

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



ACT
Government

**Asbestos Response
Taskforce**

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Executive Summary

The Australian Capital Territory (ACT) Government – with financial assistance from the Australian Government – has decided to conduct a voluntary buyback of all houses in the ACT affected by loose fill asbestos insulation so that they can be demolished.

This will be achieved through the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme) that will be implemented by the Asbestos Response Taskforce (the Taskforce). The demolition and block remediation program will be overseen by regulatory authorities including WorkSafe ACT, the Environment and Planning Directorate, and the Environment Protection Authority.

Once affected houses have been demolished and contaminated soil removed and replaced, blocks will be re-sold to defray some of the overall cost of the Scheme. Consideration will be given as part of this process to opportunities for unit-titling, subdivision, or consolidation of blocks to enhance the value of remediated blocks and defray the overall costs of the Scheme.

Opportunities will be provided for Eligible Homeowners under the Scheme to repurchase their block (or part of their block) for owner occupation. Under the Scheme the definition of an Eligible Homeowner means the registered proprietor of the affected block as at 28 October 2014.

This document sets out the detailed policy framework for the Scheme. Further information is available on the Taskforce's website <http://www.act.gov.au/asbestos-response-taskforce>.

In settling its approach to this complex and multifaceted issue, the ACT Government has sought to balance the health, safety and financial security of families currently living in affected homes, the safety of workers and visitors to affected homes, the significant financial impact on all Canberrans who will share the costs of the Scheme, and the practical and emotional impacts of a decision comprehensively and finally deal with the health, social, financial and logistical effects of the continuing presence of loose fill asbestos insulation in Canberra homes.

Above all, the ACT Government has sought to provide a financially sustainable enduring solution to a problem that has affected Canberra since 1968.

Rationale

Following careful consideration of the outcomes of the Taskforce's 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 public health and safety risks posed by the continuing presence of loose fill asbestos insulation in Canberra homes cannot be effectively managed.

The ACT Government has accepted the advice of 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.

Amosite (brown) and crocidolite (blue) asbestos have been banned from import, use and resale in Australia for many years. The continued occupation, maintenance, renovation and sale of homes containing pure loose amosite – and in a small number of cases crocidolite – fibres is 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).

The detailed arguments underpinning the Scheme are set out in the Asbestos Response 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 <http://www.act.gov.au/asbestos-response-taskforce>.

This document should be read in conjunction with the *Loose Fill Asbestos Eradication Scheme: Overview* and the Taskforce Report, the key conclusions of which are summarised below.

Asbestos-related disease

Asbestos is a Class 1 carcinogen and poses a risk to health when fibres of a respirable size become airborne and are inhaled. There are a number of medical conditions that are known to be caused by inhalation of asbestos fibres including:

- pleural plaques (thickening of tissue around the lungs) which are usually benign and asymptomatic but are a marker of past exposure
- asbestosis (scarring of lung tissue)
- lung cancer
- mesothelioma (a fatal malignant tumour that can develop around the lining of the lungs).

Ingestion of asbestos fibres has been linked to subsequent disease, although at much lower prevalence rates than when airborne fibres are inhaled.

Exposure risks

The National Public Health Partnership’s enHEALTH guide *Management of asbestos in the non-occupational environment* states there is “no known safe level of exposure to asbestos fibres”¹. This position is generally adopted by work health and safety regulators around Australia including WorkSafe ACT. There are, however, currently no specific studies of the health impacts of exposure to loose fill asbestos insulation fibres in homes.

The Health Directorate will commission such a study, details of which are set out at below.

Nevertheless, studies of domestic asbestos exposure in Western Australia (at the asbestos mining town of Wittenoom and of home renovators) indicate that it is relatively rare for an individual to develop asbestos-related disease even after significant exposure². However, if large numbers of people are exposed to even a low risk of disease then this increases the probability that one or more people will be affected.

There is in this context an important difference between analysis of health risks of historical exposure on the one hand, and determination of what steps might be justified to minimise risks to health and wellbeing from the continuation of such exposure in the future on the other. While it is

¹ <http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-enhealth-asbestos-cnt.htm>

² Olsen N, Franklin P, Reid A et al: Increasing incidence of malignant mesothelioma after exposure to asbestos during home renovation. *MJA*. 2011; 195(5): 271- 274 pg 273 graph 3; Hansen J, De Klerk N, Musk A et al: Environmental exposure to Crocidolite and mesothelioma – exposure response relationships. *American Journal of Critical Care Medicine* 1998; 157: 69-75

not possible to determine the actual likelihood of one or more people developing asbestos-related disease if the size of the cohort of people exposed to loose fill asbestos insulation in Canberra homes was allowed to continue to increase, it would be likely to increase over time.

In addition to concerns about asbestos-related diseases, the stress, anxiety and guilt experienced by affected families about their physical health and that of their children in particular, as well as in relation to the value of affected homes, is acknowledged. Deep community concern also exists about historical and ongoing exposure to asbestos fibres of former residents, tradespeople and others working in and on affected homes. The significant personal impact and costs of mental health and psychological concerns connected to this issue should not be underestimated.

An enduring solution

Demolition of all affected homes is the only enduring solution to the ongoing health and safety risks to residents, workers and visitors posed by the continuing presence of loose fill asbestos insulation in Canberra homes and their attendant social, financial and practical consequences. In addition to expert advice about the technical difficulties in decontaminating affected homes, this approach recognises 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 towards affected homes, the social isolation – self imposed and otherwise – of people fearful about contamination in their homes affecting family and tradespeople, and above all the risks to mental and physical health for residents.

The Taskforce is aware of a number of sale processes for affected homes that have collapsed, of personal carers refusing to enter affected homes to provide care to elderly residents, of banks withdrawing mortgage funding or valuing blocks at the unimproved value less the costs of demolition, and of tenants abandoning leases. The consistent advice of real estate agents reported to the Taskforce is that there is no prospect of renting out an affected home, or selling an affected home except at a significant loss.

The Taskforce considered and rejected the option of conducting a second remediation and cleaning program (recognising a first attempt at remediation was made in the joint ACT/Commonwealth Government program conducted in the late 1980s and early 1990s). The works involved in such an attempt would likely entail a full internal demolition and rebuild: i.e. works not that much different to the works required to completely demolish an affected home. Attempting a second remediation would not, however, provide an enduring solution because it would inevitably leave loose fill asbestos fibres behind contaminating the sub-floor and attached to the remaining structure of the homes. These fibres would remain an ongoing risk to the health of residents, workers and visitors alike. This approach would not deal with the stigma already attached to affected homes, nor the attendant anxiety and mental health impacts of concerns for the safety and value of homes into the future. This outcome is already evident in relation to even significantly renovated and extended affected homes.

Most homes can, with significant effort, be rendered safe to occupy in the short to medium term but to do so will require a level of restriction of the normal use of a property, vigilance and ongoing assessment and remediation that is economically and socially unsustainable in the long term.

Design principles

The objectives of the Scheme are to:

- eliminate, by demolishing all affected homes, the ongoing risk of exposure to loose fill asbestos insulation for homeowners, tenants, workers 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 those owners
- minimise overall costs to the Canberra community and the ACT and Commonwealth Governments (thereby minimising the flow-on impact to other government policy and program delivery areas).

The Scheme's design emphasises fairness, safety, and environmental protection. The Taskforce will seek to promote opportunities for local business involvement and workforce development, and the creation of opportunities for training and apprenticeships in relevant industries and trades.

The Scheme has been designed with the following considerations in mind:

- an expectation that some families will elect to vacate affected homes immediately
- a similar expectation that some families will not wish to leave their homes (at least for a time if not at all)
- the expressed views of some affected families that at this stage they want to return to their blocks
- the unsustainable financial and emotional pressure being reported by families currently unable to live in their affected homes who are paying both rent and a mortgage
- the principle that Government should seek every safe opportunity to minimise its demolition and remediation costs and maximise its return on the eventual sale of clean blocks with a view to defraying the overall cost of the Scheme to the Canberra community.

The ACT Government will not contribute to the costs of rebuilding homes except through the offer to buyback affected homes at market value, nor will it provide financial compensation in relation to contaminated contents.

Funding

The Australian Government has provided significant financial assistance to the ACT Government to assist in funding the Scheme. The potential cash requirement of up to \$1 billion to implement the Scheme is equivalent to around one quarter of the ACT's total revenue base and roughly equivalent to the Territory's annual spending on health. It is also 25 per cent larger than the ACT Government's entire capital works program for 2014-15. To put this into further perspective, the potential cash requirement is comparable with a \$90 billion program for the Australian Government. This figure is broadly equivalent to the total amount of annual Commonwealth spending on health and education.

The Queensland floods and cyclones of 2010-11 cost an estimated \$7 billion, to which the Commonwealth contributed \$5.6 billion (including \$1.8 billion budgeted to be raised through a special levy). That total cost was of the order of 17% of Queensland Government revenue. The cost of the Scheme equates to around 22% of ACT Government revenue.

Moreover, the net cost of the Scheme is still likely to be significant from the Territory's perspective. The currently expected net cost of between \$300 million and \$500 million represents around 10 per cent of the Territory's annual budget. These estimates will be particularly sensitive to movements in house purchase costs, and the complexity of demolition. Meeting this cost will require a reprioritisation of funding with a consequent impact on service delivery. The ACT Government has already identified the Scheme as one of its key infrastructure and capital works priorities along with the Capital Metro, health and education.

Timing

The Scheme is anticipated to take up to five years to complete, and the indicative timeline for implementation of the Scheme is set out in the following table.

<u>Timing</u>	<u>Anticipated Action</u>
2014	
October	agreement to adoption of harmonised work health and safety regulations for asbestos management
28 October 2014	Scheme announcement, Taskforce Report released
November	appropriation bill presented to Legislative Assembly
November	Buyback Program open
2015	
January	trial demolition processes commence
January	demolition program tender design process
30 June	Buyback Program 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 speed with which the Taskforce is able to acquire properties;
- confirmation of procurement and methodological approaches; and
- 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 homes 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.

Sequencing of Scheme elements

The sequencing for conducting the Scheme is:

- scheme announcement
- regulatory regime finalisation (in parallel with procurement and buyback program)
 - work health and safety regulation
 - demolition code of practice
 - appropriation bill
 - other legislative amendments
- procurement processes (in parallel with regulatory framework and buyback program)
 - asbestos assessors and removalists
 - demolition head contractors
 - property maintenance and security
- buyback program (in parallel with regulatory framework and procurement processes)
 - payment of emergency assistance packages
 - valuation and agreement to surrender the Crown Lease
 - settlement
- property security and maintenance processes
 - pre-demolition asbestos assessment
 - demolition
 - block remediation
- resale process to
 - Eligible Homeowners at market value
 - ACT Government Agencies
 - the market.

Buyback Program

Overview

Under the buyback element of the Scheme (Buyback Program or Buyback), the ACT Government offers to buy all homes in the ACT affected by loose fill asbestos insulation. Details of affected blocks will be published by the ACT Government in early 2015 to provide certainty as to eligibility and Scheme coverage. The buyback offer will be at market value as if the home did not contain loose fill asbestos insulation, and participation in the Buyback Program is voluntary at this stage.

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 houses to be demolished in that same time frame. With this in mind, compulsory acquisition processes available under ACT legislation will not be undertaken at this stage. The Taskforce will investigate and provide advice on regulatory options for intervention where Eligible Homeowners have not accessed the Buyback Program.

The approach to the buyback has been informed by experience with similar schemes undertaken in New Zealand, Victoria and Queensland in response to natural disasters.

Purchase process overview

The ACT Government is conscious of the desirability of supporting affected families in making informed choices about their future. It has released the Taskforce Report in full for this reason. It is expected that a significant number of families will choose to vacate their homes quickly and the Scheme's financing arrangements take account of a very significant cash impact in the 2014-15 Financial Year.

Applications to participate in the Buyback Program will close on 30 June 2015 with a view to facilitating the timely and efficient buyback and demolition of all affected homes. Acquiring all affected properties quickly will facilitate demolition tenders being staged to maximise efficiency and minimise costs and disruption to local communities.

The agreement regarding the Buyback will be formalised in a deed between the Territory and the Eligible Homeowner. The deed will set out the process by which the Eligible Homeowner will surrender to the Territory their Crown Lease subject to appropriate conditions. These conditions will include payment of a surrender sum which will in effect be the purchase price. The surrender sum will be determined independently by professional valuers. Valuers will be selected by the Australian Property Institute ACT Division (the Institute) for their experience and knowledge in particular suburbs, and the initial valuation process will be conducted at the ACT Government's cost. The process will be overseen by the Institute.

The deed's conditions will include a waiver by the Eligible Homeowners of rights to pursue legal action against the Territory and Commonwealth in relation to the property, but not personal injury for asbestos related disease that may manifest later.

The surrender sum will also contain an allowance for the Eligible Homeowner to take independent legal advice on the deed, and include adjustments for rates and utilities as would occur in a normal

house sale. Participants will be required to obtain independent legal advice and provide a certificate from their solicitor as evidence of receiving that advice as a precondition to surrender.

Buyback Program – framework

Scope

- The Buyback Program is only applicable to homes affected by loose fill asbestos in the ACT.
- Participation in the Buyback Program is voluntary.
- A condition of accepting the buyback offer will be Eligible Homeowners granting a release to the ACT Government and the Commonwealth from any future legal action in relation to the property but not personal injury claims.
- Applications to participate in the Buyback will close on 30 June 2015 (or a different date publicised by the Chief Minister with not less than three months notice). The Government will not, except in relation to a new missed house, agree to buyback any affected homes after that date. Surrender processes that have been commenced (i.e. the Eligible Homeowner has formally lodged an application to participate in the surrender process on or before 30 June 2015) but have not been completed, will continue to either settlement or expiry.
- Should missed houses come to light in the future, the Buyback Program will be extended to the registered owner at the time such a house is located.
- The Government will not reimburse any asbestos removal or demolition costs relating to affected houses incurred before 18 February 2014.
- The Buyback Program is only open to the registered proprietors of affected homes as at 28 October 2014 (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 Program will not be extended to individuals or corporations that purchase an affected house after the date of announcement of the Scheme.
- All properties will be valued as at 28 October 2014 regardless of when the buyback actually occurs.
- Eligible Homeowners electing not to participate in the Buyback Program will be responsible for all asbestos removal, remediation, demolition and rehabilitation costs.
- In the event Eligible Homeowners elect to remain in their affected home in the medium term, they will in the future be subject to significant mandatory health and safety requirements at the owners' expense.

Staging and sequencing

- All Eligible Homeowners are able to participate in the Buyback from the commencement of the Buyback Program.
- Priority for buyback will be given to applications from families who have been advised to leave their homes before 28 October 2014 and to those families in circumstances where there is a particular urgency for settlement to occur (e.g. in relation to ill health, incomplete conveyancing processes).
- Other applications will be processed as far as practicable in order of receipt by the Taskforce.
- Eligible Homeowners can choose the point at which they apply to participate in the Buyback Program, but must do so before 30 June 2015.

Valuation process

- Two valuations will be sought from a panel of independent valuers all of whom are members of the Australian Property Institute ACT Division.
- The Taskforce will pay for both valuations.
- The offer to buyback will be made at the average of the two valuations.
- The offer to buyback will remain open for acceptance for three months after the draft surrender deed is received by the Eligible Homeowner.
- Only one valuation process will be undertaken for each affected home in order to establish market value as at 28 October 2014 for all affected homes and limit opportunities for speculation on property price movements.
- The valuation methodology will ignore the presence of loose fill asbestos and minor maintenance or presentation issues.
- Market value is defined as the estimated amount for which an affected home should exchange on the date of valuation between a willing buyer and willing seller in an arm's length transaction after proper marketing with parties having each knowledgeably, prudently and without compulsion.
- The valuation figure will be calculated to include fixtures and fittings that would normally pass with the property and the added value of any unapproved structures or improvements under construction at 28 October 2014.
- Where an affected home is undergoing renovations which are incomplete as at 28 October 2014, the Buyback offer will be determined in an independent valuation including having regard to the amount of money paid for those works.

Disputed valuations

- In the event the Eligible Homeowner is not prepared to accept the average valuation they may, at their cost, elect to pursue a Presidential Determination overseen by the President of the Australian Property Institute ACT Division.
- The Territory reserves the right to request a Presidential Determination where the two initial valuations vary by more than 10 per cent.
- Where the Presidential Determination is activated, both the Taskforce and the homeowner will agree to be bound by the outcome before it is undertaken (even if it is lower than the average amount).

Surrender of lease (excluding unit-titled properties)

- Eligible Homeowners participating in the Buyback Program will be required to surrender the Crown Lease on their block in return for payment of the surrender sum.
- The agreement to surrender will be recorded in a deed between the Territory and the Eligible Homeowner.
- The Taskforce will provide \$1,000 (including GST) in addition to the surrender sum for Eligible Homeowners to engage legal advice and transactional support in relation to the deed and surrender of title process. Eligible Homeowners will be required to obtain independent legal advice and provide a certificate from their solicitor to this effect as a precondition to surrender.
- The surrender sum will be adjusted to take account of the usual rates/land tax and utilities adjustments that form part of a normal conveyancing process.

- Where an Eligible Homeowner has been advised to leave their home prior to 28 October 2014, the deed will record the decision by the Territory to waive rates/land tax from the date of that advice to vacate, and the surrender sum will include necessary adjustments.
- Any costs of special meter readings will be borne by the Territory. The Eligible Homeowner will pay for water consumption charges.
- Eligible Homeowners will be required to deliver vacant possession on the surrender date. Pre-settlement inspections will be conducted.

Stamp Duty and other ACT Government charges

- Eligible Homeowners will be entitled to a once only waiver of stamp duty on a future purchase of a property in the ACT.
- The amount of the waiver will be the amount equal to the amount of the duty that would have been calculated on the surrender sum.
- The stamp duty waiver will be able to be used by an Eligible Homeowner in the repurchase of blocks for owner-occupation only.
- All ACT Government transaction costs (e.g. removal of encumbrances on title etc.) will be waived or borne by the Territory.

Properties sold since 18 February 2014

- Where an affected home has been sold or agreed to be sold and contracts have been exchanged between 18 February 2014 and the 28 October 2014, the buyback offer will be at the agreed sale price as set out in the contract (i.e. there will be no valuation process).
- Where a conveyancing process has commenced but has not been completed between 18 February 2014 and 28 October 2014, the buyback amount may be allocated between the parties (e.g. where a deposit has been paid, the balance of the purchase price would be paid to the vendor, and the deposit amount paid to the purchaser).

Properties privately demolished between 18 February 2014 and 28 October 2014

- The full asbestos removal and demolition costs will be reimbursed where demolition has been completed, or contracts have been entered into for demolition, between 18 February 2014 and 28 October 2014.
- The market valuation of the demolished house (i.e. building only) will be reimbursed.
- The surrender of Crown Lease process will not occur.

Knock down/rebuilds and extended/renovated homes

- No financial assistance is available under the Scheme in relation to asbestos removal or demolition of affected homes completed before 18 February 2014.
- Blocks that had homes on them previously affected by loose fill asbestos insulation but which have been completely demolished or removed prior to 18 February 2014 are not considered to be affected homes.
- Affected homes that have been extended or renovated but retain any element of the original building are considered an affected home.

Solar panels

- The ACT Government will seek to facilitate the transfer of existing entitlements to feed in tariffs from solar panels from an affected home to a new principal residence in the ACT for Eligible Homeowners. The ACT Government has written to ACTEW Corporation Limited in this regard.
- The ACT Government will not provide any financial assistance in relation to solar panels.

Compulsory acquisition

- The ACT Government already has the ability to compulsorily acquire land and/or order the demolition of buildings that pose a significant risk to health and safety.
- The ACT Government reserves the right to exercise powers to compulsorily acquire and/or condemn affected homes in the future in accordance with the relevant statutory processes.

Unit titled properties

- The Buyback Program extends to unit titled properties, although the number of such affected homes is small.
- The proposed surrender of Crown Lease process cannot be undertaken for unit-titled properties. The Taskforce will deal individually with each affected owner of a unit-titled property, but is likely to have to pursue a normal conveyancing process to give effect to the Buyback Program.
- Eligible Homeowners who own a unit-titled property will have access to a valuation process consistent with stand-alone homes.
- Approaches to demolition and remediation of unit titled properties will be determined on a case by case basis by the Taskforce in consultation with relevant bodies corporate.
- The Territory will assume liability for any future body corporate levies where applicable once it is the owner of the property.

Option to re-purchase

- Eligible Homeowners will have first right of refusal to repurchase their block (or part of their block) for owner-occupation at market value to be determined at the time the block is made available for resale.
- Eligible Homeowners will be able to apply their stamp duty waiver to the repurchase of their block when it comes available for re-sale (provided the stamp duty waiver has not already been used).
- Eligible Homeowners may be permitted to take up a land rent lease on their block in accordance with the eligibility criteria for that scheme.
- The timing of all blocks becoming available for resale will be determined by the Taskforce and Land Development Agency with a view to maximising the efficiency in the scheduling of demolition and in light of the ACT Government's broader land release program.

Other Issues

- The ACT Government will seek to facilitate financial institutions agreeing to waive early repayment fees on fixed mortgages and other bank charges, but will not refund them.
- The ACT Government will seek a private ruling from the Australian Taxation Office in relation to the application of Capital Gains Tax to properties surrendered under the Scheme.
- The ACT Government will seek to facilitate Australian Government Ministers and/or officials exercising discretion in relation to the application of eligibility criteria for Australian Government programs (e.g. for aged pension or application of asset tests) in favour of Eligible Homeowners. The ACT Government will write to the Commonwealth Government bodies in this regard.
- The ACT Government will write to utility providers seeking their assistance in providing assistance and fee waivers for disconnection or reconnection of services for Eligible Homeowners.

Continuation of emergency assistance package

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 at the point they choose to vacate an affected 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 prior to 28 October 2014, the balance of the assistance package will be made available as a lump sum. This assistance remains available while the Buyback Program remains open.

Financial assistance will not be provided to people who take up residence in an affected home after 28 October 2014.

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

Home contents

This section is intended to assist residents in making informed choices about their possessions in homes affected by loose fill asbestos. It has been developed in consultation with the Chief Health Officer, the ACT Work Safety Commissioner and reviewed by a Dr Ian Gardner Senior Physician in Occupational and Environmental Medicine, Department of Defence. Residents of affected homes should read this section carefully and if they have any questions about what they should do with goods in an affected home, they should seek the advice of a licensed asbestos assessor.

There is no practical way to certify that household contents are not contaminated. Nevertheless, it is likely 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 loose fill asbestos homes by homeowners, businesses and the wider community.

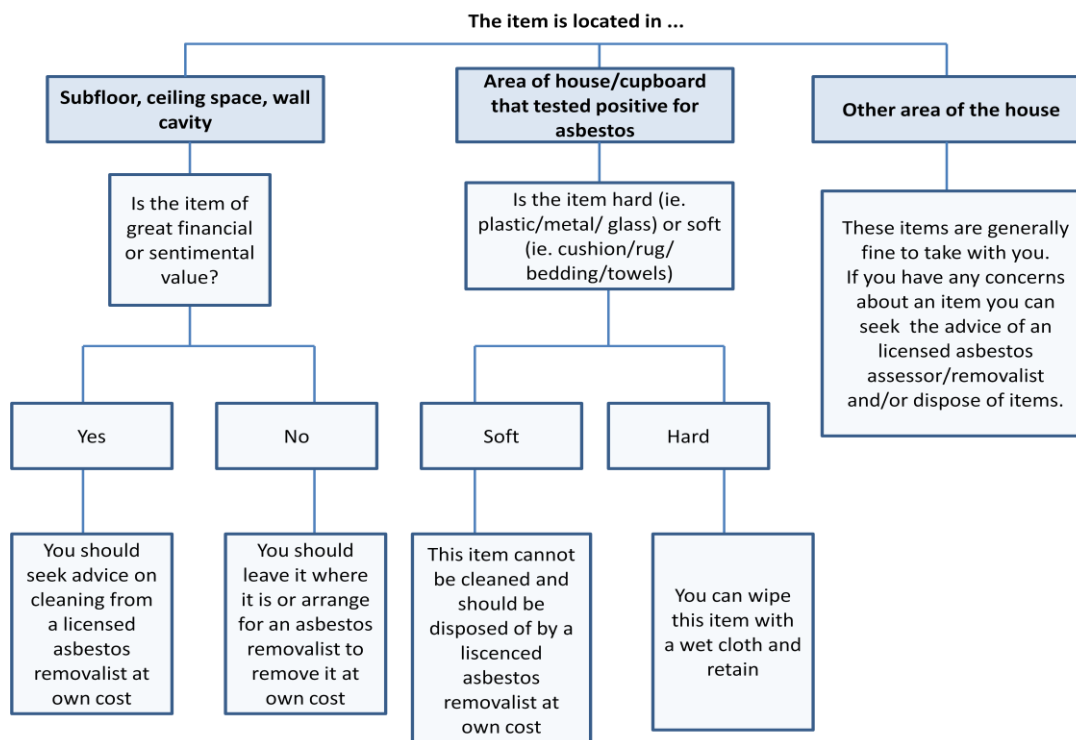
Even where asbestos fibres have been detected in settled dust within living or storage areas of a home, expert advice to the Taskforce is that the health risk from possible exposure associated with moving goods from other areas of a home is low, but cannot be discounted.

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 sub-floor 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.

A suggested decision making approach is set out in the following figure:



Goods stored in known contaminated areas?

Known contaminated areas include:

- wall, ceiling and sub-floor cavities
- areas where a licensed asbestos assessor has found fibres (e.g. cupboards)

Items that have been stored in a known contaminated area should be disposed of by a licensed asbestos removalist, or left in affected homes when they are vacated for proper disposal by the Taskforce. Soft items and fabrics that have been stored in a known contaminated area (such as soft furnishings, fabric items, soft toys, bedding, linen and clothing) cannot be effectively decontaminated.

Where highly valuable items have been stored in known contaminated areas, and disposal is not desired, specific advice should be sought (at the owner's cost) about the possibility of decontamination.

What can I clean and take?

Household contents in living areas of affected homes that are not known contaminated areas can be wiped down with wet cloths (e.g. baby wipes) before removal as a precaution. Goods of this nature also include:

- items replaced following remediation or hazard reduction works
- garden and outdoor furnishings and contents of exterior sheds

The Taskforce will not reimburse affected owners and residents for the removal of household goods or the costs of decontamination by licensed asbestos removalists of goods stored in known contaminated areas.

Minimising dislocation – education

With a view to minimising social dislocation the Education and Training Directorate will permit children to remain in their current schools where their family relocates under the Scheme if that is their wish.

Demolition and block remediation

Overview – timeframe and approach

The asbestos removal and demolition of over one thousand affected homes could take up to five years, but the actual timeline will be settled in light of the tender process and the actual response of affected homeowners in surrendering their homes. There is a clear need to increase the capacity of the asbestos removal and demolition industries to undertake a demolition program of this magnitude in a safe but timely fashion.

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.

The Taskforce is working with industry on a range of considerations in relation to a demolition program. It has developed a draft code of practice for the asbestos removal and demolition of affected homes. This Code will apply the requirements of the National Code of Practice for the Removal of Asbestos to the specific situation of these affected homes. This Code is expected to be adopted as a regulatory instrument under *Work Health and Safety Act 2011* and *Dangerous Substances Act 2004*. The Code is expected to be published by the Work Safety Commissioner as a guidance note in the interim.

Given the current industry capacity, and the need to conduct appropriate tender processes, it is unlikely any affected houses will be demolished before the end of 2014, beyond a small number to be done on a proof of concept basis to assess the efficacy of different approaches, the validity of the new code of practice, and estimates in relation to time and degrees of contamination.

Demolition and site remediation for all affected homes will be procured by the Taskforce to ensure:

- appropriate supervision and process control including in relation to prequalification standards, safety management systems, and active assurance and audit processes
- minimisation of costs to the Government including through efficient staging and sequencing
- consistent approaches to safety for workers, nearby residents, the community and the environment
- a standardised and cost-effective approach
- economies of scale.

Maintenance pending demolition

It is likely that some homes will be vacant for a period before they are demolished. The Taskforce will, in the interim, ensure arrangements are in place in relation to:

- removal and disposal of all remaining contents
- security
- maintenance – including gardens and lawns, fire risk, and vandalism or accidental damage.

Keeping neighbours informed

The Taskforce is conscious of the impact of the Scheme in the community, and on those living in close proximity to affected homes in particular. It will ensure robust mechanisms are in place utilising a range of methodologies to support neighbours and the community including through:

- provision of clear channels of communication and avenues for concerns to be raised with the Taskforce
- effective consultation and information provision in the lead-up to local demolition activity
- ensuring neighbours have somebody to contact if they are concerned about an unoccupied home

Staging and sequencing

The Taskforce will procure the demolition of all affected homes 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 across districts to avoid the need to unnecessarily relocate equipment, and to minimise disruption to local neighbourhoods.

The safety of workers conducting the asbestos removal and demolition, and residents of neighbouring blocks, will be paramount considerations in the demolition program.

The Taskforce will engage head contractors to oversee the asbestos removal, demolition and block remediation process for groups of affected homes. The current proposal is to group affected houses to be demolished into tranches of around 30-50 (e.g. by suburb or district).

The final approach will be determined through the tender process the Taskforce will conduct.

Regulatory framework

The ACT Government has agreed to adopt the nationally harmonised work health and safety regulations for asbestos. In so doing, it will maintain the elements of the ACT's current asbestos management regime that exceed the requirements of the national laws. The benefits of this approach include:

- ensuring WorkSafe ACT is notified of asbestos removal or demolition work before it is commenced
- retaining licensing requirements for asbestos removal in domestic premises
- facilitation of mutual recognition of interstate licences
- amalgamating all high risk occupational licensing under WorkSafe ACT
- clarifying regulatory responsibility and reducing duplication in ACT legislation and regulation
- consistency with safety requirements of other jurisdictions
- provision for safety-based licence suspension provisions
- improving safety outcomes through requiring Class A asbestos removalists to have a certified safety management system and accessing a more experienced workforce
- adopting the two new national model asbestos codes of practice, including an updated Removal Code, adapted for the ACT

- the ability to approve a specific ACT code on asbestos matters – including a demolition code for loose fill homes
- improved competency and training for licensed asbestos workers and assessors.

ACT-specific code of practice for demolition of affected homes

The Taskforce has already developed a draft code of practice for the safe demolition of affected homes that builds upon the National Code of Practice for Removal of Asbestos with ACT-specific requirements and suggested procedures to control the safety and cost of asbestos removal and demolition of affected homes.

The Code does not prescribe a rigid methodology for demolition as each home is different and requires a level of assessment and expert decision making on how best to demolish it in a safe manner. It is expected that this Code will be issued as a guideline before the Code has effect with the commencement of harmonised work health and safety regulatory regime in January 2015.

The Code is drafted to ensure that all asbestos (including loose fill asbestos insulation) is, so far as is reasonably practicable, removed, wetted or totally bonded before the demolition commences. This minimises any risks of fibre release during the actual demolition of the home. The Code also requires active dust suppression and air monitoring arrangements are in place.

Head contractors will be required to develop an asbestos removal control plan for each house and submit this to WorkSafe ACT prior to each demolition.

Minimum standards and methodologies will be reinforced through procurement processes that will ensure contractors engaged in the demolition and remediation works will be subject to active assurance processes applied to other ACT Government capital works projects.

Demolition methodology

Homes of different construction types will be demolished using substantially similar techniques. While actual decisions on appropriate demolition methodologies will be determined on a case by case basis as part of settling the site specific Asbestos Management Control Plan, most affected homes are unlikely to need to be demolished in a 'bubble'. The structure of the home will be used to form the containment enclosure for the asbestos removal process prior to the actual demolition process. All visible asbestos will be removed or bonded with glue prior to the structural demolition. The methodology will be subject to review once the trial demolition of properties is completed. A culture of continuous improvement will be promoted to enable contractors and regulators to learn and apply these learnings to the Scheme.

The need for removal of free standing structures such as sheds, and retaining walls and pools will be determined on a case by case basis (but will be included in the valuation).

Brick veneer

Brick veneer is the most common construction type, and thought to comprise 70-80% of affected homes. In general terms, for houses of this construction type:

- the skin of the home can provide its own containment barrier (i.e. the external brick wall, sealing and negative air flow, act as the enclosure)
- internal walls and ceilings will be removed prior to demolition to enable the bulk of the remaining asbestos insulation to be collected by vacuuming
- fibres that cannot be removed will be prevented from becoming airborne during demolition by adhering them to building materials
- dust suppression techniques (e.g. foam or water will be used during the demolition to suppress dust, residue and debris).

Double brick

Double brick homes comprise 15-20% of affected homes, and:

- these homes may be slightly more costly to demolish
- methodologies for adhering fibres within the cavity walls are being explored, but it may be the case that some homes of this type may need to be encapsulated to ensure that the external walls can be removed to enable remaining fibres to be vacuumed and disposed of
- once visible asbestos has been removed and remaining fibres bonded as described above, the remaining structure will be demolished with appropriate foam/water dust suppression

Other construction types

Consideration will also be given on a case by case basis to safe demolition approaches to other residence types (e.g. bonded asbestos, monocrete (usually asbestos containing material) or concrete tilt up construction).

Control mechanisms

The asbestos removal and demolition plan for individual residences will comply with the Asbestos Removal Code, the Code for the Safe Removal and Demolition of loose Fill Asbestos Homes, and Demolition Code and address the following issues as required:

- securing the site and erecting warning signs
- provision of fencing to prevent unauthorised site access
- controls used to capture any water runoff
- methods to decontaminate plant and equipment
- air monitoring
- allowance for weather conditions on site and monitor any changes like wind direction
- details of protective measures, including overhead protection and scaffolding required
- management of traffic
- informing neighbours of the activities prior to the commencement of the demolition
- details of waste storage and disposal.

The plan will also include provisions for the transport and disposal of materials from the site including:

- ensuring materials are covered to prevent exposure during transport
- unloading of trucks at the waste facility being overseen by a licensed asbestos removalist
- monitoring of transportation of rubble to the disposal site.

Soil Remediation methodology

Following demolition of an affected home, soil will be removed from the footprint of the house and an area surrounding it in accordance with the methods and standard prescribed under the *Environment Protection Act 1997*. The code of practice for demolition includes a section on block remediation that requires:

- soil to be removed to a depth determined by testing undertaken by an asbestos assessors (but to a minimum of 100mm);
- clean soil to be brought to the site and stabilised by qualified civil contractors; and
- the site to be topsoiled and grassed to minimise erosion.

After remediation is complete, a new 99 year Crown Lease will be issued for the block.

This process cannot be applied to unit-titled properties. The Taskforce will liaise directly with Eligible Homeowners and relevant bodies corporate in pursuit of an equivalent outcome for owners and an acceptable resolution for the body corporate.

Waste Disposal

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.

Rubble will be tipped under supervision of a licensed asbestos removalist, and subject to dust suppression. Waste will be covered with clean soil at the end of each day, and will ultimately be capped and grassed to prevent erosion and subsequent fibre release in accordance with EPA requirements.

Palmerston Dump Site

The waste from the original Commonwealth/ACT Government removal program is buried near Palmerston. That site was also used as a builders' rubble dump, to dispose of rubble from the former Royal Canberra Hospital, and on one occasion before self-government to dispose of household waste during a garbage strike.

The ACT Government is currently conducting a detailed survey to determine what additional works might be necessary to ensure asbestos and other waste is properly buried and the site maintained in a safe state in the future.

Resale

The ACT Government will defray overall program costs through efficiency and cost containment in the demolition and remediation phase, and maximising returns on sale of remediated blocks. This principle underpins the Government's decision to provide for the unit-titling of dual occupancy development in RZ1 zones, and consider options for subdivision or consolidation of blocks where appropriate prior to resale.

Remediated blocks will be sold by the Land Development Agency as part of the ACT Government's land release program.

The staging of the demolition and remediation process, and the process for determining an appropriate schedule of land release will mean it may be a number of years before a particular block becomes available for resale.

Increasing the value of remediated blocks

The ACT Government will permit unit titling of dual occupancy developments in RZ1 Zoned areas on affected blocks only. While it is already possible to build such developments in that zone, it is not currently possible to unit title them.

The Environment and Planning Directorate has indicated 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.

This approach will not be pursued in heritage precinct, or where the particular characteristics of a block do not support it.

In some cases, consideration will be given to subdivision or consolidation of remediated blocks. There is a small number of locations where there is a cluster of affected blocks, sometimes contiguous to a number of ACT Housing blocks. The ACT Government is giving consideration to whether formal rezoning through a Territory Plan Variation would provide better opportunities for redevelopment and increasing the value of land sales.

Purchase of remediated blocks

Remediated blocks will be offered for sale at a time determined by the Taskforce and Land Development Agency:

- to the original owner for owner occupation at market value (off market)
- to territory entities including the Land Development Agency (LDA) and Housing ACT for the purposes of those agencies
- by the LDA on the market as part of the Government's land release program.

Eligible Homeowners will be permitted to take up a land rent lease on their block or part of a unit titled or subdivided block, if it is their wish to rebuild in the same location. They will also be permitted to use their stamp duty waiver on the repurchase of their block.

Management of homes where families choose to stay

There will be some homeowners who are willing to accept a level of risk in order to stay in their homes in the medium term. This may be due to the age of the homeowners (and the fact as expressed by some that they have lived in the affected home for many years already), an unwillingness to leave established links to their community, an unwillingness to move twice (i.e. into short term accommodation followed by a new home), or the perceived benefits in staying within close proximity to work, school or support networks.

Where a family wishes to make this choice, they will be required to undertake significant works to ensure their home is as safe as it can be for medium term accommodation. The ACT Government will mandate a program of sealing, remediation and cleaning under the *Dangerous Substances Act 2004* in 2015.

This approach is not, however, a practical long term solution. This issue is discussed in more detail in the Taskforce Report.

Necessary medium term responses

While it is technically possible to render affected homes safe to live in in the medium term, it is undesirable for continued occupancy to extend beyond a timeframe where the integrity of the home could be affected by the remedial action. For example, sealing all ceiling penetrations will result in limited air-flow which could result in condensation, damp, mould and increased risk of termite activity. Homes would also need to be subject to ongoing monitoring for risks to health and safety as well as deterioration of remediation measures.

This policy framework has been shaped by the technical advice of the Work Safety Commissioner.

Policy Framework

Under the sealing program:

- clear advice will be given to affected homeowners that an affected home poses ongoing risks to health and safety that homeowners accept by continuing to stay in the home – even once works are completed
- a detailed assessment will be undertaken of the particular house to develop a specific remediation work plan (noting the Taskforce Report – while reflecting a consensus of expert opinion – provides only generic advice)
- public funds will not be expended on remediation of homes that the ACT Government considers should be demolished (i.e. owners who refuse to leave will bear all the costs of staying)
- owners of affected homes will be required to inform every person who enters their home of its status and condition
- regular asbestos assessments at the owners' cost will be required to ensure ongoing efficacy of remediation work
- regulators will regularly inspect properties to ensure compliance.

The medium term remediation works required will encompass measures to:

- restrict and seal access to the ceiling cavity
- restrict and seal access to subfloor including
 - basements and garages
 - storage areas and cellars
 - internal and external vents
- seal all fibre entry pathways from the ceiling to living areas including
 - all cornices and ceiling or wall cracks
 - internal cupboards and wardrobes
 - light fittings, down lights and exhaust fans
 - ducted heating and air conditioning vents
 - ventilation (e.g. bathroom vents, vents or gaps over fridges, microwaves etc.)
- seal all fibre entry pathways from wall cavities to living areas including
 - door frames
 - light switches
 - window frames
 - skirtings
 - cavity sliding doors (which would need to be sealed open)
- seal all fibre entry pathways from subfloor including
 - gaps or holes in floor boards
 - external or internal vents and grills
 - steps or decks that are exposed to the subfloor.

Interventions of this sort would significantly impact the amenity, functionality and liveability of affected homes including by:

- rendering down lights inoperable
- rendering many underfloor garages or storage areas unusable
- rendering exhaust fans, and air conditioning and heating systems inoperable
- affecting privacy
- impacting the long term integrity of the structure of homes.

It may also be necessary to ensure reasonable amenity and ongoing integrity of the physical building structure to undertake further works including:

- plumbing ventilation through the roof space or walls to outside to ensure adequate ventilation (such as in bathrooms and laundries)
- development of a comprehensive management plan (overseen by regulators) to ensure appropriate maintenance work can be undertaken (including access to the ceiling space and subfloor if necessary and under strict regulation)
- movement of essential services to a lower risk location (e.g. any services in the ceiling space and subfloor such as pilot lights, hot water system, electrical and data cables)
- purchasing alternate sources of lighting that do not require ceiling penetration
- purchasing alternate sources of heating and cooling
- additional longer term remediation – including intensive environmental clean, replacement of soft furnishings (including carpets and curtains).

These works will themselves carry significant risk of exposure to loose asbestos fibres and require significant safety controls to be in place.

Complaints

The ACT Government will, in keeping with arrangements that applied after the 2003 bushfires and during the 2008-09 stimulus package, seek to streamline approval processes for demolition and rebuilding work on affected blocks.

A package of necessary legislative changes will be presented to the Legislative Assembly shortly.

The ACT Ombudsman's Office has agreed to provide an independent complaints mechanism in relation to the Taskforce's work consistent with its general responsibilities in that regard.

Identification of affected blocks

Given the need to identify blocks that are subject to special planning and development control arrangements, as well as the owners of blocks to whom eligibility for Scheme components attaches, it will be necessary to publicly declare a list of affected blocks.

The ACT Government notes a number of historical and inaccurate versions of the list of affected houses are already in circulation.

The Taskforce has declined requests to publish the list of affected houses in light of homeowner requests for privacy and concerns about the value of affected homes. In light of the Scheme's establishment, the balance of arguments now sits with release, rather than withholding the list.

The Government will publish the list in early 2015.