



LOOSE FILL ASBESTOS INSULATION ERADICATION SCHEME

POLICY: VOLUNTARY ELIGIBLE IMPACTED PROPERTY

BUYBACK PROGRAM

This document sets out the ACT Government's preferred approach to properties that are not Affected Properties but need to be purchased by the ACT Government to facilitate the safe and efficient demolition of an Affected Property acquired under the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme). This document sets out the policy parameters of the Eligible Impacted Property Buyback Program. It should be read in conjunction with:

- *Guidelines: Implementation of the Voluntary Eligible Impacted Property Buyback Program* which provide more detailed information about implementation for Eligible Impacted Homeowners
- *Guidelines: Eligible Impacted Property Relocation Assistance Grant* which set out how relocation assistance will be administered
- *Guidelines: Temporary Relocation Assistance Grant* which set out how temporary relocation assistance will be administered for temporary relocation.

INTRODUCTION

The Scheme is designed to eradicate the ongoing exposure risks from the continuing presence of loose fill asbestos insulation in affected Canberra houses and a small number of units/townhouses. This will be achieved through the demolition of affected properties and site remediation.

Under the Scheme the ACT Government offered to purchase all Affected Properties on 28 October 2014. A small number of Affected Properties share a wall, roof space or sub-floor space with one or more adjoining properties. In these cases, it may not be possible to safely and efficiently demolish the Affected Property and completely remove the risks of loose fill asbestos insulation unless some, or all, of an adjoining property is demolished. These properties are considered to be 'Potentially Impacted Properties'.

The ACT Government will therefore consider whether it is necessary to purchase a Potentially Impacted Property in order to facilitate the safe and efficient demolition of an Affected Property that is acquired under the Scheme's Buyback Program. A property becomes an Eligible Impacted Property where it meets the matters for consideration set out in this policy. The ACT Government will offer to purchase Eligible Impacted Properties in accordance with this policy.

The voluntary Eligible Impacted Property Buyback Program and associated financial assistance only applies to Eligible Impacted Properties. The ACT Government will not seek to acquire Potentially Impacted Properties where the owner of the neighbouring Affected Property is not participating in the Buyback Program.

PURPOSE

This policy:

- sets out what is a Potentially Impacted Property and Eligible Impacted Property
- outlines the matters to be considered in determining whether the Territory will purchase a Potentially Impacted Property
- provides an overview of the process by which an Eligible Impacted Property will be purchased, and
- outlines assistance that may be available to the owner of an Eligible Impacted Property.

DEFINITIONS

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

Buyback Program – the Buyback Program for Affected Properties under the Loose Fill Asbestos Insulation Eradication Scheme.

Eligible Impacted Property* – a Potentially Impacted Property that has been determined to be an Eligible Impacted Property in accordance with the [Civil Law \(Sale of Residential Property\) Act 2003](#) section 9A.

Eligible Impacted Homeowner – the registered owner(s) of the Eligible Impacted Property at the time the property is determined to be an Eligible Impacted Property in accordance with this policy. Where two or more people are the registered Crown Lessees/owners as tenants in common or joint tenants, they are all Eligible Impacted Homeowners of that Eligible Impacted Property.

Potentially Impacted Property* – a dwelling that adjoins or is adjacent to an Affected Property as determined by the Territory.

Scheme – the Loose Fill Asbestos Insulation Eradication Scheme.

Unit** – a unit in a Units Plan governed by the *Unit Titles Act 2001*.

**Potentially Impacted Properties and Eligible Impacted Properties are not Affected Properties. They will not be added to the Register and they will not be subject to current requirements under the [Dangerous Substances Act 2004](#) such as mandatory danger stickers in meter boxes or the requirement to maintain asbestos management plans that apply to Affected Properties.*

*** Where a property is part of a unit plan which includes an Affected Property listed on the Register, the common title for all units (but not the individual unit titles) now records that the block is a loose fill asbestos affected block. This 'administrative interest' statement cannot be removed from the common title until the affected unit is demolished, remediated and removed from the Register.*

ASSESSMENT FOR ELIGIBILITY

The purpose of the ACT Government offering to purchase an Eligible Impacted Property is to facilitate the safe and efficient demolition of an Affected Property that has been, or will be, acquired by the Territory under the Scheme.

The ACT Government's decision on whether or not a Potentially Impacted Property is an Eligible Impacted Property will be made on a case by case basis once – and only when – the owner of the Affected Property has agreed to surrender the lease of the Affected Property or sell the Affected Property to the Territory, and will be guided by the following considerations:

- whether the dwelling is structurally dependent on or shares part of a structure (such as a roof or sub-floor) with the associated Affected Property
- whether there are migration pathways for asbestos fibres identified between the Potentially Impacted Property and the associated Affected Property
- whether loose fill asbestos insulation is found in the Potentially Impacted Property
- whether the structure and/or location of the Potentially Impacted Property poses an obstacle to efficient demolition of the associated Affected Property.

BUYBACK PROCESS

If it is determined that a Potentially Impacted Property is an Eligible Impacted Property, the Asbestos Response Taskforce (Taskforce) will contact the owner and invite them to apply for the voluntary Eligible Impacted Property Buyback Program in the following process:

- Step 1. Taskforce contacts the owner: If it is determined that a dwelling is an Eligible Impacted Property, the Taskforce will advise the owner of this in writing, make contact to discuss the process, see whether the owner is potentially interested in selling and invite them to apply for the Eligible Impacted Property Buyback Program.
- Step 2. Application: If the owner is interested and would like their property to be valued, they must complete an application form and submit it to the Taskforce within 60 working days from the date of the letter from the Taskforce.
- Step 3. Valuation: the Eligible Impacted Property will undergo two independent valuations. The property will be valued as at either:
 - a. **19 November 2015**, being the date the Eligible Impacted Property Buyback Program policy was first released; or
 - b. where the property is deemed Eligible Impacted more than 6 months after 19 November 2015, the valuation date will be the date the property was deemed Eligible Impacted by the responsible Minister.

Valuations will be coordinated by the Australian Property Institute (API). Valuation will be at market value, ignoring the fact that an associated property is an Affected Property marked for demolition but will otherwise assess the property in its current state. Time taken to conduct valuations will depend on the availability of the valuers and the homeowner.

Step 4. Offer: the Taskforce will make an offer to purchase the Eligible Impacted Property, with the offer price based on the average of the two independent valuations. However, where the property has been purchased pursuant to a contract entered into within the six months immediately preceding the valuation date (being either the 19 November 2015 or the date the property was deemed as Eligible Impacted as determined in Step 3), the contract price for that sale will form the offer price for the Eligible Impacted Property Buyback Program. The homeowner will have 60 working days to accept the offer, after which the offer will lapse.

Step 5. Exchange: If the owner agrees to sell and accepts the offer, a contract for sale is exchanged and a settlement date is agreed.

Step 6. Settlement: On the agreed date, sale of the property is settled. Payment is then made and the property is then owned by the Territory.

FIRST RIGHT OF REFUSAL

Consistent with the Buyback Program for Affected Properties, where an Eligible Impacted Property has its own Crown Lease, a First Right of Refusal will be offered to the homeowner. This means that if the homeowner selects this option, they will be offered the first right to purchase the remediated block at market value, without having to compete with other potential purchasers in a public auction process.

However where an Eligible Impacted Property is a unit, the First Right of Refusal will not be available consistent with the approach adopted in relation to Affected Properties.

EXTENDED SETTLEMENTS

The latest date for settlement under the voluntary Eligible Impacted Property Buyback Program is 30 June 2020. This is the same final date as the Scheme's Buyback Program for Affected Properties.

CLOSING DATE

Owners of an Eligible Impacted Property will have 60 working days from the date of the letter informing them of that fact to submit an application to enter the voluntary Eligible Impacted Property Buyback Program.

ASSISTANCE FOR OWNERS

The owner of an Eligible Impacted Property may be eligible for:

- the Eligible Impacted Property Relocation Assistance Grant as a one-off lump sum payment of \$5,000 (if the property is owner-occupied but not otherwise)
- stamp duty concession on the purchase of a residential dwelling within the ACT, up to the value of duty that would be payable on a property of the same value as the one they are selling through the Eligible Impacted Property Buyback Program
- \$1,000 towards fees for independent legal advice.

ASSISTANCE FOR TENANTS OF ELIGIBLE IMPACTED PROPERTIES

Tenants residing in an Eligible Impacted Property may be eligible for an Eligible Impacted Property Relocation Assistance Grant as a one-off lump sum payment of \$5,000.

LEGAL WAIVER

Consistent with the approach adopted in relation to Affected Properties, the owner of an Eligible Impacted Property who agrees to sell their property to the Territory must waive their right to pursue legal action against the Territory and the Commonwealth Governments in relation to any financial loss as a result of purchasing, living in or any other interest in the Eligible Impacted Property. This waiver does not include any sickness or health claims that they or any other person may have against the Territory, Commonwealth or any other person as a result of living in an Eligible Impacted Property.

For this reason, the owner of an Eligible Impacted Property will be required to obtain independent legal advice before the Territory will agree to exchange on the contract. Financial assistance of \$1,000 is provided towards legal fees as part of the final settlement sum.

NOTE

This policy should be read in conjunction with:

- *Guidelines: Implementation of the Voluntary Eligible Impacted Property Buyback Program*, which set out information for homeowners and will be used by the Taskforce to assess and process Eligible Impacted Properties through the Eligible Impacted Property Buyback Program
- *Guidelines: Eligible Impacted Properties Relocation Assistance Grant* which set out how relocation assistance will be administered
- *Guidelines: Temporary Relocation Assistance Grant* which set out how temporary relocation assistance will be administered.