



**JUNEE SHIRE COUNCIL**

**ASBESTOS POLICY  
2022**

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Human Resources, Health Work and Risk Management

Human Resources

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# **I. INTRODUCTION**

Junee Shire Council acknowledges the serious health hazard of exposure to asbestos.

In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. Yet asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure. It is estimated that one in three Australian homes contain 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 Local Government Area (LGA)
- workers (employees and other persons) in council workplaces.

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

- as a responsible employer
- 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)
- waste management and regulation.

## **1.1 Purpose**

This policy aims to outline:

- the role of council and other organisations in managing asbestos
- council's relevant regulatory powers
- council's approach to dealing with naturally occurring asbestos, sites contaminated by asbestos and emergencies or incidents
- general advice for residents on renovating homes that may contain asbestos
- 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 LGA

- council's approach to managing asbestos containing materials in council workplaces
- sources of further information.

## **1.2 Scope**

This policy applies to all of the Junee Local Government Area within council's jurisdiction.

The policy provides information for council workers, the local community and wider public.

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

The policy outlines council's commitment and responsibilities in relation to safely managing asbestos and contains general advice.

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

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

## **2. ROLES AND RESPONSIBILITIES OF COUNCIL**

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

### **2.2 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 10.7 certificates) where on-site disposal is permitted.

Junee Landfill facility is licensed to accept asbestos waste.

### 2.3 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:

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

**Table I: 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 10.7 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 SafeWork NSW).</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 and as outlined in section 8.</li> </ul>
Demolition	<ul style="list-style-type: none"> <li>• Approve demolition under the <i>Environmental Planning and Assessment Act 1979</i>.</li> </ul>

Issue	Council's role
	<ul style="list-style-type: none"> <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 SafeWork NSW). 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>
Residential premises	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Respond to complaints about unsafe work at a residential property that is undertaken by a resident (not a worker, which is the role of SafeWork NSW).</li> <li>• Respond to public health risks posed by derelict properties or asbestos materials in residential settings.</li> </ul>
Waste	<ul style="list-style-type: none"> <li>• Manage waste facilities in accordance with environmental protection legislation.</li> <li>• Respond to illegal storage, illegal dumping and orphan waste.</li> <li>• Regulate non-complying transport of asbestos containing materials.</li> </ul>

## 2.4 Responsibilities to workers

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

- general responsibilities
- education, training and information for workers
- health monitoring for workers
- procedures for identifying and managing asbestos containing materials in council premises.

## 3. OTHER STAKEHOLDERS INVOLVED IN MANAGING ASBESTOS

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

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

## 4. NATURALLY OCCURRING ASBESTOS

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 available through SafeWork NSW.

### 4.1 Responsibilities for naturally occurring asbestos

For naturally occurring asbestos that will remain undisturbed by any work practice, council is the lead regulator.

Where development applications propose activities that may disturb areas of naturally occurring asbestos (such as excavation), any consent or approval should contain conditions requiring: testing to determine if asbestos is present, and the development of an asbestos management plan if the testing reveals naturally occurring asbestos is present. Council will verify compliance with environmental planning and assessment legislation and together with the EPA and SafeWork NSW will coordinate enforcement where non-compliance is suspected.

Where naturally occurring asbestos will be disturbed due to a work process, including roadwork, excavation and remediation work, SafeWork NSW is the lead regulator. Requirements for workplaces are summarised in the *Naturally-occurring asbestos fact sheet* (catalogue no. WC03728) published by SafeWork NSW. Where naturally occurring asbestos is part of a mineral extraction process, the NSW Department of Industry is the lead regulator.

### 4.2 Managing naturally occurring asbestos

Where naturally occurring asbestos is encountered or suspected, the risk from disturbance of the naturally occurring asbestos should be assessed by an occupational hygienist.

The management of naturally occurring asbestos that stays in its natural state is not prohibited if managed in accordance with an asbestos management plan. Requirements for risk management, asbestos management plans and provisions for workers are outlined in the *Naturally-occurring asbestos fact sheet* (catalogue no. WC03728) published by SafeWork NSW. The SafeWork NSW website provides further information on naturally occurring asbestos and supporting documents on what people can do to avoid contact with naturally occurring asbestos.

#### 4.2.1 Management of naturally occurring asbestos by council

Council will aim to prevent the exposure of workers and the public to any naturally occurring asbestos that is known or discovered in the council workplace.



## **5. CONTAMINATION OF LAND WITH ASBESTOS**

The nature of asbestos contamination of land can vary significantly and there can be a number of different mechanisms available to address this contamination depending upon its source and extent.

### **5.1 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 clean-up 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*).

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*.

Council provides information about land contamination on planning certificates (issued under section 10.7 of the *Environmental Planning and Assessment Act 1979*).

For sites that are ‘significantly contaminated’ and require a major remediation program independent of any rezoning or development applications, the EPA and SafeWork NSW are the lead regulatory authorities.

### **5.2 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 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 planning certificate it may also inform applicants of any further information available.

Council records can only indicate known contaminated sites. Any site may potentially be contaminated.

Council may issue notices to land owners or occupiers requiring information about land it has reason to believe may be contaminated by asbestos using section 192 and section 193 of the *Protection of the Environment Operations Act 1997*.

### **5.3 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 they become 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*.

### **5.4 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 clean-up notice or prevention notice and compliance cost notice to remove asbestos.

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 under 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 it constitutes a serious risk to health or safety or an emergency.

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

## **6. 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 may include working with state agencies in accordance with the *NSW Asbestos Emergency Plan and the Disaster Assistance Guidelines*. 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.

## **6.1 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, SafeWork NSW is the lead agency.

Council may issue a clean-up, prevention, cost compliance or penalty infringement notice as outlined in this Policy.

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 SafeWork 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 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).
- 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.

## **6.2 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 clean up, 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.
- any other measures recommended by an occupational hygienist following assessment of the situation.

## **7. 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.

## **8. 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 (see section 8.5.2). 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.

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 is categorised as exempt development under the *Environmental Planning and Assessment Act 1979* and does not require development consent. 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.

### **8.1 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).

## **8.2 Providing advice to home owners, renovators and developers**

Council is committed to providing information to minimise the risks from asbestos in the LGA. Information is available on how to deal safely with the risks of asbestos.

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.
- 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.
- For demolition or redevelopment, any asbestos containing materials should be safely removed and disposed of prior to the work commencing.

Anyone engaging an asbestos removal contractor may contact SafeWork NSW with any queries as SafeWork NSW regulates asbestos removal by workers.

## **8.3 Identifying asbestos**

A person may apply to council for a planning certificate for the relevant land. Council may provide information on a planning certificate including whether council has a policy to restrict the use of land due to risks from asbestos contamination.

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.

## **8.4 Removing asbestos, refurbishments and demolitions**

### **8.4.1 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 SafeWork NSW 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 that is 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.

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* (catalogue no. WC03561).

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
- anyone occupying premises in the immediate vicinity of the workplace (as described in section 467 of the *NSW Work Health and Safety Regulation 2011*).

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 SafeWork NSW
- notified to SafeWork NSW at least five days prior to the work commencing

#### 8.4.2 Removing asbestos at workplaces

The *NSW Work Health and Safety Regulation 2011* specifies requirements for demolition and refurbishment at a workplace with structures or plants constructed or installed before 31 December 2003. SafeWork NSW is the lead agency for regulating the safe management of asbestos at workplaces.

#### 8.4.3 Obtaining approval for demolition

Demolition work is classified as high risk construction work in the *NSW Work Health and Safety Regulation 2011* and demolition licenses are required for some demolition work. The *Demolition Work Code of Practice 2015* provides practical guidance on how to manage the risks associated with the demolition of buildings and 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.

Demolition of development that would be exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is also exempt development and does not require consent. This includes minor structures such as carports, fences, sheds and the like.

## **8.5 Exempt or complying development**

### **8.5.1 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* (catalogue no. WC03561).

### **8.5.2 Complying development**

The *Environmental Planning and Assessment Regulation 2000* 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.

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.

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 SafeWork NSW would not be the agency responsible for regulating this activity.

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.

Further requirements to inform other persons of licensed asbestos removal are described in section 467 of the *NSW Work Health and Safety Regulation 2011*.

## **8.6 Development applications**

If a proposed building does not meet the requirements of exempt or complying development then the alternative planning approval pathway is 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 requirements of relevant environmental planning instruments and the development standards established by council. Council may undertake a site inspection as part of the DA assessment.

#### 8.6.1 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.

### 8.7 Compliance and enforcement

#### 8.7.1 Responsibilities for compliance and enforcement

The controls rely 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
- matters that are not preconditions to the issue of the occupation/subdivision certificate

In relation to naturally occurring asbestos, council is to verify compliance with environmental planning and assessment legislation and together with the EPA and SafeWork NSW is to coordinate enforcement where non-compliance is suspected.

#### 8.7.2 Compliance strategies

Illegal works include:

- works that are undertaken without a required development consent or complying development certificate
- 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 SafeWork 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.

Council may need to issue an order under the *Local Government Act 1993* 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.

## **9. 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.

### **9.1 Responsibilities for asbestos waste management**

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

### **9.2 Handling asbestos waste for disposal**

The *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) provides details on waste containment and disposal and controls applicable to all types of asbestos removal (in section 4.8 of the Code).

### **9.3 Transporting asbestos waste**

The following requirements apply to the transport of asbestos waste and non-compliance with these requirements is an offence under clause 78 of the *Protection of the Environment Operations (Waste) Regulation 2014*:

- (a) any part of any vehicle in which the person transports the waste is covered, and leak-proof, during the transportation, and
- (b) if the waste consists of bonded asbestos material, it is securely packaged during the transportation, and
- (c) if the waste consists of friable asbestos material, it is kept in a sealed container during transportation, and
- (d) if the waste consists of asbestos-contaminated soils, it is wetted down.

Asbestos waste that is transported interstate must be tracked in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014*. The transport of asbestos waste in NSW must be recorded from the place of generation to its final destination. The waste tracking system is administered by the EPA. Operators that use the EPA's WasteLocate system will be in compliance with these requirements. Information about EPA's WasteLocate system can be found at: [www.epa.nsw.gov.au/wasteregulation/transport-asbestos-tyres.htm](http://www.epa.nsw.gov.au/wasteregulation/transport-asbestos-tyres.htm)

An environment protection licence issued by the EPA 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 \$7,500 (to individuals) and \$15,000 (to corporations). NSW courts may impose penalties up to \$250,000 (for individuals) and \$1,000,000 (for corporations) found guilty of committing this offence.

#### **9.4 Disposing of asbestos waste at waste facilities**

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.
- 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 2014* and these offences attract strong penalties.

##### **9.4.1 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.

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 2014*).

Individuals may be fined \$7,500 and corporations may be fined \$15,000 under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Waste) Regulation 2014* for transporting asbestos waste to a facility that cannot lawfully receive asbestos waste.

## **9.5 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 landfilling, which is waste used as fill material, with or without the consent of the owner or occupier of the land and without the necessary council or EPA approvals, is also considered to be illegal dumping and pollution of land.

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 \$15,000
- 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 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 occupier or 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.

## **9.6 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.

## 10. 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 SafeWork 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
- safe removal and disposal of minor quantities of asbestos materials
- unsafe work at a residential property conducted by a homeowner or tenant.

## MANAGEMENT OF ASBESTOS RISKS WITHIN COUNCIL

### 11. RIGHTS AND RESPONSIBILITIES OF WORKERS AT THE COUNCIL WORKPLACE

#### 11.1 Duties of council workers at the council workplace

##### 11.1.1 The General Manager

The General Manager has a duty to exercise due diligence to ensure that council complies with the *NSW Work Health and Safety Act 2011* and the *NSW Work Health and Safety Regulation 2011*. This includes taking reasonable steps to ensure that council has and uses appropriate resources and processes to eliminate or minimise risks associated with asbestos.

##### 11.1.2 Workers

Workers have a duty to take reasonable care for their own health and safety and that they do not adversely affect the health and safety of other persons. Accordingly workers:

- must comply with this policy and any reasonable instruction or procedure relating to health and safety at the workplace.
- must use any personal protective equipment provided, in accordance with information, training and reasonable instruction provided so far as the worker is reasonably able.
- may cease, or refuse to carry out, work if the worker has a reasonable concern that to carry out the work would expose them, or other persons, to a serious health or safety risk, emanating from an immediate or imminent exposure to a hazard.
- should ensure they are using the latest version of all relevant procedures, plans, guidelines and legislation.

Managers are responsible for ensuring workers who report to them have access to this policy and appropriate information, documentation and training.

### 11.1.3 Prohibited work activities

Council will not permit the use of the following on asbestos or asbestos containing material:

- high pressured water spray (unless for firefighting or fire protection purposes), or
- compressed air.

Council will not permit the following equipment to be used on asbestos or asbestos containing material unless the use of the equipment is controlled in accordance with the *NSW Work Health and Safety Regulation 2011*:

- power tools
- brooms (note brooms are allowed for use on vinyl floor tiles), or
- any other implements that cause the release of airborne asbestos into the atmosphere.

## 11.2 Responsibilities of council to council workers

### 11.2.1 Council's general responsibilities

Council has general responsibilities under the *NSW Work Health and Safety Act 2011* and the *NSW Work Health and Safety Regulation 2011*. Accordingly council will:

- not use any asbestos containing materials (unless in accordance with part 8.1 (419) of the *NSW Work Health and Safety Regulation 2011*) and will not cause or permit asbestos waste in any form to be reused or recycled.
- ensure that exposure of a person at the workplace to airborne asbestos is eliminated so far as is reasonably practicable.
- ensure that the exposure standard for asbestos is not exceeded in the workplace.
- notify SafeWork NSW immediately if persons are likely to be affected by asbestos fibres or if an air monitoring process records respirable asbestos fibre levels above 0.02 fibres/ml of air.
- ensure that any contractors engaged to undertake the removal of asbestos for council are appropriately licensed.
- consult with workers as required by the *Work Health and Safety Act 2011*.

Council will take all reasonable steps to ensure it does not import asbestos or asbestos containing material into Australia as prohibited under the *Customs (Prohibited Imports) Regulations 1956*. If plant or other materials are imported from countries where asbestos is not yet prohibited, council shall take all reasonable steps to ensure the plant or materials do not contain asbestos prior to supply or use in the workplace.

### 11.2.2 Education, training and information for workers

As required by the *NSW Work Health and Safety Act 2011* and *NSW Work Health and Safety Regulation 2011*, council will:

- provide any information, training, instruction or supervision that is necessary to protect all persons at the workplace from risks to their health and safety arising from work carried out as part of the conduct of council business.

- ensure workers 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.

### 11.2.3 Health monitoring for workers

Council will ensure health monitoring is provided to a worker if they are carrying out licensed asbestos removal work, other ongoing asbestos removal work or asbestos-related work at the workplace for council and are at risk of exposure to asbestos when carrying out the work.

The health monitoring will be consistent with the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) and meet the requirements of the *NSW Work Health and Safety Regulation 2011* (part 8.5 Division 1).

Health counselling may be appropriate where a heightened sense of concern exists for individuals possibly exposed to elevated levels of airborne asbestos fibres.

Employees who were exposed to asbestos in the past and if there is a risk to the health of the employee as a result of that exposure, are covered by the *NSW Work Health and Safety Regulation 2011* (clauses 435-444). Council will ensure these employees are kept on the health monitoring program.

## 12. IDENTIFYING AND RECORDING ASBESTOS HAZARDS IN THE COUNCIL WORKPLACE

This section outlines how council will identify and record asbestos hazards in the workplace.

### 12.1 Identifying asbestos

Council will ensure, so far as is reasonably practicable, that all asbestos or asbestos containing material at the workplace is identified by a competent person (as defined by the *NSW Work Health and Safety Regulation 2011*). If a material cannot be identified or accessed, it will be assumed to be asbestos. This does not apply if council has reasonable grounds to believe that asbestos or asbestos containing material is not present.

#### 12.1.1 Material sampling

Council may choose to identify asbestos or asbestos containing material by arranging for a sample to be analysed. Where council arranges sampling of asbestos containing material, this will be undertaken by an appropriately trained and competent council worker or a competent person will be contracted to undertake this task. Analysis of the sample must only be carried out by a *National Association of Testing Authorities (NATA)* accredited laboratory or a laboratory approved or operated by the regulator.

### 12.2 Indicating the presence and location of asbestos

Council will clearly indicate the presence and location of any asbestos or asbestos containing material identified or assumed at the workplace. Where it is reasonably practicable to do so,

council will indicate the presence and location of the asbestos or asbestos containing material by a label.

### **12.3 Asbestos register**

Council's asbestos register will be maintained to ensure the register lists all identified (or assumed) asbestos in the workplace and information in the register is up to date. The asbestos register will be accessible, reviewed, revised and otherwise managed as mandated by the *NSW Work Health and Safety Regulation 2011* (clauses 425 – 428).

Council will ensure that any worker carrying out or intending to carry out work at a council workplace that involves a risk of exposure to airborne asbestos, is given a copy of the asbestos register.

### **12.4 Suspected asbestos**

If a worker suspects there is asbestos in a council workplace, they should inform their manager or supervisor. A competent worker should check the asbestos register for existing asbestos locations and control measures and may need to arrange for an inspection and sampling of the material. If it is likely that asbestos or suspected asbestos is present, the asbestos register will be updated and workers will be notified of any newly identified asbestos locations. Council may need to manage the suspected asbestos as outlined in section 13. If the suspected asbestos has been disturbed and has, or could, become airborne, council will take all reasonable steps to respond immediately.

## **13. MANAGING ASBESTOS-RELATED RISKS IN THE COUNCIL WORKPLACE**

### **13.1 Asbestos management plan**

The asbestos management plan will be accessible, reviewed, revised and otherwise managed as mandated by the *NSW Work Health and Safety Regulation 2011* clause 429.

### **13.2 Management options for asbestos-related risks in the council workplace**

Council's asbestos management plan includes decisions and reasons for decisions about the management of asbestos at the workplace.

Options for managing asbestos-related risks include:

- removal of asbestos or asbestos containing materials (preferred wherever reasonably practicable).
- interim control measures: enclosure (only for non-friable asbestos), encapsulation (when the original asbestos bond is still intact) or sealing (where the sealed material is unlikely to be subject to mechanical damage) asbestos containing material, to be implemented along with regular inspections by a competent person.
- leaving asbestos containing material in situ (deferring action).



Council may undertake an asbestos risk assessment, in consultation with workers and/or their representatives, in order to inform decision-making. Only competent persons will perform risk assessments or any subsequent reviews or revisions of risk assessments.

For all asbestos work or asbestos-related work, safe work practices will be in place and suitable personal protective equipment will be used.

### **13.3 Sites contaminated with asbestos that are council workplaces**

Where asbestos is identified as contaminating a workplace, the site will be included in council's asbestos register and asbestos management plan.

Council may need to ensure that an exposure assessment is undertaken and that appropriate risk management options are determined and implemented.

For asbestos in soil or aggregate, a suitably qualified occupational hygienist must carry out an assessment if the material in the soil and aggregate is unknown or classified as friable.

Council should engage specialists, who may include asbestos removalists, for all cases except in the case of minor, non-friable contaminations.

### **13.4 Demolition or refurbishment of council buildings and assets**

Council will ensure that before any demolition or refurbishment of a council structure or plant constructed or installed before 31 December 2003 is undertaken, the asbestos register is reviewed and a copy provided to the business undertaking the demolition or refurbishment. Council will ensure that any asbestos that is likely to be disturbed is identified and, so far as is reasonably practicable removed.

### **13.5 Removal of asbestos in the council workplace**

Removal of asbestos or asbestos containing materials in the council workplace will be undertaken in accordance with the:

- *NSW Work Health and Safety Act 2011*
- *NSW Work Health and Safety Regulation 2011*.

Council may also refer to the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561).

For licensed asbestos removal work, a licensed asbestos removalist must meet the requirements of the *NSW Work Health and Safety Regulation 2011* including the requirements to:

- notify SafeWork NSW at least five days prior to the asbestos removal work commencing. However, in the case of emergency work, such as burst pipes, fires and illegally dumped asbestos, council may request to SafeWork NSW that this five days period be waived.
- prepare, supply and keep an asbestos removal control plan.
- obtain a copy of the asbestos register for the workplace before carrying out asbestos removal work at the workplace (this does not apply if the asbestos removal work is to be

carried out at residential premises, for example cleaning up asbestos that has been illegally dumped at a residential premises).

- inform the person with management or control of the workplace that the licensed asbestos removal work is to be carried out at the workplace.
- erect signs and barricades.
- limit access to the asbestos removal area.
- properly dispose of asbestos waste and dispose of, or treat, contaminated personal protective equipment.
- arrange a clearance inspection and clearance certificate.

Where council is informed that asbestos removal work is to be carried out at the workplace, council will inform workers and those in the immediate vicinity of the workplace and limit access to the asbestos removal area as per the *NSW Work Health and Safety Regulation 2011*.

### **13.6 Removal by contractors**

Where council commissions the removal of asbestos at the workplace, council will ensure asbestos removal work is carried out only by a licensed asbestos removalist who is appropriately licensed to carry out the work, unless specified in the *NSW Work Health and Safety Regulation 2011* that a licence is not required.

Where council requires the services of asbestos removalists, council will require the licence details of asbestos removalists prior to engaging their services and will verify the licence details with SafeWork NSW's Certification Unit prior to entering a contract or agreement with the licensed asbestos removalists.

Council is required to ensure that the work is carried out by a competent person who has been trained in the identification and safe handling of, and suitable control measures for, asbestos and asbestos containing material. Council will therefore require a statement in a written contract or agreement with the licensed asbestos removalist that the licensed asbestos removalist who will undertake the work has been adequately trained and is provided with appropriate health monitoring by their employer.

The licensed asbestos removalist is to provide the following documentation prior to carrying out asbestos removal work:

- Asbestos removal control plan
- Public liability certificate of currency
- Workers compensation certificate of currency
- SafeWork NSW confirmation details to carry out the removal work

Council will provide a copy of the asbestos register to the licensed asbestos removalist.

Where council becomes aware of any breaches by licensed asbestos removalists, council will report this to SafeWork NSW.

### **13.7 Clearance inspections and certificates**

Where council commissions any licensed asbestos removal work, council will ensure that once the licensed asbestos removal work has been completed, a clearance inspection is carried out and a clearance certificate is 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.

The friable asbestos clearance certificate will require visual inspection as well as air monitoring of the asbestos removal site. Air monitoring is mandatory for all friable asbestos removal. The air monitoring must be conducted before and during Class A asbestos removal work by an independent licensed asbestos assessor.

The friable asbestos clearance certificate is to state that there was no visible asbestos residue in the area or vicinity of the area where the work was carried out and that the airborne asbestos fibre level was less than 0.01 asbestos fibres/ml.

## **14. ACCIDENTAL DISTURBANCE OF ASBESTOS BY WORKERS**

In situations where asbestos is accidentally disturbed by council work and has, or could, become airborne, council will act to minimise exposure of workers and the wider public to airborne asbestos.

## **15. COUNCIL'S ROLE IN THE DISPOSAL OF ASBESTOS WASTE**

### **15.1 Responding to illegal dumping**

Where council becomes aware of illegally dumped asbestos material outside of council's jurisdiction, council will promptly notify the relevant authority.

### **15.2 Transporting and disposing of asbestos waste**

Council will transport and dispose of waste in accordance with the legislation and Council's landfill site procedures.

### **15.3 Asbestos waste incorrectly presented to the Junee landfill facility**

This section applies to situations where asbestos waste is taken to a council waste facility and the waste is:

- not correctly packaged for delivery and disposal
- not disclosed by the transporter as being asbestos or asbestos containing materials

In these situations, council may record relevant details such as the:

- contact details of the transporter
- origin of the asbestos or asbestos containing material
- amount and type of asbestos or asbestos containing material
- reasons why the asbestos waste was not properly packaged, disclosed or transported to a waste facility licensed to receive asbestos waste
- development consent details (if applicable).

Where asbestos waste is not correctly packaged for delivery and disposal, or is not disclosed by the transporter as being asbestos or asbestos containing materials, council may:

- reject the asbestos waste from the facility
- suggest the transporter re-package the load correctly at the facility
- provide a bay for wetting and/or wrapping the asbestos and protective equipment for the transporter eg the option to purchase an asbestos waste handling kit (for non-commercial operators with less than 10 square metres of non-friable asbestos)
- provide the transporter with educational material such as SafeWork NSW fact sheets on correct methods for packaging, delivery and disposal of asbestos
- question the transporter about the source of asbestos waste
- issue a clean-up notice or prevention notice under the *Protection of the Environment Operations Act 1997*
- issue a compliance cost notice under the *Protection of the Environment Operations Act 1997*
- issue a penalty infringement notice for improper transport of asbestos (under the *Protection of the Environment Operations Act 1997*).

Where asbestos waste is taken to a waste facility that does not accept asbestos waste, council may reject the waste. Where waste is rejected, council should complete a rejected loads register. Council will also inform the transporter 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 2014*). If council suspects that there is a risk of illegal dumping of the rejected waste, council will inform council's rangers or council's compliance officers. Suitable disposal for loads that are refused entry will remain the responsibility of the transporter and at a later date the transporter will need to demonstrate to council that the waste has been appropriately disposed.

Where asbestos waste is illegally dumped at an unstaffed waste station, management options for council include to:

- undertake surveillance via video cameras to issue fines or deter dumping
- provide targeted education to neighbouring landholders to ensure that they do not allow access to the waste station.

#### **15.4 Recycling facilities**

Council should screen and inspect incoming loads at recycling facilities for the presence of asbestos or asbestos containing materials to minimise asbestos contamination risk.

### **15.5 Re-excavation of landfill sites**

The re-excavation of a council landfill site where significant quantities of asbestos waste are deposited is not encouraged and should only be considered with reference to any available records on the nature, distribution and quantities of asbestos waste required under the relevant legislation, and consultation with the Environment Protection Authority.

## **16. ADVICE TO TENANTS AND PROSPECTIVE BUYERS OF COUNCIL OWNED PROPERTY**

Council may provide advisory notes to tenants and prospective buyers of council owned property that is likely to contain asbestos.

Council may request that tenants in council property:

- advise council of any hazards relating to asbestos
- minimise damage to asbestos containing material
- co-operate with council in facilitating any risk management work arranged by council
- act on advice from council to minimise risks from asbestos.