

The ACT Government's Preferred Way Forward on Loose Fill Asbestos: Overview



ACT
Government

**Asbestos Response
Taskforce**

28 October 2014

Introduction

Asbestos is a common building material in Australia and in Canberra in particular. In its most common form – bonded wall sheeting and roofing material – the (mainly chrysotile or white) asbestos fibres are held in a cement matrix. Bonded asbestos products pose a risk to health and safety when poorly handled or decayed, but in most cases those risks can be effectively managed.

Asbestos is, however, known to be present in 1021 Canberra homes in a particularly dangerous form: pure, loose amosite (brown), and in a small number of cases crocidolite (blue), fibres that were installed between 1968 and 1980 as insulation. In that form, the microscopic, needle-like asbestos fibres are readily able to migrate from the roof and wall cavities throughout the structure of an affected home and enter the living areas through any penetration in the ceiling, wall or floor. A sample of asbestos fibres of this sort that is just visible to the naked eye contains around twenty thousand fibres, and a sample the size of a fifty cent piece contains up to two million.

Amosite and crocidolite asbestos have been banned from import, use and resale in Australia for many years. The continued occupation, maintenance, renovation and sale of affected homes are inconsistent with this national ban. National asbestos policy has evolved during the last decade from “management and containment” to eradication of the risks posed by friable asbestos (i.e. loose fibres).

Loose Fill Asbestos Eradication Scheme

Following consultation with asbestos experts, and having regard to the findings of assessments of affected homes conducted since February 2014, the ACT Government has reached the conclusion that the ongoing risks posed by the continuing presence of loose fill asbestos insulation in Canberra homes cannot be effectively managed.

It has accepted the advice of the Asbestos Response Taskforce (the Taskforce) that there is no effective, practical and affordable method to render homes containing loose fill asbestos insulation safe to occupy in the long term.

Eradication of ongoing exposure risks through the demolition of all affected homes and subsequent site remediation is the only enduring solution to the health risks posed to residents, visitors and workers by the continuing presence of loose fill asbestos insulation in Canberra homes, and their attendant social, financial and practical consequences. The practicalities of living in homes that cannot easily be worked on or maintained, the already manifest negative market responses from prospective renters and purchasers, the social isolation – self imposed and otherwise – of people fearful about contamination affecting family and strangers, and above all the risks to mental and physical health are so great as to warrant an approach founded on eradication, as distinct from management, of risk.

Under the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme) the ACT Government will offer to purchase all affected Canberra and will then demolish them. Remediated blocks will be offered for sale in due course to assist in defraying the overall cost of the Scheme.

Supporting Information

This document provides an overview of the Scheme. More detail on its operation is set out in the accompanying *Loose Fill Asbestos Insulation Eradication Scheme: Policy Framework* which will be available shortly from the Taskforce's website at <http://www.act.gov.au/asbestos-response-taskforce>.

The detailed arguments underpinning the Scheme are set out in the Taskforce's report: *Long Term Management of Loose Fill Asbestos Insulation in Canberra Homes* (the Taskforce Report) which is available on the Taskforce's website, along with further information and fact sheets.

This document should be read in conjunction with the Taskforce Report.

Guiding Principles

The objectives of the Scheme are to:

- eliminate, by demolishing all known affected houses, the ongoing risk of exposure to loose fill asbestos insulation for homeowners, tenants, tradespeople and the wider community
- provide a fair outcome for owners of affected homes
- provide, so far as is possible and reasonable, flexibility and options for informed choices to be made by owners of affected homes
- minimise overall net costs to the Canberra community and the ACT Government (thereby minimising the flow-on impact to other government policy and program delivery areas).

Buyback Eligibility

Under the buyback component of the Scheme, the ACT Government offers to purchase all homes in the ACT affected by loose fill asbestos insulation. This will be achieved through the voluntary surrender by affected homeowners of the Crown Lease for an affected block.

The buyback offer will be at market value as if the home did not contain loose fill asbestos insulation and will be expressed as a "surrender sum". The surrender sum will be determined by independent valuations prepared by qualified valuers under the supervision of the Australian Property Institute ACT Division.

Where an affected home has been sold (or agreement to sell has been reached and contracts entered into) between 18 February 2014 and 28 October 2014 (the date of announcement of the Scheme) the buyback offer will be at the agreed purchase price set out in the signed contracts (i.e. there will not be a further valuation process). Before making any payments in this circumstance, the affected homeowners will be expected to provide a declaration that they have rescinded the contract of sale.

Participation in the Scheme is voluntary.

The Government's buyback offer will remain open until 30 June 2015, but only one valuation process will be undertaken for each affected home in order to establish market value at the time for all affected homes and limit opportunities for speculation on property price movements.

The buyback offer is extended to all affected homeowners immediately, and affected homes will be valued as at the date of the announcement of the Scheme (28 October 2014).

The buyback offer is made only to the registered owner of an affected home at the date of the announcement of the Scheme (Eligible Homeowners), or their successors in title through legal processes including probate, family court orders or in relation to bankruptcy. For the avoidance of doubt, the buyback offer will not be extended to individuals or corporations that purchase an affected house after the date of announcement of the Scheme (28 October 2014).

The Scheme seeks to accommodate the individual circumstances of affected families, including in relation to assistance for those who wish to stay in their homes in the medium term, against the backdrop of the need for all affected homes to be demolished in that same time frame. With this in mind, compulsory acquisition processes under ACT legislation will not be undertaken at this stage. The Taskforce will investigate and provide advice to Government on regulatory options for intervention where homeowners have not accessed the buyback program.

Indicative Timeframe

The indicative timeline for implementation of the Scheme is set out in the following table.

<u>Timing</u>	<u>Anticipated Activity</u>
2014	
October	agreement to adoption of harmonised work health and safety regulations for asbestos management
28 October	Scheme announcement, Taskforce Report released
November	appropriation bill presented to Legislative Assembly
November	buyback offer open
2015	
January	pilot demolition processes commences
January	demolition program tender design process
January	commencement of work health and safety regulations governing asbestos
30 June	buyback offer closes
By July (subject to tenders)	demolition program commences

There are three key variables that will affect the time needed to complete all demolitions (which may be up to five years) including:

- the uptake of the buyback offer for affected homes
- finalisation of procurement processes and methodological approaches
- the capacity of the asbestos assessment and removal, and demolition and civil works industries to undertake the necessary works.

The Taskforce will continue to work closely with relevant industry bodies to provide greater clarity around capacity, staging and sequencing issues. Capacity in the asbestos removal and demolition industries in the ACT will need to be significantly increased to meet the demand created by the Scheme. A ramp-up period is expected to be evident through the first half of 2015. It is unclear at this stage how quickly affected houses can be demolished as that will depend on those industries' responses to the Taskforce's intended tender process.

The Taskforce will report quarterly to the Legislative Assembly and that reporting series, along with ongoing Taskforce communications, will provide updated schedules as appropriate.

Purchase of new homes

The ACT Government will waive stamp duty (up to an amount equal to the duty payable on the surrender sum for the affected home) on the next purchase of a property in the ACT by an Eligible Homeowner. This entitlement cannot be cashed out for purchases outside the ACT.

Demolition

The Taskforce will procure the demolition of all affected houses on a schedule designed to minimise costs to the ACT Government and disruption to the community, and in accordance with prescribed safety regulations. It is anticipated this will be done in tranches to maximise efficiencies and to minimise disruption to local communities. The demolition process could take up to five years to complete, and the Taskforce will maintain properties pending demolition and make arrangements for their security. That said, it is desirable from an elimination of risk as well as cost containment perspective, that affected homes are demolished as expeditiously as is safely possible. The actual timeline will be settled in light of the tender process and the actual response of affected homeowners in relinquishing their homes.

While actual decisions on appropriate demolition methodologies will be determined on a case by case basis as part of settling the site specific Asbestos Removal Control Plan, most affected houses are unlikely to need to be demolished in a 'bubble'. Following the removal of the bulk of remaining loose asbestos fibres by licensed asbestos removalists, the remaining structure will be demolished in a controlled fashion using appropriate dust suppression to ensure any remaining fibres not bonded to the structure of the house are not released to the air. The Taskforce is working with regulators and licensed asbestos assessors, removalists and demolition contractors to settle safe and cost effective approaches to demolition and will commence a pilot program of demolitions in early 2015. It is not anticipated significant demolition activity will commence until mid 2015. The final approaches adopted by the Taskforce to this process will be informed by the experiences and data gained through the pilot demolition program.

Once an affected house has been demolished, soil will be removed from the footprint of the house and an area surrounding it. The final depth and extent of soil removed will be based on testing for contamination. Once all contaminated soil has been removed, the block will be remediated to natural ground level with clean fill.

As is currently the case, friable asbestos and contaminated waste will be properly disposed of by licensed asbestos removalists, and demolition waste will be disposed of in appropriately equipped and licensed facilities such as the West Belconnen Resource Management Facility.

Where families choose to stay in an affected home

The ACT Government recognises that some families will choose to remain in an affected home in the medium term and will provide detailed advice to those families in relation to interventions necessary to minimise the risk of entry of asbestos fibres into the living areas. These interventions will have a significant impact on the amenity of affected homes and will extend well beyond the short term remediation of identified hazards currently being undertaken in response to asbestos assessments to, in short, sealing of all possible entry points for fibres. They will also involve significant ongoing vigilance and testing.

Those obligations will be made mandatory in 2015. Given the conclusion that all affected houses should be demolished the Government will not spend public funds on further remediation of these homes. This means that owners who decide to remain in their homes in the medium term will bear all the costs of staying.

Homeowners choosing to remain in their home in the medium term will – consistent with current requirements – require building approval to undertake any kind of maintenance or renovation work, and works not associated with minimisation of asbestos exposure risks are unlikely to be approved. Owners of affected homes will be subject to ongoing obligations under the *Dangerous Substances Act 2004* and the *Work Health and Safety Act 2011* in relation to the safety of workers and other visitors to their homes.

Those families that wish to remain in their home until the settlement date of the buyback process will likely be able to do so subject to the advice of licensed asbestos assessors and completion of necessary further remediation measures.

Resale of remediated blocks

The ACT Government will, subject to conditions, offer to resell remediated blocks to the original owner at market value (off market) for owner-occupation, to Territory entities including the Land Development Agency (LDA) and Housing ACT for the purposes of those agencies, or through the LDA to the market.

Remediated blocks will be sold on the basis that it will be permissible (in most cases) to unit-title dual occupancy developments in RZ1 zoned areas. While it is already possible to build such developments in that zone, it is not currently possible to unit-title them. Most blocks larger than 700m² are conducive to such development. Around 88% of affected blocks are larger than 700m².

This approach will not be adopted in heritage precincts, or where the characteristics of a particular block do not accommodate it.

In some cases, consideration will be given to subdivision or consolidation of remediated blocks.

First right of refusal

Under the Scheme, the ACT Government will give Eligible Homeowners the opportunity to repurchase their block for owner-occupation off market at the point it is available. The sale price will be based on the market value of the block (taking account of unit-titling or subdivision) at the time it is available for resale.

Eligible Homeowners will be permitted to take up a land rent lease on their block or subdivided block. They will also be permitted to use their stamp duty waiver on the repurchase of their block (provided it has not been applied to a purchase in the intervening period).

Eligibility for the land rent scheme will be the same as for any participant in that scheme, as determined by the LDA at the time the resale process occurs.

The demolition schedule and timing of remediated blocks becoming available for repurchase will not be known for some time after the announcement of the Scheme, and will depend on procurement processes, industry capacity, and the determination of the most efficient sequencing and scheduling of demolition of houses acquired by the Taskforce.

Household contents

There is no practical way to certify that household contents are not contaminated. Nevertheless, most household contents can be removed from most affected homes provided goods are not taken from known contaminated areas. The Taskforce and WorkSafe ACT encourage a measured and sensible response to the management of contents and household goods from affected homes by homeowners, businesses and the wider community.

Even where asbestos fibres have been detected in settled dust within living or storage areas of an affected home, expert advice to the Taskforce is that the health risk from possible exposure associated with moving goods from other areas of a home is low, but cannot be discounted.

Expert advice provided to the Taskforce is that the risk to the community associated with potential contamination of contents in affected homes is similarly low.

Goods stored in subfloor and ceiling areas, and in cupboards where fibres have been detected should not be moved or recovered unless they have been decontaminated by a licensed asbestos removalist.

A similar position should be adopted in relation to all contents of homes where residents have been advised to vacate, especially where fibres have been detected in air conditioning and heating ducts.

Emergency financial assistance

The Government will extend to owner-occupiers or tenant/s named on the relevant lease residing in an affected home as at 28 October 2014, emergency financial assistance of \$10,000 plus \$2,000 per

dependent child living in the home. Only one package per household will be paid. It will be paid after the home is vacated.

Where some financial assistance has already been provided, the balance of the assistance package will be made available as a lump sum. This assistance remains available while the buyback offer is open.

The Taskforce will not reimburse costs for any hazard reduction works conducted on an affected home after 28 October 2014, except where quotations have already been accepted by the Taskforce.

Administration of the Scheme

The Scheme will be delivered by the Taskforce.

Its development has occurred and will continue to occur in consultation across the ACT Government, including with the Head of Service, Solicitor-General, Under Treasurer, Office of the Auditor-General, Work Safety Commissioner, Environment Protection Authority, and Environment and Planning and Territory and Municipal Services Directorates and others as appropriate.

Governance, staffing and risk management processes in the Taskforce have also been developed with reference to the findings of the Commonwealth Royal Commission into the Home Insulation Program.