



**Minutes of the Council Meeting held in the Council Chambers on Wednesday, 20<sup>th</sup> July, 2016 commencing at 9:30am.**

---

**Min. No. Present:** Cr. Bernard Curtin (Mayor)

Crs: Matthew Hannan, Brian Hill, Denis Glanville, Colin Jones, Daryll Morris, Andrea O'Neill, Director of Corporate Services (Matthew Hansen), Director Technical Services (Fred Exton), Development Manager (Laurie Stevens) and General Manager (Rowan Perkins).

**Apology**

**156 RESOLVED** Crs: Hill and Morris that an apology for non-attendance be received from Cr John Bruce.

**Declaration of Items of Pecuniary and other Interests**

NIL

**Confirmation of Minutes**

**4. CONFIRMATION OF MINUTES**

**157 RESOLVED** Crs: O'Neill and Morris that the Minutes of the meeting held in the Council Chambers on Wednesday 15<sup>th</sup> June, 2016 be confirmed.

**5.1 FINANCE – ACCOUNTS**

**AUTHOR: Finance Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**158 RESOLVED** Crs: O'Neill and Glanville that the Financial Statement, Bank Reconciliation Certificate and Petty Cash Book made up to 30 June 2016, be received and that the accounts paid as per Warrant No. 06/16 totalling \$6,715,122.95 be confirmed.

**Min. No.**

**5.2 THE LOCAL GOVERNMENT AND ELECTIONS  
LEGISLATION AMENDMENT (INTEGRITY) ACT 2016**

**AUTHOR: General Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance  
by Council of Council operations  
and reporting**

**FILE NO: 13.055.3**

**159 RESOLVED** Crs: O'Neill and Glanville that the Council note the amendments to the Local Government Act 1993, the Election Funding and Disclosures Act 1981 made by the Local Government and Elections Legislation Amendment (Integrity) Act 2016 and amendments to the Local Government General Regulation 2005.

**5.3 "ELECTORAL MATTER" AND USE OF COUNCIL  
RESOURCES PRIOR TO LOCAL GOVERNMENT  
ELECTIONS**

**AUTHOR: General Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance  
by Council of Council operations  
and reporting**

**FILE NO: 13.055.1**

**160 RESOLVED** Crs: O'Neill and Morris that the Council note the information from the Office of Local Government as contained in Circular 16-20.

**5.4 2016 ELECTIONS – CARETAKER PERIOD AND USE OF  
COUNCIL RESOURCES**

**AUTHOR: Director Corporate Services**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance  
by Council of Council operations  
and reporting**

**FILE NO: 13.155.1**

**161 RESOLVED** Crs: Morris and Jones that the Council note the report regarding the 2016 Elections – Caretaker Period and Use of Council Resources.

**Min. No.**

**5.5 INQUIRY INTO THE AUGMENTATION OF WATER SUPPLY FOR RURAL AND REGIONAL NEW SOUTH WALES**

**AUTHOR:** General Manager

**STRATEGIC OUTCOME:** Sustainable natural and built landscapes

**STRATEGIC OBJECTIVE:** 1.1 Support sustainable use of our natural resources and built landscapes

**FILE NO:** 11.106.2

**162 RESOLVED** Crs: Morris and Jones that the Council make submission to the Inquiry into the augmentation of water supply to rural and regional New South Wales to the effect that water storages should be increased and carry over rules should be more flexible to cater for times of high and low supply availability.

**5.6 DELIVERY PROGRAM PROGRESS REPORT & JUNE 2016 REVIEW**

**AUTHOR:** Strategic & Social Planning Coordinator

**STRATEGIC OUTCOME:** Good government

**STRATEGIC OBJECTIVE:** 2.1 Berrigan Shire 2023 objective and strategies inform Council planning and community led projects

**FILE NO:**

**163 RESOLVED** Crs: O'Neill and Hill that the Council note the June 2016 Delivery Program Progress Report and June 2016 Quarter Review of the Annual Operational Plan 2015/16 circulated as Appendix "A".

**5.7 2015/2016 RATES AND CHARGES AND INTEREST WRITTEN OFF**

**AUTHOR:** Revenue Officer

**STRATEGIC OUTCOME:** Good government

**STRATEGIC OBJECTIVE:** 2.2 Ensure effective governance by Council of Council operations and reporting

**FILE NO:** 25.138.1

**164 RESOLVED** Crs: Glanville and Jones that the Council, under section 607 of the *Local Government Act, 1993*, and Clause 131 of the *Local Government (General) Regulation 2005*, write off the following amounts as recorded in the 2015/16 Write Offs – Rates

**Min. No.**

and Charges document for the period 1st July, 2015, to 30th June, 2016:.

Ordinary/General Rates/Interest	\$340.56
Annual Water Charges/Interest	\$178.19
Water Consumption / Charges/Interest	\$1,156.33
Annual Sewer/Pedestal Charges/Interest	\$205.76
Garbage/Domestic Waste Charges/Interest	\$157.75
Storm water/Drainage Charges/Interest	\$210.19
Interest/Legal/Other Charges	<u>\$562.25</u>
	\$2,811.03

**5.8 PLANNING PROPOSAL TO AMEND THE BERRIGAN LOCAL ENVIRONMENTAL PLAN 2013 (LEP)**

**AUTHOR: TOWN PLANNER**

**STRATEGIC OUTCOME: Sustainable natural and built landscapes**

**STRATEGIC OBJECTIVE: 4.2 Strengthen and diversify the local economy**

**FILE NO: 07.094.3**

**165 RESOLVED** Crs: O'Neill and Hill that the Council adopts the Planning Proposal to amend the Berrigan Local Environmental Plan 2013 (LEP) to permit Backpackers Accommodation with consent in the RU1 Primary Production Zone, and submits the Planning Proposal to the Minister for Planning requesting that Amendment No. 4 of Berrigan Local Environmental Plan 2013 be made.

**5.9 KANGAROO POPULATION**

**AUTHOR: General Manager**

**STRATEGIC OUTCOME: Sustainable natural and built landscapes**

**STRATEGIC OBJECTIVE: 1.2 Retain the diversity and preserve the health of our natural landscapes and wildlife**

**FILE NO: 11.011.04**

**166 RESOLVED** Crs: O'Neill and Hill that the Council note the report submitted regarding the increased kangaroo population.

**Min. No.**

**5.10 CONTAMINATED LAND MANAGEMENT POLICY**

**AUTHOR:** Development Manager

**STRATEGIC OUTCOME:** Sustainable natural and built landscapes

**STRATEGIC OBJECTIVE:** 3.1 Create safe, friendly and accessible communities

**FILE NO:** 11.108.3

**167 RESOLVED** Crs: O'Neill and Hill that the Council adopt the Contaminated Land Management Policy as follows:

**1. POLICY**

This policy, known as the Contaminated Land Management Policy, outlines requirements relating to the use and / or development of land that is or may be contaminated.

This policy has been developed under the provisions of the *Contaminated Land Management Act*<sup>1</sup> (CLM Act), it's associated State Environmental Planning Policy No. 55 – Remediation of land<sup>2</sup> and the Managing Land Contamination – Planning Guidelines<sup>3</sup> in regards to the principles of:

- i Ensuring that changes of land use, or new development proposals, will not increase the risk to human health or the environment;
- ii Avoiding inappropriate restrictions on land use; and
- iii Providing information to support decision making and to inform the community.

**1.1 LAND TO WHICH POLICY APPLIES**

All land in the Berrigan Shire Local Government Area (LGA).

**1.2 TERMS AND DEFINITIONS**

Terms and definitions are set out in Appendix 1.

**1.3 PURPOSE**

This policy provides a framework for the management of contaminated or potentially contaminated land in the Berrigan Shire LGA. The policy identifies how the management of contaminated land is integrated into Council's planning and development processes.

**1.5 OBJECTIVES**

The integration of contaminated land management into the local planning and development control process will enable Council to:

---

<sup>1</sup> Contaminated Land Management Act 1997

<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+140+1997+cd+0+N>

<sup>1</sup> State Environmental Planning Policy No. 55 – Remediation of Land

[http://www5.austlii.edu.au/au/legis/nsw/consol\\_reg/seppn55ol537/](http://www5.austlii.edu.au/au/legis/nsw/consol_reg/seppn55ol537/)

<sup>1</sup> Managing Land Contamination – Planning Guidelines

[http://www.epa.nsw.gov.au/resources/clm/gu\\_contam.pdf](http://www.epa.nsw.gov.au/resources/clm/gu_contam.pdf)

**Min. No.**

- Ensure that the Council exercises its functions in relation to the development of contaminated land with a reasonable standard of care and diligence and that decisions are made in good faith;
- Ensure that the likelihood of land contamination is considered as early as possible in the planning and development control process;
- Ensure that planning and development decisions take into account available information relating to the likelihood of land contamination;
- Link decisions about the development of land with the information available about contamination possibilities;
- Ensure that any development of contaminated land will not result in unacceptable levels of risk to human health or the environment;
- Avoid inappropriate restrictions on the development of contaminated land;
- Ensure that site investigations and remediation work are carried out in a satisfactory manner, and where appropriate, are independently verified by site audits;
- Facilitate the provision of consistent and reliable information to the public about land contamination;
- Ensure that ongoing responsibility for management and monitoring of contaminated land is clearly and legally assigned;
- Ensure that the community is not unduly disadvantaged by increased health and environmental risks or increased management costs when accepting the dedication of public assets;
- Adopt a policy approach that will provide strategic and statutory planning options based on the information about contamination; and
- Exercise statutory planning functions with a standard of care.

**1.6 POLICY APPLICATION**

This policy applies to the following planning functions of Council:

- The preparation and amendment of Local Environmental Plans
- The preparation, approval and amendment of Development Control Plans
- The preparation and adoption of Plans of Management for Community Land
- The determination of Development Applications
- The modification of Development Consents;
- The determination of activities pursuant to Part 5 of the Environmental Planning and Assessment Act 1979; and
- The storage and sharing of contaminated land information through Section 149 certificates.

## **Min. No.**

### **1.7 GUIDELINES**

This policy has been developed from the State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and in conjunction with the *Contaminated Land Management Act 1997* (CLM Act) and Berrigan Shire Local Environment Plan 2013

Effective management of contaminated land in land-use planning is necessary in managing the risk of harm potentially posed by land contamination to human health and the environment.

In the content of land contamination, councils are the planning and consent authorities and are thereby expected to act in “good faith” and in accordance with the requirements of the NSW CLM Act. “Good faith” provisions also extend to the subordinate State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55), and its Planning Guidelines.

Councils have responsibilities under the *Environmental Planning and Assessment Act*<sup>4</sup> (EP&A Act) in regard to the early identification of contaminated sites, the consideration of land contamination issues in planning functions, data and information management regarding land contamination, and to inform the public on contamination matters (e.g. Section 149 planning certificates).

Under the CLM Act, the EPA regulates contaminated sites where the contamination is significant enough to warrant regulation. Contaminated sites that are not regulated by the EPA are managed by local councils through land-use planning processes.

### **1.8 CHANGE MANAGEMENT**

This policy will require management and review every 4 years or as legislation and regulations are updated. Any change must be made in accordance with the relevant legislation and regulations applicable at the time, and/or any regulatory changes.

## **2. OBLIGATIONS**

### **2.1 DUTY TO REPORT**

The CLM Act 1997 requires persons to notify the Environment Protection Authority (EPA) if they become aware that their activities have contaminated land so as to present an unacceptable risk to human health or the environment.

The Act also requires landowners to notify the EPA if they become aware that their land has been contaminated so as to present an unacceptable risk of harm to human health or the environment. This requirement applies whether the contamination occurred before or during the current owner’s tenure of the land and the notification must be made as soon as practicable after becoming aware of the risk (See Appendix 2 – Activities that may cause contamination).

To assess this risk, the land owner and or persons who have caused the contamination should consult Guidelines on the Duty to Report Contamination under the *Contaminated Land Management Act 1997*.<sup>5</sup>

---

<sup>4</sup> Environmental Planning and Assessment Act  
<http://www.legislation.nsw.gov.au/viewtop/inforce/act+203+1979+first+0+N>

<sup>5</sup> Guidelines on the Duty to Report Contamination under the *Contaminated Land Management Act*  
<http://www.epa.nsw.gov.au/clm/150164-land-contamination.htm>

## **Min. No.**

Section 60 of the CLM Act imposes a duty on owners of land, and persons who have contaminated land, to immediately notify the EPA when they become aware that contamination presents a significant risk of harm.

According to the Guidelines on the Duty to Report Contamination under the *Contaminated Land Management Act 1997*, a person is taken to be aware of the contamination if it is considered that they are aware or should have reasonably become aware of the contamination. Factors taken into account in determining when a person should reasonably have become aware of the contamination are;

- i The persons' abilities, including their experience, qualifications and training
- ii Whether the person could reasonably have sought advice that would have made them aware of the contamination
- iii The circumstances of the contamination.

## **2.2 CONSULTANTS**

Contaminated land consultant certification schemes have been developed to ensure any consultants dealing with contaminated sites have the necessary competencies to carry out the work. The certifications outlined below are recognised by the EPA and certify that a contaminated land consultant has achieved an acceptable minimum standard of competency:

- Site Contamination Practitioners Australia (SCPA); and
- Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP)

Where reports are required to be submitted to the EPA and/or Council they must comply with the requirements of the CLM Act to be prepared, or reviewed and approved, by a certified SCPRA or EIANZ CLA Specialist CEnvP Practitioner. This requirement includes reports associated with a:

- Preliminary investigation order
- Management order
- Voluntary management proposal
- Ongoing maintenance order
- Duty to report contamination

Where required to be submitted to Council, reports must be prepared in accordance with the current relevant guidelines approved under the CLM Act and in accordance with SEPP 55. Council will require the following to be submitted:

- Preliminary investigation
- Detailed investigation
- A Remediation Action Plan
- Validation, monitoring and remediation reporting

The front cover of a submitted report must include the details of the consultant's certification. For a CLA Specialist CEnvP this involves affixing the CEnvP logo and for SCPA the certified practitioner is to affix their seal.

As the contaminated land consultant certification schemes are new, there is a 24 month transition period to enable consultants to become certified. Any requirements for reporting undertaken after 1 July 2017 must be prepared, or reviewed and approved, by a certified consultant.



**Min. No.**

### **3. COUNCIL RECORDS AND INFORMATION MANAGEMENT**

Council has a responsibility to provide information regarding land use history, land contamination and remediation.

The SEPP 55 Guidelines emphasises the importance of local government information systems in ensuring that adequate information is available to Council staff and the community in relation to both actual and potential land contamination.

Council also has a statutory responsibility to include certain information regarding land contamination on planning certificates issued under Section 149(2) of the EP&A Act.

Council's records regarding contaminated land are dynamic and will change over time as land is investigated, remediated and validated, and as new sites of potential contamination are identified. Existing records in relation to contaminated land should be kept on individual property files for each parcel of land. To assist Council in the management of information the following is (without limitation) records for individual parcels of land (where available / known):

- a) Site contamination reports submitted to Council (i.e. Preliminary Investigation, Detailed Investigation, Remedial Action Plans Validation and Monitoring Reports);
- b) Site Audit Statements received;
- c) EPA declarations and orders issued under the CLM Act (Including voluntary investigation management proposals approved by the EPA);
- d) Development Applications for Category 1 remediation works;
- e) Prior notification to Council of Category 2 remediation works;
- f) Notification of completion of Category 1 and Category 2 remediation work;
- g) Information regarding previous or current land uses which are likely to have resulted in land contamination; and
- h) Written complaints to Council about contamination.

Notations may be made on Council's property information system in relation to investigations and remediation work carried out for individual properties. This will assist staff to identify land that has been fully remediated or remediated for specific land uses. Some properties listed on the information system may be subject to legal notices under legislation administered by the EPA. The public should also consult with the EPA for up-to-date information on any such land in the local government area.

### **4. PLANNING (SECTION 149) CERTIFICATES**

Under Section 149 of the EP&A Act a person may request a planning certificate that contains advice on land contamination matters about a property from Council. For example, a planning certificate would show the existence of a council policy to restrict the use of land.

Such matters relating to land contamination that must be included on section 149(2) planning certificates are as set out in section 59(2) of the CLM Act will also include:

- a) Whether Council has adopted a policy to restrict the use of land due to the risk of land contamination;
- b) Whether the land is an investigation area or remediation site;
- c) Whether the land is subject to an investigation order or remediation order; and

## **Min. No.**

- d) Whether a site audit statement of the land is held by Council.

Council is formally advised whenever a notice is issued under the CLM Act and accordingly annotates its planning certificates. Section 149(2) planning certificates will not include specific information about actual or potential contamination (such as the types, extent and level of contamination) on a parcel of land.

Council may also elect to provide additional information of a factual nature on S.149(5) certificates regarding the contamination status of a property.

## **Procedure**

### **1. ABOUT THIS PROCEDURE**

The procedure applies to a planning process in which there is a need to consider a potential or known contaminated site in the development application or a planning proposal process. It is premised on SEPP 55 Planning Guidelines and sets out steps to ensure decisions are made in good faith, adequately manage harm and that the land is appropriate for its intended use.

A separate procedure exists for the management of data and information relating to potential or to known contaminated land, including managing notifications from the NSW EPA, Site Assessment Statements, consultant reports, historical land use information, etc (See Appendix 12).

### **2. COUNCIL'S PROCEDURE FOR CONSIDERING LAND CONTAMINATION ISSUES FOR PLANNING PROPOSALS**

All land subject to a planning decision must be considered as to whether the issue of contamination is relevant. If it is, investigations may be required to provide information about the land to enable that function to be carried out in good faith.

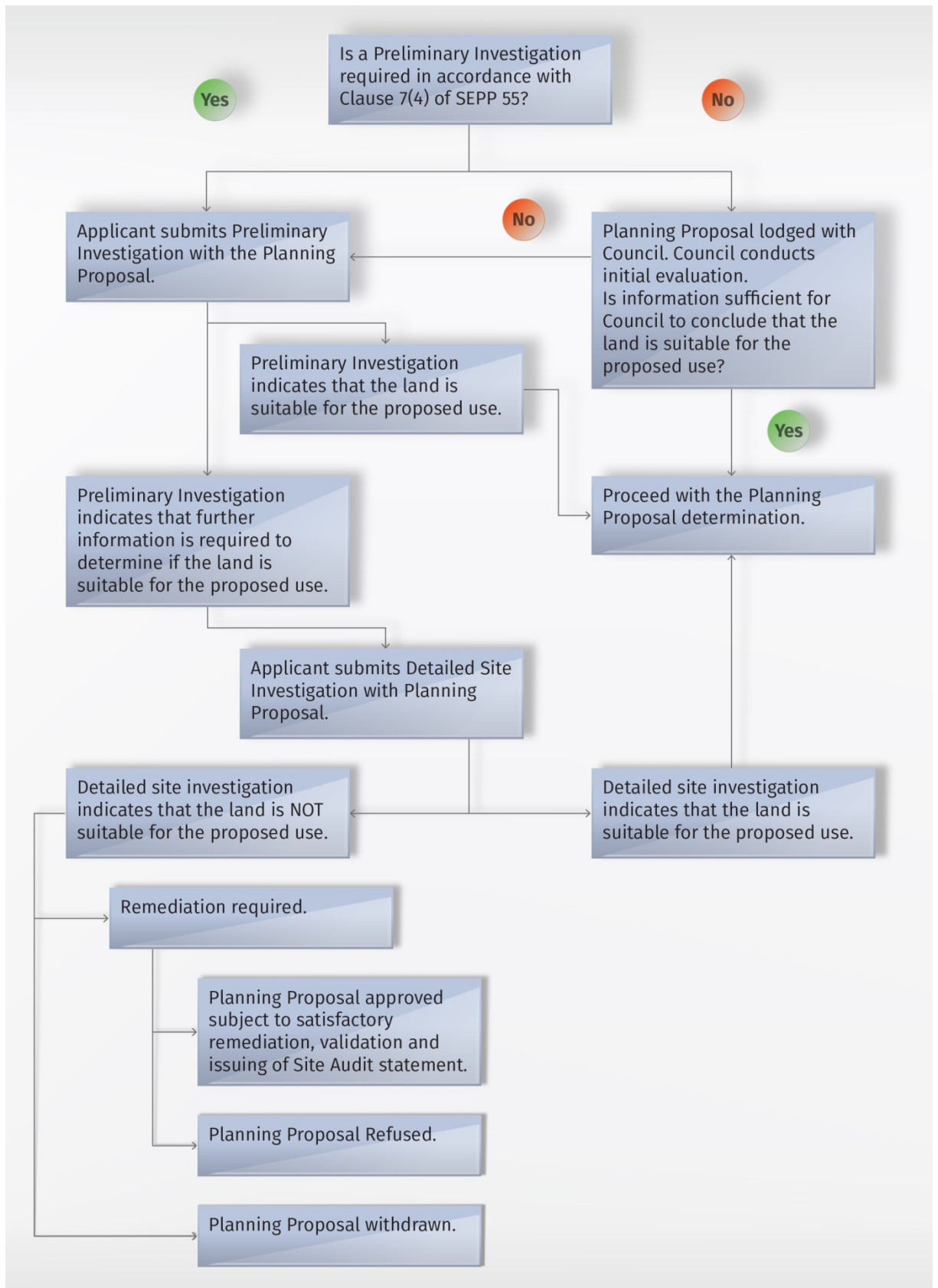
An initial evaluation is an assessment of readily available factual information. Its purpose is to determine whether contamination is an issue that requires further investigation prior to the preparation of the plan, or determination of the matter and whether a site investigation process is required to be carried out.

The preliminary investigation is to identify any past or present potentially contaminating activities and to provide a preliminary assessment of site contamination. The preliminary investigation typically contains a detailed appraisal of the site history and a report based on visual site inspection and assessment.

The detailed site investigation is undertaken by an experienced and certified consultant at the cost of the applicant, and should be undertaken in accordance with the guidelines made or approved by the EPA under Section 105 of the CLM Act.

**Min. No.**

**Figure 1: Preliminary Investigation process for planning proposals**



## **Min. No.**

### **2.1 INITIAL EVALUATION**

**An initial evaluation is to comprise an assessment of readily available factual information. Its purpose is to determine whether contamination is an issue that requires further investigation prior to the preparation of the plan, or to determine the matter and whether a site investigation process is required.**

**The initial evaluation will be based on readily available factual information and should be carried out regardless of the nature of the proposed use or the current use. This information may include:**

- **the current zoning and permissible land uses;**
- **records from previous zoning;**
- **historical land uses;**
- **aerial photographs;**
- **development and building applications; and**
- **property files and information provided by the applicant or other information available to Council.**

**Council may also carry out a site inspection of the land as part of the initial evaluation process.**

**As part of the initial investigation, applicants may request Council undertake a search of its records to determine previous approved developments at the site.**

**If Council is satisfied that the initial evaluation concludes that contamination is not an issue, then Council may not require any further investigation.**

**If, after an initial evaluation, there is nothing to suggest that the land might be contaminated, or that further enquiry is warranted, Council and the proponent may process without further reference to this policy. However; if there are indications that:**

- **the land is or may be contaminated; or**
- **there is insufficient information on which to make a decision;**

**a site investigation process is to be carried out in accordance with the Contaminated Land Planning Guidelines.**

**Insufficient information on which to a make a decision exists if there are significant gaps in historical information for a site, or if land uses are not described in sufficient detail to identify the presence or absence of possible contaminating land uses during periods in which such uses could be lawfully carried out.**

**The circumstances in which a site investigation process is required also include those specified in clause 6 and 7 of SEPP 55 – Remediation of Land. In accordance with these clauses, Council will require a preliminary investigation to be submitted with zoning and rezoning applications or a subdivision or development application where the land concerned is:**

- **Land that is within an investigation area;**
- **Land on which a potentially contaminating land use is being, or is known to have been carried out;**
- **Land on which it is proposed to carry out development for residential, educational, recreational, child care purposes or for a hospital;**
- **Where there is no knowledge or incomplete knowledge as to whether potentially contaminating development has been carried out on the land; and**

## **Min. No.**

- Where it would have been lawful to carry out such development on the land during any period in respect of which there is no knowledge or incomplete knowledge.

See Appendix 5: Council procedure for Initial Evaluation for steps on undertaking this process.

### **2.2 PRELIMINARY INVESTIGATION**

The objectives of a preliminary investigation are to identify any past or present potentially contaminating activities and to provide a preliminary assessment of site contamination. The preliminary investigation typically contains a detailed appraisal of the site history and a report based on visual site inspection and assessment.

Where contaminating activities are suspected to have had an impact on the land, sampling and analysis will be required to confirm and support any conclusion reached from the site history appraisal.

When undertaking a preliminary investigation, landowners should consider that the information gained should be in accordance with the Guidelines on the Duty to Report Contamination under the *Contaminated Land Management Act 1997* and may include:

- Description of activities that have occurred on the site
- Any large gaps in history that might hide a use
- Reliability of sources
- Historical permissible uses that may have occurred on site where there is a gap in land history
- Does that site pose a significant threat to human health or the environment?
- Does information conform to the relevant EPA guidelines?

As part of the preliminary investigation, applicants may request Council search its records to determine previous approved developments at the site.

Council will require further investigation (preliminary investigation) to be conducted and results submitted with planning proposals where it is found through the initial evaluation that the land concerned is:

- Land that is or that has been notified to the EPA under s60, or is regulated by the EPA under any other section, of the CLM Act;
- Land on which activities referred to in Appendix 2 are being undertaken, or are known to have been carried out; or
- Land on which there is incomplete knowledge about whether activities referred to in Appendix 2 are being, or are known to have been carried out, and if the proposed development involved residential, educational, recreational, child care or hospital purposes.

Where an initial evaluation by Council identified that the land was previously used for agricultural or horticultural purposes, Council may request a preliminary investigation to be undertaken to determine the history of the property. If the preliminary investigation shows that the land was only used for broad acre agriculture then the application may, in most cases, proceed. Although it is likely that herbicides and pesticides were used for broad acre farming, the likelihood of elevated levels of residual pesticides in the soil would be low. However, if investigations show that the land was used for intensive agriculture or horticulture, or if there are any other reasons for Council to be concerned about contamination or misuse of potential contaminants then a further investigation may be required.

Council may also require further investigation when:

**Min. No.**

- There are reasonable grounds to believe that the land is contaminated because of its history, condition, or other factual information known (where it is available);
- The site has been investigated or remediated but there is insufficient information available about the nature and extent of contamination or remediation, or whether these circumstances have changed;
- Where the land use changes to a more sensitive land use;
- There are restrictions on, or conditions attached to, the use of the site by regulatory or planning authority that are, or may be related to contamination, but there is insufficient information available about the nature and extent of contamination;
- Council records have demonstrated that the site is associated with pollution incidents or illegal dumping of waste; or
- The site is adjoining land that has been associated with activities that may cause contamination listed in Appendix 2 and it is likely that this may have contaminated the subject site.

The preliminary site contamination investigation shall be reported in accordance with the requirements of the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. The applicant is responsible for engaging a suitably certified, qualified and experienced consultant to undertake the preliminary site contamination investigation and is responsible for all costs borne in engaging the consultant and the works involved.

If after the preliminary investigation Council is satisfied that contamination is not an issue, then any further investigation may not be required.

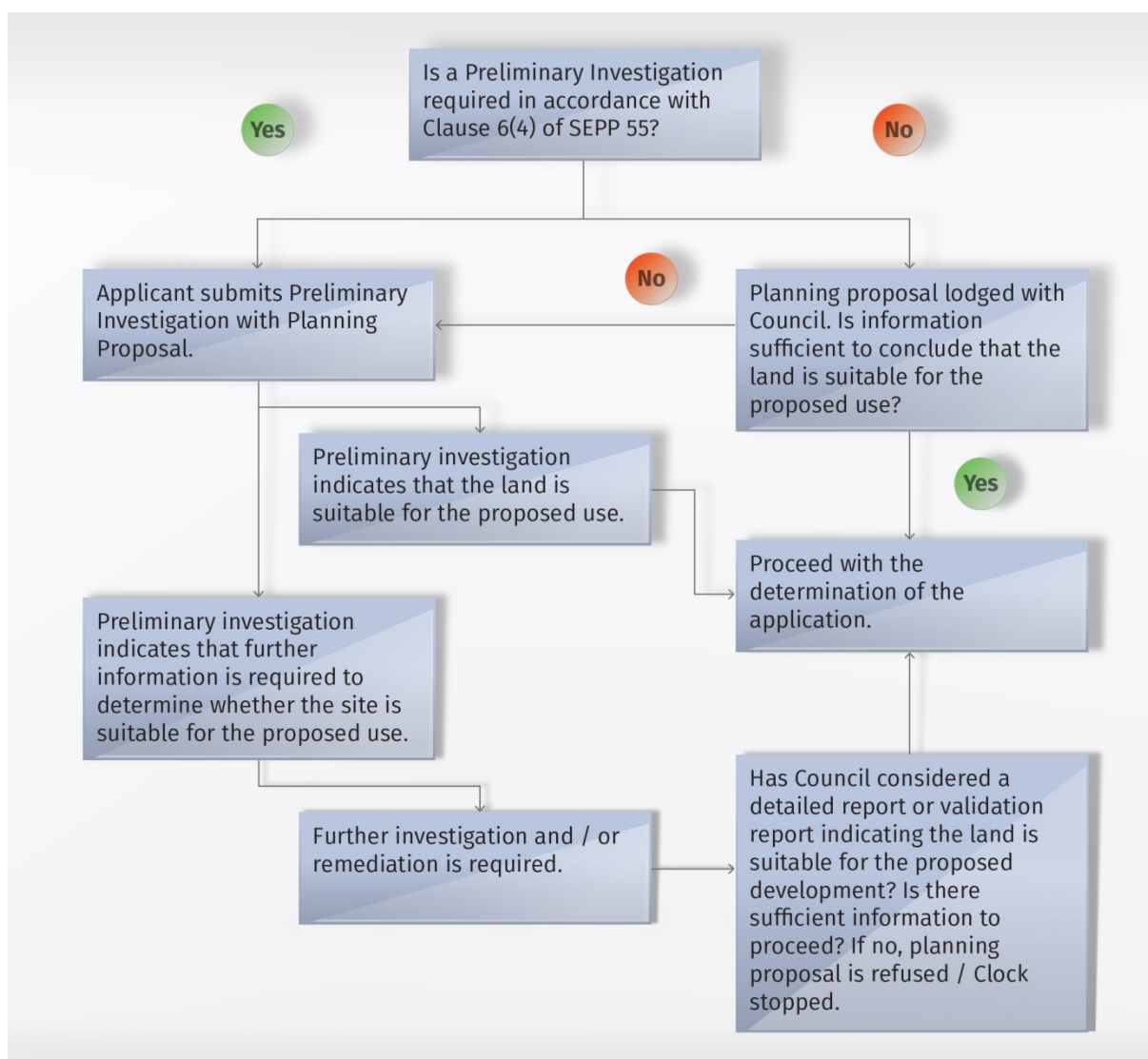
See Appendix 6: Council procedure for Preliminary Site Investigation for steps on undertaking this process.

**Min. No.**

**2.3 DETAILED INVESTIGATION**

If the result of the preliminary investigation demonstrates the potential for, or existence of, contamination that may preclude the land from being suitable for the proposed zone or use, Council may require a detailed contamination investigation, which is described below. In some cases, the preliminary and detailed investigations may be combined (e.g. where it is known that the land is contaminated or that the land has been used for a potentially contaminating activity).

Figure 2: Consideration of planning proposals



## **Min. No.**

The detailed site contamination investigation is to be undertaken, in accordance with the guidelines made or approved by the EPA under Section 105 of the CLM Act, by a suitably certified, qualified and experienced consultant at the cost of the applicant. The objectives of a detailed site investigation are to:

- Define the extent and degree of contamination;
- Assess the potential risk posed by contaminants to human health and the environment; and
- Obtain sufficient information for the development of a Remedial Action Plan (if necessary).

The detailed site contamination investigation shall state whether the site is suitable for the proposed use and for all other purposes permissible in the zone if it can be made suitable through remediation.

If remediation is required, the report should also list the feasible remediation options available to make the site suitable for any purpose permitted within that zone. If a feasible option is available, the planning proposal can proceed with certain provisions.

If site contamination investigations show that the site is contaminated, but there are feasible remediation options, Council may include provisions in a local environmental plan or development control plan to ensure that remediation is addressed prior to the redevelopment of the land.

Section 4 outlines the process for remediation and validation prior to development in accordance with the approved planning proposal.

If the detailed site investigation shows that the site is contaminated, but there are no options to remediate, Council may not allow the planning proposal to proceed.

In the event that a detailed site investigation report is required to be assessed by Council, Council may hire a third party consultant to assess the investigations on Council's behalf, at the applicant's expense.

See Appendix 7: Council procedure for Detailed Site Investigation for steps on undertaking this process.

## **3. COUNCIL'S PROCEDURE FOR CONSIDERING LAND CONTAMINATION ISSUES FOR DEVELOPMENT APPLICATIONS**

### **3.1 GENERAL**

Section 79C of the EP&A Act requires Council to consider the suitability of the site for the proposed development when assessing development applications. This includes any risk from contamination to public health and environment.

Council will not grant consent to the development of any land unless there has been consideration of whether the land is contaminated, and;

- If the land is contaminated, Council is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purposes of the proposed development; and
- If the land requires remediation to be made suitable for any purpose for which the development is proposed, Council is satisfied that the land will be remediated before the land is used for that purpose.

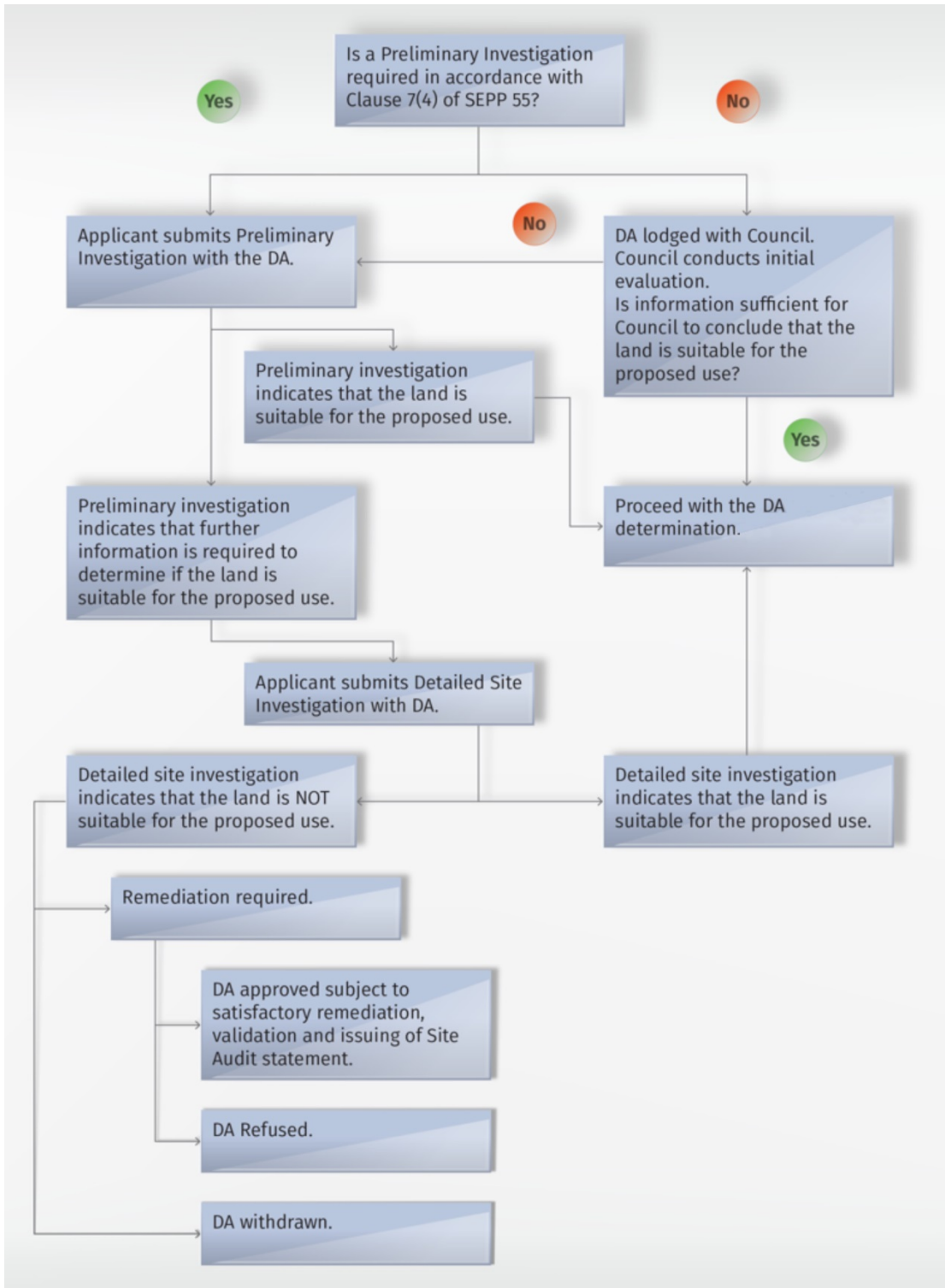
Upon lodging a development application for a change of use, the applicant can also become liable for the clean-up of any contamination on the site prior to their proposal being authorised. This is because when a change of use is approved, it can result in an increased risk of harm, even if the contamination itself does not change.



**Min. No.**

The following sections outline situations when Council will require site contamination information to be submitted with applications.

**Figure 3: Preliminary Investigation process for development applications**



## **Min. No.**

### **3.2 INITIAL EVALUATION**

Council will conduct an initial evaluation as part of the assessment process for a development application to determine if contamination is likely to be an issue and whether sufficient information is available to make a decision in good faith.

The initial evaluation will be based on readily available, factual information provided by the applicant and any other available information (e.g. previous contamination investigations, previous zoning and land use and restrictions relating to contamination issued by the EPA). For that purpose, the contamination may be within a building/structure or other structure on the land, rather than only within the soil of that land.

Where an initial evaluation by Council identified that the land was previously used for agriculture or horticulture purposes, Council may request a preliminary investigation to be undertaken to determine the history of the property. If the preliminary investigation shows that the land was only used for broad acre agricultural then the application may proceed. Although it is likely that herbicides and pesticides were used for broad acre farming, the likelihood for elevated levels of residual pesticides in the soil would be low. However, if investigations show that the land was used for intensive agriculture or horticulture, or if there are any other reasons for Council to be concerned about contamination or misuse of potential contaminants then a further investigation may be required.

See Appendix 5: Council procedure for Initial Evaluation for steps on undertaking this process.

### **3.3 PRELIMINARY INVESTIGATION**

The objectives of a preliminary investigation are to identify any past or present potentially contaminating activities and to provide a preliminary assessment of site contamination. The preliminary investigation typically contains a detailed appraisal of the site history and a report based on visual site inspection and assessment.

Council will require further investigation where it is found through the initial evaluation that the land concerned is:

- Land that is within an investigation area that has been notified as such by the EPA;
- Land on which activities referred to in Appendix 2 are being, or are known to have been carried out; or
- Land on which there is incomplete knowledge about whether activities referred to in Appendix 2 are being carried out, and if the proposed development involved residential, educational, recreation, child care or hospital purposes.

Council may also require further investigation when:

- There are reasonable grounds to believe that the land is contaminated because of the land's history, condition, or other information known (where it is available);
- The site has been investigated or remediated but there is insufficient information available about the nature and extent of contamination or remediation, or where these circumstances have changed;
- The land use has changed to a more sensitive land use;
- There are restrictions on, or conditions attached to the use of the site by a regulatory or planning authority that are, or may be related to contamination, but there is insufficient information available about the nature and extent of contamination;

## **Min. No.**

- Council records have demonstrated that the site is associated with pollution incidents or illegal dumping of wastes; or
- The adjoining land has been associated with activities that may cause contamination listed in Appendix 2 and is likely that this may have contaminated the subject site.

The preliminary site contamination investigation shall be carried out in accordance with the requirements of the *NSW EPA Guidelines for Consultants Reports on Contaminated Sites*. The applicant is responsible for engaging a suitably qualified and experienced consultant to undertake the preliminary site contamination investigation and is responsible for all costs borne in engaging the consultant.

As part of the preliminary investigation, applicants may request Council undertake a search of its records to determine previous approved developments at the site.

If after the preliminary investigation Council is satisfied that contamination is not an issue, then any further investigation may not be required.

See Appendix 6: Council procedure for Preliminary Investigation for steps for undertaking this process.

### **3.4 DETAILED INVESTIGATION**

If the results of the preliminary investigation demonstrate the potential for, or existence of, contamination which may preclude the land from being suitable for the proposal, Council may require a detailed contamination investigation, which is described below. In some cases, the preliminary and detailed investigations may be combined (e.g. where it is known that the land is contaminated or that the land has been used for an activity that could cause contamination).

The lodgement of a development application may trigger the management and/or remediation of any significant contamination on the site prior to the development being authorised. The detailed site contamination investigation is to be undertaken by a suitably certified, qualified and experienced consultant (at the cost of the applicant) in accordance with the guidelines made or approved by the EPA under Section 105 of the CLM Act.

The objectives of a detailed site investigation are to:

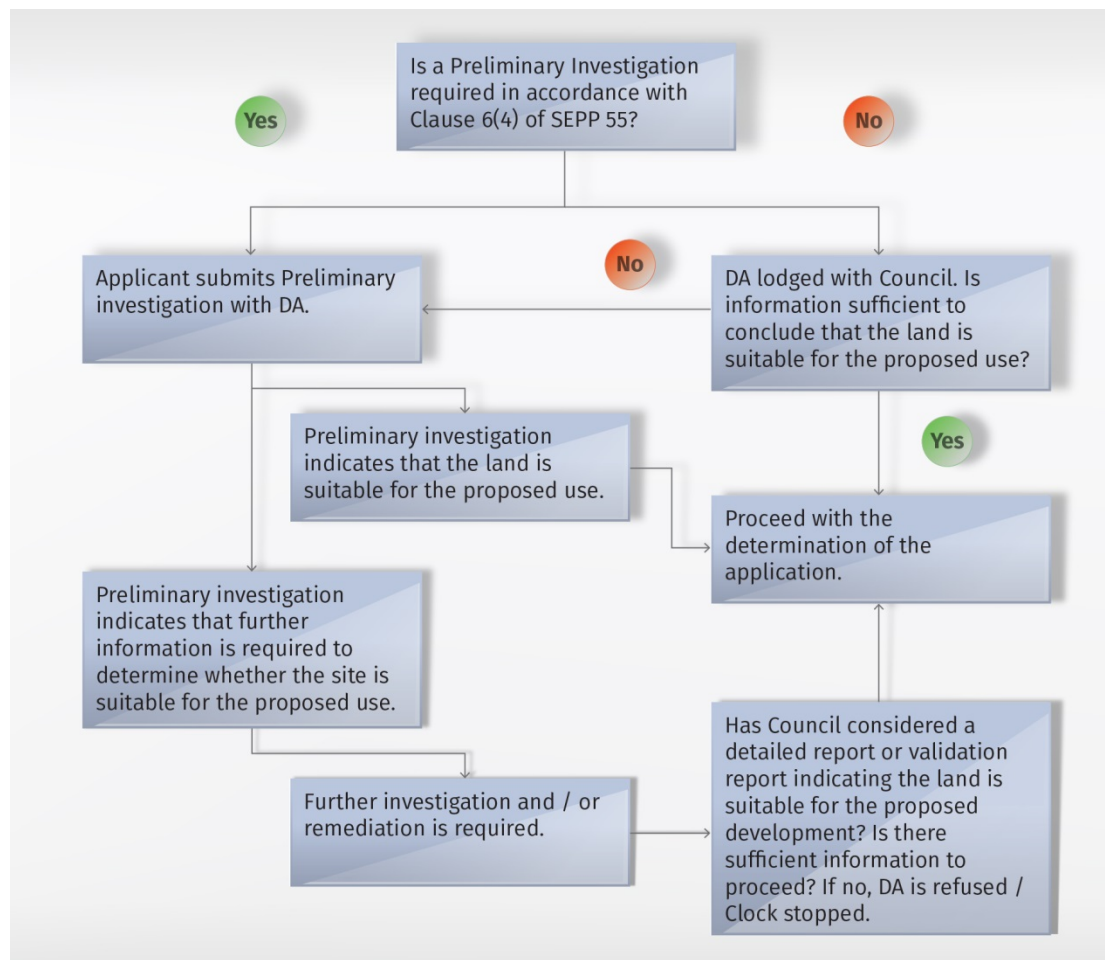
- Define the extent and degree of contamination;
- Assess the potential risk posed by contaminants to human health and the environment; and
- If necessary, obtain sufficient information for the development of a Remedial Action Plan.

The detailed site contamination investigation shall state whether the site is suitable for the proposed use and for all other purposes permissible in the zone, or if remediation is necessary. If remediation is required, a remediation action plan will need to be prepared for Council outlining the feasible remediation options available to make the site suitable for the proposed use.

If the detailed site contamination investigation states (and Council is satisfied) that the site is suitable for the proposed use, then Council may determine the development application through Council's usual procedures.

**Min. No.**

**Figure 4: Consideration of development applications**



**If the results of the detailed site contamination investigation demonstrated the existence of contamination that may preclude the land from being suitable for the proposed use, the applicant may choose to either withdraw the application or to remediate the land. Council’s response will then depend on whether the remediation work constitutes Category 1 or Category 2 remediation work. A detailed explanation of what constitutes Category 1 remediation or Category 2 remediation is provided in Section 4.5 and 4.6 respectively.**

**If the remediation proposed is Category 1 remediation work (i.e. remediation work that requires development consent), Council may:**

- **Require the applicant to amend the application (if already submitted) to include a remediation proposal; or**
- **Require a new development application for the remediation to be submitted before the application is considered for the final use of the site.**

**If the proposed remediation is Category 2 remediation work (i.e. remediation work that does not require consent), Council may;**

## **Min. No.**

- **Impose conditions on the development consent for the use, requiring the site to be remediated and validated either before other work commences or before occupation of the site; or**
- **Issue deferred commencement consent for the use of the site, and require the site to be remediated and validated before other work commences.**

**If the investigation finds that the land is unsuitable for the proposed use and may not be appropriately remediated, or the applicant does not wish to remediate:**

- **The proposal may be modified to a use that is suitable for the land without remediation, provided a new development application is not required; or**
- **The application may be withdrawn; or**
- **The application should be refused.**

**See Appendix 7: Council procedure for Detailed Investigation for steps outlining this process.**

## **4. REMEDIATION PROCESSES**

### **4.1 REMEDIATION**

**A Remedial Action Plan (RAP), is documentation describing remedial actions that should be prepared for all remediation proposals. A formal RAP must be developed by an experienced and certified consultant and be submitted to Council for all Category 1 remediation work (i.e. remediation work that required development consent). The RAP should also contain an environmental management plan and workplace health and safety plan for the remediation works and shall be submitted to Council prior to DA approval.**

**The objectives for the RAP are to:**

- **Set remediation objectives;**
- **Determine the most appropriate remedial strategy; and**
- **Identify necessary approvals that need to be obtained from any other regulatory authorities.**

**Remedial Action Plans are to be consistent with the SEPP 55 Planning Guidelines and all remediation is to be carried out in accordance with the EPA guidelines made under the CLM Act. The applicant is responsible for engaging an experienced and certified consultant to prepare the RAP and for all associated costs, including any remediation works as well as site audit costs if requested by Council.**

**The previous Figure 3 outlines the relationships between the Planning System and the CLM Act, and the role of Council and the EPA in the process of site remediation.**

**See Appendix 8: Council procedure for Remediation for steps for undertaking this process.**

### **4.2 VALIDATION AND MONITORING REPORT**

**The objective of the validation and monitoring report is to demonstrate that the objectives of the RAP have been achieved and that any conditions of development consent in regard to contaminated land have been complied with.**

**Council will require a validation and monitoring report to be submitted by the applicant after remediation works have been completed, and prior to the commencement of any development works. Council will place a condition on the development consent requiring the submission and approval of a validation and monitoring report prior to the issue of a construction certificate, or if a construction certificate is not required, prior to occupying the site, or within a specified timeframe as stipulated in conditions**

## **Min. No.**

of consent. The validation report will be required to be submitted to the satisfaction of the Council.

Alternatively, Council may issue a deferred commencement or staged consent for the proposed use or development, requiring that remediation and validation is undertaken prior to any other work commencing.

Ideally the same certified consultant should undertake the site investigation, remediation and validation of the site. The Validation Report must confirm that the remediated site complies with the clean-up criteria set for the site in the RAP and be prepared in accordance with the *EPA Guidelines for Consultants Reporting on Contaminated Sites*.

Council may require independent review of the remediation and validation by an EPA accredited auditor.

### **4.3 VOLUNTARY REMEDIATION**

Section 60 of the CLM Act places a duty on the owner and the polluter of contaminated land to report contamination to the EPA.

Owners of land that has been identified as being contaminated or potentially contaminated may wish to voluntarily undertake investigation and/or remediation at any time, regardless of whether they intend to carry out development, or apply for a planning proposal regarding that land.

Investigation by the owner must be undertaken in accordance with the relevant EPA guidelines by an experienced and certified consultant. Remediation must be carried out according to the NSW legislation and the process outlined in this Policy. Requirements for remediation are provided below in Section 4.4.

Council will consider the results of any investigation or remediation prior to providing a planning certificate for the property.

See Appendix 9: Council procedure for Voluntary Remediation for steps for undertaking this process.

### **4.4 REQUIREMENTS FOR REMEDIATION**

In some situations remediation work itself has the potential for environmental impact and the planning process must ensure that these impacts are adequately identified and mitigated. Remediation work is classified as either Category 1 remediation work (i.e. remediation that requires development consent), or Category 2 remediation work (i.e. remediation work where no consent is required however the work must still be carried out in accordance with the requirements of SEPP 55).

All remediation work must be carried out by an experienced and certified consultant in conjunction with a Remedial Action Plan. Council's procedure for considering site remediation proposal is shown in Figure 3.

### **4.5 CATEGORY 1 REMEDIATION WORK**

Development consent is generally only required for remediation work where there is potential for significant environmental impacts from the work.

Remediation work that requires development consent is known as Category 1 remediation work. Category 1 work includes any work that is:

- Designated development; or
- Carried out on land that is declared to be critical habitat (for threatened species); or
- Likely to have a significant impact on critical habitat or a threatened species, population or ecological community; or

## **Min. No.**

- Development for which another State Environmental Planning Policy or a regional environmental plan requires development consent; or
- In an area or zone to which any of the following classifications apply under an environment planning instrument:
  - A. Coastal protection;
  - B. Conservation or heritage conservation;
  - C. Habitat area, habitat protection area, habitat or wildlife corridor;
  - D. Environment protection;
  - E. Escarpment, escarpment protection or escarpment preservation;
  - F. Floodway;
  - G. Littoral rainforest;
  - H. Nature reserve;
  - I. Scenic area or scenic protection;
  - J. Wetland; or
- On any land in a manner that does not comply with a policy made under the contaminated land planning guidelines by the council for any local government area in which the land is situated; or
- Works located in areas of high water table (less than 3 metres) as identified from time to time; or
- Works located within 40 metres of the top of the back of each watercourse on land identified on the Riparian Lands and Waterways Map of Berrigan Local Environmental Plan 2012.

All category 1 remediation work must be carried out in accordance with:

- The contaminated land planning guidelines;
- The guidelines published under the CLM Act; and
- A Remedial Action Plan prepared in accordance with the contaminated land planning guidelines and approved by the consent authority.

All other remediation work may be carried out without development consent and is known as Category 2 remediation work.

Note: under Clause 9(f) of SEPP 55, Council's can nominate Category 1 remediation works, It's not a good idea to nominate everything, but if there is a concern, eg: removal of USTs not being undertaken correctly or shallow groundwater, adjacent to a waterway etc, then the Council is able to nominate these works as Category 1. You will then have to list them above.

### **4.6 CATEGORY 2 REMEDIATION WORK**

Category 2 remediation works is all remediation work that is not defined as Category 1 remediation work. Category 2 remediation work does not require development consent.

- Part 5 of the EP&A Act applies where development consent is not required under a planning instrument but where approval from a public authority is required. Each determining authority will consider the potential significance of any environment impacts from the proposed remediation.
- If the remediation is likely to significantly impact the environment, an Environmental Impact Statement (EIS) would be required.
- If consent is not required under SEPP 55 (e.g. Category 2 remediation works), it is unlikely that the remediation works will significantly impact the environment and therefore an EIS would not be required, however this would be determined on a case-by case basis.

## **Min. No.**

**Under Part 5 of the EP&A, Category 2 remediation works must take full account of all matters likely to impact the environment**

**SEPP 55 requires that Council must be notified at least 30 days before Category 2 remediation works commence. Prior notice of Category 2 remediation works must also address the information in Appendix 3 – Requirements for Category 2 Remediation Works.**

**A copy of the Validation and Monitoring Report and Site Audit Statement from an EPA accredited auditor must be forwarded to Council within 30 days of the completion of remediation works. Council will not consider any subsequent development applications for the site until it is satisfied that the site suitable for the proposed use.**

**See Appendix 9: Council procedure for Remediation for steps for undertaking Category 1 and Category 2 remediation works.**

### **4.7 SITE AUDITING**

**A site audit is an independent review of any or all stages of the site investigation process, conducted in accordance with the CLM Act. A site audit may review a preliminary investigation, a detailed investigation, a Remedial Action Plan, or validation report.**

**A site audit will lead to the provision of a certificate called a Site Audit Statement, stating for what use the contaminated land is suitable. A Site Audit Statement must be prepared by an EPA accredited site auditor in accordance with the legislation.**

**Council may request a site audit to be undertaken at any stage during the contamination investigation or remediation works if Council:**

- Believes on reasonable grounds that information, including that related to potential contamination or previous land use history, provided by the applicant is incorrect or incomplete;**
- Wishes to verify whether the information provided by the applicant has adhered to appropriate standards, procedures and guidelines; or**
- Does not have the internal resources to undertake a technical review.**

**If Council requires a site audit, the cost shall be borne by the applicant.**

**A site auditor can comment on, or verify information provided by the applicant:**

- to determine if the contaminated land consultant complied with all appropriate standards, procedures and relevant EPA guidelines;**
- to determine if further investigations or remediation is required before the land is suitable or determine any specified use or range of uses.**
- to determine if the proposed remediation is adequate and, if undertaken, will render the site suitable for the proposed use.**
- to determine if there is any acceptable off-site migration of contaminants, particularly via ground water; or**
- to determine if the contamination conditions at the site are suitable for in-ground absorption of stormwater.**

**Before issuing a Site Audit Statement, the site auditor must prepare a Site Audit Summary Report. This report is a requirement of the EPA. It contains the key information and the basis of consideration that leads to the issue of the Site Audit Statement. The EPA Guideline for the NSW Site Auditor Scheme provides guidelines on the content of the statement and audit report.**

**See Appendix 10: Council procedure for Site Auditing for undertaking process steps.**



**Min. No.**

## **5. PLANNING (SECTION 149) CERTIFICATES**

Under Section 149 of the EP&A Act a person may request from Council a planning certificate that contains advice on land contamination matters about a property. For example, a planning certificate would show the existence of a council policy to restrict the use of land.

Such matters relating to land contamination that must be included on section 149(2) planning certificates area as set out in section 59(2) of the CLM Act and will also include:

- a) Whether Council has adopted a policy to restrict the use of land due to the risk of land contamination;
- b) Whether the land is an investigation area or remediation site;
- c) Whether the land is subject to an investigation order or remediation order; and
- d) Whether a site audit statement of the land is held by Council.

Council is formally advised whenever a notice is issued under the CLM Act and accordingly annotates its planning certificates. Section 149(2) planning certificates will not include specific information about actual or potential contamination (such as the types, extent and level of contamination) on a parcel of land.

Additional information of a factual nature regarding the contamination status of the site can be placed on the S.149(5) section of the planning certificate.

See Appendix 11: Section 149 Certificates procedure for undertaking this process steps

**Min. No.**

**Appendix 1: Terms and Definitions**

Category 1 Remediation Work under SEPP 55 <i>As defined in the SEPP 55 guidelines.</i>	Remediation work that requires development consent. Defined in Section 4.5 of this document.
Category 2 Remediation Work under SEPP 55 <i>As defined in the SEPP 55 guidelines.</i>	Remediation work that does not require development consent under SEPP 55. Defined in Section 4.6 of this document.
CLM Act	<i>Contaminated Land Management Act 1997</i>
Contaminated Land <i>As defined in the SEPP 55 guidelines.</i>	Land in, on or under which any substance is present at a concentration above that naturally present in, on or under the land that poses, or is likely to pose, an immediate or long-term risk to human health or environment.
Contamination <i>As defined in the CLM Act.</i>	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 represents a risk of harm to human health or any other aspect of the environment.
Detailed Investigation <i>As defined in the SEPP 55 guidelines.</i>	An investigation to define the extent and degrees of contamination, to assess potential risk posed by contaminants to human health and the environment, and to obtain sufficient information for the development of a remedial action plan if required.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
Independent review <i>As defined in the SEPP 55 guidelines.</i>	An evaluation by an independent expert required by a planning authority of any information submitted by an applicant conducted at the applicant's expense.
Initial evaluation <i>As defined in the SEPP 55 guidelines.</i>	An assessment of readily available factual information to determine whether contamination is an issue relevant to the decision being made.
Investigation Order <i>As defined in the SEPP 55 guidelines.</i>	An order by the EPA under the Contaminated Land Management Act 1997 to investigate contamination at a site of within an area.
Notice of completion <i>As defined in the SEPP 55 guidelines.</i>	A notice to Council in accordance with the State Environmental Planning Policy No. 55 – Remediation of Land that remediation work has been completed.
Notification of remediation <i>As defined in the SEPP 55 guidelines.</i>	Prior notice of category 2 remediation work given to Council in accordance with the State Environmental Planning Policy no. 55 – Remediation of Land.
Planning authority <i>As defined in the SEPP 55 guidelines.</i>	A public authority or other person responsible for exercising a planning function.
Preliminary Investigation	An investigation to identify any past or present potential

**Min. No.**

<i>As defined in the SEPP 55 guidelines.</i>	contaminating activities and to provide a preliminary assessment of any site contamination. The preliminary investigation typically contains detailed appraisal of the site history and a report based on visual site inspection and assessment.
Remedial Action Plan <i>As defined in the SEPP 55 guidelines.</i>	A plan that sets remediation goals and documents that outline the process required to remediate a site.
Remediation Order <i>As defined in the SEPP 55 guidelines.</i>	A direction from the EPA under the <i>Contaminated Land Management Act 1997</i> to remediate.
Remediation Site <i>As defined in the SEPP 55 guidelines.</i>	A site declared by the EPA under the Contaminated Land Management Act 1997 as posing a significant risk of harm.
Remediation Work <i>As defined in the SEPP 55 guidelines.</i>	Work in, on or under contaminated land, being work that: Removes the cause of contamination of the land; or Disperses, destroys, reduces, mitigates or contains the contamination of the land; or Eliminates or reduces any hazard arising from the contamination of the land (including by preventing the entry of persons or animals on that land).
SEPP 55	State Environmental Planning Policy 55 – Remediation of Land
Site Audit <i>As defined in the CLM Act.</i>	<i>A review</i> That relates to management of the actual or possible contamination of land; and That is conducted for the purpose of determining any one or more of the following matters The nature and extent of any contamination of the land The nature and extent of any management of actual or possible contamination of the land Whether the land is suitable for any specified use or range of uses What management remains necessary before the land is suitable for any specified use or range of uses The suitability and appropriateness of a plan of management, long-term management plan or a voluntary management proposal.
Site Auditor <i>As defined in the SEPP 55 guidelines.</i>	A person accredited by the EPA under the Contaminated Land Management Act to conduct site audits.
Site Auditor Statement <i>As defined in the SEPP 55 guidelines.</i>	A certificate issued by a site auditor for what use the land is suitable. OR A site audit statement prepared by a site auditor in accordance with the Contaminated Land Management Act.
Site Audit Report <i>As defined in the SEPP 55</i>	A report containing the key information and the basis of consideration which leads to the issue of a site audit

**Min. No.**

<i>guidelines.</i>	statement. OR A site audit report prepared by a site auditor in accordance with the Contaminated Land Management Act.
Site History <i>As defined in the SEPP 55 guidelines.</i>	A land use history of a site that identifies activities or land uses that may have contaminated the site, establishes the geographical location of particular processes within the site, and determines the approximate time periods over which these activities took place.
Site Investigation Process <i>As defined in the SEPP 55 guidelines.</i>	The process of investigating land that may be, or is, contaminated, for the purpose of providing information to a planning authority.
Validation <i>As defined in the SEPP 55 guidelines.</i>	The process of determining whether the objectives for remediation and any development consent conditions have been achieved.

**Min. No.**

**APPENDIX 2: ACTIVITIES THAT MAY CAUSE CONTAMINATION**

Activities that may cause contamination, as listed by the Planning Guidelines SEPP 55 – Remediation of Land, are listed below. This should be used as a guide only. A conclusive contaminated or non contaminated status can only be determined after a site history investigation and sampling analysis (where required).

- acid/alkali plant and formulation
- agricultural/horticultural activities
- airports
- asbestos production and disposal
- chemicals manufacture and formulation
- defence works
- drum re-conditioning works
- dry cleaning establishments
- electrical manufacturing (transformers)
- electroplating and heat treatment premises
- engine works
- explosives industry
- gas works
- iron and steel works
- landfill sites
- metal treatment
- mining and extractive industries
- oil production and storage
- paint formulation and manufacture
- pesticide manufacture and formulation
- power stations
- railway yards
- scrap yards
- service stations
- sheep and cattle dips
- smelting and refining
- tanning and associated trades
- waste storage and treatment
- wood preservation
- clandestine laboratories and hydroponic plantings\*

Source: Department of Urban Affairs and Planning & Environment Protection Authority. 1998. Managing Land Contamination Planning Guidelines. Table 1.

\* Not currently listed in SEPP 55 Guidelines Remediation of land.

**Min. No.**

**APPENDIX 3: REQUIREMENTS FOR CATEGORY 2 REMEDIATION**

An applicant undertaking Category 2 remediation work must comply with the following requirements in order to maintain the amenity of adjoining owners, to prevent a risk to human health and to protect the environment.

The following detail should also be included in the development of a Remedial Action Plan in accordance with Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997.

**1. Hours of Operation**

All remediation work (including the delivery/removal of materials or equipment) shall be limited to the following hours of work (unless through an alternative mutual agreement in writing with Council or is carried out in a residential zone) to:

- Monday to Friday 7am to 6pm
- Saturday 8am to 1pm

No remediation work is permitted on Sundays or public holidays.

Noise from power tools and equipment in a residential zone is only restricted by the following:

- Noise should not be heard in a habitable room in a neighbour's residence between:
  - 8pm to 7am on weekdays and Saturdays
  - 8pm to 8am on Sundays and public holidays

**2. Noise and Vibrations**

Any noise and vibrations from the site shall be limited by:

- Complying with the NSW EPA's Industrial Noise Policy where applicable;
- Ensuring that all machinery and equipment is operated in an efficient manner to minimise noise from the site on adjoining properties;
- Ensuring that the use of any plant and/or machinery does not cause vibrations in excess of legislation and Australian Standards, on any premises.

**3. Erosion and Sediment Control Plans**

An Erosion and Sediment Control Plan (ESCP) shall be prepared and submitted to Council for approval prior to remediation works commencing onsite. The ESCP shall be developed with regard to the requirements detailed in Council's Soil and Water Management Policy and Council's Engineering Guidelines and Technical Specifications.

Sediment control structures shall be provided to prevent sediment entering drainage systems particularly where surfaces are exposed or where soil is stockpiled.

All erosion and sediment control measures must be maintained in a functional condition throughout the remediation works.

**4. Stockpiles**

No stockpiles of soil or other materials shall be placed on public land (i.e. footpaths, reserves or nature strips). All stockpiles shall be placed away from drainage lines, gutters or stormwater pits or inlets. All stockpiles of soil or other material shall be maintained to prevent dust, odours or seepage. All stockpiles of contaminated soils

## **Min. No.**

shall be secured to prevent dust, odour or seepage if being stored for more than 24 hours.

### **5. Bunding**

Any areas used for remediation or the stockpiling of construction materials or contaminated soils shall be controlled to contain surface water runoff and run-on and be designed and constructed so as to prevent the leaching of contaminants into the subsurface/groundwater. Locate stockpiles and construction materials away from drainage lines and provide bunding of disturbed areas and excavations to prevent runoff to waterways or stormwater where necessary. Ensure stabilisation as soon as possible. All surface water discharges from the area to Council's stormwater system shall not contain detectable levels of contaminants.

### **6. Site Access and Vehicle Use**

Vehicle access to the site shall be designated to prevent the tracking of sediment onto public roadways and footpaths. Soil, earth, mud or similar material must be removed from the roadway by sweeping, shovelling, or a means other than washing on a daily basis or as required by an appropriate authority. Soil residue from vehicle wheels shall be collected and disposed of in an appropriate manner.

All vehicles are to:

- Enter and exit the site in a forward motion;
- Comply with all road rules, including vehicle weight limits;
- Minimise the use of Local Roads by utilising State Roads where available;
- Be cleaned pre and post works to prevent the movement of weed seeds;
- Securely cover or seal all loads to prevent the release of any dust, fumes, soil or liquid emissions during transportation;
- Conduct deliveries of soil, materials, equipment or machinery during the hours of remediation work outlined in Section 1;

**Note.** Applicants may consult Council prior to selecting the most suitable transport route.

### **7. Air Quality**

Emissions of dust, odour and fumes from the site are to be appropriately controlled as per the EPA regulations and guidelines. These may include but are not limited to:

- Using water sprays to suppress dust;
- Establishing dust screens around work zones, the perimeter or the development site and any material handling areas;
- Securely covering loads entering/exiting the site;
- Covering stockpiles of contaminated soil that remain on site for more than 24 hours;
- Keeping excavation surfaces and stockpiles moist.

### **8. Groundwater and Surface Water**

Contaminated water is to be disposed of offsite at an appropriate waste treatment processing facility. Alternatively water that has been analysed for suspended solids, total solids, pH and contaminants identified in preliminary/detailed site investigations may be excavation pumped to stormwater if levels of all parameters tested meet EPA and Australian and New Zealand Guidelines (ANZECC) for fresh and marine water quality. Application may be made to Council for the water to be disposed of via sewer via a Trade Waste Agreement.

### **9. Existing Vegetation**

There shall be no removal or disturbance to trees or native understorey without the prior written consent through Council's Tree Preservation Order process. All trees that

## **Min. No.**

will be retained on the site must be suitably protected from damage during remediation works. This includes provision of protective fencing to protect the root zone of these trees. The fencing must extend to a minimum of the drip line of each tree. No stockpiling, storage, excavation, vehicle parking, or vehicle movement is to occur within the root zone protection area. Tree protection fencing must remain in place until the end of remediation works.

All exposed areas shall be progressively stabilised and revegetated on the completion of remediation works.

### **10. Capping of Contaminated Soil**

Capping of contaminated soil should only occur after alternative remediation works have been investigated, particularly in urban zoning or areas identified as future growth in Berrigan's LEP/DCP.

Contaminated soil is only permitted to be capped if it does not prevent any permitted use of the land and it can be demonstrated that there will be no ongoing impacts on human or environment health. Capping of contaminated soil that exceeds zoning permissible levels, is classified as Category 1 Remediation Work and may only be permitted in accordance with a Development Consent.

Where site capping is carried out on a site and further maintenance is required, Council will require the placement of a covenant on the title of the land. The covenant will advise of any maintenance works required to be carried out. Records of any maintenance undertaken on the site shall be kept for future reference and provided to Council on an annual basis. The cost of the preparation of covenant is borne by the applicant.

### **11. Contaminated Soil Disposal**

Disposal of contaminated soil must be in accordance with the Protection of the Environment Operations Act and Regulations and any EPA guidelines relevant at the time (such as the NSW EPA publication NSW EPA Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (2004)).

Any enquires associated with the off-site disposal of waste from a contaminated site should be referred to the EPA helpline (phone 131 555). If contaminated soil or other waste is transported to or from a site a licensed waste transport contractor must be used.

The Berrigan Shire Council's Waste Management Facility only accepts waste in accordance with its Environment Protection Licence (insert licence number). Section L5 Waste requires that waste be 'General Solid Waste'. Analysis of the contaminated soil is to be undertaken to verify that the waste is 'General Solid Waste'. All documentation is to be provided to Council's Waste Management Team and approved prior to the waste entering the landfill.

### **12. Work Health and Safety**

It is the employer's responsibility to ensure that all site remediation works comply with the Work Health and Safety legislation and other applicable SafeWork (previously known as WorkCover) NSW requirements.

### **13. Importation of Fill**

All fill imported to the site shall be validated as Virgin Excavated Natural Material (VENM/ENM) as defined in the Protection of the Environment Operations Act 1997 (POEO Act) to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Council may in certain instances require details of the appropriate validation of imported fill material to be submitted with any application for the future development of the site.

Fill is permitted for use provided that:



## **Min. No.**

- It itself is not contaminated;
- It is weed and pest free;
- It is compatible with the existing soil characteristic so as not to adversely affect site drainage.

### **14. Site Security and Lighting**

The site shall be secured to ensure against all unauthorised access by using appropriate fencing.

It is recommended that security lighting is used to deter unauthorised access. If security lighting is used it shall be shielded to protect the amenity of adjoining landowners.

### **15. Rodents and Vermin**

Rodents and vermin are to be adequately controlled and disposed of in an environmentally appropriate manner.

### **16. Consultation**

Written notification to adjoining owners/occupants is to occur at least two days prior to the commencement of remediation works. Notification is to include:

- Estimated length of works;
- Contact details of Site Manager;

Signage visible from the road and adjacent to site access is to display the Site Manager and Remediation Contractor contact details for the duration of the works.

### **17. Removal of Underground Petroleum Storage Systems (UPSS)**

The removal of all UPSS is to be completed in accordance with the:

- Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulations 2014<sup>6</sup>;
- Australian Institute of Petroleum's Code of Practice: The Removal and Disposal of Underground Petroleum Storage Tanks (AIP CP22-1994)<sup>7</sup>;
- NSW Work Cover requirements;
- Australian Standard/s including AS 2601 – 1991 Demolition of Structures and AS 1940 – 2004 Storage and Handling of Flammable and Combustible Liquids.

Following the removal of underground storage systems containing fuel, the site area, which includes bowser lines and fuel lines, shall be assessed, remediated if need be, and validated in accordance with the requirements above. All documents must be submitted to Council, including but not limited to a tank pit validation prepared in accordance with the POEO regulations.

### **18. Hazardous Materials**

Hazardous and/or intractable wastes arising from the remediation work shall be removed and disposed of in accordance with the requirements of the NSW EPA and SafeWork (previously known as WorkCover) NSW, together with the relevant regulations, namely:

- NSW Work Health and Safety Act 2011;
- NSW Work Health and Safety Regulation 2011;

---

<sup>6</sup> Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014

<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+565+2014+cd+0+N>

<sup>7</sup> NB: Australian Institute of Petroleum's Code of Practice: The Removal and Disposal of Underground Petroleum Storage Tanks (AIP CP22-1994) has been withdrawn by AIP.

**Min. No.**

- Contaminated Land Management Act and Regulations; and
- Environmentally Hazardous Chemicals Act 1985 and Regulations.

Under the Protection of the Environment Operations Act 1997 the transportation of Schedule 1 Hazardous Waste is a scheduled activity and must be carried out by a transporter licensed by the NSW EPA.

**19. Site clean-up/rehabilitation**

The remediation work site must be stabilised to ensure that no offsite impacts occur on the site post completion.

**20. Site Validation**

All Category 2 remediation work shall be validated by a site auditor accredited by the EPA under Part 4 of the CLM Act and a copy provided to Council within 90 days of completion and prior to the commencement of building construction works. The validation report is to:

- Contain a copy of any reports or records taken during remediation or following completion of validation works;
- Contain a validation statement detailing all works have been undertaken and completed satisfactorily;
- Demonstrate that the objectives of any relevant Remedial Action Plan (RAP) have been achieved, any conditions of development consent have been complied with or whether any further remediation work or restrictions on land use are required;
- Provide evidence confirming that all NSW EPA, SafeWork (previously known as WorkCover) and other regulatory authorities license conditions and approvals have been met;
- Identify the need for continued monitoring in situations where clean-up is not feasible or on-site containment has occurred;
- State the suitability of the site for its current or proposed use.

Successful validation is the statistical confirmation that the remediated site complies with the clean-up criteria set for the site.

The site auditor must:

- Be currently accredited by the NSW EPA;
- Comply with all relevant publications of the NSW EPA;
- Not have a conflict of interest or a pecuniary interest, within the meaning of Section 54 of the Contaminated Land Management Act 1997.

The full cost of the validation will be borne by the applicant and not Council.

**Min. No.**

**Category 2 Remediation Works Checklist**

Requirement	Completed
Remediation works are not classified as designated development under the <i>Environmental Planning and Assessment Act 1979</i> or any other planning instrument.	
Remediation works are not proposed on land that is: Identified as critical habitat under the <i>Threatened Species Conservation Act 1995</i> ; or Likely to have a significant impact on threatened species, populations, ecological communities or their habitats; or In an area or zone classified under an Environmental Planning Instrument as conservation or heritage conservation, habitat area, habitat protection area, habitat or wildlife corridor, environment protection, floodway, nature reserve, scenic area or scenic protection, or wetland; or Requiring consent under another State Environmental Planning Policy.	
Remediation work is consistent with the <i>Requirements for Category 2 Remediation of Contamination Land</i> , or you have received written confirmation from Council.	
Details of category 2 remediation work has been submitted 30 days prior to commencement, unless otherwise exempt.	
Written notification to adjoining owners/occupants has occurred at least two days prior to the commencement of remediation works detailing the estimated length of the works and contact details of the Site Manager.	
Have provided written correspondence to Council and members of the public who raised written concerns relating to the remediation works within 2 working days of commencement.	
Signage is visible from the road and adjacent to site access; displaying the Site Manager and Remediation Contractor contact details.	
Have provided notice of completion of remediation work within 30 days after the completion of the works to Council and any other consent authority in accordance with Clauses 17 and 18 of SEPP 55.	
Have provided independent verification within 90 days of remediation works being completed.	
If applicable, have notified Council of maintenance required in order for a covenant to be placed on the title.	
Have a mechanism in place to provide Council details of maintenance completed annually.	

## **Min. No.**

### **Appendix 4: Conditions of consent**

The following conditions have been created for use with development applications involving contaminated land. Not all conditions will be relevant to every development application and they will be used as appropriate and where relevant to a particular application. Amendments may also be made, where appropriate, to reflect legislative or other changes.

Further, site specific conditions may be applied depending upon the circumstances of the case.

#### **Contaminated Land**

The subject land has been contaminated from past land use or development. Accordingly, the applicant is advised to make contact with the SafeWork NSW (previously known as WorkCover) for advice regarding minimising harm to workers during operations. Any soil or debris that may need to be removed from the site may only be deposited at licensed landfill sites able to receive potentially contaminated wastes. Reference should be made to Berrigan Shire Council Contaminated Land Management Policy.

#### **Contamination – Recommendations**

The recommendations contained in (insert section) of the document entitled (insert title) prepared by (insert author) dated (insert date) and supplied to Council (insert date) are adopted as conditions of this Consent subject to the following additional requirements.

- a) Insert
- b) Insert

#### **Contamination – Notation on Title**

A notation is to be registered on the title of (insert Lot and DP) advising prospective purchasers to the effect that:

- a) The land is classified as contaminated land as past uses of the land may have contaminated, or contributed to the contamination of, the land; and
- b) Remediation works have been partial and localised only; and
- c) Contaminants may remain in both the soil and groundwater; and
- d) Further investigation and remediation may be required prior to any particular use of the land being undertaken or approved.

#### **Environmental - site remediation works**

Site remediation works (as may be required) are to be carried out generally in accordance with the approved contamination report and remedial action plan, the ANZECC and NHMRC Guidelines (1992) and applicable NSW Environment Protection Authority Guidelines.

On completion of the site remediation works, the following documentation is to be submitted to the Principal Certifying Authority and to Berrigan Shire Council, if Council is not the Principal Certifying Authority:

- a) Written notification that the site remediation works have been completed is to be submitted within 30 days of the works being completed.
- b) The report is to certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan and relevant NSW Environment Protection Authority requirements. (D436)

**Min. No.**

***State Environmental Planning Policy 55 – guidelines and notices***

All remediation work must, in addition to complying with any requirement under the Environmental Planning and Assessment Act or any other law, be carried out in accordance with:

- a) the contaminated land planning guidelines; and
- b) the guidelines (if any) in force under the Contaminated Land Management Act 1997.

In addition a notice of completion of remediation work on any land must be given to the Council. The notice is to be given within 30 days after the completion of the work.

**Completion of Remediation Works – Prior to the commencement of any other works**

Upon the completion of any remediation works stated in the RAP, the person acting on this consent must submit to Council a Validation and Monitoring Report. The report is to be prepared in accordance with the NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites 1998.

**Completion of Remediation Works – Prior to Occupation**

Upon the completion of the approved remediation works stated in the approved Remediation Action Plan and before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the person acting on this consent shall submit to Council a Validation and Monitoring Report. The report is to be conducted in accordance with the NSW Environment Protection Authority's Guidelines for Consultants Reporting on Contaminated Sites 1998.

**Environmental Management Plan**

Prior to the issue of a Construction Certificate, an Environmental Management Plan (EMP) for the site is to be submitted to Berrigan Shire Council for consideration and approval. The EMP is to be prepared by an experienced and certified consultant in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies. The EMP is to:

- a) Address all environmental aspects of the development's construction and operational phases; and
- b) Recommend any systems/controls to be implemented to minimise the potential for any adverse environmental impact(s); and
- c) Incorporate a programme for ongoing monitoring and review to ensure that the EMP remains contemporary with relevant environmental standards.

The EMP should include but is not limited to the following:

- i Soil and water management
- ii Air Quality
- iii Water Quality
- iv Dust suppression
- v Litter control
- vi Noise control
- vii Waste management
- viii Dangerous/hazardous goods storage
- ix Emergency response and spill contingency.

**Min. No.**

Council will not withhold its consent to the Environmental Management Plan provided the above-mentioned matters are reasonably addressed.

The relevant aspects of the approved EMP are to be implemented during the relevant phase(s) of the development.

- **Employment of Environmental Consultant**

An experienced and certified environmental consultant is to be employed to supervise the implementation of the development in accordance with the relevant aspects of the approved EMP as identified at each phase of the development (e.g. prior to commencement of works, construction and post-construction/ ongoing operations of the development). Details of the environmental consultant, including contact details, employed to oversee the development is to be submitted to Berrigan Shire Council with the 'Notification of Commencement' 2 days before any works are to commence on site.

**Note:** An appropriately qualified and experience environmental consultant must be certified by one of the following certification schemes or equivalent:

- Site Contamination Practitioners Australia (SCPA); and
- Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP).

- **Add following paragraph if required:**

Operational matters of the development, Compliance Certificates or other written document are to be obtained from a qualified environmental consultant certifying that the aspects of the approved EMP are complied with. The Compliance Certificate or other written documentation is to be submitted to Berrigan Shire Council on an annual basis, on the anniversary of the Occupation Certificate being issued for the development.

**Erosion and Sediment Control**

Run-off and erosion control measures must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land. The control measures must be in accordance with Berrigan Shire Council's adopted Erosion and Sediment Control Guidelines for Building Sites.

Erosion and sediment control measures must address and incorporate general site management material handling practices, soil stabilisation, wind erosion, access measures and shall provide for:

- a) The diversion of uncontaminated run-off around cleared or disturbed areas.
- b) The erection of a silt fence to prevent debris escaping into drainage systems or waterways.
- c) The prevention of tracking of sediment by vehicles onto roads.
- d) Covering of vehicles entering/exiting the site with material.
- e) The stockpiling of topsoil, excavated material, construction and landscaping supplies and debris within the site, and the removal or utilisation (where appropriate) of that stockpile after completion of the works.
- f) Maintenance of control measures until the land is effectively rehabilitated and stabilised beyond the completion of construction. (C430)

**Min. No.**

**Maintenance of soil erosion and pollution controls**

All measures specified in Council's Soil and Water Management Policy to minimise the effects of soil erosion and pollution are to be installed then maintained until disturbed areas are rehabilitated and landscaped. Council may issue infringement notices incurring a monetary penalty where measures are not provided or maintained.

**Environmental - dust control**

Effective dust control measures shall be introduced and maintained at all times. Full details of the proposed method of dust control shall be submitted to and approved by Council with the construction certificate.

**Environmental - dust suppression**

Dust suppression techniques are to be employed during works to reduce any potential nuisances to surrounding properties.

**Waste Disposal**

All waste generated on site during the project shall be classified and separated in accordance with DECCWs Waste Classification Guidelines and transported to facility that may lawfully accept the waste.

**Secure Remediation Area**

Prior to commencement of works on site, a secure fence shall be installed around the proposed remediation area to prevent access by unauthorised persons, which shall be removed following completion of remediation works.

**Landscape Plan**

Prior to the issue of a Construction Certificate, a detailed Landscape Plan that includes the following will be required:

- a) Identification and accurate mapping of all trees suitable for retention based on health and condition.
- b) Report detailing species, health, condition and hazard rating of trees identified as suitable for retention.
- c) Trees identified for retention to be clearly tagged on site to allow for assessment by Council officers.
- d) A tree planting/revegetation plan detailing species and location.
- e) Methods of tree protection during engineering works for trees identified to be retained.

**Min. No.**

**Appendix 5: Council procedure for Initial evaluation**

**Process: Initial Evaluation**

**Exceptions: If an application is sent directly to the NSW Department of Planning and Environment as the land is deemed to be contaminated, and that the contamination is significant enough to be declared Significantly Contaminated under the CLM Act.**

**Trigger: An application is submitted to Council by an applicant for a given site.**

**Checklist process:**

Step	Process	Yes	No
1	Does the application include a statement that the land (or neighbouring land) is, or is likely to be contaminated?	Go to Step 1A.	Initiate Preliminary site investigation process – Appendix 6.
1A	Did the application include a Site Audit Statement or Remedial Action Plan?	Go to site auditing or to Remediation process. - Appendix 10 and 8 respectively.	Go to Step 2.
2	Is the application requiring a change in land use to residential, educational, recreational, child care or hospital?	Need to be mindful of this when deciding as to whether a preliminary site investigation is required before proceeding.	Go to Step 3.
3	Is the site; under consideration (or neighbouring sites) included in the Register as ‘significantly contaminated’ or ‘remediated land’? Listed on the EPA’s notifications list i.e. sites which are awaiting assessment?	Go to Step 3A.	Go to Step 4.
3A	Does the Site Audit Statement or Remedial Action Plan place limitations on the use of the land?	Initiate preliminary site investigation process – Appendix 6.	Go to Step 4.
4	Is the site under consideration (or neighbouring sites) included in the register as potentially contaminated land?	Go to Step 4A.	Go to Step 5.
4A	Determine previous land use history and contamination potential. Is contamination possible?	Initiate preliminary site investigation – Appendix 6.	Go to Step 5.
5	Has the site under consideration been	Go to Step 5A.	Go to Step 6.



**Min. No.**

	subject to either a preliminary or detailed site contamination investigations in the past?		
5A	Locate and review Site Audit Statement and the Validation and Monitoring Report. Do restrictions and/or conditions on the land use require further investigation?	Initiate preliminary site investigation – Appendix 6.	Go to Step 6.
6	Is the application outlining no change in land use, but the existing land use involves an activity listed in Appendix 2 of the Policy?	Go to Step 6A.	Go to Step 7.
6A	Is the previous/existing land use related to industrial/commercial or to intensive broadacre?	Consider if a preliminary site investigation is warranted before proceeding.	Go to Step 7.
7	<p>Does information on current zoning and permissible land uses (e.g. restrictions and/or conditions on land use relating to land contamination contained in the LEP, DCP etc), or records from previous zonings, development and building applications, property files and information provided by the applicant <u>suggest land contamination may be an issue for this or in neighbouring sites?</u></p> <p>Does the Local Environment Plan or Development Control Plan place restrictions or conditions for the development of the site?</p> <p>Is an identified historical land use for the land (or neighbouring land) listed in Appendix 2 of the Policy?</p> <p>Is an identified historical land use (or neighbouring land) related to agriculture or intensive horticulture? (excludes broadacre horticulture).</p> <p>Is or has the site (or neighbouring land) been subject to land use restrictions related to contamination?</p> <p>Is or has the site (or neighbouring land) been subject to conditions on its use?</p> <p>Is or has the site (or neighbouring land) been subject to remediation action?</p> <p>Is or has the site (or neighbouring land)</p>	Yes or maybe to one or more – Initiate preliminary site investigation - Appendix 6.	No to all. Proceed with normal planning assessment process. Process finalised.

**Min. No.**

been subject to pollution incidents and/or illegal dumping of waste?  Did a site inspection identify any land contamination issues?		
---	--	--

**Key decision for check list:**

**Initial Evaluation Report (as a file note) concludes that:**

- 1. Reasonable efforts have been made to come to a conclusion that there is no risk in the development application relating to land contamination, hence the assessment of the Development Application continues business-as-usual; or**
- 2. There is insufficient information to determine whether the land under consideration in the development application is not contaminated land, in that the land concerned is either:**
  - Land that is within an investigation area that has been notified as such by the EPA;**
  - Land on which activities referred to in Appendix 2 of the Contaminated Land Management Policy are being, or are known to have been carried out, especially in regards to agriculture and intensive horticulture activities; or**
  - Land on which there is incomplete knowledge about whether activities referred to in Appendix 2 of the Contaminated Land Management Policy are being, or are known to have been carried out, and if the proposed development involved residential, educational, recreational, child care or hospital purposes.**

**If 1): proceed with normal business process in the assessment of the development application.**

**If 2): notify the applicant in writing that a Preliminary Site Investigation is required.**

**Min. No.**

**Appendix 6: Council Procedure for Preliminary Site Investigation**

**Process:** Preliminary Site Investigation

**Exceptions:** If an application is sent directly to the NSW Department of Planning and Environment (as a consenting authority) as the land is deemed to be contaminated, and that the contamination is significant enough to warrant regulation.

**Trigger:** Initial Evaluation could not conclude that the land under consideration in the application is not contaminated land.

**Activity:** Request the applicant to use a suitably qualified expert to undertake a preliminary site contamination investigation, and to undertake this investigation in accordance with the NSW EPA Guidelines for Consultants Reporting on Contaminated Sites. Request that the outcomes of this investigation are included in a revised application. (Note: this activity can be undertaken in conjunction with the Detailed Site Investigation).

**Checklist process:**

Step	Process	Yes	No
1	The application includes a Preliminary Site Investigation Report.	Go to Step 2.	Go to Step 1A.
1A	Request the applicant provide the Preliminary Site Investigation Report.	Go to Step 2.	Undertake Step 1A before proceeding.
2	Review the Preliminary Site Investigation Report and determine whether a Detailed Site Investigation is required.	Go to Step 3.	Undertake Step 2A before proceeding.
3	Preliminary Site Investigation Report (as a file note with the report) demonstrates the potential for, or existence of, contamination, which may preclude the land of being suitable for the proposed use.	Go to Detailed Site Investigation – Appendix 7.	Go to Step 4.
4	Is there a requirement for conditions of consent (refer to Appendix 4).	Go to step 5.	Process the application. Process finalised.
5	Process application with Conditions of Consent.	Process finalised.	Step 5 needs to be undertaken before process can be finalised.

**Min. No.**

**Appendix 7: Council Procedure for Detailed Site Investigation**

**Process:** Detailed Site Investigation

**Exceptions:** If an application is sent directly to the NSW Department of Planning and Environment (as the consenting authority) as the land is deemed to be contaminated, and that the contamination is significant enough to warrant regulation.

**Trigger:** Preliminary Site Investigation Report identifies the potential for, or existence of, contamination which may preclude the land of being suitable for the proposed use.

**Activity:** Request the applicant to use a suitably qualified expert to undertake a detailed site contamination investigation, and to undertake this investigation in accordance with the NSW EPA Guidelines for Consultants Reports for Contaminated Sites. Request that the outcomes of this investigation are included in a revised development application. (Note: this activity can be undertaken in conjunction with the Preliminary Site Investigation).

**Checklist process:**

Step	Process	Yes	No
1	The application includes a Detailed Site Investigation Report.	Go to Step 3.	Go to Step 2.
2	Request the applicant provide a Detailed Site Investigation Report	Go to Step 3.	Undertake Step 2 before proceeding.
3	Does the Detailed Site Investigation Report include a statement that the site is contaminated and that the contamination is significant enough to warrant regulation?	Go to Step 4.	Go to Step 3A.
3A	Request the applicant submit a revised Detailed Site Investigation Report to include a statement on the suitability.	Go to Step 3B.	Cannot proceed until Step 3A is undertaken.
3B	Revised Detailed Site Investigation report received.	Go to Step 4.	Cannot proceed until revised detailed site investigation report is received.
4	The Detailed Site Investigation Report includes a statement on whether the site is suitable for the proposed use and for all other purposes permissible in the zone, or if it can be made suitable through remediation.	Go to Step 5.	Go to Step 4A.
4A	Request a statement on whether the site is suitable for the proposed use and for all other purposes permissible in the zone, or if it can be made suitable through remediation.	Go to Step 5.	Undertake Step 4A before proceeding.

**Min. No.**

5	Does the Detailed Site Investigation Report include a statement that the site is potentially contaminated and that the contamination is significant enough to warrant regulation?	Go to Step 5A.	Go to Step 6.
5A	Notify NSW EPA immediately.	Proceed with EPA directions.	No other action can be undertaken until Step 5A has occurred.
6	Does the Detailed Site Investigation Report conclude that the land is unsuitable for the proposed use and may not be appropriately remediated, or the applicant does not wish to remediate?	Go to Step 6A.	Go to Step 7.
6A	The application may be modified to a use that is suitable for the land without remediation (e.g. relating to a development application outlining no change in land use), provided a new development application is not required, or the application can be withdrawn, or the application can be refused by Council. Application modified for consent.	Go to Step 7.	Go to Step 6B.
6B	Has the applicant indicated its intent to withdraw the development application?	Go to Step 6C.	Go to Step 6D.
6C	Close the assessment of the application.	Process finalised.	Undertake Step 6C to finalise process.
6D	Application refused by Council.	Go to Step 6E.	Application is required to be modified, withdrawn or refused for process to be finalised.
6E	Consider if the site should be included on the Contaminated Lands site register and include on register if required.	Process finalised.	Undertake Step 6E to finalise process.
7	Does the Detailed Site Investigation Report include a statement that the site <u>is contaminated</u> , which may preclude the land from being suitable for the proposed use?	Go to Step 8.	Go to Step 9.

**Min. No.**

8	Has the applicant indicated its intent to withdraw the development application?	Go to Step 6C.	Go to Step 9.
9	Is Council satisfied that the site is suitable for the proposed use and for all other purposes permissible in the zone?	Go to Step 10A.	Go to Step 9.
9A	Are conditions of consent required?	Go to Step 9B.	Go to Step 10.
9B	Include conditions of consent (see Appendix 4 of the Policy).	Process finalised.	Process can't be finalised until Step 9B is undertaken.
10	Council to develop restrictions and/or conditions for the land, including any restrictions relating to the intended land use or conditions on the remediation and also provision of a Validation and Monitoring Report prior to commencement of development work (e.g. construction certificate).	Go to Step 11.	Undertake Step 10 before proceeding.
11	Does the Detailed Site Investigation Report include a list of feasible remediation options available to remediate the site in order to make it suitable for the proposed use?	Go to Remediation – Appendix 8.	Go to Step 11A.
11A	Seek this information from the applicant.	Go to Remediation – Appendix 8.	Process cannot proceed until Step 11A has been undertaken.

**Note:** Subsequent to finding that the Detailed Site Investigation Report includes a statement that the site is contaminated and that the contamination is significant enough to warrant regulation, Council must notify the NSW EPA who may then declare the land as a 'Remediation Site' thereby subjecting the land to remediation works and processes under the Management Order issued by the EPA.

**Min. No.**

**Appendix 8: Council Procedure for Remediation**

**Process:** Managing requirements of Council, the applicant and other actors relating to remediation of land and its congruence with SEPP 55 Planning Guidelines, and that remediation works will be undertaken in accordance with the relevant EPA Guidelines under the Contaminated Land Management Act.

**Exceptions:**

- Category 1 remediation works with consent from the Department of Planning and Environment.
- Category 2 remediation works subject to a Remediation Order by the EPA without consent. Under this scenario the EPA declares that the land is a Remediation Site and a Remediation Order is issued by the EPA.
- Site that is under voluntary remediation (i.e. Voluntary Remediation Plan) with the EPA declaring the site a Remediation Site (See Section 4.3, Voluntary Remediation) and where the EPA does not require the specific works to be undertaken under the EP&A Act.

**Trigger:**

- Land covered by a development application requires remediation to make the land suitable for the proposed use and for all other purposes permissible in the zone.
- Receipt of a notification regarding proposed Category 2 remediation works without consent.

**Checklist process:**

Step	Process	Yes	No
1	Is the remediation work likely to have a potential for significant environmental impacts from the remediation works?	Go to Step 1A	Go to Step 1B
1A	Remediation works would be considered as Category 1 remediation works with Council consent (go to subsection Category 1 Remediation Works With Council Consent).	Proceed to subsection Category 1 Remediation Works with Council Consent.	N/A
1B	Considered as Category 2 remediation works without consent (go to subsection Category 2 Remediation Works Without Consent).	Proceed to subsection Category 2 Remediation Works Without Consent.	N/A

**Notes:** Category 1 remediation work includes any work that is:

1. Designated development as listed in Schedule 3 under the Environmental Planning and Assessment Regulation (2000), and requires the applicant to prepare an Environmental Impact Statement.

**Min. No.**

2. Carried out on land that is considered as critical habitat (for threatened species).
3. Likely to have a significant impact on critical habitat or a threatened species, population or ecological community.
4. Development for which another SEPP requires development consent.
5. In an area or zone to which are classified for coastal protection, conservation or heritage conservation, habitat area, habitat protection area, habitat or wildlife corridor, environmental protection, floodway, nature reserve, scenic area or scenic protection, wetland, or any land in a manner that does not comply with the Policy made under the contaminated land planning guidelines by Council.
6. Any other works as nominated by Council under s.9(f) of SEPP 55 – Remediation of Land.
7. Council should notify NSW EPA that it considers remediation works associated with a planning proposal or development application to be Category 1 remediation works.

***Category 1 Remediation Work Subject to Management Order with Consent of Department of Planning and Environment.***

**Notes:**

1. Similar process to Category 1 Remediation Works with Council Consent except that Department of Planning and Environment manage the assessment steps and Council receives notifications at certain stages in the process.
2. A Remediation Action Plan must be prepared by the applicant and subsequently approved by the Department of Planning and Environment (as the consenting authority).
3. Department of Planning and Environment may require an Environmental Impact Statement (EIS) if the remediation is likely to significantly affect the environment.
4. A Remediation Action Plan, planning proposal or development application and an EIS is required to be submitted by the applicant to the Department of Planning and Environment.
5. Management Order is issued by the EPA.
6. Post-remediation: Validation and Monitoring Report and Site Audit Statement sent to the Department of Planning and Environment (under SEPP 55) and to the EPA (under the Remediation Order).



**Min. No.**

**Category 1 Remediation Work with Council Consent**

Step	Process	Yes	No
1.	Does the Category 1 remediation work include any work that is designated development listed in Schedule 3 of the Environmental Planning and Assessment Regulation?	Determine whether the applicant is required to submit an Environmental Impact Statement before proceeding.	Go to step 2.
2	If the remediation work is Category 1 remediation work, has the applicant submitted a Remedial Action Plan?	Go to 2A.	Remedial Action Plan required before proceeding.
2A	Is Council satisfied that the site can be remediated?	Go to Step 3.	Go to Step 2B.
2B	Request applicant provides a revised Remedial Action Plan or if unsure decide whether to use a Site Auditor to review the Remedial Action Plan.	Go to Step 3.	Undertake Step 2B before proceeding.
3	Are the proposed clean-up criteria appropriate for the future use of the site, considering possible human health and environmental impacts?	Go to Step 4.	Go to Step 3B.
3B	Has the applicant provided a suitable revised Remedial Action Plan and Council is satisfied the land can be remediated for the intended land use. If unsure decide whether to use a Site Auditor to review the Remedial Action Plan.	Go to Step 4.	Undertake Step 3B before proceeding.
4	Are the proposed plans for remediation work acceptable in that they include an operational plan, occupational health and safety plan, site environmental management plan, community relations plan and contingency plan and outline all necessary approvals required from regulatory authorities?	Go to Step 5.	Go to Step 4A.
4A	Request applicant provides revised Remedial work plans. Is council satisfied with the revised remedial work plans?  Unsure – Decide whether to use a Site Auditor to review the Remedial Action Plan.	Go to Step 5.	Undertake Step 4A before proceeding.

**Min. No.**

5	Is a Site Auditor required to review the Remediation Action Plan?	Inform the applicant that Council intends to engage a Site Auditor, and that the cost of this auditor is with the applicant. Go to Step 6.	Go to Step 7.
6	Request the applicant to submit a satisfactory Remedial Action Plan. Process should be stopped until a satisfactory RAP is submitted.	Go to Step 7.	Undertake Step 6 before proceeding.
7	Does Council need to impose conditions on the development consent in relation to:  Requiring the submission of a Validation and Monitoring Report after completion of the remediation work, but before commencement of the development work (i.e. before issuance of a construction certificate).  Any other conditions and/or restrictions on the remediation work, including any condition of consent set out in appendix 3 of the Policy?	Go to Step 7A.  Go to Step 7B.	Go to Step 8.
7A	Prepare conditions of consent to reflect provision of a Validation and Monitoring Report upon completion of remediation works.	Go to Step 8.	Undertake step 7A before proceeding.
7B	Prepare conditions of consent to reflect identified conditions of consent relevant to the remediation works and ongoing management of the land under consideration in regards to occupational health and safety, site environmental management (including ongoing site monitoring) and any other identified matter.	Go to Step 8.	Undertake Step 8A before proceeding.
8	Any objections received on the advertised planning proposal or development application (including the Remedial Action Plan)?	Go to Step 8A.	Go to Step 9.
8A	Is the planning proposal or development consent a designated development?	Go to Step 8B.	Go to Step 9.
8B	These objections must be sent to the Department of Planning and Environment for comment.	Go to Step 9.	Undertake step 8B before proceeding.

**Min. No.**

8C	Planning proposal or development consent is not designated development, Council is to review objections and make a determination on these	Go to Step 9.	Undertake step 8C.
9	Determine the development application, including any comments on objections received from the Department of Planning and Environment (if designated development).	Go to Step 10.	Undertake step 9 before proceeding.
10	Inform the applicant of determination.	Go to Step 11.	Undertake step 10 before proceeding.
11	Upon completion of the remediation works, and before a construction or occupation certificate is issued, has a notification from the applicant that includes the Validation and Monitoring Report been submitted to Council within 30 days of completion of the remediation works or as specified in the Development consent? (Note: sometimes submission for the validation report within 30 days of completion of remedial works and prior to construction certificate is not feasible. Some flexibility is required here.	Go to Step 12.	Go to Step 11A.
11A	Request the notification and Validation and Monitoring Report to be submitted to Council.	Go to Step 12.	Undertake step 11A before proceeding.
12	Does the Validation and Monitoring Report include:  A statement that the land under consideration has been remediated in accordance with the approved Remedial Action Plan to make it suitable for its intended use or other purpose in that zone?	Go to Step 13.	Go to Step 12A.
12A	If the site was remediated in accordance with requirements, then request the report is modified to include such a statement, or;  If the report identified that full remediation was not feasible or onsite containment of contamination is proposed, then ensure that a detailed ongoing monitoring strategy/program and site environmental management plan is provided.	Go to Step 13.	Undertake step 12A before proceeding.
13	Does the Validation and Monitoring Report	Go to Step 13A.	Go to Step 13C.

**Min. No.**

	include: A statement confirming that all licences, approvals and development consents have been complied with?		
13A	Did the Validation and Monitoring Report include any documentary evidence?	Go to Step 14.	Go to Step 13B.
13B	Request that the report is modified to include such documentary evidence.	Go to Step 14.	Undertake step 13B before proceeding.
13C	Request that the report is modified to include such a statement and documentary evidence.	Go to Step 14.	Undertake step 13C before proceeding.
14	Does the Validation and Monitoring Report include: A Site Audit Statement and Site Audit Summary Report?	Go to Step 15.	Go to Step 14A.
14A	Request that the Site Audit Statement and Site Audit Summary Report is provided.	Go to Step 15.	Undertake step 14A before proceeding.
15	Is Council satisfied with the Validation and Monitoring Report and the Site Audit Statement?	Process finalised.	Undertake step 15A
15A	Seek a Site Auditor to review with a view to verify information contained in the Validation and Monitoring Report (See Appendix 10 Site Auditing).	Go to Step 15.	Cannot proceed until Step 15A is undertaken.

**Note:** Site auditor will provide a report that will confirm the above questions and thereby dictate whether the process continues or if another iteration on the Remedial Action Plan is required. If no Remediation Action Plan is sought (or is not needed), then the remediation must be tested against standards endorsed by the EPA.

Include the relevant information in section 149(2) planning certificates, covenants on the title or annual reporting and other information made available under section 149(5).

**Category 2 Remediation Work Without Consent**

**Notes:**

1. Category 2 remediation work is all remediation work that is not defined as Category 1 remediation work.
2. Category 2 remediation work does not require consent.
3. Council is required to be notified of any proposed category 2 remediation work at least 30 days before the works commence.

**Min. No.**

4. This notification is also required to address information contained in Appendix 2 Requirements for Category 2 Remediation Works.
5. Remediation Action Plans are not mandatory for Category 2 works without consent, but Council can deem the risk of contamination to be of the level requiring a Remediation Action Plan to be developed by the applicant.
6. A copy of the Validation and Monitoring Report and a Site Audit Statement from an EPA accredited auditor must be forwarded to Council within 30 days of the completion of the remediation works. Council will not consider any subsequent development applications for the site until it is satisfied that the site is suitable for the proposed use.
7. This section does not consider Category 2 Remediation Work Subject to a Remediation Order by the EPA – without consent, nor Category 2 remediation works relating to underground petroleum storage systems (even though Appendix 3 of the Policy includes UPSSs in the ‘requirements for category 2 remediation works’). The UPSS regulatory framework is proposed to be changed in 2017 resulting in more responsibility given to local government.

Step	Process	Yes	No
1	For Category 2 remedial works, was Council notified at least 30 days before commencement of the works?	Go to Step 3.	Go to step 2.
2	Contact applicant to remind them of the notification requirement.	Go to Step 3.	Process cannot proceed until Step 2 is complete.
3	Did the notification include a proposal for the remediation works that addressed information contained in Appendix 3 of the Policy in relation to ‘Requirements for Category 2 Remediation Works’, and the dates in which this work is to be undertaken?	Go to Step 4.	Go to Step 3A.
3A	Obtain this information from the applicant.	Go to Step 4.	Process cannot proceed until Step 3A is undertaken.
4	Did the notification seek any approvals from Council (e.g. dissolved hydrocarbon impact from open excavations to be taken to landfill or discharged to the sewer under consent conditions)?	Go to Step 4A.	Go to Step 5.
4A	Consult with relevant internal operational area.	Go to Step 5.	Undertake Step 4A before proceeding.

**Min. No.**

5	Did the notification require any approvals from other regulatory bodies (e.g. leaching [i.e. discharge] of toxic material to stormwater or sewer).	Go to step 5A.	Go to Step 6.
5A	Request evidence of approval.	Go to Step 6.	Undertake Step 5A before proceeding.
6	Did the notification provide contact details?	Go to Step 6A.	Go to Step 7.
6A	Consult with relevant internal operational area.	Go to Step 7.	Undertake Step 6A before proceeding.
7	Has a remedial works plan been submitted with the notification?	Go to Step 8.	Go to Step 7A.
7A	Ask and receive the Remedial Works Plan from the applicant.	Go to Step 8.	Cannot proceed until Step 7A is undertaken.
8	Does the Remedial Works Plan state that it has been prepared in line with the SEPP55 Planning Guidelines, and that proposed remediation works will be undertaken in accordance with the relevant EPA Guidelines under the Contaminated Land Management Act?	Go to Step 9.	Go to Step 8A.
8A	Seek the applicant or proponent to provide this confirmation in writing.	Go to Step 9.	Undertake step 8A before proceeding.
9	Has a site inspection been undertaken?	Go to Step 10.	Go to Step 9A.
9A	Arrange and undertake a site inspection.	Go to Step 10.	Undertake step 9A before proceeding.
10	Upon completion of the remedial works has the following been provided to Council?  Within 30 days of completion of the remediation works, a notification that remediation work and validation has been completed.	Go to Step 11.	Go to Step 10A.
10A	Contact the proponent and request this information is submitted to Council	Go to Step 11.	Cannot proceed until Step 10A is

**Min. No.**

			undertaken.
11	Upon completion of the remedial works has the following been provided to Council? Validation and Monitoring Report	Go to Step 12.	Go to Step 11A.
11A	Contact the proponent and request the Validation and Monitoring Report is submitted to Council.	Go to Step 12.	Cannot proceed until Step 11A is undertaken.
12	Upon completion of the remedial works is Council satisfied that the category 2 remediation works have been carried out?	Go to Step 13.	Go to Step 12A.
12A	Issue a clean-up notice under the POEO Act requiring that further works be undertaken, or that a site auditor is appointed to review works to date and make suggestions on what additional works are required.	Go to Step 13.	Cannot proceed until Step 12A is undertaken.
13	Is Council satisfied with the content of the Validation and Monitoring Report and the Site Audit Statement?	Go to Step 14.	Go to Step 13A.
13A	If Council is not satisfied with the content of the site audit statement it should be reported to the EPA.	Go to Step 14.	Cannot proceed until Step 13A is undertaken.
14	Did the Validation and Monitoring Report and/or Site Audit Statement include: A statement that the land under consideration has been remediated to make it suitable for its intended use or other purpose in that zone?	Go to Step 15.	Go to Step 14A.
14A	Request that this information is provided.	Go to Step 15.	Undertake step 14A before proceeding.
15	Did the Validation and Monitoring Report and/or Site Audit Statement include: Requirements relating to ongoing site management, including restrictions on use?	Go to Step 15A.	Go to Step 16.
15A	Include the relevant information in section 149(2) planning certificates, covenants on title or annual reporting and other information	Go to Step 16.	Undertake step 15A.

**Min. No.**

	made available under section 149(5).		
16	Has a site inspection been undertaken?	Go to Step 17.	Undertake Step 16A.
16A	Undertake a site inspection.	Go to Step 17.	Cannot proceed until Step 16A is undertaken.
17	Council is satisfied with the remediation work.	Process finalised.	Process cannot be finalised until Council is satisfied with the remediation works.

**Note: Some notifications on category 2 remediation works without consent list requests Council approvals. An example is the discharge of dissolved hydrocarbon impact to sewer or to take it to landfill to de-wet. Council has the capacity to grant this approval up to an extent; however, for material whose discharge to sewer or stormwater systems would pose a significant risk to human health or the environment, the approval must be sought from the relevant state agency (e.g. NSW Office of Water).**



**Min. No.**

**Appendix 9: Council Procedure for Voluntary Remediation**

**Process:** -To manage data and/or information regarding any voluntary management proposal approved by the EPA.

**Exceptions:** None identified.

**Objective:** to ensure the appropriate management of data and information from activities related to voluntary management proposals.

**Trigger:**

- Land owner informs Council of intent to remediate identified contaminated land.
- EPA notifies Council of a voluntary management proposal to remediate a contaminated site.
- EPA notifies Council of completion of remediation works associated with a voluntary management proposal.

**Checklist process:**

Step		Yes	No
1	Notification received from EPA in regards to a voluntary management proposal?	Go to Step 2.	Process not applicable.
2	Record information in Council's systems in accordance with agreed procedures.	Go to Step 3.	Undertake Step 3 before proceeding.
3	Is Council satisfied that a section 149(2) planning certificate can be issued for the site?	Go to Step 4.	Go to Step 5.
4	Prepare appropriate text for the section 149(2) planning certificate (See Appendix 11 Section 149 Certificates).	Process Completed.	Process not completed until Step 4 is undertaken.
5	Liaise with EPA for clarification.	Process completed.	Process not completed until Step 5 is undertaken.

**Notes:**

1. **Duty to Notify:** Anyone whose activities have caused land to be contaminated, and owners of land who become aware, or ought reasonably to be aware, that the land has been contaminated must notify the EPA as soon as practicable after becoming aware of the contamination when a site owner provides an undertaking to voluntarily remediate a site that initiates a process via a notification to the NSW EPA. This is a requirement under section 60(3) of the

**Min. No.**

**Contaminated Land Management Act and supported by the Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act.**

- 2. Management Orders: The EPA may order persons to manage significantly contaminated land in the following hierarchy: those responsible for the contamination, the landowner and the notional owner. Under worst-case scenarios this could see Council as the 'notional owner' of private land and thereby is responsible for remediation.**
- 3. Voluntary Management Proposals: The EPA may approve a voluntary management proposal for the management of significantly contaminated land, with or without conditions. The voluntary management proposals subsumes the former voluntary investigation proposal and the voluntary remediation proposal.**

**Min. No.**

**Appendix 10: Council Procedure for Site Auditing**

**Process:** To ensure that Council has confidence in information regarding contamination or potential contamination of land and verification thereof.

**Exceptions:** None identified

**Trigger:** Council:

- Believes on reasonable grounds that information including that related to potential contamination or previous land use history, provided by the applicant is incorrect or incomplete.
- Wishes to verify whether the information provided by the applicant has adhered to appropriate standards, procedures and guidelines.
- Does not have the internal resources to undertake a technical review.

**Notes:**

1. A Site Auditor is an individual accredited by the EPA under Part 4 of the CLM Act.
2. Site auditors review the work of contaminated site consultants. The CLM Act calls these reviews site audits and defines a site audit as an independent review.
3. Site auditors can prepare an independent review:
  - a) that relates to investigation or remediation carried out (whether under the CLM Act or otherwise) in respect of the actual or possible contamination of land; and
  - b) that is conducted for the purpose of determining any one or more of the following matters:
    - i the nature and extent of any contamination of the land
    - ii the nature and extent of the investigation or remediation
    - iii whether the land is suitable for any specified use or range of uses
    - iv what investigation or remediation remains necessary before land is suitable for any specified use or range of uses
    - v the suitability and appropriateness of a plan of remediation, a long-term management plan, a voluntary investigation proposal or a remediation proposal.
4. Costs for Site Audit services are borne by the applicant.

**Checklist process:**

Step	Process	Yes	No
1	Developed a terms of reference for site audit.	Go to Step 2.	Undertake Step 1 before proceeding.
2	Package and provide all direct and background information required to be verified by the Site Auditor.	Go to Step 3.	Undertake Step 2 before proceeding.

**Min. No.**

3	After completion of the site audit, has the Site Audit Summary Report been provided with the Site Audit Statement?	Go to step 4.	Go to Step 3A.
3A	Seek Site Audit Summary Report from applicant.	Go to Step 4.	Undertake Step 3A before proceeding.
4	Is Council satisfied with the outcomes of the site audit?	Process completed.	Go to Step 5.
5	Liaise with site auditor to clarify findings or report to EPA for review.	Process Completed.	Process cannot be deemed completed until Step 5 (findings clarified or EPA reviewed) is undertaken.

## Min. No.

### Appendix 11: Section 149 Certificates Procedure

**Process:** To ensure that accurate information regarding land contamination matters including Council policy to restrict the use of land is included in planning certificates issued under section 149 of the EP&A Act.

**Trigger:** A request for information regarding a parcel of land that triggers a process under section 149 of the EP&A Act.

**Steps:**

1. Identify parcel of land of interest.
2. Check Register for annotations regarding contaminated land management issues.
3. Generate certificate.
4. Confirm correctness of statements included in the certificate regarding contaminated land management matters.

Under s.149 of EP&A Act, a person may request from Council a planning certificate containing advice on matters about the land that are prescribed in the EP&A Regulation including information regarding land contamination.

- a) *Section 59(2) of the CLM Act provides that specific notations (as listed below) relating to contaminated land issues must be included on s.149 certificates where:*
- b) *that the land to which the certificate relates is significantly contaminated land within the meaning of that Act – if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued;*
- c) *that the land to which the certificate relates is subject to a management order within the meaning of that Act – if it is subject to such an order at the date when the certificate is issued;*
- d) *that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act – if it is the subject of such an approved proposal at the date when the certificate is issued;*
- e) *that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act – if it is subject to an order at the date when the certificate is issued;*
- f) *that the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act – if a copy of such a statement has been provided at any time to the local authority issuing the certificate.*

In addition to detailing information relevant to the prescribed matters, all s.149(2) certificates issued by Council will also contain one of the following notations relating to land contamination:

Where Council's contaminated land policy restricts the use of land which:

- has a previous land use history which could have involved use of contaminants on the site, for examples, land which may have been used for an activity listed in Appendix 2, or
- is known to be contaminated, but
- has not been remediated,

an appropriate notation may be:

*'Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy is implemented when zoning or land use*

**Min. No.**

*changes are proposed on lands that have previously been used for certain purposes. Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.'*

Where council's contaminated land policy restricts the use of land which:

- is known to contain contaminants, but
- has been remediated for a particular use or range of uses and some contamination remains on the site, for example encapsulated,

an appropriate notation might be:

*'Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy is implemented when zoning or land use changes are proposed on lands which are considered to be contaminated, or on lands which have been remediated for a specific use. Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.'*

Where Council records do not contain a clear site history without significant gaps in information and council cannot determine whether or not the land is contaminated, and therefore the extent to which council's policy should apply, council may decide to take a cautious approach. In such cases an appropriate notation might be:

*'Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy is implemented when zoning or land use changes are proposed on lands which have previously been used for certain purposes. Council records do not have sufficient information about previous use of this land to determine whether the land is contaminated. Consideration of Council's adopted policy and the application or provisions under relevant state legislation is warranted.'*

Council may make additional notations upon S.149(2) or S.149(5) certificates where specific information is obtained in relation to the use of land.

**Min. No.**

**Appendix 12: Procedure for storing contaminated sites information**

**Process:** For the handling and registering incoming contaminated land information.

Incoming mail, email or enquiry to be registered by reception in the Mail register and noted for the Development Manager or the Town Planner.

Registered to central file 11.108.3 Environmental Management – Notifications – **CONTAMINATED LANDS**

Development Manager or the Town Planner will also note if it applies to a specific ratable property file.

**Department:** Environmental Services

**References:** Handling & Registering of Incoming Mail

**Procedure detail:**

Follow the process for 'Handling & Registering of Incoming Mail'.

Upon identifying that correspondence relates to contaminated lands, document to be registered to 11.108.3 Environmental Management – Notifications – **CONTAMINATED LANDS** in the incoming mail register. Document to be referred to Development Manager (DM), in his absence the Town Planner (TP).

DM (or delegated staff) to check if parcel(s) identified in document are listed in contaminated Lands Register (G:\RECORDS MANAGEMENT\CONTAMINATED LANDS REGISTER).

If listed:

- a) Update information in the contaminate land register if applicable;
- b) Save any new information into the Practical Plus rates card;
- c) Save an electronic version of the document into the Practical Plus rates card;
- d) Confirm that the property information on the document matches that on the rates card.

If not listed:

- a) Insert new entry into the contaminated lands register;
- b) Create a new note in the relevant Practical Plus rates card;
- c) Save an electronic version of the document into the Practical Plus rates card;
- d) Confirm that the property information on the document matches that on the rates card.

Arrange for original copy of document to be filed in the '11.108.3 Environmental Management – Notifications – **CONTAMINATED LANDS**' file with a copy in the relevant hard copy Property file.

**Min. No.**

**5.11 REALIGNMENT OF YARRAWONGA ROAD**

**AUTHOR: Director Technical Services**

**STRATEGIC OUTCOME: Supported and engaged communities**

**STRATEGIC OBJECTIVE: 3.1 Create safe, friendly and accessible communities**

**FILE NO: 28.051.3**

- 168 RESOLVED** Crs: O'Neill and Glanville that the Council agree to the purchase of land from the owner of Lot 591 in DP 793038 and the owner of Lot 592 in DP 793038 and authorize the General Manager to negotiate the details of the transfer of land and sign the associated legal agreement with the land owners on behalf of Council.

**5.12 GENERAL MANAGER'S PERFORMANCE REVIEW**

**AUTHOR: General Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**FILE NO: PF**

- 169 RESOLVED** Crs: O'Neill and Morris that Council conduct the General Manager's End of Year Performance Review as part of the August, 2016 Council meeting.

**5.13 TENDER V01/16/17 ANNUAL PLANT HIRE RATES FOR 2016/2017**

**AUTHOR: Executive Engineer**

**STRATEGIC OUTCOME: Sustainable natural and built landscapes**

**STRATEGIC OBJECTIVE: 1.3 Connect and protect our communities**

**FILE NO: V01/16/17**

- 170 RESOLVED** Crs: Glanville and Jones that Council  
1. accepts all compliant tenders for the 2016-17 financial year for V01/16/17 Annual Plant Hire Rates as set out below:

A & T GOLDMAN PTY LTD  
ACCURATE ASPHALT & ROAD REPAIRS PTY LTD  
APEX EARTHWORKS  
AQUA ASSETS PTY LTD  
BERRIGAN WATER CARTAGE



**Min. No.**

AUSTIN ROBINSON EXCAVATION PTY LTD  
COATES HIRE  
JB NOLEN & DM MOYLAN  
KENNARDS HIRE PTY LTD  
JUDD & SONS PTY LTD  
MILLER PIPE & CIVIL PTY LTD  
LUXON PLANT PTY LTD  
NECAM PTY LTD  
FOXYS BACKHOE SERVICE  
O'LOUGHLIN EXCAVATIONS  
PASCOE GRADING & EARTHMOVING CONTRACTORS PTY  
LTD  
PORTER EXCAVATIONS PTY LTD  
FENHILL PTY LTD  
RD & SE SUTTON  
EARTH PLANT HIRE  
ROLLERS AUSTRALIA PTY LTD  
RIVERINA EARTHWORKS PTY LTD  
RSP ENVIRONMENTAL SERVICES  
SHARPE BROS (AUST) PTY LTD  
SE & ST LITTLE PTY LTD  
SHERRIN RENTALS PTY LTD  
STABILCO PTY LTD  
STABILISED PAVEMENTS OF AUSTRALIA PTY LTD  
STEPHEN HAYNES PTY LTD  
TIBUZI TRANSPORT & PLANT HIRE PTY LTD  
TOXFREE  
WILLIAM ADAMS  
RM WOOD CONTRACT CARTAGE

2. sign and seal the contract documents.
3. appoint the Director of Technical Services as the Contract Superintendent and the Executive Engineer as the Superintendents' Representative.

**5.14 TENDER V02/16/17 SUPPLY OF QUARRY PRODUCTS**

**AUTHOR: Executive Engineer**

**STRATEGIC OUTCOME: Sustainable natural and built  
landscapes**

**STRATEGIC OBJECTIVE: 1.3 Connect and protect our  
communities**

**FILE NO: V02/16/17**

**171 RESOLVED** Crs: Jones and Hill that Council

**Min. No.**

1. accepts all compliant tenders for the 2016-17 financial year for V02/16/17 Supply of Quarry Products as set out below:

A & T GOLDMAN PTY LTD  
BURGESS EARTHMOVING PTY LTD  
CJ & BB LAWRENCE PTY LTD  
E.B MAWSON & SONS PTY LTD  
STEPHEN HAYNES PTY LTD  
JUDD & SONS PTY LTD

2. sign and seal the contract documents.
3. appoint the Director of Technical Services as the Contract Superintendent and the Executive Engineer as the Superintendents' Representative.

**5.15 TOCUMWAL RAIL PRESERVATION COMMITTEE OF MANAGEMENT**

**AUTHOR: General Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**FILE NO: 12.174.4**

**172 RESOLVED** Crs: Hill and Glanville that the Council:

- A) revoke existing members of the Tocumwal Rail Preservation Committee of Management.
- B) pursuant to Section 355 of the Local Government Act, 1993, appoint the following persons to the TOCUMWAL RAIL PRESERVATION Committee of Management:

President	Glennis Pohlner
Secretary	Lidy Soule
Treasurer	Jim Ball
Committee	B. Bell, H & G Bear, A Dixon, R Davidson, L Enbom, D Huxtable, L Soule, B & L Rao, S Williams, C Townsing and Sun Lui.

**Min. No.**

**5.16 BAROOGA RECREATION RESERVE COMMITTEE OF MANAGEMENT**

**AUTHOR:** General Manager

**STRATEGIC OUTCOME:** Good government

**STRATEGIC OBJECTIVE:** 2.2 Ensure effective governance by Council of Council operations and reporting

**FILE NO:** 21.101.2

**173 RESOLVED** Crs: Hill and Glanville that the Council:

- A) revoke existing members of the Barooga Recreation Reserve Committee of Management.
- B) pursuant to Section 355 of the Local Government Act, 1993, appoint the following persons to the BAROOGA RECREATION RESERVE Committee of Management:

President	Ray Nye
Secretary/ Treasurer	Michael O'Dwyer
Committee	Max Steward, Sheila Keamy, Debbie Kruz, Andrew Leighton Daly, Wes Sutton, Jordan Flanagan, Kristie Primmer, Ben O'Dwyer, Tania Poole, Tim Nolan and Vince Ballerini.

**ITEMS FOR NOTING**

- 6.1 LGNSW ANNUAL CONFERENCE
- 6.2 STATECOVER COUNCIL MEMBER DIRECTOR NOMINATION
- 6.3 OUTSTANDING RATES AND DEBTOR BALANCES
- 6.4 AUDIT STRATEGY
- 6.5 LIBRARY SERVICE ANNUAL REPORT
- 6.6 DEVELOPMENT DETERMINATIONS FOR THE MONTH OF JUNE 2016
- 6.7 LOCAL EMERGENCY MANAGEMENT COMMITTEE

**174 RESOLVED** Crs: O'Neill and Morris that Items for Noting numbered 6.1 to 6.7 Inclusive be received and noted.

**175 RESOLVED** Crs: Morris and Hill that the Council congratulate Rates staff for their efforts in debt recovery.

**Min. No.**

**7 CLOSED COUNCIL**

In accordance with the *Local Government Act 1993* and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

**7.1 WRITING OFF OF OUTSTANDING DEBTS**

This item is classified CONFIDENTIAL under section 10A(2)(b) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (b) the personal hardship of any resident or ratepayer

**Min. No.**

It is not in the public interest to reveal the personal details of the ratepayer.

**7.2 REALIGNMENT OF YARRAWONGA ROAD**

This item is classified CONFIDENTIAL under section 10A(2)(c) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

It is not in the public interest to reveal the personal details of a particular individual.

- 176 RESOLVED** Crs: Jones and Hill that the Council move into a closed session to consider the following business together with any reports tabled at the meeting.

And further that pursuant to section 10A(1)-(3) of the *Local Government Act 1993*, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above and that the correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) of the *Local Government Act 1993*.

- 7.1 Writing off of Outstanding Debts**
- 7.2 Realignment of Yarrawonga Road**

Council closed its meeting at 10:05am. The public and media left the Chamber.

Open Council resumed at 10:08am.

**Min. No.**

**RESOLUTIONS FROM THE CLOSED COUNCIL MEETING**

The following resolutions of the Council while the meeting was closed to the public were read to the meeting by the Mayor:

**7.1 WRITE-OFF OF OUTSTANDING DEBT**

**AUTHOR: Revenue Officer**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance  
by Council of Council operations  
and reporting**

**FILE NO: 12.049.1**

“that the Council write off Invoice 2021789 and Invoice 2023539 totalling \$18,399.31”

**7.2 REALIGNMENT OF YARRAWONGA ROAD**

**AUTHOR: Director Technical Services**

**STRATEGIC OUTCOME: Supported and engaged  
communities**

**STRATEGIC OBJECTIVE: 3.1 Create safe, friendly and  
accessible communities**

**FILE NO: 28.051.3**

“that the Council note the report in regards to the realignment of Yarrowonga Road.”

**Min. No.**

**8.1 MINUTES OF A CORPORATE SERVICES COMMITTEE MEETING HELD ON WEDNESDAY 4<sup>th</sup> MAY, 2016**

**180 RESOLVED** Crs: Jones and Glanville that recommendations numbered 1 to 7 inclusive of the Corporate Services Committee Meeting held on 6<sup>th</sup> July, 2016 be adopted.

**5. RECONNECTION OF TELEPHONE SERVICE TO FINLEY RECREATION RESERVE**

**AUTHOR: Director Corporate Services**

**STRATEGIC OUTCOME: Supported and engaged communities**

**STRATEGIC OBJECTIVE: 3.2 Support community engagement through life-long learning, culture and recreation**

**FILE NO: 21.101.7**

**RECOMMENDATION NO. 1** - that the Council meet the approximate cost of \$2,310 for an electrician and install a phone land line at the Finley recreation Reserve.

**6. RURAL FIRE FIGHTING FUND ALLOCATION METHODOLOGY**

**AUTHOR: Director Corporate Services**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**FILE NO: 09.160.3**

**RECOMMENDATION NO. 2** - that Council support in principle the proposed Rural Fire Fighting fund allocation methodology but express concern that the Council may be subsidising required capital expenditure in other areas of its zone.

**7. DRAFT RIVERINA-MURRAY REGIONAL GROWTH PLAN**

**AUTHOR: Strategic & Social Planning Coordinator**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.3 Strengthen strategic relationships and partnerships with community, business and government**

**Min. No.**

**FILE NO:**

**RECOMMENDATION NO. 3** - that Council

1. Made a submission to the Riverina-Murray Regional Plan as contained in the draft submission presented to the meeting.

**8. JOINT ORGANISATIONS: TOWARDS A NEW MODEL FOR REGIONAL COLLABORATION**

**AUTHOR: General Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.3 Strengthen strategic relationships and partnerships with community, business and government**

**FILE NO: 13.010.1**

**RECOMMENDATION NO. 4** - that Council make a submission in relation to the Joint Organisation background paper to the effect that it generally supports the model as proposed however:

1. The costs associated with the annual operation of JO's is too high and the membership of them needs to be increased and an ongoing State financial contribution is required;
2. It supports the formation of a JO based on membership of Albury, Federation, Berrigan, Edward River and Murray River Councils; and
3. It believes that a casting vote for a JO chairman is essential.

**9. CRICKET NETS – BERRIGAN SPORTSGROUND**

**AUTHOR: Director Corporate Services**

**STRATEGIC OUTCOME: Supported and engaged communities**

**STRATEGIC OBJECTIVE: 3.2 Support community engagement through life-long learning, culture and recreation**

**FILE NO: 21.101.3**

**RECOMMENDATION NO. 5** - that Council waive the balance of the invoice issued to the Berrigan Cricket Club except for \$1,000.

**10. FINLEY COMMUNITY HELP GROUP**

**AUTHOR: Director Corporate Services**

**STRATEGIC OUTCOME: Good government**



**Min. No.**

**STRATEGIC OBJECTIVE:** 2.2 Ensure effective governance by Council of Council operations and reporting

**FILE NO:** 03.159.1

**RECOMMENDATION NO. 6** - that Council

1. support in principal the sub-lease of the "Alum Shed" at the Finley rail precinct
2. undertake the necessary subletting works to allow for the sub-lease to take place.

**11. EARLY CHILDHOOD INTERVENTION SERVICE**

**AUTHOR:** Director Corporate Services

**STRATEGIC OUTCOME:** Good government

**STRATEGIC OBJECTIVE:** 2.2 Ensure effective governance by Council of Council operations and reporting

**FILE NO:** 03.160.3

**RECOMMENDATION NO. 7** - that the Council note the report prepared in relation to the Early Childhood Intervention Service.

**8.2 MINUTES FOR TECHNICAL SERVICES COMMITTEE MEETING HELD ON WEDNESDAY 6TH JULY, 2016 IN THE COUNCIL CHAMBERS COMMENCING AT 10:50AM**

**181 RESOLVED** Crs: Morris and Hill that recommendation numbered 1 inclusive of the Technical Services Committee Meeting held on 6<sup>th</sup> July, 2016 be adopted.

**5. FINLEY CEMETERY PARKING**

**AUTHOR:** Executive Engineer

**STRATEGIC OUTCOME:** Sustainable natural and built landscapes

**STRATEGIC OBJECTIVE:** 1.3 Connect and protect our communities

**FILE NO:** 24.030.9

**RECOMMENDATION NO. 1** - that Council agree in principle to the proposal to pipe the open drain along Tongs Street, Finley directly in front of the cemetery, formalise the parking area in front of the cemetery by the installation of a gravel hardstand, install pine posts to distinguish the walking and cycling track from the parking area and considers this work for inclusion in future works programs during the next budget process.

**Min. No.**

**8.3 MINUTES FOR RISK MANAGEMENT COMMITTEE MEETING HELD ON WEDNESDAY 6TH JULY, 2016 IN THE COUNCIL CHAMBERS COMMENCING AT 11:45AM**

**182 RESOLVED** Crs: O'Neill and Glanville recommendations numbered 1 to 3 inclusive of the Risk Management Committee Meeting held on 6<sup>th</sup> July, 2016 be adopted.

**4. ASBESTOS POLICY**

**AUTHOR: Enterprise Risk Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**FILE NO: 27.121.2**

**RECOMMENDATION NO. 1** – that Council

1. revoke the existing Asbestos Policy;
2. adopt the Asbestos Policy as follows:

**00 ASBESTOS POLICY**

File Reference No:

Strategic Outcome: Good government

Date of Adoption: 20/07/2016

Date for Review: [Click here to enter a date.](#)

Responsible Officer: Enterprise and Risk Manager

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

This policy is based upon the *Model Asbestos Policy for NSW Councils* developed by the Heads of Asbestos Coordination Authorities to promote a consistent Local Government approach to asbestos management across NSW.

This policy does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this policy.

**Contents**

- |                 |    |
|-----------------|----|
| 1. Introduction | 77 |
| 1.1 Purpose     | 78 |

**Min. No.**

1.2 Scope	79
2. Definitions	79
3. Roles and responsibilities of council	79
3.1 Educating residents	79
3.2 Managing land	79
3.3 Managing waste	80
3.4 Regulatory responsibilities	80
3.5 Responsibilities to workers	82
4. Other stakeholders involved in managing asbestos	82
Part 1 – Asbestos in the Local Government Area: Information for the community	82
5. Naturally occurring asbestos	82
5.1 Responsibilities for naturally occurring asbestos	82
5.2 Managing naturally occurring asbestos	83
5.2.1 Management of naturally occurring asbestos by council	83
6. Contamination of land with asbestos	83
6.1 Responsibilities for contaminated land	83
6.2 Finding out if land is contaminated	84
6.3 Duty to report contaminated land	84
6.4 Derelict buildings	84
7. Responding to emergencies and incidents	85
7.1 Responsibilities in the clean up after an emergency or incident	85
7.2 Advice to the public regarding clean up after an emergency or incident	86
8. Council's process for changing land use	86
9. Council's process for assessing development	87
9.1 Responsibilities for approving development	87
9.2 Providing advice to home owners, renovators and developers	88
9.3 Identifying asbestos	88
9.4 Removing asbestos, refurbishments and demolitions	89
9.4.1 Removing asbestos at domestic premises	89
9.4.2 Removing asbestos at workplaces	90
9.4.3 Obtaining approval for demolition	90
9.5 Exempt or complying development	91
9.5.1 Exempt development	91
9.5.2 Complying development	91
9.6 Development applications	91
9.6.1 Pre-development application advice regarding asbestos	92
9.6.2 Conditions of consent	92
9.7 Compliance and enforcement	92
9.7.1 Responsibilities for compliance and enforcement	92

**Min. No.**

9.7.2	Compliance strategies	92
10.	Managing asbestos as a waste	93
10.1	Responsibilities for asbestos waste management	93
10.2	Handling asbestos waste for disposal	93
10.3	Transporting asbestos waste	94
10.4	Disposing of asbestos waste at waste facilities	94
10.4.1	Situations in which asbestos waste may be rejected from waste facilities	95
10.5	Illegal dumping of asbestos waste	95
10.6	Asbestos remaining on-site	96
11.	Complaints and investigations	96
Part 2 –	Management of asbestos risks within council	96
12.	Rights and responsibilities of workers at the council workplace	96
12.1	Duties of council workers at the council workplace	96
12.1.1	The General Manager	96
12.1.2	Workers	96
12.1.3	Prohibited work activities	97
12.2	Responsibilities of council to council workers	97
12.2.1	Council’s general responsibilities	97
12.2.2	Education, training and information for workers	98
12.2.3	Health monitoring for workers	98
13.	Identifying and recording asbestos hazards in the council workplace	98
13.1	Identifying asbestos	99
13.1.1	Material sampling	99
13.2	Indicating the presence and location of asbestos	99
13.3	Asbestos register	99
13.4	Suspected asbestos	99
14.	Managing asbestos-related risks in the council workplace	100
14.1	Asbestos management plan	100
14.2	Asbestos management plan for naturally occurring asbestos	100
14.3	Management options for asbestos-related risks in the council workplace	100
14.4	Sites contaminated with asbestos that are council workplaces	100
14.5	Demolition or refurbishment of council buildings and assets	101
14.6	Removal of asbestos in the council workplace	101
14.6.1	Removal by council employees	102
14.6.2	Removal by contractors	102
14.6.3	Clearance inspections and certificates	102
15.	Accidental disturbance of asbestos by workers	103
16.	Council’s role in the disposal of asbestos waste	103

**Min. No.**

16.1	Responding to illegal dumping	104
16.2	Transporting and disposing of asbestos waste	104
16.3	Operating council's waste facility licensed to accept asbestos waste	104
16.3.1	Asbestos waste incorrectly presented to council's waste facility	105
16.4	Recycling facilities	106
16.5	Re-excavation of landfill sites	106
17.	Advice to tenants and prospective buyers of council owned property	106
18.	Implementing council's asbestos policy	106
18.1	Supporting documents	106
18.2	Communicating the policy	107
18.3	Non-compliance with the policy	107
19.	Variations to this policy	107
	Appendices	108
	Appendix A – General information and guidance	108
1.	What is asbestos?	108
2.	Where is asbestos found?	108
2.1	Naturally occurring asbestos	108
2.2	Residential premises	109
2.3	Commercial and industrial premises	110
2.4	Sites contaminated with asbestos	111
3.	Potentially hazardous activities	112
4.	Health hazards	113
	Appendix B – Further information	114
	Appendix C – Definitions	116
	Appendix D – Acronyms	121
	Appendix E – Relevant contacts	121
	Appendix F – Waste management facilities that accept asbestos wastes	123
	Waste management facilities in the LGA that accept asbestos wastes	123
	Appendix G – Asbestos-related legislation, policies and standards	124
	Appendix H – Agencies roles and responsibilities	124
	Appendix I – Scenarios illustrating which agencies lead a response in NSW	129
	Appendix J – Asbestos containing materials	133
	Appendix K – Asbestos licences	138
	Appendix L – Map	139
	Appendix M – Conditions of Consent	140

## 1. Introduction

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

## Min. No.

In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. Yet asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure. It is estimated that one in three Australian homes contains asbestos. Several homes, sheds and buildings throughout the Berrigan Shire may contain asbestos. Berrigan Shire is also known to have homes containing loose fill asbestos insulation.

Where material containing asbestos is in a non-friable form (that is, cannot be crushed by hand into a powder), undisturbed and painted or otherwise sealed, it may remain safely in place. However, where asbestos containing material is broken, damaged, disturbed or mishandled, fibres can become loose and airborne posing a risk to health. Breathing in dust containing asbestos fibres can cause asbestosis, lung cancer and mesothelioma.

It is often difficult to identify the presence of asbestos by sight. Where a material cannot be identified or is suspected to be asbestos, it is best to assume that the material is asbestos and take appropriate precautions. Further information about asbestos and the health impacts of asbestos can be found in Appendix A and website links to additional information are provided in Appendix B.

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.

## Min. No.

### 1.2 Scope

This policy applies to all of the Berrigan Shire LGA within council's jurisdiction.

The policy provides information for council workers, the local community and wider public. Part 1 of the policy includes the sections that are likely to be of most interest to the local community and wider public. Part 2 is information that applies to workers associated with council including employees, contractors, consultants, and volunteers (as defined by the NSW *Work Health and Safety Regulation 2011*). Definitions for key terms used in the policy are provided in Appendix C and acronyms are listed in Appendix D.

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. For specific advice, individuals are encouraged to contact council or the appropriate organisation (contact details are listed in Appendix E).

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.
- Additional guidance material listed in Appendix B.
- Detailed information on council's procedures and plans may be found in other documents, which are referenced in part 2 under section 18.1.

## 2. Definitions

Definitions are provided in Appendix C.

## 3. Roles and responsibilities of council

### 3.1 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.
- Educational information and website links for educational materials can be found in Appendices A and B.

### 3.2 Managing land

## Min. No.

Council is responsible for managing public land. This may include land with naturally occurring asbestos as described in section 5 and land contaminated with asbestos as outlined in section 6.

### 3.3 Managing waste

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

- Issuing clean up notices to address illegal storage or disposal of asbestos waste or after an emergency or incident (under the *Protection of the Environment Operations Act 1997*).
- Issuing prevention or clean up notices where asbestos waste has been handled (including stored, transported or disposed of) in an unsatisfactory manner (under the *Protection of the Environment Operations Act 1997*).
- Issuing penalty infringement notices for improper transport of asbestos (under the *Protection of the Environment Operations Act 1997*).
- Applying planning controls to proposals to dispose of asbestos waste on-site, seeking advice from the Environment Protection Authority (EPA) on this matter and making notation on planning certificates (section 149 certificates) where on-site disposal is permitted.
- Operating licensed landfill facility that accepts limited asbestos waste. |

Waste facilities that are licensed to accept asbestos waste are listed in Appendix F.

### 3.4 Regulatory responsibilities

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

- *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).

Additional legislation, policies and standards relating to the safe management of asbestos are listed in Appendix G.

The situations in which council has a regulatory role in the safe management of asbestos are listed in Table 1.

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

Issue	Council's role	Section of policy
-------	----------------	-------------------



**Min. No.**

Contaminated land	<p>Record known asbestos site contamination on section 149 certificates where practicable and for council workplaces, record on council's asbestos register.</p> <p>Notify stakeholders of land use planning policy requirements relating to contamination.</p> <p>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).</p>	Section 6
Development assessment	<p>Assess development applications for approval under the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Set conditions of consent for renovations, alterations, additions, demolitions or other developments requiring consent and which may involve disturbance of asbestos containing materials.</p> <p>Ensure compliance with development conditions.</p> <p>Apply conditions relating to development involving friable and non-friable asbestos material under the relevant legislation and planning codes and as outlined in section 9.</p>	Section 9
Demolition	<p>Approve demolition under the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Council certifiers approve development as complying development under the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p>	Section 9
Emergencies and incidents	<p>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).</p> <p>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>.</p>	Section 7
Naturally occurring asbestos	<p>Verify compliance with environmental planning and assessment legislation for development applications that could disturb naturally occurring asbestos.</p> <p>Prepare an asbestos management plan for council workplaces or road works which occur on land containing naturally occurring asbestos.</p>	Section 5
Residential premises	<p>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.</p> <p>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).</p> <p>Respond to public health risks posed by derelict properties or asbestos materials in residential settings.</p>	Section 9
Waste	<p>Manage waste facilities in accordance with environmental protection legislation.</p> <p>Respond to illegal storage, illegal dumping and orphan waste.</p> <p>Regulate non-complying transport of asbestos containing materials.</p>	Section 10

## Min. No.

### 3.5 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.

These responsibilities are outlined in part 2.

### 4. 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.

Appendix E notes useful contacts and Appendix H notes agencies involved in managing asbestos. Various asbestos scenarios requiring stakeholders to work together are outlined in Appendix I.

## Part 1 – Asbestos in the Local Government Area: Information for the community

### 5. Naturally occurring asbestos

*Council is not aware of any naturally occurring asbestos in the LGA.*

Naturally occurring asbestos only poses a health risk when elevated levels of fibres are released into the air, either by human activities or by natural weathering and these fibres are breathed in by people. Information on naturally occurring asbestos, work processes that have the potential to release naturally occurring asbestos fibres into the air and known locations of naturally occurring asbestos in NSW is provided in Appendix A under section 2.1. This information is indicative, and not a complete picture of all naturally occurring asbestos in NSW.

#### 5.1 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.

## Min. No.

### 5.2 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.

#### 5.2.1 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.

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

## 6. Contamination of land with asbestos

Background information on contamination of land with asbestos and potential disturbance of asbestos contaminated sites can be found in Appendix A under sections 2 and 3. 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.

### 6.1 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.

## Min. No.

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 149 of the *Environmental Planning and Assessment Act 1979*) as outlined in section 6.2.

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 as outlined in Appendix A under section 2.4.2.

The management of council workplaces contaminated with asbestos is outlined in section 14.4.

### 6.2 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 section 149(2) of the *Environmental Planning and Assessment Act 1979*.

Factual information relating to past land use and other matters relevant to contamination may also be provided, even when land use is not restricted. When council receives a request for a certificate under section 149(2), it may also inform applicants of any further information available under section 149(5). Council may also use section 149(5) certificates to record other information, particularly anything else of a factual nature about contamination which council deems appropriate (such as details of land history, assessment, testing and remediation).

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

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*.

### 6.3 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*.

### 6.4 Derelict buildings

## Min. No.

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 as noted in section 6.1.

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 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 SafeWork NSW is the lead agency responsible for ensuring that asbestos is removed by appropriately licensed removalists.

## 7. 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.

### 7.1 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 section 3.3 and section 6.1.

Alternatively, council may act under the *Environmental Planning and Assessment Act 1979* as outlined in section 6.4 of 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.

## Min. No.

- 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 (see section 6.4).
- 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.
- 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.

### 7.2 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 (advice on disposing of asbestos waste is provided in section 10)
- 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 (advice on disposing of asbestos waste is provided in section 10)
- any other measures recommended by an occupational hygienist following assessment of the situation.

## 8. Council's process for changing land use

## Min. No.

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.

Managing sites contaminated with asbestos material is addressed in section 6.

## 9. 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 9.5.2). 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.

### 9.1 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*. Further information on demolition is provided in section 9.4.

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

## Min. No.

accordance with the *Environmental Planning and Assessment Regulation 2000* (clause 136E). Compliance is covered in section 9.7.

### 9.2 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 provided below and in Appendix A. Appendix B lists additional sources of information on how to deal safely with the risks of asbestos and Appendix J lists asbestos containing products that may be found around the home.

The key points are:

- Before any renovation, maintenance or demolition work is carried out, any asbestos or asbestos containing materials should be identified (refer to section 9.3).
- 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.
- If asbestos materials cannot be safely contained, they should be removed as outlined in section 9.4.
- For demolition or redevelopment, any asbestos containing materials should be safely removed and disposed of prior to the work commencing.

Anyone who is undertaking renovations themselves without a contractor is encouraged to refer to Appendices A and B for more information and contact council where they require further advice or clarification. Anyone engaging an asbestos removal contractor may contact SafeWork NSW with any queries as SafeWork NSW regulates asbestos removal by workers (as explained in section 9.4). Contact details for council and SafeWork NSW are provided in Appendix E.

### 9.3 Identifying asbestos

Information on common places where asbestos is likely to be found in residential, commercial and industrial premises with materials from prior to 2004 on the premises is provided in Appendix A.

A person may apply to council for a planning certificate (called a section 149 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, as outlined in section 6.2.

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. A general guide to the likelihood of asbestos presence based on building age is provided in Appendix A under section 2.2.

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



## Min. No.

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.

## 9.4 Removing asbestos, refurbishments and demolitions

### 9.4.1 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. The requirements for licenses are outlined below and summarised in the table in Appendix K. SafeWork NSW is responsible for issuing asbestos licences.

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

**Min. No.**

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.

Requirements for the transport and disposal of asbestos waste are covered in section 10.

#### 9.4.2 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.

#### 9.4.3 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. Council's conditions for development consent are referred to in section 9.6.

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.

## Min. No.

### 9.5 Exempt or complying development

#### 9.5.1 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).

#### 9.5.2 Complying development

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

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

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

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

If the work involves less than 10 square metres of non-friable asbestos and is not undertaken by a licensed contractor, it should still be undertaken in a manner that minimises risks as detailed in the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561). In instances where asbestos removal is less than 10 square metres of non-friable asbestos and not from a place of work, then SafeWork NSW would not be the agency responsible for regulating this activity. Concerns or complaints may be directed to council as outlined in section 11.

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* as noted in section 9.4.1 of this policy.

### 9.6 Development applications

## Min. No.

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.

### 9.6.1 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.

### 9.6.2 Conditions of consent

Refer to Council's Conditions of Consent included in Appendix M

## 9.7 Compliance and enforcement

### 9.7.1 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.

### 9.7.2 Compliance strategies

## Min. No.

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* (section 124) to direct a person to 'do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition.'

Council may also issue a clean up notice or prevention notice under the *Protection of the Environment Operations Act 1997* as outlined in section 6.1 of this policy.

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

## 10. Managing asbestos as a waste

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

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

### 10.1 Responsibilities for asbestos waste management

Council's responsibilities for asbestos waste management are outlined in section 3.3.

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.

### 10.2 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).

## Min. No.

### 10.3 Transporting asbestos waste

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

- any part of any vehicle in which the person transports the waste is covered, and leak-proof, during the transportation, and
- if the waste consists of bonded asbestos material-it is securely packaged during the transportation, and
- if the waste consists of friable asbestos material-it is kept in a sealed container during transportation, and
- 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.

### 10.4 Disposing of asbestos waste at waste facilities

The Berrigan Landfill is the only waste facility in the Berrigan Shire that will accept non-friable asbestos waste. Non-friable asbestos waste is not accepted at Tocumwal or Finley.

Friable asbestos waste is not accepted at any facility in the Berrigan Shire.

The Berrigan Landfill's current hours of operation are as follows:

Tuesday: 1:30pm – 4:00pm

Thursday: 1:30pm – 4:00pm

Sunday: 12:30pm – 4:00pm

Tip hours can be verified by accessing Council's website at [www.berriganshire.nsw.gov.au](http://www.berriganshire.nsw.gov.au). The Landfill Supervisor can be contacted on 0429 320 762. Current fees can be determined by contacting the Landfill Supervisor, or the Council on 03 5888 5100, or by accessing Council's website. |

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.

## Min. No.

- 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.

### 10.4.1 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 (as per sections 10.2 and 10.3)
- 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.

## 10.5 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.

A handbook to assist Aboriginal communities to prevent and arrange the clean up of illegal dumping (published by the EPA) is noted in Appendix B.

## Min. No.

### 10.6 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 (section 149 certificate).

### 11. 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.

Complaints about council in relation to asbestos may be directed to the NSW Ombudsman.

## Part 2 – Management of asbestos risks within council

### 12. Rights and responsibilities of workers at the council workplace

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

##### 12.1.1 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.

##### 12.1.2 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



## Min. No.

- 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 (refer to Appendix G).

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

### 12.1.3 Prohibited work activities

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

- high pressured water spray (unless for fire fighting 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.

Note:

- only appropriately trained Council employees are permitted to remove non-friable asbestos.
- a maximum of 10m<sup>2</sup> of non-friable bonded asbestos is allowed to be removed by qualified Council staff.
- for quantities that exceed 10m<sup>2</sup>, a licensed contractor will be used. |

## 12.2 Responsibilities of council to council workers

### 12.2.1 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 (defined in Appendix C) 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

## Min. No.

- 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 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 ensure the plant or materials do not contain asbestos prior to supply or use in the workplace.

### 12.2.2 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.

Topics training may cover are outlined in the *Code of practice on how to safely remove asbestos* (catalogue no. WC03561).

Education and training will only be provided by appropriately accredited individuals.

A record of asbestos training undertaken by each worker will be kept until five years after the day the worker ceases to work for council.

A list of workers who have received the appropriate training to respond to asbestos hazards is available by contacting the Human Resource Officer.

### 12.2.3 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.

## 13. Identifying and recording asbestos hazards in the council workplace

## Min. No.

This section outlines how council will identify and record asbestos hazards in the workplace. This section does not cover naturally occurring asbestos which is addressed in section 5 or illegal dumping which is addressed in section 10.5.

### 13.1 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.

#### 13.1.1 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 (refer to Appendix E) or a laboratory approved or operated by the regulator.

### 13.2 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.

### 13.3 Asbestos register

*Council has an asbestos register which can be found on Council's G Drive, and is kept at the workplace in the Enterprise Risk Manager's Office.*

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.

### 13.4 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 (refer to section 13.1.1). 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 14. If the suspected asbestos has been disturbed and has, or could, become airborne, council may need to respond immediately as outlined in section 15.

**Min. No.**

14. Managing asbestos-related risks in the council workplace

14.1 Asbestos management plan

[Council has an asbestos register which can be found on Council's "G" Drive under Management Plans and is kept at the workplace in the Enterprise Risk Manager's office. ]

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.

14.2 Asbestos management plan for naturally occurring asbestos

[Council is not aware of any naturally occurring asbestos in the workplace. If naturally occurring asbestos is discovered, council will prepare an asbestos management plan in relation to the naturally occurring asbestos in accordance with the NSW *Work Health and Safety Regulation 2011* part 8.4 (Management of naturally occurring asbestos). ]

14.3 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.

[Safe Work Method Statements on the removal and disposal of asbestos containing material are made available to workers, and where appropriate are discussed at meetings prior to works commencing. ]

14.4 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.

## Min. No.

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.

Further details on managing land contaminated with asbestos may be found in section 6.

### 14.5 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.

### 14.6 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

**Min. No.**

workplace and limit access to the asbestos removal area as per the NSW *Work Health and Safety Regulation 2011*.

14.6.1 Removal by council employees

A list of employees trained and nominated to remove asbestos as well as the nominated supervisors is kept by Council's Human Resource Officer.

Council will ensure that before any council employee undertakes asbestos (or suspected asbestos) removal work they are:

- appropriately trained
- adequately supervised
- provided with appropriate personal protective equipment and clothing
- provided access to this policy
- provided with information about the health risks and health effects associated with exposure to asbestos and the need for, and details of, health monitoring.

14.6.2 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.

14.6.3 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

**Min. No.**

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.

**15. 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.

It may be appropriate that council:

- *stop works in the vicinity of the asbestos immediately*
- *inform the site supervisor immediately, inform necessary workers and record the incident*
- *evacuate the area*
- *provide personal protective equipment and briefing to appropriately trained workers who will respond to the incident*
- *restrict access to the area and ensure only appropriately trained and equipped council workers attend the site*
- *exclude the public from the site and provide information to the public if in a public area*
- *wet surfaces to reduce the dust levels*
- *prevent the spread of contamination by using wash down facilities*
- *provide information, training and supervision to all workers potentially at risk*
- *contact SafeWork NSW to report the disturbance. SafeWork NSW must be immediately notified if persons are likely to be effected by asbestos fibres or if an air monitoring process records a level above 0.02 fibres/ml of air*
- *implement an air monitoring program to assess asbestos exposure levels and specific risk control measures.*
- *liaise with or consult the appropriate agencies*
- *seek advice from an occupational hygienist*
- *follow the Code of practice on how to safely remove asbestos (catalogue no. WC03561)*
- *ensure that asbestos materials are disposed of at a facility licensed to accept asbestos materials, and where contractors have been engaged to dispose of asbestos waste, sight proof of appropriate disposal through weighbridge dockets or similar documentation*
- *update the asbestos register and notify workers of any newly identified asbestos locations.*

**16. Council's role in the disposal of asbestos waste**

**Min. No.**

**16.1 Responding to illegal dumping**

*Removal of illegally dumped asbestos material or suspected asbestos material by council employees will be undertaken in accordance with section 14.6.1 or section 14.6.2.*

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

**16.2 Transporting and disposing of asbestos waste**

Council will transport and dispose of waste in accordance with the legislation and as outlined in section 10.

**16.3 Operating council's waste facility licensed to accept asbestos waste**

*Berrigan Landfill is not a licensed facility, however has received appropriate consent to lawfully receive non-friable asbestos waste.*

Waste management facilities must be managed in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* including clause 80 which specifies that:

1. A person disposing of asbestos waste off the site at which it is generated must do so at a landfill site that can lawfully receive the waste.
2. When a person delivers asbestos waste to a landfill site, the person must inform the occupier of the landfill site that the waste contains asbestos.
3. When a person unloads or disposes of asbestos waste at a landfill site, the person must prevent:
  - (a) any dust being generated from the waste, and
  - (b) any dust in the waste from being stirred up.
4. The occupier of a landfill site must ensure that asbestos waste disposed of at the site is covered with virgin excavated natural material or (if expressly authorised by an environment protection licence held by the occupier) other material:
  - (a) initially (at the time of disposal), to a depth of at least 0.15 metre, and
  - (b) at the end of each day's operation, to a depth of at least 0.5 metre, and
  - (c) finally, to a depth of at least 1 metre (in the case of bonded asbestos material or asbestos-contaminated soils) or 3 metres (in the case of friable asbestos material) beneath the final land surface of the landfill site.

Council has developed a charging policy for receiving asbestos waste, which reflects the actual cost of managing the asbestos waste, plus any applicable levies.

When council is receiving construction, renovation and demolition waste, council should visually screen and may also inspect incoming loads to minimise asbestos contamination risk as this waste may be high risk for asbestos materials. Council has developed procedures to avoid asbestos contamination in material intended for resource recovery.

Council may issue a receipt for asbestos waste received at a licensed landfill facility. The receipt provided may note the time, date and location of disposal, amount of asbestos containing material disposed, method of disposal (note on handling) and a receipt number. This information must be recorded by the facility, regardless of whether a receipt is issued.



## Min. No.

Council will require a copy of receipts as per Development Approval and Conditions of Consent (refer Appendix M)..

### 16.3.1 Asbestos waste incorrectly presented to council's [waste 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 (as per sections 9.2 and 9.3)
- not disclosed by the transporter as being asbestos or asbestos containing materials
- taken to a waste facility that does not accept asbestos waste.

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 (a template is available from SafeWork NSW). 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:

## Min. No.

- 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.

### 16.4 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.

To prevent contamination of recycled products and to manage situations where contamination has occurred, council should adhere to the guide: *Management of asbestos in recycled construction and demolition waste*.

### 16.5 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 (as the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997*).

## 17. 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.

## 18. Implementing council's asbestos policy

### 18.1 Supporting documents

The implementation of this policy is supported by council's: [

- *conditions of consent*
- *guidelines for disposing of asbestos waste.* ]

Council also has several internal documents that support this policy. [ ]

- asbestos management plan
- asbestos register
- complaints handling procedures
- Council's risk management policy and framework
- employee health monitoring plans
- incident report form
- maintenance and inspection schedules for council owned assets
- safe work method statements/ procedures for asbestos handling and removal for council employees

## Min. No.

- training registers/ records (relevant to identifying, handling and removing of asbestos materials).

### 18.2 Communicating the policy

This is a publicly available policy. The policy is to be made available via:

- [Council's Offices at 56 Chanter Street, Berrigan ]
- Council's website,  
<http://www.berriganshire.nsw.gov.au/Council/tabid/54/Default.aspx>
- Council's Intranet

All employees shall receive information about the policy at induction from [the Human Resource Officer. ]

Any workers (including employees, contractors, consultants and, where relevant, volunteers and members of the public) who are involved in any activity or activities listed in Appendix A under section 3 on behalf of, or for, council shall be provided with access to a copy of this policy and relevant supporting documents. This includes any workers involved in commencing, arranging, undertaking, regulating, inspecting or supervising a potentially hazardous activity or activities. Managers are responsible for ensuring workers who report to them have access to the policy and appropriate information, documentation and training in asbestos awareness (as per the NSW *Work Health and Safety Regulation 2011*) prior to planning the activity or activities. Further information about training is noted in section 12.2.2 of this policy.

Council shall incorporate a statement regarding compliance with this policy in all relevant contracts and agreements with workers (including employees, contractors, consultants and, where relevant, volunteers and members of the public).

In the case of any substantive revisions to the policy, the revisions will be approved by the General Manager and the General Manager will notify all persons who may have cause to undertake, arrange or supervise any activities listed in Appendix A under section 3 on behalf of, or for, council.

### 18.3 Non-compliance with the policy

Failure by workers to adhere to the policy and failure by managers to adequately inform relevant workers of this policy shall be considered non-compliance with this policy.

*[The appropriate supervisor, manager, director, or the General Manager, shall take action in the case on non-compliance with the policy and this may include providing education and training, issuing a verbal or written warning, altering the worker's duties, or in the case of serious breaches, terminating the worker's services. Each case shall be assessed on its merits with the aim of achieving a satisfactory outcome for all parties. ]*

Workers should approach their supervisor or manager if they are experiencing difficulties in understanding or implementing the policy or if they are concerned that other workers are not complying with the policy.

## 19. Variations to this policy

Council reserves the right to review, vary or revoke this policy. The General Manager may allow variations to the policy for minor issues in individual cases.

## Min. No.

### Appendices

#### Appendix A – General information and guidance

##### 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).

Further information about the different types of asbestos can be found in: Environmental Health Standing Committee (enHealth), *Asbestos: A guide for householders and the general public*, Australian Health Protection Principal Committee, Canberra, 2013 (available at:

[www.health.gov.au/internet/publications/publishing.nsf/Content/asbestos-toc~asbestos-about](http://www.health.gov.au/internet/publications/publishing.nsf/Content/asbestos-toc~asbestos-about)).

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 SafeWork 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?

Asbestos can be found where it occurs naturally and in a variety of materials (from prior to 2004) in residential, commercial and industrial premises and on public and private land.

###### 2.1 Naturally occurring asbestos

## Min. No.

Naturally occurring asbestos refers to the natural geological occurrence of asbestos minerals found in association with geological deposits including rock, sediment or soil.

Asbestos is found as a naturally occurring mineral in many areas of NSW. Asbestos may occur in veins within rock formations. [The map provided in Appendix L](#) gives an indication of areas in NSW known to have naturally occurring asbestos.

Work processes that have the potential to inadvertently release naturally occurring asbestos into the air include:

- agriculture
- forestry
- landscaping
- mining
- other excavation or construction activities
- pipe works and telecommunications works
- road construction and road works.

Further information can be found in this policy under section 5 and in the *Naturally-occurring asbestos fact sheet* (catalogue no. WC03728) published by SafeWork NSW, which provides a photograph of naturally occurring asbestos. 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.

### 2.2 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

**Min. No.**

- 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 and may have moved to wall cavities, cornices and sub-floor areas)
- 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.

Other places asbestos can be found are listed in Appendix J.

### 2.3 Commercial and industrial premises

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

## Min. No.

- lift motor rooms
- pipes, casing for water and electrical/ telecommunication services
- rubber, plastics, thermosetting resins, adhesives, paints, coatings, caulking compounds and sealants for thermal, electrical and insulation applications
- structural beams of buildings
- yarns and textiles eg fire blankets.

Other places asbestos can be found are listed in Appendix J.

### 2.4 Sites contaminated with asbestos

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. Activities such as those listed in section 3 of this Appendix 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.

#### 2.4.1 Situations where asbestos contamination may occur

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).

#### 2.4.2 Significantly contaminated land

For sites that are significantly contaminated, the EPA and SafeWork NSW are the lead regulatory authorities. The *Contaminated Land Management Act 1997* applies to significantly contaminated land. 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

## Min. No.

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.epa.nsw.gov.au/clm/publiclist.htm](http://www.epa.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*.

### 3. Potentially hazardous activities

A number of activities could cause asbestos to be inadvertently disturbed and consequently create a health risk.

Before undertaking any of the activities listed below, it should be considered whether asbestos containing materials may be present. If asbestos is present, these activities may be illegal or certain precautions may be required, or an appropriately licensed person may be required to undertake the activity.

Members of the public could inadvertently disturb asbestos through activities including:

- renovations, refurbishments or repairs particularly those involving power tools, boring, breaking, cutting, drilling, grinding, sanding or smashing asbestos containing materials
- sealing, painting, brushing and cleaning asbestos cement products
- demolitions of homes or other structures (dismantling or destruction)
- relocating a house, building or structure
- using compressed air on asbestos containing materials
- water blasting asbestos containing materials
- cleaning gutters on asbestos cement roofs
- handling asbestos cement conduits or boxes
- maintenance work such as plumbing and electrical work on or adjacent to asbestos containing materials such as working on electrical mounting boards
- maintenance or servicing of materials from vehicles, plant or equipment
- checking, removing or replacing ceiling insulation which contains asbestos.

Council could inadvertently disturb asbestos through activities such as:

- abovementioned activities
- asset and building maintenance
- certifying
- inspections of sites and premises
- transport and disposal of illegally dumped materials
- collection, transport and disposal of incorrectly disposed of materials.

Naturally occurring asbestos and contaminated sites could be inadvertently disturbed during:

- road building



## Min. No.

- site and construction work
- other excavation activities
- vehicle movements.

Natural processes can create a risk of exposure to asbestos including:

- extensive fire or storm damage to asbestos cement roofs or building materials
- extensive weathering and etching of unsealed asbestos cement roofs.

In addition, work that intentionally disturbs asbestos, such as sampling or removal, should be conducted by a competent person and in accordance with the relevant codes of practice and legislation.

## 4. Health hazards

Asbestos fibres can pose a risk to health if airborne, as inhalation is the main way that asbestos enters the body. The World Health Organisation has stated that concentrations of asbestos in drinking water from asbestos cement pipes do not present a hazard to human health.

Breathing in asbestos fibres can cause asbestosis, lung cancer and mesothelioma. The risk of contracting these diseases increases with the number of fibres inhaled and the risk of lung cancer from inhaling asbestos fibres is greatly increased if you smoke. Small fibres are the most dangerous and they are invisible to the naked eye. People who are at most risk are those who have been exposed to high levels of asbestos for a long time. The symptoms of these diseases do not usually appear for some time (about 20 to 30 years) after the first exposure to asbestos.

**Asbestosis** is the irreversible scarring of lung tissue that can result from the inhalation of substantial amounts of asbestos over a period of years. It results in breathlessness that may lead to disability and, in some cases, death.

**Lung cancer** can be caused by asbestos. Lung cancer is related to the amount of fibre that is breathed in and the risk of lung cancer is greatly increased in those who also smoke tobacco.

**Mesothelioma** is a cancer of the pleura (outer lung lining) or the peritoneum (the lining of the abdominal cavity). Mesothelioma rarely occurs less than 15 years from first exposure, and most cases occur over 30 years after first exposure. Accordingly, the rates of malignant mesothelioma (an incurable cancer) are expected to rise from the year 2012 to 2020 and are expected to peak in this time.

If asbestos fibres are in a stable material, for example bonded in asbestos-cement sheeting (such as fibro), and these materials are in good condition they pose little health risk. However, where fibro or other non-friable asbestos sheeting is broken, damaged or mishandled, fibres can become loose and airborne posing a risk to health. Disturbing or removing asbestos containing materials unsafely can create a hazard.

The occupational standard for asbestos is 0.1fibre/ml of air and the environmental standard is 0.01fibre/ml in air.

When someone has potentially been exposed to asbestos, or receives or expects they may receive a diagnosis of an asbestos-related disease, they may experience psychological distress, including anxiety and may be in need of

**Min. No.**

support. Their family and those around them may also be vulnerable to psychological distress.

**Appendix B – Further information**

**Aboriginal communities**

*Illegal dumping prevention and clean-up. Handbook for Aboriginal communities, 2008 (EPA)* [www.epa.nsw.gov.au/illegaldumping/resources.htm](http://www.epa.nsw.gov.au/illegaldumping/resources.htm)

**Asbestos contractors**

*Choosing an asbestos consultant fact sheet (catalogue no. WC04547)*  
(SafeWork NSW)

[www.safework.nsw.gov.au/formspublications/publications/Pages/Choosinganastbestosconsultant.aspx](http://www.safework.nsw.gov.au/formspublications/publications/Pages/Choosinganastbestosconsultant.aspx)

For a listing of asbestos removal contractors in your area, refer to your local telephone directory or the Yellow Pages [www.yellowpages.com.au](http://www.yellowpages.com.au) or by contacting the Asbestos Removal Contractors Association NSW (ARCA) [www.arcansw.asn.au](http://www.arcansw.asn.au) or by emailing: [email@arcansw.asn.au](mailto:email@arcansw.asn.au). An asbestos removal contractor's licence can be verified by contacting the SafeWork NSW's Certification Unit on 13 10 50.

**Asbestos waste**

Advice about safely disposing of household asbestos waste can be found at: [www.epa.nsw.gov.au/managewaste/house-asbestos.htm](http://www.epa.nsw.gov.au/managewaste/house-asbestos.htm)

Asbestos waste disposal facility search function on the Asbestos Safety and Eradication Agency website: [www.asbestossafety.gov.au/search-disposal-facilities](http://www.asbestossafety.gov.au/search-disposal-facilities)

Crackdown on Illegal Dumping: A Handbook for Local Government, 2007 (EPA) [www.epa.nsw.gov.au/illegaldumping/resources.htm](http://www.epa.nsw.gov.au/illegaldumping/resources.htm)

*Illegally Dumped Asbestos Clean Up Program (IDACUP)*: Council may become involved in clean up activities of illegally dumped asbestos waste. Where the responsible party is unknown, unavailable, unwilling (despite a legal obligation to do so) or unable to pay for clean up within the timeframe required to avoid or at least minimise harm to the environment or public health, Council may apply for funding under the IDACUP. Information about the IDACUP is available at [www.environment.nsw.gov.au/grants/IDACUP.htm](http://www.environment.nsw.gov.au/grants/IDACUP.htm)

*Regional Illegal Dumping (RID) Squads*: are regionally based teams that specialise in dealing with illegal dumping. The squads are funded by the EPA and the member local councils who opt to work together and pool resources to tackle illegal dumping.

*RIDonline* is a statewide illegal dumping database and reporting tool to assist councils and the EPA develop a comprehensive picture of the extent of illegal dumping in NSW. Members of the community can assist by reporting illegal dumping online through the RIDonline App, available for the public to download in February 2016.

For more information on illegal dumping and safely disposing of asbestos waste visit the EPA website: [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

*Management of asbestos in recycled construction and demolition waste, 2010*  
(SafeWork NSW)  
[www.safework.nsw.gov.au/data/assets/pdf\\_file/0017/18323/asbestos\\_recycled\\_construction\\_demolition\\_waste\\_2772.pdf](http://www.safework.nsw.gov.au/data/assets/pdf_file/0017/18323/asbestos_recycled_construction_demolition_waste_2772.pdf)

**Contaminated land**

*Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997, 2015 (EPA).*

[www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf](http://www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf)

**Min. No.**

*Managing land contamination: Planning guidelines SEPP 55 – Remediation of land*, 1998 (Department of Planning and Environment and EPA)  
[www.epa.nsw.gov.au/resources/clm/gu\\_contam.pdf](http://www.epa.nsw.gov.au/resources/clm/gu_contam.pdf)

**Emergency management**

*Guidance Material: Asbestos and Fire-damaged Buildings*, 2015 (EPA)  
[www.epa.nsw.gov.au/resources/waste/asbestos/150044-asbestos-fire-damaged-buildings.pdf](http://www.epa.nsw.gov.au/resources/waste/asbestos/150044-asbestos-fire-damaged-buildings.pdf)

*NSW Asbestos Emergency Plan*: The NSW Asbestos Emergency sub plan details the specific arrangements for the coordinated funding and management of asbestos debris during and following a larger scale emergency, being an event that requires a significant and coordinated response, where the presence of asbestos containing material in the community poses a significant risk to public health and safety. [www.emergency.nsw.gov.au/publications/plans/sub-plans/asbestos.html](http://www.emergency.nsw.gov.au/publications/plans/sub-plans/asbestos.html)

**Environmental risk assessment**

*Environmental health risk assessment: Guidelines for assessing human health risks from environmental hazards*, 2002 (Commonwealth of Australia)

Available via email by contacting the enHealth Secretariat:  
[enHealth.Secretariat@health.gov.au](mailto:enHealth.Secretariat@health.gov.au)

**Health**

*Asbestos and health risks fact sheet*, 2007 (NSW Health)  
[www.health.nsw.gov.au/environment/factsheets/Pages/asbestos-and-health-risks.aspx](http://www.health.nsw.gov.au/environment/factsheets/Pages/asbestos-and-health-risks.aspx)

Further advice concerning the health risks of asbestos can be obtained from your local public health unit.

**Renovation and development**

*Asbestos: A guide for householders and the general public*, Environmental Health Standing Committee (enHealth), Australian Health Protection Principal Committee, Canberra, 2013 (available at:  
[www.health.gov.au/internet/publications/publishing.nsf/Content/asbestos-toc~asbestos-about](http://www.health.gov.au/internet/publications/publishing.nsf/Content/asbestos-toc~asbestos-about)).

Asbestos Awareness website (Asbestos Education Committee)  
[www.asbestosawareness.com.au](http://www.asbestosawareness.com.au)

*Choosing and working with a principal certifying authority: A guide for anyone planning to build or subdivide*, 2011 (Building Professionals Board)  
[www.bpb.nsw.gov.au/sites/default/files/public/Finalbuildingapproch.pdf](http://www.bpb.nsw.gov.au/sites/default/files/public/Finalbuildingapproch.pdf)

**Practical guidance**

*Code of practice on how to manage and control asbestos in the workplace* (catalogue no. WC03560) published by SafeWork NSW  
[www.safework.nsw.gov.au/\\_data/assets/pdf\\_file/0015/15216/how-to-manage-control-asbestos-workplace-code-of-practice-3560.pdf](http://www.safework.nsw.gov.au/_data/assets/pdf_file/0015/15216/how-to-manage-control-asbestos-workplace-code-of-practice-3560.pdf)

*Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by SafeWork NSW  
[www.safework.nsw.gov.au/\\_data/assets/pdf\\_file/0016/15217/how-to-safely-remove-asbestos-code-of-practice-3561.pdf](http://www.safework.nsw.gov.au/_data/assets/pdf_file/0016/15217/how-to-safely-remove-asbestos-code-of-practice-3561.pdf)

**Tenants**

*Tenants rights Fact sheet 26 Asbestos and lead*, 2010 (Tenants NSW)  
[www.tenants.org.au/publish/factsheet-26-asbestos-lead/index.php](http://www.tenants.org.au/publish/factsheet-26-asbestos-lead/index.php)

**Tenants – Housing NSW tenants**

*Asbestos fact sheet*, 2010 (Housing NSW)  
[www.housing.nsw.gov.au/NR/rdonlyres/F4E1131F-2764-4CB1-BC07-98EB6C594085/0/Asbestos.pdf](http://www.housing.nsw.gov.au/NR/rdonlyres/F4E1131F-2764-4CB1-BC07-98EB6C594085/0/Asbestos.pdf)

## Min. No.

### Appendix C – 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 SafeWork NSW
- *Code of practice on how to safely remove asbestos* (catalogue no. WC03561) published by SafeWork NSW
- *Contaminated Land Management Act 1997*
- *Environmental Planning and Assessment Act 1979*
- *Emergency Pollution and Orphan Waste Clean-Up Program Guidelines 2008*
- *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
- b. grunerite (or amosite) asbestos (brown)
- c. anthophyllite asbestos
- d. chrysotile asbestos (white)
- e. crocidolite asbestos (blue)
- f. tremolite asbestos
- g. 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.

**Min. No.**

**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.

**complying development certificate**

**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 loadbearing or otherwise related to the physical integrity of the structure, but does not include:

- a. the dismantling of formwork, falsework, 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

**Min. No.**

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.

**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: not involved in the removal of the asbestos

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.

**Min. No.**

**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.

**officer** means an officer as defined in the NSW *Work Health and Safety Act 2011*.

**orphan waste** means materials that have been placed or disposed of on a 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.

**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:

**Min. No.**

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

**waste** includes:

- 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
- any discarded, rejected, unwanted, surplus or abandoned substance, or
- 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
- 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
- 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.



**Min. No.**

**Appendix D – 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
JRPP	Joint Regional Planning Panel
LGA	Local Government Area
NATA	National Association of Testing Authorities
NSW	New South Wales
SEPP	State Environmental Planning Policy
VET	Vocational Education and Training

**Appendix E – Relevant contacts**

**Berrigan Shire Council**

Rowan Perkins General Manager Berrigan Shire Council 03) 5888 5100	Fred Exton Director Technical Services Berrigan Shire Council 03) 5888 5100
---	--

Myles Humphries Environmental Engineer Berrigan Shire Council 03) 5888 5100	Shane Herezo Landfill Supervisor Berrigan Shire Council 0429 320 762
--	---

Laurie Stevens Development Manager Berrigan Shire Council 03) 5888 5100	Michelle Koopman Enterprise Risk Manager Berrigan Shire Council 03) 5888 5100
--	--

**Local Removalists**

Paul Head Demolitions Licensed Asbestos Removalist Berrigan 0428 852 371	Colin McNamara Licensed Asbestos Removalist Finley 03) 5883 1889 0437 566 948.
---	--

**Asbestos-related disease organisations (non-exhaustive)**

**Asbestos Diseases Foundation Australia Inc**

Phone: (02) 9637 8759  
Helpline: 1800 006 196  
Email: [info@adfa.org.au](mailto:info@adfa.org.au)  
Website: [www.adfa.org.au](http://www.adfa.org.au)

**Asbestos Diseases Research Institute**

**Min. No.**

Phone: (02) 9767 9800  
Email: [info@adri.org.au](mailto:info@adri.org.au)  
Website: [www.adri.org.au](http://www.adri.org.au)

**Australian Institute of Occupational Hygienists Inc.**

Phone: (03) 9338 1635  
Email: [admin@aioh.org.au](mailto:admin@aioh.org.au)  
Website: [www.aioh.org.au](http://www.aioh.org.au)

**Dust Diseases Authority**

Phone: (02) 8223 6600  
Toll Free: 1800 550 027  
Email: [DDAenquiries@icare.nsw.gov.au](mailto:DDAenquiries@icare.nsw.gov.au)  
Website: [www.icare.nsw.gov.au](http://www.icare.nsw.gov.au)

**Environment Protection Authority (EPA)**

Phone: (02) 9995 5000  
Environment line: 13 15 55  
Email: [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)  
Website: [www.epa.nsw.gov.au/epa](http://www.epa.nsw.gov.au/epa)

**Licensed Asbestos Contractors**

For a listing of asbestos removal contractors in your area, refer to your local telephone directory or the Yellow Pages website: [www.yellowpages.com.au](http://www.yellowpages.com.au) or contact:

**Asbestos Removal Contractors Association NSW**

PO Box Q1882  
Queen Victoria Building  
NSW 1230  
Email: [email@arcansw.asn.au](mailto:email@arcansw.asn.au)  
Website: [www.arcansw.asn.au](http://www.arcansw.asn.au)

Verification of an asbestos removal contractor's licence can be checked by contacting SafeWork NSW's Certification Unit Phone: 13 10 50

**Civil Contractors Federation (CCF)**

Phone: (02) 9009 4000  
Email: [ccfnsw@ccfnsw.com](mailto:ccfnsw@ccfnsw.com)  
Website: [www.ccfnsw.com/](http://www.ccfnsw.com/)

**Local Government NSW**

Phone: (02) 9242 4000  
Email: [lgnsw@lgnsw.org.au](mailto:lgnsw@lgnsw.org.au)  
Website: [www.lgnsw.org.au](http://www.lgnsw.org.au)

**NSW Ombudsman**

Phone: (02) 9286 1000  
Toll free (outside Sydney metro): 1800 451 524  
Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
Website: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

**Training providers (non-exhaustive)**

**TAFE NSW**

Phone: 131 601  
Website: [www.tafensw.edu.au](http://www.tafensw.edu.au)

**Min. No.**

**Housing Industry Association (HIA)**

Phone: (02) 9978 3333  
Website: [www.hia.com.au/](http://www.hia.com.au/)

**Local Government Training Institute**

Phone: (02) 4922 2333  
Website: [www.lgti.com.au](http://www.lgti.com.au)

**Comet Training**

Phone: (02) 9649 5000  
Website: [www.comet-training.com.au/site](http://www.comet-training.com.au/site)

**Master Builders Association (MBA)**

Phone: (02) 8586 3521  
Website: [www.masterbuilders.com.au](http://www.masterbuilders.com.au)

**SafeWork NSW**

SafeWork NSW Information Centre Phone: 13 10 50  
SafeWork NSW – Asbestos/Demolition Hotline Phone: (02) 8260 5885  
Website: [www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)

**Appendix F – Waste management facilities that accept asbestos wastes**

Waste management facilities that can accept asbestos waste may be operated by council, the State Government or private enterprise. The fees charged by the facility operators for waste received are determined by the facility.

Not all waste management centres accept asbestos waste from the public. Management of asbestos waste requires special precautions such as a separate disposal location away from other general waste and controls to prevent the liberation of asbestos fibres, such as the immediate covering of such waste.

**Waste management facilities in the LGA that accept asbestos wastes**

Minimal quantities of non-friable asbestos waste is accepted at the Berrigan Landfill located on Greenhills Road, Berrigan. ]

**Waste management facilities in other areas that accept asbestos wastes**

A list of licensed landfills that may accept asbestos waste from the public is available on the EPA website at: [www.epa.nsw.gov.au/managewaste/house-asbestos-land.htm](http://www.epa.nsw.gov.au/managewaste/house-asbestos-land.htm)

Some of the landfills may accept non-friable asbestos waste but not friable asbestos waste. Some landfills may not accept large quantities of asbestos waste.

Always contact the landfill before taking asbestos waste to a landfill to find out whether asbestos is accepted and any requirements for delivering asbestos to the landfill. EPA does not endorse any of the landfills listed on the website or guarantee that they will accept asbestos under all circumstances.

Licensed facilities in close proximity to the Berrigan Shire include:

- Albury
- Deniliquin
- Corowa
- Moama

Additional fees may apply where deposits are from outside the LGA.

## Min. No.

### Appendix G – Asbestos-related legislation, policies and standards

- *Contaminated Land Management Act 1997*
- *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
- *Demolition work code of practice 2015*
- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Protection of the Environment Operations (General) Regulation 2009*
- *Protection of the Environment Operations (Waste) Regulation 2014*
- *Protection of the Environment Operations Act 1997*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *NSW Work Health and Safety Act 2011*
- *NSW Work Health and Safety Regulation 2011*
- *Workers' Compensation (Dust Diseases) Act 1942.*

### Appendix H – Agencies roles and responsibilities

#### NSW organisations

##### **Department of Planning and Environment (DPE)**

DPE's primary role in the management of asbestos relates to administration of State Environmental Planning Policies, and the *Environmental Planning and Assessment Act 1979* (and associated Regulation).

Whilst DPE does not have an operational role in the management of asbestos, it has a regulatory function and provides policy support relating to asbestos and development. In assessing proposals for development under the *Environmental Planning and Assessment Act 1979*, consent authorities are required to consider the suitability of the subject land for the proposed development. This includes consideration of the presence of asbestos and its environmental impact.

Where asbestos represents contamination of the land (ie it is present in excess of naturally occurring levels), *State Environmental Planning Policy No. 55 – Remediation of Land* imposes obligations on developers and consent authorities in relation to remediation of the land and the assessment and monitoring of its effectiveness.

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* enables exempt and complying development across the state. While this includes demolition and the removal of asbestos, the *Environmental Planning and Assessment Regulation 2000* specifies particular conditions that must be contained in a complying development certificate in relation to the handling and lawful disposal of both friable and non-friable asbestos material under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

## **Min. No.**

### **Dust Diseases Authority (DDA)**

The Dust Diseases Authority provides a system of no fault compensation to people who have developed a dust disease from occupational exposure to dust as a worker in New South Wales and to their dependants. The DDA's statutory function is to administer the *Workers' Compensation (Dust Diseases) Act 1942*. Services include:

payment of compensation benefits to eligible workers and dependants

co-ordination and payment of medical and related health care expenses of affected

medical examination of workers exposed to dust in the workplace

information and education.

### **Environment Protection Authority (EPA)**

EPA's role is to regulate the classification, storage, transport and disposal of waste in NSW, including asbestos waste. The waste regulatory framework includes the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Clauses 77 through to 81 of the *Protection of the Environment Operations (Waste) Regulation 2014* set out the special requirements relating to the transportation and disposal of asbestos waste.

EPA is the appropriate regulatory authority for activities that require an environment protection licence or are carried out by public authorities such as local councils, the Roads and Maritime Services and Sydney Water. Local councils are the appropriate regulatory authority for activities that are not regulated by the EPA, which typically include building demolition, construction sites, residential properties, commercial sites and small to medium sized industrial facilities.

EPA is responsible for assisting councils in fulfilling their regulatory responsibilities. EPA has developed resources to assist Local Government to regulate asbestos waste incidents and prevent illegal dumping. Website links to these resources are provided in Appendix B.

The EPA maintains the regulatory framework for the remediation of contaminated land (the *Contaminated Land Management Act 1997*) and actively regulates land that is declared to be 'significantly contaminated' under the *Contaminated Land Management Act 1997*.

### **Heads of Asbestos Coordination Authorities (HACA)**

The HACA is chaired by SafeWork NSW with senior officials from:

- Department of Industry
- Department of Planning and Environment
- Dust Diseases Authority
- Environment Protection Authority
- Local Government NSW
- Ministry of Health
- Office of Emergency Management
- Office of Local Government.

The HACA group will improve the management, monitoring and response to asbestos issues in NSW by developing coordinated prevention programs. These programs include a comprehensive public awareness campaign to promote the

**Min. No.**

safe handling of asbestos and help prevent the risk of exposure to asbestos-related diseases in the NSW community. Further information about the HACA can be found on the SafeWork NSW website: [www.safework.nsw.gov.au](http://www.safework.nsw.gov.au).

**Local Government NSW (LGNSW)**

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

In 2012, LGNSW commenced a project funded by SafeWork NSW to assist councils to adopt and implement a model asbestos policy. The project is outlined at: [www.lgnsw.org.au](http://www.lgnsw.org.au)

**NSW Department of Industry**

The NSW Department of Industry, Skills and Regional Development (known as the NSW Department of Industry) leads the state government's contribution to making NSW:

a fertile place to invest and to produce goods and services, and thereby create jobs and opportunities for our citizens

The NSW Department of Industry also has responsibilities for:

skill formation and development to match industry demand

partnering with stakeholders in stewardship and sustainable use of the state's natural resources; and

supporting economic growth in the regions.

Within the Division of Resources & Energy in the Department, the Geological Survey of NSW teams of field geologists, geophysicists, mineral geoscientists and palaeontologists and geospatial specialists produce a range of maps. Geological mapping records the distribution of rock types and location of structures at or near the Earth's surface. The maps have applications to land use assessment, engineering construction, environmental management and natural hazard risk assessment.

The Geological Survey of NSW prepared the state-wide mapping of naturally occurring asbestos (NOA) in NSW for the Heads of Asbestos Coordination Authorities.

**NSW Ministry of Health**

The NSW Ministry of Health does not have express statutory responsibilities for managing asbestos-related risks and incidents in NSW. The Ministry provides an expert advisory service to other governmental agencies on public health issues. This service may include technical information or assistance to prepare public health information bulletins.

**NSW Ombudsman**

The NSW Ombudsman is an independent and impartial watchdog body. The NSW Ombudsman is responsible for ensuring that public and private sector agencies and employees within its jurisdiction fulfil their functions appropriately. The NSW Ombudsman assists those agencies and their employees to be aware

**Min. No.**

of their responsibilities to the public, to act reasonably and to comply with the law and best administrative practice.

**Office of Fair Trading and the Building Professionals Board (BPB)**

NSW Fair Trading safeguards the rights of all consumers and advises business and traders on fair and ethical practice. NSW Fair Trading provides services directly to individuals and businesses to create a fair, safe and equitable marketplace.

NSW Fair Trading is establishing a Loose-Fill Asbestos Implementation Taskforce responsible for overseeing and implementing the NSW Government Voluntary Purchase and Demolition Program for properties containing loose-fill asbestos insulation. The Loose-Fill Asbestos Implementation Taskforce will be in place until work is completed on the purchase and demolition of all properties that choose to participate in the Program.

The Building Professionals Board (BPB) is now part of Fair Trading and oversees building and subdivision certification. The BPB's role involves providing practice advice and educational programs to assist certifying authorities (private and council) in carrying out their role. The BPB certifies and audits both private and council certifiers. Further information about the BPB may be found at:  
[www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au)

**Office of Local Government**

The Office of Local Government is responsible for local government across NSW. The Office's organisational purpose is to 'Strengthen Local Government' and its organisational outcome is 'Fit for the future councils leading strong communities'.

The Office has a policy, legislative, investigative and program focus in matters ranging from Local Government finance, infrastructure, governance, performance, collaboration and community engagement. The Office strives to work collaboratively with the Local Government sector and is the key adviser to the NSW Government on Local Government matters.

**SafeWork NSW**

SafeWork NSW is responsible for the issuing and control of licences that are issued to all asbestos removal and demolition contractors. SafeWork NSW works with the employers, workers and community of NSW to achieve safer and more productive workplaces, and effective recovery, return to work and security for injured workers.

SafeWork NSW administers work health and safety, injury management, return to work and workers compensation laws, and manage the workers compensation system. SafeWork NSW's activities include: health and safety, injuries and claims, licensing for some types of plant operators, registration of some types of plant and factories, training and assessment, medical and healthcare, law and policy.

The SafeWork NSW website provides a wide range of asbestos resources, support networks and links at:  
[www.SafeWorkNSW.nsw.gov.au/newlegislation2012/health-and-safety-topics/asbestos/Pages/default.aspx](http://www.SafeWorkNSW.nsw.gov.au/newlegislation2012/health-and-safety-topics/asbestos/Pages/default.aspx)

**National organisations**

**Asbestos Safety and Eradication Agency**

## **Min. No.**

The Asbestos Safety and Eradication Agency was established in 2013 to provide a national focus on asbestos issues which go beyond workplace safety to encompass environmental and public health issues. The agency's objective is to eliminate asbestos-related disease in Australia.

The agency has broad functions under its legislation, including:

- reporting on the implementation of the National Strategic Plan on Asbestos Awareness and Management (NSP); reviewing and amending the NSP as required and promoting the NSP
- providing advice to the Minister about asbestos safety
- liaising with all levels of government, agencies or bodies about the implementation of the NSP; as well as asbestos safety in general; and
- commissioning, monitoring and promoting research about asbestos safety.

The agency administers the National Asbestos Exposure Register which was created to record the details of members of the community who may have been exposed to asbestos. Registration forms are online at

<https://www.asbestossafety.gov.au/national-asbestos-exposure-register>.

The agency also maintains a national database for asbestos disposal facilities, which members of the public can search to identify their nearest facility that accepts asbestos waste, available online at

<https://www.asbestossafety.gov.au/search-disposal-facilities>

Councils interested in finding out more about the agency, updating information listed on the disposal database, or receiving information, flyers or brochures for distribution within the LGA should contact the agency at [enquiries@asbestossafety.gov.au](mailto:enquiries@asbestossafety.gov.au).

### **National Association of Testing Authorities (NATA)**

This body has the role of providing accreditation to firms licensed to remove asbestos.

NSW (Head Office) and ACT

Phone: (02) 9736 8222

National Toll Free: 1800 621 666

Website: [www.nata.asn.au](http://www.nata.asn.au)

### **Environmental Health Committee (enHealth)**

The Environmental Health Committee (enHealth) is a subcommittee of the Australian Health Protection Committee (AHPC). enHealth provides health policy advice, implementation of the National Environmental Health Strategy 2007-2012, consultation with key players, and the development and coordination of research, information and practical resources on environmental health matters at a national level.

Website: [www.health.gov.au/internet/main/publishing.nsf/content/ohp-environmental-health-committee.htm](http://www.health.gov.au/internet/main/publishing.nsf/content/ohp-environmental-health-committee.htm)

### **Safe Work Australia**

Safe Work Australia is an Australian Government statutory agency established in 2009, with the primary responsibility of improving work health and safety and workers' compensation arrangements across Australia.

Phone: (02) 6121 5317

Email: [info@swa.gov.au](mailto:info@swa.gov.au)

Website: [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)



**Min. No.**

**Appendix I – Scenarios illustrating which agencies lead a response in NSW**

The tables show which agencies are responsible for regulating the following scenarios in NSW:

- emergency management
- naturally occurring asbestos
- residential settings
- site contamination
- waste
- workplaces.

**Emergency management**

Scenario	Lead organisation	Other regulators
Emergency response	Emergency services	Fire and Rescue (Hazmat) SafeWork NSW
Handover to Local council, owner of property or NSW Police – crime scene following a minor incident	Local council NSW Police	
Handover to State Emergency Recovery Controller	State Emergency Recovery Controller	Recovery Committee Local council EPA SafeWork NSW
Handover to Recovery Committee following a significant incident	Recovery Committee (formed by State Emergency Recovery Controller)	Local council EPA SafeWork NSW
Remediation not requiring a licensed removalist	Local council	Principal Certifying Authority SafeWork NSW (workers)
Remediation requiring licensed removal work	SafeWork NSW	Local council Principal Certifying Authority
Clearance Certificate issued by an Asbestos Assessor	SafeWork NSW	Principal Certifying Authority

**Naturally occurring asbestos**

Scenario	Lead organisation	Other regulators
Naturally occurring but will be disturbed due to a work process including remediation work	SafeWork NSW	Local council EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)
Naturally occurring asbestos	NSW Department of Industry	Local council

**Min. No.**

part of a mineral extraction process		EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)
Naturally occurring but will remain undisturbed by any work practice	Local council	EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities) SafeWork NSW (workers)
Soil contaminated with asbestos waste and going to be disturbed by a work practice	SafeWork NSW	EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities, declared contaminated land sites)
Soil contaminated with asbestos waste but will remain undisturbed by any work practice	Local council	EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities, declared contaminated land sites) SafeWork NSW (workers on site)
Potential for exposure on public land	EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)	Local council SafeWork NSW (workers on site)
Soil contaminated with asbestos waste but at a mine site	NSW Department of Industry EPA ( <i>Protection of the Environment Operations Act 1997</i> Scheduled Activities Public Authorities)	Local council

**Residential settings**

Scenario	Lead organisation	Other regulators
Safe Management of asbestos including: identification in situ management removal requirements disposal requirements.	Local council Private Certifiers	SafeWork NSW EPA
Site contaminated due to past uses	Local council	SafeWork NSW EPA
Licensed removal work required	SafeWork NSW	Local council Private Certifiers
Removal does not require a licensed removalist	Local council Private Certifiers	SafeWork NSW (workers)

**Min. No.**

Transport or waste disposal issues	Local council	EPA
Derelict property with fibro debris	Local council or Multi-agency	Multi-agency

**Site contamination**

Scenario	Lead organisation	Other regulators
Asbestos illegally dumped	Local council	EPA SafeWork NSW
Site contamination at commercial premises	See Workplaces	
Site contamination at residential premises	See Residential settings	

**Waste**

Scenario	Lead organisation	Other regulators
Waste temporarily stored on-site	SafeWork NSW (worksites) EPA and Local council (non-worksites)	
Waste transported by vehicle	EPA	SafeWork NSW
Waste disposed of onsite	Council or EPA as illegal dumping or pollution of land if no valid council development consent	Local council (consent required to dispose onsite) (section 149 property certificate and development assessment process)
Waste going to landfill site	EPA (advice)	Local council (if managing licensed landfill)
Waste to be transported interstate	EPA	
Waste for export	Department of Immigration and Border Protection	SafeWork NSW Department of Employment

**Min. No.**

**Workplaces**

Scenario	Lead organisation	Other regulators
Asbestos installed/supplied after 2003 (illegally)	SafeWork NSW	
Risks to the health of workers	SafeWork NSW	
Asbestos management and asbestos going to be removed	SafeWork NSW NSW Department of Industry (mine sites)	
Risks to the health of the public from worksites	SafeWork NSW (Risks to workers) Local council (Risks to the wider public) Department of Planning and Infrastructure (part 3A approvals) EPA ( <i>Protection of the Environment Operations Act 1997</i> licensed sites)	
Waste stored temporarily on-site at worksites	SafeWork NSW	
Transport or waste disposal issues	EPA	SafeWork NSW Local council
Asbestos contaminated clothing going to a laundry	SafeWork NSW	EPA Local council
Contaminated land not declared under the <i>Contaminated Land Management Act 1997</i>	Local council	EPA
'Significantly contaminated' land declared under the <i>Contaminated Land Management Act 1997</i>	EPA	Local council

**Min. No.**

**Appendix J – Asbestos containing materials**

Some asbestos containing materials found in New South Wales domestic settings (non-exhaustive list)

Asbestos containing materials	Approximate supply dates
Cement sheets	Imported goods supplied from 1903 locally made 'fribrolite' from 1917
Cement roofing / lining slates	Imported goods supplied from 1903 locally made 'fribrolite' from 1917
Mouldings and cover strips	Available by 1920s and 1930s
Super-six (corrugated) roofing	Available by 1920s and 1930s – 1985
'Tilex' decorative wall panels	Available by 1920s and 1930s
Pipes and conduit piping	Available by 1920s and 1930s
Motor vehicle brake linings	Available by 1920s and 1930s
Striated sheeting	Available from 1957
'Asbestolux' insulation boards	Available from 1957
'Shadowline' asbestos sheeting for external walls, gable ends and fences	Available from 1958 – 1985
Vinyl floor tiles impregnated with asbestos	Available up until 1960s
Asbestos containing paper backing for linoleum	Available up until 1960s
'Durasbestos' asbestos cement products	Available up until 1960s
'Tilex' marbled decorative wall panels	Available from early 1960s
'Tilex' weave pattern decorative wall panels	Available from early 1960s
'Hardiflex' sheeting	Available from 1960s – 1981
'Versilux' building board	Available from 1960s – 1982
'Hardiplank' and 'Hardigrain' woodgrain sheeting	Available from mid 1970s – 1981
Loose-fill, fluffy asbestos ceiling insulation	During the 1960s and 1970s, pure loose-fill asbestos was sold as ceiling insulation for residential and commercial premises. A Canberra based company known as 'Mr Fluffy' installed insulation in at least 1,000 homes in the ACT and is also understood to

**Min. No.**

	have installed insulation into homes in NSW.
Asbestos rope gaskets for wood heaters. Heater and stove insulation	Dates of supply availability unknown but prior to 31 December 2003
Compressed fibro-cement sheets	Available from 1960s – 1984
Villaboard	Available until 1981
Harditherm	Available until 1984
Highline	Available until 1985
Coverline	Available until 1985
Roofing accessories	Available until 1985
Pressure pipe	Available until 1987

**Sources:**

NSW Government, 2011, *Asbestos Blueprint: A guide to roles and responsibilities for operational staff of state and local government*.

NSW Taskforce Report: *Loose-Fill Asbestos Insulation in NSW Homes* (2015)

[www.fairtrading.nsw.gov.au/biz\\_res/ftweb/pdfs/Tenants\\_and\\_home\\_owners/Loose\\_Fill\\_Abestos\\_Taskforce\\_Report.pdf](http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Loose_Fill_Abestos_Taskforce_Report.pdf) (accessed October, 2015).

**Asbestos containing materials that may be found in various settings (non-exhaustive list)**

**A**

Air conditioning duct, in the exterior or interior acoustic and thermal insulation

Arc shields in lift motor rooms or large electrical cabinets

Asbestos-based plastics products as electrical insulates and acid resistant compositions or aircraft seats

Asbestos ceiling tiles

Asbestos cement conduit

Asbestos cement electrical fuse boards

Asbestos cement external roofs and walls

Asbestos cement in the use of form work for pouring concrete

Asbestos cement internal flues and downpipes

Asbestos cement moulded products such as gutters, ridge capping, gas meter covers, cable troughs and covers

Asbestos cement pieces for packing spaces between floor joists and piers

Asbestos cement (underground) pit as used for traffic control wiring, telecommunications cabling etc

Asbestos cement render, plaster, mortar and coursework

Asbestos cement sheet

Asbestos cement sheet behind ceramic tiles

Asbestos cement sheet over exhaust canopies such as ovens and fume cupboards

**Min. No.**

Asbestos cement sheet internal walls and ceilings  
Asbestos cement sheet underlay for vinyl  
Asbestos cement storm drain pipes  
Asbestos cement water pipes (usually underground)  
Asbestos containing laminates, (such as Formica) used where heat resistance is required  
Asbestos containing pegboard  
Asbestos felts  
Asbestos marine board, eg marinate  
Asbestos mattresses used for covering hot equipment in power stations  
Asbestos paper used variously for insulation, filtering and production of fire resistant laminates  
Asbestos roof tiles  
Asbestos textiles  
Asbestos textile gussets in air conditioning ducting systems  
Asbestos yarn  
Autoclave/steriliser insulation

**B**

Bitumen-based water proofing such as malthoid (roofs and floors, also in brickwork)  
Bituminous adhesives and sealants  
Boiler gaskets  
Boiler insulation, slabs and wet mix  
Brake disc pads  
Brake linings

**C**

Cable penetration insulation bags (typically Telecom)  
Calorifier insulation  
Car body filters (uncommon)  
Caulking compounds, sealant and adhesives  
Ceiling insulation (which may have moved into wall cavities, cornices and sub-floor areas)  
Cement render  
Chrysotile wicks in kerosene heaters  
Clutch faces  
Compressed asbestos cement panels for flooring, typically verandas, bathrooms and steps for demountable buildings  
Compressed asbestos fibres (CAF) used in brakes and gaskets for plant and automobiles

**D**

Door seals on ovens

**E**

Electric heat banks – block insulation  
Electric hot water services (normally no asbestos, but some millboard could be present)  
Electric light fittings, high wattage, insulation around fitting (and bituminised)  
Electrical switchboards see Pitch-based

**Min. No.**

Exhausts on vehicles

**F**

Filler in acetylene gas cylinders

Filters: beverage wine filtration

Fire blankets

Fire curtains

Fire door insulation

Fire-rated wall rendering containing asbestos with mortar

Fire-resistant plaster board, typically on ships

Fire-retardant material on steel work supporting reactors on columns in refineries in the chemical industry

Flexible hoses

Floor vinyl sheets

Floor vinyl tiles

Fuse blankets and ceramic fuses in switchboards

**G**

Galbestos™ roofing materials (decorative coating on metal roof for sound proofing)

Gaskets: chemicals, refineries

Gaskets: general

Gauze mats in laboratories/chemical refineries

Gloves: asbestos

**H**

Hairdryers: insulation around heating elements

Header (manifold) insulation

**I**

Insulation blocks

Insulation in ceilings, which may have spread to wall cavities, cornices and sub-floor areas

Insulation in electric reheat units for air conditioner systems

**L**

Laboratory bench tops

Laboratory fume cupboard panels

Laboratory ovens: wall insulation

Lagged exhaust pipes on emergency power generators

Lagging in penetrations in fireproof walls

Lift shafts: asbestos cement panels lining the shaft at the opening of each floor and asbestos packing around penetrations

Limpet asbestos spray insulation

Locomotives: steam, lagging on boilers, steam lines, steam dome and gaskets

**M**

Mastik

Millboard between heating unit and wall

Millboard lining of switchboxes

Mortar

**P**



**Min. No.**

Packing materials for gauges, valves, etc can be square packing, rope or loose fibre  
Packing material on window anchorage points in high-rise buildings  
Paint, typically industrial epoxy paints  
Penetrations through concrete slabs in high rise buildings  
Pipe insulation including moulded sections, water-mix type, rope braid and sheet  
Plaster and plaster cornice adhesives  
Pipe insulation: moulded sections, water-mix type, rope braid and sheet  
Pitch-based (zelemite, ausbestos, lebah) electrical switchboard

**R**

Refractory linings  
Refractory tiles  
Rubber articles: extent of usage unknown

**S**

Sealant between floor slab and wall, usually in boiler rooms, risers or lift shafts  
Sealant or mastik on windows  
Sealants and mastik in air conditioning ducting joints  
Spackle or plasterboard wall jointing compounds  
Sprayed insulation: acoustic wall and ceiling  
Sprayed insulation: beams and ceiling slabs  
Sprayed insulation: fire retardant sprayed on nut internally, for bolts holding external building wall panels  
Stoves: old domestic type, wall insulation

**T**

Tape and rope: lagging and jointing  
Tapered ends of pipe lagging, where lagging is not necessarily asbestos  
Tilux sheeting in place of ceramic tiles in bathrooms  
Trailing cable under lift cabins  
Trains: country – guards vans – millboard between heater and wall  
Trains – Harris cars – sprayed asbestos between steel shell and laminex

**V**

Valve and pump insulation

**W**

Welding rods  
Woven asbestos cable sheath

**Sources:**

*Environmental health notes number 2 guidelines for local government on asbestos*, 2005 (Victorian Department of Human Services).

[www.health.vic.gov.au/environment/downloads/hs523\\_notes2\\_web.pdf](http://www.health.vic.gov.au/environment/downloads/hs523_notes2_web.pdf)

*NSW Taskforce Report: Loose-Fill Asbestos Insulation in NSW Homes* (2015)

[www.fairtrading.nsw.gov.au/biz\\_res/ftweb/pdfs/Tenants\\_and\\_home\\_owners/Loose\\_Fill\\_Abestos\\_Taskforce\\_Report.pdf](http://www.fairtrading.nsw.gov.au/biz_res/ftweb/pdfs/Tenants_and_home_owners/Loose_Fill_Abestos_Taskforce_Report.pdf) (accessed October, 2015).

**Min. No.**

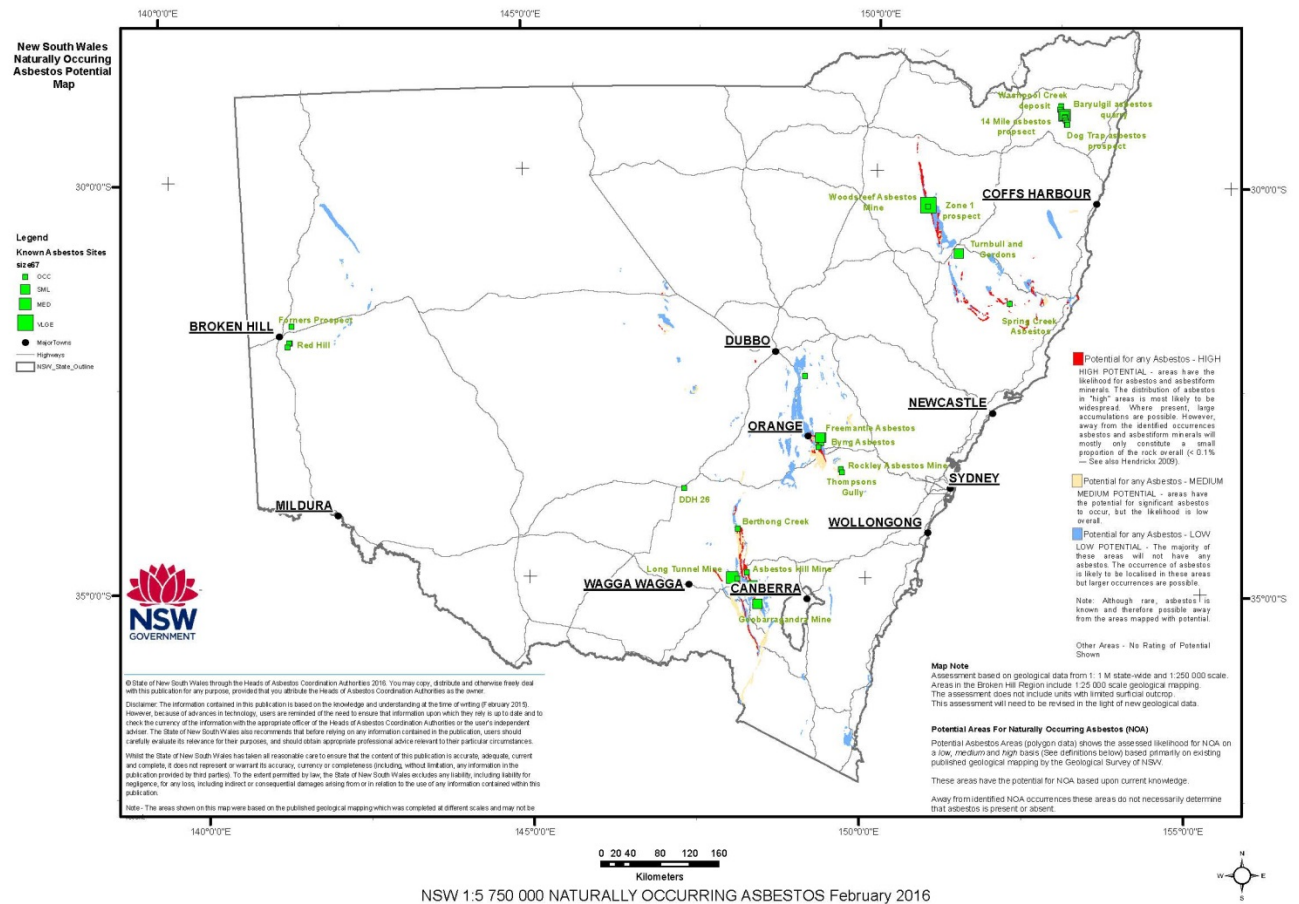
**Appendix K – Asbestos licences**

Type of licence	What asbestos can be removed?
Class A	<p>Can remove any amount or quantity of asbestos or asbestos containing material, including:</p> <ul style="list-style-type: none"> <li>any amount of friable asbestos or asbestos containing material</li> <li>any amount of asbestos containing dust                             <ul style="list-style-type: none"> <li>• any amount of non-friable asbestos or asbestos containing material.</li> </ul> </li> </ul>
Class B	<p>Can remove:</p> <ul style="list-style-type: none"> <li>any amount of non-friable asbestos or asbestos containing material</li> </ul> <p>Note: A Class B licence is required for removal of more than 10 m<sup>2</sup> of non-friable asbestos or asbestos containing material but the licence holder can also remove up to 10 m<sup>2</sup> of non-friable asbestos or asbestos containing material.</p> <p>asbestos containing dust associated with the removal of non-friable asbestos or asbestos containing material.</p> <p>Note: A Class B licence is required for removal of asbestos containing dust associated with the removal of more than 10 m<sup>2</sup> of non-friable asbestos or asbestos containing material but the licence holder can also remove asbestos containing dust associated with removal of up to 10m<sup>2</sup> of non-friable asbestos or asbestos containing material.</p>
No licence required	<p>Can remove:</p> <ul style="list-style-type: none"> <li>up to 10 m<sup>2</sup> of non-friable asbestos or asbestos containing material</li> <li>asbestos containing dust that is:                             <ul style="list-style-type: none"> <li>associated with the removal of less than 10 m<sup>2</sup> of non-friable asbestos or asbestos containing material</li> <li>not associated with the removal of friable or non-friable asbestos and is only a minor contamination.</li> </ul> </li> </ul>

An asbestos removal contractor's licence can be verified by contacting SafeWork NSW's Certification Unit on 13 10 50.

Min. No.

Appendix L – Map



**Min. No.**

**Appendix M – Conditions of Consent**

5. All asbestos removal shall be undertaken in accordance with the provisions of the *NSW Work Health and Safety Regulations 2011* and Council's Asbestos Policy.

6. Written notice must be provided to Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

- Date the demolition will commence;
- Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)
- Work must not commence prior to the nominated demolition date.

7. Demolition is to be carried out in accordance with the applicable provisions of AS2601 – 1991 *The Demolition of Structures*. Note: Developers are reminded that SafeWork NSW requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

8. The developer is to provide written notification to owners and occupiers of premises in the immediate vicinity of the development site on asbestos removal work, five (5) working days prior to demolition.

9. A SafeWork NSW licensed (Class B) contractor must undertake removal of more than 10 square metres of bonded asbestos. Removal of friable asbestos material must only be undertaken by a contractor that holds a current friable asbestos removal (Class A) licence.

10. The licensed asbestos removalist must ensure that:

- Signs alerting persons to the presence of asbestos are placed to indicate where the asbestos removal work is being carried out, and
- Barricades are erected to delineate the asbestos removal area.

11. All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulations 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

12. Where friable asbestos has been removed, an independent licensed asbestos assessor must conduct a clearance inspection and issue a Clearance Certificate. Where more than 10m<sup>2</sup> of bonded asbestos has been removed, a clearance inspection must be conducted by an independent competent person and a Clearance Certificate issued. A copy of the Clearance Certificate must be provided to Council before the area can be re-occupied for demolition or other work.

13. All asbestos cement sheeting must be removed, where reasonably practicable prior to the commencement of construction work.

**Min. No.**

**5. BUSINESS CONTINUITY PLAN**

**AUTHOR: Enterprise Risk Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**FILE NO: 27.121.2**

**RECOMMENDATION NO. 2 – that Council**

1. revoke the existing Business Continuity Plan;
2. adopt the Business Continuity Plan as attached in Appendix “E”

**6. RISK MANAGEMENT STRATEGIC PLAN REVIEW**

**AUTHOR: Enterprise Risk Manager**

**STRATEGIC OUTCOME: Good government**

**STRATEGIC OBJECTIVE: 2.2 Ensure effective governance by Council of Council operations and reporting**

**FILE NO: 27.121.2**

**RECOMMENDATION NO. 3 - that Council review the 2013-2016 Risk Management Strategic Plan, circulated as Appendix “F” be noted.**

**MAYORS REPORT**

Cr. Curtin reported that he had attended the following during the period:

- Lions Club changeover
- Rotary Club changeover - Finley
- Food Bowl meeting
- Rotary Club changeover - Tocumwal
- Berrigan & District Development Association committee meeting
- Editor of Berrigan News

**183 RESOLVED** Crs: Hannan and O’Neill that the Mayors report be received.

**Min. No.**

**DELEGATES REPORTS**

**Cr Hill**

- Finley Showground Committee of Management

**Cr O'Neill**

- Nil

**Cr Morris**

- Finley Chamber of Commerce

**Cr Hannan**

- Rotary Club changeover dinner- Finley

**Cr Glanville**

- Lions Deb Ball - Barooga
- Lions Club changeover – Tocumwal
- International Childrens Games - Taipei

**Cr Jones**

- Finley Showground Committee of Management
- Rotary Club changeover - Finley

**Cr**

- Tocumwal Chamber of Commerce

The meeting adjourned at 10:30am and reconvened at 11:05am.

**GENERAL BUSINESS**

**Cr Hill**

- Finley Showground – primitive camping
- Careers Expo – Finley High School

**Cr O'Neill**

- Finley Showground – primitive camping
- Careers Expo – Finley High School

**Cr Morris**

- Street lighting – western streets Finley
- Marian Drive Tocumwal speed limit

**Cr Hannan**

- Bus Stop light at Finley
- School of Arts plan
- Agrtrade trees
- Foreshore Plan – received Monday

**Min. No.**

**Cr Glanville**

- International Childrens Games a great success

**Cr Jones**

- Aerodrome blocks
- Passenger steam train at Tocumwal 19-21 August, 2016
- Cats in Wise Court, Tocumwal
- TCDC grant from Strawberry Fields

**Cr Curtin**

- Finley Skate Park
- Strawberry Fields
- Police Community meetings
- Pre-election meetings
- Mayor/GM briefing for candidates of formal session

**Development Manager**

- McNaught LEP amendment
- John Carr signage to be removed

**Director Corporate Services**

- Rural Fire Brigade forum

**Director Technical Services**

- Nil

**General Manager**

- Dougherty Awards
- Aerodrome meeting

- 184**      **RESOLVED** Crs: Morris and O'Neill that the Council write to Mr Dean Russell regarding unacceptable behaviour, any repeat will see removal.

There being no further business the meeting closed at 12:20pm.