

Year ended 31 March 2006

15 April

James Hardie's Board announced that the Special Purpose Fund (SPF) will cover proven claims by members of the Baryulgil community (former asbestos mine workers and residents) against the former Australian subsidiary, Asbestos Mines Pty Ltd for the period during which it was owned by James Hardie (until 1976). The announcement included James Hardie's commitment to expand the coverage of the SPF funding arrangements to claims arising even for the period of the mine's operation after the James Hardie Group had disposed of all of its interest, during which Asbestos Mines Pty Ltd was owned by Woodsreef Mines Ltd (now Mineral Commodities Ltd).

Asbestos Mines Pty Ltd (since renamed Marlew Mining Pty Ltd) went into liquidation in 2002, leading to uncertainty regarding the availability of funds from its current parent, Mineral Commodities Ltd, for future asbestos claims relating to Asbestos Mines Pty Ltd during its period of ownership.

Under the announcement, the SPF will act as a fund of last resort to fund valid claims against Asbestos Mines Pty Ltd not otherwise recoverable from

Asbestos Mines or third parties. It was also announced that the funding to be provided by James Hardie to the SPF to enable the SPF to pay such claims would be subject to the cash flow caps set out in the Heads of Agreement signed on 21 December 2004 (and subsequently reflected in the Final Funding Agreement).

16 May

James Hardie released an updated report from KPMG Actuaries Pty Ltd (KPMG Actuaries), providing a net present value estimate of liability at 31 March 2005 of A\$1,684.9 million. That figure was not adjusted for estimated savings arising from the implementation by the NSW Government of reforms in relation to costs savings in relation to the conduct of dust disease claims (including asbestos related claims).

1 December

James Hardie announced that it had settled the terms of the Final Funding Agreement (FFA) to provide long-term funding for Australian asbestos-related personal injury claims that result from exposure to products made by former James Hardie Group subsidiaries.

The FFA was negotiated in line with the terms of the Heads of Agreement

signed on 21 December 2004 by the ACTU, NSW Government, Unions NSW, asbestos support groups and James Hardie.

The FFA is a legally-binding agreement that sets out the basis on which an Australian subsidiary of James Hardie will provide funding to the SPF. The arrangements include:

- the establishment of the SPF to compensate asbestos sufferers with claims against the former James Hardie Group subsidiaries, Amaca Pty Ltd, Amaba Pty Ltd or ABN 60 Pty Ltd (Former James Hardie Companies);
- initial funding of the SPF by James Hardie of approximately A\$154 million;
- a two year rolling cash 'buffer' in the SPF and an annual contribution in advance, based on actuarial assessments of expected claims for the following three years, revised annually;
- a cap on the annual payments by James Hardie entities to the SPF in all years, except the first year, initially set at 35% of annual net operating cash flow of the JHI NV Group for the immediately preceding financial year, with provision for the percentage to decline over time,

This report provides an update on the key developments during the year ended 31 March 2006 in relation to James Hardie's voluntary asbestos compensation proposal. The features, advantages and risks of that proposal will be the subject of a separate Explanatory Memorandum, including an independent expert's report, which will be sent to shareholders if the tax-related (and certain) other conditions relating to the proposal become satisfied. That material will be sent to shareholders in advance of an Extraordinary General Meeting to consider and, if shareholders approve, implement the proposal.

Readers interested in the history of this matter prior to 1 April 2005 are referred to pages 12 – 15 of the company's 2005 annual report.

Post 31 March 2006 events

depending on James Hardie's financial performance and the claims outlook;

- no cap on individual payments to proven claimants; and
- special compensation arrangements for members of the Baryulgil community for asbestos-related claims arising from the activities of Marlew Mining Pty Ltd (to implement the arrangements announced on 15 April 2005 as described above).

The FFA is subject to a number of conditions precedent, including James Hardie being satisfied with the tax treatment of the proposed funding arrangements and receiving the approval of its lenders and shareholders.

The announcement refers to KPMG Actuaries updating its actuarial report in relation to the expected liabilities of the SPF as at 30 June 2005. KPMG Actuaries' central estimate of the net liabilities as at that date was A\$1,568 million. This figure was discounted and net of insurance recoveries and estimated NSW cost savings following recent reforms by the NSW Government. The undiscounted value of the central estimate (net of NSW cost savings) of the liabilities was A\$3,131 million.

15 May

James Hardie announced its results for Q4 and fiscal year 2006, noting that they were "substantially affected by the recording of a net provision for estimated future asbestos-related compensation payments of US\$715.6 million at 31 March 2006".

Recording the asbestos provision is in accordance with US accounting standards, on the basis of the approach that it is probable that the company will make payments to fund asbestos-related claims on a long-term basis.

On 23 June 2006, the ATO advised the company that it has refused to endorse the SPF as a tax concession charity, arguing that, in its opinion, the scope of its activities under the Trust Deed and the FFA does not meet current legislative requirements for such an endorsement. The company is reviewing the implications of this development. Having the SPF qualify for tax exempt status remains a condition precedent to the completion of the FFA.

Intention to make payments

In *Management's Analysis of Results* issued with the results, the company noted that – even if conditions to its funding obligations under the FFA, including the achievement of tax deductibility for payments by James Hardie to the SPF, and the tax exempt status of the SPF, were not fulfilled – it had determined that it was nevertheless likely that it would make payments to certain claimants who were injured by asbestos products manufactured by certain former Australian subsidiary companies.

James Hardie's Board has previously announced that, in a manner consistent with its obligations to shareholders and other stakeholders in the company, it intends to proceed with fair and equitable actions to compensate the injured parties. Any alternative settlement may be subject to conditions precedent and would require lender and shareholder approval.

While the company continues to hope that the conditions precedent to the FFA will be fulfilled, it has determined that its intention to continue to proceed responsibly in either event makes it appropriate for it to record the asbestos liability in its financial statements.