

# **Attachment A**

**Revised Managing Asbestos Policy 2020**

# Managing Asbestos Policy

## Purpose

This policy aims to outline the role of the City of Sydney Council (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 involving asbestos;
- 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 Local Government Area (LGA); and
- sources of further information.

## Scope

This policy applies to all of the land within the City's LGA.

The policy along with the City's *Managing Asbestos Guidelines* provides information for the local community and wider public.

The policy applies to friable, non-friable (bonded) and naturally occurring asbestos (where applicable).

The policy outlines the City's commitment and responsibilities in relation to safely managing asbestos and general advice is contained within the City's *Managing Asbestos Guidelines*. 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 at:

- SafeWork Asbestos Hazards A-Z - <https://www.safework.nsw.gov.au/hazards-a-z/asbestos>
- SafeWork Australia *Model Code of Practice on how to safely remove asbestos* (ISBN 978-0-642-33317-9; Model Code of Practice: How to manage and control asbestos in the workplace ISBN 978-0-64233315-5)
- [asbestos.nsw.gov.au](http://asbestos.nsw.gov.au) and also within
- additional guidance material listed in the City's *Managing Asbestos Guidelines*.

## Definitions

Term	Meaning
Asbestos	Asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock forming minerals including the following: <ol style="list-style-type: none"> <li>actinolite asbestos</li> <li>grunerite (or amosite) asbestos (brown)</li> <li>anthophyllite asbestos</li> <li>chrysotile asbestos (white)</li> <li>crocidolite asbestos (blue)</li> </ol>

Term	Meaning
	<ul style="list-style-type: none"> <li>f. tremolite asbestos</li> <li>g. a mixture that contains 1 or more of the minerals referred to in paragraphs (a) to (f).</li> </ul>
Airborne asbestos	Any fibres of asbestos small enough to be made airborne. For the purposes of monitoring airborne asbestos fibres, only respirable fibres are counted.
Asbestos containing material (ACM)	Any material or thing that, as part of its design, contains asbestos.
Asbestos-contaminated dust or debris (ACD)	Dust or debris that has settled within a workplace and is, or is assumed to be, contaminated with asbestos.
Asbestos-related work	Any work involving asbestos that is permitted under the Work Health and Safety Regulation 2011, other than asbestos removal work. (Refer to Clause 419 of the WHS Regulation 2017)
Asbestos waste	Any waste that contains asbestos. This includes asbestos or asbestos containing material removed and disposable items used during asbestos removal work including plastic sheeting, personal protective equipment and disposable tools.
Contaminant	Any substance that may be harmful to health or safety.
Contamination of land	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:	<ul style="list-style-type: none"> <li>a. the use of land</li> <li>b. the subdivision of land</li> <li>c. the erection of a building</li> <li>d. the carrying out of a work</li> <li>e. the demolition of a building or work</li> <li>f. any other act, matter or thing referred to in section 3.14 of the Environmental Planning and Assessment Act 1979 that is controlled by an environmental planning instrument.</li> </ul>

Term	Meaning
Development application	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.
Exempt development	Minor development that does not require any planning or construction approval because it is exempt from planning approval.
Friable asbestos	Material that: <ul style="list-style-type: none"> <li>a. is in a powder form or that can be crumbled, pulverised or reduced to a powder by hand pressure when dry</li> <li>b. contains asbestos.</li> </ul>
Health	Physical and psychological health
Health monitoring of a person	Monitoring the person to identify changes in the person’s health status because of exposure to certain substances. A requirement when a worker is undertaking asbestos removal work or ongoing asbestos related work.
In situ asbestos	Asbestos or asbestos containing material fixed or installed in a structure, equipment or plant, but does not include naturally occurring asbestos.
Licensed asbestos assessor	A person who holds an asbestos assessor licence.
Non-friable asbestos	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).
Naturally occurring asbestos	The natural geological occurrence of asbestos minerals found in association with geological deposits including rock, sediment or soil.
Occupier	A tenant or other lawful occupant of premises, not being the owner.
Waste facility	Any premises used for the storage, treatment, processing, sorting or disposal of waste (except as provided by the regulations).

## Policy Statement

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, land, buildings, and other assets and infrastructure. It is estimated that at one time approximately one in three Australian homes contained 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;
- 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.

## Responsibilities

### 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*.

### Managing land

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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*.

### **Managing Waste**

Where the City is the appropriate regulatory or planning authority, the City has certain obligations and powers provided for by legislation including:

- 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);
- taking Court action to prosecute offences or to ensure compliance with legislation; 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 notations on planning certificates, section 10.7 (previously 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*.**

### **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:

- 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 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*.

### **Responsibilities to workers**

The City is committed to fulfilling its responsibilities to workers and other persons under the NSW Work Health and Safety Act 2011 and NSW Work Health and Safety Regulation 2017 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) and Asbestos in the Workplace Operational Procedure (located in the City's internal Safety Management System).

## **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.

## **Complaints and investigations**

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

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

- 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.

## **Implementing the City's asbestos policy**

### **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 and Flowchart;
- Asbestos Complaints Practice note;
- Safety Management System;
- Maintenance and inspection schedules for the City's owned assets; and
- The City's Asbestos Register.

### **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](http://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 Council 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.

## Consultation

This policy was developed in consultation with the following:

### External Stakeholders

- The NSW Environment Protection Authority (EPA)
- Local Government NSW (LGNSW)
- NSW Ministry of Health
- NSW Department of Planning, Industry and Environment (DPI)
- SafeWork NSW
- The NSW Asbestos Coordination Committee (NACC)
- Fire and Rescue NSW

### Internal Stakeholders

- Legal Services
- City Planning, Development and Transport
- Property Services
- Risk and Governance
- Work, Health and Safety
- Cleansing and Waste
- City Rangers

## References

### Laws and Standards

- Australian Standard AS 2601 – 2001: The demolition of structures;
- Contaminated Land Management Act 1997;
- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Local Government Act 1993;
- Local Government (General) Regulation 2005
- Protection of the Environment Operations Act 1997;
- Protection of the Environment Operations (General) Regulation 2009;
- Protection of the Environment Operations (Waste) Regulation 2014;

**Laws and Standards**

- NSW Work Health and Safety Act 2011
- NSW Work Health and Safety Regulation 2017
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy No. 55 – Remediation of Land.

**Policies and Procedures**

- Managing Asbestos Guidelines
- Work Health and Safety Policy
- Compliance Policy
- Prosecution and Civil Enforcement Policy
- Safety Management System (SMS)
- Asbestos in the Workplace Operational Procedure

**Review period**

This policy will be reviewed every 4 years.

**Approval Status**

The Council approved this policy on [XXX].

**Approval History**

Stage	Date	Comment	TRIM Reference
Original Policy	5 June 2006	Approved by Council	
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
Review	1 September 2020	Minor changes made to reflect amended state authority names	

Stage	Date	Comment	TRIM Reference
		and referenced standards and legislation, also changed to new policy template	
Commence Review Date	1 September 2024		
Approval Due Date	2 Jan 2024		

### Ownership and approval

Responsibility	Role
Author	Environmental Health Specialist
Owner	Standards and Policy Manager
Endorser	City of Sydney Executive
Approver	Council