



Policy Guidelines: Assisted Private Demolition –

for homes demolished between, or subject to a legally binding contract to demolish entered into between, 18 February and 28 October 2014

IMPORTANT

The information in this document is a guide for assessing eligibility for assisted private demolition of homes affected by loose fill asbestos insulation and associated reimbursement of costs. Eligibility will be considered on a case-by-case basis in accordance with the eligibility criteria set out in the policy.

Applicants should retain copies of property valuations of their demolished house. They should also retain copies of all contracts, communications, quotes and receipts relating to demolition and asbestos removal. This will assist the Taskforce to determine eligibility and amount of reimbursement.

Note: The *Criminal Code* 2002 provides for significant penalties, including fines and imprisonment for making false statements or providing misleading information to the Territory in the hope of obtaining a financial benefit. In processing applications under the policy the Taskforce may undertake independent investigations, request additional information from applicants, contractors or regulatory agencies or refer matters to ACT Policing for investigation or advice. Any suspicion of fraudulent activity or provision of false or misleading information will be referred to ACT Policing and result in delays in processing applications.

OVERVIEW

On 18 February 2014 the ACT Work Safety Commissioner wrote to affected homeowners (**affected homeowners**) to remind them that their homes (**affected house**) are affected by loose fill asbestos insulation and associated risks.

On 28 October 2014 the former Chief Minister announced the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme). The Scheme is set out in *The ACT Government's Preferred Way Forward on Loose Fill Asbestos: Supporting Detail* (the **Scheme Supporting Detail**). The Scheme includes a voluntary Buyback Program (**Buyback Program**). The terms of the Buyback Program are set out in the document: *The Loose Fill Asbestos Insulation Eradication Scheme - A Guide to the Voluntary Buyback Program* (the **Buyback Program Guide**).

Page 13 of the Scheme Supporting Detail deals with affected houses privately demolished between 18 February 2014 and 28 October 2014, and provides that:

1. 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.
2. The market valuation of the demolished house (i.e. building only) will be reimbursed.
3. The surrender of Crown Lease process will not occur.
4. No financial assistance is available under the Scheme in relation to asbestos removal or demolition of affected houses completed before 18 February 2014.

The policy implements the ACT Government's commitment to affected homeowners who acted of their own accord to demolish their homes, that they would not be disadvantaged if the Government subsequently instituted a program of assistance to other homeowners, and would be offered financial assistance on an equivalent basis.

WHO DOES THE POLICY APPLY TO?

The policy reimburses eligible affected homeowners who entered into binding contracts to demolish their affected house between 18 February 2014 but before the announcement of the Buyback Program was made on 28 October 2014. The onus is on affected homeowners to demonstrate their eligibility for assistance as set out in the policy.

The Taskforce retains comprehensive records of all contact with affected homeowners. All applications received under the policy that are not supported by records or evidence that a 'no-disadvantage' assurance was provided from the Taskforce in relation to private assistance for demolition *before* 28 October 2014 will be subject to additional scrutiny and extended processing time. This is important to rule out potential fraudulent activity and the possibility of applicants' providing false or misleading information in the hope of obtaining a financial benefit from the Territory through the policy. This includes backdating contracts in an attempt to secure eligibility.

Potential applicants should note that in processing applications under the policy the Taskforce may undertake independent investigations, request additional information from applicants, contractors or regulatory agencies or refer matters to ACT Policing for investigation or advice. Any suspicion of fraudulent activity or provision of false or misleading information will be referred to ACT Policing and result in significant delays in processing applications. This is important to ensure the policy is applied fairly and is accountable for the administration of public money.

HOW TO APPLY

Applications will only be accepted on the *Loose Fill Asbestos Insulation Eradication Scheme - Assisted Private Demolition– Application Form*. All applications will be assessed in accordance with the policy.

An application will not be processed unless it is signed by all registered owners, lodged with all sections completed and accompanied by required information and statutory declarations.

The Taskforce aims to process applications within **30 days** of receiving all required information. However, in the absence of a record or evidence that ‘no-disadvantage’ assurance was made by the Taskforce to the applicant before 28 October 2014, further investigations are likely and processing delays will be incurred.

Note: For houses that are **yet to be demolished**, applicants are required to provide an indicative time for the scheduled commencement of the demolition of their home (this means the date the pre-demolition asbestos removal work is scheduled to take place, not the date of the actual demolition of the Affected House).

Applications must be made by 23 April 2015. This closing date has been selected to enable the Taskforce to assess applications prior to the closing date of the buyback offer (30 June 2015) so unsuccessful applicants have an opportunity to participate in the Buyback Program. Applications received after this date will not be considered.

ELIGIBILITY CRITERIA

Affected homeowners are only eligible for assistance where:

- (1) They were the owner of the Affected House on both 18 February 2014 and 28 October 2014;
and
- (2) They have either:
 - (a) Demolished the Affected House under a binding contract to demolish the Affected House entered into after 18 February 2014 but before 28 October 2014; or
 - (b) Entered into a binding contract to demolish the Affected House between 18 February 2014 and 28 October 2014, which **remains current** as at the date of application.

Please see **FAQ's** if you have purchased an Affected House after 18 February 2014.

WHAT IS A CONTRACT TO DEMOLISH YOUR HOME?

The agreement you have entered into must be a legally enforceable, binding contract which provides that the affected house will be demolished, including full compliance with asbestos removal and demolition control procedures.

The contract must be binding and entered into between **18 February 2014** and **28 October 2014**.

The policy does not apply to contracts for partial demolition of an affected house or the rebuild of a replacement home only (however a rebuild contract may include a component for demolition of an Affected House).

EVIDENCE TO SATISFY ELIGIBILITY CRITERIA

Applicants are required to provide evidence to support the application for assistance. Eligibility criteria for demolished and not-demolished affected homeowners are:

Criterion (2) (a) – Affected House demolished under a contract entered into between 18 February 2014 and 28 October 2014.

Where the applicant is relying on the prior demolition of their house to satisfy the eligibility criteria they must provide:

1. a copy of a binding contract for the demolition; and
2. any other evidence available to support the existence of that contract, for example invoices and receipts from the contractors for the work; and
3. all paid invoices and receipts from contractors (A Class licensed asbestos assessor, A Class licensed asbestos removalist, licensed demolition contractor with an A Class asbestos removalist license); and
4. signed statutory declarations from the applicant and any relevant contractors (i.e. A Class licensed asbestos assessor and/or a licensed demolition contractor) verifying the existence and terms of the contract; and
5. all asbestos assessment reports and clearance certificates relating to the demolition of the Affected House and the land on which it is located (this is necessary to ensure the land has

been appropriately remediated and cleared prior to rebuilding) – at a minimum this must include:

- a. a clearance certificate post asbestos removal (before demolition); and
 - b. a clearance certificate post demolition; and
6. a certified list of any improvements that remain on the land including any structures, sheds, swimming pools and landscaping.

Criterion(2)(b) – Binding contract entered into to demolish the Affected House between 18 February 2014 and 28 October 2014, which remains current as at the date of application:

Applicants must provide:

1. a copy of the contract for demolition; and
2. any other evidence available to support the existence of that contract, for example invoices and receipts from the contractor for deposits to secure the work; and
3. signed statutory declarations from the applicant and any relevant contractors (i.e. A Class licensed asbestos assessor and/or a licensed demolition contractor) verifying the existence and terms of the contract.

Applicants must declare that all information provided by them as part of their application is true and correct. It is an offence to provide false and misleading information and significant penalties apply for doing so. Any suspicion of fraud, falsifying or backdating documents or contracts will be referred to ACT Policing for investigation.

For further information about eligibility, please see the **FAQ's**.

FURTHER INFORMATION AND DOCUMENTS

Upon receipt of an application the Taskforce may request further information and documentation from the applicant. This may include, but is not limited to, attendance at a meeting or interview and/or the provision of additional statutory declarations in a form advised by the Taskforce from the applicant and/or relevant contractors in support of the application.

Applications will not be processed without provision of all information and documentation requested by the Taskforce.

In assessing the application the Taskforce may:

- share information provided with, or request additional investigations be undertaken by, various regulators including Access Canberra (incorporating the former Office of Regulatory Services and WorkSafe ACT), ACT NoWaste, ACT Policing and Banking institutions;
- make independent inquiries (including through internal or external channels), verify claims and documents provided (i.e. make direct enquiries with the relevant building companies and Class A asbestos assessors and removalists); and
- review the relevant building file for the property to ascertain whether the applicant was actively demolishing prior to 18 February 2014.

APPROVAL OF ELIGIBILITY

For applicants yet to demolish and who have entered into a binding contract to demolish (eligibility criterion 2(b) to secure approval for reimbursement applications should be made and considered *before* commencement of asbestos removal and demolition works for the Affected House.

Demolishing an affected home prior to approval is not prohibited under the policy. However, proceeding to demolish without prior approval for assistance incurs a risk that an application will not be considered eligible and the homeowner will bear all related costs, without an opportunity to weigh up the option of paying out contract termination fees and entering into the Buyback Program.

However the Taskforce recognises that the policy is designed to apply to those affected homeowners who were proceeding to demolish despite the unknown nature of assistance.

Applicants will be notified of the outcome of the application process and will also be required to provide additional documentation at the completion of demolition, prior to the reimbursement of costs.

For category 2 (a) applicants (demolition complete), all relevant invoices and receipts can be attached to the application form.

EVIDENCE FOR REIMBURSEMENT

At completion of the demolition, and prior to the provision of reimbursement, applicants will be required to provide:

1. all paid invoices and receipts from contractors (A Class licensed asbestos assessor, A Class licensed asbestos removalist, licensed demolition contractor with an A Class asbestos removalist license);
2. all asbestos assessment reports and clearance certificates relating to the demolition of the Affected House and land (this is necessary to ensure the land has been appropriately remediated and cleared prior to rebuilding), at a minimum this must include:
 - a. a clearance certificate post asbestos removal (before demolition); and
 - b. a clearance certificate post demolition, and
3. a certified list of any improvements that remain on the land including any structures, sheds, swimming pools and landscaping.

PROVISION OF ASSISTANCE

The Taskforce will pay approved applicants in a single transaction ONLY AFTER demolition has been completed and all relevant documentation and clearances have been provided to the Taskforce.

Generally payments will be made within 30 days of receipt of the documentation.

For houses ALREADY DEMOLISHED affected homeowners can attach receipts and invoices with their application form.

For more information on what reimbursement costs cover, please see the **FAQs**.

Calculation of Assistance Provided

The reimbursement of costs will be calculated using the following formula. This formula provides the closest estimation of costs to reimburse affected homeowners on an equivalent basis to the Buyback Program.

(Market Value of the House and Land) + Demolition Costs – (Market Value of Land)

Example: After learning that their family home was affected, Kate and Ashley entered into a contract with an A Class licensed Asbestos Removal company to demolish the home on 15 August 2014. After obtaining appropriate approvals, the home and all improvements on the land were subsequently demolished on 25 November 2014.

The property (house and land) was valued at \$700,000 as at 28 October 2014 (the average of two independent valuations consistent with the Buyback Program). The asbestos removal work prior to demolition was \$38,000 and the demolition cost was \$20,000. At the time of demolition waste disposal fees were waived by the ACT Government. The cost of demolition totaled \$58,000. The vacant block of land was valued at \$570,000 as at 28 October 2014.

Kate and Ashley were reimbursed (\$130,000 + \$58,000) in accordance with the policy.

Break down:

1. Market Value of House and Land	\$700,000
2. Demolition costs	\$58,000
	<u>Total:</u> \$758,000
3. Deduct the Market Value of the land:	- \$570,000
	<u>Total reimbursement:</u> \$188,000

Market Value

Market Value of House and Land

The **market value of the house and land** is based on the average of two independent valuations. This is consistent with how the house and land is valued under the Buyback Scheme. This takes into account any special features of the house e.g. studio apartments, solar panels, specialised fixtures and fittings.

The market value of the house and land is assessed as at the day the Affected House was demolished or 28 October 2014 – whichever is earliest (for example for a house demolished on 20 June 2014, the market value of house and land is as at 20 June 2014, for a house yet to be demolished, the market value of the house and land will be 28 October 2014).

It **does not** include the market value of any improvements to the house that remain, such as swimming pools, garages, studios and sheds. **Information on remaining structures or improvements on the land must be provided before payment of the financial assistance.**

Market Value of the Land

This value will be determined on the best and highest value use of the block determined by expert valuers. The valuation of the land will be as if the block was vacant. Please note that this will vary significantly depending on the size of the block.

The valuation will be determined independently by the Australian Property Institute at the time the valuation for the house and land was provided (i.e 28 October 2014 for non-demolished or earlier

for demolished). Essentially, this is the valuation given to the vacant block of land as if it was sold on an open market.

VALUATION PROCESS

If an applicant has already obtained one or two market valuations they will be reimbursed the costs and the Taskforce will commission two independent valuations consistent with the Buyback Program. In some cases this will simply involve an update of any existing valuation already undertaken by a panel valuer and seeking a separate valuation for the market value of the block.

Applicants who are yet to arrange market valuations of their property should refrain from doing so. The Taskforce will arrange the independent valuations, in line with processes for the Buyback Program and in accordance with the policy. Valuations under the policy will only be prioritised to ensure they are undertaken prior to the commencement of demolition works (i.e. the pre-demolition asbestos removal works).

Consistent with the procedure set out in the Buyback Program, applicants are entitled to seek a Presidential Determination if they are not satisfied with the market value of the house or land, (see the **Buyback Program Guide**).

For more information please see the **FAQ's**.

Demolition costs

Demolition costs include the cost of asbestos removal prior to demolition, demolition and waste disposal (where applicable).

If the application under the policy is approved the surrender of Crown Lease process under the Buyback Program will not occur and the Taskforce will not undertake the demolition on behalf of the homeowner – the homeowner must make all arrangements for the demolition.

Applicants may be eligible for the Relocation Grant to assist with alternate accommodation during the demolition and rebuild process – please see the Taskforce Website for further information.

The Taskforce does not accept any responsibility, financial or otherwise, due to any delays in demolition in connection with the policy.

No government assistance will be provided for private demolition of Affected Houses pursuant to contracts entered into after 28 October 2014.

CONTRACT VARIATIONS

The financial assistance is calculated with reference to asbestos assessment, asbestos removal and demolition works as set out in the original contract, or the contract as at 28 October 2014.

Contract price variations will not be accepted or reimbursed, except in exceptional circumstances, where the contractor can satisfy both the Taskforce that:

- a) the contract made provision for contract price variations, AND
- b) the contract as at 28 October 2014 was capable of completion within the existing regulatory framework at the time (the contractor must also satisfy WorkSafe ACT of this criteria), AND
- c) that the contract price variation is warranted and could not reasonably have been anticipated prior to demolition.

The Taskforce does not consider that changes to the asbestos management framework under the Work Health and Safety Regulation 2012 alone satisfies the above criteria.

If a contractor is not able to complete the contract as at 28 October 2014 assisted private demolition will not be granted, or will be revoked. This may come about due to costs for meeting past and existing legislative requirements or standards, insolvency or bankruptcy, or regulatory action.

Applicants are encouraged to contact the Taskforce if their contractor is not able to complete the contract for demolition as it was at 28 October 2014.

For further information about your contract for demolition see the **FAQ's**.

TIMEFRAME FOR DEMOLITION

To be eligible for reimbursement of costs under the policy demolition works must have commenced on-site before 24 December 2015 and must comply with the regulatory guidelines. To meet this timeframe, at least five days prior notice must have been provided to WorkSafe ACT before any pre-demolition asbestos removal work is undertaken. Failure to provide adequate notice to WorkSafe ACT before 19 December 2015 may result in regulatory action and delays which will render applicants ineligible for assistance under the policy.

On submission, the Taskforce may approve extensions to commencement of works beyond 24 December 2015.

COMPLAINTS AND REVIEW PROCESS

Approvals under the policy are granted by Director, Technical and Regulation. Applications may be assessed with assistance from internal or external sources. Applicants will be advised in writing of the outcome of their application, including approvals, requests for further information, referrals to external agencies or anticipated delays.

Applicants may seek a review of a decision under the policy by the Taskforce Head. Generally applications for a review of a decision will be assessed within 20 days. Applicants will be advised in writing of the outcome of any request for a review.

If applicants are dissatisfied with any decision or processes in relation to assisted private demolition they may seek a procedural review or may make a complaint to the Taskforce Head or the Ombudsman.

If you are the owner of a loose fill asbestos affected house and are not eligible for assistance under this scheme, you may be able to participate in the Government's Buyback Program. For further information you may wish to visit the Taskforce website at <http://www.act.gov.au/asbestos-response-taskforce>.

FREQUENTLY ASKED QUESTIONS

1) How much money may I be able to receive if I am entitled to private demolition financial assistance?

You will be reimbursed demolition costs (including asbestos assessment and removal) and the difference between the market value of your house (as if it were unaffected by loose fill asbestos) and land and the market value of the land as if the parcel of land were sold in an open market. This will be determined by the Australian Property Institute.

You should keep copies of all valuations of the property and copies of all receipts to assist the Taskforce to determine your eligibility and if you are eligible, the correct amount to pay you.

2) I demolished my house prior to the announcement on 28 October 2014. Does this mean I can't participate in the buyback program?

If you demolished your house between 18 February 2014 and 28 October 2014, you may be eligible for financial assistance under the assisted private demolition policy.

3) I demolished my house prior to 18 February 2014. Am I eligible to receive assistance or participate in the buyback scheme?

If you knocked down your house prior to 18 February 2014 you are not entitled for financial assistance or to participate in the Buyback Program.

4) I have not demolished my house yet but I think I have entered into a contract to knock down my house. Am I eligible for any financial assistance to privately demolish my house?

If you entered into a legally binding contract after 18 February 2014 and before 28 October 2014 to demolish your house then you may be eligible to receive financial assistance to privately demolish your house even though you have not yet demolished your house.

You will not be entitled to receive financial assistance to privately demolish unless you can demonstrate that you had entered into a legally binding agreement with a contractor to demolish your house before the Chief Minister's announcement on 28 October 2014.

You should make copies of all documents relating to the proposed demolition (eg copies of contracts, quotes, receipts of money paid to builders and other contractors, email exchanges, notes

of telephone conversations with builders and architects) so that the Taskforce can make an assessment about whether you may be eligible for private demolition financial assistance.

The Taskforce will consider eligibility on a case-by-case basis and you should contact the Taskforce about whether or not you may be eligible.

If you are not eligible for private demolition financial assistance because you either have not demolished your loose fill asbestos affected house prior to 28 October 2014 or you have not entered into a contract to demolish your loose fill asbestos affected house after 18 February 2014 but before 28 October 2014, you may be able to participate in the Government's buyback program.

It is important that you do not delay in making contact with the Taskforce about your options. Please contact the Taskforce for further information.

5) What if I purchased an Affected House after 18 February 2014?

You must have owned the affected house on both the 18 February 2014 and 28 October 2014 to be eligible for assisted private demolition. If you purchased after 18 February 2014 you are not eligible for reimbursement for private demolition.

You are able to demolish your home privately with no financial assistance, however you must engage appropriately licensed contractors to do so. You may also be eligible for the Buyback Program.

6) I have been told that I will be able to get government assistance if I enter into a contract to privately demolish my house. Is this true?

No. If you enter into a contract to privately demolish your house after 28 October 2014 you will not be entitled to receive any government financial assistance with your private demolition.

7) Can the Taskforce pay my invoices so I don't have to take out a large loan to fund my demolition?

No. The Taskforce will only reimburse costs at the completion of the demolition.

8) What if I intended to demolish my house before 28 October 2014 but I hadn't entered into a binding contract yet?

You are not eligible for financial assistance for private demolition. You must be able to demonstrate that you have entered a legally binding contract to demolish your affected house.

9) What if I had discussed knocking down my house with a contractor but didn't have a written agreement.

You are not eligible for financial assistance for private demolition unless you can prove that you entered into a binding contract between 18 February 2014 and 28 October 2014.

10) How long will it take for my application to be assessed?

Generally, applications will be assessed within 30 days of receipt of all required information. Applicants will be advised in writing of the outcome. However if you have not engaged in discussion with the Taskforce before 28 October 2014 to demolish your affected house, your application will take longer to process at additional investigations are required to determine your eligibility.

Please attach as much supporting information to your application as possible and contact the Taskforce to discuss.

11) What assistance is provided for me if I am eligible? What sorts of things will this cover?

Affected homeowners who meet the eligibility criteria for assistance under the policy, on approval by the Asbestos Response Taskforce, are entitled to reimbursement of costs on an equivalent basis to the Buyback Program (subject to the terms of the policy). This is determined as:

1. Financial assistance to the assessed market value of demolished improvements on the land prior to demolition as though improvements on land were not affected by loose fill asbestos insulation;
2. the full costs of demolition (including asbestos removal and waste disposal if applicable), these will generally be reflected in the contract price for the demolition– any variations to the contract price after acceptance will not be met (except in relation to the removal of additional soil as the result of post-demolition analysis of soil), and
3. Costs associated with obtaining valuations (by a registered property valuer) intended for the purpose of supporting and application under the policy.

12) What if my house is already demolished, how do I get a valuation?

The Australian Property Institute will provide guidance to valuers if the house has already been demolished or partially demolished. The institute and valuers are experienced in undertaking valuations of damaged, partially constructed or destroyed properties. The valuer will ask the applicant to provide all relevant information they have relating to the property including photographs, floor plans and videos. Asbestos assessment reports, asbestos removal control plans and demolition plans will include recent photographs and information about the property.

Please telephone the taskforce at 13 22 81 or email the Taskforce at asbestostaskforce@act.gov.au for further information about private demolition financial assistance.