



Developing your council's asbestos policy

A guide to the Model Asbestos Policy
for NSW councils

November 2012

Photo: Asbestos removal from Ulladulla Library, 2006. Courtesy: Shoalhaven City Council.

Disclaimer

This publication may contain work health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au).

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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Preface to the guide

This guide has been prepared by the Local Government and Shires Associations of NSW (LGSA) on behalf of the Heads of Asbestos Coordination Authorities (HACA) to assist NSW councils to develop an asbestos policy based on the *Model Asbestos Policy for NSW Councils* (catalogue no. WC03899) (Model Asbestos Policy). Guidance is provided as to how councils may tailor relevant sections of the Model Asbestos Policy to create an asbestos policy. In some instances, background information or advice for councils is also included.

Councils may use this guide as a checklist for items that should be completed for inclusion in an asbestos policy.

Text in the Model Asbestos Policy

In the Model Asbestos Policy, sections where text is shown in red are for councils to insert relevant information. In some instances, options are provided or text is suggested for use or modification by councils, and this text may be deleted if it is not applicable to council or the Local Government Area (LGA). The text in black is suitable for all councils, and councils are strongly encouraged to adopt this text as it generally reflects the intent and definitions of legislation, follows established best practice or promotes consistency in communications messages.

In the Model Asbestos Policy, the words 'will', 'must' or 'require' indicate legal requirements. The word 'should' and 'shall' are used to indicate a recommended course of action, while 'may' refers to an optional course of action. The Model Asbestos Policy includes references to provisions of the *NSW Work Health and Safety Act 2011* (WHS Act), *NSW Work Health and Safety Regulation 2011* (WHS Regulation) and other legislation to outline certain legal requirements. These references are not exhaustive and councils should refer to the legislation.

Foreword

This foreword was written for councils as an introduction to the Model Asbestos Policy. It should not be included in Council's asbestos policy.

- Remove the foreword/do not include the foreword to the Model Asbestos Policy in council's asbestos policy.

Title page

Council may wish to apply its own formatting or corporate style to the title page.

- Insert full name of council and year the asbestos policy is to be adopted.
- Consider applying formatting or corporate style to the title page.

Administrative information

Council should insert information about the asbestos policy and keep this information up to date as changes occur. If council has a similar template it uses for all council policies, then that template may be used instead. However, council should ensure any information not entered here should be noted elsewhere in the asbestos policy. This will ensure the document is adequately controlled, communicated and revised.

- Insert information about the asbestos policy.
- Keep this information up to date as changes occur.

Council disclaimer

A disclaimer may assist to protect council from legal challenges. For a disclaimer, council may wish to include:

- council's standard policy disclaimer
 - a specific disclaimer prepared by council for this asbestos policy
 - the disclaimer provided in the Model Asbestos Policy.
- Select a suitable disclaimer in consultation with relevant staff within council.

Contents page

Council should ensure the contents page provided is updated to suit council's asbestos policy.

- Update the contents page.

1. Introduction

The introduction provides important background information for people who may have little prior knowledge about asbestos.

Council should tailor this section by inserting specific information about the LGA such as:

- number of homes in the LGA estimated to contain asbestos (if a reliable estimate can be sourced)
- noteworthy asbestos related landmarks or historical land uses in the LGA, such as mine sites, factories, significant areas of naturally occurring asbestos, or asbestos disease research centres.

Council's environment, environmental health, planning, assets, geographic information systems (GIS) or long serving staff members may be able to provide information about the LGA to insert.

Alternatively, a generic sentence could be inserted such as: several homes, sheds and buildings throughout the LGA may contain asbestos.

The introduction also clarifies:

- council's role and legislative functions for minimising the risks from asbestos in various scenarios
 - the purpose of the asbestos policy
 - the scope of the asbestos policy
 - where practical guidance on how to manage risks associated with asbestos and asbestos containing material can be found.
- Insert the name of council.
 - Insert specific or generic information about the LGA.

2. Definitions

This section refers to the Appendices where the definitions of key terms can be found. These definitions are based on the relevant legislation.

Council does not need to alter this section.

3. Roles and responsibilities of council

This section outlines the roles and responsibilities of council as this has been an area of confusion for local government in the past, given the myriad of organisations involved in the safe management of asbestos and the various scenarios which may involve asbestos hazards. This is an important section of the asbestos policy for both council workers and the wider community.

Local government is responsible for meeting local needs through governance, advocacy, community leadership, service delivery, planning and regulatory roles. Council's key roles and responsibilities in maintaining a safe environment and minimising the risks of exposure to asbestos are outlined. In delivering these responsibilities, council works together with relevant State Government agencies, as acknowledged in section 4.

3.1 Educating residents

Providing education for the community on the identification and safe removal of asbestos is the joint responsibility of councils and State Government agencies. Council is often the first point of contact for residents who believe they have identified asbestos in their homes or have a concern or complaint regarding a public health hazard. Council also has a role in proactively offering useful information to the community to minimise avoidable incidents that present asbestos health hazards.

Council does not need to alter this section. However, council may wish to refer to any education or communications plans relating to asbestos that council has adopted, or any key initiatives council has completed or sectors of the community council intends to target in education campaigns.

- Consider inserting council or LGA specific information.

3.2 Managing land

Council does not need to alter this section.

3.3 Managing waste

Council should tailor the text provided in red by altering or deleting the text regarding whether council operates a licensed landfill facility/facilities that accept(s) asbestos waste or contracts a private business that operates a landfill facility/facilities accepting asbestos waste. Council should also list facilities in and/or near the LGA that accept asbestos waste in Appendix F, so that the wider public can be informed to where asbestos waste may be transported for disposal.

- Tailor the text regarding the operation of licensed landfill facility/facilities that accept(s) asbestos waste.
- List facilities in and/or near the LGA that accept asbestos waste in Appendix F.
- If council has changed the lettering of the appendices, change the letter of the appendix referred to in this section if required.

3.4 Regulatory responsibilities

This section outlines council's regulatory responsibilities and lists key legislation, policies and standards.

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to in the table as needed.

3.5 Responsibilities to workers

This section articulates council's commitment to providing a safe and healthy workplace for its workers.

Council has responsibilities to its workers in relation to asbestos under the work health and safety legislation administered by WorkCover (notably the WHS Act and WHS Regulation). Under the legislation, council is referred to as a 'person conducting a business or undertaking'. A 'person' is defined in laws dealing with interpretation of legislation to include a body corporate (company), unincorporated body or association and a partnership.

This section refers to part 2 of the policy which has further details on council's responsibilities to its workers.

Council does not need to alter this section.

4. Other stakeholders involved in managing asbestos

This section notes that council is committed to working collaboratively with other government agencies and, where appropriate, other stakeholders as needed to respond to asbestos issues.

For example, council may work together with:

- asbestos related disease organisations
- Department of Planning and Infrastructure
- Department of Trade and Investment, Regional Infrastructure and Services
- Environment Protection Authority
- emergency response agencies
- private certifiers
- research organisations
- support and advocacy groups
- WorkCover.

Appendix H notes the lead agencies, and other agencies involved in managing asbestos and various asbestos scenarios are outlined in Appendix I. Further guidance on the roles of the agencies involved in managing asbestos hazards may be found in the *Asbestos Blueprint: A guide to roles and responsibilities for operational staff of state and local government 2011* (NSW Government), available at lgsa.org.au.

Council does not need to alter this section unless the lettering of the appendices in the document has been changed by council.

- If council has changed the lettering of the appendices, change the letters of the appendices referred to in this section if required.

Part 1 – Asbestos in the Local Government Area: Information for the community

5. Naturally occurring asbestos

The text aims to provide reassurance that naturally occurring asbestos only poses a health risk when elevated levels of fibres are released into the air and these fibres are breathed in by people. It refers to further information provided in Appendix A under section 2.1. This information is indicative, and not a complete picture of, all naturally occurring asbestos in NSW.

Council should provide information here about naturally occurring asbestos known in the LGA. Council should not state unequivocally that naturally occurring asbestos does not exist in the LGA, since it may exist but not be known. The recommended text in this situation is 'Council is not aware of any naturally occurring asbestos in the LGA.'

Council needs to be aware of any naturally occurring asbestos that occurs within their LGA. Council can verify locations by contacting the Department of Trade and Investment (Mines) for the most recent geological survey of the LGA. If naturally occurring asbestos is detected in the LGA, then council is required to develop and maintain an asbestos management plan for the naturally occurring asbestos and any works that may disturb the naturally occurring asbestos.

- If council has changed the lettering and numbering of the appendices, change the letter and section number of the appendix referred to in this section if required.
- Note whether or not council is aware of any naturally occurring asbestos in the LGA.
- If council is aware of naturally occurring asbestos in the LGA, insert details including locations.

5.1 Responsibilities for naturally occurring asbestos

Council does not need to alter this section.

5.2 Managing naturally occurring asbestos

Council does not need to alter this section.

5.2.1 Management of naturally occurring asbestos by council

This section notes how council will manage any known or discovered naturally occurring asbestos in the LGA through an asbestos management plan for the naturally occurring asbestos. Council should select one option from the text provided in red and delete the remaining two options. If council needs to develop an asbestos management plan for naturally occurring asbestos, council may liaise with WorkCover to develop the asbestos management plan.

- Include the appropriate text from the options provided and delete the remaining two options.

6. Contamination of land with asbestos

This section refers to contamination of land (as defined by the *Contaminated Land Management Act 1997* and noted in Appendix C). It notes that information about contamination of land can be found in Appendix A under sections 2 and 3.

Further guidance can be found in Chapter 3 of *Management of asbestos in the non-occupational environment* published by enHealth, 2005.

Council does not need to alter this section unless council has changed the lettering and numbering of the appendices.

- If council has changed the lettering and numbering of the appendices, change the letter and section number of the appendix referred to in this section if required.

6.1 Responsibilities for contaminated land

This section outlines responsibilities for contaminated land for the benefit of council staff members and the wider community.

This section refers to the *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land* (the guidelines). The guidelines establish 'best practice' for managing land contamination through the planning and development control process. Though written primarily for planning authorities, in particular local councils, the guidelines are also relevant to interested members of the community.

Council does not need to alter this section unless council has changed the lettering and numbering of the appendices or the numbering of the sections.

- If council has changed the lettering and numbering of the appendices, change the letter and section number of the appendix referred to in this section if required.
- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

6.2 Finding out if land is contaminated

Council does not need to alter this section.

6.3 Duty to report contaminated land

This section notes that the Environmental Protection Authority (EPA) will inform council of contaminated land matters relating to the LGA as required under section 59 of the *Contaminated Land Management Act 1997*.

Specifically, council will be informed by the EPA after the occurrence of any of the following:

- The land being declared to be significantly contaminated land or ceasing to be significantly contaminated land.
- A management order or maintenance order in relation to the land being served on a person or being revoked.
- The EPA giving its approval or withdrawing its approval for a voluntary management proposal in relation to the land.

Council does not need to alter this section.

6.4 Derelict buildings

Council does not need to alter this section.

7. Responding to emergencies and incidents

The text clarifies the types of incidents this section may apply to if required.

Council does not need to alter this section.

7.1 Responsibilities in the clean up after an emergency or incident

This section explains the role of council in responding to emergencies and incidents.

Councils may receive a formal hand over for responsibility of a site from an emergency services organisation or combat agency and may consider the need to require the clean up of asbestos under the relevant legislation.

This section outlines the actions council may take under the *Protection of the Environment Operations Act 1997* and also refers to the *Environmental Planning and Assessment Act 1979*. Council should refer to the legislation for further details and in determining appropriate responses to different situations.

This section notes that council will determine an appropriate response depending on the nature of the situation and suggests potential actions. Council may wish to leave these actions in the asbestos policy or remove the actions from the asbestos policy and instead place this information, or similar information, in an alternative document such as a plan, procedures document or safe work method statement for responding to emergencies and incidents.

The following information is additional advice to councils:

- Council may work together with other agencies including emergency services organisations, the EPA, the Ministry of Health, NSW Public Works and WorkCover.
- Council can contact WorkCover for advice on risk controls and personal protection if required.
- Council may request that the Ministry of Health provide advice on public health issues, or assistance to prepare public health information bulletins when there is the potential for public exposure to asbestos. WorkCover also provides information on the health risks and exposure to asbestos.
- If council commissions licensed asbestos removal work at a council workplace, council must ensure that, when the licensed asbestos removal work is completed, a clearance inspection is carried out and a clearance certificate is issued before the asbestos removal area at the workplace is re-occupied.
- In extraordinary circumstances, where damage and debris from a disaster event threatens public health and safety, assistance may be provided by the NSW Government for asbestos clean up or removal to be undertaken by designated local councils or a government agency for uninsured private residential properties.

Council does not need to alter this section unless desired or unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to as needed.
- Consider removing the information on an appropriate response and placing it in an alternative document such as a plan, procedures document or safe work method statement for responding to emergencies and incidents.

7.2 Advice to the public regarding clean up after an emergency or incident

The introductory sentence of this section is designed to provide reassurance to the community.

This section provides proactive advice to the community on what may be recommended during and after clean up activities conducted following an emergency or incident.

Council does not need to alter this section.

8. Council's process for changing land use

Council does not need to alter this section.

9. Council's process for assessing development

Council does not need to alter this section unless desired or unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to as needed.

9.1 Responsibilities for approving development

Council does not need to alter this section unless desired or unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to as needed.

9.2 Providing advice to home owners, renovators and developers

Council may consider providing information on safely managing asbestos and the requirements for demolition approval to dwellings that council identifies as likely to be demolished in the near future.

Council does not need to alter this section unless council has changed the lettering and numbering of the appendices or the numbering of the sections.

- If council has changed the lettering and numbering of the appendices, change the letter and section number of the appendix referred to in this section if required.
- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

9.3 Identifying asbestos

Council does not need to alter this section unless council has changed the lettering and numbering of the appendices or the numbering of the sections.

- If council has changed the lettering and numbering of the appendices, change the letter and section number of the appendix referred to in this section if required.
- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

9.4 Removing asbestos, refurbishments and demolitions

9.4.1 Removing asbestos at domestic premises

Council does not need to alter this section unless council has changed the lettering and numbering of the appendices or the numbering of the sections.

- If council has changed the lettering and numbering of the appendices, change the letter and section number of the appendix referred to in this section if required.
- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

9.4.2 Removing asbestos at workplaces

Council does not need to alter this section.

9.4.3 Obtaining approval for demolition

Council does not need to alter this section unless desired or unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to as needed.

9.5 Exempt or complying development

9.5.1 Exempt development

Council does not need to alter this section.

9.5.2 Complying development

Council does not need to alter this section unless desired or unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to as needed.

9.6 Development applications

Council does not need to alter this section.

9.6.1 Pre-Development application advice regarding asbestos

Council does not need to alter this section.

9.6.2 Conditions of consent

This section is for council to refer to council's conditions of consent relating to work that may involve asbestos.

Some councils have applied conditions to buildings built before 1987, as asbestos was phased out of building materials in the 1980s and the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* refers to buildings constructed before 1987. However, given the supply and installation of asbestos containing goods was prohibited in Australia on 31 December 2003, it would be prudent to apply conditions to buildings built or modified prior to 2004. Councils conditions could apply to buildings that are 'known or suspected to contain asbestos', or 'all buildings built or modified prior to 2004'.

Council could require conditions to be satisfied before providing development approval or before issuing an occupation certificate. Council could also attach information on the safe removal of asbestos to demolition licences/permits.

Examples of conditions of consent which councils could apply include requiring:

- a clearance certificate to be prepared by a competent person such as a qualified occupational hygienist and provided to council at the completion of works
- an asbestos survey and management plan be prepared by a competent person such as a qualified occupational hygienist and submitted to council with the DA
- any proposals to use imported fill be provided to council with the DA and note from which location the fill would be taken in order to ascertain the likelihood of asbestos being present in the fill
- notification of asbestos removal work to council and neighbours in the vicinity of the asbestos removal site
- provision of landfill/weight bridge receipts to council as evidence of proper disposal of asbestos within 14 days of completing demolition works
- provision to council (prior to any work commencing on site) of a receipt or licence number as evidence of engaging a licensed demolition contractor and asbestos removal contractor
- signage and fencing for the site where asbestos removal work will be undertaken
- waste management plans for dealing with asbestos waste to be provided to council with the DA.

Where development applications contain activities (such as excavation) that may disturb identified areas of naturally occurring asbestos, any consent or approval should contain conditions requiring the development of an asbestos management plan.

Examples of conditions of consent that have been adopted by councils include those in the following policies which were publicly available in 2012:

- Burwood Council's Asbestos Policy, available at burwood.nsw.gov.au
 - Coolamon Shire Council's Asbestos Policy and Procedures, available at coolamon.nsw.gov.au
 - Holroyd City Council's Asbestos Cement Policy, available at holroyd.nsw.gov.au
 - Randwick City Council's Asbestos Policy, available at randwick.nsw.gov.au
 - Waverly Council's Asbestos Policy, available at waverly.nsw.gov.au
- Insert or outline council's conditions of consent relating to work that may involve asbestos or a reference to the conditions.

9.7 Compliance and enforcement

9.7.1 Responsibilities for compliance and enforcement

Council does not need to alter this section.

9.7.2 Compliance strategies

This section outlines ways in which council may respond to illegal works to ensure development is appropriate in relation to the safe management of asbestos.

- Consider noting any strategies for monitoring and enforcing compliance or reference to any council compliance manual or breach policy.

10. Managing asbestos as a waste

Due to its hazardous nature, asbestos waste is a 'special waste' which is a class of waste that has unique regulatory requirements. Refer to *Waste Classification Guidelines Part 1 – Classifying Waste 2008* available at environment.nsw.gov.au.

This section outlines the requirement for dealing with asbestos waste.

Council does not need to alter this section.

10.1 Responsibilities for asbestos waste management

This section refers to an earlier section in the asbestos policy. Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

10.2 Handling asbestos waste for disposal

Council does not need to alter this section.

10.3 Transporting asbestos waste

Council does not need to alter this section.

10.4 Disposing of asbestos waste at waste facilities

This section is for council to provide information for the community on where and how asbestos waste should be disposed.

If there are waste facilities in the LGA that will accept asbestos waste, council should insert any information about these facilities (whether or not they are operated by council) in order to assist persons planning to dispose of asbestos waste.

- Provide the name(s) of waste facility/facilities in the LGA that will accept asbestos waste.
- Note the hours of operation of the waste facility/facilities.
- Include the contact details of the waste facility/facilities.
- Note any fees for disposing of asbestos waste.
- Explain any restrictions or additional conditions on receiving asbestos waste. For example, council may require that a person provide details of where (property and building) any asbestos originated. Council could also require that a WorkCover licence to remove asbestos from the premises of origin be shown to council prior to council receiving the asbestos. Council may also insert requirements regarding the need to book prior to delivering a load of asbestos waste for disposal, including how to book (phone/online/in person) and the notice required based on the amount and type of asbestos (eg 48 hours notice required. By requiring a booking, councils can ensure they have sufficient trained staff to coordinate safe acceptance of the asbestos waste, appropriate equipment, an adequately separated area at the landfill face for asbestos disposal, sufficient time for designated staff to cover the asbestos waste in accordance with regulatory requirements and safe conditions on site.
- Include a reference to where the above information can be found on council's website.
- Refer to any further details council has provided in the appendices to the policy.

If applicable, council should also:

- Note any waste facility/facilities in the LGA that will not accept asbestos waste.
- Include instructions that relate to any conditions of consent regarding waste management (eg if council's conditions of consent require the provision to council of receipts of proper disposal of asbestos waste, council could include an instruction here that where these conditions apply, the waste depositor should request a receipt at the time of booking/disposal).

10.4.1 Situations in which asbestos waste may be rejected from waste facilities

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

10.5 Illegal dumping of asbestos waste

Council does not need to alter this section.

10.6 Asbestos remaining on-site

Council does not need to alter this section.

11. Complaints and investigations

- If council has procedures on handling asbestos related complaints and inquiries, refer to the procedures here. Alternatively, if council intends to develop such procedures, include a note to that effect.

Part 2 – Management of asbestos risks within council

This part is for outlining council's responsibilities and processes. Council may wish to refer to supporting documents and outline council's procedures in this asbestos policy. Council may consider whether this part will be made publicly available or an internal document.

12. Rights and responsibilities of workers at the council workplace

12.1 Duties of council workers at the council workplace

12.1.1 The General Manager

Council does not need to alter this section.

12.1.2 Workers

Council does not need to alter this section unless council has changed the lettering of the appendices.

- If council has changed the lettering of the appendices, change the letter and section number of the appendix referred to in this section if required.

12.1.3 Prohibited work activities

This section notes restrictions on work activities and equipment under the WHS Regulation.

Council may wish to note any activities council employees will not be permitted to undertake (eg some councils may wish to note that council employees will not remove asbestos, rather contractors will be used, whereas other councils may wish to indicate that appropriately trained council employees may remove asbestos in accordance with legislation).

- Note that council employees will not be permitted to remove asbestos, or note that only appropriately trained council employees will remove asbestos.
- If applicable, note any activities council employees will not be permitted to undertake (eg some councils may wish to note that council employees will not remove asbestos, rather contractors will be used, whereas other councils may wish to indicate that appropriately trained council employees may remove asbestos in accordance with legislation).

12.2 Responsibilities of council to council workers

12.2.1 Council's general responsibilities

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

12.2.2 Education, training and information for workers

This section outlines how council will ensure that workers are provided with adequate education, information and training for their roles.

This section notes that workers who may be involved in asbestos removal work or the carrying out of asbestos-related work in the workplace will be trained in the identification, safe handling and suitable control measures for asbestos and asbestos containing material as required by section 445 of the WHS Regulation. This may apply to, but is not limited to, the following council roles:

- asset management/maintenance staff
- building surveyors
- concreting staff
- engineers

- environmental health officers
- rangers
- waste facility/landfill staff
- water and sewer operators.

Workers carrying out work involving asbestos should be listed in council's asbestos management plan.

This section suggests several actions which are not legislative requirements, but rather are suggested as good practice. These are noted as 'consider' and 'may' to indicate that they are optional sections for council.

- Consider noting that any workers (including employees, contractors, consultants and, where relevant, volunteers and members of the public) who are involved in any activity or activities listed in Appendix A under section 3 on behalf of, or for, council shall be provided with access to a copy of council's asbestos policy and information and training suitable to their role and the activity.
- Consider noting that workers shall be required to either sign a statement to the effect that they acknowledge they have received, read and understood a copy of council's asbestos policy and any relevant procedures, or alternatively note this in council's electronic record keeping system.
- Consider noting that council may also provide information and training to council employees responsible for assessing development applications and complying development and compliance or ordinance officers. This would ensure council staff members can provide information about and adequately respond to asbestos issues related to renovations and developments as outlined in section 9.
- If council is aware of naturally occurring asbestos in the LGA, insert: *Training will include training in the hazards and risks associated with naturally occurring asbestos for workers who carry out work where naturally occurring asbestos is likely to be found.* This is a requirement of section 434 of the WHS Regulation.
- Consider noting relevant asbestos courses available locally which council may arrange for workers to complete or place this information in the appendices and refer to the appendices.
- Consider noting education and training may include both initial induction and ongoing reinforcement on a regular basis and consider providing examples of how education and training will be delivered and reinforced such as through tool box meetings, general in-house training or on council's intranet.
- Consider noting who is responsible for keeping the records of asbestos training undertaken by each worker, or how or where the records shall be kept (as it is a legislative requirement to keep a record of the training a worker has undertaken until five years after the day the worker ceases to work for council).
- Consider noting where a list of workers who have received the appropriate training to respond to asbestos hazards can be accessed (eg council's asbestos management plan, council's intranet, records management system). This list may include (if applicable) workers trained and nominated, as well as the nominated supervisors, for undertaking asbestos removal for council, which should be included in council's asbestos management plan.

12.2.3 Health monitoring for workers

This section notes that council will ensure health monitoring is provided to workers as required by part 8.5 division 1 of the WHS Regulation and the section 165 of the *Occupational Health and Safety Regulation 2001*.

Council may access the services offered by the NSW Dust Diseases Board including the lung bus, a mobile screening service for the early detection of work related respiratory disease.

In August 2012, Safe Work Australia was developing a guide to health monitoring. Council may wish to access this guide (once developed).

- If applicable, consider referring to any plan/procedures/forms/record keeping systems that council may have for health monitoring for workers and the staff contact responsible for coordinating the health monitoring. If council does not have any plans or procedures for health monitoring, consider including a commitment to develop a health monitoring plan/procedures based on the *Code of practice for how to safely remove asbestos* (catalogue no. WC03561) and part 8.5, division 1 of the WHS Regulation.

13. Identifying and recording asbestos hazards in the council workplace

This section relates to the identification of asbestos or asbestos containing materials in council workplaces including, but not limited to, buildings, depots, parks and reserves and other work sites.

- Further details on requirements for identifying and recording asbestos in the workplace can be found in Chapter 8 of the WHS Regulation.
- Further guidance can be found in the *Code of practice on how to manage and control asbestos in the workplace* (catalogue no. WC03560).

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

13.1 Identifying asbestos

A 'competent person' is defined by the WHS Regulation (see the definitions in Appendix C).

There are a number of factors that may be taken into account to identify or assume that asbestos is present in a workplace. These include:

- age of the building
- year of additions or refurbishments
- type of material used to construct the building
- advice from designers, manufacturers or suppliers of plant, or design plans
- advice from workers who have worked at the workplace for a long time
- visual inspection of the workplace to identify asbestos, asbestos containing material (ACM) and inaccessible areas.

Further information is provided in section 2.2 of the *Code of practice for how to manage and control asbestos in the workplace* (catalogue no. WC03560).

Council does not need to alter this section.

13.1.1 Material sampling

Council does not need to alter this section unless council has changed the lettering of the appendices.

- If council has changed the lettering of the appendices, change the letter and section number of the appendix referred to in this section if required.

13.2 Indicating the presence and location of asbestos

A competent person should determine the number and positions of the labels required.

Council may consider to whom any labels should be clearly visible and the durability of the labels. It may not be practical or desirable to label every piece of asbestos in a property, therefore a label inside the electrical switch cupboard that indicates the building may contain asbestos and to review the register before commencing work will suffice.

Council does not need to alter this section.

13.3 Asbestos register

The asbestos register does not need to include naturally occurring asbestos.

If the workplace is a building constructed after 31 December 2003 and asbestos has not been identified and asbestos is not likely to be present, then council is not required to keep an asbestos register. However, most councils occupy buildings constructed prior to 31 December 2003 as workplaces. For example, a council may have a main administration building that has been constructed after 31 December 2003, but also several other buildings such as community centres, depots and libraries that were constructed prior to 31 December 2003.

- If council has an asbestos register, note where it can be found in soft copy and where it is kept at the workplace. If council does not have an asbestos register, note that council will prepare an asbestos register and keep it at the workplace.

13.4 Suspected asbestos

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to if required.

14. Managing asbestos-related risks in the council workplace

This section is where council will outline how it will manage asbestos-related risks in the council workplace.

Guidance as to how council can implement these management options can be found in the *Code of practice for how to manage and control asbestos in the workplace* (catalogue no. WC03560) and requirements are further detailed in the WHS Act and WHS Regulation.

14.1 Asbestos management plan

If asbestos or ACM is identified or likely to be present at the workplace, council must prepare and maintain an up to date asbestos management plan.

- If council has an asbestos management plan, note where it can be found in soft copy and where it is kept at the workplace. Or, if council does not have an asbestos management plan, note that council will prepare an asbestos management plan.

14.2 Asbestos management plan for naturally occurring asbestos

This section refers to the requirement for council to develop an asbestos management plan for naturally occurring asbestos in the workplace, in accordance with part 8.4 (Management of naturally occurring asbestos) of the WHS Regulation. The Regulation specifies: what must be included in the plan; to whom the plan must be readily accessible; the need for review of the plan to keep it up to date; and the requirement to provide training. Council may liaise with WorkCover to develop an appropriate asbestos management plan for any areas within the LGA that are known to have naturally occurring asbestos.

- Select one of the three options provided in the Model Asbestos Policy.

14.3 Management options for asbestos-related risks in the council workplace

This section outlines management options based on the *Code of practice for how to manage and control asbestos in the workplace* (catalogue no. WC3560), available at workcover.nsw.gov.au.

- Refer to any council procedures for risk assessment or risk management (eg the preparation of Safe Work Method Statements, or the inclusion of risk ratings in council's risk register).

14.4 Sites contaminated with asbestos that are council workplaces

Sites contaminated with asbestos become a workplace when work is carried out there.

In some instances, the risk management strategy may be to remediate the site and this may entail removal of asbestos and ACM from the site; in other cases this may not be practicable, and other management strategies should be used. Public perceptions and stakeholder expectations may need to be managed.

The *Assessment of site contamination national environmental protection measure*, available at ephv.gov.au, sets out the general principles for assessment and remediation of sites contaminated with a number of hazardous materials including asbestos.

Guidance on asbestos in soil or aggregate can be found in *Asbestos in soil and aggregate: Position paper* (catalogue no. WC2967).

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

14.5 Demolition or refurbishment of council buildings and assets

Council does not need to alter this section.

14.6 Removal of asbestos in the council workplace

14.6.1 Removal by council employees

The following is provided as advice to councils in relation to this section:

- Council workers who are undertaking, or supervising, licensed asbestos removal work are required to achieve a certification by completing specific units of competency to show they have the relevant training to be able to remove asbestos. Asbestos removal supervisors will have additional units of competency to complete.
- Registered training organisations conduct training and education for the specific unit of competency for both friable (Class A) and non-friable (Class B) asbestos removal work as well as the asbestos removal supervisor certification. The non-friable (Class B) removal unit of competency must be completed before the friable (Class A) removal unit of competency.
- Council may wish to have a non-friable (Class B) asbestos removal licence to carry out non friable asbestos removal work for council such as cleaning up illegally dumped asbestos waste, emergency asbestos removal and maintaining asbestos containing materials within council.
- Workers and supervisors who completed appropriate training before the new WHS Act and the WHS Regulation are deemed to have received training required under the WHS Act and the WHS Regulation and do not need to redo their asbestos training.
- If a worker is to carry out asbestos removal work that does not require a licence, they must be trained in the identification and safe handling of asbestos prior to carrying out asbestos removal work without a licence and must use safe working methods. The worker must comply with the relevant duties in the *Code of practice for how to safely remove asbestos* (catalogue no. WC03561).
- The use of personal protective equipment is outlined in the *Code of practice for how to safely remove asbestos* (catalogue no. WC03561).
- Details on the requirement to notify WorkCover of licensed asbestos work are in section 466 of the WHS Regulation.
- If council employees are not to remove asbestos, delete this section and include a note in the policy that council employees will not remove asbestos.
- Consider referring to any council processes or templates (eg for preparing Safe Work Method Statements).

14.6.2 Removal by contractors

Council workers who commission asbestos removal work should refer to the *Code of practice for how to manage and control asbestos in the workplace* (catalogue no. WC03560) to ensure they are aware of mandatory requirements.

WorkCover's Certification Unit can provide licence checks on asbestos and demolition contractors.

Council does not need to alter this section.

14.6.3 Clearance inspections and certificates

Clearance certificates must be independent (a requirement that has been in place from 1 July 2012). Often, council employees may qualify as a 'competent person' under the WHS Regulation and councils may wish for competent employees to issue clearance certificates. Accordingly, councils would need to apply to WorkCover to have a person who is competent but not independent to carry out the clearance inspection and issue a clearance certificate. This could be quite beneficial in regional areas where the services of an independent, competent person may be hard to find.

Council does not need to alter this section.

15. Accidental disturbance of asbestos by workers

Accidental disturbance of asbestos could arise if asbestos is encountered during work, where there is not prior knowledge of asbestos being present in that location. Examples of such situations include during:

- emergencies and incidents
- excavation procedures
- responding to illegally dumped waste
- scheduled waste services
- site inspection
- maintenance work or other work in a location at the workplace where asbestos has not previously been identified.

The text provided (in red) lists potential actions that may be appropriate for councils in some situations. It is important to note that not all of these actions would be appropriate for all situations, hence the wording 'it may be appropriate'.

- Consider referring to any council procedures for workers to follow in the event that they accidentally disturb asbestos, or referring to the text provided.

16. Council's role in the disposal of asbestos waste

16.1 Responding to illegal dumping

The regulatory framework for illegal dumping is outlined in the document *Crackdown on illegal dumping – handbook for local government (2008)* available from environment.nsw.gov.au.

Council should refer to the flow chart 'Suggested enforcement procedure for illegal dumping under the *Protection of the Environment Operations Act 1997*' on page 24 of the *Crackdown on illegal dumping – handbook for local government (2008)* available from environment.nsw.gov.au.

To avoid delays in taking emergency clean-up action where the responsible parties/owners cannot be located, are unknown or are unlikely to pay for clean-up within the timeframe required, council may participate in the management of emergency pollution and orphan waste situations and seek funding from the Emergency Pollution and Orphan Waste Clean-Up Program under the Environmental Trust.

- If council permits properly trained, licensed and equipped employees to remove asbestos note that the removal of illegally dumped asbestos material or suspected asbestos material by council employees will be undertaken in accordance with section 14.6.1 or 14.6.2. If council does not permit council employees to remove asbestos: note that where council commissions the removal of illegally dumped asbestos material or suspected asbestos material, council will ensure this is undertaken in accordance with section 14.6.2.
- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

16.2 Transporting and disposing of asbestos waste

Council does not need to alter this section unless the numbering of the sections in the document has been changed by council.

- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

16.3 Operating council's waste facility/facilities licensed to accept asbestos waste

Disposal of asbestos waste at a landfill is not particularly complex, and should not necessarily incur any major additional costs to the landfill operator, or to the gate price charged for disposal. Charging an artificially high price for asbestos disposal may lead to increased illegal dumping incidents. Council's charging policies should reflect the actual cost of managing the asbestos waste.

Council's procedures should follow the *Management of asbestos in recycled construction and demolition waste (2010)* (catalogue no. WC02772) with reference to current legislation and policy.

- If council does not have waste facilities that are licensed to accept asbestos waste, delete this section. If council has a waste facility/waste facilities licensed to accept asbestos waste that council does not operate, note that the facility/facilities are not operated by council but include any relevant details. If council operates a waste facility/waste facilities licensed to accept asbestos waste, tailor and include the text provided including: the heading; a reference to any council charging policy; a reference to any council procedures for receiving construction, renovation and demolition waste; and information on any receipts council may issue for asbestos waste received and how receipts may relate to any conditions of consent.

16.3.1 Asbestos waste incorrectly presented to council's waste facility/facilities

This section outlines options that council may undertake if identified as an appropriate response (at council's discretion), as well as actions council will do in certain circumstance as required by law.

Council has powers to require information or records under part 7.3 of the *Protection of the Environment Operations Act 1997*.

There is a template for the Rejected Load Certificate and Rejected Load Register in the guide *Management of asbestos in recycled construction and demolition waste (2010)* (catalogue no. WC02772).

- If council does not have waste facilities that are licensed to accept asbestos waste, make a note of that in this section. If council has a waste facility/waste facilities licensed to accept asbestos waste that council does not operate, note that the facility/facilities are not operated by council but include any relevant details. If council operates a waste facility/waste facilities licensed to accept asbestos waste, tailor the heading
- If council has changed the numbering of the sections in the document, change the numbering of the section referred to if required.

16.4 Recycling facilities

- Refer to any procedures council has on avoiding asbestos contamination in material intended for resource recovery or that council may develop.

16.5 Re-excavation of landfill sites

Council does not need to alter this section.

17. Advice to tenants and prospective buyers of council owned property

This section has been included to ensure council is demonstrating best practice in safely managing asbestos. Council does not need to alter this section.

18. Implementing council's asbestos policy

18.1 Supporting documents

This section is to refer to documents that support the implementation of council's asbestos policy. Some documents may be publicly available and others may be internal documents.

- Insert the titles of any relevant publicly available documents that support council's asbestos policy.
- Consider referring to the titles of internal documents which are not publicly available.
- Consider referring to any documents which council intends to prepare to support council's asbestos policy and the month or year by which time council aims to complete these documents.

18.2 Communicating the policy

This section notes how the policy can be accessed and how it will be communicated to those who may need to know about the policy, including employees, contractors, consultants, volunteers and members of the public.

- Note at which council building a copy of the asbestos policy can be obtained.
- Note the address of council's website and consider including a link to the page from which the policy can be downloaded.
- Note the name of council's electronic record keeping system or intranet site where employees may access the policy.
- Insert job title of position responsible for employee inductions (eg the Human Resources Manager or the Work Health and Safety Coordinator).
- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to if required.
- If council has changed the lettering of the appendices, change the letter and section number of the appendices referred to in this section if required.

18.3 Non-compliance with the policy

- If council has adopted disciplinary procedures, consider including a note here that in the event that employees fail to comply with the policy, council's disciplinary procedures shall be followed. If council does not have procedures consider including a note such as: *The appropriate supervisor, manager, Director, or the General Manager, shall take action in the case on non-compliance with the policy and this may include providing education and training; issuing a verbal or written warning; altering the worker's duties; or in the case of serious breaches, terminating the worker's services. Each case shall be assessed on its merits with the aim of achieving a satisfactory outcome for all parties.*

19. Variations to this policy

Council does not need to alter this section.

Appendices

Appendix A – General information and guidance

- If council has changed the numbering of the sections in the document, change the numbering of the sections referred to if required.
- If council has changed the lettering of the appendices, change the letter and section number of the appendices referred to if required.

Appendix B – Further information

Council does not need to alter this section, however, council may add additional resources to this list.

Appendix C – Definitions

Council does not need to alter this section, however, council may add further definitions from the legislation, policies of codes of practice.

Appendix D – Acronyms

Council does not need to alter this section, however council may add or remove acronyms as required.

Appendix E – Relevant contacts

- Insert council contact details including an address that residents can visit to access information, phone number and website.
- Consider inserting contact details for:
 - local advocacy groups
 - local licensed removalists (particularly useful in the event of an emergency)
 - local public health unit
 - local support groups
 - union contact
 - waste facilities.

Appendix F – Waste management facilities that accept asbestos waste

- If there is a/are waste management facility/facilities in the LGA that accept(s) asbestos waste, list the name, location and contact details for the waste management facility/facilities under the heading '**Waste management facilities in the LGA that accept asbestos waste**'. Alternatively, if there are not any waste management facilities in the LGA that accept asbestos waste, note that there are not any waste management facilities in the LGA that accept asbestos waste and consider providing the name, location and contact details for the closest waste management facility/facilities that accept(s) asbestos waste.
- Consider outlining requirements for delivering asbestos waste for disposal to the waste management facility/facilities that accept(s) asbestos waste (consistent with section 10).

Appendix G – Asbestos related legislation, policies and standards

Council does not need to alter this section.

Appendix H – Agencies roles and responsibilities

Council does not need to alter this section.

Appendix I – Scenarios illustrating which agencies lead a response in NSW

Council does not need to alter this section.

Appendix J – Asbestos containing materials

Council does not need to alter this section.

Appendix K – Asbestos licences

Council does not need to alter this section.

Appendix L – Known areas of naturally occurring asbestos

Council does not need to alter this section

Acronyms used in this guide

DA – Development Application

EPA – Environment Protection Authority

GIS – Geographic Information Systems

HACA –Heads of Asbestos Coordination Authorities

LGA – Local Government Area

LGSA – Local Government and Shires Associations of NSW

WHS – Work Health and Safety

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