
Managing Asbestos Policy

Council disclaimer

This policy was formulated to be consistent with the Council of the City of Sydney (the City) legislative obligations and within the scope of the City's powers. This policy should be read in conjunction with relevant legislation, the City's Managing Asbestos Guidelines, and any other relevant guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail.

This policy and the City's Managing Asbestos Guidelines are based upon the Model Asbestos Policy for NSW Councils developed by the Heads of Asbestos Coordination Authorities to promote a consistent Local Government approach to asbestos management across NSW.

This policy does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this policy.

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1. Introduction

The City of Sydney (the 'City') acknowledges the serious health hazard of exposure to asbestos.

In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. Yet asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure. It is estimated that one in three Australian homes contains asbestos.

Where material containing asbestos is in a non-friable form (that is, cannot be crushed by hand into a powder), undisturbed and painted or otherwise sealed, it may remain safely in place. However, where asbestos containing material is broken, damaged, disturbed or mishandled, fibres can become loose and airborne posing a risk to health. Breathing in dust containing asbestos fibres can cause asbestosis, lung cancer and mesothelioma.

It is often difficult to identify the presence of asbestos by sight. Where a material cannot be identified or is suspected to be asbestos, it is best to assume that the material is asbestos and take appropriate precautions. Further information about asbestos and the health impacts of asbestos including website links to additional information can be found in the City's Managing Asbestos Guidelines.

The City has an important dual role in minimising exposure to asbestos, as far as is reasonably practicable, for both:

- residents and the public within the Local Government Area (LGA); and
- workers and other persons in the City's workplaces.

The City's legislative functions for minimising the risks from asbestos apply in various scenarios including:

- contaminated land management;
- the City's land, building and asset management;
- emergency response;
- land use planning (including development approvals and demolition);
- regulation of activities (non-work sites); and
- waste management and regulation.

1.1 Purpose

This policy aims to outline the role of the City and other organisations in managing asbestos, and the City's relevant regulatory powers. Please refer to the City's *Managing Asbestos Guidelines* for information on:

- the City's approach to dealing with naturally occurring asbestos, sites contaminated by asbestos and emergencies or incidents;
- general advice for residents on renovating homes that may contain asbestos;
- the City's development approval process for developments that may involve asbestos and conditions of consent;
- waste management and regulation procedures for asbestos waste in the LGA; and

For specific advice, individuals are encouraged to contact the City or the appropriate organisation.

The policy does not provide detail on specific procedures. Practical guidance on how to manage risks associated with asbestos and asbestos containing material can be found in the:

- Code of practice on how to manage and control asbestos in the workplace (catalogue no. WC03560) published by SafeWork NSW;
- Code of practice on how to safely remove asbestos published by SafeWork NSW (catalogue no. WC03561) published by SafeWork NSW; and
- additional guidance material listed in the City's *Managing Asbestos Guidelines*.

2. Definitions

Definitions are provided in Appendix A.

3. Roles and responsibilities of the City

3.1 Educating residents

The City shall assist residents to access appropriate information and advice on the:

- prohibition on the use and re-use of asbestos containing materials;
- requirements in relation to development, land management and waste management;
- risks of exposure to asbestos;
- safe management of asbestos containing materials; and
- safe removal and disposal of minor quantities of asbestos containing materials.

Educational information and website links for educational materials can be found in the City's *Managing Asbestos Guidelines*.

3.2 Managing land

The City is responsible for managing public land. This may include land with naturally occurring asbestos and land contaminated with asbestos as outlined in the City's *Managing Asbestos Guidelines*.

3.3 Managing Waste

Where the City is the appropriate regulatory or planning authority, the City is responsible for meeting certain obligations under relevant legislation by:

- issuing clean up notices to address illegal storage or disposal of asbestos waste or after an emergency or incident (under the Protection of the Environment Operations Act 1997);
- issuing prevention or clean up notices where asbestos waste has been handled (including stored, transported or disposed of) in an unsatisfactory manner (under the Protection of the Environment Operations Act 1997);

- issuing penalty infringement notices for improper transport of asbestos (under the Protection of the Environment Operations Act 1997); and
- applying planning controls to proposals to dispose of asbestos waste on-site, seeking advice from the Environment Protection Authority (EPA) on this matter and making notation on planning certificates (section 149 certificates) where on-site disposal is permitted.

Waste facilities that are licensed to accept asbestos waste are listed in Appendix C in the City's Managing Asbestos Guidelines.

3.4 Regulatory responsibilities

The City has regulatory responsibilities under the following legislation, and maintains policies and standards in situations where the City is the appropriate regulatory authority or planning authority:

- Demolition work code of practice 2015 (catalogue no WC03841) Contaminated Land Management Act 1997;
- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Local Government Act 1993;
- Protection of the Environment Operations Act 1997;
- Protection of the Environment Operations (General) Regulation 2009;
- Protection of the Environment Operations (Waste) Regulation 2005;
- Protection of the Environment Operations (Waste) Regulation 2014
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008; and
- State Environmental Planning Policy No. 55 – Remediation of Land.

Additional legislation, policies and standards relating to the safe management of asbestos are listed in the City's Managing Asbestos Guidelines.

The situations in which the City has a regulatory role in the safe management of asbestos are listed in the City's Managing Asbestos Guidelines.

3.5 Responsibilities to workers

The City is committed to fulfilling its responsibilities to workers under the NSW Work Health and Safety Act 2011 and NSW Work Health and Safety Regulation 2011 and maintaining a safe work environment through the City's:

- general responsibilities;
- education, training and information for workers;
- health monitoring for workers; and
- procedures for identifying and managing asbestos containing materials in the City's premises.

These responsibilities are outlined in The City's Workplace Health & Safety Policies. (Available on the City's website)

4. Other stakeholders involved in managing asbestos

The City is committed to working collaboratively with other government agencies and where appropriate, other stakeholders as needed to respond to asbestos issues.

Please refer to the City's Managing Asbestos Guidelines for details of the agencies involved in managing asbestos. Various asbestos scenarios requiring stakeholders to work together are also outlined in these guidelines.

5. Complaints and investigations

Complaints and inquiries may be directed to the City about incidents in public places and private properties. Complaints and inquiries regarding a workplace should be directed to SafeWork NSW. Complaints and inquiries regarding licensed premises under the Protection of the Environment Operations Act 1997 should be directed to the EPA.

The City will respond to complaints and inquiries in accordance with the City's Enforcement Policy regarding:

- the City's requirements in relation to development, land management and waste management;
- derelict properties;
- general asbestos safety enquiries;
- illegal dumping;
- safe removal and disposal of minor quantities of asbestos materials; and
- unsafe work at a residential property conducted by a homeowner or tenant.

Complaints about the City in relation to asbestos may be directed to the NSW Ombudsman.

6. Implementing the City's asbestos policy

6.1 Supporting documents

The implementation of this policy is supported by the City's:

- Managing Asbestos Guidelines;
- Standard Conditions of Development Consent, details of these can be found on the City's website;
- Asbestos Dumping Response Procedure;
- Asbestos Complaints Practice note;
- Safety Management System;
- Maintenance and inspection schedules for the City's owned assets; and
- The City's Asbestos Register.

6.2 Communicating the policy

This is a publicly available policy. The policy is to be made available via:

- The City's website: www.cityofsydney.nsw.gov.au

The City shall incorporate a statement regarding compliance with this policy in all relevant contracts and agreements with workers (including employees, contractors, consultants and, where relevant, volunteers and members of the public).

In the case of any substantive revisions to the policy, the revisions will be approved by the City's Chief Executive Officer (CEO) and the CEO will notify all persons who may have cause to undertake, arrange or supervise any potentially hazardous activities listed in the City's Managing Asbestos Guidelines on behalf of, or for, the City.

7. Variations to this policy

The City reserves the right to review, vary or revoke this policy. The CEO may allow variations to the policy for minor issues in individual cases.

8. References

Laws and standards

- Demolition work code of practice 2015 (catalogue no WC03841)
- Contaminated Land Management Act 1997
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Local Government Act 1993
- Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (General) Regulation 2009
- Protection of the Environment Operations (Waste) Regulation 2005
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy No. 55 – Remediation of Land

Policies and procedures

- Standard Conditions of Development Consent
- Asbestos Dumping Response Procedure
- Asbestos Complaints Practice note
- Safety Management System
- Maintenance and inspection schedules for the City's owned assets
- The City's Asbestos Register

9. Approval status

Council approved this policy on 21st October 2013.

10. Approval history

| Stage | Date | Comment | TRIM Reference |
|-----------------|-----------------|--|---|
| Original Policy | 5 June 2006 | Approved by Council | Please refer to Council and committee meeting archive |
| Review | 21 October 2013 | Policy redrafted based on the Local Government NSW – Model Asbestos Policy for Councils developed by the Heads of Asbestos Coordination Authorities Approved by Council | 2013/432301 |
| Review | 26 April 2017 | Fit for purpose Minor changes made to reflect amended state authority names and referenced standards and legislation Endorsed by the Executive | 2017/262873 |
| Next review | April 2020 | | |

11. Ownership and approval

| Responsibility | Role |
|----------------|---------------------------------|
| Author | Environmental Health Specialist |
| Owner | Health and Building Manager |
| Endorser | City of Sydney Executive team |
| Approver | City of Sydney Council |

Appendix A – Definitions

The terms used in the Policy are defined as below, consistent with the definitions in the:

- Code of practice on how to manage and control asbestos in the workplace (catalogue no. WC03560) published by SafeWork NSW
- Code of practice on how to safely remove asbestos (catalogue no. WC03561) published by SafeWork NSW
- Contaminated Land Management Act 1997
- Environmental Planning and Assessment Act 1979
- Emergency Pollution and Orphan Waste Clean-Up Program Guidelines 2008
- Protection of the Environment Operations Act 1997
- Waste classification guidelines part 1 classifying waste 2008
- NSW Work Health and Safety Act 2011
- NSW Work Health and Safety Regulation 2011.

Airborne asbestos means any fibres of asbestos small enough to be made airborne. For the purposes of monitoring airborne asbestos fibres, only respirable fibres are counted.

Asbestos means the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock forming minerals including the following:

- a. actinolite asbestos
- b. grunerite (or amosite) asbestos (brown)
- c. anthophyllite asbestos
- d. chrysotile asbestos (white)
- e. crocidolite asbestos (blue)
- f. tremolite asbestos
- g. a mixture that contains 1 or more of the minerals referred to in paragraphs (a) to (f).

Asbestos containing material (ACM) means any material or thing that, as part of its design, contains asbestos.

Asbestos-contaminated dust or debris (ACD) means dust or debris that has settled within a workplace and is, or is assumed to be, contaminated with asbestos.

Asbestos-related work means work involving asbestos that is permitted under the Work Health and Safety Regulation 2011, other than asbestos removal work.

Asbestos waste means any waste that contains asbestos. This includes asbestos or asbestos containing material removed and disposable items used during asbestos removal work including plastic sheeting and disposable tools.

Certifying authority means a person who is authorised by or under section 85A of the Environmental Planning and Assessment Act 1979 to issue complying development certificates, or is authorised by or under section 109D of the Environmental Planning and Assessment Act 1979 to issue part 4A certificates.

Contaminant means any substance that may be harmful to health or safety.

Contamination of land means the presence in, on or under the land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment

Control measure, in relation to a risk to health and safety, means a measure to eliminate or minimise the risk.

Development means:

- a. the use of land
- b. the subdivision of land
- c. the erection of a building
- d. the carrying out of a work
- e. the demolition of a building or work
- f. any other act, matter or thing referred to in section 26 of the Environmental Planning and Assessment Act 1979 that is controlled by an environmental planning instrument.

Development application means an application for consent under part 4 of the Environmental Planning and Assessment Act 1979 to carry out development but does not include an application for a complying development certificate.

- g. the NSW Mines Rescue Brigade established under the Coal Industry Act 2001
- h. an accredited rescue unit within the meaning of the State Emergency and Rescue Management Act 1989.

Exempt development means minor development that does not require any planning or construction approval because it is exempt from planning approval.

Friable asbestos means material that:

- a. is in a powder form or that can be crumbled, pulverised or reduced to a powder by hand pressure when dry

b. contains asbestos.

Health means physical and psychological health.

Health monitoring, of a person, means monitoring the person to identify changes in the person's health status because of exposure to certain substances.

In situ asbestos means asbestos or asbestos containing material fixed or installed in a structure, equipment or plant, but does not include naturally occurring asbestos.

Licensed asbestos assessor means a person who holds an asbestos assessor licence.

Naturally occurring asbestos means the natural geological occurrence of asbestos minerals found in association with geological deposits including rock, sediment or soil.

Non-friable asbestos means material containing asbestos that is not friable asbestos, including material containing asbestos fibres reinforced with a bonding compound.

Note. Non-friable asbestos may become friable asbestos through deterioration (see definition of friable asbestos).

Occupier includes a tenant or other lawful occupant of premises, not being the owner.

Waste includes:

- any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
- any discarded, rejected, unwanted, surplus or abandoned substance, or
- any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, processing, recovery or purification by a separate operation from that which produced the substance, or
- any process, recycled, re-used or recovered substance produced wholly or partly from waste that is applied to land, or used as fuel, but only in the circumstances prescribed by the regulations, or
- any substance prescribed by the regulations made under the Protection of the Environment Operations Act 1997 to be waste.

waste facility means any premises used for the storage, treatment, processing, sorting or disposal of waste (except as provided by the regulations).