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Policy:

Asbestos

2021

Date Adopted by Council		Resolution No.	
Document Owner	Manager Governance and Risk		
Document Development Officer	Risk Management and Safety Officer		
Review Timeframe	2 Years		
Last Review Date:	Version 1	Next Scheduled Review Date	2026

A review of this procedure will be conducted *every two years* or if:

- It becomes apparent that the process for managing asbestos is not adequate to protect workers,
- There are legislative changes that affect requirements for managing asbestos,
- The need for a review is raised through Council's consultation process.

The Risk Management and Safety officer will monitor the implementation and effectiveness of this procedure and include any issues in their *monthly* WHS reports to the GM and Directors.

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

Document History

Doc No.	Date Amended	Details/Comments e.g. Resolution No.
Original	June 2019	
Review	Jan 2021	

Further Document Information and Relationships

Related Legislation*	<p><i>Local Government Act 1993 and General Regulation 2005</i></p> <p><i>Work Health and Safety Act 2011 and Regulation 2017.</i></p>
Related Policies	<p>Policy: Enterprise Risk Management Policy 2020</p> <p>Policy: Work Health and Safety 2019</p>
Related Procedures/ Protocols, Statements, documents	<ul style="list-style-type: none"> • Demolition work code of practice 2015 (catalogue no WC03841) • <i>Contaminated Land Management Act 1997;</i> • <i>Environmental Planning and Assessment Act 1979;</i> • Environmental Planning and Assessment Regulation 2000; • <i>Protection of the Environment Operations Act 1997;</i> • <i>Protection of the Environment Operations (General) Regulation 2009;</i> • <i>Protection of the Environment Operations (Waste) Regulation 2005;</i> • <i>Protection of the Environment Operations (Waste) Regulation 2014</i> • State Environmental Planning Policy (Exempt and complying Development Codes) 2008; and • State Environmental Planning Policy No. 55 – Remediation of Land.

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1 Introduction

The Uralla Shire Council (USC) acknowledges the serious health hazard of exposure to asbestos.

In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. Yet asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure. It is estimated that one in three Australian homes contains asbestos.

Where material containing asbestos is in a non-friable form (that is, cannot be crushed by hand into a powder), undisturbed and painted or otherwise sealed, it may remain safely in place. 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.

As a person conducting a business undertaking (PCBU) under the *Work, Health and Safety Act 2011 (NSW)* and as a local authority under the *Local Government Act 1993 (NSW)*, 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); and
- Workers and other persons in the USC workplaces.

USC legislative functions for minimising the risks from asbestos apply in various scenarios including:

- Contaminated land management;
- Council's land, building and asset management;
- Emergency response to a Council facility containing asbestos;
- Land use planning (including development approvals and demolition);
- Regulation of activities (non-work sites), and
- Waste management and regulation.

2 Purpose

This policy aims to outline the role of Council and other organisations in managing asbestos, and implementing relevant regulatory powers. Council will provide information on managing asbestos as follows:

- council's approach to dealing with naturally occurring asbestos, sites contaminated by asbestos and emergencies or incidents on Council land;
- 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, and
- sources of further information.

3 Scope

This policy applies to all of the land within the Council's Local Government Area.

The policy provides information for the local community and wider public. Definitions for key terms used in the policy are provided in Appendix A.

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 commitment to provide to the public approved agency general advice.

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

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

Additional guidance material is listed in the Council's Managing Asbestos Procedure.

4 Roles and Responsibilities of the Council

4.1 Educating residents

Council shall assist residents to access appropriate information and advice, by referring to the source documents prepared by the relevant authority, on the:

- Prohibition on the use and re-use of asbestos containing materials;
- Requirements in relation to development, land management and waste management;
- Risks of exposure to asbestos;
- Safe management of asbestos containing materials, and
- Safe removal and disposal of minor quantities of asbestos containing materials.

3.2 Managing Land

Council is responsible for managing public land. This may include land with naturally occurring asbestos and land contaminated with asbestos as outlined in the Council's Managing Asbestos Procedure.

3.3 Managing Waste

Where Council is the appropriate regulatory or planning authority, Council is responsible for meeting certain obligations under relevant legislation by:

- 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*); and
- 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.

3.4 Regulatory Responsibilities

The Council has regulatory responsibilities as per the legislation listed in the definitions, and maintains policies and standards in situations where Council is the appropriate regulatory authority or planning authority.

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:

- General responsibilities;
- Education, training and information for workers;

- Health monitoring for workers, and
- Procedures for identifying and managing asbestos containing materials in the Council premises.

5. 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.

Council's *Managing Asbestos Procedure* details the agencies involved in managing asbestos. Various asbestos scenarios requiring stakeholders to work together are also outlined in the procedure.

6. Complaints and Investigations

Complaints and enquiries may be directed to Council about incidents in public places and private properties. Complaints and enquiries regarding a workplace should be directed to SafeWork NSW. Complaints and enquiries 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 enquiries;
- Illegal dumping;
- Safe removal and disposal of minor quantities of asbestos materials, and
- Unsafe work at a residential property conducted by a homeowner or

tenant.

7. Implementing Council's Asbestos Policy

6.1 Communicating the policy

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

Uralla Shire Council's Website www.uralla.nsw.gov.au

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).

All substantive revisions are considered by Council and placed on public exhibition.

8. Definitions

The terms used in the Policy are defined 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.*

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 waste means any waste that contains asbestos. This includes asbestos or asbestos containing material removed and disposable items used during asbestos removal work including plastic sheeting and disposable tools.

Certifying authority means a person who is authorised by or under section 85A of the *Environmental Planning and Assessment Act 1979* to issue complying development certificates, or is authorised by or under section 109D of the *Environmental Planning and Assessment Act 1979* to issue part 4A certificates.

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.

Development means:

- a. the use of land
- b. the subdivision of land
- c. the erection of a building
- d. the carrying out of a work
- e. the demolition of a building or work
- f. Any other act, matter or thing referred to in section 26 of the *Environmental Planning and Assessment Act 1979* that is controlled by an environmental planning instrument.

Development application means an application for consent under part 4 of the *Environmental Planning and Assessment Act 1979* to carry out development but does not include an application for a complying development certificate.

- 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.

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.

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.

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

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).

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

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).