

5 September 2014

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Dear Chris

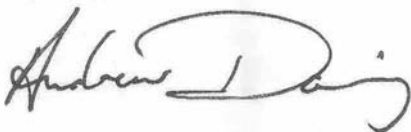
The Australian Sustainable Business Group (ASBG) welcomes the opportunity to comment on [Draft protocol for managing asbestos during resource recovery of construction and demolition waste](#) .(the Protocol)

The [Australian Sustainable Business Group](#) (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact industry, business and other organisations. We operate in NSW and Queensland and have over 130 members comprising of Australia's largest manufacturing companies. Members were fully involved in the development of this submission and ASBG thanks them for their contribution.

ASBG strives to assist regulatory agencies to prepare more efficient regulatory process, with the outcome of achieving practical, efficient, low cost solutions to achieve high environmental outcomes.

This submission was prepared with the assistance of ASBG's Policy Reference Group and ASBG's members. Should you require further information, clarification or details on the submission please contact me on 02 9453 3348.

Yours Sincerely



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AUSTRALIAN SUSTAINABLE BUSINESS GROUP'S

Submission on

**Draft Protocol for Managing Asbestos During Resource
Recovery of Construction and Demolition Waste**

September 2014



Sydney, Brisbane

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1 SUMMARY POSITION

ASBG considers the Protocol, in its current form, to be economically unworkable for the C&D recycling sector. Use of a more flexible and efficient Protocol can provide a basis for a NSW C&D sector wide approach to managing asbestos. It must be a practical and workable document, in its current form it is not and requires reworking.

The Protocol is made as a non-enforceable document. However, in practice the regulators can invoke considerable powers if the Protocol is not followed. So ASBG calls such guidelines and protocols indirectly enforceable. It may also form the basis of similar Protocols on asbestos management for other recycling sectors, so getting this first version workable is important.

Members involved in the C&D recycling sector also report the frequency of identification of asbestos in received C&D waste is extremely low. A member who operates large facilities reports less than 6 occurrences a year is the norm for the input material. With such a low frequency of asbestos showing up ASBG questions the need for such a detailed Protocol given the transport risks (and many other risks) far outweigh the risk associated with the exposure of asbestos in the C&D recycling industry. In short the costs appear to far outweigh the benefits for a rigorous Protocol and if enforced by even indirect means will greatly reduce the capacity of the C&D recycling industry in NSW.

ASBG notes that NSW has recently lost its aluminium recycling facilities, which is an indication that recycling in various areas are under considerable financial pressure. In addition the metal shredders have been given relief from the waste levy, which is a recognition that certain NSW regulatory instruments can have unintended consequences, and as such adjustments are required. Better yet efficient, effective, balanced and surgically precise regulation is called for.

Adding further costs to recycling through additional controls, reporting and conditions will further weaken the sector and undermine NSW's high rates of recycling. Hence, the design of such Protocols needs to be pragmatic, flexible and low cost to implement and reflect good industry practice and not set new targets and conditions

While the Protocol is aimed at C&D recycling facilities it may also result in significant impacts on generators of asbestos waste. If made too restrictive, more asbestos recycling will be done on site. Such on-site management already has an advantage of being able to removed asbestos before it is designated as asbestos waste. This pre-processing, which is not permitted off site (as it is then asbestos waste) creates a double standard and economic distortions in the market. Clearly the best path forward is to rework the Protocol, and also consider the upstream impacts on waste generators of C&D recycle.

The best alternative is for the EPA and the C&D recycling sector to re-develop, if possible, a more workable arrangement to manage asbestos contamination in C&D recycle streams and at the facility. A more practical solution may require amendments to NSW waste legislation and guidelines documents. It also means the EPA should revisit its current ban on the recycling and reuse of asbestos waste, as such practices will simply be moved upstream. By permitting a gateway through this ban the EPA could permit limited but controlled asbestos waste removal at the recycling process level. In fact the Protocol does allow this, but to a very limited and highly conservative level, not reflective of upstream practices.

Details and explanations of ASBG's positions on the Protocol are contained in the areas in this submission:

- Process management issues

- Overlapping complex and difficult regulatory process on asbestos waste
- Technical issues with the Protocol

Above all a more pragmatic and flexible approach on the management of asbestos waste is called for. There is no question that asbestos is a problem material which results in similar increased death rate in Australia similar to that of motor vehicle accidents. However, what is required is a balanced risk based approach, so the issue of managing asbestos can undertaken in an efficient and low cost manner to enable its quicker removal from sensitive areas and placement in landfills.

2 PROCESS MANAGEMENT ISSUES

ASBG considers there are many better ways of managing asbestos at recycling facilities, most of which are already being done by the C&D sector, which has had to implement WHS asbestos requirements since it was introduced in 2011. A far better more efficient Protocol can be prepared with the assistance of the C&D recyclers. This section generally points out the considerable difficulties in using the Protocol in its current form.

There a number of process management issues that ASBG considers make the Protocol virtually unworkable at C&D recycling facilities. Issues supporting this conjecture include:

- Workflow
- Application of WHS risk based approach to asbestos management
- Time and Space
- Additional Costs and the Benefits required to keep C&D recycling

2.1 Workflow

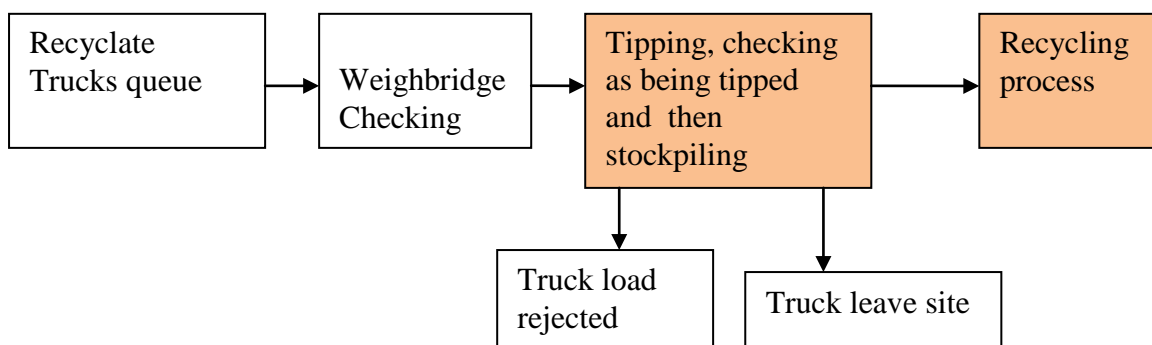
The design of the Protocol appears to have not considered how material flows, transport arrangements and work spaces work at C&D recycling facilities.

C&D recycling facility receives waste loads on an arrival basis. Many demolition processes tend to stockpile their C&D recyclate and dispatch it in a batch process. As a result of such practices driven by economics and other material flow logistics tend to make the delivery in multiple loads. It is not uncommon at a typical C&D recycling facility to receive a queue of 15 trucks or more.

In the transport sector time is money as such delivery trucks will be looking to dispatch their loads quickly. After tipping they will be looking to leave as soon as practical.

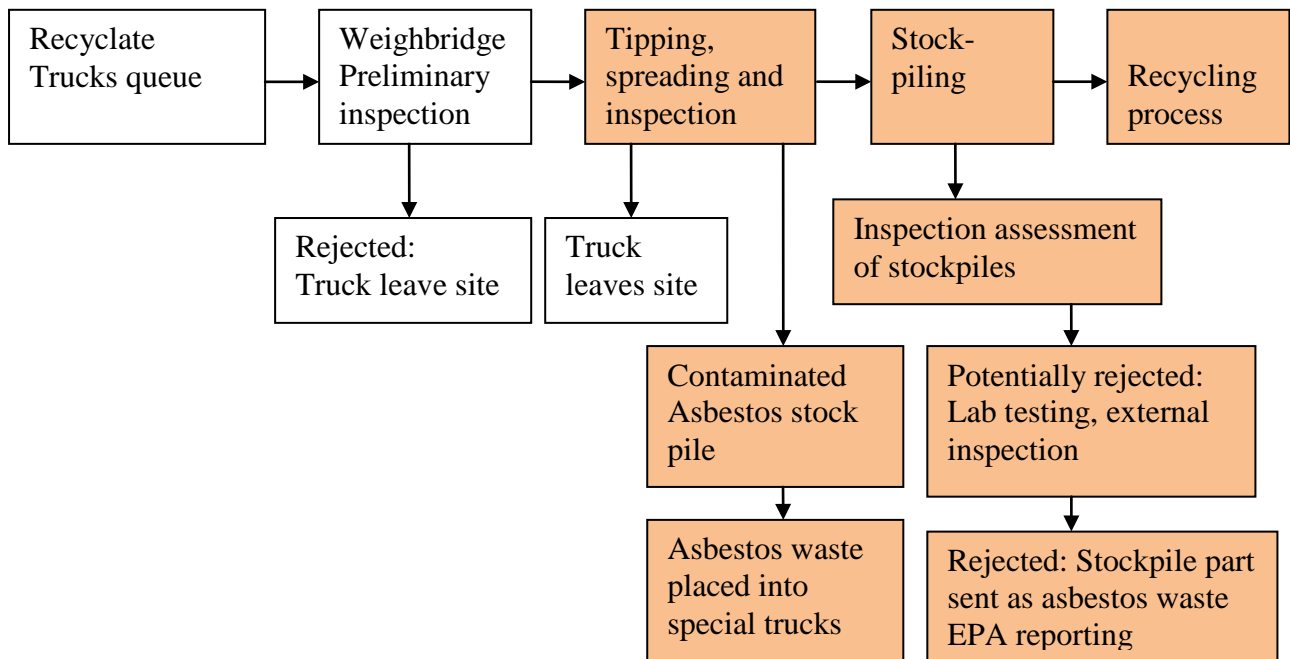
At the C&D recycling facility only one movement from the stockpile to the recycling process is also pursued to keep the costs down, as recycling is a very thin margined business.

The work flow diagram below show a typical waste acceptance and C&D recycling process.



Note each coloured square represents a materials handling step.

Proposed workflow diagram under the Protocol



As can be seen from the above diagrams the Protocol requires as a minimum 2 materials handling steps. Where a load which has been spread is rejected it will require another 2 more materials handling steps.

If asbestos is found in the stockpile or worse in a product then a complex approval, removal, assessment and reporting requirements are triggered. Both can result in very inefficient workflows and will add considerably to the costs of operating a C&D facility. So the Protocol requires at least double handling of the recyclate, however, this additional handling has its costs burdened on the C&D recycler. This compares to current practice where initial unloading and spreading is borne by the truck company and not the recycler.

2.2 WHS Legislation Issues

Application of the WHS legislation to a C&D site for managing asbestos risks can lead to potential conflict with the Protocol. It appears the Protocol may have stepped beyond its control of environmental risks, which seem to focus on the products from C&D recycling, to the process in which to achieve this. As a consequence, the EPA's processes under the Protocol will also draw in additional costs associated with application of s3.1 of the WHS Regulation 2011:

Managing risks to health and safety

A duty holder, in managing risks to health and safety, must:

- (a) eliminate risks to health and safety so far as is reasonably practicable, and
- (b) if it is not reasonably practicable to eliminate risks to health and safety—minimise those risks so far as is reasonably practicable.

Members also report that asbestos is a rare finding in the C&D recyclates received. As the WHS legislation has been in place for almost 3 years, C&D recyclers have had to introduce their own asbestos screening procedures to comply. The Protocol apparently more concerned with the ban on recycling and reuse of asbestos which is taken to an extreme, than WHS requirements.

Members with WHS responsibilities have questioned the Protocol's processes of tipping out and spreading potentially asbestos contaminated material for the purpose of inspection and checking. This is not considered best practice and could lead to unnecessary exposure to air borne asbestos fibres to C&D recycling workers. Safety issues are not just limited to asbestos exposure, C&D recyclate contains many sharp objects and other dangerous materials in which the spreading process exacerbates.

Overall members consider the tipping and spreading an unnecessary step and recommend it be removed and replaced by more efficient practices which are also inherently safer.

ASBG considers there is a conflict between the WHS legislation and the *POEO (Waste) Regulation* in way in which asbestos waste is to be handled. This is discussed later in this submission.

R1 ASBG recommends the requirement to tip, spread and inspect each load of C&D recyclate entering the facility be replaced by other inspection processes ,which are more complementary to current good practices at such facilities and be developed in consultation with the C&D recyclers.

2.3 Time and Space

The second possibly more critical issue is to do with working space. There are two main issues here:

- The requirement to spread each load individually to 100 mm depth and inspect it.
- The requirement to cease the use of a stockpile if asbestos is identified during and inspection

Tipping, Spreading and Inspection

In discussion with members, and interpreting the Protocol as hard-line and inflexible requirement, the practice of tipping spreading and inspection appears unworkable, if spreading to 100 mm depth, as indirectly implied by the Protocol, is used. Current practices do not spread post tipping, but rely on the discharge of the truck as it moves forward to obtain a depth of around 500 mm or more. ASBG fears that the 100 mm depth could be applied to this initial tipping and spreading operation. Below is an estimate of what this would involve.

If 10 trucks holding 20 tonnes each arrive at once, which is a common occurrence, then 200 tonnes of recyclate will need to be spread out and inspected individually with buffer zones. To properly inspect these loads individually in separate areas will require considerable hardstand areas in which to undertake the inspections. The waste would have to spread to a maximum depth of 100 mm¹. It would need to be spaced decreasing its density to below 0.2 kg/l or further. So one tonne would require at least 5 m², a 20 tonne load would require 100 m².

10 trucks require would require 10 x 100 m² plus a buffer zone around each spreading area of at least 1m, which makes it 144 m² for each spreading area. To cater for one batch of 10 trucks arriving at once will require 1,440 m², but this does not include access roads to each stockpile. Access roads would add another 40 m² each area, so we are up to 184 m² per area. 10 spreading areas would require double that 1,840 m². This is considered a conservative estimate as WHS legislative requirements may require further buffering at the access roads and from the non-asbestos areas of the site.

¹ The 100 mm depth is used in Appendix 1 of the Protocol, though this is for stockpile inspection.

When considering the dynamics of the workflow the hard surface areas increase much further. Consider the following scenario:

Assumptions:

- A maximum peak rate of 50 trucks per hour as a usual daily maximum.
- An average rate of 20 trucks per hour, 200 trucks per day
- Time required to properly spread, inspect and stockpile the waste from each truck is estimated to take one inspector plus a small spreading plant (e.g. bobcat) half an hour²

So under the above scenario for a C&D recycling site which has 10 spreading areas, the arrival of 60 trucks per hour in three 20 truck convoys would mean a waiting time of 2 hours for the last 20 trucks. This would be the case at the opening of the facility. During the day at we can assume the 20 spreading areas would be use at various points along the inspection cycle. Let's assume this is equivalent to 10 areas not available. So the first 10 would consume these, the next 50 trucks would have to wait, with the last 20 trucks waiting an average of 3 hours. However, the queue keeps lengthening at 20 trucks per hour, so there are another 60 trucks behind the 20 in the 3 hour queue.

Clearly, in the above scenario more than 10, perhaps 15 to 20 spreading areas are required to maintain a reasonable materials handling flow rate. A lot of hard surfaced land area would be required for this, getting to between 2,000 to 4,000 m².

Not only is land and hard surfaces required but considerable additional labour and equipment as estimated for with 10 spreading areas including:

- 13 trained asbestos inspectors (extra required for breaks and absentees)
- Asbestos PPE, showers and decontamination areas for the inspectors
- Additional asbestos controls, fences, dust monitoring, water sprays etc
- Hardstand surfaces, 4,000 m² (when including the asbestos reject stockpile) will be required to protect the quality of the recyclate and prevent surface contamination
- Small plant for each spreading pad to move the waste material to inspect for asbestos (will require separate drivers)
- Larger plant including trucks and loaders to move the spread material to the appropriate stockpile

Estimated additional costs for a site with 10 separate spreading areas appear in the table below:

² The one hour includes the tipping, spreading, inspection, removal of the accepted material or the movement to an asbestos stockpile or replacement back on the vehicle (if this is acceptable) sampling, and the completion of paperwork and other documentation.

Table 1 Estimated Operational and CAPX for 20 Spreading pads		
Item	Unit cost Operational/yr or CAPX	Total \$'000
Asbestos inspectors (13)	\$100,000 pa	\$1,300 pa
Spreading equipment operators	\$85,000 pa	\$1,105 pa
Asbestos PPE, Shower decom	\$200,000 CAPX \$20,000 pa	\$200 \$20 pa
10 plant for spreading (Bobcat)	\$35,000 CAPX \$15,000 pa	\$350 \$150 pa
Water sprayers and asbestos controls	\$100,000 CAPX \$10,000 pa	\$100 \$10 pa
Hardstand area	\$120/m ²	\$480
Other plant and trucks 3	\$80,000 CAPX \$20,000 pa	\$240 \$600 pa
Additional software	\$50,000	\$50
Staff training – asbestos, procedures, reporting etc	\$600,000	\$60 pa
Cost of rejected asbestos waste which cannot be passed on	\$420/t (~500 tpa reject budget)	\$210 pa
Laboratory costs 400 pa	\$120 per test	\$240 pa
TOTAL	Operational	\$3.695 m
	CAPX	\$1.42 m

The estimated additional costs for a 300,000 tpa C&D recycling facility is over \$5.1 m in the first year and ongoing costs of \$3.7 m per annum. Taking a lower end of the scale in these additional costs, the application of the Protocol could add \$17.00/tonne to the cost of C&D recycling in the first year and \$12.30/t ongoing costs per tonne of recycle.

Note these costs do not take into consideration the costs of complying with WHS legislation.

The simple way around this is to permit the current common practice of tipping from a truck as it moves forward and not use additional spreading as is the current practice.

Stockpile Inspections and Treatment of Asbestos Material

The process outlined in Appendix 1 *Steps for sampling and removing asbestos waste from stockpiles and supplied waste-derived materials* is considered overly onerous and probably ineffective in its intent. It is also not appear to misalign and not well mesh with section 6 of the document.

EPA Permission to Move Time

The workflow of C&D recycling facilities will be significantly disrupted by the requirements of this section. Most C&D recyclers rely on one stockpile to feed its recycling process. Ceasing the use of that stockpile can disrupt the entire workflow at such sites. Most sites will not have the room to commence an alternative stockpile, and virtually all will not have the infrastructure to do so. At contention is the requirement that if asbestos is found then the operator of the site is required to gain permission from the EPA to proceed. The workflow impacts of waiting up to 14 days (s6.1) for an EPA

response, with the main stockpile being placed on hold would spell a quick commercial death to any C&D recycling facility.

Use of Hygienists

Members have indicated considerable concern over the following Protocol requirement:

[If asbestos is found then] This means that the waste must be sampled, classified and managed in accordance with this protocol by an occupational hygienist or qualified professional approved by the EPA or WorkCover NSW. The final regulatory decision is a matter for the EPA.

Use of an occupational hygienist to sample, classify and manage the removal of the asbestos material and contaminated material from the stockpile is considered an onerous step. The purpose of the Protocol is to provide simple and practical procedures which are approved by asbestos professionals to deal with the presence of asbestos. Requiring a professional at the work site each time asbestos is potentially identified is considered unnecessary, if the procedure is already approved by a professional and conducted by asbestos inspectors at the site as required by the Protocol.

Need for Asbestos Analysis

If asbestos is found then after EPA approval 20m³ must be placed on another separate hardstand area to await an occupational hygienist to approve the disposal or re-assign the load back to the recycling stockpile. This process also requires sampling and a NATA approved laboratory analysis to be undertaken before. Receipt of an analysis report can take a week, which is generally an unacceptable period to tie up valuable floor space at such a facility.

Such a requirement is impractical and is very inefficient, costly and process rather than outcome based. It can make more practical sense to have the option deem such material as asbestos waste and dispose of it as such.

Contact Details of Suppliers and Generators

Under 6.1 (3) The Protocol also requires the:

..details of all sources of the waste in the stockpile or supplied waste and the name and contact details of the waste generators and transporters likely to have been the source of the material containing the asbestos

This is a very difficult task, as to achieve this every recycle truck using each C&D facility will be required to supply the name and contact details of the generators of the C&D waste. Transport of C&D waste will require similar conditions as required for the tracking of hazardous wastes. Imposing this requirement only on the C&D facility is unfair. If such measures are deemed legally required then it should be applied to the transporters via the *tracking system* rather than on the facility as is the case for hazardous waste and soon to be regulated on all asbestos waste loads over 80kg.

Following this is s 6.3(5):

..full name, address and contact details of any persons (including the Australian Company Number if relevant) who have received the waste or may have received waste from the stockpile

Again a similar extremely difficult process of collecting customer details. The purpose of collecting such data is concern with the potential downstream use of a product which may pose an asbestos risk. ASBG questions the cost and benefits of such data collection requirements for the very rare case that a C&D product may have asbestos in it.

ASBG is also concerned that such onerous requirements will open C&D facilities to fraud and extortion where the simple spiking of a product will result in considerable regulatory impacts on the C&D facility regardless of guilt or innocence.

Such detail in the up and downstream information requirements are on the same scale as used for an infectious disease outbreak. No other waste, including hazardous and radioactive (in the general waste management area) require such up and down stream details.

Under the *POEO (Waste) Regulation 2009*, the recording of number plates of all vehicles is required. ASBG considers this information should be sufficient for the investigative agencies to undertake the common police work to identify sources and end users.

R2 ASBG recommends that

- ***Requirement for the EPA permission to be sought be removed and replaced by actions by the on-site asbestos inspectors to isolate any potentially contaminated recyclate in stockpiles***
- ***The need for the use of an occupational hygienist be required only in special circumstances and largely replaced by actions by the on-site asbestos inspectors***
- ***The need to undertake an asbestos analysis have the option of being classed as suspect asbestos and be able to be disposed of as asbestos waste without testing***
- ***Removal of the requirement to log all waste generators, transporters and customers who has received (waste) product details be removed, as the recording of number plates is sufficient***
- ***The workflow issues associated with the identification of asbestos in a stockpile be reworked with broad C&D recycling sector input.***

2.4 Additional Increased Costs On Recyclers

The Protocol, in its current form, will add significant cost to C&D recycling. Given the thin profit margins available for C&D waste recycling, such additional costs will greatly reduce the amount recycled, with the vast quantities being landfilled. With the current price differences favouring landfilling in South East Queensland, ASBG doubts if the NSW waste levy is an effective recycling driver. In other words the result of a high cost impact Protocol will result in:

- More recycling and removal of asbestos containing material at construction sites where processing, emu picking removes asbestos before it becomes asbestos waste
- By-passing of C&D recycling facilities where material is processed on construction sites and products sold directly to market
- Transport of suspect material to jurisdictions that offer lower gate fees and lower regulatory checks such as currently Southeast Queensland.

Costs associated with the Protocol will be on top of:

- The high costs associated with the proposed amendments to the *POEO (Waste) Regulation*, especially the cost imposts of being a schedule waste facility

- Waste levy rates, which impact on recycling residues.

It appears the EPA's priorities lean strongly towards environmental protection and health issues with resource recovery being a more distant concern in comparison. It also is a double standard as construction sites do not have the same controls or restrictions as C&D facilities which are already controlled under EPLs as well as meeting the Protocol. Hence, the Protocol is another example of green tape driving up the costs of the waste management sector.

As a consequence, the Protocol, in its current form, would drive more wastes to landfill by increasing the process costs of C&D recycling. It will also undermine C&D facilities as the recycling process becomes even more economically and regulatorily attractive to undertake on the construction site. As a result C&D facilities will be far more selective in the types of recyclate they receive. Not just because of asbestos concerns, but to enable them to produce a higher profit product. The additional costs of spreading and inspection can add \$50 to \$100 per load. Many suspect material or material which is not worth processing will simply not go to a recycling facility and be sent to landfill.

The question is how much does the NSW Government wish to support recycling? One possibility where tight control are insisted upon then also provide off-set costs associated with the increased greentape burden. ASBG has proposed a few example of how this can be achieved in other submissions. One more favoured approach is to use the Richmond reports recommended way of paying a mass based benefit to support appropriate recycling activities. Benefits are payable on the mass of salable products produced. However, this is a very inefficient process. Best to have efficient regulation in the first place.

R3 ASBG recommends either:

- ***The NSW Government could provide a benefits scheme for recycled product to off-set the additional costs of asbestos inspections and actions, and or***
- ***The EPA and the C&D recycling facilities develop a more practical and lower cost Protocol for managing asbestos in C&D recyclate.***

ASBG expects that a reworked Protocol taking into account the workflow issues around a site is the best approach. Clarification is required on how the Protocol is to work. A streamlined inspection process based on current practices at the better run facilities is considered a good starting point. Quicker and effective spreading and inspection processes should be the outcome with these put into the Protocol.

3 OVERLAPPING, COMPLEX AND DIFFICULT REGULATORY PROCESS

Asbestos is currently a rather emotional issue for the public, to the extent technical and scientific discussion is difficult if not impossible to calmly discuss. While this makes it a tricky issue for the NSW Government and the EPA to handle, it is far more difficult for those involved with asbestos. Paralysis and or very high costs and delays tend to exacerbate the process of making safe, removal and disposal of asbestos. Removal and disposal of asbestos is in the public's interest, but an overly regulated and disproportionate rules and controls will hinder the process and attract illegal dumping exacerbating the health issues driving the issue.

Under the Work Health and Safety (WHS) legislation asbestos is generally identified by a visual means first, erring on possible asbestos and being able to be checked by analysis³. During the demolition process an asbestos management plan must be prepared under [s451](#). Under section 452(3)(b):

Identification and removal of asbestos before demolition, requires that so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

However, the reasonably practicable requirement means that asbestos will enter the C&D waste stream and therefore enter the C&D recycling facilities.

An emergency procedure is permitted under [s454](#), only covers exposure of workers to the risk of asbestos. The deficiency under the WHS legislation is in dealing with residues resulting from fires, especially from non-residential sites.

WHS legislation focuses on the risks to workers dealing with asbestos. While the Protocol is more focused on the prevention of asbestos in the final C&D products and the enforcement

The Protocol is designed to enforce at the process level [Protection of the Environment Operations \(Waste\) Regulation 2005 s42\(5\)](#) which states:

A person must not cause or permit asbestos waste in any form to be re-used or recycled.

This contrasts with the WHS Regulation which only requires:

'reasonably practical measures' for the removal of asbestos on a demolition site.

Added to this is the definition of asbestos waste under the EPA's Waste Classification Guidelines: Asbestos waste is any waste containing asbestos. Hence, the application of s42 applies as soon as any asbestos leaves the site of generation, as at that point it becomes *asbestos waste*.

ASBG considers there are a number of flaws in the legislation including:

- The ban on recycling asbestos waste, in terms of removing the asbestos to make it non-asbestos waste, but this does not apply on the site of generation
- The differences between on-site limits for concentrations of asbestos in or on substances or materials. Use of Australian Standard is permitted on site for certain materials, but no such criteria applies for waste asbestos.

³ See WHS Regulation 2011 section [419 \(5\)](#) for soils, [s422](#) and [s423](#)

- A disconnect between the air bourn risk of asbestos fibres and surface concentrations and internal and surface concentrations in and on solid materials.
- A lack of recognition of practical measures (due to lack of good research) in which to prevent asbestos fibres being released into the air.

ASBG proposes that a gateway be included in the legislation to permit the processing of asbestos for its separation and isolation within recycling facilities. The Protocol already permits this in part by the use of pulling out 20m³ of surrounding material, but such practice could be breaching s42.

R3 ASBG recommends amending s42 of the POEO (Waste) Regulation to: A person must not cause or permit asbestos waste in any form to be re-used or recycled unless specifically permitted by the EPA.

Currently the Protocol breaches this section in table 1 where it permits the removal of a volume stockpile. This is to prevent the condemnation of the entire stockpile. If such volume removal is permitted under the Protocol this sets precedence for this practice to be used for each load delivered.

ASBG considers the Waste Guidelines require to be amended to include:

- Threshold concentrations, both surface and mass to determine asbestos waste. This is somewhat covered by the use of AS 4964:2004 (*Method for the qualitative identification of asbestos in bulk samples*) in Part 8.1 of the WHS Regulation 2011.
- Include additional threshold concentrations following a suitable surface treatment process (eg application of a binding agent). This will require research and be supported by strong science and various verification techniques.

R4 ASBG recommends the EPA develop an ongoing working group with the waste sector and the asbestos management practitioners to develop a range of practical solutions to the handling and management of asbestos waste including thresholds and approved practices to reduce air borne emissions of asbestos fibres.

4 TECHNICAL ISSUES

There are three technical main issues ASBG wishes to discuss. However these are not exhaustive, as our members have identified far more technical issues, especially in the area of stockpile assessment, which has been left out of this submission, but is considered very onerous, inefficient and very high in costs, both process based and administratively.

The issues in this section include:

1. Scope of the Protocol
2. Testing and action on Stockpiles
3. Inspection Failure Treatment

4.1 *Scope of the Protocol*

The Protocol is confusing and contradictory in its scope of application. Its title *Protocol for managing asbestos during resource recovery of construction and demolition waste* contrasts with Chapter 2 Purpose and Scope which states:

This protocol covers the receipt of waste at recycling facilities for recovery and processing of waste for lawful reuse. It focuses on preventing asbestos from entering the processing systems at recycling facilities and sets out the regulatory framework the EPA and WorkCover NSW will use where asbestos is detected in waste at a recycling facility or waste-derived materials supplied to a third party.

ASBG is confused as to the application in reading this opening section of Chapter 2. The EPA needs to clarify that this Protocol only applies to construction and demolition (C&D) waste recycling facilities and no other. It is clear from the content of the Protocol that it is designed to only deal with C&D facilities and not other places where recycling occurs, such as at green waste recycling or the recycling at landfills or at Alternative Waste Facilities.

R5 ASBG recommends that Chapter 2 be amended to include a reference to its application only to C&D Recycling Facilities'.

If this Protocol is intended for other waste facilities then a separate and specific protocol should be prepared accordingly and considering the specifics of that type of waste facility.

4.2 *Inspection Failure Treatment*

If asbestos is detected at the Provisional inspection or at the spreading area stage, it should be permitted to be sent back to the generators for them to deal with. Gaps exist in the procedure for

- How to deal with rejection at the Provisional inspection → can the truck be turned around at the preliminary inspection? Does the C&D recycling facility have any legal responsibilities for ensuring the asbestos meets s42 requirements?
- How to deal with a spread rejected load → Can the load be placed back into the delivery vehicle? Will the now classed asbestos waste need to be placed into a suitable sealed vehicle in accordance with s42?.

Who is legally responsible for this outcome?

R7 ASBG recommends clarifying the provisional inspection requirement on how to treat a rejected load at these stages.

5 CONCLUSION

If implemented the recommendations will prevent a major cost imposition and reduction in the recycling of C&D wastes in NSW.

A least costly prospect for the EPA is to redraft the protocol in conjunction with the C&D recycling facilities to develop a more practical and lower cost method for managing asbestos waste in C&D recycle.

Should you require further details or additional explanations of the positions in this submission please contact me.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Andrew Doig', written in a cursive style.

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