

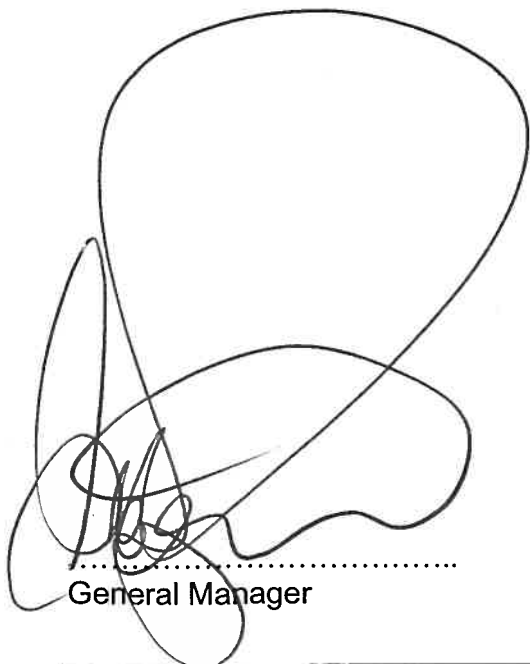


# GLEN INNES SEVERN COUNCIL

## Asbestos Policy – for General Public

<b>RESOLUTION NUMBER:</b> 27.08/20	<b>MEETING:</b> 27 August 2020
11.06/18	28 June 2018
5.06/17	22 June 2017
7.06/16	23 June 2016
7.07/15	23 July 2015
4.11/14	27 November 2014
11.11/12	22 November 2012
15.11/11	24 November 2011
10.11/10	25 November 2010
19.10/13	24 October 2013

Refer to attached document.



.....  
General Manager

7/9/20  
.....  
Date

Reference Number:	Version Number: 2 Date: 27 August 2020	Review Date: 27 August 2023	Responsible Officer: MPRS
Related Documents: Asbestos Management Plan; Glen Innes Severn Council Asbestos Management (Council Operations and Facilities) Policy			

# **Glen Innes Severn Council**

## **Asbestos Policy – for General Public**



**2020**

2

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### **Council disclaimer**

This policy is formulated to be consistent with Council's legislative obligations and within the scope of Council's powers. This policy should be read in conjunction with relevant legislation, guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail.

This policy is 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.

### **POLICY STATEMENT**

The policy provides information for the general public. The policy includes sections that are likely to be of most interest to the local community and the wider general public, and information that applies to workers associated with Council including employees, contractors, consultants, and volunteers (as defined by the *NSW Work Health and Safety Regulation 2017*).

The policy applies to friable and non-friable (bonded) asbestos within the LGA. The policy outlines Council's commitment and responsibilities in relation to safely managing asbestos, and contains general advice. For specific advice, individuals are encouraged to contact Council.

### **AIMS OF POLICY**

The aim of this policy is to outline:

- the role of Council and other organisations in managing asbestos;
- Council's relevant regulatory powers;
- Council's approach to dealing with sites contaminated by asbestos and emergencies or incidents;
- general advice for residents on renovating homes that may contain asbestos;
- Council'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
- Council's approach to managing asbestos containing materials in Council workplaces and Council public buildings.

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## 1. BACKGROUND

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.

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

- residents and the public within the Glen Innes Severn Local Government Area (LGA); and
- Council's legislative functions for minimising the risks from asbestos apply in various scenarios including:
  - contaminated land management;
  - Council land, building and asset management;
  - emergency response;
  - land use planning (including development approvals and demolition);
  - management of naturally occurring asbestos;
  - regulation of activities (non-work sites); and
  - waste management and regulation.

## 2. COUNCIL ROLES AND RESPONSIBILITIES

### 2.1 Educating residents

Council 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

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- safe removal and disposal of minor quantities of asbestos containing materials.

## 2.2 Managing land

Council is responsible for managing public land within the LGA.

## 2.3 Managing waste

Where Council is the appropriate regulatory authority, Council is responsible for:

- 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*);
- 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; and
- Operating licensed and non-licensed landfill facilities that accept asbestos waste.

## 2.4 Regulatory responsibilities

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

- *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*;
- *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*.

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**Table 1: Situations in which Council has a regulatory role in managing asbestos**

Issue	Council's role
Contaminated land	<ul style="list-style-type: none"> <li>Record known asbestos site contamination on Section 149 certificates where practicable and for Council workplaces, record on Council's asbestos register.</li> <li>Notify stakeholders of land use planning policy requirements relating to contamination.</li> <li>Manage residential asbestos contaminated land that is not declared 'significantly contaminated' under the <i>Contaminated Land Management Act 1997</i> (excluding oversight of removal or remediation work, which is the role of WorkCover).</li> </ul>
Development assessment	<ul style="list-style-type: none"> <li>Assess development applications for approval under the <i>Environmental Planning and Assessment Act 1979</i>.</li> <li>Set conditions of consent for renovations, alterations, additions, demolitions or other developments requiring consent and which may involve disturbance of asbestos containing materials.</li> <li>Ensure compliance with development conditions.</li> <li>Apply conditions relating to development involving friable and non-friable asbestos material under the relevant legislation and planning codes.</li> </ul>
Demolition	<ul style="list-style-type: none"> <li>Approve demolition under the <i>Environmental Planning and Assessment Act 1979</i>.</li> <li>Council certifiers approve development as complying development under the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</li> </ul>
Emergencies and incidents	<ul style="list-style-type: none"> <li>Regulate the clean-up of asbestos waste following emergencies, where sites are handed over to the Council or a local resident by an emergency service organisation (excluding oversight of licensed removal or remediation, work which is the role of WorkCover). Council may consider the need to issue a clean-up notice, prevention notice or cost compliance notice under the <i>Protection of the Environment Operations Act 1997</i>.</li> </ul>
Naturally occurring asbestos	<ul style="list-style-type: none"> <li>Verify compliance with environmental planning and assessment legislation for development applications that could disturb naturally occurring asbestos.</li> <li>Prepare an Asbestos Management Plan for Council workplaces or road works which occur on land containing naturally occurring asbestos.</li> </ul>

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- Residential premises
  - Respond to any public health risks (risks to Council workers and wider public) relating to the removal of asbestos containing materials or asbestos work at residential properties that does not involve a business or undertaking.
  - Respond to complaints about unsafe work at a residential property that is undertaken by a resident (not a worker, which is the role of WorkCover).
  - Respond to public health risks posed by derelict properties or asbestos materials in residential settings.
- Waste
  - Manage waste facilities in accordance with environmental protection legislation.
  - Respond to illegal storage, illegal dumping and orphan waste.
  - Regulate non-complying transport of asbestos containing materials.

### 3 ASBESTOS IN THE LOCAL GOVERNMENT AREA: INFORMATION FOR THE COMMUNITY

#### 3.1 Naturally Occurring Asbestos

Council is not aware of any naturally occurring asbestos in the LGA. Naturally occurring asbestos only poses a health risk when elevated levels of fibres are released into the air, either by human activities or by natural weathering, and these fibres are breathed in by people.

Information on naturally occurring asbestos, work processes that have the potential to release naturally occurring asbestos fibres into the air, and known locations of naturally occurring asbestos in NSW is provided in Appendix A under Section 2.1. This information is indicative, and not a complete picture of all naturally occurring asbestos in NSW.

If naturally occurring asbestos is discovered in the LGA, Council will develop risk controls, an asbestos management plan in relation to the naturally occurring asbestos, and provide guidance materials where necessary.

#### 3.2 CONTAMINATION OF LAND WITH ASBESTOS

##### 3.2(a) Responsibilities for contaminated land

Responsibility for cleaning up contaminated land lies with the person responsible for contaminating the land or the relevant landowner. Council may issue a cleanup notice to the occupier of premises at or from which Council reasonably suspects that a pollution incident has occurred, or is occurring, requiring asbestos waste to be removed (under Part 4.2 of the *Protection of the Environment Operations Act 1997*).

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Council may also issue prevention notices (under Part 4.3 of the *Protection of the Environment Operations Act 1997*) to ensure good environmental practice. If a person does not comply with a prevention notice given to the person, Council employees, agents or contractors may take action to cause compliance with the notice.

Any reasonable costs incurred by Council in monitoring or enforcing clean up and prevention notices may be recovered through a compliance cost notice (under Part 4.5 of the *Protection of the Environment Operations Act 1997*). Council shall keep records of tasks undertaken, the hours Council employees have spent undertaking those tasks, and expenses incurred.

During site redevelopment, Council will consider contamination with asbestos containing materials in the same way as other forms of contamination, as stipulated by the *Environmental Planning and Assessment Act 1979*. That is, Council will apply the general requirements of *State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land* and the *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land*.

For sites that are ‘significantly contaminated’ and require a major remediation program independent of any rezoning or development applications, the Environmental Protection Authority (EPA) and WorkCover are the lead regulatory authorities.

**3.2(b) Finding out if land is contaminated**

A person may request from Council a Planning Certificate containing advice on matters, including whether Council has a policy to restrict the use of land due to risks from contamination. Certificates are issued under Section 10.7(2) of the *Environmental Planning and Assessment Act 1979*.

Factual information relating to past land use and other matters relevant to contamination may also be provided, even when land use is not restricted. When Council receives a request for a certificate under Section 10.7(2) it may also inform applicants of any further information available under section 10.7(5).

Council may also use Section 10.7(5) certificates to record other information, particularly anything else of a factual nature about contamination which Council deems appropriate (such as details of land history, assessment, testing and remediation). Council records can only indicate known contaminated sites. Any site may potentially be contaminated.

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### 3.2(c) Duty to report contaminated land

A person whose activities have contaminated land, or a landowner whose land has been contaminated is required to notify the EPA when s/he becomes aware of the contamination (under Section 60 of the *Contaminated Land Management Act 1997*). Situations where this is required are explained in the document: *Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997*.

The EPA will inform Council of contaminated land matters relating to the LGA, as required under Section 59 of the *Contaminated Land Management Act 1997*.

### 3.2(d) Derelict buildings

Concerns regarding potential health risks from derelict properties may be directed to Council. Derelict properties include abandoned buildings, fire damaged buildings, and otherwise dilapidated buildings. Where derelict properties contain friable asbestos and asbestos is exposed, either from human activities or weathering, this poses a potential risk to public health.

Council may respond to derelict properties that pose a demonstrable public health risk using a range of regulatory tools, according to the particular circumstances. Council may issue a cleanup notice or prevention notice and compliance cost notice.

Council may also order a person to demolish or remove a building, if the building is so dilapidated as to present harm to its occupants or to persons or property in the neighbourhood (*Environmental Planning and Assessment Act 1979*).

An order may require immediate compliance with its terms in circumstances which the person who gives the order believes constitute a serious risk to health or safety or an emergency (under Schedule 5, clause 27 of the *Environmental Planning and Assessment Act 1979*). If a person fails to comply with the terms of an order, Council may act under Schedule 5, clause 33 of the *Environmental Planning and Assessment Act 1979* to give effect to the terms of the order, including the carrying out of any work required by the order.

If the derelict building is on a site that is a workplace, then WorkCover is the lead agency responsible for ensuring that asbestos is removed by appropriately licensed removalists.

## 4. RESPONDING TO EMERGENCIES AND INCIDENTS

Emergencies and incidents such as major collapses, cyclones, explosions, fires, storms, or vandalism can cause damage to buildings or land that contain asbestos. This can create site contamination issues, and potentially expose emergency service workers and the wider public to asbestos. Emergencies or incidents can arise from natural hazards, or from accidental or deliberate human activities including criminal activity.

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#### 4.1 Responsibilities in the clean up after an emergency or incident

Council may play a role in ensuring that asbestos containing materials are cleaned up after an emergency or incident. If the emergency or incident occurs at a workplace, WorkCover is the lead agency.

Council will determine an appropriate response depending on the nature of the situation. This may include to:

- Seek advice from an occupational hygienist on the likely level of risk and appropriate controls required;
- Liaise with or consult the appropriate agencies;
- Inform emergency personnel of any hazards known to Council as soon as practicable;
- Follow the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by WorkCover NSW: [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)
- Ensure that any Council workers attending the site have appropriate training and are wearing appropriate personal protective equipment;
- Exclude the public from the site;
- Inform the public of the potential sources of exposure to asbestos, health risks and emergency management response;
- Minimise the risks posed by any remaining structures;
- Address the risks posed by disturbed asbestos containing materials by engaging a licensed removalist, or issuing a clean up or prevention notice to ensure asbestos containing materials are removed for disposal;
- Ensure that the site is kept damp, at all times or sprayed with PVA glue, particularly where friable asbestos is present, if considered appropriate (noting that in some instances this may not be appropriate, for example if there are live electrical conductors or if major electrical equipment could be permanently damaged or made dangerous by contact with water); and
- Ensure that asbestos containing materials are disposed of at a facility licensed to accept asbestos waste, and sight proof of appropriate disposal through weighbridge dockets or similar documentation.

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

During a clean up after an emergency or incident, the possibility of neighbours being exposed to asbestos fibres may be very low, if precautions are taken to minimise the release and inhalation of asbestos dust and fibres.

As a precautionary measure, where Council is involved in a cleanup, Council may consider advising those in neighbouring properties to:

- avoid unnecessary outdoor activity and do not put any laundry outside during the clean up;
- close all external doors and windows and stay indoors during the clean up;
- consider avoiding using air conditioners that introduce air from outside into the home during the clean up;
- dispose of any laundry that may have been contaminated with asbestos as asbestos waste after the clean up;
- use a low pressure hose on a spray configuration to remove visible dust from pathways after the clean up;
- wipe dusty surfaces with a damp cloth and bag and dispose of the cloth as asbestos waste after the clean up; and
- any other measures recommended by an occupational hygienist following assessment of the situation.

#### 5. COUNCIL'S PROCESS FOR CHANGING LAND USE

Council recognises the need to exercise care when changing zoning for land uses, approving development or excavating land, due to the potential to uncover known or unknown asbestos material from previous land uses (for example, where a site has been previously been used as a landfill or for on-site burial of asbestos waste).

*State Environmental Planning Policy No. 55 – Remediation of Land* states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

#### 6. COUNCIL'S PROCESS FOR ASSESSING DEVELOPMENT

This section applies to development applications assessed under the *Environmental Planning and Assessment Act 1979* and complying development applications assessed under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or Council's Complying Codes. This includes alterations and additions to residential development, which may include internal work as well as extensions to the existing main structure, or changes to outbuildings, sheds or garages.

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This section also covers renovations that do not require development consent or a complying development certificate. Development consent is not required to maintain an existing structure. For example, the replacement of windows, doors and ceilings may involve the removal of asbestos, but does not constitute development under the *Environmental Planning and Assessment Act 1979*. In these instances, Council has an educative role in providing owners and occupiers with advice and information about the identification and safe management of asbestos.

### 6.1 Responsibilities for approving development

Council is the consent authority for the majority of development applications in the LGA. The Joint Regional Planning Panel (JRPP) is also consent authority for certain local or regional development. Council may have representation on the JRPP.

Council or the JRPP may impose conditions of consent and a waste disposal policy to a development consent to ensure the safe removal of asbestos, where asbestos has been identified or may be reasonably assumed to be present.

Either Council or a private certifier may assess a complying development certificate. Where a private certifier is engaged to assess a complying development certificate, the private certifier is responsible for ensuring that the proposed development activities include adequate plans for the safe removal and disposal of asbestos.

This also applies to the demolition of buildings. Certifiers are able to issue a complying development certificate under the Demolition Code of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

When a private certifier issues a complying development certificate and is appointed as the Principal Certifying Authority for the development, it is the certifier's responsibility to follow up to ensure that works including asbestos handling, removal and disposal if present, are carried out appropriately in accordance with the *Environmental Planning and Assessment Regulation 2000* (Clause 136E).

### 6.2 Providing advice to home owners, renovators and developers

Council is committed to providing information to minimise the risks from asbestos in the LGA.

The key points are:

- Before any renovation, maintenance or demolition work is carried out, any asbestos or asbestos containing materials should be identified;
- Where a material cannot be identified or it is suspected to be asbestos, it is best to assume that the material is asbestos and take appropriate precautions;

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- If asbestos containing materials can be maintained in good condition it is recommended that they be safely contained, left alone and periodically checked to monitor their condition, until demolition or redevelopment. If asbestos materials cannot be safely contained, they should be removed; and
- For demolition or redevelopment, any asbestos containing materials should be safely removed and disposed of prior to the work commencing.

Anyone who is undertaking renovations without a contractor is encouraged to contact Council if they require further advice or clarification.

### 6.3 Identifying asbestos

Council aims to ensure that records are, as far as possible, accurate. In some instances, Council may not have up-to-date information about asbestos for a property. Council may be able to provide general advice on the likelihood of asbestos being present on the land, based on the age of the buildings or structures on the land.

The most accurate way to find out if a building or structure contains asbestos is to obtain an asbestos inspection by a person competent in the identification and assessment of asbestos, such as an occupational hygienist (a competent person is defined by the *NSW Work Health and Safety Regulation 2011*). This is highly advisable before undertaking major renovations to buildings constructed, or containing materials from, prior to 2004.

Property owners and agents are encouraged to inform any tenants or occupiers of the presence of asbestos, and to address any potential asbestos hazards where appropriate.

Property owners who let their properties out are required to identify any asbestos within those properties before any work is carried out (this includes residential properties).

The *Work Health and Safety Regulation 2011* states that the person conducting a business or undertaking in any building constructed before 31 December 2003 must identify if there is any asbestos in the building.

All commercial properties that contain asbestos must have and maintain a current asbestos register and asbestos management plan.

## 7 REMOVING ASBESTOS, REFURBISHMENTS AND DEMOLITIONS

### 7.1 Removing asbestos at domestic premises

If development is undertaken by contractors, as is the case with a lot of home renovations, then the work is considered to be at a workplace and is regulated by WorkCover under the *NSW Work Health and Safety Regulation 2011*. This requires that a person conducting a business or undertaking, who is to carry out refurbishment or demolition of residential premises, must ensure that all asbestos likely to be disturbed by the refurbishment or demolition is identified and, so far as reasonably practicable, is removed before the refurbishment or demolition is commenced.

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Depending on the nature and quantity of asbestos to be removed, a licence may be required to remove the asbestos.

Friable asbestos must only be removed by a licensed removalist with a Friable (Class A) Asbestos Removal Licence. Except in the case of the removal of:

- asbestos containing dust associated with the removal of non-friable asbestos; or
- asbestos containing dust that is not associated with the removal of friable or non-friable asbestos, and is only a minor contamination (which is when the asbestos contamination is incidental and can be cleaned up in less than one hour).

The removal of more than 10 square metres of non-friable asbestos or asbestos containing material must be carried out by a licensed non-friable (Class B) or a friable (Class A) asbestos removalist.

The removal of asbestos containing dust associated with the removal of more than 10 square metres of non-friable asbestos or asbestos containing material requires a non-friable (Class B) asbestos removal licence or a friable (Class A) asbestos removal licence.

Removal of 10 square metres or less of non-friable asbestos may be undertaken without a licence. However, given the risks involved, Council encourages residents to consider engaging a licensed asbestos removal contractor. The cost of asbestos removal by a licensed professional is comparable in price to most licensed tradespeople including electricians, plumbers and tilers.

All asbestos removal should be undertaken in accordance with the *Code of practice on how to safely remove asbestos*. If a residential premise is a workplace, the licensed asbestos removalist must inform the following persons before licensed asbestos removal work is carried out:

- the person who commissioned the work;
- a person conducting a business or undertaking at the workplace;
- the owner and occupier of the residential premises; and
- anyone occupying premises in the immediate vicinity of the workplace (as described in Section 467 of the *NSW Work Health and Safety Regulation 2017*).

In certain circumstances, a premise may be used for both residential and commercial purposes and is therefore classified as a workplace.

All licensed asbestos removal must be:

- supervised by a supervisor named to WorkCover NSW; and
- notified to WorkCover NSW at least five (5) days prior to the work commencing.

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## 7.2 Removing asbestos at workplaces

The NSW *Work Health and Safety Regulation 2017* specifies requirements for demolition and refurbishment at a workplace with structures or plants constructed or installed before 31 December 2003. WorkCover NSW is the lead agency for regulating the safe management of asbestos at workplaces.

## 7.3 Obtaining approval for demolition

Demolition work must comply with *Australian Standard AS 2601 – 2001: The demolition of structures*. In most circumstances demolition of a structure requires development consent or a complying development certificate. Applicants need to enquire to Council as to whether, and what type of approval is required. Where a development application is required Council's standard conditions need to be applied to ensure that asbestos is safely managed.

A wide range of development, including residential, industrial and commercial development, can be approved for demolition as complying development under the Demolition Code of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and the *Environmental Planning and Assessment Regulation 2000* provides mandatory conditions for complying development certificate applications.

The *Code of practice for demolition work* (published by Safe Work Australia in 2012) provides practical guidance to persons conducting a business or undertaking on how to manage the health and safety risks associated with the demolition work. The *Code of practice for demolition work* applies to all types of demolition work.

## 8 EXEMPT OR COMPLYING DEVELOPMENT

### 8.1 Exempt development

Exempt development does not require any planning or construction approval if it meets the requirements of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

This means that there is no ability for Council or a private certifier to impose safeguards for the handling of asbestos through conditions of development consent. However, Council advises that all asbestos removal work should be carried out in accordance with the *Code of practice on how to safely remove asbestos*.

### 8.2 Complying development

The *Environmental Planning and Assessment Regulation 2000* (clause 136E) outlines conditions under which a complying development certificate can be issued for development that involves building work or demolition work and friable or non-friable asbestos.

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Applications for complying development certificates must include details of the estimated area (if any) in square metres of friable and/or non-friable asbestos material that will be disturbed, repaired or removed in carrying out the development (under Schedule 1 part 2 of the *Environmental Planning and Assessment Regulation 2000*).

Where more than 10 square metres of non-friable asbestos is to be removed, a contract evidencing the engagement of a licensed asbestos removal contractor is to be provided to the principal certifying authority. The contract must specify the landfill site lawfully able to accept asbestos to which the removed asbestos will be delivered.

If the contract indicates that asbestos will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site, stating that all the asbestos material referred to in the contract has been received by the operator.

If the work involves less than 10 square metres of non-friable asbestos and is not undertaken by a licensed contractor, it should still be undertaken in a manner that minimises risks as detailed in the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561). In instances where asbestos removal is less than 10 square metres of non-friable asbestos and not from a place of work, then WorkCover would not be the agency responsible for regulating this activity. Concerns or complaints may be directed to Council.

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* outlines the requirements for the applicant to notify their neighbours that works may include asbestos removal.

### 8.3 Development applications

If a proposed building does not meet the requirements of exempt or complying development then there is a final planning approval option: a development application (DA). A DA can only be approved by a local Council, the JRPP or, for very large, State-significant development proposals, the State Government. A development application needs to be prepared and it will be assessed in accordance with the development standards established by Council. Council may undertake a site inspection as part of the DA assessment.

### 8.4 Pre-development application advice regarding asbestos

Council's pre-DA service enables proponents to discuss asbestos-related issues with Council prior to lodging a DA, if the issue is raised. Council may inform applicants of this policy, fact sheets or websites. Generally this may be most relevant to structures erected or modified before the 1980s, and any other structure that could be reasonably suspected to contain asbestos including those with building materials from prior to 2004.

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## 8.5 Conditions of consent

Council in determining development applications will attach conditions of consent relating to work that involves asbestos.

## 9 COMPLIANCE AND ENFORCEMENT

### 9.1 Responsibilities for Compliance and Enforcement

The Council relies on information being provided and checked by the principal certifying authority, which may be either the local Council or a private certifier. A private certifier has powers under the *Environmental Planning and Assessment Act 1979* to issue construction certificates, compliance certificates, complying development certificates, occupation certificates and to carry out mandatory inspections. Councils will not always be the principal certifying authority. When a Council is not nominated as the principal certifying authority for a complying development certificate or development application, the Council may not have any knowledge of the asbestos matter. Accordingly, coordination of compliance and/or enforcement actions between the Council and the private certifier will be required.

Council may take action on any development for which Council has issued the development consent, even when not appointed as the principal certifying authority to ensure enforcement. Where Council receives a complaint about a development for which Council is not the principal certifying authority, Council should consider whether Council is the appropriate authority to resolve the matter. Complaints that warrant action by Councils because of their greater enforcement powers include:

- urgent matters, for example, a danger to the public or a significant breach of the development consent or legislation; and
- matters that are not preconditions to the issue of the occupation/subdivision certificate.

### 9.2 Compliance strategies

Illegal works include:

- works that are undertaken without a required development consent or complying development certificate; and
- works that are undertaken that do not comply with the conditions of the development consent or complying development certificate.

Where Council becomes aware of illegal work involving asbestos or asbestos containing materials, Council will notify WorkCover NSW if the site is a workplace.

The *Environmental Planning and Assessment Act 1979* empowers Council to issue orders to direct specific work be undertaken to comply with a development consent.

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Council may need to issue an order under the *Local Government Act 1993* (Section 124), to direct a person to 'do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition.'

Council may also issue a clean-up notice or prevention notice under the *Protection of the Environment Operations Act 1997*.

Council may audit asbestos-related demolition works, which Council has recently approved, by using a legal notice under Section 192 of the *Protection of the Environment Operations Act 1997* to require developers to provide information and records regarding disposal of their asbestos waste.

## 10 MANAGING ASBESTOS AS A WASTE

It is illegal to dispose of asbestos waste in domestic garbage bins or to recycle, reuse, bury or illegally dump asbestos waste. Asbestos must not be placed in general waste skip bins, yet there have been instances where asbestos has been illegally placed in skip bins by third parties. Members of the public need to be aware of this hazard and may need to secure their skip bins to prevent a third party from illegally disposing of asbestos in the skip bin.

Asbestos waste (in any form) must only be disposed of at a landfill site that may lawfully receive asbestos waste.

### 10.1 Responsibilities for asbestos waste management

The handling and, where appropriate, temporary storage of asbestos waste at worksites is regulated by WorkCover NSW.

The EPA regulates premises that have or require an environment protection licence in accordance with the *Protection of the Environment Operations Act 1997*. A licence is required where more than five (5) tonnes of asbestos waste, brought from off-site, is stored at any time. All other sites where asbestos waste is stored, typically those that are non-work sites, are regulated by local Councils.

### 10.2 Handling asbestos waste for disposal

The *Code of practice on how to safely remove asbestos* provides details on waste containment and disposal and controls applicable to all types of asbestos removal (in Section 4.8 of the Code).

### 10.3 Transporting asbestos waste

The following requirements apply to the transport of asbestos waste, and non-compliance with these requirements is an offence under the *Protection of the Environment Operations (Waste) Regulation 2005* clause 42(3):

- non-friable asbestos material must be securely packaged at all times;
- friable asbestos material must be kept in a sealed container;

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- asbestos-contaminated soils must be wetted down; and
- all asbestos waste must be transported in a covered, leak-proof vehicle.

Asbestos waste that is transported interstate must be tracked in accordance with the *Protection of the Environment Operations (Waste) Regulation 2005*. Asbestos waste transported within New South Wales does not need to be tracked. The waste tracking system is administered by the EPA. An environment protection licence is required to transport asbestos waste interstate where any load contains more than 200 kilograms of asbestos waste.

It is an offence to transport waste to a place that cannot lawfully receive that waste, or cause or permit waste to be so transported (under Section 143 of the *Protection of the Environment Operations Act 1997*). Penalty notices may be issued for \$1,500 (to individuals) and \$5,000 (to corporations).

#### 10.4 Disposing of asbestos waste at waste facilities

The Glen Innes Landfill is the only landfill located within the Glen Innes Severn LGA that is registered to accept asbestos waste. The hours of operation are:

- **Summer Hours (1 October to 30 April)**  
Monday to Friday: 8:30am to 12:50pm and 1:30pm to 5:00pm  
Weekends and Public Holidays: 10:30am to 12:50pm and 1:30pm to 4:30pm
- **Winter Hours (1 May to 30 September)**  
Monday to Friday: 8:30am to 12:20 and 1:00pm to 4:30pm  
Weekends and Public Holidays: 11:00am to 4:00pm  
**CLOSED:** Christmas Day, Boxing Day, New Years' Day and Good Friday

#### 10.5 Contact details

Prior to Council receiving asbestos waste at the Glen Innes Landfill, Councils Assets Coordinator can be contacted on 6730 2369 or 0428 692 105.

#### 10.6 Disposing of asbestos waste

The fees associated with the disposal of asbestos at the Glen Innes Landfill can be found in Councils current Operational Plan, or otherwise by contacting Councils Assets Coordinator on the numbers listed above.

#### 10.7 Any Restrictions or additional conditions on receiving asbestos waste

- All asbestos presented to the Glen Innes landfill must be able to be removed manually, unless prior arrangements have been made with Councils Assets Coordinator; and
- The Glen Innes Landfill will only accept asbestos waste which has been removed and delivered in accordance with WorkCover NSW requirements.

Further information can be found on Council's website: [www.gisc.nsw.gov.au](http://www.gisc.nsw.gov.au)

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**10.8 Persons delivering waste to a landfill site must comply with the following requirements:**

- a person delivering waste that contains asbestos to a landfill site must inform the landfill occupier of the presence of asbestos when delivering the waste; and
- when unloading and disposing of asbestos waste at a landfill site, the waste must be unloaded and disposed of in such a manner as to prevent the generation of dust or the stirring up of dust.

Non-compliance with these requirements is an offence under the *Protection of the Environment Operations (Waste) Regulation 2005*, and these offences attract strong penalties.

**10.9 Situations in which asbestos waste may be rejected from waste facilities**

Asbestos waste may be rejected from a waste facility if the waste is:

- not correctly packaged for delivery and disposal;
- not disclosed by the transporter as being asbestos or asbestos containing materials; or
- taken to a waste facility that does not accept asbestos waste. Asbestos waste from outside the Glen Innes Severn LGA will not be accepted.

Where waste is rejected, the waste facility must inform the transporter of the waste of a waste facility to which the waste may be transported, that is, a waste facility at which the waste can be legally accepted (as required by the *Protection of the Environment Operations (Waste) Regulation 2005*).

Individuals may be fined \$1,500 and corporations may be fined \$5,000 under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Waste) Regulation 2005* for transporting asbestos waste to a facility that cannot lawfully receive asbestos waste.

**11 ILLEGAL DUMPING OF ASBESTOS WASTE**

Illegal dumping is the unlawful deposit of waste onto land. That is waste materials dumped, tipped or otherwise deposited onto private or public land where no licence or approval exists to accept such waste. Illegal land filling, which is waste used as fill material with the consent of the owner or occupier of the land but without the necessary Council or EPA approvals, is also considered to be illegal dumping and pollution of land.

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Illegal dumping of asbestos waste in public places such as parks, streets or nature strips can attract regulatory action including:

- on the spot fines of up to \$ 8,000;
- prosecution for pollution of land of up to \$1 million for a corporation and \$120,000 for each day the offence continues (under Section 142A of the *Protection of the Environment Operations Act 1997*; or
- up to \$1 million, or seven (7) years imprisonment, or both for an individual (under Section 119 of the *Protection of the Environment Operations Act 1997*).

The responsibility for cleaning up illegally dumped waste lies with the person or company that deposited the waste. If they cannot be identified the relevant landowner becomes the responsible party. Local Councils are the appropriate regulatory authority for illegal dumping unless:

- the activity was part of the carrying on of an activity listed in Schedule 1 of the *Protection of the Environment Operations Act 1997*;
- the activity was carried out by a public authority or the state; or
- the site is regulated by a different authority, such as the Minister for Planning and Infrastructure.

#### 11.1 Asbestos remaining on-site

The disposal of asbestos on site is not encouraged, as it requires an effective ongoing system of long term management to ensure the material does not pose unacceptable risks to future site activities and occupants. For on-site burial of asbestos waste, Council will seek advice from the EPA. Council will confirm if on-site disposal is permitted under planning controls whether or not consent is required, and will require recording of on-site disposal on the zoning certificate (Section 10.7(2) certificate).

## 12 COMPLAINTS AND INVESTIGATIONS

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

Council will respond to complaints and inquiries regarding:

- Council's requirements in relation to development, land management and waste management;
- derelict properties;
- general asbestos safety issues;
- illegal dumping;

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- 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 Council in relation to asbestos may be directed to the NSW Ombudsman.

### 13 VARIATIONS TO THIS POLICY

Council reserves the right to vary or revoke this policy.

### 14 REVIEW

The Asbestos Policy for General Public shall be reviewed every three (3) years, or earlier if deemed necessary to ensure that it meets the requirements of legislation and the needs of Council. The term of this policy does not expire on the review date, but shall continue in force until superseded, rescinded or varied either by legislation or a new resolution of Council.

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