



LGNSW SUBMISSION

# Asbestos Framework Review

April 2026





Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

## OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Employ nearly **50,000 people**



Manage more than **1,800 community & public centres**



Maintain more than **168,000km of roads & bridges**



Manage more than **\$220 billion of community assets**



Recycle **1.75 million tonnes of waste**



Spend more than **\$2.5 billion each year on caring for the environment**



Operate more than **380 libraries that attract tens of millions of visits each year**



Make kerbside waste collections for more than **3.1 million households**



Manage an estimated **4 million tonnes of waste each year**



Spend more than **\$2.4 billion on culture and recreation**

Local Government NSW acknowledges and pays respect to the Traditional Owners of the lands on which we work, and the lands we travel through. We also acknowledge our Elders – past, present and emerging.

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# Introduction

LGNSW welcomes the opportunity to contribute to Safe Work Australia's asbestos framework review on behalf of member councils in NSW. LGNSW has contributed to many consultations on the asbestos work health and safety framework at a state and federal level including:

- [LGNSW submission to Phase Three Asbestos National Strategic Plan](#) (October 2023)
- [LGNSW submission - Requirements for competent persons for asbestos-related tasks](#) (October 2023)
- [LGNSW submission - Cement water and sewer pipe management guidelines](#) (August 2020)

Across these submissions LGNSW members have expressed a great interest in reforms to the asbestos management framework to better support worker and community safety and health outcomes.

## Asbestos Management in Local Government

NSW councils are committed to fulfilling responsibilities to workers under the *Work Health and Safety Act 2011*(NSW)(WHS Act) and the *Work Health and Safety Regulation 2025*(NSW)(WHS Regulation), and for maintaining a safe work environment. Part of this commitment is asbestos safety in the council workplace and community.

Local government plays a critical role in reducing the risks posed by asbestos. Councils work together with the State Government and wider public to address the unfortunate legacy of asbestos in building materials and land contaminated with asbestos, as well as addressing naturally occurring asbestos.

Councils have 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 Areas (LGAs) prescribed by the *Local Government Act 1993*(NSW).
- workers (employees and other persons) in council workplaces.

Councils' 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.

General Managers of councils have a duty to exercise due diligence to ensure that their council complies with the NSW WHS Act and the NSW WHS Regulation. This includes taking reasonable steps to ensure that councils have and use appropriate resources and processes to eliminate or minimise risks associated with asbestos.

Officers at councils, such as directors, have a duty to exercise due diligence to ensure that the business or undertaking complies with the WHS Act and WHS Regulation. This includes taking reasonable steps to ensure that the person conducting a business or undertaking (PCBU) has and uses appropriate resources and processes to eliminate or minimise risks that arise from work involving asbestos, including asbestos management, at the workplace.

Council workers have a duty to take reasonable care for their own health and safety and to not adversely affect the health and safety of other persons. Workers must comply with reasonable instructions, as far as they are reasonably able, and cooperate with reasonable health and safety policies or procedures that have been notified to worker.

This submission was endorsed by the LGNSW Board in June 2026.

## Response

### Model WHS asbestos framework

#### Councils' Role as an Employer

Councils have responsibilities as an Employer for asbestos safety in the council workplace as well as for workers representing councils in the community carrying out their various service functions on behalf of council. Councils support the pro-active removal of asbestos at the council workplace to reduce the short- and long-term risk of asbestos exposure.

However, councils' financial sustainability has been undermined by rate pegging for over 40 years, which has resulted in the under-provision of community infrastructure and services and the deferral of infrastructure maintenance and renewal expenditure resulting in significant infrastructure backlog.

#### Recommendation 1:

That the Asbestos Framework review supports greater funding to local government to ensure councils have the means to enact a risk-based proactive asbestos removal program in the council workplace.

#### Councils' Role as a Local Authority

In NSW one of the key priorities for government as recommended by the [NSW Ombudsman](#) is for the effective collaboration between state agencies and between state agencies and councils to lay the foundation for effective action on asbestos to be achieved. While SafeWork NSW has made significant progress, its role is confined to dealing with workplaces or persons conducting a business or undertaking in accordance with the WHS Act.

Councils are the default regulator for asbestos on private property or residential premises. Councils are frequently called upon to regulate a range of incidents including high pressure water jetting of asbestos cement roofs, burnt and derelict houses containing asbestos, and illegal asbestos work. In 2017, the [NSW Ombudsman](#) (pp13) stated that:

“There appears to be no legislation to prevent a homeowner from privately carrying out demolition work involving any amount of bonded asbestos. It also appears that a homeowner is not prevented from privately removing friable asbestos. While clause 485 of the Work Health & Safety Regulation [2025] prohibits the carrying out of friable asbestos removal work other than by a person who holds a Class A licence, those provisions apply to workplaces only.

While the POEO Act requires that transportation and disposal of ACM is strictly controlled, the Act does not apply to the removal of asbestos-containing material (ACM), including friable asbestos. The result is that this may be carried out by an individual without regard to the potential environmental release of asbestos.”

The regulation of asbestos at private properties in NSW has not changed substantially since 2017. Councils are greatly burdened by this lack of specific asbestos regulation. Consequently councils are forced to use an ad hoc regulatory approach to address asbestos issues at private property including the use of the [Local Government Act](#), [Protection of the Environment Operations Act](#), and [Environmental Planning and Assessment Act](#). In many cases the work health and safety laws for asbestos do not apply on private property due to statutory limitations.

Examples of issues that arise through use of the current legislative approach include:

<b>NSW Legislation</b>	<b>Example Issues for Councils</b>
<a href="#">Local Government Act 1993</a>	Relies on use of orders to control healthy and safe activities at a premise. Does not mention asbestos at all. No funding for councils to clean-up affected properties when owners fail to comply.
<a href="#">Protection of the Environment Operations Act 1997</a>	Councils are not the appropriate regulatory authority for asbestos waste. No funding for councils to clean-up affected properties when owners fail to comply.
<a href="#">Environmental Planning and Assessment Act 1979</a>	Orders can take many months to act upon due to regulatory constraints. No funding for councils to clean-up affected properties when owners fail to comply.

### **Case study: Burnt and Derelict Houses Containing Asbestos**

Councils across NSW report that there are numerous derelict and abandoned residential buildings, many of which have become subject to vandalism and arson. Many of these buildings contain asbestos and as a result of vandalism and fire the structure of the buildings, the asbestos contained within, and the land immediately surrounding the structures has become a hazard to neighbours and the community.

These sites are usually accessible to the public (including children) and have been subsequently used as places of refuge, recreation and delinquent behaviour. When people enter these sites they risk exposure to asbestos fibres and contraction of asbestos related diseases, along with the safety risks associated with these dilapidated and unstable structures.

**Recommendation 2:**

That the Asbestos Framework review supports reform to legislation to ensure work health and safety laws apply in all cases where asbestos identification, handling, removal, transport and disposal are taking place.

## **Identification and risk assessment of asbestos and asbestos-containing materials (ACMs)**

Identification and risk assessment of asbestos is the foundation of asbestos safety. Councils maintain asbestos registers and asbestos management plans based on asbestos identification and risk assessment, and they also use asbestos identification and risk assessment when responding to asbestos incidents in the community. Councils are also required to undertake asbestos identification when processing and disposing of waste, and in the management of soils and contaminated land.

Asbestos identification and risk assessment relies on the skills and experience of suitably competent and qualified experts. In most cases councils need to engage these services from external providers such as licensed asbestos assessors and occupational hygienists. Councils' experience in engaging the services of licensed asbestos assessors and occupational hygienists has been varied.

For asbestos identification in buildings and structures, there is a lack of consistency between providers of asbestos identification and risk management services. Councils have reported to LGNSW instances where asbestos registers are incomplete, leaving asbestos unidentified in the council workplace, and inconsistent condition assessment of asbestos containing materials leading to uncertainty of risk. This lack of consistency has been recognised by the [Asbestos and Silica Safety and Eradication Agency](#) leading to the development of the [National Guide for Asbestos Surveys](#).

**Recommendation 3:**

That the Asbestos Framework review supports the development and implementation of a nationally consistent, and regulated, asbestos identification and risk assessment industry.

For asbestos identification and risk assessment in waste and soils we see a similar inconsistency to asbestos identification and risk assessment in buildings and structures. Examples of this are the [NSW asbestos in mulch investigation](#) and the asbestos in coloured sands incident. The NSW Office of Chief Scientist and Engineer has investigated this and produced a report, [Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW](#), that highlights the

shortcomings of asbestos identification in waste and soils, and makes recommendations on how to better manage this.

**Recommendation 4:**

That for identification and risk assessment of asbestos and asbestos-containing materials, the Asbestos Framework review considers and adopts as appropriate the recommendations of the NSW Office of Chief Scientist and Engineer report:

[Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW.](#)

## **Workplace Exposure Standard for asbestos**

Measuring and communicating potential asbestos exposure has been an issue for councils when responding to concerns about asbestos incidents in the community and the council workplace. Councils rely on independent expert advice when responding to such concerns. There have been several high-profile cases where measuring and communicating asbestos exposure has not been consistent leading to alarm for councils and their communities. The NSW Office of Chief Scientist and Engineer report, [Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW](#), discusses exposure standards for asbestos.

**Recommendation 5:**

That for Workplace Exposure Standards for asbestos, the Asbestos Framework review considers and adopts as appropriate the recommendations of the NSW Office of Chief Scientist and Engineer report: [Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW.](#)

## **NOHSC Guidance Note on the membrane filter method for estimating airborne asbestos fibres (2005)**

No comment.

## **Asbestos management and control measures**

As with asbestos identification and risk assessment of asbestos discussed earlier, there is a lack of consistent approach to asbestos management plans due to the requirements listed in the regulations. Section 425 of the Work Health and Safety Regulation only requires “the location, type and condition of the asbestos or ACM” to be determined, there is no framework for the assessment of the condition of the asbestos described.

Section 429 of the Work Health and Safety Regulation states that the asbestos management plan must record “decisions, and reasons for decisions, about the management of asbestos at the workplace” and “procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace”. There is no direction on how

and when an ACM must be removed, it is up to the employer to decide and justify their decision.

The [How to manage and control asbestos in the workplace - Code of practice](#) does discuss the condition of asbestos in the workplace, however this is limited to a subjective assessment by the competent person or the employer that the asbestos is in good condition or not. Council experience is that this subjective approach has led to wide interpretations of what is “good condition”. This has resulted in a tendency to either underestimate risk and leave asbestos in place and maintain it rather than remove it, or overestimate the risk and unnecessarily remove asbestos that poses a very low health risk.

**Recommendation 6:**

That the Asbestos Framework review supports the development and implementation of a nationally consistent, and regulated, asbestos identification and risk assessment industry including a standardised condition assessment for asbestos.

## **Asbestos training and competency**

LGNSW has made a previous submission to SafeWork Australia’s consultation on the requirements for competent persons for asbestos-related tasks. Please also consider those previous recommendations from LGNSW as part of the Asbestos Framework review.

**Recommendation 7:**

Please see LGNSW’s previous [submission on requirements for competent persons for asbestos-related tasks](#)

## **Removal of asbestos, training and licensing**

Councils are required to undertake a range of work activities that require the removal of asbestos in the council workplace. A small number of NSW councils have asbestos licences that assist with their daily operations, mostly in the area of water and sewer management. Most councils do not have asbestos removal licences as the quantities of asbestos they work with do not meet the thresholds for asbestos removal licensing.

Feedback from councils is that the training advice in the codes of practice as well as the training available on the market is not suited to the context of council officers that encounter asbestos. This includes for waste services, water and sewer, parks, rangers, and environmental health officers. The current asbestos awareness units of competency and asbestos removal courses are aimed at electricians, plumbers, and asbestos removalists.

**Recommendation 8:**

That the Asbestos Framework supports development and implementation of asbestos training and licensing to a wider range of contexts including for council officers in waste services, water and sewer services, and regulatory officers.

## **Compliance and enforcement**

See section above on Councils' Role as a Local Authority.

## **Managing other asbestos-related risks**

No comment.

## **Conclusion**

LGNSW welcomes the opportunity to contribute to the asbestos framework review consultation undertaken by SafeWork Australia. This review is an important opportunity to improve asbestos safety outcomes in the community and workplace, and we look forward to seeing the outcomes of the review.

# Summary of Recommendations

1. That the Asbestos Framework review supports greater funding to Local Councils to ensure councils have the means to enact a risk based proactive asbestos removal program in the council workplace.
2. That the Asbestos Framework review supports reform to legislation to ensure work health and safety laws apply in all cases where asbestos identification, handling, removal, transport and disposal are taking place.
3. That the Asbestos Framework review supports the development and implementation of a nationally consistent, and regulated, asbestos identification and risk assessment industry.
4. That for identification and risk assessment of asbestos and asbestos-containing materials, the Asbestos Framework review considers and adopts as appropriate the recommendations of the NSW Office of Chief Scientist and Engineer report: [Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW](#).
5. That for Workplace Exposure Standards for asbestos, the Asbestos Framework review considers and adopts as appropriate the recommendations of the NSW Office of Chief Scientist and Engineer report: [Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW](#).
6. That the Asbestos Framework review supports the development and implementation of a nationally consistent, and regulated, asbestos identification and risk assessment industry including a standardised condition assessment for asbestos.
7. See recommendations in the previous [LGNSW submission to SafeWork Australia on competent persons and asbestos](#).
8. That the Asbestos Framework supports development and implementation of asbestos training and licensing to a wider range of contexts including for council officers in waste services, water and sewer services, and regulatory officers.