



# Request for Acquisition for Deceased Estates Guidelines

## LOOSE FILL ASBESTOS INSULATION ERADICATION SCHEME

July 2022

### OVERVIEW

The ACT Government is committed to the eradication of loose fill asbestos insulation from the Canberra community. To support this objective, a Request for Acquisition for Deceased Estates is a new offering allowing the ACT Government, upon request, to acquire an affected property. These guidelines outline how the Request for Acquisition for Deceased Estates will be administered and includes information about what the Request for Acquisition for Deceased Estates covers, who is eligible and how to apply.

### WHAT IS THE PURPOSE OF THE REQUEST FOR ACQUISITION FOR DECEASED ESTATES?

The purpose of the Request for Acquisition for Deceased Estates is to provide the beneficiaries and executors of Eligible Homeowners of a property listed on the Affected Residential Premises Register (the Register) with an option for the Territory to acquire the affected property after the Eligible Homeowner has seen out their final years in their home.

The purpose of this guideline is to set out information on the Request for Acquisition for Deceased Estates for their families and will be used by the Loose Fill Asbestos Coordination Team (Coordination Team) to assess and process applications, including:

- Who is eligible to apply for a Request for Acquisition for Deceased Estates?
- How is the valuation for the acquisition offer determined?
- How do you apply for the Request for Acquisition for Deceased Estates?

### WHO IS ELIGIBLE FOR THE REQUEST FOR ACQUISITION FOR DECEASED ESTATES?

An Eligible Person is:

- the executor of the deceased estate of an Eligible Homeowner; or
- the Registered Owner of an affected block as a result of inheritance from a deceased estate of an Eligible Homeowner.

An Eligible Homeowner is:

- the person who was the Registered Owner of an affected block at the date the property was listed on the Register); and

- the person whom, at the date of death, remained the Registered Owner of the affected block.

Where two or more people are the Registered Owners, as tenants in common or joint tenants, they are all Eligible Homeowners of that affected block.

## **WHEN CAN YOU APPLY FOR THE REQUEST FOR ACQUISITION FOR DECEASED ESTATES?**

An eligible person can apply for a Request for Acquisition for Deceased Estates:

- from 18 August 2021 (where the affected property was listed on the Register prior to 17 August 2021) or 12 months after the property was listed on the Register, whichever is later; or
- 12 months after the affected property was listed on the Register (where the affected property was listed on the Register after 17 August 2021).

## **WHAT DO YOU RECEIVE?**

Under the Request for Acquisition for Deceased Estates, you will receive:

- the value of the affected block (house and land) as at the date a completed application is received by the Coordination Team, taking into consideration the presence of loose fill asbestos insulation as well as any presentation or condition issues of the property. That value will be determined in accordance with the valuation process set out in this guide;
- an additional \$1,000 (inclusive of GST) to cover or contribute to legal fees incurred in attending to the acquisition;
- other assistance offered that you may be eligible to apply for, such as the Relocation Assistance Grant.

## **WHAT DO YOU GIVE UP?**

You will give up certain rights in respect of the affected property:

- Your interest in the affected property is given up. You will no longer be the Crown Lessee i.e. you will no longer own the house and land or be entitled to live in the house or on the land;
- You will waive the right to pursue legal action against the Territory and the Commonwealth in relation to any financial loss as a result of purchasing, living in or any other interest in the affected property. This waiver does not include any sickness or health claims that you or any other person may have as a result of living in or being exposed to contamination in the home.

## **WHAT IS DIFFERENT FROM THE BUYBACK PROGRAM?**

- Unlike the Buyback Program, your property will be valued taking into consideration the presence of loose fill asbestos insulation.

- Unlike the Buyback Program, a First Right of Refusal to purchase the remediated block back is not available under the Request for Acquisition for Deceased Estates.
- Unlike the Buyback Program, a stamp duty concession on a future property purchase in the ACT is not available under the Request for Acquisition for Deceased Estates.

## HOW IS THE PROPERTY VALUED?

In making an application under the Request for Acquisition for Deceased Estates, you agree to the Australian Property Institute ACT Division (API) arranging for the affected block to be valued by two independent valuers.

Soon after your application is accepted, you will be contacted by two valuers to arrange a time to attend the property to value it. As the valuers will need access to the home, you will need to arrange a time with each of them to attend and for somebody to allow access and inspection.

You should provide the valuers with any asbestos assessment report and asbestos management plans for the affected home. If the Coordination Team holds an asbestos assessment report it may provide this to the API for the information of the allocated valuers. It is possible valuers may wear personal protective equipment during the inspection of some homes.

### The independent valuation

The two valuations will be undertaken by experienced and qualified valuers selected by the API, an independent non-government body. The Coordination Team has no say in the selection of the valuers for each affected property. They will be selected by the API based on local area expertise and availability.

The two valuers will prepare their reports independently of one another and will provide the reports to you at the same time as they provide them to the Coordination Team. The Coordination Team will not have access to any draft reports from the valuers.

Valuers use a direct comparison method that considers location, elevation, land shape, and recent sale prices for similar land in the suburb and surrounding areas.

The valuer will take into consideration the presence of loose fill asbestos insulation, as well as any presentation or condition issues of the property. The valuation will also consider all other defects and other forms of contamination and reflect the cost to remove the affected structure and remediate the land.

## HOW IS THE ACQUISITION SUM DETERMINED?

After both valuations are received by you and the Coordination Team, the Coordination Team will determine an acquisition sum based on the average of the two valuations. Valuations are valid for six months from the date of valuation.

## WHAT IS THE PROCESS FOR ACCEPTING THE ACQUISITION OFFER?

### Accepting the Acquisition offer

If you elect to accept your offer and proceed with the acquisition process, the Coordination Team's solicitor will send your solicitor (or you, if you are not being legally represented):

- legal documents giving effect to the acquisition of the affected property; and
- a template certificate of independent legal advice.

You will need to sign the legal documents and have a solicitor complete and sign the certificate of independent legal advice for each Eligible Person of the affected block. That certificate will confirm the solicitor provided you with advice as to the nature of the legal documents and your rights and obligations.

Your solicitor will need to provide the signed legal documents back to the Coordination Team within 14 working days of receiving it, otherwise your application may be rejected or lapse.

Once you have provided the legal documents to the Coordination Team, our solicitor will provide your solicitor with a counterpart of the legal documents executed by the Territory and work with you to complete the acquisition of the affected block and pay you the acquisition sum.

The Coordination Team estimates the date of completion will be 20 working days from the date you return the executed legal documents and completed solicitor's certificate. If you are in a position to complete in less than 20 working days, the Coordination Team will make every effort to accommodate your request.

### Removing interests from the affected property prior to the completion date

If there is a mortgage on the title or if any other person has an interest in the affected property, you will need to arrange for those interests to be removed before or on the completion date. Your solicitor will be able to advise you of the necessary steps.

If you do not make these arrangements, the Territory will not accept the acquisition on the scheduled day and you may have to arrange another date for completion. You may be charged a fee, in line with normal conveyancing practice, reflecting the Territory's legal costs if you fail to complete within five working days following the scheduled date for completion.

### What if the acquisition is not completed on the scheduled date?

If you do not complete the acquisition process on the scheduled date, the Coordination Team may notify you to complete within a further **10 working days**. If you fail to complete on the affected property by that time, the Coordination Team may terminate its legal obligations in relation to the acquisition.

You will also have a right to terminate if the Territory does not comply with its legal obligations in relation to the acquisition.

### Home contents

The valuation will not take into consideration any removable goods and personal belonging, even if they are contaminated and are left behind on acquisition.

Apart from the Relocation Assistance Grant, the ACT Government is not providing assistance to remediate, compensate or reimburse for any household goods or possessions.

You or your tenants should make enquiries with the home contents or landlord insurer in relation to the scope and coverage of the insurance policy in relation to household goods and personal belongings.

### WHAT ARE MY RESPONSIBILITIES PRIOR TO THE COMPLETION DATE?

You are still the owner of the affected property until the date of completion. This means you still have legal obligations to ensure that it is safe and does not pose a risk.

#### Insurance

The Coordination Team strongly encourages you to keep the affected property insured until the date of completion. While some insurance policies exclude asbestos contamination, insurance is still required, for example, to cover damage as a result of storms, fire, break and entry, theft and vandalism.

#### General maintenance and hazards

You are required to manage the property and undertake essential maintenance and safety works only. You should also take prudent steps to minimise potential hazards, including if the property is vacant. You should:

- ensure a warning sticker tag is attached to the switchboard and meter box as required by law;
- ensure an Asbestos Management Plan is displayed in the approved display case at a prominent location near the main entrance to the house;
- undertake routine checks on the property, particularly following storms or high wind;
- ensure that the grass is mowed, and gutters are cleared to minimise fire risks;
- securely lock the premises to deter thieves, vandals, squatters and other uninvited persons;
- secure swimming pools and other water features;
- ensure that you or other people do not dump waste, garbage or other materials on the affected block; and
- remove any goods you wish to take with you, consistent with the Surrender Process: Fixtures and Fittings information sheet and guidance from the Contents and Soft Furnishing information sheet.

On the date of completion, you are required to hand over a reasonably safe and tidy site (save for asbestos contamination and household items you have left behind). The Coordination Team may not accept the property if the block contains other waste or is unsafe. If the completion date needs to be rescheduled because of the condition of the

property (for example, excessive waste) or safety issues, you may be required to pay additional fees.

You are free to leave any household items that you consider potentially contaminated safely inside the affected property, provided such items were part of the contents of the affected block prior to the completion date. The Coordination Team will dispose of these as part of the decontamination process.

## TO APPLY FOR THE REQUEST FOR ACQUISITION FOR DECEASED ESTATES

1. Read these guidelines to assess and understand what the Request for Acquisition for Deceased Estates provides and the eligibility requirements.
2. If you are eligible to apply for the Request for Acquisition for Deceased Estates, you can contact the Coordination Team to request an application form.
3. Send the completed and signed application form, along with any supporting documents, to the Coordination Team email at [loosefillasbestos@act.gov.au](mailto:loosefillasbestos@act.gov.au) or via post to:  

Loose Fill Asbestos Coordination Team  
 GPO Box 158  
 Canberra City ACT 2601
4. Your application will be assessed in accordance with these guidelines and you will be provided with a written decision.

## TERMS USED IN THIS GUIDE

**Affected Property** – a property listed on the Affected Residential Premises Register (the Register) established under the *Dangerous Substances Act 2004*.

**Affected Residential Premises Register** – the register of residential premises that contain loose fill asbestos insulation, established under the *Dangerous Substances Act 2004*.

**Acquisition sum** – determined by the Coordination Team based on the average of two valuations.

**Completion date** – the day the Territory acquires the affected property from the eligible person.

**Legal Documents** – formal contract by which the eligible person agrees to the Territory acquiring the affected property, under certain terms and conditions spelled out in writing in the document signed by both parties.

**Registered Owner** – the lessee(s) stated on the Crown lease for the Affected Property.

## ENQUIRIES

Call Access Canberra on 13 22 81 and ask to speak with the Loose Fill Asbestos Coordination Team, or email [loosefillasbestos@act.gov.au](mailto:loosefillasbestos@act.gov.au)

## ACCESSIBILITY

The ACT Government is committed to making its information, services, events and venues as accessible as possible. If you have difficulty reading a standard printed publication and would like to receive this publication in an alternative format, such as large print, please phone 13 22 81 or email [loosefillasbestos@act.gov.au](mailto:loosefillasbestos@act.gov.au).



If English is not your first language and you require a translating and interpreting service, please phone 13 14 50 and ask for 13 22 81.

If you are deaf, or have a speech or hearing impairment, and need the teletypewriter service, please phone 13 36 77 and ask for 13 22 81.

For speak and listen users, please phone 1300 555 727 and ask for 13 22 81. For more information on this service visit [www.relayservice.com.au](http://www.relayservice.com.au).