



DRAFT SUBMISSION

Phase Three: Asbestos National Strategic Plan

OCTOBER 2023





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

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs **55,000 people**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



Local government in NSW looks after more than **\$177 billion** of community assets



NSW councils manage an estimated **4 million tonnes of waste** each year



Local government in NSW spends more than **\$2.2 billion** each year on caring for the environment



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**



NSW has more than **350 council-run libraries** that attract tens of millions of visits each year



NSW has more than **400 public swimming and ocean pools**

TABLE OF CONTENTS

| | |
|---|----|
| Opening..... | 4 |
| Asbestos Management in Local Government | 4 |
| Consultation..... | 5 |
| Summary of Recommendations | 6 |
| Consultation Questions - Discussion..... | 8 |
| Priorities | 8 |
| Enablers..... | 9 |
| National Action Plan | 10 |
| Enabler: Raise asbestos risk awareness | 10 |
| Enabler: Improve knowledge, skills, and workforce capacity..... | 11 |
| Enabler: Strengthen and align relevant legal frameworks | 11 |
| Enabler: Support and enforce compliance with asbestos related law | 12 |
| Enabler: Innovate, incentivise, and inspire action..... | 12 |
| Enabler: Conduct research and data collection to inform policy and practice . | 13 |
| Measuring performance | 13 |
| Asbestos Management System..... | 14 |

Opening

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

LGNSW welcomes the opportunity to make a submission to Asbestos Safety and Eradication Agency public consultation on phase three of the National Asbestos Strategic Plan.

LGNSW has consulted with councils to inform this submission, which is provided as a draft, pending endorsement by the LGNSW Board at its next meeting. We will advise of any amendments to the submission in due course.

Asbestos Management in Local Government

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

NSW councils have an important dual role in minimising exposure to asbestos, as far as is reasonably practicable, for both:

- residents and the public within the Local Government Areas.
- workers (employees and other persons) in council workplaces.

NSW councils' legislative functions for minimising the risks from asbestos apply in various scenarios including:

- as a responsible employer
- contaminated land management
- council land, building and asset management
- emergency response
- land use planning (including development approvals and demolition)
- management of naturally occurring asbestos

- regulation of activities (non-work sites)
- waste management and regulation.

LGNSW supports the Asbestos Safety and Eradication Agency's ongoing commitment and leadership to prevent exposure to asbestos fibres in order to eliminate asbestos-related diseases in Australia by coordinating the development and implementation of the Asbestos National Strategic Plan.

Consultation

The Asbestos National Strategic Plan (ANSP) provides a long-term phased approach to eliminate asbestos-related diseases in Australia. Phase one of the ANSP covered 2014–2018, and we are now in the second phase which will end in 2023. Phase three will focus on safe and sustainable ways to remove asbestos containing materials from our built environment.

The Asbestos Safety and Eradication Agency has prepared a draft of the next ANSP for consultation and has invited input from local government to ensure the aim of eliminating asbestos-related disease in Australia can be achieved.

LGNSW has facilitated consultation with local government across Australia via an all-states workshop held in September 2023. LGNSW has also collated feedback from local councils in NSW through this workshop, via previous submissions on asbestos, resolutions of the LGNSW annual conference, and the LGNSW councils asbestos network.

Summary of Recommendations

Priorities

1. Addition of a priority covering the health and welfare strategy for victims, families, and carers of those with asbestos related disease.
2. That the ANSP include a detailed strategy on how effective collaboration between the Commonwealth, states, and councils on asbestos will be achieved.
3. That the ANSP also include as a priority an improved understanding of the rate of exposures to asbestos in both workplace and non-workplace settings.

Enablers

4. Development of a strategy to direct more Commonwealth funding to councils to enable proactive management and removal of asbestos at council owned or managed properties, and to enable councils to deliver household asbestos collection and disposal schemes.
5. Establishment of formal collaboration frameworks between the Commonwealth, states, and councils to enable effective action on asbestos, as an enabler in the ANSP.
6. Development of a strategy to ensure improved, cheaper and easier asbestos waste disposal.

National Action Plan

7. That each of the implementers of the ANSP determine which actions they will implement and then commit to targets and performance measures based on those agreed actions.
8. That the Commonwealth, states, and other stakeholders agree to develop and deliver, in collaboration with councils, a co-ordinated asbestos awareness campaign that also includes funding for local initiatives to solve local problems using local council knowledge and experience.
9. That the Commonwealth Government allocate additional funding to councils to improve councils' capacity and capability to manage asbestos within their communities.

National Action Plan (cont)

10. That the Commonwealth, states and councils review the way that asbestos is regulated at residential properties to ensure property owners are aware of asbestos and can access all of the services they need to manage asbestos including appropriate insurance coverage.
11. That the ANSP does not set or promote actions that will result in cost shifting to councils.
12. That the Commonwealth and state governments work together to increase and diversify funding for asbestos projects, in consultation with councils, and other affected stakeholders.
13. That existing data on asbestos collected by all stakeholders be better consolidated, to improve our collective understanding of asbestos in the community.

Measuring Performance

14. That the ANSP state that those jurisdictions responsible for delivering the actions should determine how performance will be measured and reported, and realistic timeframes be established for the delivery of each action based on what those responsible for delivery can achieve.

Asbestos Management System

15. That the asbestos management system model in the ANSP be further developed to better describe the conceptual asbestos pathways to final disposal, listing the actions required, stakeholders involved, regulatory oversight needed, and resources required to ensure asbestos safety is achieved.

Consultation Questions - Discussion

Priorities

LGNSW supports the priorities in the ANSP as they align with the NSW asbestos outcomes framework. However, the ANSP priorities do not include the health and welfare of those exposed to asbestos and those who have or will contract asbestos related diseases. International collaboration and leadership is an area outside of the scope of local government.

Recommendation 1:

Addition of a priority covering the health and welfare strategy for victims, families, and carers of those with asbestos related disease.

In NSW one of the key priorities for government as determined by the NSW Ombudsman is for effective collaboration between state agencies and between state agencies and councils to lay the foundation for effective action on asbestos to be achieved. This may also be a priority to be considered in the ANSP i.e., for a strategy to be developed to ensure effective collaboration between all the stakeholders involved.

Recommendation 2:

That the ANSP include a detailed strategy on how effective collaboration between the Commonwealth, states, and councils on asbestos will be achieved.

Development of a better understanding of the rate of exposures to asbestos may also be considered a priority for the ANSP. Although there is a national exposure register, this does not cover non-workplace exposures, and not all workers are aware when they are exposed to asbestos. An improved understanding of the rate of exposures could be used to better inform effective actions.

Recommendation 3:

That the ANSP also include as a priority an improved understanding of the rate of exposures to asbestos in both workplace and non-workplace settings.

Enablers

NSW councils' feedback on the enablers for effective action on asbestos is that the most important enabler is dedicated funding. The financial sustainability of councils has been undermined by rate pegging for over 40 years as well as cost shifting and state and federal funding arrangements which are no longer fit for purpose. This has resulted in the under-provision of community infrastructure and services and the deferral of infrastructure maintenance. As a result, the ability to fund asbestos projects is limited. Development of the strategy to direct more Commonwealth funding to councils would enable for proactive management and removal of asbestos at council owned or managed properties.

Recommendation 4:

Development of a strategy to direct more Commonwealth funding to councils to enable proactive management and removal of asbestos at council owned or managed properties, and to enable councils to deliver household asbestos collection and disposal schemes.

In NSW collaboration has been a key enabler of effective action on asbestos. This has been entrenched in government through the establishment of the NSW Asbestos Co-ordination Committee (NACC). This committee brings together significant stakeholders on a consistent basis to address and solve asbestos issues. For the plan to work it is suggested that formal collaboration be established as a key enabler between states and Commonwealth agencies responsible for asbestos, and that a strategy for how that collaboration will be achieved be developed (as per recommendation 2 above)

Recommendation 5:

Establishment of formal collaboration frameworks between the Commonwealth, states, and councils to enable effective action on asbestos, as an enabler in the ANSP.

Access to cheaper and easier disposal of asbestos waste has also been identified as a key enabler by councils. Issues with asbestos waste include illegal dumping, illegal disposal, illegal landfilling, lack of access to disposal sites, lack of access to disposal services for small amounts of asbestos, asbestos waste classification laws, and a general perception that asbestos waste disposal is difficult and expensive. Breaking down these barriers is seen by councils as a key enabler of better outcomes for asbestos management.

Recommendation 6:

Development of a strategy to ensure improved, cheaper and easier asbestos waste disposal.

National Action Plan

Whilst only one action in the national action plan (NAP) specifically mentions councils, many of the actions will impact councils or likely require the collaboration of councils to achieve. It may be advisable to leave it up to the states to develop their own action plans, targets, performance measures, and stakeholder map based on the priorities established in the plan. The actions listed in the ANSP could be used as examples to explore in addition to states producing their own innovations.

Recommendation 7:

That each of the implementers of the ANSP determine which actions they will implement and then commit to targets and performance measures based on those agreed actions.

Following is a summary of supported and suggested additional actions by enabler as set out in the ANSP.

Enabler: Raise asbestos risk awareness

Councils have supported asbestos awareness campaigns from their outset. Councils use their websites, social media and face to face interactions to promote asbestos awareness. Many councils have been recognised for this and received awards. However, in the past 4 years there have been situations where councils have been asked to deliver awareness campaigns on behalf of the Commonwealth and state governments as well as non-government organisations promoting asbestos awareness.

Having multiple stakeholders approach councils to promote multiple different asbestos awareness campaigns becomes confusing for council officers and sometimes sends mixed messages to community about what the correct message is. In addition, many councils have stated that locally delivered campaigns based on the experience of locals can have better results, and may include an array of materials beyond the trend to digital messaging.

Recommendation 8:

That the Commonwealth, states, and other stakeholders agree to develop and deliver, in collaboration with councils, a co-ordinated asbestos awareness campaign that also includes funding for local initiatives to solve local problems using local council knowledge and experience.

Enabler: Improve knowledge, skills, and workforce capacity

Councils are one of the largest employers in NSW and have a range of responsibilities at council owned and managed workplaces. Councils are also regulators under planning, environment, and local government laws. In NSW there is a widespread shortage of knowledge, skills, and workforce capacity in the local government sector, and this also extends to asbestos management skills.

Our consultation with councils has determined that further development of council specific knowledge, skills and workforce capacity on asbestos is required due to the unique context of local government. This extends to many areas of local government assets and services including waste and recycling, properties and buildings, water and sewer, parks and gardens, planning and development, roads, bridges and footpaths, and emergency management. Improvements to asbestos knowledge, skills and workforce capacity would deliver safer council workplaces and communities.

Recommendation 9:

That the Commonwealth Government allocate additional funding to councils to improve councils' capacity and capability to manage asbestos within their communities.

Enabler: Strengthen and align relevant legal frameworks

Councils in NSW are responsible for assisting in the regulation of asbestos in non-workplace settings (e.g. residential) through planning, environment, and local government legislation. Unfortunately, due to the lack of asbestos awareness by those undertaking work at residential sites, there are many issues that arise from do-it-yourself renovations, illegal building work, and unsafe practices such as high pressure water cleaning of asbestos. This lack of awareness also leads to under-insurance of residential properties, with little or no provision for clean up of asbestos at derelict buildings and isolated house fires.

Many councils report that they are unable to regulate asbestos effectively at residential properties due to weaknesses in the laws, a lack of resources, and difficulties in collaborating with other government agencies responsible for asbestos. Councils also report that it is difficult for property owners to access commercial asbestos services for small jobs leading to councils having to provide those services through household asbestos collection and disposal schemes.

Recommendation 10:

That the Commonwealth, states and councils review the way that asbestos is regulated at residential properties to ensure property owners are aware of asbestos and can access all of the services they need to manage asbestos including appropriate insurance coverage.

Enabler: Support and enforce compliance with asbestos related law

Councils support the suggested actions to enable improved enforcement and compliance with asbestos related law including at residential properties. However, any campaigns involving councils in NSW would need to be led, funded and resourced by the state agencies or by the Commonwealth. NSW councils do not have any mechanism to raise funding to support and enforce compliance with asbestos related laws. Any campaigns that result in cost shifting to councils would be strongly opposed.

Recommendation 11:

That the ANSP does not set or promote actions that will result in cost shifting to councils.

Enabler: Innovate, incentivise, and inspire action

Councils support a range of innovations and incentives to promote better practice and inspire action for asbestos safety. Incentives need to be more specific and assigned to who is going to fund them and when. Some examples of innovations proposed by councils are:

- household asbestos collection and disposal schemes,
- household asbestos sampling and testing schemes,
- establish a fund similar to that established for the “Mr Fluffy” clean up in NSW, whereby abandoned and/damaged homes containing asbestos or other illegal hazardous materials can be demolished and cleared away at no expense to the councils if the home owners are uninsured or the owners have abandoned the premises.
- portable asbestos disposal facilities (in the form of skip bins or similar) at key council locations in each LGA for use by local residents, to accept plastic wrapped asbestos products that can be relocated to an approved landfill when full, with the costs being borne by the State or Commonwealth Government, not councils.
- establishment and operation of an Asbestos Emergency Management Flying Squad (AEMFS). The purpose of the AEMFS is to provide expert advice and guidance to councils when councils are required to manage and/or participate in the clean-up of asbestos following natural disasters. The AEMFS is to consist of a group of suitably experienced and qualified people in asbestos management providing expert guidance to Recovery Committees, Local Emergency Management Officers, and other council staff on the remediation of asbestos contamination or disturbance of any asbestos material, including naturally occurring, during or following a natural disaster or emergency.
- Explore the benefits of funding for dedicated Asbestos Safety Officers to be embedded at the local government level to deliver local asbestos safety programs.

Councils often do not have the revenue base to support new incentives so this would need to be funded by the Commonwealth or states.

Recommendation 12:

That the Commonwealth and state governments work together to increase and diversify funding for asbestos projects, in consultation with councils, and other affected stakeholders.

Enabler: Conduct research and data collection to inform policy and practice

ASEA has been a leader in research and data collection to inform policy and practice. Councils also collect data on asbestos as well as the state government in NSW. Consolidation of this data may help inform best practice projects and measurement of performance.

Recommendation 13:

That existing data on asbestos collected by all stakeholders be better consolidated, to improve our collective understanding of asbestos in the community.

Measuring performance

Measuring performance of the ANSP will be important to ensure resources are being applied affectively. In order to do this the measures and targets need to be specific to the activities listed under the NAP, and specifically attributed to those responsible for delivering them. Those responsible for delivering the actions should determine how performance will be measured and reported, and realistic timeframes should be established for the delivery of each action based on what those responsible for delivery can achieve.

Recommendation 14:

That the ANSP state that those jurisdictions responsible for delivering the actions should determine how performance will be measured and reported, and realistic timeframes be established for the delivery of each action based on what those responsible for delivery can achieve.

Asbestos Management System

A better understanding of the complex asbestos management system is a pre-requisite for improved outcomes for asbestos management and regulation. The ANSP outlines an asbestos management system diagram which comprises of implementers, facilitators and influencers. The diagram outlines that Australian, state and territory governments are responsible for implementing the ANSP's actions and achieving its targets, while local government and non-government groups facilitate, support and influence action.

While the diagram is correct in identifying state and Commonwealth agencies as the main implementers from a regulatory perspective, when it comes to better managing asbestos in a residential setting (for example) it is the home owner that must invest resources. This situation will also draw on some council responsibilities. The framework needs to reflect this complexity of roles and responsibilities that may cut across the implementer-facilitator-influencer dimensions.

The description of the asbestos management system in the plan could benefit from:

- including more details and descriptions for terminology such as 'implementers', 'facilitators', and 'influencers'.
- the inclusion of the waste industry as a major stakeholder;
- inclusion of hospitals, doctors, nurses, and other health and medical staff;
- and the inclusion of the victims of asbestos-related diseases and their families.

Recommendation 15:

That the asbestos management system model in the ANSP be further developed to better describe the conceptual asbestos pathways to final disposal, listing the actions required, stakeholders involved, regulatory oversight needed, and resources required to ensure asbestos safety is achieved.

For further information regarding this submission, please contact [Daniel Adler](#), LGNSW's Project Manager – Asbestos Policy on 02 9242 4128.