

# **Draft Submission on EPA Draft Asbestos Waste Strategy 2018-2022**

November 2018

## Table of contents

<b>Opening</b> .....	<b>3</b>
<b>Purpose</b> .....	<b>3</b>
<b>Background</b> .....	<b>3</b>
<b>Recommendations</b> .....	<b>4</b>
<b>Conclusion</b> .....	<b>9</b>

## Opening

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.

LGNSW welcomes the opportunity to comment on the 'Draft Asbestos Waste Strategy 2018-22'. In developing this response, LGNSW sought feedback from councils managing and regulating asbestos in their local areas.

This submission is provided as a draft in order to meet the consultation timeframe, pending the endorsement of the LGNSW Board. We will advise of any changes at that time.

## Purpose

This submission is in response to the public consultation process underway on the *Draft Asbestos Waste Strategy 2018-22* and as notified by the Environment Protection Authority. Local Government plays a critical role in reducing the risks posed by asbestos. Councils work together with the State Government and wider public to address the unfortunate legacy of asbestos in building materials and land contaminated with asbestos, as well as addressing naturally occurring asbestos. Councils have a role regulating activities involving asbestos and councils also deliver waste services that involve asbestos transport and disposal. Councils are therefore a key stakeholder to be considered and consulted with regarding an asbestos waste strategy for NSW.

## Background

The draft strategy states that exposure to asbestos can be reduced through changes to the way that asbestos is transported and disposed of in NSW. Unlawful asbestos transport and disposal is linked to harm of the environment, damage to human health, and excessive costs to the community, councils and private landowners to clean up. Key drivers for poor asbestos transport and disposal practices are cost, convenience and awareness.

The strategy proposes the following six areas of action to tackle the problem:

1. make it easier and cheaper to dispose of asbestos waste legally
2. educate people on the risks of poor asbestos waste management and the benefits of doing it well
3. create better systems for tracking asbestos waste from generation through disposal
4. strengthen the regulatory framework
5. continue to build ongoing collaborative relationships with our partners and work together
6. monitor and evaluate our progress on a regular basis.

Each strategic aim has associated actions which are intended to describe how the aim will be achieved. Submissions in the form of a response to an online survey are the only method of feedback available. Questions 4 through 13 of the survey are where feedback is sought on the strategy. LGNSW has consulted councils on their feedback to each of these survey questions and recommendations based on their feedback are detailed below.

## Recommendations

Survey Questions	EPA Proposed Actions	LGNSW Recommendations to be used to respond to the survey questions
4. Approach 1: Making asbestos waste disposal easier	CRCs as transfer stations for small quantities of separated asbestos?	Councils support the proposal to provide more drop off locations for asbestos to make it easier to dispose of. However, the use of Community Recycling Centre's (CRCs) as transfer stations for asbestos is met with concern from councils for several reasons. CRCs are intended to be set up for recycling purposes only, adding the drop off asbestos which is not recyclable would seem contradictory and may send the wrong message to the community. Councils also site complications with environmental licensing of CRC facilities as an issue. CRCs are also designed for a specific purpose and most do not have any spare space or capacity to safely add an asbestos drop off point at their location. Councils also would like to bring to the attention of the EPA that this may create more situations where asbestos could be double handled, as well as the heightened risks for staff at the CRC's requiring new training and equipment. Councils foresee that this will significantly increase the cost of operating a CRC, which would need to be funded by the government.
	Skip bins delivered with asbestos bags?	Councils support service proposals to make disposal of asbestos easier for residents. However, this needs to be balanced with an assessment of safety implications for those using the services. Research shows that many residents are unaware of the dangers of asbestos handling and disposal and do not have the skills or training to do so legally and safely. The provision of asbestos bags is not seen as sufficient to ensure asbestos is identified and disposed of correctly. Further should there be issues that arise from this who will be responsible for regulating the consequences. Councils recommend that these considerations form part of solutions to improve asbestos disposal outcomes.
	Managing asbestos waste after disasters?	Councils play a key role in cleaning up after disasters and are eager to be involved in developing any guidelines that they would be required to adopt and implement
	Asbestos waste storage at waste storage facilities and resource recovery facilities?	Councils support the proposal to provide more drop off locations for asbestos to make it easier to legally and safely to dispose of. However, councils would like to reserve the right to opt in or out of any proposals to expand the type of waste facilities they operate that can be used as drop off locations for asbestos. Councils would also like to draw attention to the impacts this may have on the landfill lifetime, fill capacity and

Survey Questions	EPA Proposed Actions	LGNSW Recommendations to be used to respond to the survey questions
		fill rate, and seek further explanation of how that will be managed. Further councils also foresee that this will have impacts on resourcing that will need to be met by government. Licensing issues are also stated as a barrier to this working effectively.
5. Approach 2: Making asbestos waste disposal cheaper	Investigate amendments to the POEO Waste Regulation to make separated asbestos waste exempt from the requirement to pay s88 levy contributions.	Removal of the s.88 levy contributions on separated bonded asbestos waste materials, is welcomed by councils and has been a long-standing policy position of LGNSW. However, the impact of this is limited as the levy only applies in the regulated area, and not all asbestos can be safely separated from the other building materials it is attached to.
	Investigate options for regulating the disposal pricing structures for separated asbestos waste disposal	Councils support fair pricing for all asbestos related services and would like to see any consideration of this extended to the cost of licensed asbestos removal. However, councils reserve the right to set their own fees & charges for the services they supply to their community and would strongly oppose any unilateral approach to have this removed or over ruled.
	Trial the use of alternative asbestos cover options at landfills in consultation with SafeWork NSW so that environmental and WHS requirements at landfills are performance based, are risk-based and cost-effective.	Councils support trials to use alternative asbestos cover options at landfills in consultation with SafeWork NSW so that environmental and WHS requirements at landfills are performance based, risk-based and cost-effective.
6. Approach 3: Increasing awareness and changing behaviour	Work with HACA and local government to develop an EPA asbestos waste communication and education strategy based on the outcomes of customer experience behavioural research.	Councils support proposals to work with the HACA to develop an EPA asbestos waste communication and education strategy based on the outcomes of customer experience behavioural research. Councils would also like the strategy to include lessons learnt by councils in raising asbestos awareness in their communities. Councils consider that improving asbestos awareness, education and resources will need the full support and resourcing of government. Councils would also be able to promote and advertise on their media platforms any campaign material that is developed. However, most councils do not have customer service staff with the necessary skills and training to provide advice on asbestos related matters, and it is advised that any campaign consider establishing a state-wide contact centre to ensure consistent messaging.

Survey Questions	EPA Proposed Actions	LGNSW Recommendations to be used to respond to the survey questions
	Support local government and hardware stores to provide up-to date, best practice information to the community	Councils welcome support for them to provide best practice advice to the community. Many councils already do this. LGNSW suggests looking at existing or past campaigns to build a knowledge base on what does and doesn't work. The building industry is also a stakeholder here and could also be included in raising awareness.
7. Approach 4: Closing loopholes and increasing transparency	Expand the use of WasteLocate to all asbestos waste and engage with SafeWork NSW to better integrate databases.	Expansion of the use and effectiveness of WasteLocate is supported by councils. Councils also support better and more efficient information sharing to improve the ability of regulators to collaborate and improve compliance actions. Councils would also like to have access to information sharing.
	Consult with local government and the Department of Planning and Environment to strengthen the drafting and enforcement of consent conditions (e.g. introducing hold points until clearance is provided and minimum requirements for Waste Classification).	Councils support the strengthening of development and consent controls where asbestos may be involved. Councils also suggest that there are other stakeholders that should be included such as the Building Professionals Board, Industry Associations, and Private Certifiers. Consultation is also required to ensure the development process is not adversely impacted, and where required additional resourcing be provided by government to assist councils in implementing better asbestos controls in the development process.
8. Approach 5: Disrupting unlawful business models	Investigate legislative amendments to deter unlawful behaviour, such as introducing specific asbestos illegal dumping offences, with an aggravated element for 'asbestos waste', jail terms for waste offenders, suspending vehicle registration, regarding the registered owner of a vehicle involved in illegal dumping to be responsible for the offence unless they nominate someone else, increase penalty amounts for non-compliance with statutory notices, and regarding material to be waste, e.g. that	Councils support changes to legislation that strengthen the regulatory framework for asbestos. Councils would like to see consideration and review of a risk-based approach to asbestos regulation by the EPA, rather than the current presence-based approach. There also needs to be consideration and differentiation between new illegal dumps and legacy waste issues.

Survey Questions	EPA Proposed Actions	LGNSW Recommendations to be used to respond to the survey questions
	certain mixed materials over a specified amount will be considered waste.	
	Work with RMS to consider options for installation of GPS trackers on all waste vehicles (over a certain tonnage).	Councils welcome improvements to the identification and tracking of asbestos waste.
	Investigate, options to require waste generators to pay waste disposal facilities directly (for developments generating large quantities of waste).	Councils support initiatives to ensure asbestos waste is disposed of legally. However, the proposal to have waste generators pay landfills direct may face some barriers. How will waste generators be able to accurately estimate the weight of their load and therefore the amount they need to pay the landfill in advance? If payment is not made in advance how will facilities be able to guarantee payment once the waste has already been received and disposed of? Will there be any additional services that will be incurred that councils will need to recover, if so will government resource this?
	Introduce legislative provisions to improve the management of asbestos during resource recovery of construction and demolition waste in consultation with SafeWork NSW.	Councils welcome the introduction of legislative provisions to improve the management of asbestos during resource recovery of construction and demolition waste in consultation with SafeWork NSW. Councils foresee that these changes will have significant impacts on the operation of waste facilities. Councils therefore advise that a gap analysis between current and required future operational requirements must be undertaken. Where councils resources are identified to be adversely impacted through the gap analysis, councils request full funding support from government to ensure compliance is met. Further this should be done at a reasonable and agreed timetable taking into consideration councils financial planning and management requirements under the Local Government Act.
9. Approach 6: Monitoring and evaluating	Conduct social research to continue to track trends in attitudes, knowledge and behaviour	Councils support continued and improved research into asbestos management and regulation.
	Gather data through RIDonline to track our progress and success and enable proactive regulation.	Councils state that the RID Online database does not represent most councils, and that councils have other data sources that should be included. A more robust baseline of data is needed to accurately measure progress.

Survey Questions	LGNSW Recommendations to be used to respond to the survey questions
10. Your priority actions	More consultation needs to be conducted, and actions not covered by the strategy need to be included before a prioritisation process can occur. In addition, local communities should be given some say in what they want for their local areas.
11. Are there any additional actions not listed in the Strategy that you would like to see incorporated?	<ul style="list-style-type: none"> <li>• That the EPA clarify whether there is new funding committed for the strategy whether this funding is already committed under WLRM.</li> <li>• That the government commit to investing all of the s.88 waste levy that is collected on asbestos waste to improving asbestos waste management and regulation.</li> <li>• That the government provides a more detailed plan and timeline that commits to specific actions across the duration of the strategy.</li> <li>• That the government provides as a matter of urgency a more detailed explanation of how and when councils are to be consulted in developing and implementing the strategy.</li> <li>• That the government review and propose solutions to affordable and convenient access to licensed asbestos contractors in rural and regional areas.</li> <li>• That legacy and orphaned asbestos be also included in the strategy with dedicated actions and funding to combat this burden on local communities.</li> <li>• That specific actions be identified that target providing resourcing and long-term assistance to Aboriginal communities be included in the strategy.</li> </ul>
12. Are there any specific activities listed in the action table that you or your organisation are concerned about?	<p>Many of the actions identified within the strategy require local government participation in their development and implementation. Councils are concerned that:</p> <ul style="list-style-type: none"> <li>• they will be required to commit to work without additional funding assistance from the government.</li> <li>• they may be forced to accept asbestos waste at facilities that are not presently licensed to do so.</li> <li>• past projects that they see as successful in their local areas, for example the Household Asbestos Disposal Scheme, have been overlooked as solutions to this very important issue.</li> </ul>
13. Are there any activities in the action table that you are particularly pleased to see incorporated?	Removal of the s.88 levy contribution (waste levy) on sorted bonded asbestos is welcomed.



## Conclusion

The recommendations contained in this report have been developed through extensive consultation with councils and represent the views of the sector. It is recommended that these responses be used as LGNSW's response to the online survey for the *Draft Asbestos Waste Strategy 2018-22*.

For further information, please contact Asbestos Policy Project Manager on 02 9242 4128 or [daniel.adler@lgnsw.org.au](mailto:daniel.adler@lgnsw.org.au).