



The Surrender Process: Fixtures and Fittings

The information contained in this document is general and intended to provide guidance to homeowners to assist them to comply with Part 6.3 and 6.4 of the Deed of Surrender of Crown Lease.

Homeowners should read the whole document carefully in conjunction with the Asbestos Assessment Report for their property and seek expert legal, building and structural advice before removing fixtures and fittings from their property.

Failure to meet the obligations under the Deed of Surrender may result in delays to the surrender and additional costs on the homeowner.

The purpose of this guide is to provide affected homeowners (described as 'Lessees' in the Deed of Surrender) with guidance as to what fixtures and fittings may be removed from their property, prior to surrender of the Crown Lease under the ACT Government Loose Fill Asbestos Insulation Eradication Scheme Buyback Program (the buyback program).

This guide must also be read in conjunction with the [Guide on Contents and Soft Furnishings](#), particularly in relation to the advice against removing items from contaminated areas of the home, soft furnishings and the recommended precautions for reducing potential contamination.

Homeowners should also seek advice from their solicitor before removing any fixtures and fittings from their property.

THE DEED OF SURRENDER

Affected homeowners wishing to participate in the buyback program will be required to enter into a [Deed of Surrender](#). Part 6 of the Deed of Surrender relates to the 'Condition of the Land' on surrender of the affected property. It places obligations on homeowners to keep the property in a safe and secure condition until surrender. In particular Part 6.3 provides:

- 6.3 The Lessee warrants that it has, from the date of the first valuation performed in accordance with the Program, and will, to the Surrender Date:
- (a) take all reasonable measures to ensure that the Improvements on the Land remain safe (subject to any pre-existing conditions or contamination);
 - (b) not knowingly take action that will increase the risk of asbestos fibres being released from the Land or Improvements thereon; and
 - (c) take no action that will result in any damage to the structural integrity of the Improvements or expose or penetrate walls, ceilings, roof or other internal or external surfaces.



Part 6.4 of the Deed of Surrender outlines the consequences of failing to comply with these requirements which include the surrender not being accepted, significant delays or additional costs or obligations on the homeowner:

- 6.4 If in the reasonable opinion of the Territory the Lessee has not complied with clause 6.2 or 6.3, the Territory may by notice given to the Lessee, in its absolute discretion take any or all of the following actions:
- (a) decline to accept the surrender of the Lease and require the Lessee to rectify the Land to an acceptable state;
 - (b) serve a Notice Requiring Surrender;
 - (c) seek damages for delay under clause 13; or
 - (d) accept the surrender of the Lease subject to a deduction from the Surrender Sum of the Territory's estimate of the reasonable costs necessary to return the Land to an acceptable state; or
 - (e) accept the surrender of the Lease, perform the works necessary to return the Land to an acceptable state and require the Lessee to pay the reasonable costs of the Territory in doing so as a debt due and payable by the Lessee to the Territory.

RATIONALE

Under the buyback program the affected property, including all of its fixtures and fittings, have been taken into account in determining its market value. Therefore, it is critical that homeowners do not remove any fixtures or fittings *before* the property is valued.

In a normal sale of residential property fixtures and fittings pass to the buyer on completion. This means that fixed items such as doors, knobs, benches, stoves and garden sheds pass to the buyer and are not permitted to be removed, except through an express agreement between the buyer and seller. Legally, all fixtures and fittings that have been taken into account through the valuation process become the property of the Territory on surrender. The Territory has obligations under financial management laws to manage these assets appropriately, and write assets off at the point of demolition. Generally it is not appropriate for the Territory to give assets away.

The Asbestos Response Taskforce ('the Taskforce') recognises the potential waste as the result of the complete demolition and disposal of affected properties. However the Taskforce must balance obligations under financial management laws and duty to take all reasonable steps to ensure the safety of homeowners and contractors against seeking to limit unnecessary waste and give homeowners the opportunity to keep valued possessions.

Therefore, the Taskforce will permit homeowners to remove certain fixtures and fittings prior to surrender, for their own personal use, in accordance with the strict conditions outlined in this guide. This permission to remove and re-use fixtures and fittings cannot be transferred to a third party and the items are not to be on-sold.



CONDITIONS

Homeowners **must not** remove anything that may:

1. increase the risk of asbestos fibres being released, including anything that may penetrate, expose or disturb internal or external wall cavities, ceiling cavities or the subfloor **in any manner** – this type of work requires a building approval and is not permitted
2. affect the structural integrity of the property – this type of work also requires building approval and is not permitted, or
3. affect or reduce the physical security or safety of the property risking unauthorised access or potential injury.

In addition homeowners must not require or permit any person (or thing) to enter the subfloor or ceiling cavity of a home.

Generally anything that can be removed without disturbing cavities (for example, island benches or floor boards installed on top of a fully sealed floor – such as on tiles), unplugged (for example, plug-in electric kitchen stove top or dishwasher) or unscrewed without affecting a wall cavity (for example, kitchen cupboards, clothes dryer from a frame) may be removed.

There is potential for all cavities to be contaminated. The prohibition on penetrating cavities applies to *all* walls, floors and ceilings in *all* affected homes. For the purpose of this guide, the Taskforce does not distinguish between new or old parts of the house, or contaminated or potentially contaminated part of the house. Doing so would require unreasonable and resource intensive assessments and analysis during the pre-surrender inspection and while the property is under ownership and management of the Government.

The Taskforce does not permit homeowners to engage licensed contractors or builders (plumber, gasfitters, electrician or handypersons) to remove any fittings or fixtures inside the home. Any item inside the home that requires the engagement of a licensed contractor for it to be removed must remain. Anything outside the home that penetrates wall or ceiling cavities must also remain but some solar panels and small structures such as garden sheds and plants can be taken.

Appliances external to the home that can be removed, including with assistance from licensed contractors, may be removed if evidence that they have been appropriately disconnected or de-energised is provided at the pre-surrender inspection (for example, an instant gas water heater that is connected to the brick only and disconnected by a licensed gasfitter).

Potential for Fibre Release and Building work

Homeowners are not permitted to remove any items that may trigger requirements for building approval under the *Building Act 2004*. This includes anything that may *disturb* loose asbestos fibres or increase the risk of the dispersal of asbestos fibres into the air, or any work that may affect the structure of a property. If in any doubt you should contact a licensed builder or building certifier.

Work that triggers building approval in relation to disturbance of asbestos fibres includes any work that exposes cavities, requires entry to the ceiling cavity or subfloor, or involves removal of any fixed soft furnishings including carpets and window finishings.

Regardless of whether work may or may not trigger building approval, any work on a home that



may expose cavities in any manner must not be undertaken. This includes removal of fixtures that are glued, nailed or screwed to walls, or removal of items that are connected to pipes or fittings inside the wall cavity (such as gas pipes or plumbing). If these items are removed, regardless of whether the gaps, holes or screw holes have been sealed – the surrender process will be compromised or delayed and will likely result in additional costs and obligations on homeowners. These obligations may involve engaging licensed Class A asbestos assessors and removalists to further remediate and provide clearance documentation for the area.

It is possible to remove items external to the house that are fixed only to the brick work or roof mounting frames (note: mounting frames must not be removed), such as water tanks and heaters or some solar panels (see section on solar panels in this policy), so long as they are appropriately disconnected by licensed tradespeople (such as gasfitters and plumbers) and evidence of this is provided at the pre-surrender inspection.

Structural Integrity and Building work

Work that triggers building approval in relation to the structure of a home includes any work that may impact the structure of a home including removal of fittings in external walls such as large windows or removal of improvements on the land greater than 10m² such as large garden sheds, garages, Granny flats and studios. Small garden sheds and structures (under 10m²) may be removed, subject to leaving the property in a safe manner (for instance all items from the garden shed should be removed or secured in another location).

Security and Safety

Items must not be removed, or be removed in a manner, that may affect the security of a property thereby increasing the risk of unauthorised access, or leaving the home exposed. This includes removing external elements of a home such as doors, boundary fences and gates, windows (even without a frame) and security screens (except where the remaining door is appropriately secure).

Items must not be removed, or be removed in a manner, that may affect the safety of the property such as removing garden plants without filling holes (which unfilled may represent trip hazards), removing items that are connected to gas, electrical or water lines – except where items are removed from the outside of a home, such as water tanks or gas water heaters and appropriate certification is provided by licensed contractors that the gas, power or plumbing has been appropriately disconnected or the appliance de-energised.

The Taskforce does not encourage non-essential work to be undertaken inside affected homes and therefore will not permit any removal of internal items or appliances that require the assistance of licensed contractors including builders, electricians, gasfitters and plumbers. Items or appliances that are located outside a home may be removed in accordance with this guide.

Any exposed wires, cut electrical fittings or gas lines inside a house will be considered energised (regardless of any certification provided at the pre-surrender inspection) and will result in delays to the surrender and additional costs and obligations on the homeowner.

Ceilings, subfloors and working on roofs

Homeowners are not permitted to remove fixtures or fittings that involve entry into the ceiling or subfloor or involve working on roofs.



Removal of solar panels, transmissions dishes and solar hot water systems from roofs (or frames on roofs) is not permitted under any circumstances unless removed by a licensed contractor. Evidence of appropriate removal, disconnection and/or de-energisation must be provided at the pre-surrender inspection.

The Taskforce is working to enable homeowners to retain their feed in tariff (where this is beneficial to them). This requires legislative change and further information will be provided to homeowners in early 2015.

SOME COMMON EXAMPLES

Please note that this is not a prescriptive list of what can and cannot be taken from an affected property.

Light fittings: lights and light fittings essentially fall into two groups: those that require an electrician for installation/removal and those that do not. Lights and light fittings that must be installed/removed by a licensed electrician (e.g. pendant lights, wall lights and most chandeliers or other lights that contain multiple bulbs and have been hardwired to the house) cannot be removed.

Light fittings (e.g. DIY light shades) that cover a batten light fixture (and generally take a standard light bulb) can be taken provided the fitting does not have any wires attached to it and removal of the fitting would not expose a wall or ceiling cavity. Some decorative chandeliers may be removed, as long as the electrical wiring and bulb remains fully intact.

The nature of downlights mean that they cannot be removed without accessing or disturbing cavities and must remain in place. This is regardless of whether they would need a licensed electrician to install/remove them.

Windows and window furnishings: Window and door frames are part of the structure of the house and must remain in place. Windows cannot be removed without exposing wall cavities. Removal of these also means the property is becomes at risk of unauthorised entry.

Some shutters and awnings may be removed, provided there is no requirement to cut into walls, with the awnings removed from their bolts. Non-fabric blinds may be removed only if they are attached or screwed into window frames and do not penetrate wall cavities. All soft window furnishings must remain.

Cupboards, door handles and knobs: It is possible to remove cupboard doors (except if asbestos fibres have been detected inside the cupboard) door handles, internal free standing shelves, kitchen knobs and bathroom knobs from any room.

Doors, such as internal sliding or cavity doors, must not be removed if they are open in any manner to a ceiling or wall cavity.

Bathroom fittings: Any bathroom fixtures or fittings that require a plumber, electrician or other tradesperson to remove or are directly attached to a wall, floor or ceiling cavity (e.g. vanity, bathtub, handrails, tastic heat lights) must remain in place. Most fittings such as towel rails, toothbrush and toilet roll holders would penetrate wall cavities and must remain. Vanity doors, toilet seats, parts of shower screens and free standing bathtubs (that do not require plumbing) may be removed.



Kitchen: Any fixtures or fittings that require a plumber, electrician or other tradesperson to remove or are directly attached to a wall, floor or ceiling cavity (e.g. cupboard frames, rangehood, gas stoves, most ovens, some dishwashers and sinks) must remain in place.

Appliances normally considered a fixture that can be unplugged may be taken such as some ovens, stove tops, integrated coffee machines and free standing ovens and stove combinations can be taken.

Freestanding benchtops, pantry shelves and baskets, cupboard doors and drawers may also be removed.

Laundry: Items that can be unplugged or unscrewed (without penetrating cavities) may be taken, including integrated washers and clothes driers, wall mounted clothes driers that can be removed from the frame and cupboard doors.

Garden: Items such as plants and statues may be taken provided the removal does not pose a trip hazard or other safety hazard to people entering the property after the surrender. It is the homeowner's responsibility to reduce safety risks by filling any holes that are left in the garden as a result of removing plants or structures.

Paving, ponds, water tanks, irrigation systems, outdoor kitchens, spas, saunas, pool filters, pizza ovens, built in barbeques, lighting (that does not penetrate cavities or eaves) integrated play equipment and cubby houses may also be taken.

Homeowners should exercise caution when removing recycled paving or bricks from the garden. Recycled bricks from the house may be contaminated with residual asbestos fibres. When in doubt recycled products should be left.

Outdoor structures: Small structures such as garden sheds, pagodas and gazebos may be removed. Generally outdoor improvements and structures over 10m² such as large sheds, pergolas, decks, garages, swimming pools, Granny flats and studios are structural and require building approval prior to removal.

The Taskforce may consider permitting homeowners to seek building approval to remove outdoor structures prior to surrender, however this is likely to delay the surrender process. Homeowners should discuss this with the Taskforce or their solicitor in the first instance.

Fences and gates: All boundary fences and gates should remain on the property. Banisters, rails or fences that are required for fall protection, security or safety (such as pool or pond fences) must also remain.

Any internal fences, gates and screens that do not form part of the boundary may be removed.

Solar panels: There are safety issues that need to be considered in relation to removal of panels and their components including working at heights, potential to damage roofs and in relation to licensable electrical work. Under no circumstances should mounting systems be removed from roof tops.

Changes were made to legislation in 2012 which means that many pre-July 2013 panels are not compliant with the current fire safety requirements and cannot be re-installed in a new location. Only panels that meet the current photovoltaic (PV) installation standard AS/NZS 5033:2014 can be



moved and installed at a new location. This must be undertaken by a licensed contractor and can only be removed for personal use – not to be sold or given to a new owner. Determining whether panels are compliant is a matter for the homeowner and a licensed contractor. Non-compliant panels must remain in-situ. Owners can review the [Clean Energy Council website](#) to ensure the panels are compliant.

All other laws must also be complied with when removing and reinstalling solar panels including work health and safety, electrical safety and building laws. If you are unsure consult your solicitor and licensed contractor.

FINANCIAL ASSISTANCE

The Taskforce will not provide any financial assistance for removing fixtures and fittings. This cost is to be borne fully by homeowners.

ACCESSIBILITY

The ACT Government is committed to making its information, services, events and venues as accessible as possible.

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