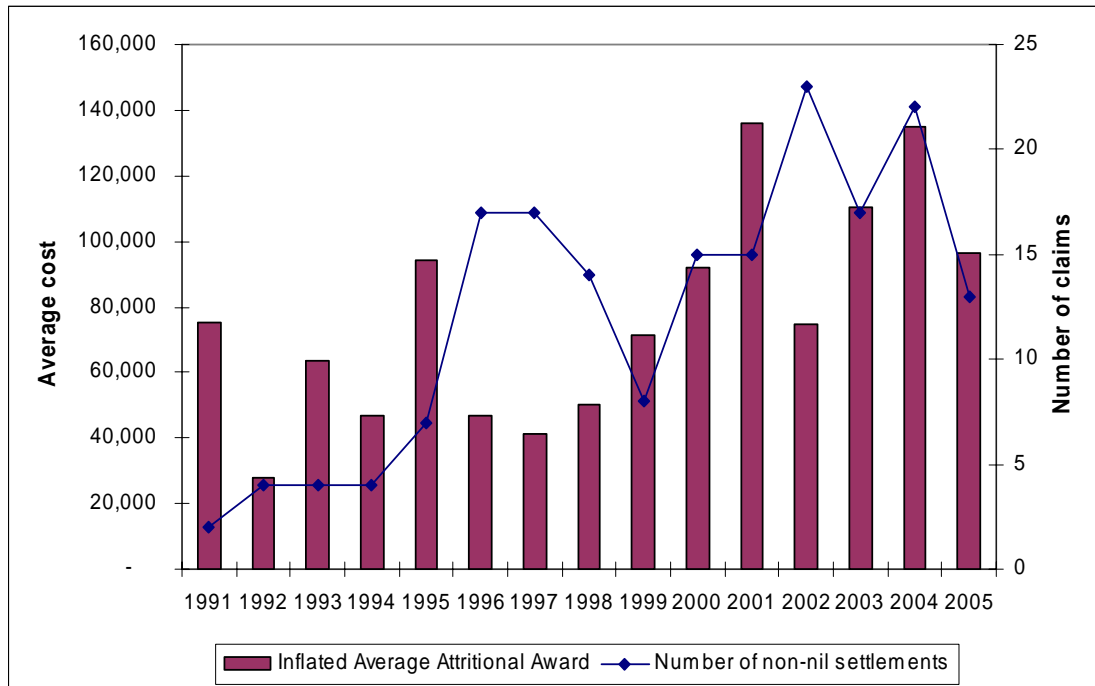
Table 9.4: Average asbestosis claims assumptions

Valuation Report	Claim settlement year		
	2004/05	2005/06	2006/07
31 March 2005	95,000	100,800	106,900
30 June 2005	n/a	100,000	106,100
31 March 2006	n/a	n/a	106,300

9.4 Lung cancer claims

Lung cancer average claims costs appear to have experienced some volatility in the last five years, rising to high levels in 2001 and 2004.

Figure 9.7: Inflated average awards and number of non-nil claims settlements for lung cancer claims: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The average of the last three years is \$117,000; the average of the last four years is \$104,000 and the average of the last five years is \$110,000.

At the previous valuation, we noted continuing increasing trends in average awards in 2004/05, and accordingly increased our valuation assumption to \$140,000 for the 2005/06 year. At this valuation, the trend has not continued. Accordingly, we see no reason to increase this assumption. At this valuation, we have given some credibility to the experience in 2005/06. We have therefore adopted a valuation assumption of \$135,000 in 2005/06 money terms. This represents an inflation adjusted decrease:

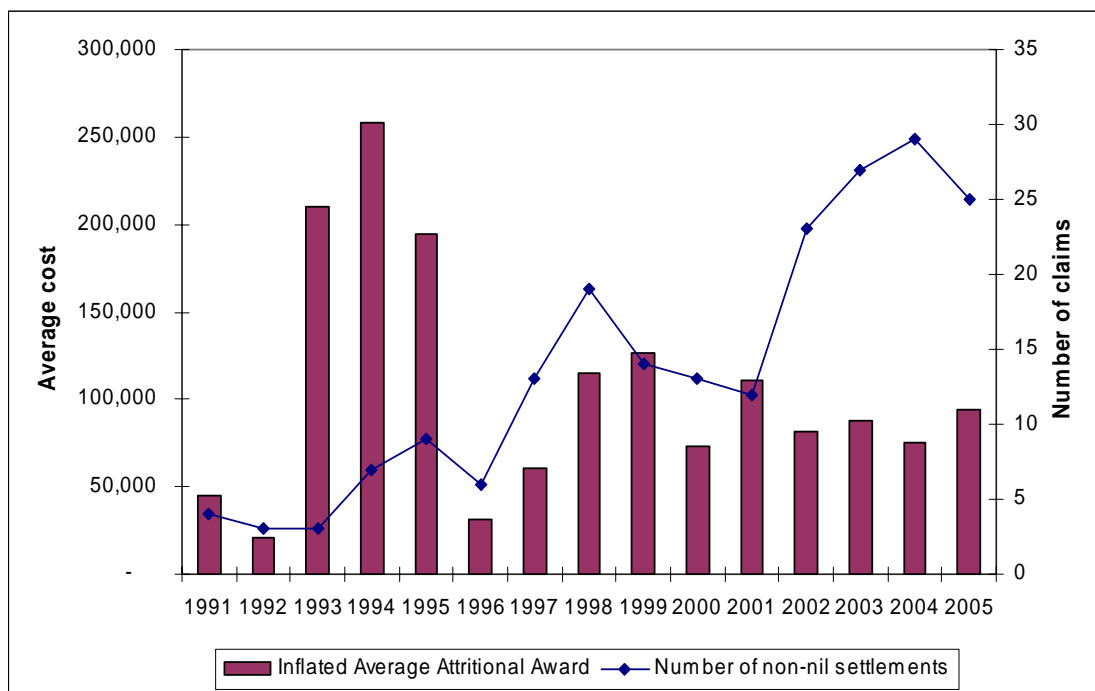
Table 9.5: Average lung cancer claims assumptions

Valuation Report	Claim settlement year		
	2004/05	2005/06	2006/07
31 March 2005	130,000	137,800	146,300
30 June 2005	n/a	140,000	148,500
31 March 2006	n/a	n/a	143,600

9.5 ARPD & Other claims

We note the low volumes of claims, and the associated volatility this has brought to the average awards, is an inhibitor to the analysis of past trends. However, the past few years show some stability emerging in average costs.

Figure 9.8: Inflated average awards and number of non-nil claims settlements for ARPD & Other claims: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

For ARPD & other claims, the average of the last three years is \$85,000; the average of the last four years is \$84,000 and the average of the last five years is \$87,000. Accordingly, we have adopted \$90,000 as our valuation assumption in 2005/06 money terms. This represents no change in inflation adjusted terms:

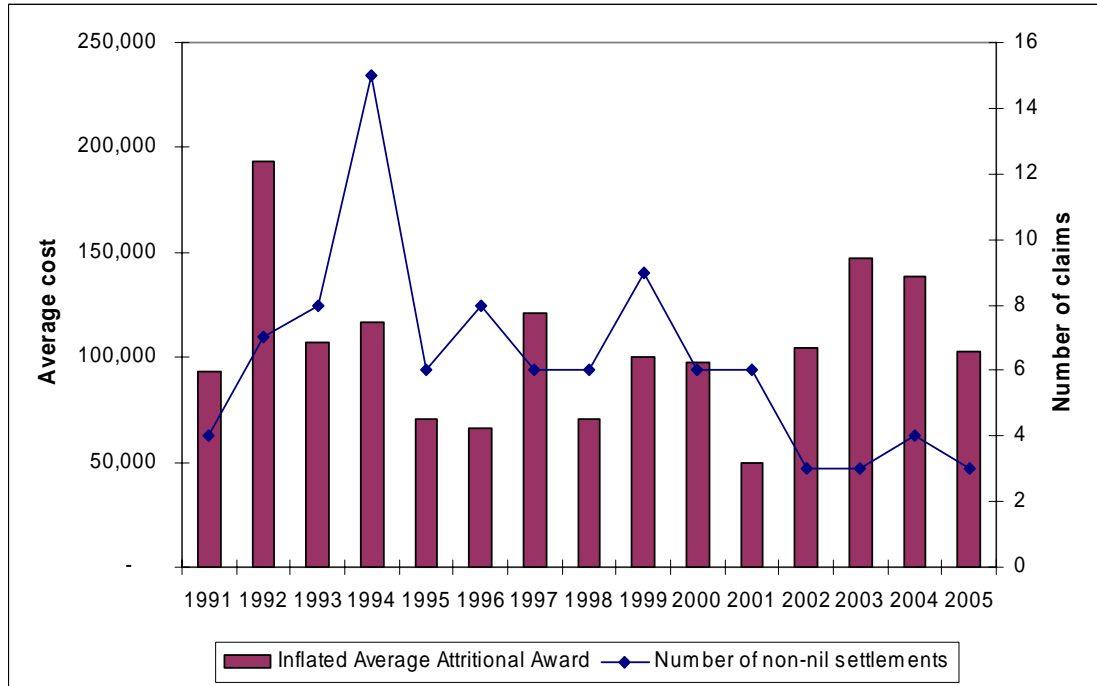
Table 9.6: Average ARPD & Other claims assumptions

Valuation Report	Claim settlement year		
	2004/05	2005/06	2006/07
31 March 2005	90,000	95,500	101,300
30 June 2005	n/a	90,000	95,500
31 March 2006	n/a	n/a	95,700

9.6 Workers Compensation claims

The average award for non-nil Workers Compensation claims has shown a degree of volatility and has reduced from the level observed in 2003/04, although it should be noted that with just 3 non-nil claims settlements per annum, there is limited credibility that can be attached to the experience.

Figure 9.9: Inflated average awards and number of non-nil claims settlements for Workers Compensation claims: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The average of the last three years (to 2004) is \$131,000; the average of the last four years is \$124,000 and the average of the last five years is \$101,000.

We have adopted \$135,000 as our valuation assumption for Workers Compensation claims in 2005/06 money terms, noting the variability in these which is not surprising given the small volume of claims and the high nil settlement rate. This represents no change in the assumption in inflation adjusted terms:

Table 9.7: Average Workers Compensation claims assumptions

Valuation Report	Claim settlement year		
	2004/05	2005/06	2006/07
31 March 2005	135,000	143,200	151,900
30 June 2005	n/a	135,000	143,200
31 March 2006	n/a	n/a	143,600

9.7 Wharf claims

For wharf claims, the average of the last three years has been \$75,000; the average of the last four years has been \$96,000 and the average of the last five years has been \$77,000. The figure for the last four years has been distorted by the 2002/03 settlement year which involved 3 relatively large wharf settlements.

We have adopted a valuation assumption of \$90,000 in 2005/06 money terms. This is the same as the previous report as small numbers and large variability allow limited credibility to be attached to recent experience. This represents no change in inflation adjusted terms:

Table 9.8: Average wharf claims assumptions

Valuation Report	Claim settlement year		
	2004/05	2005/06	2006/07
31 March 2005	90,000	95,500	101,300
30 June 2005	n/a	90,000	95,500
31 March 2006	n/a	n/a	95,700

9.8 Large claim size and incidence rates

There have been 19 settled claims with claims awards in excess of \$1m in current money terms. All of these claims are product and public liability claims and the disease diagnosed in every case is mesothelioma.

In aggregate they have been settled for \$28m in 2005/06 money terms, at an average cost of approximately \$1.5m. We have noted one claim exceeding \$3.5m in current money terms.

The incidence rate of large claims to non-nil settlements has been variable, dependent on the random incidence of large claims by settlement year:

- Over the period 1990-2005 there have been 19 large claims compared with 1,387 non-nil non-large claims settlements. This gives an incidence rate of 1.37%.
- Over the period 1990-1999 there were 5 large claims compared with 477 non-nil non-large settlements, an incidence rate of about 1.05%.

- Over the period 2000-2005 there have been 14 large claims compared with 910 non-nil non-large settlements, an incidence rate of about 1.54%.

We have assumed that there will be a large claim incidence rate of 1.5% prospectively over all future years, although it should be recognised that the incidence of such claims is random and that fluctuations in this incidence rate can occur from year to year.

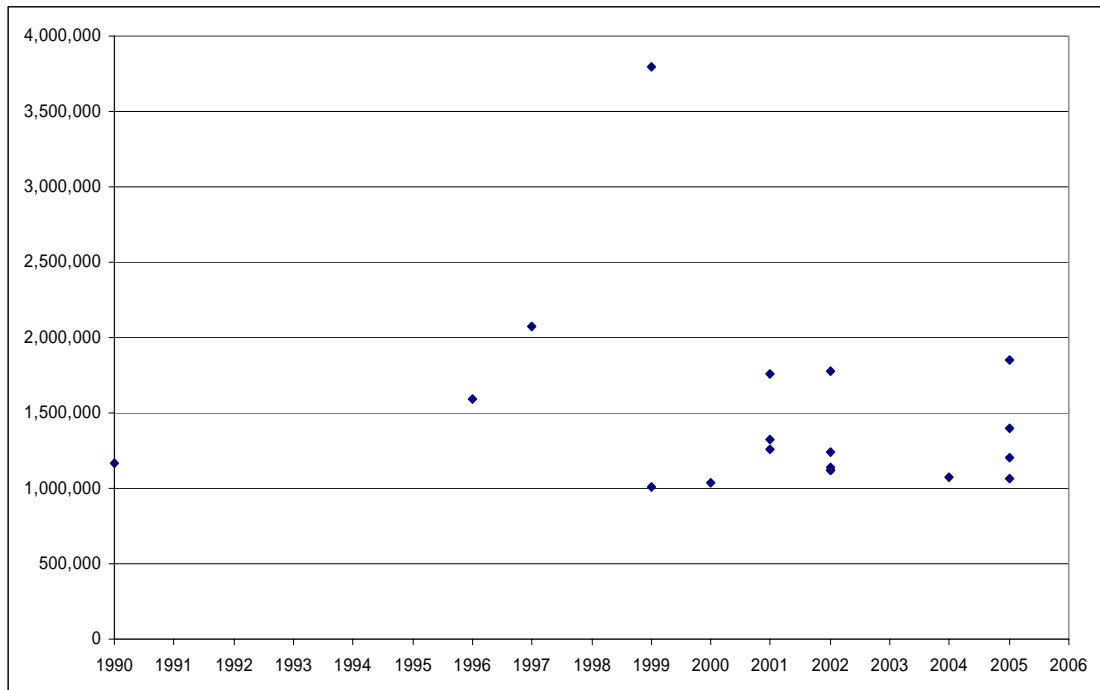
With the number of mesothelioma claims settlements approximately 200-250 per annum, we are therefore expecting to observe approximately 3 or 4 large claims per annum.

We have taken the average costs from all years as our base assumption, given the small volume of such claims. This has been assumed to be \$1.5m for the award and plaintiff legal costs with separate allowance also made for defendant legal costs. Implicitly this allows for the occasional \$3.5m claim at an incidence rate broadly equivalent to past experience

As a consequence, the overall loading per non-nil mesothelioma claim to make allowance for large claims is \$22,500 (being 1.5% x \$1,500,000). This cost loading is applied to all non-nil settlements, resulting in an average loaded base cost for non-nil mesothelioma claims of \$282,500 for the 2005/06 year.

We have made no allowance for any other large claims in relation to any other disease type as no other disease types have had claims settled in excess of \$550,000 in actual money terms.

Figure 9.10: Scatter plot of large claims by settlement year



It should also be noted that there remain four claims open with award sizes estimated as in excess of \$700,000. In particular, there remain 2 claims which are in excess of \$1m, with the largest being for \$1.8m.

Our approach for reserving for these claims has been to take case estimates and apply a loading to the legal costs components.

9.9 Average defendant legal cost for non-nil and nil claim settlements (before allowance for cost savings)

As with the average awards, we have modelled defendant legal costs separately. We have also modelled “nil” claims and non-nil claims separately as they should portray different characteristics in relation to their legal costs.

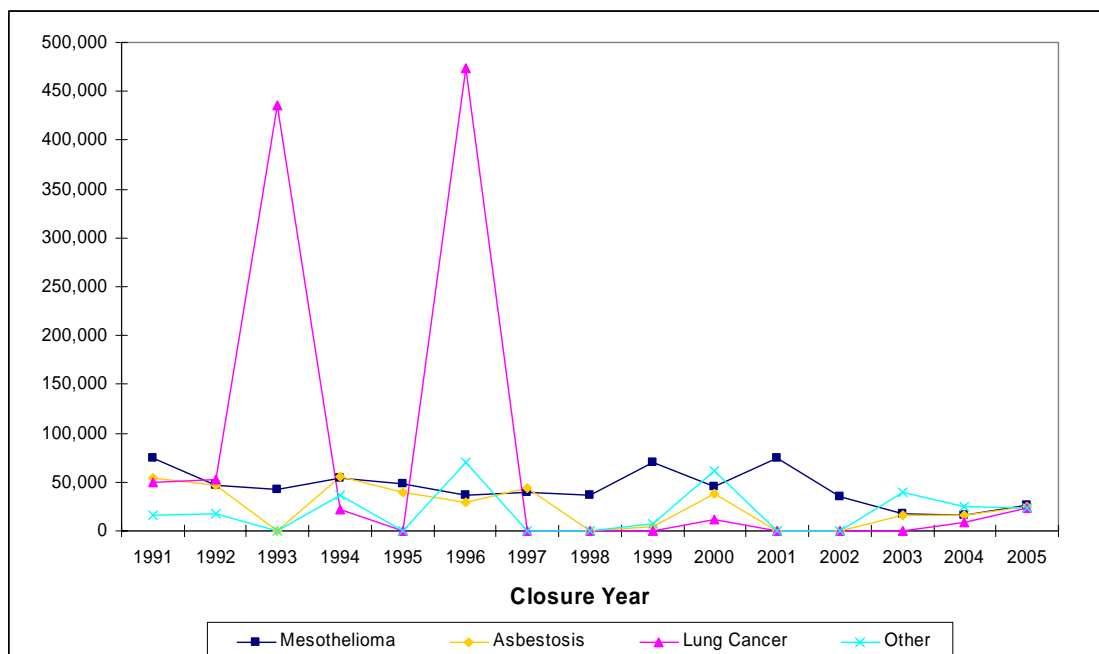
We have again removed large claims from the analysis and treated them separately, applying a large claim loading and an incidence rate consistent with the underlying large claims.

We have used closure year as the base definition to allocate costs into years and given the lag between the award settlement and the closure year, distortions can arise from year to year depending on closure activity of claims files by the MRCF.

9.9.1 Non-nil claims

The following chart shows the pattern of average defendant legal costs of the Liable Entities by disease type for non-nil claims, inflated to 2005/06 money terms over recent years. We have not included Wharf claims or Workers Compensation claims in the chart as the data is more sparse and exhibits considerable volatility.

Figure 9.11: Inflated average defendant legal costs for non-nil claims by closure year



For mesothelioma, we have determined an average base defendant legal cost of \$30,000 for the 2005/06 year. This is a reduction relative to that previously assumed and reflects the ongoing downward trends in defence costs for mesothelioma, to which increased credibility has now been given.

For asbestosis, we have determined an average of \$25,000 for the 2005/06 year recognising the high averages that occasionally arise and the recent stability in defence costs at around \$20,000 per claim.

For lung cancer, we have selected \$12,500 for the 2005/06 year although there is sparse data from which to estimate this amount. We recognise that there have been substantial average defence costs incurred in some years, especially in 1993, but we are aware that these have been a result of precedent-setting cases, or matters involving key principles of law. It should also be recognised that the financial materiality of such an assumption is not expected to be significant given the low number of lung cancer claims and the relatively high nil settlement rate.

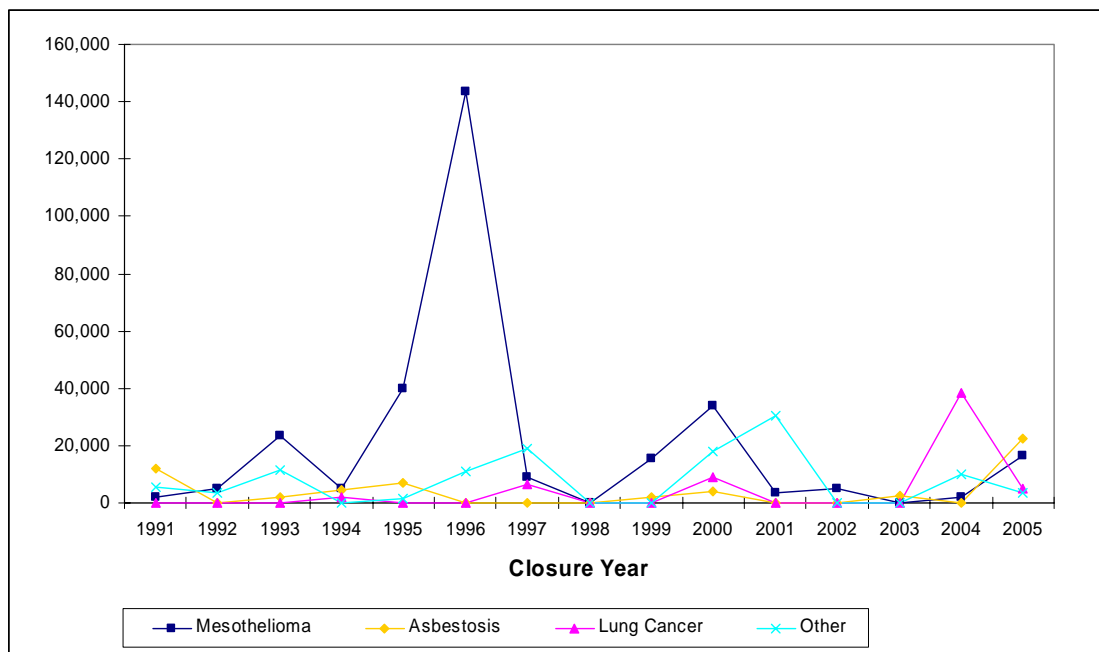
For ARPD & Other claims, we have selected \$30,000 for the 2005/06 year based on an average of the last three years.

For Workers Compensation claims we have selected \$15,000 for the 2005/06 year and for Wharf claims we have selected \$15,000 for the 2005/06 year.

9.9.2 Nil claims

The following chart shows the pattern of average defendant legal costs of the Liable Entities by disease type for nil claims, inflated to 2005/06 money terms over recent years. We have not included Wharf claims or Workers Compensation claims in the chart as the data is more sparse and exhibits considerable volatility.

Figure 9.12: Inflated average defendant legal costs for nil claims by closure year



For mesothelioma, we have selected an average of \$20,000 for the 2005/06 year, a slight reduction from the previous valuation.

For asbestosis, we have selected an average of \$15,000 for the 2005/06 year as the pattern of low costs previously prevalent within this disease type for nil claims no longer appears to hold true. The significant closure activity this year referred to above appears to have recognised more in the way of legal costs being incurred for nil claims than was previously the case. Given the low nil settlement rate for asbestosis, however, this assumption is not overly significant.

For lung cancer, again there is scarcity of data, but we have selected \$7,500 for the 2005/06 year as our assumption, unchanged from our previous valuation. We note that there have been a small number of precedent-setting cases for which significant legal costs have been incurred but where the claim has not been closed.

For ARPD & Other claims, we have selected \$15,000 for the 2005/06 year based on an examination of the average of the last three, four and five years.

For Workers Compensation claims we have selected \$7,500 for the 2005/06 year and for Wharf claims we have selected \$1,500 for the 2005/06 year. These assumptions are unchanged from the previous valuation.

9.10 Superimposed inflation

9.10.1 Overview

At our previous valuation, we indicated that an allowance of 2% per annum for superimposed inflation was appropriate. We identified a number of factors we considered in setting this assumption. These included:

- The rate of pure (judicial) inflation;
 - The impact of medical or other developments;
 - The emergence of new heads of damage, or the expansion of existing heads of damage;
 - The potential for existing heads of damage to be removed, or for the contraction of these heads of damage (e.g. CSR vs. Eddy);
 - The mix of claims costs by different heads of damage; and
 - The effect of an ageing population of claimants on the rate of inflation of overall damages, a component of which relates to economic loss.
-

In our view, none of these have changed considerably to alter our view of the rate of future superimposed inflation.

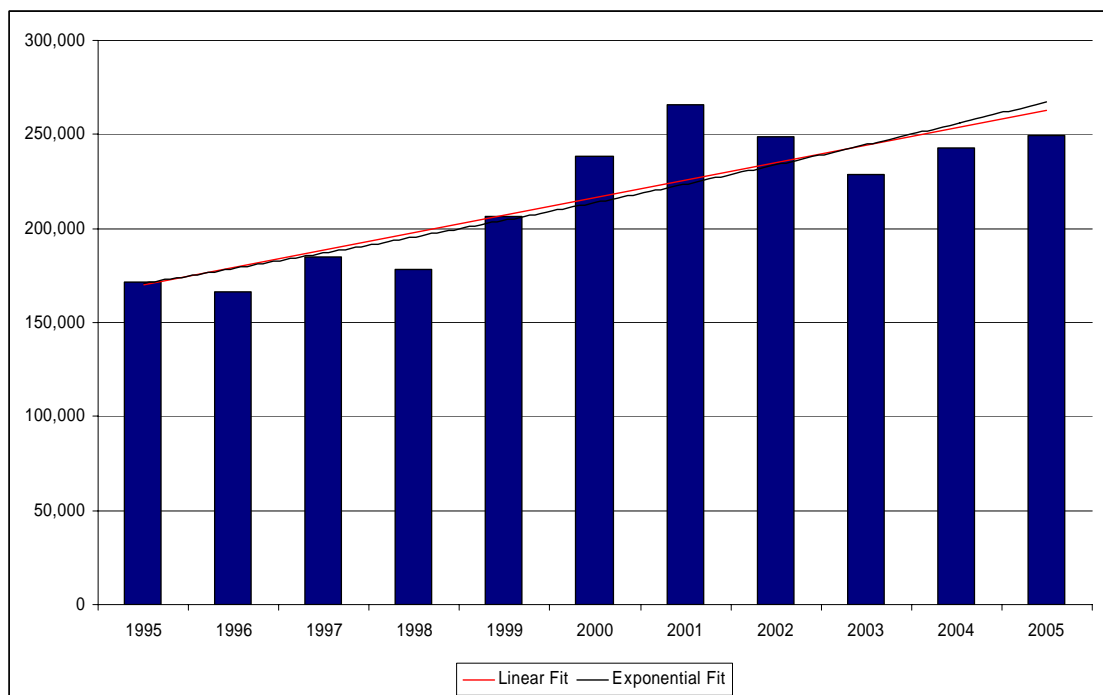
We have maintained an allowance of 2% per annum as a long-term trend over all future years.

Whilst the future rate of superimposed inflation is uncertain, and not predictable from one year to the next, it is of note that the average claim costs appear to have been stable in the last few years, although the emergence of new or expanding heads of damage does not tend to proceed smoothly but rather is more “lumpy”.

9.10.2 Analysis of past rates of superimposed inflation

We have reviewed the rate of inflation of claims costs by settlement year for the last 10 years for mesothelioma claims. We have inflated claim costs to current money terms by base inflation of 4% per annum.

Figure 9.13: Inflated average mesothelioma awards: 1995/96 to 2005/06



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The chart can be used to imply the rate of inflation of claim awards over and above base inflation (i.e. it measures the rate of superimposed inflation) in any one year or an annualised rate of superimposed inflation over a longer-term.

The chart shows the “best fit” of the rate of growth of inflated claim awards using two possible models:

- A linear fit – which assumes that the average inflated award is a linearly increasing function (such that the monetary increase from year to year is fixed); and
- An exponential fit – which assumes that the rate of increase in the average inflated awards (i.e. the rate of superimposed inflation) is constant.

It should be noted that the actual rate of inflation within any one year, and the extent to which superimposed inflation arises in any one year is not in itself readily estimable but rather is a function of a whole range of factors. It can be inferred from Table 9.1 and Figure 9.13, that the average rate of inflation can be extremely volatile from year to year, with figures as low as -24% and as high as +20%.

The actuarial approach for this report is to take an average view to be applied over the long-term noting that there will necessarily be deviations from this average on an annual basis.

Using the chart and these models of best fit, we have the following observations in relation to the rate of superimposed inflation:

- Over the last ten years, the average annualised rate of superimposed inflation has been 2.2% per annum;
- The linear fit of the last 10 years’ experience implies a rate of superimposed inflation of around 3.5% per annum at present;
- The exponential fit of the last 10 years’ experience implies the rate of superimposed inflation to be around 4.5% per annum;
- Over the last five years, the rate of superimposed inflation has been 0% (reflecting the high average award observation in 2001/02); and
- Over the last two years, the rate of superimposed inflation has been around 4% per annum (regardless of the model used).

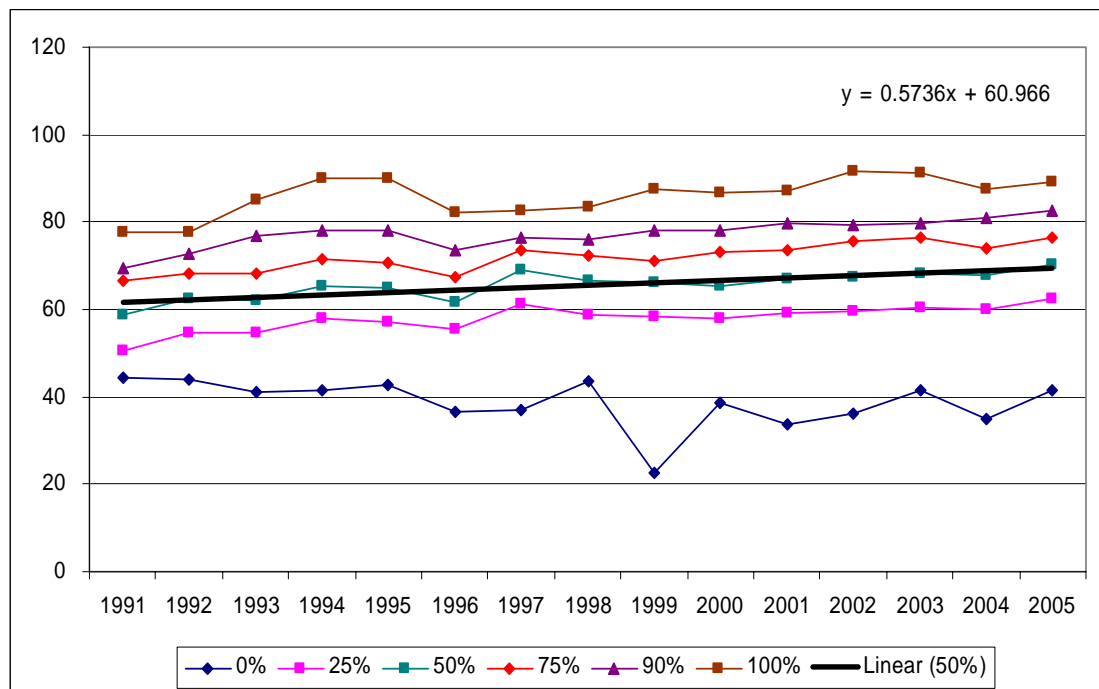
Weighing all of this evidence together, we have assumed a rate of future superimposed inflation of 2% per annum, noting in particular that this rate is intended to be a longer-term rate of inflation.

9.11 Ageing of claimants

We have analysed the age pattern of the claimants to understand how this is trending over time. This is important in consideration of the extent of both base and superimposed inflation in claims costs as a result of the age of claimants. Young claimants will be associated with higher awards, owing to the earnings replacement component. Furthermore, greater awards for loss of expectation of life would be expected.

Within our assessment of a reasonable level of base inflation to assume in Section 7.2.4 we noted the impact of claimant ageing as one factor leading to lower base inflation than is strictly implied by the financial markets.

Figure 9.14: Age profile of claimants: 1991/92 to 2005/06 by report year



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The chart above indicates that claimants continue to age (on average) by more than 0.57 years per year, increasing from 60 years in 1991 to almost 70 years by 2005. This has the effect of negating some aspects of emerging claims inflation. This is because part of the award relates to economic loss and loss of expectation of life and awards for these are in part a function of age.

It is noted that, at this time, the age profile of claimants is fairly stable. The data does not indicate a considerable increase in the number (and proportion) of younger claimants. Such an increase would be reflected in the graph by more of the lines in the chart showing a downward, rather than upward, trend. This would potentially indicate an increasing incidence of “third wave” related claims and would tend to lead to a lowering in the average age, and which would also tend to lead to higher average awards, including economic loss compensation, and possibly extending the future claims reporting pattern and timeframes.

10 ANALYSIS OF CLAIMS EXPERIENCE – NIL SETTLEMENT RATES

10.1 Nil settlement rate

We have modelled the nil settlement rates, being the number of nil settlements expressed as a percentage of the total number of settlements (nil and non-nil). The following table shows the observed nil settlement rates by disease type and by settlement year.

Table 10.1: Nil settlement rates by class and disease type

Plaintiff Settlement Year	Mesothelioma	Asbestos	Lung Cancer	ARPD & Other	Wharf	Workers Compensation
1991/92	15%	50%	50%	20%	100%	89%
1992/93	34%	25%	0%	25%	100%	80%
1993/94	20%	33%	33%	50%	67%	76%
1994/95	21%	20%	33%	50%	57%	53%
1995/96	19%	8%	36%	18%	33%	80%
1996/97	22%	32%	19%	50%	100%	71%
1997/98	37%	21%	26%	57%	0%	84%
1998/99	28%	52%	22%	30%	100%	88%
1999/00	12%	15%	27%	18%	17%	74%
2000/01	7%	8%	17%	13%	50%	87%
2001/02	19%	13%	40%	25%	23%	86%
2002/03	12%	5%	28%	21%	55%	80%
2003/04	11%	8%	32%	10%	54%	97%
2004/05	12%	12%	19%	15%	0%	92%
2005/06*	11%	8%	43%	31%	22%	93%

Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

It should be noted that the nil settlement rate in these tables have (generally) reduced since the last valuation report (particularly for the more recent years). This reflects ongoing activity on the claims files that can be re-opened with settlement and recovery amounts modified over time.

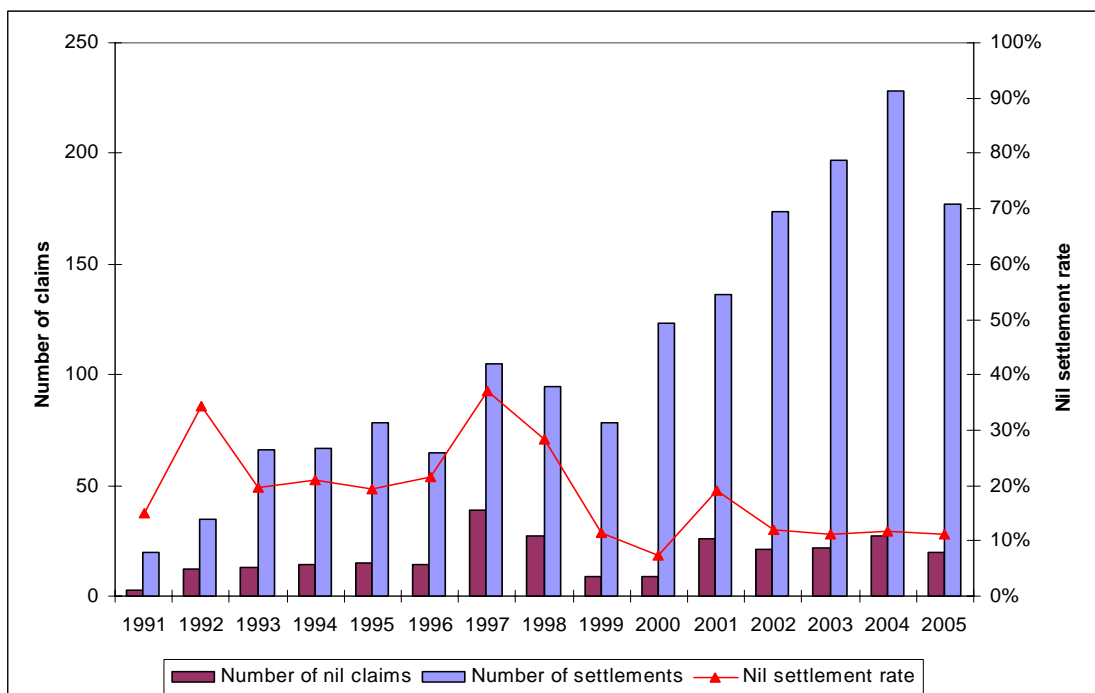
It also reflects the impact of the splitting of claims and creation of new claim records previously referred to. This has the effect of increasing the number of settlements without necessarily increasing the number of nil settlements, since the splitting relates to claims where cross-claim recoveries can be pursued and this should not therefore occur for claims for which the Liable Entities' contribution is nil.

10.2 Mesothelioma claims

The nil settlement rates for mesothelioma have shown some degree of volatility between settlement years.

Figure 10.1 shows the number of claims settled for nil cost, the total number of claims settled and the implied nil settlement rate for each settlement year.

Figure 10.1: Mesothelioma nil claims experience: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

During the last six years, the rate has varied between 7% and 19%.

In considering the future nil settlement rate assumption, we note the following:

- Based on the current data, the last three years (to 2005/06) have averaged 12%, the last four years have averaged 12% and the last five years have averaged 13%;
- As noted in the footnote to Table 10.1, data has developed such that these rates have trended down since our last valuation; and
- Overall, the data is suggestive of some downwards trends.

Furthermore, in setting our assumption for the future nil settlement rate, we have also had regard to the average claim cost assumptions we have adopted.

We have done this because the nil settlement rate and the average cost per non-nil claim are inextricably inter-linked. In setting the nil settlement rate we have considered the impact this has on the implied average cost per attritional claim for each settlement year. This could also be thought of, for a given settlement year, as:

$$\text{Average cost per non-nil claim} \times (1 - \text{nil settlement rate})$$

The following table shows the trends in this measure over recent periods.

Table 10.2: Average cost per attritional mesothelioma claim

Plaintiff Settlement Year	Average cost per non-nil claim	Nil settlement rate	Average cost per claim
1991/92	266,901	15%	226,865
1992/93	195,175	34%	128,258
1993/94	199,372	20%	160,102
1994/95	226,632	21%	179,276
1995/96	171,799	19%	138,761
1996/97	166,361	22%	130,530
1997/98	185,146	37%	116,377
1998/99	178,463	28%	127,742
1999/00	206,706	12%	182,856
2000/01	238,022	7%	220,606
2001/02	266,060	19%	215,195
2002/03	248,684	12%	218,671
2003/04	229,022	11%	203,446
2004/05	243,038	12%	214,257
2005/06*	249,191	11%	221,034

Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

Overall this average cost per claim has been more stable than each of the underlying elements separately. The overall average cost per claim has varied between \$203,000 and \$221,000 over the last six years in 2005/06 money terms.

It should be noted that the average cost per claim for 2005/06 has been impacted by the CSR vs. Eddy decision. To the extent this decision is overturned by the Civil Liability Amendment Bill 2006, the average cost observed in 2005/06 might slightly understate future average costs.

Taking all of these factors into consideration we have reduced the assumed future nil settlement rate to 11.5%, compared with 14% at our previous valuation (reducing the nil settlement rate increases the overall liability).

Combining the assumed nil settlement rate of 11.5% with the assumed average cost per attritional non-nil claim of \$260,000 we imply an average cost per claim of \$230,100 for the 2005/06 year. This is slightly increased over that implied at the previous valuation, \$227,900 (being \$265,000 x 86%).

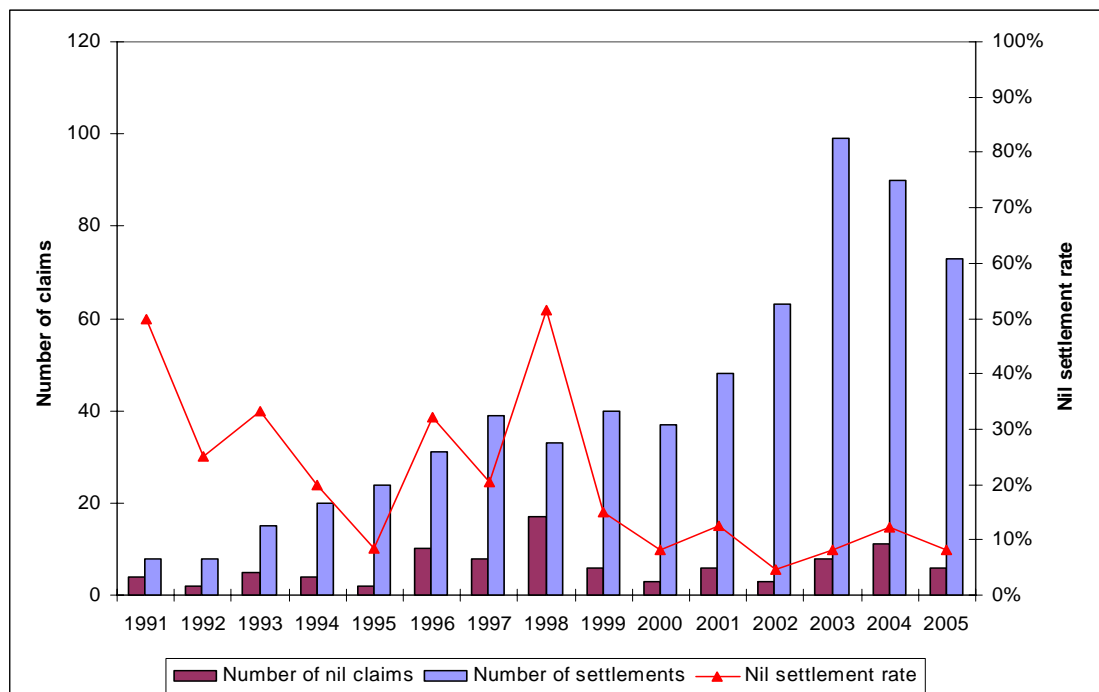
In determining the appropriateness of this implied assumption, we note in particular that:

- The most recent year's experience has been \$221,000; and
- This will be understated by approximately 2.5%, owing to the impact of CSR vs. Eddy upon past settlement awards, if Sullivan vs. Gordon benefits are reintroduced at levels in accordance with the recent draft NSW Government legislation, the Civil Liability Amendment Bill 2006.

10.3 Asbestosis claims

As with mesothelioma, the historic asbestosis nil settlement rates have been fairly volatile. They have also shown a similar pattern to mesothelioma in the last six years.

Figure 10.2: Asbestosis nil claims experience: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

We have reviewed the averages rate over the last 3, 4 and 5 years in determining our assumption.

The last three years (to 2005/06) have averaged 10%, the last four years have averaged 9% and the last five years have averaged 9%.

In these circumstances we have assumed a nil settlement rate of 9.5%. This is lower than the assumption of a nil settlement rate of 10% made at the previous valuation.

10.4 Lung cancer claims

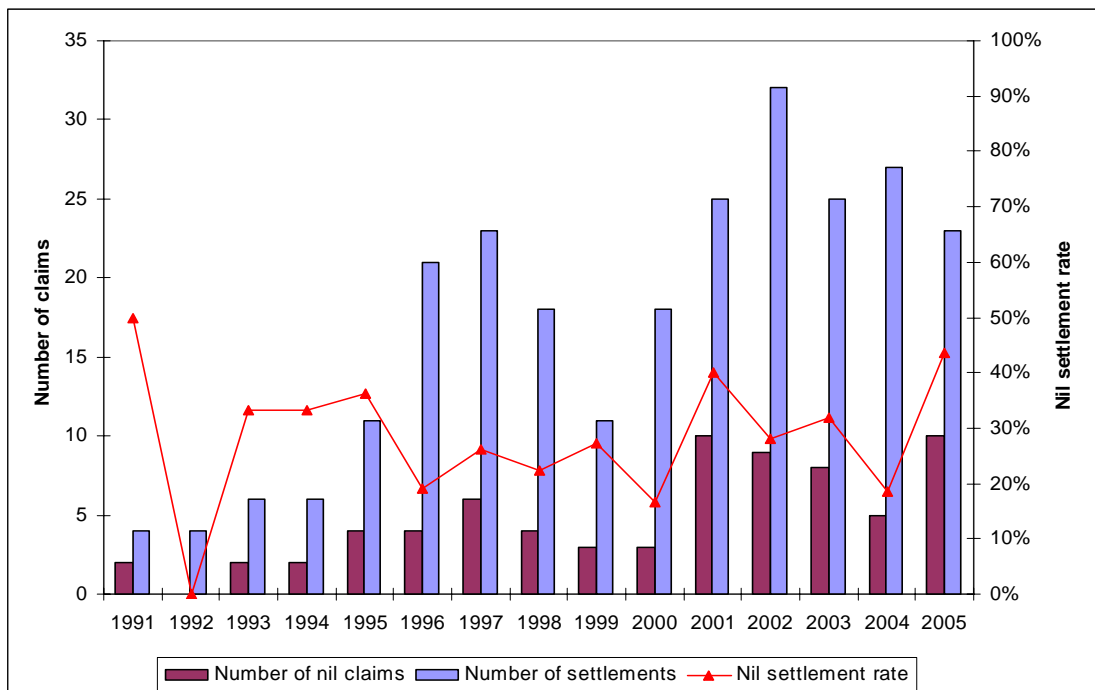
As for mesothelioma, the historic data has again moved compared with that previously reported, with the trend generally being downwards.

In part this has been due to claims which previously appeared as being settled for nil having been re-opened and settled for a non-nil amount.

With a small volume of claims (23 for 2005/06) the movement of 1 or 2 claims from nil to non-nil has a substantial impact, of up to 10 percentage points.

However, it should be noted that the overall liability for lung cancer claims is only 5% of the total, so that these movements do not cause significant changes to the total estimated future liabilities.

Figure 10.3: Lung cancer nil claims experience: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The average of the last three years (to 2005/06) for lung cancer claims has been 31%, the last four years have averaged 30% and the last five years have averaged 32%.

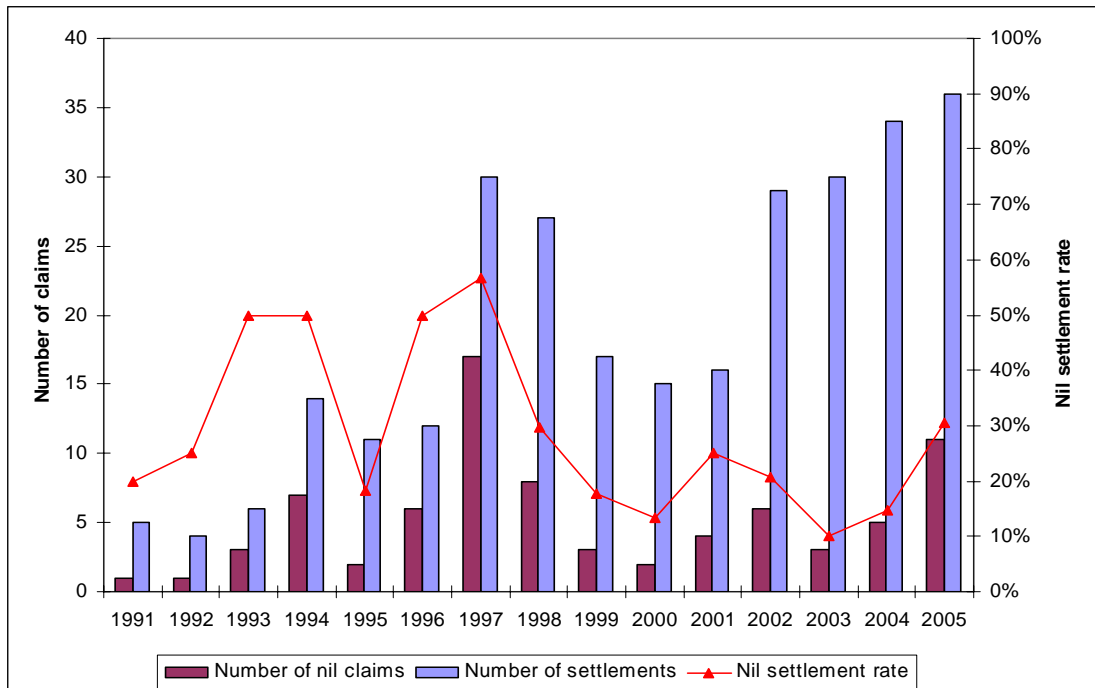
We note that the nil settlement rate observed for 2005/06 is 43% which is higher than the rates observed over the last five years to 2005/06. We have not placed significant credibility on the most recent year (2005/06) in selecting our nil settlement rate assumption at this stage. In these circumstances we have selected 30% as the future nil settlement rate. This is lower than the assumption of a nil settlement rate of 32% made at the previous valuation and reflects the downward trends in prior years' experience.

We note that this rate could be affected in the future by legal changes to the division and acceptability of claims in relation to claimants who have also smoked and the contribution of smoking to the incidence of lung cancer. At this time, we have no evidence to make any specific adjustment to the assumption for that factor.

10.5 ARPD & Other claims

As with other disease types, there has been significant volatility in the historic nil settlement rates, given the low numbers of claims for this disease.

Figure 10.4: ARPD & Other nil claims experience: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

The average for the last three years (to 2005/06) for ARPD & Other claims has been 19%, the average for the last four years has been 19% and the average for the last five years has been 20%.

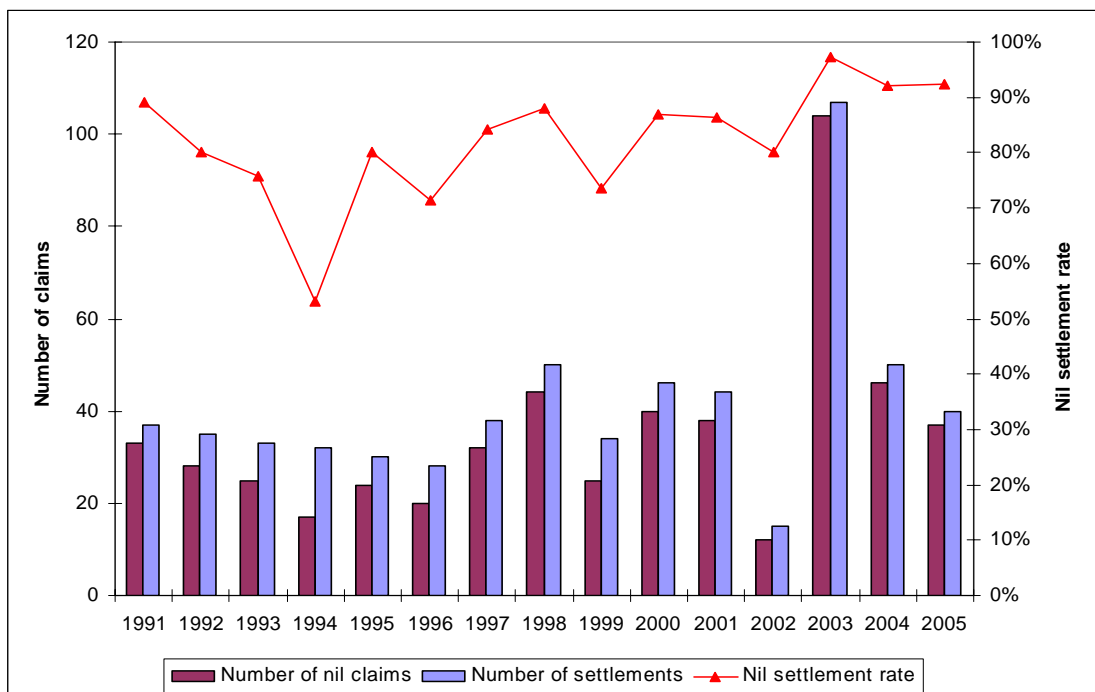
We note that the nil settlement rate observed for 2005/06 is 31%, which is higher than the rates observed over the last five years to 2005/06. As for lung cancer, we have not placed significant credibility on the most recent year (2005/06) in selecting our nil settlement rate assumption at this stage, but given it equal weighting to the experience in other years.

Accordingly, we have selected 20% as our nil settlement rate assumption for this class of disease. This is unchanged from our previous assumption.

10.6 Workers Compensation claims

The nil settlement rates for Workers Compensation are high and are reflective of the portion of claims whose costs are fully met by a Workers Compensation Scheme or Policy. The proportion of such claims which are fully met by insurance will have increased over time and are likely to continue to do so in the future.

Figure 10.5: Workers Compensation nil claims experience: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

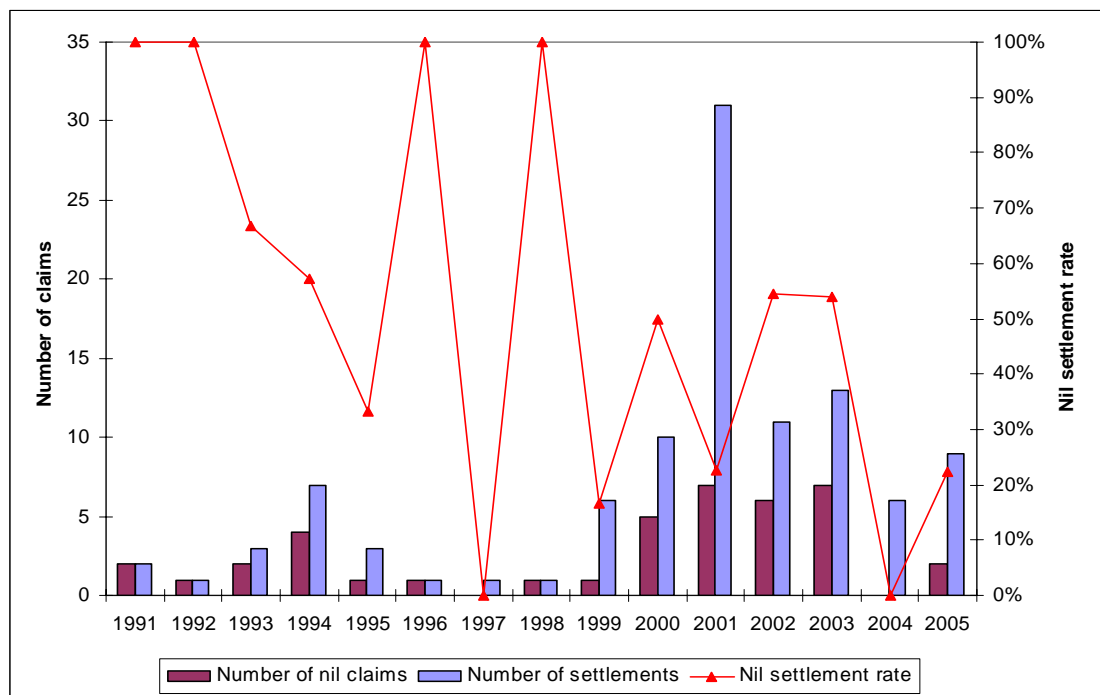
The average nil settlement rate of the last three years (to 2005/06) is 95%, the average of the last four years is 94% and the average of the last five years is 93%.

Based on considerations of the longer-term experience, we have selected a rate of 90% which is unchanged from our previous assumption.

10.7 Wharf claims

For wharf claims, the average of the last three years is 32%, the average of the last four years is 39% and the average of the last five years is 31%. We have selected 35% as our valuation assumption which is unchanged from our previous assumption. Given the low volume of claims activity for Wharf claims, this assumption is not material to the liability assessment.

Figure 10.6: Wharf nil claims experience: 1991 to 2005



Note: Data for 2005/06 from 1 April 2005 to 28 February 2006 only

11 PRODUCT AND PUBLIC LIABILITY INSURANCE PROGRAMME

11.1 Overview

Until 31 March 1985, James Hardie had in place General and Products liability insurance covers with a \$1m primary policy layer. These were “each and every loss” contracts which were placed amongst a number of insurance providers on a claims-occurring basis.

In addition, James Hardie maintained further “umbrella” insurance contracts, with varying retentions and policy limits. That is, the contracts paid all costs arising from claims with exposure in a specified year from the retention up to the relevant policy limit. All claim costs in relation to a given exposure year in excess of the limit would be retained by the Liable Entities.

Product liability claims were insured under these contracts on an “in the aggregate” basis whilst public liability claims were insured on an “each and every loss” basis.

The umbrella policies were placed as follows:

- For the period up to June 1976, the insurance policies were written on a claims occurring basis. The insurance was provided by QBE but the cover provided by these policies was commuted in June 2000 for a consideration of \$3.1m per annum for the following 15 years.
- For the period from June 1976 to 1985/86 the insurance policies were written on a claims-occurring basis. CE Heath acted as the underwriting agent and insured the risk into Lloyd’s of London and the London Market. However, during this period both CE Heath Underwriting Agencies (CEHUA) and CE Heath Underwriting & Insurance (CEH U&I) also insured some of the risk, reinsuring their placement on a facultative basis;
- For the period 1986/87 to 1989/90, the insurance policies were written on a claims made basis. CE Heath acted as the underwriting agent and insured the risk into Lloyd’s of London and the London market.

- For the period 1990/91 to 1996/97, the insurance policies responded on a claims made basis. However, CE Heath C&G (owned by HIH, now in liquidation) acted as the insurer of the programme and reinsured it into Lloyd's of London and the London Market. CE Heath C&G retained some share on some of the layers.

We understand that defence legal costs are additional to the cover.

We have allowed for the benefits of the insurance arrangements of the Liable Entities based on information provided to us by the MRCF relating to the insurance programme.

The methodology describing our approach for valuing the Insurance Recoveries is detailed in Section 5.9.

11.2 Allowance for Insurance Recoveries

It should be noted that only product and public liability Insurance Recoveries are allowed for within our liability assessment, and only in relation to the period of exposure and insurance placement up to, and including, 1985/86.

Insurance protection purchased from 1986 onwards was placed on a "claims made" basis and as such may not provide protection or recoveries against the cost of future claim notifications made by claimants against the Liable Entities. We have therefore made no allowance for the value of insurance contracts placed from 1986 onwards in our liability assessment.

We note that a claim of approximately \$66m has been made by the MRCF on behalf of the Liable Entities against HIH in relation to the insurance programme for the 1990/91 to 1996/97 years. We have assumed that this recovery is subject to dispute and have not attempted to estimate any recovery for it at this time.

It should be noted that our decision is an actuarial one and is not based on consideration of the legal arguments that might be presented by the MRCF, by HIH or by the reinsurers. We present no legal opinion, and have not based our assessment on any such legal opinion, as to the admissibility of the claim or the expected recovery under the claim.

To the extent recovery is made against this claim, the net asset position of the Special Purpose Fund will improve and will therefore reduce the funding requirement.

We have also allowed for the value of the QBE commutation entered into in June 2000 which involves the payment to the MRCF of a consideration of \$3.1m per annum for 15 years to 30 June 2014.

Where a claim filed under a Scheme of Arrangement has been accepted and payment made, we have assumed that the insurance liabilities of that entity to the Liable Entities have been fully discharged and no further recoveries fall due.

11.3 Bad debt allowance on Insurance Recoveries

We have made allowance for bad debts on future Insurance Recoveries within our valuation by use of the default rates in Appendix A. These have been sourced from Standard & Poors' Rating Performance Book, March 2004 and are based on bond default rates. Where additional information regarding the expected payout rates of solvent and insolvent Schemes of Arrangement is available we have instead taken the expected payout rates to assess the credit risk allowance to be made in our liability assessment.

We have considered the credit rating of the insurers of the Liable Entities as at March 2006 and applied the relevant credit rating default rates to the expected future cashflows by year, treaty and insurer.

In relation to those contracts where CEHUA or CEH U&I appeared to insure some of the risks (and then facultatively reinsure that risk), we have assumed that no cut-through from the reinsurers directly to the Liable Entities will take place. We have instead assumed that these Insurance Recoveries will rank alongside other creditors of the HIH Group. We note that this is not based on legal opinion and we pass no such opinion. Were cut-through to be achieved this would be expected to increase the level of Insurance Recoveries, as the financial health of the reinsurers to the HIH Group is generally better than that of the HIH Group itself, so that a lower bad debt charge would apply.

11.4 Bolton Metropolitan Borough Council vs. Municipal Mutual Insurance Ltd (UK) and Commercial Union

11.4.1 Background

In June 2005, a judgment relating to Bolton Metropolitan Borough Council vs. Municipal Mutual Insurance Ltd and Commercial Union ("the Bolton Judgment") was passed down in the Manchester District Court.

The court case involved an asbestos-related exposure of a former employee of Bolton Metropolitan Borough Council, Mr Green. Mr Green worked as a contractor in the 1960s during which period he was exposed to asbestos fibres. He was diagnosed with mesothelioma in January 1991 and died in November 1991.

The case considered which of the periods of insurance of a product and public liability insurance programme of an assured (Bolton MBC in this case) responds to a claim. In particular, it considered when the relevant bodily injury arose for the purposes of determining which insurance policy responds, the alternatives being:

- The policies in force at the time of the exposure to asbestos (which in some instances may take place over many years and affect a number of different insurers and policy years);
- The policies in force at the time the disease begins to develop or manifest (e.g. the formation of mutating cells defining the date of “injury”); or
- The policies in force at the time the disease becomes apparent, e.g. through diagnosis.

In this instance, the Court held that Mr Green became fatally ill at the time the tumour developed and not at the time the asbestos fibres were inhaled. Accordingly the policy in effect at the time of manifestation responded to the claim (i.e. the second definition in the above list of three alternative interpretations).

The UK High Court agreed and held that Mr Green became fatally ill in or about 1980 at the time the tumour developed, and not earlier at the time the asbestos fibres were inhaled. Accordingly, MMI, who were the insurers on risk during the latter period, were deemed liable to indemnify Bolton Council for the amount it paid in settlement to Mr Green's widow. No liability was attributed to Commercial Union as the court held that Mr Green did not become ill or injured during the period of this insurance cover when the fibre was supposedly inhaled.

The case was appealed and the Court of Appeal handed down its judgment on 6 February 2006 and unanimously concurred with the original decision of the District Court, i.e. that the relevant injury for the purposes of determining which of the insurance policies should indemnify the Bolton Council was the time of the onset of the malignant tumour and not the event of the initial exposure to asbestos. This decision was made on the basis that it was not until the disease manifested itself that Mr. Green had an actionable claim (or first suffered damage)

11.4.2 *Relevant decisions in Australia*

We understand that there have been a number of judicial decisions in the Australian Courts in the past dealing with this issue of the definition of occurrence of injury, notably:

- Orica vs. CGU (2003);
- Crimmins vs. Stevedoring Industry Finance Committee (1999);
- GRE vs. Bristile (1991); and
- American Home Assurance Company (“AHAC”) vs. Saunders (1987).

However, the High Court has not considered the question and consequently there may be further development in Australian law on this issue.

In the most recent decision, Orica vs. CGU, it was determined that the injury arose when the fibres were inhaled, based on decisions in Favelle Mort vs. Murray (1976) and GRE vs. Bristile, on the grounds that once the fibres were inhaled nothing could be done to avert the onset of disease. The court considered that the fact that in some cases inhalation does not give rise to a manifestation of a disease was not relevant. It is of note that the NSW Government passed legislation under the Workers Compensation Legislation Amendment Bill in June 2004 to nullify some of the other potential impacts of the Orica vs. CGU decision.

In the case of Crimmins vs. SIFC, Kirby J noted that physiological change took place at the time of exposure and that whilst the injury per se did not take place at the point of exposure, the potentiality to claim for damages arose out of the exposure.

In the case of GRE vs. Bristile, Nicholson J determined that the entry of the fibres into the body constituted injury and referred to four other decisions that indicated personal injury took place at the time of inhalation.

In the case of AHAC vs. Saunders, the Court of Appeal had to consider whether the onset of mesothelioma constituted a bodily injury under the terms of an accident and sickness policy.

Mahoney JA noted that the question was what was the ordinary meaning of bodily injury and noting the earlier decisions of the High Court in Deeble v. Nott (1941) and Favelle Mort vs. Murray. Mahoney JA considered that the malignancy of mesothelioma was caused by the inhalation of fibres and that the disablement was a consequence of the event that produced the disease (i.e. the inhalation) rather than the manifestation of the disease itself.

11.4.3 Our approach

Even though the Court of Appeal in the UK found that the District Court decision was correct in law having regard to the policy wordings of the insurance contracts in Bolton, it does not automatically mean that the same view will be adopted in Australia (which is the governing law applying to these policies). We note in particular the reasoning applied to date by the Australian Courts in the above decisions and the meaning of injury adopted by Australian Courts, being the inhalation of the asbestos fibres.

In valuing the insurance recoveries, we have not allowed for any application of a “Bolton-type” judgment being applied to the insurance policies in the period up to 1985 / 86 (being the claims occurring policies period).

We have assumed that these insurance policies will continue to respond to claims occurring by reference to the period of exposure to asbestos (and not the date of manifestation of the disease, or some other definition). It should be noted that we have placed no value on the claims-made policies so the interpretation in relation to these policies is not of relevance in our valuation.

In forming a view and making a determination as to the value of the insurance assets, we have also given consideration to the decisions in Fairchild vs. Glenhaven Funeral Services & Ors [2002] and Barker vs. Corus [2006] but with particular reference to current Australian law under which different rules of causation apply to those in the UK.

To the extent that the Bolton judgment or some similar decision was applied in Australia, the value of the insurance assets of the Liable Entities could be materially impaired. However, at this time, and given the above factors, there is no strong evidence to indicate this to be the case.

11.5 Expected Insurance Recoveries

The following table shows the Insurance Recoveries and the bad debt allowances that we have made within our valuation assessment, including the position allowing for the introduction of the DDT Act 2005 in NSW and also if similar reforms were introduced Australia-wide, on both a discounted and an undiscounted basis.

Table 11.1: Insurance recoveries at 31 March 2006

	Pre cost savings		Post cost savings in NSW Only		Post cost savings Australia-wide	
	Undiscounted (\$m)	Discounted (\$m)	Undiscounted (\$m)	Discounted (\$m)	Undiscounted (\$m)	Discounted (\$m)
Gross Liability	3,761.2	1,832.7	3,584.0	1,749.6	3,466.5	1,694.5
QBE Recoveries	(27.9)	(22.2)	(27.9)	(22.2)	(27.9)	(22.2)
Product and Public liability recoveries	(590.0)	(264.4)	(572.4)	(254.1)	(557.2)	(246.9)
Bad Debt Allowance	98.3	45.4	95.5	43.7	93.1	42.6
Net Liability after Bad Debt	3,241.7	1,591.5	3,079.2	1,517.0	2,974.6	1,468.0

As such, Insurance Recoveries (after allowing for bad debt) support approximately 13% of the gross liabilities.

The overall bad debt allowance amounts to around 16% of the expected Insurance Recoveries.

In determining our net liability assessment, we have assumed that the insurance policies of the Liable Entities will continue to respond to relevant claims we have projected as they fall due. Other than making a general credit risk ("bad debt") allowance in valuing the Insurance Recoveries, we have assumed they will otherwise be fully recovered.

To the extent that:

- one or more significant insurers fail in the future; and/or
- insurers dispute payments due to the Liable Entities; and/or
- legal cases change the way in which insurances respond to claims (e.g. due to changing legal interpretations of the "date of loss"); and/or
- insurance assets may be subject to claims by non-Australian claimants; and/or
- insurers negotiate commutations of their obligations to the Liable Entities for more or less than our valuation allowance;



the net liabilities of the Liable Entities would vary accordingly. For example an event resulting in a loss of 10% of the anticipated Insurance Recoveries included in our valuation (in addition to the general bad debt allowance) would increase the net liability by approximately \$20 million.

12 VALUATION RESULTS

12.1 Central estimate liability

At 31 March 2006, our central estimate of the liabilities of the Liable Entities to be met by the Special Purpose Fund taking credit for the anticipated cost savings from the implementation of procedural reforms resulting from the DDT Act 2005 in NSW (the Discounted Central Estimate) is \$1,517.0m (June 2005: \$1,568.4m).

Within that assessment, we have estimated the cost savings arising from the procedural reforms in NSW as being \$74.5m (June 2005: \$83.3m) and accordingly our central estimate of the net liabilities of the Liable Entities before any allowance for anticipated cost savings is \$1,591.5m (June 2005: \$1,651.7m).

The estimated cost savings equate to a reduction in Claims Legal Costs in NSW of approximately 38%.

If similar reforms as those enacted under the DDT Act 2005 were implemented in States outside of NSW (based on our assessment of the extent that such reforms would be relevant, applicable and equally called for by the other State Governments), then our central estimate of the liabilities of the Liable Entities would be \$1,468.0m (June 2005: \$1,513.3m). That is, we estimate the potential savings from the implementation of procedural reforms in other States at \$49.0m (June 2005: \$55.1m)

However, it should be noted that there has been no indication of a commitment by the Governments of the other States to accept or implement any procedural reforms at this time.

All of the above liability figures are discounted and are net of cross-claim recoveries, Insurance and Other Recoveries.

The following table shows a summary of our central estimate liability assessment and compares the current assessment with previous assessments.

Table 12.1: Comparison of central estimate of liabilities

	March 2006 \$m			June 2005 \$m	March 2005 \$m
	Gross of insurance recoveries	Insurance recoveries	Net of insurance recoveries	Net of insurance recoveries	Net of insurance recoveries
Total projected cashflows in current dollars (uninflated and undiscounted)	1,723.7	245.2	1,478.5	1,596.9	1,666.9
Future inflation allowance (base and superimposed inflation)	2,037.5	274.3	1,763.2	1,709.1	1,936.8
Total projected cashflows with inflation allowance	3,761.2	519.5	3,241.7	3,306.0	3,603.7
Discounting allowance	(1,928.6)	(278.4)	(1,650.2)	(1,654.3)	(1,918.8)
Net present value liabilities (pre cost savings)	1,832.7	241.2	1,591.5	1,651.7	1,684.9
Net present value liabilities allowing for the DDT Act 2005 applying in NSW only*	1,749.6	232.6	1,517.0	1,568.4	n/a
Net present value liabilities allowing for procedural reforms applying nationally**	1,694.5	226.5	1,468.0	1,513.3	n/a

*This is based on our estimate that NSW represents 50% of the future liabilities. All future figures showing "NSW only" use this estimate.

**As noted in Section 6.4.9, the estimation of the legal cost savings arising from the other States is subject to considerably greater uncertainty than those assessed for NSW.

As we have noted in Section 1.3.1 Workers Compensation claims, being claims by current and former employees of the Liable Entities, are included to the extent that such liabilities are not met by a Workers Compensation Scheme or Policy (as a result of the existence of limits of indemnity and policy deductibles on those contracts of insurance). The amounts of Workers Compensation claims which are met by the contracts of insurance are not included with the definition of a Personal Asbestos Claim and are therefore not met by the Special Purpose Fund. Workers Compensation claims in excess of the insurance limits of indemnity are included in the definition of Personal Asbestos Claim and these amounts are therefore met by the Special Purpose Fund.

We have not allowed for the future Operating Expenses of the Special Purpose Fund or the Liable Entities in the liability assessments.

12.2 Comparison with previous valuations

12.2.1 Comparison with 31 March 2005 valuation

In the absence of any change to the claim projection assumptions from our 31 March 2005 valuation, other than allowing for the changes in the discount rate, we would have projected a Discounted Central Estimate liability of \$1,758.3m as at 31 March 2006. Consequently, our revised assessment at 31 March 2006, before any allowance for cost savings resulting from the DDT Act 2005, represents a reduction of \$166.8m from that assessment.

The reduction from that net liability estimate is principally a consequence of:

- A reduction in the projected future claim numbers which we have adopted based on the recent emerging experience;
- An increase in the projected insurance recoveries owing to the inclusion of a separate allowance for public liability insurance recoveries;
- Emerging experience on reported claims being lower than estimated reflecting that claims which were pending are now estimated for amounts less than previously and that there were fewer claims reported in the period than was estimated and such claims will cost less than was previously estimated; and
- A lower assumed overall average cost per claim based on recent trends;

offset by

- A reduction in the proportion of claims which are expected to settle for nil cost; and
- An increase in the rate of claims inflation assumed based on recent emerging trends in average weekly earnings (AWE) inflation.

In addition, we have:

- Made an adjustment to rate of recovery from third parties (cross-claim recovery rate) based on recent emerging experience;
- Made an adjustment to the potential liabilities arising from mining activities at Baryulgil;
- Made an adjustment to allow for the funding cap in relation to Dust Diseases Board and WorkCover reimbursements to be met by the Special Purpose Fund; and
- Made other minor changes to settlement patterns based on more recent experience.

12.2.2 Comparison with 30 June 2005 valuation

In the absence of any change to the claim projection assumptions from our 30 June 2005 valuation, other than allowing for the changes in the discount rate, we would have projected a Discounted Central Estimate liability of \$1,611.2m as at 31 March 2006. Consequently, our revised assessment at 31 March 2006, before any allowance for cost savings resulting from the DDT Act 2005, represents a reduction of \$19.7m from that assessment.

The reduction from that net liability estimate is principally a consequence of:

- An increase in the projected insurance recoveries owing to the inclusion of a separate allowance for public liability insurance recoveries;
- Emerging experience on reported claims being lower than estimated reflecting that claims which were pending are now estimated for amounts less than previously and that there were fewer claims reported in the period than was estimated and such claims will cost less than was previously estimated; and
- A lower assumed overall average cost per claim based on recent trends;

offset by

- A reduction in the proportion of claims which are expected to settle for nil cost; and
- An increase in the rate of claims inflation assumed based on recent emerging trends in average weekly earnings (AWE) inflation.

In addition, we have:

- Made an adjustment to rate of recovery from third parties (cross-claim recovery rate) based on recent emerging experience; and
- Made slight changes to settlement patterns based on more recent experience.

The following table shows an analysis of the change in our liability assessments from March 2005 to March 2006, including our 30 June 2005 assessment.

Table 12.2: Analysis of change: March 2005 to June 2005 and March 2006

	March 2005 to June 2005	June 2005 to March 2006	March 2005 to March 2006
Net liability at start of valuation period	1,684.9	1,651.7	1,684.9
Expected net claims payments	17.3	48.3	65.6
Unwind of discount	23.6	63.3	86.9
Expected liability at end of valuation period	1,691.2	1,666.7	1,706.2
Change in discount rate	107.6	(55.5)	52.1
Expected net liability at end of valuation period adjusted for discount rate	1,798.8	1,611.2	1,758.3
Impact of Change in valuation bases:			
- Claim numbers	(107.5)	(3.2)	(110.7)
- Nil settlement rate	18.1	36.6	54.7
- Average claims costs	(26.3)	(38.3)	(64.6)
- Claims inflation		44.1	44.1
- Emerging experience on reported claims	(17.2)	(17.5)	(34.7)
- Cross-claim recovery rate		(9.8)	(9.8)
- Insurance Recoveries (including bad debt)		(28.6)	(28.6)
- Other (Baryulgil, settlement patterns, DDB reimbursement)	(14.2)	(3.0)	(17.2)
Total development in net liability	(147.1)	(19.7)	(166.8)
Net liability at end of valuation period	1,651.7	1,591.5	1,591.5
Net liability at end of valuation period allowing for cost savings in NSW only	1,568.4	1,517.0	1,517.0
Net liability at end of valuation period allowing for cost savings Australia-wide	1,513.3	1,468.0	1,468.0

12.3 Claims and legal costs

We have identified the elements of legal costs (defined as Claims Legal Costs) within our valuation.

Table 12.3: Breakdown of components of net central estimate liabilities

	Net Liability at March 2006		Net Liability at June 2005		Net Liability at March 2005
	\$m		\$m		\$m
Net claim costs (excl Claims Legal Costs)	1,190.6		1,222.2		1,249.2
Total Claims Legal Costs (plaintiff and defendant costs)	400.9		429.5		435.7
Net Liability before cost savings	1,591.5		1,651.7		1,684.9
	NSW Only	Australi a-wide	NSW Only	Australi a-wide	
Estimate of cost savings	(74.5)	(123.5)	(83.3)	(138.4)	n/a
Net Liability after savings	1,517.0	1,468.0	1,568.4	1,513.3	1,684.9
Claims Legal Costs after savings	326.4	277.4	346.2	291.1	435.7
Claims Legal Costs, as % of gross costs of settlements	22.8%	19.4%	24.2%	20.3%	29.9%
Claims Legal Costs, as % of net costs of settlements	27.4%	23.3%	28.3%	23.8%	34.9%

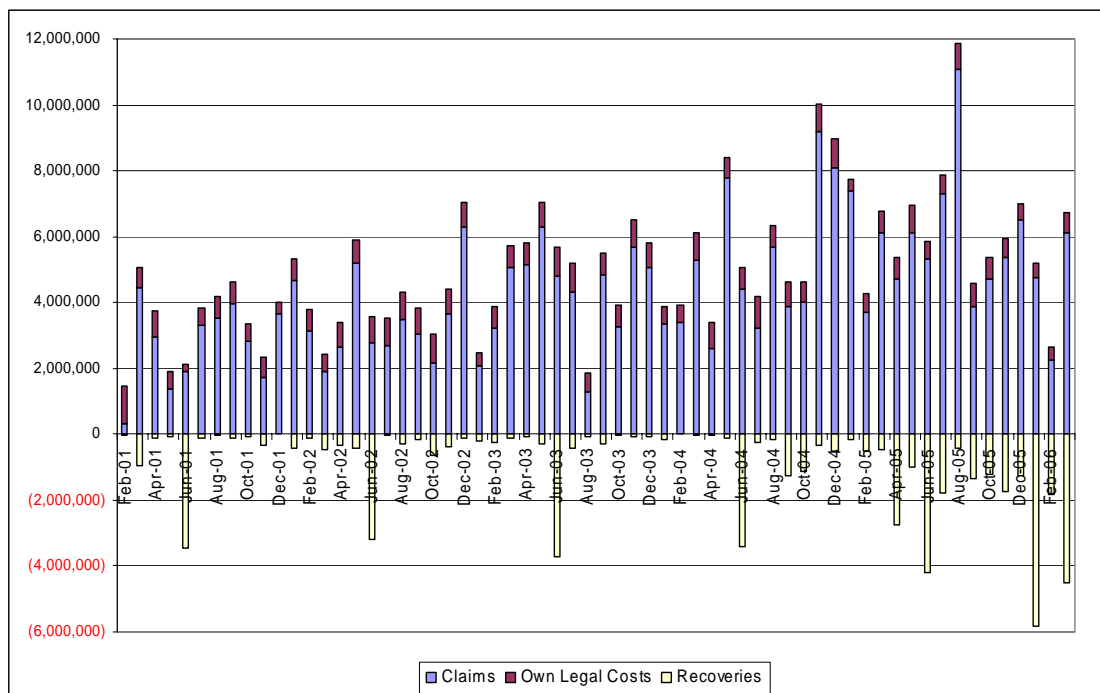
Note: The net present value of the Insurance Recoveries at each of the last three actuarial valuations have been assessed as \$241.2m for the March 2006 valuation; \$209.8m for the June 2005 valuation and \$207.6m for the March 2005 valuation

12.4 Cashflow projections

It is worth contextualising the projected rate of future expenditure with that exhibited in the past.

The following chart shows the monthly rate of expenditure by the MRCF relating to asbestos-related claim settlements over the last four years (since February 2001).

Figure 12.1: Past cashflow of the MRCF to 31 March 2006



Cashflow payments in the 12 months to 31 March 2006 were approximately \$75m gross of insurance and other recoveries and \$48m net of insurance and other recoveries. In the 12-month period to 31 March 2005, the comparative cashflow figures were \$74m and \$66m respectively.

The items of particular note are:

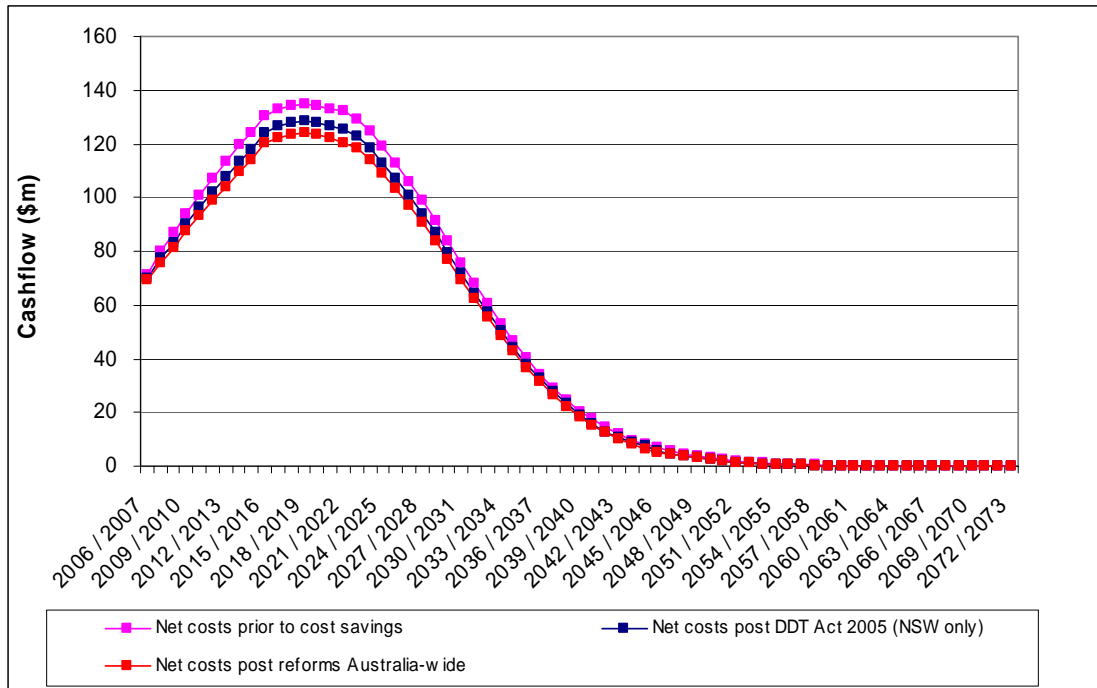
- The high level of expenditure (\$11.8m gross costs) in August 2005 which was due to the settlement of 82 claims;
- The level of Insurance Recoveries received in January 2006. We understand this to be primarily due to a payment of almost \$3.2m in relation to the settlement made by the St Helens Scheme of Arrangement, involving Prudential Assurance, and of \$1.0m in relation to the KWELM companies.

- The level of non-insurance recoveries in March 2006. We understand this to relate to approximately \$3m from cross-claims recoveries from CSR in relation to a bulk Hardie-BI settlement of 98 claims.

It should be noted that the above chart is compiled on a “cash basis” rather than an “accruals basis” so that the figures are not directly applicable to the actuarial basis of projection. However, the difference in timing should be relatively small (i.e. of the order of 1-2 months generally).

Figure 12.2 shows a comparison of the projected gross and net cashflows underlying our 31 March 2006 valuation before and after allowance for the DDT Act 2005.

Figure 12.2: Cashflow projections – 31 March 2006 (\$m)



The underlying cashflows for this chart are detailed in Appendix C, with additional detail in relation to cost savings separately disclosed.

Given the extremely long-tail nature of asbestos-related liabilities, a small change in an individual assumption can have a significant impact upon the cashflow profile of the liabilities.

12.5 Final Funding Agreement calculations

The Final Funding Agreement sets out the basis on which payments will be made to the Special Purpose Fund. Additionally, there are a number of other figures specified within the Final Funding Agreement that we are required to calculate. These are:

- **Discounted Central Estimate:** This is the central estimate of the present value of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, after allowing for Insurance and Other Recoveries.
- **Term Central Estimate:** This is the central estimate of the present value of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, in each case which are reasonably expected to become payable up to 31 March 2045, after allowing for Insurance and Other Recoveries.
- **Period Actuarial Estimate:** This is the central estimate of the present value of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, in each case which are reasonably expected to become payable in the next three years, before allowing for Insurance and Other Recoveries.

Table 12.4: Final Funding Agreement calculations (\$m) – NSW cost savings scenario

	Post cost savings (NSW only)
Discounted Central Estimate (net of cross-claim recoveries, Insurance and Other Recoveries)	1,517.0
Period Actuarial Estimate (net of cross-claim recoveries, gross of Insurance and Other Recoveries) comprising:	248.7
Discounted value of cashflow in 2006/07	80.6
Discounted value of cashflow in 2007/08	83.3
Discounted value of cashflow in 2008/09	84.8
Term Central Estimate (net of cross-claim recoveries, Insurance and Other Recoveries)	1,514.3

It should be noted that the actual funding required at a particular date will depend upon a number of factors, including:

- the net asset position of the Special Purpose Fund at that time;
- the free cash flow amount of the JHINV Group in the preceding financial year; and
- the actuarially assessed liabilities in the latest Annual Actuarial Report.

13 UNCERTAINTY

13.1 Overview

There is uncertainty involved in any valuation of the liabilities of an insurance company or a self-insurer. The sources of such uncertainty include:

- Parameter error – this is the risk that the parameters and assumptions chosen ultimately prove not to be reflective of future experience.
- Model error – this is the risk that the model selected for the valuation of the liabilities ultimately proves not to be adequate for the projection of the liabilities.
- Legal and social developments – this is the risk that the legal environment in which claims are settled changes relative to its current and historic position thereby causing significantly different awards.
- Future actual rates of inflation.
- The general economic environment.
- Potential sources of exposure – this is the risk that there exist sources of exposure which are as yet unknown or unquantifiable, or for which no liabilities have yet been observed, but which may trigger future claims.

In the case of asbestos liabilities, these uncertainties are exacerbated by the extremely long latency period from exposure to onset of disease and notification of a claim. Asbestos-related claims often take in excess of 40 years from original exposure or event, compared with 4-5 years for many other liabilities such as Comprehensive Third-Party or other Workers Compensation claims. These specific forms of uncertainty include:

- The difficulty in quantifying the extent and pattern of past asbestos exposures and the number and incidence of the ultimate number of lives that may be affected by Asbestos related diseases arising from such past asbestos exposures;
 - The propensity of individuals affected by diseases arising from such exposure to file common law claims against defendants;
 - The extent to which the Liable Entities will be joined in such future common law claims;
-

- The fact that the ultimate severity of the impact of the disease and the quantum of the claims that will be awarded will be subject to the outcome of events that have not yet occurred, including:
 - medical and epidemiological developments;
 - jury decisions;
 - court interpretations;
 - legislative changes;
 - changes to the form and range of benefits for which compensation may be awarded (“heads of damage”);
 - public attitudes to claiming;
 - the impact of new (and future) procedural reforms in NSW upon the legal costs incurred in managing and settling claims;
 - the potential for future procedural reforms in other States affecting the legal costs incurred in managing and settling claims in those States;
 - potential third-wave exposures; and
 - social and economic conditions such as inflation.

Furthermore, within this valuation there is additional uncertainty arising from the estimation of the potential legal cost savings resulting from the DDT Act 2005 and estimation of the equivalent Australia-wide application of similar reforms. Such savings will depend in part upon the future approach adopted by both defendant and plaintiff lawyers and their clients which is inevitably difficult to gauge at this early stage.

13.2 Sensitivity testing

As we have noted above, there are many sources of uncertainty. Actuaries often perform “sensitivity testing” to identify the impact of different assumptions as to future experience, thereby providing an indication of the degree of parameter error risk to which the valuation assessment is exposed.

Sensitivity testing may be considered as being a mechanism for testing “what will the liabilities be if instead of choosing [x] for assumption [a] we chose [y]?” It is also a mechanism for identifying how the result will change if experience turns out different in a particular way relative to that which underlies the central estimate expectations. As such, it provides an indication of the level of variability inherent in the valuation.

We have performed some sensitivity tests of the results of our central estimate valuation. We have sensitivity tested the following factors:

- **legal cost savings:** 20% above and below our best estimate assumption.
- **nil settlement rate:** 5 percentage points above and below our best estimate assumption.
- **average claim cost of a non-nil claim:** 10% above and below our best estimate assumption.
- **peak year of claims:** increase/decrease by 1, 3 and 5 years.
- **number of claims notified:** 5% above and below our best estimate assumption.
- **superimposed inflation:** 2% per annum superimposed inflation for 5 years reducing to -2% per annum after a further five years and remaining at -2% per annum thereafter; and 6% per annum superimposed inflation for the next five years, linearly reducing to 2% per annum after a further five years and remaining at 2% per annum thereafter.
- **discount rates:** 1 percentage point above and below our best estimate assumption.
- **base inflation:** 1 percentage point above and below our best estimate assumption.

There are other factors which influence the liability assessment and which could be sensitivity tested, including:

- The cross-claim recovery rate;
- The pattern of claim notifications; and
- The pattern and delay of claim settlements from claim notification.

We have not sensitivity tested these factors noting them to be of less financial significance or uncertainty individually, although in aggregate they could be of more significance.

We have not sensitivity tested the value of Insurance Recoveries as these uncertainties relate to legal risks and disputation risks, and it is not possible to parameterise a sensitivity test in an informed manner.

13.3 Results of sensitivity testing

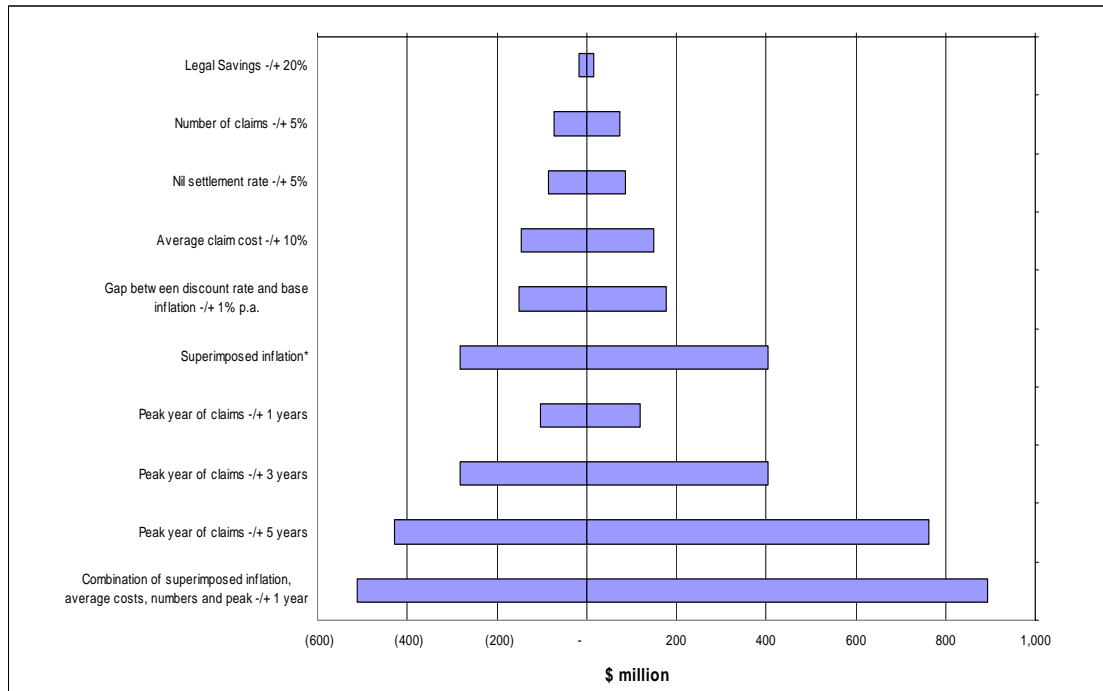
Figure 13.1 shows the impact of various individual sensitivity tests on the Discounted Central Estimate of the liabilities, and of a combined sensitivity test of a number of factors.

It should be noted that although we have tested multiple scenarios of each assumption, one cannot gauge an overall potential range by simply adding these tests together.

It should also be noted that because of the interactions between assumptions, the maximum range will not be the sum of the constituent parts. Rather it is important to recognise that it is unlikely that all assumptions would deteriorate together, and there are often compensating upsides to the downsides that can arise. This is especially so when considering the inter-dependencies and correlations between parameters, such as higher inflation often being associated with higher discount rates: the former would increase the liabilities whilst the latter would decrease the liabilities.

As such, in the figure below, we have considered the relationship between base inflation and the discount rate as the key sensitivity test rather than each assumption independently.

Figure 13.1: Sensitivity testing results – Impact around the net central estimate (discounted) (in \$m) at March 2006, based on application of the DDT Act 2005 in NSW only



* The superimposed inflation sensitivity tests are for 6% per annum for 5 years reducing to 2% per annum; and 2% per annum for 5 years reducing to -2% per annum.

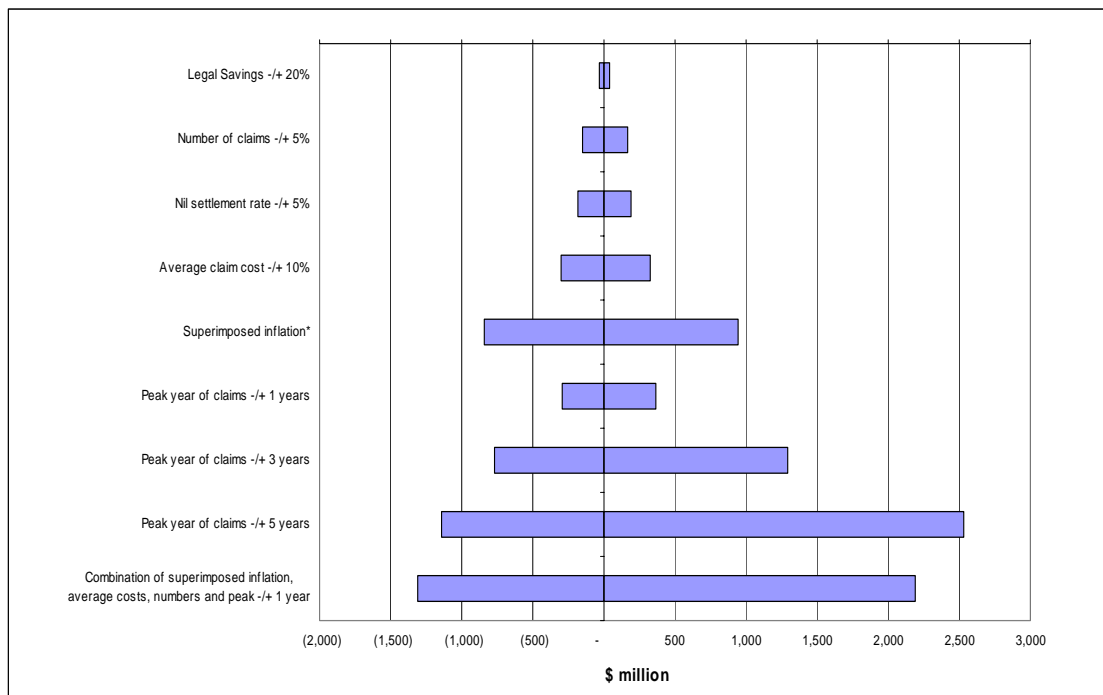
Whilst our combined sensitivity test of a number of factors (including superimposed inflation, average claim costs and numbers of claims) indicates a range around the Discounted Central Estimate of liabilities of -\$500m to +\$900m, the actual cost of liabilities could fall outside that range depending on the out-turn of the actual experience.

The above chart may imply that the single most sensitive assumption is potentially the peak year of claims. This is related to the fact that one of the most substantial uncertainties is the ultimate number of claims that may eventuate against the Liable Entities. Shifting the peak year by 5 years to 2015/2016 for mesothelioma would imply an increase in the future number of mesothelioma claims reported (both at a national level and to the Liable Entities) of around 50%.

It should also be noted that inflation has an effect on these figures for the peak year of claims. At this valuation, the rate of claim inflation exceeds the rate of discounting and as such, the change in the assumption of the peak year will lead to considerably more downside risk than upside risk in relation to the discounted values.

We have performed the sensitivity analysis on the undiscounted cashflows. The chart below shows how the results change for the undiscounted cashflow projections for each of the scenarios.

Figure 13.2: Sensitivity testing results – Impact around the net central estimate (undiscounted) (in \$m) at March 2006, based on application of the DDT Act 2005 in NSW only



* The superimposed inflation sensitivity tests are for 6% per annum for 5 years reducing to 2% per annum; and 2% per annum for 5 years reducing to -2% per annum.

Whilst our combined sensitivity test of a number of factors (including superimposed inflation, average claim costs and numbers of claims) indicates a range around the central estimate of liabilities on an undiscounted basis of -\$1.3bn to +\$2.2bn, the actual cost of liabilities could fall outside that range depending on the out-turn of the actual experience.

Our sensitivity testing has regard only to matters potentially impacting the liability assessment. It does not consider, or take into account, the manner in which the liabilities may be funded by James Hardie and the Special Purpose Fund. The extent to which the assets held do not match the liabilities (for example, non-income earning assets, currency risk or duration mismatch) could introduce further uncertainty as to the eventual cost of meeting the liabilities. As noted in Section 1.5, consideration of such investment risks is outside the scope of this report and is a matter for James Hardie and the Special Purpose Fund to consider separately.

13.4 Uncertainty of the legal cost savings

We have estimated the value of the legal cost savings might be of the order of \$75m if the DDT Act 2005 applied in NSW only or \$125m if similar reforms were applied nationally, both of these estimates being discounted.

Inevitably there is inherent uncertainty in the level of savings that will ultimately be achieved. Of particular uncertainty is the extent to which savings may eventuate from the implementation of procedural reforms in other States.

To date, there has been no indication of commitment from the Governments of other States to accept or implement procedural reforms, to the extent they can be applied, similar to those implemented in NSW. Such reforms might require legislation to be passed in the relevant States.

We have modelled the variability in the legal cost savings at a national level and the results of this shows that depending on the outturn of the assumptions which were made in Section 6.3 of this report, legal cost savings in NSW might vary by up to +/- \$15m.

It should be noted that this variability is less than the change in legal cost savings resulting from the decision of whether to apply these reforms in NSW only or across Australia. Furthermore, the extent of variability of legal cost savings needs to be contextualised relative to the overall level of uncertainty in the total liability assessment.

APPENDICES



A. Credit rating default rates by duration

Rating	Yr. 1	Yr. 2	Yr. 3	Yr. 4	Yr. 5	Yr. 6	Yr. 7	Yr. 8	Yr. 9	Yr. 10	Yr. 11	Yr. 12	Yr. 13	Yr. 14	Yr. 15
AAA	0.0%	0.0%	0.0%	0.1%	0.1%	0.2%	0.3%	0.4%	0.4%	0.5%	0.5%	0.5%	0.5%	0.6%	0.7%
AA+	0.0%	0.0%	0.0%	0.1%	0.2%	0.3%	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%
AA	0.0%	0.0%	0.0%	0.1%	0.1%	0.2%	0.3%	0.5%	0.6%	0.8%	0.9%	1.0%	1.2%	1.3%	1.4%
AA-	0.0%	0.1%	0.2%	0.4%	0.6%	0.7%	1.0%	1.1%	1.2%	1.3%	1.5%	1.7%	1.7%	1.8%	2.0%
A+	0.1%	0.1%	0.3%	0.5%	0.6%	0.8%	1.0%	1.2%	1.5%	1.8%	2.1%	2.4%	2.7%	2.9%	3.2%
A	0.1%	0.1%	0.2%	0.3%	0.5%	0.7%	0.9%	1.2%	1.4%	1.8%	2.2%	2.4%	2.6%	2.7%	3.0%
A-	0.0%	0.2%	0.4%	0.6%	0.9%	1.2%	1.6%	1.8%	2.2%	2.4%	2.5%	2.7%	2.8%	3.0%	3.2%
BBB+	0.3%	0.9%	1.6%	2.2%	2.8%	3.5%	4.0%	4.4%	4.9%	5.4%	5.8%	6.1%	6.7%	7.5%	8.4%
BBB	0.3%	0.7%	1.1%	1.7%	2.4%	3.0%	3.7%	4.5%	5.1%	5.9%	6.8%	7.3%	7.9%	8.2%	8.8%
BBB-	0.5%	1.5%	2.6%	4.1%	5.5%	6.9%	7.9%	8.7%	9.4%	10.2%	10.9%	11.8%	12.3%	13.1%	13.8%
BB+	0.6%	2.1%	4.3%	6.1%	7.6%	9.2%	10.8%	11.5%	12.7%	13.7%	14.4%	14.9%	15.2%	15.6%	16.5%
BB	1.2%	3.4%	6.2%	8.6%	11.0%	13.4%	15.1%	16.6%	18.1%	19.1%	20.3%	21.1%	21.5%	21.6%	21.6%
BB-	2.0%	5.7%	9.6%	13.2%	16.3%	19.1%	21.3%	23.4%	25.3%	26.7%	28.0%	28.8%	30.0%	30.7%	31.5%
B+	3.2%	8.9%	14.2%	18.8%	22.0%	24.4%	26.7%	28.6%	30.1%	31.6%	32.9%	34.1%	35.2%	36.4%	37.5%
B	9.0%	17.9%	24.3%	28.4%	31.5%	34.1%	35.5%	36.7%	37.7%	38.6%	39.5%	40.7%	41.9%	42.8%	44.0%
B-	13.0%	23.6%	31.5%	36.2%	39.2%	41.6%	43.8%	45.4%	45.9%	46.5%	46.9%	47.1%	47.4%	47.6%	47.9%
CCC+	30.9%	39.8%	45.5%	49.5%	53.0%	53.4%	55.5%	56.1%	57.6%	58.4%	59.3%	60.1%	60.8%	61.6%	61.6%
L	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
NR	5.3%	10.5%	15.1%	18.7%	21.6%	24.0%	25.9%	27.5%	28.9%	30.0%	31.1%	32.1%	33.0%	33.7%	34.5%
R	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Standard and Poors' Rating Performance Book, March 2004

Notes:

These rates are not used for those solvent and insolvent Schemes of Arrangement where the payout rates are known or have been estimated. In those cases, the payout rate has been used to determine the credit rating default rates

R relates to companies which have been subject to Regulatory Action regarding solvency.

L relates to Lloyds' of London and Equitas.

NR relates to companies which are Not Rated.

The credit ratings used for individual companies are as at March 2006



B. Summary results (\$m)

B.1 Prior to cost savings

DISCOUNTED VALUE OF CASHFLOWS (\$m)

Years	Mesothelioma	Lung Cancer	Asbestososis	ARPD & Other	Defendant Legal Costs	General Liability Cost	Insurance Recoveries	Net General Liability	Workers Compensation	Workers Compensation on Legal Costs	Workers Compensation on Costs	Wharf Claims	Cross Claim Recoveries	Baryulgil	Net Liabilities
1-5	321.1	17.6	50.1	12.5	34.5	435.7	60.9	374.9	3.9	0.4	4.4	3.0	7.9	2.7	377.0
6-10	339.2	17.6	44.0	11.7	42.2	454.7	56.6	398.1	3.9	0.6	4.4	2.0	8.1	1.7	398.1
11-15	296.5	15.9	32.8	9.3	36.1	390.7	45.9	344.8	3.1	0.5	3.6	1.1	7.0	0.9	343.5
16-20	212.9	12.2	20.4	6.2	25.0	276.7	32.5	244.1	2.1	0.3	2.4	0.6	5.0	0.4	242.6
21+	216.0	14.6	17.0	5.8	24.4	277.8	45.4	232.4	2.0	0.3	2.3	0.4	5.0	0.2	230.3
All	1,385.7	77.8	164.2	45.5	162.2	1,835.5	241.2	1,594.3	15.0	2.2	17.2	7.0	32.9	5.9	1,591.5

UNDISCOUNTED CASHFLOWS (\$m)

Years	Mesothelioma	Lung Cancer	Asbestososis	ARPD & Other	Defendant Legal Costs	General Liability Cost	Insurance Recoveries	Net General Liability	Workers Compensation	Workers Compensation on Legal Costs	Workers Compensation on Costs	Wharf Claims	Cross Claim Recoveries	Baryulgil	Net Liabilities
1-5	368.8	20.2	57.2	14.3	39.8	500.2	69.6	430.6	4.5	0.5	5.0	3.3	9.1	3.1	433.0
6-10	507.2	26.2	65.5	17.5	63.1	679.5	84.1	595.4	5.8	0.8	6.6	2.9	12.1	2.5	595.2
11-15	578.7	31.0	63.8	18.1	70.5	762.2	89.7	672.5	6.1	1.0	7.1	2.2	13.6	1.8	669.9
16-20	542.5	31.1	51.8	15.8	63.6	704.8	83.2	621.6	5.3	0.9	6.2	1.5	12.6	1.1	617.7
21+	875.4	61.9	67.7	23.6	98.9	1,127.4	193.0	934.5	7.9	1.4	9.3	1.5	20.2	0.9	925.9
All	2,872.6	170.4	305.9	89.2	335.9	3,774.1	519.5	3,254.6	29.7	4.5	34.2	11.4	67.7	9.2	3,241.7

Note: Plaintiff Claims Legal Costs are included within the claim cost figures for the various disease types.

B.2 Post cost savings in NSW only

DISCOUNTED VALUE OF CASHFLOWS (\$m)

Years	Mesothelioma	Lung Cancer	Asbestososis	ARPD & Other	Defendant Legal Costs	General Liability Cost	Insurance Recoveries	Net General Liability	Workers Compensation	Workers Compensation on Legal Costs	Workers Compensation on Costs	Wharf Claims	Cross Claim Recoveries	Baryulgil	Net Liabilities
1-5	311.9	17.3	49.0	12.2	30.4	420.7	59.3	361.5	3.9	0.4	4.2	2.9	7.7	2.7	363.6
6-10	328.4	17.0	42.6	11.3	33.6	433.0	54.4	378.6	3.7	0.4	4.2	1.9	7.9	1.7	378.5
11-15	287.0	15.3	31.8	9.0	28.4	371.5	43.6	327.9	3.0	0.4	3.4	1.1	6.8	0.9	326.5
16-20	206.0	11.8	19.7	6.0	19.5	263.1	31.2	231.9	2.0	0.3	2.3	0.5	4.8	0.4	230.3
21+	208.9	14.1	16.5	5.6	19.0	264.2	44.0	220.2	1.9	0.3	2.2	0.4	4.8	0.2	218.1
All	1,342.2	75.6	159.6	44.2	130.9	1,752.5	232.6	1,519.9	14.5	1.8	16.3	6.7	31.9	5.9	1,517.0

UNDISCOUNTED CASHFLOWS (\$m)

Years	Mesothelioma	Lung Cancer	Asbestososis	ARPD & Other	Defendant Legal Costs	General Liability Cost	Insurance Recoveries	Net General Liability	Workers Compensation	Workers Compensation on Legal Costs	Workers Compensation on Costs	Wharf Claims	Cross Claim Recoveries	Baryulgil	Net Liabilities
1-5	358.2	19.7	55.9	14.0	34.9	482.7	67.8	415.0	4.4	0.4	4.9	3.3	8.8	3.1	417.3
6-10	490.9	25.5	63.5	16.9	50.2	647.0	80.8	566.2	5.6	0.7	6.3	2.8	11.8	2.5	565.9
11-15	560.0	30.0	61.8	17.6	55.3	724.7	85.3	639.4	5.9	0.8	6.7	2.1	13.2	1.8	636.7
16-20	525.0	30.1	50.1	15.3	49.7	670.2	79.8	590.5	5.2	0.7	5.8	1.4	12.2	1.1	586.5
21+	846.9	59.9	65.5	22.8	77.2	1,072.4	191.1	881.3	7.7	1.1	8.7	1.4	19.6	0.9	872.7
All	2,781.1	165.2	296.8	86.5	267.4	3,597.0	504.8	3,092.2	28.7	3.6	32.4	10.9	65.5	9.2	3,079.2

Note: Plaintiff Claims Legal Costs are included within the claim cost figures for the various disease types.

B.3 Post cost savings applied Australia-wide

DISCOUNTED VALUE OF CASHFLOWS (\$m)

Years	Mesothelioma	Lung Cancer	Asbestososis	ARPD & Other	Defendant Legal Costs	General Liability Cost	Insurance Recoveries	Net General Liability	Workers Compensation	Workers Compensation on Legal Costs	Workers Compensation on Costs	Wharf Claims	Cross Claim Recoveries	Baryulgil	Net Liabilities
1-5	305.9	17.0	48.2	12.0	27.7	410.8	58.2	352.6	3.8	0.4	4.1	2.9	7.5	2.7	354.7
6-10	321.1	16.7	41.8	11.1	27.9	418.6	52.9	365.7	3.7	0.4	4.0	1.8	7.7	1.7	365.5
11-15	280.6	15.0	31.1	8.8	23.2	358.8	42.1	316.6	3.0	0.3	3.3	1.0	6.6	0.9	315.2
16-20	201.5	11.5	19.3	5.9	15.9	254.1	30.4	223.7	2.0	0.2	2.2	0.5	4.7	0.4	222.2
21+	204.3	13.8	16.1	5.5	15.5	255.2	42.8	212.4	1.8	0.2	2.1	0.3	4.7	0.2	210.3
All	1,313.4	74.1	156.5	43.3	110.2	1,697.5	226.5	1,471.0	14.3	1.5	15.7	6.6	31.3	5.9	1,468.0

UNDISCOUNTED CASHFLOWS (\$m)

Years	Mesothelioma	Lung Cancer	Asbestososis	ARPD & Other	Defendant Legal Costs	General Liability Cost	Insurance Recoveries	Net General Liability	Workers Compensation	Workers Compensation on Legal Costs	Workers Compensation on Costs	Wharf Claims	Cross Claim Recoveries	Baryulgil	Net Liabilities
1-5	351.2	19.4	55.0	13.7	31.7	471.2	66.6	404.6	4.3	0.4	4.8	3.2	8.7	3.1	407.0
6-10	480.1	24.9	62.2	16.6	41.7	625.5	78.7	546.8	5.5	0.6	6.0	2.7	11.5	2.5	546.5
11-15	547.6	29.3	60.5	17.2	45.2	699.9	82.5	617.5	5.8	0.6	6.4	2.0	12.9	1.8	614.7
16-20	513.4	29.5	49.0	14.9	40.5	647.3	77.5	569.8	5.0	0.6	5.6	1.3	11.9	1.1	565.8
21+	828.1	58.6	64.0	22.3	62.9	1,035.9	186.7	849.2	7.5	0.9	8.4	1.3	19.1	0.9	840.6
All	2,720.4	161.8	290.7	84.8	222.0	3,479.7	491.9	2,987.8	28.1	3.0	31.1	10.5	64.1	9.2	2,974.6

Note: Plaintiff Claims Legal Costs are included within the claim cost figures for the various disease types.



*Valuation of the asbestos-related disease liabilities of the
Liable Entities to be met by the Special Purpose Fund
31 March 2006*

C. Projected cashflow (\$m)

C.1 Prior to cost savings

Payment Year	Mesotheliom		Asbestosis	ARPD & Other	Defendant Legal Costs	Workers Compensation	Workers Compensation on Legal Costs	Wharf Claims	Wharf Legal Costs	Baryulgil	Cross Claim Recoveries	Gross	Insurance	Net
	a	Lung Cancer												
2006 / 2007	60.4	3.8	10.9	2.6	5.7	0.8	0.1	0.7	0.1	0.6	1.5	84.3	12.8	71.4
2007 / 2008	68.2	3.8	10.9	2.6	7.0	0.8	0.1	0.6	0.1	0.6	1.7	93.1	13.1	80.0
2008 / 2009	74.0	3.9	11.3	2.8	7.9	0.9	0.1	0.6	0.1	0.6	1.8	100.5	13.8	86.7
2009 / 2010	80.3	4.2	11.8	3.0	9.1	1.0	0.1	0.5	0.1	0.6	2.0	108.7	14.7	94.0
2010 / 2011	85.9	4.4	12.2	3.1	10.1	1.0	0.1	0.5	0.1	0.6	2.1	116.1	15.2	100.8
2011 / 2012	91.4	4.7	12.7	3.3	11.1	1.1	0.1	0.5	0.1	0.6	2.2	123.4	16.2	107.2
2012 / 2013	97.0	5.0	13.0	3.4	12.3	1.1	0.2	0.5	0.1	0.5	2.3	130.7	17.3	113.4
2013 / 2014	101.9	5.3	13.2	3.5	12.8	1.2	0.2	0.5	0.1	0.5	2.4	136.7	17.0	119.8
2014 / 2015	106.5	5.5	13.3	3.6	13.3	1.2	0.2	0.5	0.1	0.5	2.5	142.0	17.9	124.2
2015 / 2016	110.3	5.7	13.3	3.6	13.6	1.2	0.2	0.5	0.1	0.4	2.6	146.4	15.7	130.7
2016 / 2017	113.2	5.9	13.3	3.7	13.9	1.2	0.2	0.4	0.1	0.4	2.7	149.7	16.7	133.0
2017 / 2018	115.4	6.1	13.1	3.7	14.1	1.2	0.2	0.4	0.1	0.4	2.7	152.0	17.5	134.5
2018 / 2019	116.7	6.2	12.9	3.7	14.3	1.2	0.2	0.4	0.1	0.4	2.7	153.1	18.2	134.9
2019 / 2020	117.0	6.3	12.5	3.6	14.2	1.2	0.2	0.3	0.1	0.3	2.7	153.0	18.7	134.3
2020 / 2021	116.4	6.4	12.1	3.5	14.0	1.2	0.2	0.3	0.1	0.3	2.7	151.8	18.6	133.2
2021 / 2022	114.9	6.4	11.6	3.4	13.7	1.2	0.2	0.3	0.1	0.3	2.7	149.3	16.9	132.4
2022 / 2023	112.5	6.4	11.0	3.3	13.3	1.1	0.2	0.3	0.1	0.2	2.6	145.8	16.6	129.2
2023 / 2024	109.3	6.3	10.4	3.2	12.8	1.1	0.2	0.2	0.0	0.2	2.5	141.1	16.7	124.4
2024 / 2025	105.2	6.1	9.7	3.0	12.2	1.0	0.2	0.2	0.0	0.2	2.4	135.5	16.6	118.9
2025 / 2026	100.5	6.0	9.0	2.8	11.6	1.0	0.2	0.2	0.0	0.2	2.3	129.1	16.4	112.7
2026 / 2027	95.2	5.7	8.3	2.7	10.9	0.9	0.1	0.2	0.0	0.1	2.2	122.0	16.0	106.0
2027 / 2028	89.5	5.5	7.6	2.5	10.2	0.8	0.1	0.2	0.0	0.1	2.1	114.4	15.6	98.8
2028 / 2029	83.4	5.2	6.9	2.3	9.4	0.8	0.1	0.1	0.0	0.1	1.9	106.4	15.1	91.3
2029 / 2030	76.9	4.9	6.2	2.1	8.6	0.7	0.1	0.1	0.0	0.1	1.8	98.0	14.5	83.5
2030 / 2031	70.4	4.6	5.5	1.9	7.9	0.6	0.1	0.1	0.0	0.1	1.6	89.5	13.9	75.6
2031 / 2032	63.8	4.2	4.9	1.7	7.1	0.6	0.1	0.1	0.0	0.1	1.5	81.1	13.3	67.8
2032 / 2033	57.4	3.9	4.3	1.5	6.4	0.5	0.1	0.1	0.0	0.1	1.3	72.9	12.6	60.3
2033 / 2034	51.1	3.6	3.8	1.3	5.7	0.4	0.1	0.1	0.0	0.0	1.2	65.0	11.8	53.1
2034 / 2035	45.2	3.2	3.3	1.2	5.0	0.4	0.1	0.1	0.0	0.0	1.0	57.4	11.1	46.4
2035 / 2036	39.6	2.9	2.8	1.0	4.4	0.3	0.1	0.0	0.0	0.0	0.9	50.3	10.3	40.0
2036 / 2037	34.4	2.6	2.4	0.9	3.8	0.3	0.1	0.0	0.0	0.0	0.8	43.8	9.5	34.3
2037 / 2038	29.6	2.3	2.1	0.8	3.3	0.3	0.0	0.0	0.0	0.0	0.7	37.7	8.7	29.0
2038 / 2039	25.3	2.0	1.7	0.7	2.8	0.2	0.0	0.0	0.0	0.0	0.6	32.3	7.9	24.3
2039 / 2040	21.4	1.8	1.5	0.6	2.4	0.2	0.0	0.0	0.0	0.0	0.5	27.3	7.1	20.2
2040 / 2041	17.9	1.5	1.2	0.5	2.0	0.2	0.0	0.0	0.0	0.0	0.4	23.0	5.2	17.8
2041 / 2042	14.9	1.3	1.0	0.4	1.7	0.1	0.0	0.0	0.0	0.0	0.3	19.2	4.5	14.7
2042 / 2043	12.3	1.1	0.8	0.3	1.4	0.1	0.0	0.0	0.0	0.0	0.3	15.9	3.9	11.9
2043 / 2044	10.0	1.0	0.7	0.3	1.2	0.1	0.0	0.0	0.0	0.0	0.2	13.0	3.4	9.6
2044 / 2045	8.1	0.8	0.6	0.2	0.9	0.1	0.0	0.0	0.0	0.0	0.2	10.6	2.5	8.1
2045 / 2046	6.5	0.7	0.4	0.2	0.8	0.1	0.0	0.0	0.0	0.0	0.2	8.5	1.6	6.9
2046 / 2047	5.2	0.6	0.4	0.2	0.6	0.1	0.0	0.0	0.0	0.0	0.1	6.8	1.0	5.9
2047 / 2048	4.1	0.5	0.3	0.1	0.5	0.0	0.0	0.0	0.0	0.0	0.1	5.4	0.8	4.7
2048 / 2049	3.2	0.4	0.2	0.1	0.4	0.0	0.0	0.0	0.0	0.0	0.1	4.3	0.6	3.7
2049 / 2050	2.5	0.3	0.2	0.1	0.3	0.0	0.0	0.0	0.0	0.0	0.1	3.3	0.5	2.9
2050 / 2051	1.9	0.3	0.1	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	2.6	0.4	2.2
2051 / 2052	1.5	0.2	0.1	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	2.0	0.3	1.7
2052 / 2053	1.1	0.2	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.5	0.2	1.3
2053 / 2054	0.8	0.1	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.2	0.2	1.0
2054 / 2055	0.6	0.1	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.9	0.1	0.7
2055 / 2056	0.5	0.1	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.7	0.1	0.6
2056 / 2057	0.3	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5	0.1	0.4
2057 / 2058	0.3	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.4	0.1	0.3
2058 / 2059	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.0	0.2
2059 / 2060	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.2
2060 / 2061	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.1
2061 / 2062	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.1
2062 / 2063	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2063 / 2064	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2064 / 2065	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2065 / 2066	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2066 / 2067	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2067 / 2068	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2068 / 2069	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2069 / 2070	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2070 / 2071	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2071 / 2072	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2072 / 2073	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	2,872.6	170.4	305.9	89.2	335.9	29.7	4.5	9.8	1.6	9.2	67.7	3,761.2	519.5	3,241.7

C.2 Post cost savings in NSW only

Payment Year	Mesotheliom		Asbestosis	ARPD & Other	Defendant Legal Costs	Workers Compensation		Wharf Claims	Wharf Legal Costs	Baryulgil Recoveries	Cross Claim		Insurance	Net
	a	Lung Cancer				on	Legal Costs				Gross	Recoveries		
2006 / 2007	59.3	3.8	10.8	2.6	5.5	0.8	0.1	0.7	0.1	0.6	1.5	82.8	12.7	70.1
2007 / 2008	66.3	3.7	10.7	2.6	6.4	0.8	0.1	0.6	0.1	0.6	1.6	90.2	12.8	77.4
2008 / 2009	71.7	3.8	11.0	2.8	7.0	0.9	0.1	0.5	0.1	0.6	1.8	96.8	13.4	83.4
2009 / 2010	77.8	4.1	11.5	3.0	7.7	0.9	0.1	0.5	0.1	0.6	1.9	104.4	14.3	90.1
2010 / 2011	83.2	4.3	11.9	3.1	8.4	1.0	0.1	0.5	0.1	0.6	2.0	111.1	14.7	96.3
2011 / 2012	88.5	4.6	12.3	3.2	9.0	1.0	0.1	0.5	0.1	0.6	2.1	117.8	15.7	102.1
2012 / 2013	93.9	4.9	12.6	3.3	9.8	1.1	0.1	0.5	0.1	0.5	2.3	124.5	16.6	107.8
2013 / 2014	98.7	5.1	12.8	3.4	10.2	1.1	0.1	0.5	0.1	0.5	2.4	130.1	16.5	113.6
2014 / 2015	103.1	5.3	12.9	3.5	10.5	1.2	0.1	0.5	0.1	0.5	2.5	135.1	17.1	118.0
2015 / 2016	106.7	5.6	12.9	3.5	10.7	1.2	0.1	0.4	0.1	0.4	2.5	139.2	14.9	124.3
2016 / 2017	109.6	5.7	12.9	3.6	11.0	1.2	0.1	0.4	0.1	0.4	2.6	142.4	15.8	126.5
2017 / 2018	111.7	5.9	12.7	3.6	11.1	1.2	0.2	0.4	0.1	0.4	2.6	144.5	16.6	127.8
2018 / 2019	112.9	6.0	12.4	3.5	11.2	1.2	0.2	0.4	0.1	0.4	2.7	145.5	17.3	128.2
2019 / 2020	113.2	6.1	12.1	3.5	11.1	1.2	0.2	0.3	0.1	0.3	2.7	145.4	17.8	127.7
2020 / 2021	112.7	6.2	11.7	3.4	11.0	1.2	0.2	0.3	0.0	0.3	2.6	144.3	17.8	126.4
2021 / 2022	111.2	6.2	11.2	3.3	10.7	1.1	0.1	0.3	0.0	0.3	2.6	141.9	16.9	125.1
2022 / 2023	108.9	6.2	10.7	3.2	10.4	1.1	0.1	0.3	0.0	0.2	2.5	138.6	15.7	122.9
2023 / 2024	105.7	6.1	10.1	3.1	10.0	1.0	0.1	0.2	0.0	0.2	2.5	134.2	15.9	118.3
2024 / 2025	101.9	5.9	9.4	2.9	9.6	1.0	0.1	0.2	0.0	0.2	2.4	128.8	15.8	113.0
2025 / 2026	97.3	5.8	8.7	2.7	9.1	0.9	0.1	0.2	0.0	0.2	2.3	122.8	15.6	107.2
2026 / 2027	92.2	5.6	8.0	2.6	8.5	0.9	0.1	0.2	0.0	0.1	2.1	116.0	15.3	100.8
2027 / 2028	86.6	5.3	7.3	2.4	7.9	0.8	0.1	0.2	0.0	0.1	2.0	108.8	14.8	93.9
2028 / 2029	80.7	5.0	6.7	2.2	7.4	0.7	0.1	0.1	0.0	0.1	1.9	101.1	14.4	86.8
2029 / 2030	74.4	4.7	6.0	2.0	6.8	0.7	0.1	0.1	0.0	0.1	1.7	93.2	13.8	79.4
2030 / 2031	68.1	4.4	5.4	1.8	6.2	0.6	0.1	0.1	0.0	0.1	1.6	85.1	13.2	72.0
2031 / 2032	61.7	4.1	4.7	1.6	5.6	0.5	0.1	0.1	0.0	0.1	1.4	77.1	12.6	64.5
2032 / 2033	55.5	3.8	4.2	1.5	5.0	0.5	0.1	0.1	0.0	0.1	1.3	69.3	12.0	57.4
2033 / 2034	49.5	3.4	3.7	1.3	4.5	0.4	0.1	0.1	0.0	0.0	1.1	61.8	11.3	50.5
2034 / 2035	43.7	3.1	3.2	1.1	3.9	0.4	0.1	0.1	0.0	0.0	1.0	54.6	10.5	44.1
2035 / 2036	38.3	2.8	2.7	1.0	3.4	0.3	0.0	0.0	0.0	0.0	0.9	47.9	9.8	38.1
2036 / 2037	33.3	2.5	2.3	0.9	3.0	0.3	0.0	0.0	0.0	0.0	0.8	41.6	9.0	32.6
2037 / 2038	28.6	2.2	2.0	0.7	2.6	0.3	0.0	0.0	0.0	0.0	0.7	35.9	8.3	27.6
2038 / 2039	24.4	2.0	1.7	0.6	2.2	0.2	0.0	0.0	0.0	0.0	0.6	30.7	7.5	23.1
2039 / 2040	20.7	1.7	1.4	0.5	1.9	0.2	0.0	0.0	0.0	0.0	0.5	26.0	6.8	19.2
2040 / 2041	17.3	1.5	1.2	0.5	1.6	0.2	0.0	0.0	0.0	0.0	0.4	21.9	6.1	15.8
2041 / 2042	14.4	1.3	1.0	0.4	1.3	0.1	0.0	0.0	0.0	0.0	0.3	18.2	5.4	12.8
2042 / 2043	11.9	1.1	0.8	0.3	1.1	0.1	0.0	0.0	0.0	0.0	0.3	15.1	4.4	10.7
2043 / 2044	9.7	0.9	0.7	0.3	0.9	0.1	0.0	0.0	0.0	0.0	0.2	12.4	3.2	9.1
2044 / 2045	7.9	0.8	0.5	0.2	0.7	0.1	0.0	0.0	0.0	0.0	0.2	10.1	2.7	7.3
2045 / 2046	6.3	0.7	0.4	0.2	0.6	0.1	0.0	0.0	0.0	0.0	0.1	8.1	2.2	5.9
2046 / 2047	5.0	0.6	0.3	0.1	0.5	0.0	0.0	0.0	0.0	0.0	0.1	6.5	1.8	4.7
2047 / 2048	4.0	0.5	0.3	0.1	0.4	0.0	0.0	0.0	0.0	0.0	0.1	5.2	1.4	3.8
2048 / 2049	3.1	0.4	0.2	0.1	0.3	0.0	0.0	0.0	0.0	0.0	0.1	4.1	1.1	3.0
2049 / 2050	2.4	0.3	0.2	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.1	3.2	0.9	2.3
2050 / 2051	1.8	0.3	0.1	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	2.5	0.7	1.8
2051 / 2052	1.4	0.2	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.9	0.5	1.4
2052 / 2053	1.1	0.2	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.4	0.4	1.1
2053 / 2054	0.8	0.1	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.1	0.3	0.8
2054 / 2055	0.6	0.1	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.8	0.2	0.6
2055 / 2056	0.4	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.2	0.5
2056 / 2057	0.3	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5	0.1	0.3
2057 / 2058	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.4	0.1	0.3
2058 / 2059	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.1	0.2
2059 / 2060	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.0	0.2
2060 / 2061	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.1
2061 / 2062	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.1
2062 / 2063	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2063 / 2064	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2064 / 2065	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2065 / 2066	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2066 / 2067	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2067 / 2068	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2068 / 2069	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2069 / 2070	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2070 / 2071	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2071 / 2072	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2072 / 2073	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	2,781.1	165.2	296.8	86.5	267.4	28.7	3.6	9.5	1.3	9.2	65.5	3,584.0	504.8	3,079.2

C.3 Post cost savings applied Australia-wide

Payment Year	Mesotheliom		Asbestosis	ARPD & Other	Defendant Legal Costs	Workers Compensation		Wharf Claims	Wharf Legal Costs	Baryulgil	Cross Claim Recoveries	Gross	Insurance	Net
	a	Lung Cancer				on	Legal Costs							
2006 / 2007	58.5	3.8	10.8	2.6	5.4	0.8	0.1	0.7	0.1	0.6	1.5	81.8	12.5	69.3
2007 / 2008	64.9	3.7	10.6	2.5	6.0	0.8	0.1	0.6	0.1	0.6	1.6	88.2	12.6	75.7
2008 / 2009	70.2	3.8	10.8	2.7	6.3	0.9	0.1	0.5	0.1	0.6	1.7	94.3	13.1	81.2
2009 / 2010	76.1	4.0	11.3	2.9	6.9	0.9	0.1	0.5	0.1	0.6	1.9	101.5	14.0	87.5
2010 / 2011	81.4	4.2	11.6	3.0	7.2	1.0	0.1	0.5	0.1	0.6	2.0	107.7	14.4	93.3
2011 / 2012	86.6	4.5	12.0	3.1	7.6	1.0	0.1	0.5	0.1	0.6	2.1	114.0	15.3	98.8
2012 / 2013	91.8	4.8	12.3	3.2	8.1	1.1	0.1	0.5	0.1	0.5	2.2	120.3	16.2	104.1
2013 / 2014	96.5	5.0	12.5	3.3	8.4	1.1	0.1	0.5	0.1	0.5	2.3	125.8	16.2	109.6
2014 / 2015	100.8	5.2	12.6	3.4	8.7	1.1	0.1	0.5	0.1	0.5	2.4	130.6	16.7	113.9
2015 / 2016	104.4	5.4	12.7	3.5	8.9	1.1	0.1	0.4	0.1	0.4	2.5	134.5	14.4	120.1
2016 / 2017	107.2	5.6	12.6	3.5	9.0	1.2	0.1	0.4	0.1	0.4	2.5	137.5	15.3	122.2
2017 / 2018	109.2	5.8	12.4	3.5	9.1	1.2	0.1	0.4	0.0	0.4	2.6	139.5	16.0	123.4
2018 / 2019	110.4	5.9	12.2	3.5	9.1	1.2	0.1	0.4	0.0	0.4	2.6	140.5	16.7	123.8
2019 / 2020	110.7	6.0	11.8	3.4	9.1	1.2	0.1	0.3	0.0	0.3	2.6	140.4	17.1	123.3
2020 / 2021	110.2	6.1	11.5	3.3	8.9	1.1	0.1	0.3	0.0	0.3	2.6	139.3	17.3	122.0
2021 / 2022	108.8	6.1	11.0	3.3	8.7	1.1	0.1	0.3	0.0	0.3	2.5	137.0	16.9	120.2
2022 / 2023	106.5	6.0	10.5	3.1	8.5	1.1	0.1	0.3	0.0	0.2	2.5	133.8	15.1	118.7
2023 / 2024	103.4	5.9	9.8	3.0	8.1	1.0	0.1	0.2	0.0	0.2	2.4	129.5	15.3	114.3
2024 / 2025	99.6	5.8	9.2	2.9	7.8	1.0	0.1	0.2	0.0	0.2	2.3	124.4	15.2	109.2
2025 / 2026	95.2	5.6	8.5	2.7	7.4	0.9	0.1	0.2	0.0	0.2	2.2	118.6	15.0	103.5
2026 / 2027	90.2	5.4	7.8	2.5	6.9	0.8	0.1	0.2	0.0	0.1	2.1	112.1	14.7	97.3
2027 / 2028	84.7	5.2	7.2	2.3	6.5	0.8	0.1	0.1	0.0	0.1	2.0	105.1	14.3	90.7
2028 / 2029	78.9	4.9	6.5	2.1	6.0	0.7	0.1	0.1	0.0	0.1	1.8	97.7	13.9	83.8
2029 / 2030	72.8	4.6	5.9	2.0	5.5	0.7	0.1	0.1	0.0	0.1	1.7	90.0	13.3	76.6
2030 / 2031	66.6	4.3	5.2	1.8	5.0	0.6	0.1	0.1	0.0	0.1	1.5	82.2	12.7	69.5
2031 / 2032	60.4	4.0	4.6	1.6	4.5	0.5	0.1	0.1	0.0	0.1	1.4	74.5	12.1	62.4
2032 / 2033	54.3	3.7	4.1	1.4	4.1	0.5	0.1	0.1	0.0	0.1	1.2	67.0	11.6	55.4
2033 / 2034	48.4	3.4	3.6	1.3	3.6	0.4	0.0	0.1	0.0	0.0	1.1	59.7	10.9	48.8
2034 / 2035	42.7	3.1	3.1	1.1	3.2	0.4	0.0	0.1	0.0	0.0	1.0	52.7	10.2	42.6
2035 / 2036	37.4	2.7	2.7	1.0	2.8	0.3	0.0	0.0	0.0	0.0	0.9	46.2	9.5	36.8
2036 / 2037	32.5	2.5	2.3	0.8	2.4	0.3	0.0	0.0	0.0	0.0	0.7	40.2	8.7	31.4
2037 / 2038	28.0	2.2	2.0	0.7	2.1	0.2	0.0	0.0	0.0	0.0	0.6	34.6	8.0	26.6
2038 / 2039	23.9	1.9	1.6	0.6	1.8	0.2	0.0	0.0	0.0	0.0	0.6	29.6	7.3	22.3
2039 / 2040	20.2	1.7	1.4	0.5	1.5	0.2	0.0	0.0	0.0	0.0	0.5	25.1	6.6	18.5
2040 / 2041	16.9	1.5	1.2	0.5	1.3	0.2	0.0	0.0	0.0	0.0	0.4	21.1	5.9	15.2
2041 / 2042	14.1	1.3	1.0	0.4	1.1	0.1	0.0	0.0	0.0	0.0	0.3	17.6	5.2	12.4
2042 / 2043	11.6	1.1	0.8	0.3	0.9	0.1	0.0	0.0	0.0	0.0	0.3	14.6	4.5	10.0
2043 / 2044	9.5	0.9	0.6	0.3	0.7	0.1	0.0	0.0	0.0	0.0	0.2	11.9	3.8	8.1
2044 / 2045	7.7	0.8	0.5	0.2	0.6	0.1	0.0	0.0	0.0	0.0	0.2	9.7	3.2	6.5
2045 / 2046	6.2	0.7	0.4	0.2	0.5	0.1	0.0	0.0	0.0	0.0	0.1	7.8	2.6	5.2
2046 / 2047	4.9	0.5	0.3	0.1	0.4	0.0	0.0	0.0	0.0	0.0	0.1	6.3	1.8	4.5
2047 / 2048	3.9	0.5	0.3	0.1	0.3	0.0	0.0	0.0	0.0	0.0	0.1	5.0	1.4	3.6
2048 / 2049	3.0	0.4	0.2	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.1	3.9	1.1	2.9
2049 / 2050	2.4	0.3	0.2	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.1	3.1	0.8	2.2
2050 / 2051	1.8	0.2	0.1	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	2.4	0.6	1.7
2051 / 2052	1.4	0.2	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.8	0.5	1.3
2052 / 2053	1.0	0.2	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.4	0.4	1.0
2053 / 2054	0.8	0.1	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	1.1	0.3	0.8
2054 / 2055	0.6	0.1	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.8	0.2	0.6
2055 / 2056	0.4	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.2	0.4
2056 / 2057	0.3	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5	0.1	0.3
2057 / 2058	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.1	0.2
2058 / 2059	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.1	0.2
2059 / 2060	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.1	0.1
2060 / 2061	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.1
2061 / 2062	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.1
2062 / 2063	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2063 / 2064	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2064 / 2065	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2065 / 2066	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2066 / 2067	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2067 / 2068	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2068 / 2069	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2069 / 2070	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2070 / 2071	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2071 / 2072	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2072 / 2073	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	2,720.4	161.8	290.7	84.8	222.0	28.1	3.0	9.4	1.2	9.2	64.1	3,466.5	491.9	2,974.6

D. Comparison of costs: 31 March 2006

	Pre cost savings			Post cost savings in NSW only			Post cost savings Australia-wide		
	\$m			\$m			\$m		
	Gross of insurance	Insurance	Net of insurance	Gross of insurance	Insurance	Net of insurance	Gross of insurance	Insurance	Net of insurance
Total projected cashflows in current dollars (uninflated and undiscounted)	1,723.7	245.2	1,478.5	1,635.8	234.1	1,401.7	1,577.6	226.7	1,350.9
Future inflation allowance (base and superimposed inflation)	2,037.5	274.3	1,763.2	1,948.2	270.7	1,677.4	1,888.9	265.2	1,623.7
Total projected cash-flows with inflation allowance	3,761.2	519.5	3,241.7	3,584.0	504.8	3,079.2	3,466.5	491.9	2,974.6
Discounting allowance	(1,928.6)	(278.4)	(1,650.2)	(1,834.4)	(272.2)	(1,562.2)	(1,772.0)	(265.4)	(1,506.6)
Net present value liabilities	1,832.7	241.2	1,591.5	1,749.6	232.6	1,517.0	1,694.5	226.5	1,468.0

E. Actuarial valuation assumptions

E.1 Total number of claims notifications (past & future)

	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
Mesothelioma	6,518	6,528	6,873
Lung Cancer	904	893	808
Asbestosis	2,217	2,214	2,378
ARPD & Other	835	849	934
Wharf	180	168	199
Workers Compensation	1,859	2,075	1,891

E.2 Latency model

	Mean (years)	Standard Deviation (years)
Mesothelioma	35	10
Lung Cancer	35	10
Asbestosis	30	10
ARPD & Other	30	11
Wharf	n/a	n/a
Workers Compensation	n/a	n/a

E.3 Assumed peak year of notifications

	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
Mesothelioma	2010/11	2010/11	2010/11
Lung Cancer	2010/11	2010/11	2010/11
Asbestosis	2005/06	2005/06	2005/06
ARPD & Other	2006/07	2006/07	2006/07
Wharf	2000/01	2000/01	2000/01
Workers Compensation	2006/07	2006/07	2006/07

Notes for E.4 to E.7:

¹ Average costs at 31 March 2006 valuation are in mid 2005/06 money terms

² Average costs at 30 June 2005 valuation are in mid 2005/06 money terms

³ Average costs at 31 March 2005 valuation are in mid 2004/05 money terms

E.4 Projected average Liable Entities share of claim award costs of non-nil settlements (pre cost savings)

	31 March 2006 valuation ¹	30 June 2005 valuation ²	31 March 2005 valuation ³
Mesothelioma	260,000	265,000	250,000
Lung Cancer	135,000	140,000	130,000
Asbestosis	100,000	100,000	95,000
ARPD & Other	90,000	90,000	90,000
Wharf	90,000	90,000	90,000
Workers Compensation	135,000	135,000	135,000

E.5 Projected average Liable Entities' defendant costs of nil settlements (pre cost savings)

	31 March 2006 valuation ¹	30 June 2005 valuation ²	31 March 2005 valuation ³
Mesothelioma	20,000	22,500	22,500
Lung Cancer	7,500	7,500	7,500
Asbestosis	15,000	3,500	3,500
ARPD & Other	15,000	15,000	15,000
Wharf	1,500	1,500	1,500
Workers Compensation	7,500	7,500	7,500

E.6 Projected average Liable Entities share of defendant claims legal costs of non-nil settlements (pre cost savings)

	31 March 2006 valuation ¹	30 June 2005 valuation ²	31 March 2005 valuation ³
Mesothelioma	30,000	35,000	35,000
Lung Cancer	12,500	12,500	12,500
Asbestosis	25,000	25,000	25,000
ARPD & Other	30,000	35,000	35,000
Wharf	15,000	15,000	15,000
Workers Compensation	15,000	25,000	25,000

E.7 Large claims loading (for claims in excess of \$1m in current money terms)

	31 March 2006 valuation ¹	30 June 2005 valuation ²	31 March 2005 valuation ³
Mesothelioma	\$1,500,000 average claim 1.5% incidence rate \$22,500 loading per claim	\$1,500,000 average claim 1.5% incidence rate \$22,500 loading per claim	\$1,500,000 average claim 1.5% incidence rate \$22,500 loading per claim
Lung Cancer	Nil	Nil	Nil
Asbestosis	Nil	Nil	Nil
ARPD & Other	Nil	Nil	Nil
Wharf	Nil	Nil	Nil
Workers Compensation	Nil	Nil	Nil

E.8 Nil claim settlement rate

	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
Mesothelioma	11.5%	14%	15%
Lung Cancer	30%	32%	32%
Asbestosis	9.5%	10%	12%
ARPD & Other	20%	20%	20%
Wharf	35%	35%	35%
Workers Compensation	90%	90%	90%

E.9 Cross-claim recoveries and Other Recoveries rate

	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
Cross-claim recoveries rate	2.00%	1.40%	n/a
Other Recoveries rate	0.00%	0.00%	n/a
Total recoveries rate	2.00%	1.40%	1.40%

E.10 Margin in case estimates

	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
Assumed surplus as a % of case estimates	0.0%	0.0%	0.0%

E.11 Economic assumptions excluding discount rate

	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
Base inflation	4.25% per annum	4% per annum	4% per annum
Superimposed inflation	2% per annum	2% per annum	2% per annum

E.12 Discount rate by year

Year	31 March 2006 valuation	30 June 2005 valuation	31 March 2005 valuation
1	5.44%	5.33%	5.73%
2	5.41%	5.08%	5.71%
3	5.44%	5.09%	5.71%
4	5.46%	5.11%	5.71%
5	5.49%	5.14%	5.72%
6	5.51%	5.17%	5.74%
7	5.54%	5.20%	5.77%
8	5.56%	5.23%	5.80%
9+	5.57%	5.25%	5.82%

F. Australian Consumption and Production Data: 1920-2002

Figures in this table are in 000's metric tonnes

Year	Production	Import	Export	Consumption
1920	0	0	0	0
1921	1,182	0	0	1,182
1922	742	0	0	742
1923	217	0	0	217
1924	78	0	0	78
1925	51	0	0	51
1926	0	0	0	0
1927	11	0	0	11
1928	12	0	0	12
1929	255	3,679	0	3,934
1930	82	0	0	82
1931	128	1,200	0	1,328
1932	130	0	0	130
1933	279	2,676	0	2,955
1934	170	2,471	0	2,641
1935	170	4,423	0	4,593
1936	239	7,817	0	8,056
1937	298	6,199	0	6,497
1938	173	11,179	0	11,352
1939	78	10,081	0	10,159
1940	489	14,097	0	14,586
1941	251	14,220	0	14,471
1942	331	20,176	0	20,507
1943	678	14,229	0	14,907
1944	764	14,091	0	14,855
1945	1,629	9,131	32	10,728
1946	620	18,697	496	18,821
1947	1,377	14,246	652	14,971
1948	1,327	14,857	278	15,906
1949	1,645	14,767	346	16,066
1950	1,617	29,536	385	30,768
1951	2,558	25,289	588	27,259
1952	4,059	24,686	868	27,877
1953	4,970	28,784	1,631	32,123
1954	4,713	26,406	2,298	28,821
1955	5,352	42,677	3,287	44,742
1956	8,670	32,219	6,859	34,030
1957	13,098	23,235	11,644	24,689
1958	13,900	34,721	9,315	39,306
1959	15,959	34,223	11,584	38,598
1960	13,940	36,609	7,410	43,139
1961	14,952	32,947	7,196	40,703
1962	16,443	34,915	8,695	42,663
1963	11,941	32,704	2,347	42,298
1964	12,191	38,299	6,500	43,990
1965	10,326	46,179	4,295	52,210
1966	12,024	49,243	4,146	57,121
1967	647	46,950	2,254	45,343
1968	799	59,590	718	59,671
1969	734	52,739	162	53,311
1970	739	57,250	367	57,622
1971	756	71,777	174	72,359
1972	16,884	61,682	2,387	76,179
1973	43,529	61,373	27,810	77,092
1974	30,863	57,051	29,191	58,723
1975	47,922	69,794	24,524	93,192
1976	60,642	60,490	40,145	80,987
1977	50,601	54,267	20,510	84,358
1978	62,383	42,061	37,094	67,350
1979	79,721	23,735	54,041	49,415
1980	92,418	25,239	51,172	66,485
1981	45,494	20,960	38,576	27,878
1982	18,587	20,853	15,578	23,862
1983	3,909	10,113	4,460	9,562
1984	0	14,432	22	14,410
1985	0	12,194	0	12,194
1986	0	10,597	0	10,597
1987	0	6,294	0	6,294
1988	0	2,072	0	2,072
1989	0	2,128	0	2,128
1990	0	1,706	0	1,706
1991	0	1,342	0	1,342
1992	0	1,533	0	1,533
1993	0	2,198	0	2,198
1994	0	1,843	0	1,843
1995	0	1,488	0	1,488
1996	0	1,366	0	1,366
1997	0	1,556	0	1,556
1998	0	1,471	0	1,471
1999	0	1,316	0	1,316
2000	0	1,246	0	1,246
2001	0	945	0	945
2002	0	515	0	515

G. Additional Information as at 28 February 2006

	Australia			
	For the year ended			
	March 31, 2006	March 31, 2005	March 31, 2004	March 31, 2003
Number of claims filed	346	489	379	402
Number of claims dismissed	97	62	119	29
Number of claims settled or otherwise resolved	405	402	316	231
Average settlement amount per claim (AUS)	151,883	157,584	167,450	204,194
	New Zealand			
	For the year ended			
	March 31, 2006	March 31, 2005	March 31, 2004	March 31, 2003
Number of claims filed	0	0	0	0
Number of claims dismissed	0	0	0	2
Number of claims settled or otherwise resolved	0	0	0	1
Average settlement amount per claim (AUS)	0	0	0	2,000
	Unknown - Court not identified			
	For the year ended			
	March 31, 2006	March 31, 2005	March 31, 2004	March 31, 2003
Number of claims filed	6	7	1	7
Number of claims dismissed	10	20	15	0
Number of claims settled or otherwise resolved	12	2	0	3
Average settlement amount per claim (AUS)	198,892	47,000	0	37,090
	USA			
	For the year ended			
	March 31, 2006	March 31, 2005	March 31, 2004	March 31, 2003
Number of claims filed	0	0	0	0
Number of claims dismissed	0	3	1	0
Number of claims settled or otherwise resolved	0	1	0	0
Average settlement amount per claim (AUS)	0	228,293	0	0

	Australia	
	As of March 31,	
	2006	2005
Number of claims pending	556	712
	New Zealand	
	As of March 31,	
	2006	2005
Number of claims pending	0	0
	Unknown - Court not identified	
	As of March 31,	
	2006	2005
Number of claims pending	20	36
	USA	
	As of March 31,	
	2006	2005
Number of claims pending	1	1

Other Disclosure necessary for the SEC:

	As of March 31,				
	2006	2005	2004	2003	2002
Number of open cases at beginning of year	749	743	814	671	569
Number of new cases	352	496	380	409	375
Number of closed cases	524	490	451	266	273
Number of open cases at end of year	577	749	743	814	671
Average Settlement per Settled Claim (AUS)	153,236	157,223	167,450	201,200	197,941
Average Settlement per Closed Claim (AUS)	121,945	129,949	117,327	177,752	125,435

Notes:

1. The date of a new case relates to the date which this claim has been notified to the subsidiaries of the MRCF or JHIL (pre 2001).
2. The date of a closed claim relates to the date at which judgement is made of award to the plaintiff and the judgement of the contribution between defendants, referred to as the "client settlement date" (see section 4.4 of KPMG Actuaries Valuation Report).
3. A claim being dismissed relates to the case being closed and the MRCF's share of the settlement amount being equal to zero.
4. The settlement amount is equal to the MRCF's share of the plaintiff award and plaintiff legal fees, so this excludes any legal costs relating to defence by the MRCF.
5. The location of the court has been used as the location indicator with any Australian state implying "Australia". "Unknown - Court not identified" refers to claims where the location of the Court is blank or described as "Other" in the current claims database.
6. The "Average Settlement per Settled Claim (AUS)" is defined as the sum of settlement amount divided by the number of claims settled where the settlement amount does not equal zero.
7. The "Average Settlement per Closed Claim (AUS)" is the sum of settlement amount divided by the number of closed claims, so including claims where the settlement amount is equal to zero.
8. The year ending 31 March 2006 only includes data up to 28 February 2006, and therefore is only a partial year.
9. There were a further 44 claims notified in March 2006
10. Any late processing in relation to a prior year has been taken into the current year data. This ensures that previous disclosures in relation to this data have not changed. Accordingly the data in this analysis for any annual period will not necessarily match that currently reported in the latest KPMG Actuaries Valuation Report

H. Glossary of Terms

The following provides a glossary of terms upon which we have relied in preparing our report.

The operation of these definitions cannot be considered in isolation but instead need to be considered in the context of the totality of the Final Funding Agreement. For the purpose of preparing our valuation report, we have been given full access to the Final Funding Agreement.

AICF means the trustee of the Asbestos Injuries Compensation Fund from time to time, in its capacity as trustee, initially being Asbestos Injuries Compensation Fund Limited.

AICF Funded Liability means:

- (a) any Proven Claim;
- (b) Operating Expenses;
- (c) Claims Legal Costs;
- (d) any claim that was made or brought in legal proceedings against a Former James Hardie Company commenced before 1 December 2005;
- (e) Statutory Recoveries within the meaning and subject to the limits set out in the Final Funding Agreement;
- (f) a claim or category of claim which James Hardie and the NSW Government agree in writing is a "AICF Funded Liability" or a category of "AICF Funded Liability".

but in the cases of paragraphs (a), (c) and (d) excludes any such liabilities or claims to the extent that they have been recovered or are recoverable under a Worker's Compensation Scheme or Policy

Claims Legal Costs means all costs, charges, expenses and outgoings incurred or expected to be borne by AICF or the Former James Hardie Companies, in respect of legal advisors, other advisors, experts, court proceedings and other dispute resolution methods in connection with Personal Asbestos Claims and Marlew Claims but in all cases excluding any costs included as a component of calculating a Proven Claim.

Concurrent Wrongdoer in relation to a personal injury or death claim for damages under common law or other law (excluding any law introduced or imposed in breach of the restrictions on adverse regulatory or legislative action against the James Hardie Group under the Final Funding Agreement, and which breach has been notified to the NSW Government in accordance with Final Funding Agreement), means a person whose acts or omissions, together with the acts or omissions of one or more Former James Hardie Companies or Marlew or any member of the James Hardie Group (whether or not together with any other persons) caused, independently of each other or jointly, the damage or loss to another person that is the subject of that claim.

Contribution Claim means a cross-claim or other claim under common law or other law (excluding any law introduced or imposed in breach of the restrictions on adverse regulatory or legislative action against the James Hardie Group under the Final Funding Agreement, and which breach has been notified to the NSW Government in accordance with Final Funding Agreement):

- (a) for contribution by a Concurrent Wrongdoer against a Former James Hardie Company or a member of the James Hardie Group in relation to facts or circumstances which give rise to a right of a person to make a Personal Asbestos Claim or a Marlew Claim; or
- (b) by another person who is entitled under common law (including by way of contract) to be subrogated to such a first mentioned cross-claim or other claim;

Discounted Central Estimate means the central estimate of the present value (determined using the discount rate used within the relevant actuarial report) of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs, calculated in accordance with the Final Funding Agreement.

Excluded Claims are any of the following liabilities of the Former James Hardie Companies:

- (i) personal injury or death claims arising from exposure to Asbestos outside Australia;
 - (ii) personal injury or death claims arising from exposure to Asbestos made outside Australia;
 - (iii) claims for economic loss (other than any economic loss forming part of the calculation of an award of damages for personal injury or death) or loss of property, including those relating to land remediation and/or Asbestos or Asbestos products removal, arising out of or in connection
-

with Asbestos or Asbestos products manufactured, sold, distributed or used by or on behalf of the Liable Entities;

- (iv) any Excluded Marlew Claim;
- (v) any liabilities of the Liable Entities other than AICF Funded Liabilities.

Excluded Marlew Claim means a Marlew Claim:

- (a) covered by the indemnities granted by the Minister of Mineral Resources under the deed between the Minister, Fuller Earthmoving Pty Limited and James Hardie Industries Limited dated 11 March 1996; or
- (b) by a current or former employee of Marlew in relation to an exposure to Asbestos in the course of such employment to the extent:
 - (i) the loss is recoverable under a Worker's Compensation Scheme or Policy; or
 - (ii) the Claimant is not unable to recover damages from a Marlew Joint Tortfeasor in accordance with the Marlew Legislation;
- (c) by an individual who was or is an employee of a person other than Marlew arising from exposure to Asbestos in the course of such employment by that other person where such loss is recoverable from that person or under a Worker's Compensation Scheme or Policy; or
- (d) in which another defendant (or its insurer) is a Marlew Joint Tortfeasor from whom the plaintiff is entitled to recover compensation in proceedings in the Dust Diseases Tribunal, and the Claimant is not unable to recover damages from that Marlew Joint Tortfeasor in accordance with the Marlew Legislation.

Former James Hardie Companies means Amaca, Amaba and ABN 60.

Insurance and Other Recoveries means any proceeds which may reasonably be expected to be recovered or recoverable for the account of a Former James Hardie Company or to result in the satisfaction (in whole or part) of a liability of a Former James Hardie Company (of any nature) to a third party, under any product liability insurance policy or public liability insurance policy or commutation of such policy or under any other contract, including any contract of indemnity, but excluding any such amount recovered or recoverable under a Worker's Compensation Scheme or Policy.

Liable Entities see Former James Hardie Companies

Marlew means Marlew Mining Pty Ltd (in liquidation), ACN 000 049 650, previously known as Asbestos Mines Pty Ltd.

Marlew Claim means, subject to the limitation on Statutory Recoveries, a claim which satisfies one of the following paragraphs and which is not an Excluded Marlew Claim:

- (a) any present or future personal injury or death claim by an individual or the legal personal representative of an individual, for damages under common law or other law (excluding any law introduced or imposed in breach of the restrictions on adverse regulatory or legislative action against the James Hardie Group under the Final Funding Agreement, and which breach has been notified to the NSW Government in accordance with the Final Funding Agreement) which:
 - (i) arose or arises from exposure to Asbestos in the Baryulgil region from Asbestos Mining Activities at Baryulgil conducted by Marlew, provided that:
 - A. the individual's exposure to Asbestos occurred wholly within Australia; or
 - B. where the individual has been exposed to Asbestos both within and outside Australia, the amount of damages included in the Marlew Claim shall be limited to the amount attributable to the proportion of the exposure which caused or contributed to the loss or damage giving rise to the Marlew Claim which occurred in Australia;
 - (ii) is commenced in New South Wales in the Dust Diseases Tribunal; and
 - (iii) is or could have been made against Marlew had Marlew not been in external administration or wound up, or could be made against Marlew on the assumption (other than as contemplated under the Marlew legislation) that Marlew will not be in the future in external administration;
 - (b) any claim made under compensation to relatives legislation by a relative of a deceased individual (or personal representative of such a relative) or (where permitted by law) the legal personal representative of a deceased individual in each case where the individual, but for such individual's death, would have been entitled to bring a claim of the kind described in paragraph (a); or
 - (c) a Contribution Claim relating to a claim described in paragraphs (a) or (b).
-

Marlew Joint Tortfeasor means any person who is or would be jointly and severally liable with Marlew in respect of a Marlew Claim, had Marlew not been in external administration or wound up, or on the assumption that Marlew will not in the future be, in external administration or wound up other than as contemplated under the Marlew Legislation.

Payable Liability means any of the following:

- (a) any Proven Claim (whether arising before or after the date of this deed);
- (b) Operating Expenses;
- (c) Claims Legal Costs;
- (d) any liability of a Former James Hardie Company to the AICF, however arising, in respect of any amounts paid by the AICF in respect of any liability or otherwise on behalf of the Former James Hardie Company;
- (e) any claim that was made or brought in legal proceedings against a Former James Hardie Company commenced before 1 December 2005;
- (f) if regulations are made pursuant to section 30 of the Transaction Legislation and if and to the extent the AICF and James Hardie have notified the NSW Government that any such liability is to be included in the scope of Payable Liability, any liability of a Former James Hardie Company to pay amounts received by it from an insurer in respect of a liability to a third party incurred by it for which it is or was insured under a contract of insurance entered into before 2 December 2005; and
- (g) Statutory Recoveries within the meaning and subject to the limits set out in the Final Funding Agreement,

but in the cases of paragraphs (a), (c) and (e) excludes any such liabilities or claims to the extent that they have been recovered or are recoverable under a Worker's Compensation Scheme or Policy.

Period Actuarial Estimate means, in respect of a period, the central estimate of the present value (determined using the discount rate used in the relevant actuarial report) of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs (in each case which are reasonably expected to become payable in that period), before allowing for Insurance and Other Recoveries, calculated in accordance with the Final Funding Agreement.

Personal Asbestos Claim means any present or future personal injury or death claim by an individual or the legal personal representative of an individual, for damages under common law or under other law (excluding any law introduced or imposed in breach of the restrictions on adverse regulatory or legislative action against the James Hardie Group under the Final Funding Agreement, and which breach has been notified to the NSW Government under the Final Funding Agreement) which:

- (a) arises from exposure to Asbestos occurring in Australia, provided that:
 - (i) the individual's exposure to Asbestos occurred wholly within Australia; or
 - (ii) where the individual has been exposed to Asbestos both within and outside Australia, damages included in the Marlew Claim shall be limited to the amount attributable to the proportion of the exposure which caused or contributed to the loss or damage giving rise to the Personal Asbestos Claim which occurred in Australia;
- (b) is made in proceedings in an Australian court or tribunal; and
- (c) is made against:
 - (i) all or any of the Liable Entities; or
 - (ii) any member of the James Hardie Group from time to time;
- (d) any claim made under compensation to relatives legislation by a relative of a deceased individual (or personal representative of such a relative) or (where permitted by law) the legal personal representative of a deceased individual in each case where the individual, but for such individual's death, would have been entitled to bring a claim of the kind described in paragraph (a); or
- (e) a Contribution Claim made in relation to a claim described in paragraph (a) or (b)

but excludes all claims covered by a Worker's Compensation Scheme or Policy.

Proven Claim means a proven Personal Asbestos Claim in respect of which final judgment has been given against, or a binding settlement has been entered into by, a Former James Hardie Company, to the extent to which that entity incurs liability under that judgment or settlement, or a Proven Marlew Claim.

Statutory Recoveries means any statutory entitlement of the NSW Government or any Other Government or any governmental agency or authority of any such government ("Relevant Body") to impose liability on or to recover an amount or amounts from any person in respect of any payments made or to be made or benefits provided by a Relevant Body in respect of claims (other than as a defendant or in settlement of any claim, including a cross-claim or claim for contribution).

Term means the period

- (i) from the date on which the principal obligations under the Final Funding Agreement will commence to 31 March 2045,
- (ii) as may be extended in accordance with the terms of the Final Funding Agreement.

Term Central Estimate means the central estimate of the present value (determined using the discount rate used in the relevant Annual Actuarial Report) of the liabilities of the Former James Hardie Companies and Marlew in respect of expected Proven Claims and Claims Legal Costs (in each case reasonably expected to become payable in the relevant period) after allowing for Insurance and Other Recoveries during that period, from and including the day following the end of the Financial Year preceding that Payment Date up to and including the last day of the Term (excluding any automatic or potential extension of the Term, unless or until the Term has been extended).

Workers Compensation Scheme or Policy means any of the following:

- (a) any worker's compensation scheme established by any law of the Commonwealth or of any State or Territory;
- (b) any fund established to cover liabilities under insurance policies upon the actual or prospective insolvency of the insurer (including without limitation the Insurer Guarantee Fund established under the Worker's Compensation Act 1987 (NSW)); and
- (c) any policy of insurance issued under or pursuant to such a scheme.