



**WALGA**

**Western Australian Local Government Association**

**INTERIM SUBMISSION**

**Department of Environment and Conservation**

**Draft Guidelines for Managing Asbestos at Construction and Demolition Waste Recycling  
Facilities**

PREPARED BY THE



MUNICIPAL WASTE ADVISORY COUNCIL

*"Getting the Environment Right"*

**October 2012**

**Status of this Submission**

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

Due to meeting schedules, this Submission has not yet been endorsed by MWAC, however it will be put before Council at the earliest opportunity (Wednesday, 24 October). The Department will be informed of any changes to this Submission following consideration by MWAC.

The Municipal Waste Advisory Council's member organisations are:

Bunbury Harvey Regional Council  
Eastern Metropolitan Regional Council  
City of Greater Geraldton  
Mid West Regional Council  
Mindarie Regional Council  
Rivers Regional Council  
Southern Metropolitan Regional Council  
Western Australian Local Government Association  
Western Metropolitan Regional Council

## Contents

<b>Executive Summary .....</b>	<b>3</b>
<b>Summary of Recommendations .....</b>	<b>3</b>
<b>1. Introduction.....</b>	<b>4</b>
<b>2. Items for Additional Consideration.....</b>	<b>4</b>
<b>3. References .....</b>	<b>7</b>

### Executive Summary

The Western Australian Local Government Association (WALGA) congratulates the Department of Environment and Conservation (DEC) for taking the initiative to develop these Guidelines, to address any gaps in the current regulatory process for Construction and Demolition Waste Recycling Facilities. WALGA is commenting on behalf of Local Governments (as customers using recycled Construction and Demolition (C&D) waste products) in addition to WALGA's role in developing Preferred Supplier Arrangements on behalf of the sector. The Submission details additional information to be considered in developing the Guidelines, such as the Asbestos Management Review as well as various editorial comments.

### Summary of Recommendations

**Recommendation 1: That DEC clearly references the origin of definitions.**

**Recommendation 2: DEC investigates the implications of the Asbestos Management Review.**

**Recommendation 3: The Draft Guidelines be amended to clearly state the intent of the reference to landfills, as a potential guide for testing regimes at landfill sites (in response to feedback from landfill operators requesting assistance).**

**Recommendation 4: DEC develop a template Asbestos Management Plan.**

**Recommendation 5: DEC clearly details how regularly the submission of reports will occur, and the relationship between the licensing conditions.**

**Recommendation 6: DEC supports operator training to assist the industry with meeting the conditions of the new Guidelines.**

## 1. Introduction

The Western Australian Local Government Association (WALGA) appreciates the opportunity to comment on the Draft Guidelines, and congratulates the Department of Environment and Conservation (DEC) for taking the initiative to develop these Guidelines in response to the recent developments at a State level. WALGA is commenting on behalf of Local Governments (as customers using recycled Construction and Demolition (C&D) waste products) in addition to WALGA's role in developing Preferred Supplier Arrangements on behalf of the sector. The development of these Guidelines is viewed as a positive step towards improving asbestos management in the recycling industry. However, there are other developments that have occurred in parallel to the development of these Guidelines; most significantly the Asbestos Management Review (AMR). The outcomes of this Review are likely to affect the management of Asbestos in a number of areas. Therefore, WALGA strongly suggests that the findings and recommendations of the AMR are noted in the development of the Draft Guidelines. WALGA also suggests that the DEC provides further detail on the sections in the Draft Guidelines where license conditions are cited as a mechanism that will be used to achieve the desired outcomes.

## 2. Items for Additional Consideration

This Submission is structured to include comments on a number of different sections of the Draft Guidelines. The headings in this section relate directly to those in the Draft Guidelines.

### Definitions

Some of the current definitions are not consistent with other documents guiding asbestos management. To prevent confusion, WALGA suggests that DEC further develops the definitions, to ensure there are references to, and consistency with pre-existing guidance. Some examples include:

- a. **Asbestos:** clarify which types of fibres belong to each group of asbestos and provide a reference to the Health Asbestos Regulations 1992.
- b. **Asbestos Containing Material (ACM):** DEC have indicated this definition is sourced from Department of Health guidance, however further clarification is requested regarding the use of size measurements (ability to pass through, or not, a 7mm by 7mm screen) to define ACM and Asbestos Fines or Fibres; specifically, the purpose and origin of the delineation, as this distinction does not appear to be used in other guidance documents.
- c. **Enforcement action:** as asbestos management is currently regulated by a number of different authorities, DEC should consider including the statutory instruments that can be used under other legislation, such as the Health (Asbestos) Regulations 1992, and the Occupational Safety and Health Act 1984.

### Recommendation 1: That DEC clearly references the origin of definitions.

#### 1 Introduction

It is suggested that the Draft Guidelines identify contemporary research (from the AMR) which indicates that there is no safe level of exposure to asbestos fibres and there are no definitive figures for the number of buildings containing asbestos. Additionally, the Draft Guidelines should take into account that the majority of regulations and guiding documents were designed to capture buildings constructed prior to 1987. The AMR has implied that threshold of 1987 could be reviewed once the new management scheme '*has matured*,' as there were instances in which stockpiles of AC sheeting and roofing were used after 1987. It is noted that the Draft Guidelines do suggest that buildings constructed prior to 1990 should be considered in assessment of risk. Making provision for future changes to the threshold could reduce the need for the Draft Guidelines to be redrafted in the future.

The Draft Guidelines comment that there is the potential to apply the Guidelines to landfills receiving asbestos. WALGA recently sought clarification from the Department in relation to the controls on this activity and were assured that sufficient guidance and enforcement were in place.

### Recommendation 2: DEC investigates the implications of the Asbestos Management Review.

**Recommendation 3: The Draft Guidelines be amended to clearly state the intent of the reference to landfills, as a potential guide for testing regimes at landfill sites (in response to feedback from landfill operators requesting assistance).**

## 1.2 Summary of relevant legislation in Western Australia

It is likely that there will be a number of regulatory changes across Australia as a result of the AMR. It is likely, if implemented, that the Review will change the regulatory regime in WA. Recommendation 4c of the AMR states:

*The Review recommends that the National Strategic Plan provide for...:*

*'the development of nationally consistent asbestos management laws, policies, licensing regimes and procedures, with:*

- i. Standards that mandate that only licensed operators undertake handling, removal, storage, transport and disposal of asbestos – such standards to allow an exemption for specified occupations to undertake removal of ACM where these activities are incidental to their primary work and are undertaken in accordance with the relevant safety requirements...'*

## 1.3 Objectives and scope of this guidance

Editorial comments:

- WALGA requests that the wording of paragraph two is revised, as the current wording could imply that exposure to asbestos particles is considered acceptable.
- WALGA requests that the following statement is revised to read: *'this document is not intended to provide guidance on the occupational health and safety issues associated with C&D waste recycling, including general asbestos management'*.

## 2 Siting of C&D recycling facilities

WALGA requests that DEC provide clarification as to whether, under the guidelines, a site impact assessment would be required for existing sites, and under what circumstances. It should be noted, that DEC could potentially resolve siting issues through the process of licensing facilities under Category 13 and 62 of the Environmental Protection Act 1986.

### 3.1 Asbestos Management Plan (AMP)

WALGA agrees with the need for an Asbestos Management Plan (AMP), and the approach suggested by the DEC that an AMP can address both OHS and DEC requirements. WALGA also agrees that an AMP should be a practical and easy to use document. To assist in assessing the Plans and providing a measure of consistency between operations, it is suggested that the DEC consider developing a template AMP. Currently, the majority of AMP templates are aimed at managing asbestos in workplaces through a register system, and provide little guidance for workplaces that manage asbestos from outside sources.

## Recommendation 4: DEC develop a template Asbestos Management Plan.

### Procedures for pre-acceptance, acceptance and post acceptance

To assist with use of the Guidelines, WALGA suggests that the steps detailed in section 3.2, 3.3 and 3.4 could be presented by including a flow chart of activities that details the chain of events that occurs in various scenarios. The following paragraphs deal with this issue in detail, along with specific comments on content:

### 3.2 Pre-acceptance procedures

Further to the listed measures, C&D recyclers should ensure that customers are advised what will happen in the event that asbestos material is found to be present in loads, the requirement to sign a declaration for each load that is sent to the C&D recycling facility, and the type of information required to determine the level of risk the load presents (as per section 3.3).

### 3.3 Acceptance procedures

WALGA agrees with the reasoning for asking customers to sign a declaration, but questions how effective the declaration will be if a load is found to contain asbestos (i.e. has the integrity of such a declaration been tested in court). For example, there are instances where a demolition company will use an external company to transport material. This could result in a situation where the source of the load is inaccurately recorded.

If a load is rejected, guidance on where the load should go would be a useful inclusion in the Draft Guidelines. If material is rejected, there is a need for a mechanism that tracks the rejected load to ensure that it is taken to a licensed disposal site. Local Government is concerned that instances of illegal dumping will increase should follow up fail to occur, and does not wish to be financially burdened with remediating sites where illegal dumping has occurred. As such, Local Government

welcomes the commitment by the DEC to follow up on rejected loads. WALGA understands that specific guidance on how long recycling contractors are required to keep the records of rejected loads for the DEC to inspect will be part of the license conditions.

As discussed previously, there is a possibility that the thresholds for buildings that are considered to potentially contain asbestos could change in the future (AMR, pg 25 *'the threshold date of 1987 could be reviewed once the scheme matures with a view to assessing the feasibility of extending it to 31 December 2003'*).

DEC should consider the potential implications of Chapter Three of the AMR, and how the development of a central repository of information could provide the demolition sector with an opportunity (in the future) to view information on the asbestos content of buildings. Under the current workplace arrangements there are requirements for asbestos registers to be kept at workplaces – this could prove to be an additional source of information in determining the risk loads of C&D waste presents.

Clarification is requested on the Risk Classification Matrix in Section 3.3 as to why Construction and Demolition wastes are separated. Specifically, what is the likelihood that material generated from construction activities in 2012 will contain asbestos?

### **3.4 Load inspection after acceptance**

To make the guidance in the *low risk load procedure* clearer, WALGA suggests that the following wording is used:

*'Loads classified as "low risk", must be visually inspected while the material is being unloaded to determine whether any asbestos can be identified. If suspect fibrous asbestos (FA) or asbestos fines/fibres (AF) are detected, the load must be reclassified as "high risk" and continue to be processed in accordance with the high risk procedure below. Where the visual inspection confirms that the load is clear of suspect ACM, FA and AF, the load may then be added to the waste stockpiles awaiting further processing eg crushing and screening.'*

WALGA is of the view that the *high risk load procedure* also requires further development due to a number of conflicting statements. For example, paragraph three states that a load that has been accepted onto the site and spread over a large area is to be rejected. Paragraph four and the associated points make no mention of isolating the remainder of the load until the presence of ACM is confirmed or otherwise.

WALGA supports the inclusion of a reference to the importance of record keeping in this section. Further guidance is required on what constitutes the *'regular'* submission of reports to the DEC. Additionally, WALGA requests that DEC commits to taking follow up action with customers instead of on an *'as necessary'* basis.

**Recommendation 5: DEC clearly details how regularly the submission of reports will occur, and the relationship between the licensing conditions.**

### **3.5 Waste Processing Controls**

WALGA supports the inclusion of definitive guidance in this section on which measures the DEC considers can be used to achieve compliance with licence conditions. However, there is a concern that a number of the DEC 'recommendations' could become enforceable requirements in the future. For example, the DEC recommends that stockpiles are limited to 4000 tonnes, but the sampling requirements in section 4.3 are based on the 4000 tonnes.

### **4.2 Quantitative environmental monitoring and 4.3 Product testing and supply**

WALGA notes the procedures for both of these sections, however does not have the technical knowledge to comment. On a more general note, it would be useful to identify the rationale behind the 0.001% asbestos requirement and the use of testing which is not NATA accredited.

### **5.2 Staff competence, training and safety**

WALGA agrees with the need for training in the area of asbestos management. WALGA suggests that DEC provide a list of accredited training providers in the Draft Guidelines (or links of where to find them), to ensure that the skills and knowledge across the industry are at the same level. Additionally,

there is a potential that there will be an increase in the level of skills and training required as a result of the AMR.

**Recommendation 6: DEC supports operator training to assist the industry with meeting the conditions of the new Guidelines.**

### **3. References**

Department of Education, Employment and Workplace Relations (2012). Asbestos Management Review.

Department of Environment and Conservation (2009). Landfill Waste Classification and Waste Definitions 1996 (As amended December 2009).

#### *Legislation*

*Environmental Protection Act 1986.*

*Health (Asbestos) Regulations 1992.*

*Occupational Safety and Health Act 1984.*