



Management of Asbestos Policy

Sutherland Shire Council

Document review and approval

This document has been approved by

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Introduction

Sutherland Shire Council acknowledges the serious health hazard posed by exposure to asbestos. Council is committed to ensuring the health, safety and welfare of its employees, contractors, volunteers/visitors to workplaces and property under its care by minimising exposure to asbestos (as far as is reasonably practicable) and ensuring that asbestos is managed in a manner that is not a threat to the health of the public or the environment.

1 Application

This policy applies to all parts of the Sutherland Shire Council LGA that are under council's jurisdiction.

This policy is consistent with council's legislative requirements and within the scope of council's powers under 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 Council's* 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. Liability will not be accepted for a loss incurred as a result of reliance on this policy.

This policy responds to the 'ENJOY' domains of the Our Shire Our Future guide for shaping the Shire 2030;

- Shire residents are physically and emotionally well,
- Abundant, healthy and well maintained natural environments for people to enjoy.

2 Definitions

Definitions of terms in this policy are found in Appendix A

Acronyms used in this policy are found in Appendix B

3 Purpose

The purpose of this policy is to provide direction for Sutherland Shire Council (council) in complying with its asbestos related legislative obligations and duties of care to residents and visitors.

The policy aims to outline:

- the role of council and other organisations in managing asbestos
- Council's relevant regulatory powers
- Council's approach to managing asbestos containing materials in council workplaces
- Council's development approval process for developments that may involve asbestos and conditions of consent
- Council's approach to dealing with sites contaminated by asbestos and emergencies or incidents
- waste management and regulation procedures for asbestos waste in the LGA

- general advice for residents on renovating homes that may contain asbestos
- sources of further information.

3.1 Scope

The policy applies to friable, non-friable (bonded) and naturally occurring asbestos within the Sutherland Shire Council Local Government Area.

The policy applies to council employees, contractors, consultants, and volunteers (as defined by the NSW *Work Health and Safety Regulation 2011*), other persons who visit council workplaces and properties, the local community and wider public. This policy also applies to council workers who are at a location or premises not controlled by council, whilst at work.

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 WorkCover NSW.

Code of practice on how to safely remove asbestos (catalogue no. WC03561) published by WorkCover NSW.

3.2 Naturally Occurring Asbestos

There are no known areas of naturally occurring asbestos in the Sutherland Shire Council Local Government Area.

4 Relevant Legislation

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*
- *Code of practice on how to manage and control asbestos in the workplace* (catalogue no. WC03560) published by WorkCover NSW.
- *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by WorkCover NSW.
- *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.*

- *Work Health and Safety Act 2011*
- *Work health and Safety Regulation 2011*
- *Workers Compensation (Dust Diseases) Act 1942*

5 Related and Associated Council Policy and Procedures

5.1 Work Health & Safety

- Sutherland Shire Council P1- Work Health and Safety Policy
- Sutherland Shire Development Control Plan 2006, Chapter 5, part 3, Contaminated Land Management.
- Contaminated Land Policy – Kurnell Peninsula. Development Control Plan – Land Deferred or Excluded from Sutherland Shire Local Environment Plan 2006.

5.2 Roles and Responsibilities of Council

Council is responsible for authorisation, approval and regulation of the following;

- Management of public land
- Management of asbestos waste
- Demolition of structures containing asbestos
- Development Assessment
- Private land contaminated by asbestos
- Public health
- Emergencies and incidents
- Education of and information to residents
- Investigation of asbestos related complaints

Council is not responsible for the following;

- The actual demolition, disposal or undertaking of works in relation to asbestos on private land other than the approval and regulatory responsibilities mentioned above.

5.3 Advice for Residents

General information on asbestos and locations where asbestos may be located at a residential property is found in Appendix C.

If a resident is undertaking the removal of more than 10m² of non-friable asbestos or asbestos containing material (ACM), the work must be carried out by a person who is the holder of a Class A or Class B asbestos removal licence. The premise is considered to be a workplace and regulated by WorkCover under the NSW Work Health and Safety Regulation 2011.

A person conducting a business or undertaking (PCBU) involving refurbishment or demolition of a residential premises must ensure that all asbestos that is likely to be

disturbed by a refurbishment or demolition is identified and, so far as reasonably practicable, is removed before the refurbishment or demolition is commenced.

Friable asbestos must only be removed by a licensed removalist with a friable (Class A) asbestos removal licence.

All licensed asbestos removal must be:

- Supervised by an “asbestos removal supervisor” named to WorkCover and;
- Notified in writing to WorkCover at least five days prior to the removal of asbestos work commencing.

Removal of 10 m² or less of non-friable asbestos may be undertaken without a licence. Council encourages residents to consider engaging a licensed asbestos removal contractor because of the potential risk from handling asbestos.

To safely manage risk during removal of asbestos always refer to the WorkCover Code of Practice on how to safely remove asbestos (catalogue no. WC03561).

6 Responsible Officer

The Manager - Environment and Health Regulation Unit shall be the controlling Officer for this Policy.

6.1 Asbestos Register

The Group Manager - **Asset Management Group** shall have responsibility for the development, maintenance and review of Asbestos Register.

The Manager - **Parks and Manager – Building Assets** shall have the responsibility to provide the Group Manager – Asset Management Group with a list of assets under the Units control, required information and resources to populate the register.

6.2 Contaminated Land Information Register

The Manager Environmental Science and Policy Unit shall have the responsibility for the maintenance and review of the Contaminated Lands Information Register.

7 Responsibilities

7.1 Asbestos Identification

Council shall identify Asbestos and ACM in workplaces under its management and control, so far as is reasonably practicable.

The identification of asbestos and ACM at council shall be the responsibility of the Unit in control of the asset.

- Council buildings, facilities and amenities assets shall be the responsibility of the Manager - **Asset Management Group**.
- Council parks and other outdoor assets shall be the responsibility of the Manager - **Engineering Operations Group**.

The Identification of asbestos shall be in line with the requirements of Councils WHS Management System CSI 24 Asbestos Management and Handling.

7.2 Asbestos Register

The *Work Health and Safety Regulation 2011 NSW* requires that council prepares an asbestos register. The asbestos register must record the presence and location of any asbestos or ACM that is identified at any council workplace.

Council shall maintain and review a single Asbestos Register in line with requirements of WHS Management System CSI 24 Asbestos Management and Handling.

7.3 Review of Asbestos Register

Council shall review and update council's current Asbestos Register (2008) to comply with this Policy in a planned and coordinated manner.

A review of the Asbestos Register shall require:

- the register to be prepared in line with requirements of Councils WHS Management System CSI 24 Asbestos Management and Handling;
- a prioritised plan for assessment or re-assessment of council workplaces based on risk of exposure;
- that inspections are undertaken by a competent person with the necessary qualifications and/or skills, knowledge and experience to:
 - confirm the presence, location and condition of asbestos identified in the current register;
 - assess the presence of asbestos at other workplaces suspected of containing asbestos based on the construction date of the asset; and
 - assess the presence of asbestos at other workplaces suspected of contamination based on current or previous use of land;

7.4 Access to Asbestos Register

Council shall make the Asbestos Register available to Workers, Health and Safety Representatives (HSR) or another PSBU at a workplace through:

- Council's Compass intranet;
- warnings generated by Customer Request Management System (CRMS);
- inclusion of information in Confirm;
- relevant sections included in tenders, quotes and contracts; or
- when requested by persons identified above.

7.5 Asbestos Management Plan

Council shall develop, maintain and review an Asbestos Management Plan in line with requirements of Councils WHS Management System CSI 24 Asbestos Management and Handling.

7.6 Removal of Asbestos at a Council Workplace

Removal of asbestos or ACM at a council workplace shall only take place when:

- NSW WorkCover has been notified in writing at least five days prior to the asbestos removal work commencing. In the case of emergency work, such as burst pipes, fires and illegally dumped asbestos, council may request that WorkCover NSW waive the five days period.
- an asbestos removal control plan has been prepared, supplied and kept;
- a copy of the asbestos register has been supplied to the removalist;
- the person with management or control of the workplace that the licensed asbestos removal work is to be carried out has been informed;
- workers and those in the immediate vicinity of the workplace have been informed;
- signs and barricades have been erected;
- access to the asbestos removal area has been limited;
- arrangements are in place to properly dispose of asbestos waste and dispose of, or treat, contaminated personal protective equipment; and
- arrangements have been made for a clearance inspection and clearance certificate after removal has been completed.

7.6.1 **Removal of Asbestos by Council Employees**

Council employees shall not remove more than 10 square metres of bonded asbestos under any circumstances. Council employees shall only remove less than 10 square metres of asbestos when they are:

- appropriately trained;
- adequately supervised;
- provided with appropriate personal protective equipment and clothing;
- provided with or develop a Safe Work Method Statement;
- provided with information about the health risks and health effects associated with exposure to asbestos and the need for, and details of, health monitoring.

Council employees shall not remove or handle friable asbestos under any circumstances.

Council employees shall remove asbestos in line with the requirements of Councils WHS Management System CSI 24 Asbestos Management and Handling.

7.6.2 **Removal of Asbestos by Contractors**

Council shall use licensed asbestos contractors when:

- removing or handling bonded asbestos greater than 10 square metres (Class A or B license); and
- removing or handling friable asbestos (Class A license)

Council shall use where possible, asbestos removalists contractors that have preferred supplier agreements with council. Council preferred suppliers have:

- had their licence details verified;
- provided evidence of staff training;
- provided evidence of health surveillance; and
- necessary insurances.

Where council becomes aware of any breaches by licensed asbestos removalists, council shall report the breach and its details to WorkCover NSW.

7.6.3 Clearance Inspections and Certificates

Once Council-commissioned asbestos removal work has been completed, a clearance inspection shall be carried out by an independent licensed asbestos assessor (for Class A asbestos removal work), or an independent competent person (in any other case), and a clearance certificate issued before the asbestos removal area is re-occupied

Council shall require that a friable asbestos clearance certificate requires both visual inspection as well as air monitoring of the asbestos removal site. Air monitoring is mandatory for all friable asbestos removal and shall be conducted before and during asbestos removal work by an independent licensed asbestos assessor.

Council shall request that air monitoring be conducted during removal of bonded asbestos if the circumstances warrant such testing to occur.

7.7 Accidental Disturbance of Asbestos

Accidental disturbance of asbestos or ACM by council work shall be contained in line with WHS Management System CWI Asbestos at the workplace.

7.8 Training

Council shall:

- provide information, training, instruction and/or supervision that is necessary to protect persons at the workplace from risks of asbestos to their health and safety arising from work carried out as part of the conduct of council business;
- ensure employees who council reasonably believes may be involved in asbestos removal work or the carrying out of asbestos-related work in the workplace are trained in the identification, safe handling and suitable control measures for asbestos and asbestos containing material; and
- verify that a contractor and its workers engaged by council for the removal of asbestos hold a certification in relation to the specified VET course the identification and safe handling of, and suitable control measures for, asbestos and ACM for asbestos removal relevant to the class of licensed asbestos removal work to be carried out.

7.9 Demolition or Refurbishment of a Structure or Plant

Prior to demolition or refurbishment of any council structure/plant constructed or installed before 31 December 2003, council shall ensure that the asbestos register for that workplace is reviewed (and if necessary revised). A copy of the register is to be provided to the person with management or control of the workplace who is to carry out the demolition or refurbishment.

7.10 Development Application Assessment

7.10.1 Consent Authority

Sutherland Shire Council is the consent authority for the majority of development applications in the LGA and assesses development applications for approval under the *Environmental Planning and Assessment Act 1979*.

Council may,

- Set conditions of consent for renovations, alterations, additions, demolitions or other developments requiring consent and which may involve disturbance of asbestos containing materials.
- Ensure compliance with development conditions.
- Apply conditions relating to development involving friable and non-friable asbestos material under the relevant legislation and planning codes.

The Joint Regional Planning Panel (JRPP) is also a consent authority for certain local or regional development. Council has representation on the JRPP.

7.10.2 Certification

Where asbestos has been identified or may be reasonably assumed to be present, Council or the JRPP may impose conditions of consent requiring the safe removal and disposal of asbestos,

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 are carried out appropriately in accordance with the Environmental Planning and Assessment Regulation 2000 (clause 136E).

7.11 Contaminated Land

7.11.1 Soil Contamination

Contamination of soils from asbestos or asbestos containing materials is a potential risk to human health in urban and rural environments if the asbestos can give rise to elevated levels of airborne fibres that people can breathe.

Buried asbestos material may not give rise to airborne asbestos fibres if securely contained, but disturbance of this waste could give rise to harmful levels of airborne asbestos fibres and so should be avoided.

Activities such as those listed in Appendix C [(c) Contaminated Sites] have the potential to encounter and disturb asbestos waste or contamination, particularly where the

contamination is not known to be present at the site or has not been appropriately considered.

7.12 Remediation of land contaminated with asbestos

During site redevelopment council must consider the suitability of the land for the intended use. As such, Council will consider contamination with asbestos containing materials in the same way as other forms of contamination. In association with relevant legislation, Council may require remediation of the land prior to development of the land in accordance with the requirements of State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land, the Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land, the Assessment of Contaminated Site National Environment Protection Measure 1999 (Amended 2013) and Councils policies developed in accordance with SEPP 55.

The responsibility for remediation of contaminated land is outlined in section 6 of the Contaminated Lands Management Act 1997.

7.12.1 Clean up Notices

Where a site is contaminated by asbestos and council believes there is a real or potential risk of harm to human health, Council may require remediation independent of any rezoning or development applications under the Protection of the Environment Operations Act 1997.

Council may issue **Clean-Up Notices (under part 4.2 of the Protection of the Environment Operations Act 1997)** to the owner of land or occupier of premises at, or from which, a council authorised officer reasonably suspects that a pollution incident has occurred, or is occurring, requiring asbestos waste to be removed.

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, an authorised officer 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 any expenses incurred during the compliance work.

7.12.2 Significantly Contaminated Land

The **Contaminated Land Management (CLM) Act 1997** applies to significantly contaminated land. Where land is believed to be significantly contaminated within the meaning stated in the CLM Act 1997, it may be notified under section 60 of the CLM Act 1997 to the lead regulatory authorities – NSW Environment Protection Authority and NSW WorkCover Authority.

In general, significant contamination is usually associated with former asbestos processing facilities or where large quantities of buried friable asbestos waste has been uncovered and is giving rise to measureable levels of asbestos fibres in air. Such sites require regulatory intervention to protect community health where the source of the contamination is not being addressed by the responsible person. The Environment Protection Authority has details of sites that have been nominated as significantly contaminated on its Public Register at: www.environment.nsw.gov.au/clm/publiclist.htm

If land is contaminated but not determined to be 'significant enough to warrant regulation' then the **Contaminated Land Management Act 1997** does not apply. In such cases the

provisions within the planning legislation and/or the *Protection of the Environment Operations Act 1997* may be the appropriate mechanism for management of such contamination. Guidance on assessing land can be found in the document: *Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997*.

7.12.3 **Derelict Buildings**

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

Council Officers may respond to derelict properties that pose a demonstrable public health risk using a range of regulatory tools according to the particular circumstances.

Authorised Officers may issue a Clean-Up notice or Prevention Notice and Compliance Cost Notice under the provisions of the ***Protection of the Environment Operations Act 1997***.

Council Officers 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 (under section 121B 2(c) of the ***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 section 121M of the ***Environmental Planning and Assessment Act 1979***). If a person fails to comply with the terms of an order, council may act under section 121ZJ 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.

7.12.4 **Clearance Inspections and Certificates – Private Land**

Where a property owner or occupier commissions any licensed asbestos removal work, council shall require that once the licensed asbestos removal work has been completed, a clearance inspection is carried out and a clearance certificate issued by an independent licensed asbestos assessor (for Class A asbestos removal work) or an independent competent person (in any other case) before the asbestos removal area is re-occupied.

Council shall require that a friable asbestos clearance certificate is based on both a visual inspection as well as air monitoring of the asbestos removal site. Air monitoring is mandatory for all friable asbestos removal and must be conducted before and during asbestos removal work by an independent licensed asbestos assessor.

Council may require that air monitoring be conducted during removal of bonded asbestos if the circumstances warrant such testing to occur.

7.13 **Responding to Emergencies**

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.

7.13.1 Clean Up After Emergency

If the emergency or incident occurs at a workplace or is caused during licensed removal or remediation work, WorkCover is the lead agency

Council regulates the removal of asbestos waste following emergencies where sites are handed over to the Council or a local resident by an emergency service organisation.

Council's Authorised Officers may issue a Clean-Up Notice, Prevention Notice, Compliance Cost Notice or Penalty Infringement Notice under the provisions of the ***Protection of the Environment Operations Act 1997*** or alternatively may take action under the provisions of the ***Environmental Planning and Assessment Act 1979***.

Depending on the nature of the incident investigating officers may:

- 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.
- 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 (as outlined in section 14.6.2) or issuing a Clean-up or Prevention Notice (as outlined in section 6.4) to ensure asbestos containing materials are removed for disposal.
- Where appropriate, ensure that the contaminated area is kept damp, at all times or sprayed with PVA glue, particularly where friable asbestos is present (note that in some instances this treatment 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).
- Ensure that asbestos containing materials are disposed of at a facility licensed to accept asbestos waste by requiring proof of appropriate disposal through sighting of weighbridge dockets or similar documentation.

7.13.2 Advice to Public after Emergency

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.

Where council is involved in the removal of asbestos or ACM from a site, the circumstances and potential impact from the asbestos removal procedure may require council officers to consider advising nearby residents 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
- any other measures recommended by an occupational hygienist following assessment of the situation.

7.13.3 **Illegal Dumping**

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

- Penalty Infringement Notice (on the spot fine) of up to \$5000
- 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 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.

Council is the appropriate regulatory authority for illegal dumping unless:

- the activity was part 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.

7.13.4 **Illegal Landfill**

Illegal land-filling, where waste is 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.

7.14 **Asbestos Complaint Investigation**

The handling of asbestos related complaints is undertaken by both council and WorkCover NSW. Who responds to a complaint depends on the type of premise where the asbestos related work is carried out, or who is undertaking the work, or the quantity of asbestos being dealt with.

Complaints would generally be dealt with as follows:

- Complaints and inquiries regarding handling and/or removal of ACM at a workplace (including a residential building site) shall be directed to WorkCover NSW 13 10 50.
- Complaints and inquiries regarding handling and/or removal of ACM from any residential premise that would exceed 10m² in area shall be directed to WorkCover NSW 13 10 50
- Complaints and inquiries regarding licensed premises under the Protection of the Environment Operations Act 1997 shall be directed to the EPA.
- Council will investigate complaints and inquiries regarding handling and/or removal of ACM in public places and on private properties which is less than 10m² in area.
- Council will respond to complaints and inquiries regarding:
 - 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 licensed asbestos removalist, business or undertaking.
 - unsafe asbestos related work at a residential property that is being undertaken by a resident (not by a worker/contractor).
 - requirements in relation to development, land management and waste management
 - derelict properties
 - general asbestos safety issues
 - illegal dumping of materials containing asbestos materials;
 - safe removal and disposal of minor quantities of asbestos materials;
 - unsafe work at a residential property conducted by a homeowner or tenant.

8 Monitoring

8.1 Health Monitoring

Council shall carry out health monitoring of its employees for exposure to asbestos in line with WHS Management System CSP 22 Health Monitoring.

Council shall verify that a contractor engaged by council carries out health monitoring of its workers for exposure to asbestos as part of a preferred supplier agreement or as part of a tender/quotation or a contract.

9 Review Date

This policy shall be reviewed at least every two (2) years to ensure it remains relevant and appropriate to council's health and safety risks, obligations to public and environmental health and in response to legislative or organisational change.

10 Record Keeping, Confidentiality and Privacy

10.1 Asbestos Register

Council shall ensure that an asbestos register is prepared and kept. The asbestos register must either record the presence of any asbestos or ACM at the workplace that has been

identified by a competent person or state that no asbestos or ACM is identified at the workplace.

10.2 Training

Records of council employees trained in asbestos awareness and handling shall be made, kept and maintained in line with WHS Management System CSP 10 WHS Training.

10.3 Health Monitoring

Records of the health monitoring of council employees for exposure to asbestos shall be made, kept and maintained in line with WHS Management System CSP 22 Health Monitoring.

10.4 Contaminated Lands Information Register (CLIR)

Council maintains a Contaminated Lands Information Register to assist in the identification of potentially contaminated and contaminated lands for the purposes of meeting requirements under the Environmental Planning & Assessment Act 1979.

Where Council has information indicating that land is contaminated with asbestos materials either as buried waste or contained within fill material, a record of that information will be included on the Contaminated Lands Information Register for that property and a notation recorded on the s.149 Planning Certificate under subsection 5.

11 Non Compliance

11.1 Non Compliance at a Council Workplace

To secure and promote compliance with the Management of Asbestos Policy and its requirements council may take the following actions depending on the circumstances, as soon as practicable after an occurrence.

11.1.1 Council Employees

Non-compliance may lead to,

- disciplinary action in accordance with relevant industrial instruments and council's Counselling and Discipline Policy or may be initiated as an outcome from a performance appraisal or review.

11.1.2 Contractors under Council control

Non-Compliance may lead to:

- contractors being asked to leave the council workplace,
- a review of status as a preferred supplier, and
- termination of part or whole of contract as per the terms and conditions of the contract.
- being reported to NSW WorkCover Authority.

11.1.3 **Work Experience**

Non-compliance may lead to:

- the work experience person being asked to leave the council workplace;
- their school or institute being contacted about the non-compliance; and
- cancellation of work experience.

11.1.4 **Volunteer**

Non-compliance may lead to:

- the volunteer being asked to leave the council workplace,
- the volunteer's contribution being no longer required.

11.2 **Non Compliance at Non-Council Property**

11.2.1 **Non-compliant removal by Licenced Asbestos Removalist**

Non compliance identified by or reported to council shall lead to council reporting the non-compliance to the NSW WorkCover Authority and may lead to council issuing;

- a Notice under the ***Protection of the Environment Operations Act 1997*** NSW; and/or
- a Penalty Infringement Notice

11.2.2 **Non-Compliant Handling or Removal by a PCBU (Contractor)**

Non compliance identified by or reported to COUNCIL of a PCBU using unsuitable methods, incorrectly removing asbestos, removing friable asbestos without a licence or removing more than 10 square metres of Bonded Asbestos without a licence shall lead to council reporting the non-compliance to the NSW WorkCover Authority and may lead to council issuing

- a Notice under the ***Protection of the Environment Operations Act 1997*** NSW; and/or
- a Penalty Infringement Notice (on the spot fine).

11.2.3 **Non-compliant handling or removal by Property Owner / Occupier (not involving a PCBU)**

Non-compliance identified by or reported to council of a resident using unsuitable methods, or incorrectly removing asbestos may lead to council issuing:

- a Notice under the ***Protection of the Environment Operations Act 1997*** NSW; and/or
- a Penalty Infringement Notice (on the spot fine)

A APPENDIX

A.1 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 WorkCover NSW
- **Code of practice on how to safely remove asbestos** (catalogue no. WC03561) published by WorkCover NSW
- **Contaminated Land Management Act 1997**
- **Environmental Planning and Assessment Act 1979**
- **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.**

accredited certifier in relation to matters of a particular kind, means the holder of a certificate of accreditation as an accredited certifier under the *Building Professionals Act 2005* in relation to those matters.

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
- a. grunerite (or amosite) asbestos (brown)
- b. anthophyllite asbestos
- c. chrysotile asbestos (white)
- d. crocidolite asbestos (blue)
- e. tremolite asbestos
- f. 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 removal licence means a Class A asbestos removal licence or a Class B asbestos removal licence.

asbestos removal work means:

- a. work involving the removal of asbestos or asbestos containing material, or
- b. Class A asbestos removal work or Class B asbestos removal work.

asbestos removalist means a person conducting a business or undertaking who carries out 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.

Class A asbestos removal licence means a licence that authorises the carrying out of Class A asbestos removal work and Class B asbestos removal work by or on behalf of the licence holder.

Class A asbestos removal work means the removal of friable asbestos which must be licensed under clause 485 of the *Work Health and Safety Regulation 2011*. This does not include: the removal of ACD that is associated with the removal of non-friable asbestos, or ACD that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

Class B asbestos removal licence means a licence that authorises the carrying out of Class B asbestos removal work by or on behalf of the licence holder.

Class B asbestos removal work means the removal of more than 10 square metres of non-friable asbestos or asbestos containing material work that is required to be licensed under clause 487, but does not include Class A asbestos removal work.

competent person means: a person who has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice and holds:

- a. a certification in relation to the specified VET course for asbestos assessor work, or
- b. a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health.

complying development is a fast track, 10 day approval process where a building meets all of the predetermined standards established in either a state or local Council planning document. A complying development certificate can be issued by either a local Council or an accredited certifier.

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.

demolition work means work to demolish or dismantle a structure, or part of a structure that is load bearing or otherwise related to the physical integrity of the structure, but does not include:

- a. the dismantling of formwork, false work, or other structures designed or used to provide support, access or containment during construction work, or
- b. the removal of power, light or telecommunication poles.

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.

emergency service organisation includes any of the following:

- a. the Ambulance Service of NSW
- b. Fire and Rescue NSW
- c. the NSW Rural Fire Service
- d. the NSW Police Force
- e. the State Emergency Service
- f. the NSW Volunteer Rescue Association Inc
- 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.

exposure standard for asbestos is a respirable fibre level of 0.1 fibres/ml of air measured in a person's breathing zone and expressed as a time weighted average fibre concentration calculated over an eight-hour working day and measured over a minimum period of four hours in accordance with the Membrane Filter Method or a method determined by the relevant regulator.

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.

handling – Includes when asbestos is:

- a. removed;
- b. stored;
- c. transported;
- d. disposed of; and
- e. worked on for the purposes of maintenance; and
- f. other asbestos-related work.

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.

independent, in relation to clearance inspections and air monitoring means:

- a. not involved in the removal of the asbestos
- b. not involved in a business or undertaking involved in the removal of the asbestos, in relation to which the inspection or monitoring is conducted.

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.

licence holder means: in the case of an asbestos assessor licence – the person who is licensed:

- a. to carry out air monitoring during Class A asbestos removal work
- b. to carry out clearance inspections of Class A asbestos removal work
- c. to issue clearance certificates in relation to Class A asbestos removal work, or
 - in the case of an asbestos removal licence – the person conducting the business or undertaking to whom the licence is granted, or
 - in the case of a major hazard facility licence – the operator of the major hazard facility to whom the licence is granted or transferred.

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

licensed asbestos removalist means a person conducting a business or undertaking who is licensed under the *Work Health and Safety Regulation 2011* to carry out Class A asbestos removal work or Class B asbestos removal work.

licensed asbestos removal work means asbestos removal work for which a Class A asbestos removal licence or Class B asbestos removal licence is required.

NATA means the National Association of Testing Authorities, Australia.

NATA-accredited laboratory means a testing laboratory accredited by NATA, or recognised by NATA either solely or with someone else.

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).

occupational hygienist means a person with relevant qualifications and experience in asbestos management who is a full member of the Australian Institute of Occupational Hygienists (AIOH).

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

orphan waste means materials that have been placed or disposed of on premises unlawfully that may have the potential to pose a risk to the environment or public health.

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.

personal protective equipment means anything used or worn by a person to minimise risk to the person's health and safety, including air supplied respiratory equipment.

reasonably practicable (in the *Work Health and Safety Act 2011 NSW*) in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including:

- a. the likelihood of the hazard or the risk concerned occurring, and
- b. the degree of harm that might result from the hazard or the risk, and
- c. what the person concerned knows, or ought reasonably to know, about:
 - i. the hazard or the risk, and
 - ii. ways of eliminating or minimising the risk, and
- d. the availability and suitability of ways to eliminate or minimise the risk, and
- e. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

respirable asbestos fibre means an asbestos fibre that:

- a. is less than three micrometres wide
- b. more than five micrometres long
- c. has a length to width ratio of more than 3:1.

specified VET course means:

- a. in relation to Class A asbestos removal work – the following VET courses:
 - remove non-friable asbestos
 - remove friable asbestos, or
- b. in relation to Class B asbestos removal work – the VET course Remove non-friable asbestos, or
- c. in relation to the supervision of asbestos removal work – the VET course Supervise asbestos removal, or
- d. in relation to asbestos assessor work – the VET course Conduct asbestos assessment associated with removal.

structure means anything that is constructed, whether fixed or moveable, temporary or permanent, and includes:

- a. buildings, masts, towers, framework, pipelines, transport infrastructure and underground works (shafts or tunnels)
- b. any component of a structure
- c. part of a structure

unsuitable methods includes prohibited use of equipment that creates dust such as-

- a. high pressure water washers, jets and sprays;
- b. scrapers and wire brushes;
- c. power tools that cause dust to be produced;
- d. brooms and brushes (does not include brushes to paint on sealants);
- e. compressed air. and
- f. using hammers and other hand held tools to break or cut sheeting.

volunteer means a person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses).

waste includes:

- a. 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
- b. any discarded, rejected, unwanted, surplus or abandoned substance, or
- c. 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
- d. 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
- e. 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).

worker a person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as:

- a. an employee, or
- b. a contractor or subcontractor, or
- c. an employee of a contractor or subcontractor, or
- d. an employee of a labour hire company who has been assigned to work in the person's business or undertaking, or
- e. an outworker, or
- f. an apprentice or trainee, or
- g. a student gaining work experience, or
- h. a volunteer, or
- i. a person of a prescribed class.

workplace a workplace is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. Place includes: a vehicle, vessel, aircraft or other mobile structure, and any waters and any installation on land, on the bed of any waters or floating on any waters.

A.2 APPENDIX B - ACRONYMS

ACD	Asbestos Containing Dust (an acronym used in the legislation)
ACM	Asbestos Containing Material (an acronym used in the legislation)
ARA	Appropriate Regulatory Authority (an acronym used in the legislation)
DA	Development Application
EPA	Environment Protection Authority
HSR	Health and Safety Representative
JRPP	Joint Regional Planning Panel
LGA	Local Government Area
NATA	National Association of Testing Authorities
NSW	New South Wales
PCBU	Person Conducting a Business or Undertaking
SEPP	State Environmental Planning Policy
COUNCIL	Sutherland Shire Council
VET	Vocational Education and Training
WHS	Work Health & Safety

A.3 APPENDIX C - GENERAL INFORMATION

1. What is Asbestos

Asbestos is the generic term for a number of naturally occurring, fibrous silicate materials. If asbestos is disturbed it can release dangerous fine particles of dust containing asbestos fibres. Breathing in dust containing elevated levels of asbestos fibres can cause asbestosis, lung cancer and mesothelioma.

There are two major groups of asbestos:

- the serpentine group contains chrysotile, commonly known as white asbestos
- the amphibole group contains amosite (brown asbestos) and crocidolite (blue asbestos) as well as some other less common types (such as tremolite, actinolite and anthophyllite).

In Australia, in the past asbestos was mined and widely used in the manufacture of a variety of materials. Asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited in Australia since 31 December 2003.

Asbestos legacy materials still exist in many homes, buildings and other assets. It is estimated that 1 in 3 Australian homes contains building materials with asbestos. Where the material containing asbestos is in a non-friable form (or bonded), undisturbed, and painted or otherwise sealed, it may remain safely in place. However, where the asbestos containing material is broken, damaged or mishandled, fibres can become loose and airborne posing a risk to health. Disturbing or removing asbestos unsafely can create a health hazard.

It is often difficult to identify the presence of asbestos by sight. If you are in doubt, it is best to assume that you are dealing with asbestos and take every precaution. The most accurate way to find out whether a material contains asbestos is to obtain an asbestos inspection by a person competent in the identification and assessment of asbestos such as an occupational hygienist. It can be unsafe for an unqualified person to take a sample of asbestos. Licensed asbestos removalists can be found by using the telephone directory. COUNCIL encourages residents to ask the contractor for a copy of their licence prior to engaging them. Residents can then check with WorkCover NSW (phone 13 10 50) to confirm the contractor has the appropriate class of licence for the asbestos removal job.

2. Where is asbestos found

a. Residential Premises

As a general rule, a house built:

- Before the mid 1980s – is highly likely to contain asbestos containing products.
- Between the mid 1980s and 1990 – is likely to contain asbestos containing products.
- After 1990 – is unlikely to contain asbestos containing products. However, some houses built in the 1990s and early 2000s may have still used asbestos cement materials until the total ban on any activity involving asbestos products became effective from December 2003.

Pipelines installed prior to 1992, particularly black surface coated and grey surface pipes, may contain asbestos.

It is important to note, the most accurate way to find out whether a material contains asbestos is by engaging a licensed asbestos removalist or occupational hygienist to inspect and arrange testing where necessary.

Fibre cement sheeting, commonly known as 'fibro', 'asbestos sheeting' or 'AC sheeting' (asbestos containing sheeting) is the most commonly found legacy asbestos material in residential premises. Other asbestos containing materials were used in 'fibro' houses but also found in brick and timber housing stock from that period. Asbestos materials were sold under a range of commercial names. Some asbestos containing materials found in New South Wales domestic settings are listed in Appendix J.

Common places where asbestos is likely to be found in and around homes include:

Outside

- backyard garden sheds, carports, garages and dog kennels
- electrical meter boards
- imitation brick cladding
- lining under eaves
- wall and roof materials (flat, patterned or corrugated asbestos sheeting).

Inside

- insulation materials in heaters and stoves
- interior walls and sheeting
- sheet materials in wet areas (bathroom, toilet and laundry walls, ceilings and floors)
- vinyl floor tiles, the backing to cushion vinyl flooring and underlay sheeting for ceramic tiles including kitchen splashback.

Asbestos can also be found in:

- angle mouldings (internal and external)
- board around windows and fireplaces
- brake pads and clutch pads to vehicles
- buried and dumped waste materials
- carpet underlay
- ceilings (ceiling tiles or sprayed coatings or loose in the ceiling cavity)
- cement flooring
- external toilets
- fencing
- guttering, downpipes and vent pipes
- inside appliances eg irons, whitegoods
- gable ends
- outbuildings
- ridge capping
- swimming pools – reinforcing marble swimming pools
- ventilators – internal and external.

b. Commercial and Industrial Land

In commercial and industrial premises, asbestos may be found in the abovementioned places and also:

- asbestos rope or fabric in expansion joints (for example exhaust flues) and insulation
- bituminous waterproof membrane on flat roofs
- brake disc pads and brake linings
- cloth, tapes, ropes and gaskets for packing
- electrical switchboards and duct heater units
- fillers and filters
- fire doors
- lagging on pipes such as heater flues
- lift motor rooms
- pipes, casing for water and electrical/ telecommunication services
- rubber, plastics, thermosetting resins, adhesives, paints, coatings, caulking compounds and sealants for thermal and insulation applications structural beams of buildings
- yarns and textiles e.g. fire blankets.

c. Contaminated Sites

Contamination of soils from asbestos or asbestos containing materials can present a risk in urban and rural environments if the asbestos can give rise to elevated levels of airborne fibres that people can breathe. Whilst buried material may not give rise to airborne asbestos fibres if securely contained, inappropriate disturbance of this waste could give rise to harmful levels of asbestos fibres in air.

Situations where asbestos contamination may occur include:

- industrial land, eg, asbestos-cement manufacturing facilities, former power stations, and rail and ship yards, especially workshops and depots
- waste disposal or dumping sites, including sites of illegal dumping eg, building waste
- sites with infill or burial of asbestos waste from former asbestos mining or manufacture processes
- buildings or structures damaged by fire or storm (particularly likely for those with pre-1980s building materials but also possible for those with materials from prior to 2004)
- land with fill or foundation material of unknown composition
- sites where buildings or structures have been constructed from asbestos containing material or where asbestos may have been used as insulation material, eg, asbestos roofing, sheds, garages, reservoir roofs, water tanks, boilers and demolition waste has been buried onsite
- sites where buildings or structures have been improperly demolished or renovated, or where relevant documentation is lacking (particularly likely for those with pre-1980s building materials but also those with materials from prior to 2004)
- disused services with asbestos containing piping such as water pipes (including sewage systems, water services and irrigation systems), underground electrical and telephone wires and telecommunications trenches or pits (usually within 1 metre of the surface).