

2016

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO THE
STANDING COMMITTEE ON PUBLIC ACCOUNTS
REPORT NO. 30**

**INQUIRY INTO THE LOOSE-FILL ASBESTOS INSULATION ERADICATION SCHEME –
QUARTERLY PROGRESS REPORTING**

**Presented by
Mr Mick Gentleman MLA
Minister for Workplace Safety and Industrial Relations**

Introduction

It was less than two years ago – on 28 October 2014 - that the ACT Government announced the Loose Fill Asbestos Insulation Eradication Scheme (the Scheme) to address the health, social, financial and practical consequences of the continuing contamination of 1,022 Canberra houses with loose fill asbestos insulation. It was only in late June 2014 that the Government established the Asbestos Response Taskforce (the Taskforce) to deliver emergency assistance to owners and tenants of the affected houses, and to prepare advice on an implementing an enduring solution to this long running issue.

Since it was formed, the Taskforce has worked with affected homeowners, with neighbours, with industry bodies and industrial organisations, with community service providers and community groups, with recognised experts and regulators in work health and safety and asbestos-related disease, with commercial entities, and with its counterparts in the Commonwealth and New South Wales to design and implement a program of unprecedented scale, cost and complexity in the Territory's history.

As of 4 August 2016:

- the owners of 998 affected houses (including 12 assisted private demolitions and five Housing ACT properties) had agreed to participate in the Scheme
- the owners of 11 impacted properties had agreed to participate in the Scheme
- 888 affected houses and 6 impacted houses had been acquired by the Government
- 291 affected houses had been demolished (276 by the Taskforce, 11 through assisted private demolition and four privately), and
- 187 properties had been removed from the Affected Residential Premises Register and were ready for reoccupation and rebuilding.

Since the commencement of the sale process for remediated blocks in April 2016:

- 183 First Right of Refusal Offers (FROR) have been made
- 59 blocks have been offered for public sale
- contracts have been exchanged on 44 remediated blocks (three FROR and 41 public sale), and
- sales processes had been completed on 21 blocks (two FROR and 19 public sale).

The Government remains committed to eradicating loose fill asbestos insulation from Canberra's houses, and to providing clear advice and compassionate assistance to the owners of those affected houses. Given the scale of this issue which touches everyone in Canberra in some way; the speed with which the issue has come to a head; and the phased approach to implementing the Scheme it is important that the Legislative Assembly and the people of Canberra know what has happened, and what is coming next as the demolition and sales program continues to unfold, and the other elements of the Scheme progress. Indeed, providing information to homeowners and the wider community about this issue, and the Scheme, has been and will remain one of the Taskforce's core functions.

In that context, the Government recognises the importance of an ongoing conversation about the content and utility of information and reporting that is being provided, and constructively questioning how it might be refined to better meet the needs of the Legislative Assembly, affected homeowners and the wider community. In some cases, the answers to those questions will lie in provision of new information or the same information in different forms. In others, they will be found in reiterating material that has been provided already but which has perhaps been misunderstood or overlooked.

The Report by the Standing Committee on Public Accounts of its *Inquiry Into The Loose-Fill Asbestos Insulation Eradication Scheme—Quarterly Progress Reporting* raises a number of such questions to which the Government's response is set out below.

Recommendations

RECOMMENDATION 1

4.14 The Committee recommends that the ACT Government ensure that future quarterly progress reports on the implementation of the Loose-fill Asbestos Insulation Eradication Scheme use a consistent and meaningful reporting framework—as per the Chief Minister’s and Treasury Directorate’s publication—*Organisational Performance Measurement and Reporting Guide* (2013).

Government Response: Noted

The original recommendation made by the Standing Committee on Public Accounts (the Committee) in December 2014 in the report of its inquiry into the *Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-15* – having noted that “successful implementation of the Scheme will effectively require a coordinated approach across several directorates and agencies” – was that “the ACT Government table in the ACT Legislative Assembly quarterly progress reports on the implementation of the Scheme”¹. The purpose of such reports is described by the Committee in its current report as “to ensure adequate coordination and monitoring”².

The Terms of Reference for the Committee’s current inquiry are similarly very broad³:

Pursuant to Standing Order 216, the Committee resolved on 10 March 2015 to inquire into all tabled quarterly progress reports on the implementation of the Loose-fill Asbestos Insulation Eradication Scheme and report to the Assembly as follows:

- 1) on any items or matters in those reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed; and
- 2) any other relevant matter.

The Government considers it is desirable for there to be consistency over time and between different government programs in the reporting on government activity and expenditure. Quarterly reporting to the Legislative Assembly on implementation of the Scheme was, however, established in recognition of the unprecedented nature, scale and complexity of the Scheme and the relative speed with which the Scheme was designed and announced, and continues to be implemented. It was intended to assist in supporting the monitoring of the work of the Taskforce which was itself established to provide exactly the collaboration, alignment of effort and cohesion of purpose referred to by the Committee in its 2014

¹ Standing Committee on Public Accounts (PAC) (2014) *Inquiry Into The Proposed Appropriation (Loose-Fill Asbestos Insulation Eradication) Bill 2014–15* http://www.parliament.act.gov.au/_data/assets/pdf_file/0007/670669/Appropriation-Loose-fill-Asbestos-Insulation-Eradication-Bill-201415-Vol-1-FINAL.pdf pp.144.

² Standing Committee on Public Accounts (PAC) (2016) *Inquiry Into The Loose-Fill Asbestos Insulation Eradication Scheme—Quarterly Progress Reporting* http://www.parliament.act.gov.au/_data/assets/pdf_file/0003/912063/8th-PAC-30-Fluffy-Qtrly-rpting.pdf p.1

³ PAC 2016, p.iv

report. The Quarterly Reporting series stands both as a supplement to more formal reporting process embodied in the annual budget process, and as a better record than a collation of press reporting and newsletters of the work of the Taskforce in a given period. Quarterly reporting by the Taskforce has, to date, deliberately adopted a more narrative style focussed on activity in the reporting period, in part recognising the audience is wider than those who study the budget papers and annual reports.

The quarterly reports are not intended to replace the formal performance planning and reporting (including on the achievement of outcomes) set out in the budget papers and annual reports. In those contexts, a more rigid and structured framework is properly and consistently applied. In this context the Government particularly welcomes the conclusions drawn by the Auditor-General in the recent performance audit report that⁴:

- the planning for and management of the financial arrangements for the implementation of the Loose-fill Asbestos Insulation Eradication Scheme (the Scheme) has been effective, and
- the Taskforce's approach to governance and risk management reflects better practice.

Focussed and consistent reporting on Scheme delivery and its financial implications in particular has become – and will remain – a feature of budgeting and financial reporting in the Chief Minister, Treasury and Economic Development Directorate's budget documents and annual reports for this reason.

The Government notes only occasion on which its has published targets under the Scheme was in the release (and subsequent updating) of the demolition schedule. Progress in this regard has been reported in the quarterly report and elsewhere. While the Government offered to acquire every affected house on 28 October 2014 – participation in the voluntary buyback program and the timing of that participation is not in its control. As such, no particular targets were set against which reporting could occur. For this reason, reporting of progress towards the total number eligible for, or participating, in a particular element or phase of the Scheme provides a more meaningful representation of progress in the Scheme's implementation.

The format and content of quarterly reporting has been deliberately changed – including in response to earlier recommendations by Assembly Committees – over time with a view to maintaining relevance to its purpose in providing information about the delivery of the Scheme in a particular window. The Government will consider the observations in the Committee's report in relation to content and

⁴ Auditor-General (2016) The management of the financial arrangements for the delivery of the Loose-fill Asbestos (Mr Fluffy) Insulation Eradication Scheme [http://www.audit.act.gov.au/auditreports/reports2016/Report%20No%204%20of%202016%20The%20management%20of%20the%20financial%20arrangements%20for%20the%20delivery%20of%20the%20Loose-fill%20Asbestos%20\(Mr%20Fluffy\)%20Insulation%20Eradication%20Scheme.pdf](http://www.audit.act.gov.au/auditreports/reports2016/Report%20No%204%20of%202016%20The%20management%20of%20the%20financial%20arrangements%20for%20the%20delivery%20of%20the%20Loose-fill%20Asbestos%20(Mr%20Fluffy)%20Insulation%20Eradication%20Scheme.pdf) p.1.

consistency of reporting but will not delay the tabling of the June Quarter 2016 report (due in mid-August 2016) while it does so. The Taskforce will seek to open a discussion with the Committee Secretariat in relation to options for addressing the Committee's observations without extending to duplicating the formal budget and annual reporting process on a quarterly basis.

RECOMMENDATION 2

4.22 The Committee recommends that the ACT Government publish its quarterly progress reports on the implementation of the Loose-fill Asbestos Insulation Eradication Scheme within 45 days of the end of each quarter.

Government Response: Agreed

RECOMMENDATION 3

4.26 The Committee recommends that the Minister for Workplace Safety and Industrial Relations inform the ACT Legislative Assembly by the last sitting day in August 2016 regarding the: (i) latest developments concerning claims of theft from "Mr Fluffy" affected properties being demolished by one of the authorised contractors; and (ii) closure of the West Belconnen Resource Centre for five days in June 2016 due to heavy rain—in particular, its impact on the demolition program and what measures were put in place to manage demolition waste and mitigate risk during the closure period.

Government Response: Agreed

Allegations of Theft

As canvassed with the Select Committee on Estimates 2016-17 on 30 June 2016⁵ and in a Taskforce media release the same day⁶, the Taskforce instituted an internal audit process and separate police investigation as soon as it became aware of allegations made to *The Canberra Times* about the unauthorised removal of abandoned household contents by one of its contractors. The Taskforce also required CaylaMax to cease work on all its sites that involved the removal of fittings and abandoned

⁵ Hansard Select Committee on Estimates 2016-17, 30 June 2016 <http://www.hansard.act.gov.au/hansard/2013/comms/estimates46b.pdf> p.1129

⁶ ACT Government (2016) *CaylaMax Recommences Full Demolition Activity* <http://www.asbestostaskforce.act.gov.au/homepage-tabs-more/latest-news/caylamax-recommences-demolitions>

furniture left inside affected houses by former owners (as is permitted under the Scheme) pending the outcome of those investigations.

The internal audit process found no evidence of misconduct by any individual nor of systemic removal and reuse of abandoned furniture or fittings by the company alleged to be involved. The company explicitly denied the allegations made. The ACT Policing investigation concluded on 6 July 2016 and did not identify any criminal offences or acts of impropriety by employees or contractors of the company.

CaylaMax continued with internal asbestos removal and actual demolition work while the investigations (which proceeded with the company's full cooperation and support) were undertaken. While the investigations were underway, the Taskforce worked with WorkSafe ACT and CaylaMax to develop a new work practice that would effectively prevent the removal of hard-surfaced abandoned furniture from affected houses. Under this process soft furnishings would continue to be appropriately removed from houses and safely disposed of, but hard furniture and fittings would be disassembled and entirely sprayed with the same dyed bonding agent with which the interior structure of houses is sprayed before demolition. The pieces of furniture would never leave the affected house, instead remaining inside the property until demolition when they would be removed as part of the demolition waste and dumped.

Based on the conclusions of the internal audit and the expected impact of the new work practice, the Taskforce decided to lift its contractual works prohibition and permit CaylaMax to re-commence the removal of abandoned furniture and fittings on 30 June 2016. The Taskforce decided to trial the new approach on the remaining houses under the then current CaylaMax contract, before refining it (if necessary) and widening its application to all head contractors. ACT Policing was informed by the Taskforce of its intention to lift the suspension of works, and indicated that decision would have no impact on its consideration of the allegations.

The trial of the new work practice is now complete, and the new process was found to be effective and to also offer some efficiencies in the demolition process. It has therefore been extended as a contractual requirement for all new works awarded by the Taskforce, and is being applied with the agreement of head contractors on newly commencing demolition processes under existing work orders.

In addition, all head contractors have been directed to re-emphasise with their workers – including at onsite toolbox briefings – the need for appropriate work health and safety practices to be followed at all times on demolition sites, and for the Taskforce's waste streaming policies to be complied with.

WorkSafe ACT inspectors and Taskforce contract management staff will direct further scrutiny and supervision to this aspect of the demolition program to ensure compliance, and more importantly safety for workers and the wider community.

Weather Delay

The possibility of inclement weather is one of a number of factors considered in the Taskforce's and head contractors' scheduling of demolition works. The Taskforce works with Procurement and Capital Works and ACT NOWaste to ensure contractors have access to current information about the status of the West Belconnen Resource Management Centre. The key risk to be managed in this context is for trucks accessing the actual dumping area at West Belconnen and the possibility of them being becoming bogged or even overturning in muddy conditions.

Following particularly heavy recent rain events it was necessary to close the West Belconnen facility keeping with longstanding practice at that site. Where possible, advance notice (and out of business hours confirmation) is provided to contractors about possible closures. When West Belconnen is closed, a number of options exist – all of which are implemented under the supervision of the licensed asbestos assessor overseeing the demolition (and ultimately WorkSafe ACT) - including:

- delaying the actual demolition works
- retaining building rubble on site for a period (with appropriate dust control and water runoff controls in place)
- where skip trucks are being used, setting down a full skip in a secure area inside the West Belconnen facility, and
- storing waste securely in trucks on the demolition site.

There were no significant delays to the demolition schedule caused by weather related closures at West Belconnen in June 2016. The demolition program continues to run ahead of the published schedule notwithstanding recent wet weather.

RECOMMENDATION 4

4.34 The Committee recommends that the ACT Government's quarterly progress reporting on the implementation of the Loose-fill Asbestos Insulation Eradication Scheme include an updated estimation of the net financial impact of the Scheme.

Government Response: Noted

The Government formally updates and publishes estimates of the Territory's Budget position, and financial reports on financial performance, in accordance with the cycle set out in the *Financial Management Act 1996*. It will continue to provide updates on the financial impact of the Scheme as part of that process.

The Government notes the Auditor-General concluded in the recent performance audit of the Scheme⁷:

To provide stakeholders and the public with a complete picture of the financial impact of the Scheme, particularly given its potential impact on the financial results of the ACT Government, whole-of-life reporting on the revenue and costs (including borrowing costs) of the Scheme (i.e. from its inception to completion) should be provided on an annual basis through the published budget papers.

Consistent with the Auditor-General's recommendation, the 2016-17 Budget Papers included a detailed breakdown of the financial estimates for the Scheme.

It is important that the Committee, and members of the Canberra community, keep in mind that every remediated block sold under the Scheme is sold at a significant cost to the Territory. The net direct cost to the Territory of the first 28 remediated blocks resold was \$7.2 million or around \$258,000 per block. That figure only takes account of direct costs (including financial assistance to former owners). It excludes stamp duty concessions, and the Government's borrowing costs on the loan the Commonwealth Government provided to support delivery of the Scheme.

The Government's current best estimate of the net financial impact of the Scheme is set out in the 2016-17 Budget Papers: it has improved slightly to \$366 million⁸. This is not out of keeping with the \$400 million figure which has been given as the estimated net cost for some time. Indeed, the Government and the Taskforce regularly refer to the financial impact of the Scheme in Assembly Committees, in response to questions without notice, and in response to media inquiries, and will

⁷ Auditor-General (2016) p.16.

⁸ ACT Government (2016) *Budget Paper 3: Budget Outlook 2016-17* http://apps.treasury.act.gov.au/data/assets/pdf_file/0008/870902/Appendices.pdf p.344

continue to do so. The Government will nevertheless consider the inclusion of commentary about emerging financial trends in future quarterly reports where any such information is sufficiently robust to be provided outside the normal budget cycle, and the movements are considered material.

RECOMMENDATION 5

4.46 The Committee recommends that the Minister for Workplace Safety and Industrial Relations inform the ACT Legislative Assembly by the last sitting day in August 2016, as to when: (i) in terms of the date, the decision was made to change the process for remediation of affected blocks; and (ii) the change in the process became effective.

Government Response: Agreed

Background

The approach to the clearing of affected blocks under the Scheme has evolved in light of expert advice, collaboration in policy design and program delivery, and expressed community and former owner sentiment since 2014. This evolution of the Government's approach has been clearly communicated to the Legislative Assembly, directly to affected homeowners, and to the wider community through the Taskforce newsletters and website as well as through mainstream and social media.

It is neither necessary, nor desirable, nor efficient to clear affected blocks "corner to corner".

While the scope of necessary demolition works is ultimately controlled by the licensed asbestos assessor overseeing each demolition – and notwithstanding the position outlined at the time of the Scheme's announcement in October 2014 – there is no current evidence or scientifically-based suggestion that it is necessary to completely raze every affected block to eradicate the loose fill asbestos insulation present inside affected houses.

The Government's approach to demolition is further informed by:

- advice from the Land Development Agency and real estate agents engaged to market remediated blocks about the attractiveness and added value of established gardens and trees, and approved structures like free standing garages; and
- the clearly expressed desires of owners of affected blocks (especially where they are seeking to exercise a first right of refusal) and of neighbours of affected blocks.

It also takes account of the need for efficiency in the demolition program, and to avoid unnecessary cost to the community.

Completely clearing affected blocks would add significantly to overall Scheme costs, as well as the volume of waste to be safely disposed of, without any health and safety benefit in relation to loose fill asbestos insulation, and at a likely significant detriment to land sales revenue and individual and community satisfaction and amenity.

Process Scope and Design

The Government's approach to demolition of affected houses has been developed by the Taskforce in consultation with WorkSafe ACT, Procurement and Capital Works, the Environment Protection Authority, licensed asbestos assessors and contaminated soil experts. It is significantly shaped by evidence gained in the pilot demolition program, and takes account of national guidelines and best practice including the *National Environment Protection (Assessment of Site Contamination) Measure (L999) (ASC NEPM 2013)* and *The Guideline for the Assessment, Remediation and Management of Asbestos Contaminated Sites in Western Australia*⁹.

Its implementation is overseen by WorkSafe ACT and the licensed asbestos assessor responsible for each demolition, and is further subject to subsequent satisfactory completion of independent soil validation processes before an affected block can be removed from the Affected Residential Premises Register established under the *Dangerous Substances Act 2004* and made available for sale and reoccupation.

Implementation – Scientific and Evidence Based Policy

The approach being adopted to soil validation and the deregistration of remediated blocks is based on collaborative policy development by the Taskforce in the planning for Scheme implementation, real-world field testing through the pilot demolition program, a formal review of the outcomes of that pilot process, and a subsequent collaborative process design in implementing the final arrangements for management of the Affected Residential Premises Register which came into force on 1 July 2015.

⁹ <http://www.public.health.wa.gov.au/cproot/3763/2/Guidelines%20for%20Asbestos-Contaminated%20Sites%20-%20May%202009.pdf>

The independent soil validation process that follows the work health and safety clearance of a demolition site by the licensed asbestos assessor overseeing the demolition is central to determining whether an affected block is deregistered. This soil sampling process was established by the Government as an additional safeguard and to provide further assurance to prospective purchasers of remediated blocks that loose fill asbestos insulation has been effectively removed, and that blocks are suitable for reoccupation and rebuilding. The Taskforce worked with WorkSafe ACT, the Environment Protection Authority, contaminated soil experts, and asbestos assessors to develop a process and standardised soil validation report.

Under that process, soil sampling of the demolition works zone (i.e. the footprint of the house and the area around it disturbed by machinery carrying out the demolition as well as waste storage and access areas) is undertaken at double the intensity of the nationally recognised leading regulatory guidance. In most cases this results in at least ten soil samples being taken in the first instance. Samples are examined by an appropriately National Association of Testing Authorities (NATA) accredited laboratory for asbestos in soil analysis. Even if only one asbestos fibre is found by the laboratory, this results in a 'fail' and triggers further soil removal. This results in an iterative process with the site being retested until asbestos is no longer detected. Further detail of this process is contained in the relevant joint WorkSafe ACT/Taskforce fact sheet¹⁰.

Satisfactory conclusions in the soil validation report is, in a process first settled by the Chief Minister on 10 April 2015, and confirmed by the Minister for Workplace Safety and Industrial Relations on 17 June 2015, one of the three pieces of evidence on which the decision to remove a remediated block from the Affected Residential Premises Register is based.

At the end of the pilot demolition program, a formal review process was undertaken. One of the key outcomes of that review was the need to refine the soil validation process to provide greater clarity to those conducting the validation work, for regulators, and ultimately for prospective purchasers. Following the review process, the Taskforce worked with WorkSafe ACT, contaminated soil experts, and asbestos assessors to refine the template report. The revised templates report and supporting material were endorsed by the Work Safety Commissioner and Head of the Taskforce, and are published on the Taskforce's website¹¹.

¹⁰ http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0004/785623/ART-WorkSafe-SoilValidation-InfoSheet-20151110.pdf

¹¹ http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0005/785624/ART-Site-Soil-Validation-Report-Template-16102015.pdf

Informing Affected Homeowners and the Wider Community – Post Pilot Demolition

Consensus expert advice and independent scientific evidence underpin the soil validation process the Government has instituted under the Scheme. The approach has been communicated to affected homeowners and the wider community on a number of occasions. The June – September 2015 Quarterly Report, for example, which covered the period during which the pilot demolition program was undertaken, reported¹²:

It is important to note that the Taskforce will not be clearing blocks through its demolition activity. The Taskforce's mandate is to eradicate loose fill asbestos from the community and will therefore be removing those structures affected by Mr Fluffy. In most circumstances this will be just the house and any attached structures such as garages or pergolas.

That Report also noted¹³

A lessons learned and improvement workshop for all agencies and industry involved in the pilot program as well as the New South Wales Government was held on 11 August 2015. The workshop covered areas such as demolition design and innovation, transport, disposal and waste management, program management and project scope and assessment. The aim was to reflect on experiences and highlight improvements and efficiencies. More than 80 people were in attendance. A copy of findings of this workshop is at Attachment A.

Also in October 2015, the issue was canvassed by *The Canberra Times* as part of its coverage of the outcomes of the pilot demolition program¹⁴:

Taskforce head Andrew Kefford said there were few surprises coming out of the trial, but it had led to soil sampling guidelines being strengthened and a wet weather shelter installed at the West Belconnen Tip to ensure work can continue to be carried out even in the rain – without exposing workers to slip hazards.

In terms of soil sampling, the Taskforce and WorkSafe ACT have tightened the previous policy to ensure two independent levels of soil testing are undertaken before any block is deregistered and made available for sale. Mr Kefford said soil testing guidelines had been adopted from Western Australia which had provided the leading national standard through its own experience of soil contamination through its Wittenoom blue asbestos mine.

He said the ACT testing guidelines were adapted to provide double the rate of sampling than in WA "to provide a level of assurance that all loose asbestos has been removed". He noted that Canberra's extensive amount of bonded asbestos – much of which is buried as building rubble would not be assessed as part of block remediation.

"We are just confirming that the footprint of the home and surrounding soil are free from loose amosite fibres." Soil was generally being scraped to a depth of 10 centimetres and sampling would then be taken to confirm it was clear of amosite. One of the five pilot houses needed additional soil to be scraped after testing showed some fibres remained.

Mr Kefford said the community could have full confidence that blocks released back onto the market would be free of loose fill amosite asbestos.

Homeowner Views

The Government notes the approach being adopted, while properly founded on scientific evidence and expert advice, is also in accord with the expressed desires of affected homeowners, especially where they are seeking to exercise their first right of refusal to repurchase their remediated block. At the end

¹² ACT Government (2015a) *Quarterly Report: Update On The Act Government's Response To The Issue Of 'Mr Fluffy' Loose Fill Asbestos 1 July 2015 – 30 September 2015* http://www.asbestostaskforce.act.gov.au/data/assets/pdf_file/0019/801811/Att-A-Taskforce-Quarterly-Report-30-June-30-October-2015-PDF-version.pdf p.26

¹³ ACT Government (2015a) pp.8-9

¹⁴ McDonald, E. "Fluffy Home Less Painful Now It Is Demolished" *The Canberra Times* 26 October 2015 <http://www.canberratimes.com.au/act-news/fluffy-home-less-painful-now-it-is-demolished-20151020-gkebix.html>

of 2014, the Taskforce was continuing to receive significant concerns about “unnecessary” clearing of blocks. Following public forums on 11 and 16 December 2014, it published a written record of questions and answers provided. Amongst discussion at those forums, and set out those written answers, was the following update on the intended approach¹⁵:

Will the Taskforce clear the block?

The key priority of the Taskforce is to clear the block of loose fill asbestos. How much of the garden/landscaping or other improvements are removed will be determined at each block by soil testing which will be overseen by a licensed asbestos assessor. Within this key objective, the Taskforce will work with homeowners who wish to return to their block with regard to what external features can potentially remain. Further information will be provided by the Taskforce in early 2015.

That message was repeated, for example, in Taskforce Newsletter #26 in May 2015¹⁶:

If we are returning to our blocks, will we be billed to remove our pool or other structures if we don't want it?

The Taskforce will not necessarily be clearing blocks completely. If there are any structures on the block that have not been properly approved, they will be removed. Discussions about what other improvements will be removed and what can be kept will be had with returning homeowners closer to the time of demolition.

Is it safe to watch the demolition?

Yes. These houses can and will be demolished safely. The work will be informed and led by experts in asbestos assessment and removal as well as demolition contractors. WorkSafe has worked closely with the Taskforce around this work and there will be seven inspectors dedicated to reviewing activities.

...

Air monitoring as well as dust suppression will be in place and soil on the block remediated. This does not mean that entire blocks will be cleared. This will depend on the advice of experts as well as discussions with owners if they are seeking to remain on the block

In September 2015, the Government provided further confirmation and detail of the approach it would take to demolition directly to former owners in the *Exercising Your First Right of Refusal: Guidelines* which relevantly stated¹⁷:

Step 3: Assessment of Affected Blocks

In preparing to hand over Affected Blocks for demolition works, the Taskforce will consult with contractors and asbestos assessors to settle the scope of demolition works for a particular Affected Block. In undertaking this assessment the Taskforce will identify the Improvements that must be demolished or removed in addition to the contaminated dwelling(s). This decision will be based on:

- contamination – any Improvements that are, or are likely to be, affected by loose fill asbestos contamination will be removed
- demolition logistics – it may be necessary to remove some Improvements that cannot be protected or retained during the demolition works
- site integrity – to maintain site integrity it may be necessary to retain some Improvements (e.g. retaining walls, paths and vegetation) to prevent soil erosion or to ensure adequate drainage)
- assessment of the highest and best use of the Remediated Block – consideration will be given to retaining Improvements that add value to Remediated Blocks on the open market (e.g. driveways, gates, unaffected structures and landscaping) and removing Improvements that detract from the value on the open market (e.g. some swimming pools, dilapidated separate garages)

¹⁵ ACT Government (2014) Q&A December Forums http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0010/678106/Q-and-A-DecemberForums.pdf

¹⁶ ACT Government (2015) Newsletter Edition #26 <http://www.asbestostaskforce.act.gov.au/communications-and-engagement/newsletters/newsletter-edition-26>

¹⁷ ACT Government 2015(b) Exercising Your First Right of Refusal: Guidelines http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0007/772369/ART-ExercisingYourFirstRightOfRefusal-Guidelines-20150909-A11169951.pdf

- legality - any unapproved building structures that should have approval will be removed.

...

Step 6 - Identification of Preserved Improvements

Following the Taskforce's completion of the demolition scoping assessment and determination of the sale price, the Taskforce will work with the First Right Holder to identify possible Preserved Improvements. Preserved Improvements are those Improvements that the Taskforce would remove if the Remediated Block was being prepared for public sale but which the First Right Holder wishes to retain.

It is important to note that discussions about Preserved Improvements will not canvass retention of Improvements that the Taskforce has determined must be removed due to contamination, approval status or logistical factors.

...

The Taskforce will not agree to requests from First Right Holders to conduct works beyond those it would undertake if the property was being prepared for public auction (e.g. earthworks such as site cutting or filling for a future house; removing trees, or removing an Improvement that the First Right Holder wants removed but which would be retained if the Remediated Block were being prepared for sale on the market).

RECOMMENDATION 6

4.49 The Committee recommends that the ACT Government ensure that, where applicable, all publicly available government policy documents pertaining to the Loose-fill Asbestos Insulation Eradication Scheme be updated to reflect the revised soil methodology requirements for clearing affected blocks.

Government Response: Not Agreed.

Especially in the context of a Government program that began as an emergency response to an unfolding crisis, and which has subsequently and publically been outlined, tested and refined as its phases have been implemented, it is neither practical nor helpful to continually update materials from the early phases of the Scheme to reflect subsequent developments. Indeed, particularly in relation to the critical *Preferred Way Forward*¹⁸ documents released with the announcement of the Scheme on 28 October 2014, it is more accurate and transparent for documents to remain unamended.

In keeping with the course outlined in those documents but providing more finely-grained implementation detail, at the commencement of each phase of the Scheme, the Taskforce has released policy guidelines setting out relevant processes, including:

- *A Guide to the Voluntary Buyback Program*¹⁹

¹⁸ ACT Government (2014) *The ACT Government's Preferred Way Forward On Loose Fill Asbestos - Overview*

http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0006/681090/The-ACT-Governments-Preferred-Way-Forward-On-Loose-Fill-Asbestos-Overview.pdf

ACT Government (2014) *The ACT Government's Preferred Way Forward on Loose Fill Asbestos: Supporting Detail*

http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0009/675504/Policy-Framework-Final-Supporting-Detail-28102014.pdf

¹⁹ ACT Government (2014) *A Guide to the Voluntary Buyback Program* http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0010/679465/The-Loose-Fill-Asbestos-Insulation-Eradication-Scheme-A-Guide-to-the-Voluntary-Buyback-Program.pdf

- *Policy – Voluntary Unit Buyback Program*²⁰
- *Policy – Voluntary Eligible Impacted Property Buyback Program*²¹
- *Exercising Your First Right of Refusal: Guidelines*²²

Release of these policy documents has been complemented over time with related frequently asked questions, information sheets, and publicised in the Taskforce Newsletter, on its website, and through social media channels.

While historical documents remain available on the Taskforce’s website for reference purposes, information on the website describing each phase of the Scheme is constantly updated, and documents are clearly dated to show which has the greatest currency. It would be impractical and misleading to repeatedly update historical documents. To do so would likely create unnecessary confusion and obscure the history of the design, implementation and evolution of the Scheme.

The most recent policy document released by the Taskforce – *Exercising Your First Right of Refusal: Guidelines* – was published on 9 September 2015 and sets out the approach being taken to the clearing of affected blocks in detail. That approach is subsequently confirmed in the formal first right of refusal offer letter pictorially and in writing. That document was sent directly to affected homeowners and remains available on the Taskforce’s Website.

RECOMMENDATION 7

4.55 The Committee recommends that the ACT Government take appropriate steps to ensure that its response to Auditor-General Report No. 4 of 2016: The Management of the Financial Arrangements for the Delivery of the Loose-fill Asbestos (Mr Fluffy) Insulation Eradication Scheme is made available prior to the commencement of the 2016 Caretaker period.

²⁰ ACT Government (2015) *Policy – Voluntary Unit Buyback Program* http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0008/704186/ART-Buyback-UnitBuyback-Policy-20150304.pdf

²¹ ACT Government (2015) *Policy – Voluntary Eligible Impacted Property Buyback Program* http://www.asbestostaskforce.act.gov.au/_data/assets/pdf_file/0007/795778/ART-EligibleImpacted-BuybackProgram-Policy-20151119.pdf

²² ACT Government (2015b)

Government Response: Noted.

The Government welcomes the findings made in the Auditor-General's report that²³:

- “the planning for and management of the financial arrangements for the implementation of the Loose-fill Asbestos Insulation Eradication Scheme (the Scheme) has been effective”; and
- “the Taskforce’s approach to governance and risk management reflects better practice”.

In keeping with its original intention, the formal Government Response will be tabled in the last sitting week in August.

²³ Auditor-General (2016) p.1.