

ACT AUDITOR-GENERAL'S REPORT

**THE MANAGEMENT OF THE FINANCIAL  
ARRANGEMENTS FOR THE DELIVERY OF THE  
LOOSE-FILL ASBESTOS (MR FLUFFY)  
INSULATION ERADICATION SCHEME**

REPORT NO. 4 / 2016

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The Speaker  
ACT Legislative Assembly  
Civic Square, London Circuit  
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'The management of the financial arrangements for the delivery of the Loose-fill Asbestos (Mr Fluffy) Insulation Eradication Scheme' for tabling in the Legislative Assembly pursuant to subsection 17(5) of the *Auditor-General Act 1996*.

Yours sincerely



Dr Maxine Cooper  
Auditor-General  
27 May 2016



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## GLOSSARY AND ABBREVIATIONS

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affected property	a property contaminated with loose-fill asbestos insulation
API	Australian Property Institute
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
ESSC	Eradication Scheme Steering Committee
impacted property	a property which does not have loose-fill asbestos contamination itself but which shares a roof space, sub-floor or wall of a contaminated property, which cannot be demolished without damaging the impacted property
LDA	Land Development Agency
LFA	Loose-fill asbestos
LFAIES	Loose-fill Asbestos Insulation Eradication Scheme
PCG	Project Coordination Group (Taskforce)
PCW	Procurement and Capital Works in CMTEDD
RBA	Reserve Bank of Australia
TBA	Territory Banking Account
the Taskforce	Asbestos Response Taskforce
ULV	Unimproved Land Value



# SUMMARY

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In 2014 the ACT Government made a decision to establish a scheme to eradicate loose-fill asbestos (LFA) from domestic housing in the ACT. Loose-fill asbestos (commonly known as 'Mr Fluffy') was pumped into the ceilings of domestic houses in Canberra in the period 1968 to 1979. The implementation of the Loose-fill Asbestos Insulation Eradication Scheme (the Scheme) is the responsibility of the Asbestos Response Taskforce, which was established in June 2014 to support LFA affected homeowners and occupiers and also to find an enduring solution to the asbestos contamination problem. The Scheme and related activities were estimated to cost almost \$1 billion, which was ultimately made available by the Commonwealth Government through a concessional loan arrangement. The Scheme comprises four distinct but overlapping phases: financial assistance, property buyback, maintenance of properties and demolition, and the sale of the remediated properties.

This audit examines the financial arrangements surrounding the costings for the Scheme, the funding of the Scheme and the governance and risk management arrangements for the implementation of this complex program, particularly in relation to the financial risks.

## Overall Conclusion

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. Within six months of the establishment of the Asbestos Response Taskforce (the Taskforce) in June 2014, the ACT Government had approved a scheme with the objective of providing an enduring solution to the asbestos contamination problem and secured finance for the estimated \$1 billion required for the scheme from the Commonwealth Government.

The Taskforce's approach to governance and risk management reflects better practice. This has enabled the Taskforce to develop processes and procedures which provide a structure for managing and re-assessing the implementation of the Scheme, including expenditure and commitments. The accuracy of the financial modelling for the buyback, demolition and sales phases of the Scheme has been challenging. While data on the costs of the buyback was available early into the Scheme, relevant data on the demolition costs and sales revenue did not start to become available until late 2015 and April 2016 respectively. This means that the final costs of the Scheme are uncertain and may not be able to be determined until the final sales are made in 2020.

## Chapter Conclusions

### PLANNING AND FINANCING THE SCHEME

Initially, the ACT Government anticipated a cost sharing arrangement with the Commonwealth Government, on the basis of the 1991 Memorandum of Understanding (MoU) between the two governments for the 1988-1993 asbestos removal program. That MoU set out a funding formula for apportioning costs of the initial asbestos removal and any future remediation work. In September 2014, the ACT Government made a submission to the Commonwealth for funding support to implement the Scheme. In that letter the ACT Government sought to rely on the undertakings set out in the 1991 MoU and requested the Commonwealth Government to agree to fund two thirds of the overall net cost of the proposed buyback and demolition program.

However, the Commonwealth Government decided to provide assistance in a form that did not incur any net cost to the Commonwealth, by providing the ACT Government with a loan at a concessional rate of interest which did not satisfy the ACT Government's funding request. The ACT Government therefore assumed full financial responsibility for the eradication of asbestos from ACT domestic housing.

The Asbestos Response Taskforce and ACT Treasury successfully negotiated terms and conditions for the loan which benefited the ACT. The concessional loan arrangement provided modest interest savings and the negotiated loan arrangements enabled the ACT to put in place appropriate financial arrangements.

The early months of the Taskforce operations in 2014 had the characteristics of an emergency situation. At this time, the assumptions underpinning the modelling, although imperfect, were developed and agreed with the ACT Treasury. The financial estimates have been revised as new information became available. Acknowledging the uncertainty associated with the various phases of the Scheme, the Taskforce produced a range of estimates and scenarios to support the development of the costings for the Scheme. Differences in the scenarios could have been better explained.

The total cost of the Scheme is still uncertain. As at mid April 2016, the estimated total cost of the buyback program is just over \$700 million. The demolition program has resulted in 152 houses being demolished to date, and the costs of demolishing the houses have exceeded the target budget, but are within the appropriations for the demolition phase and are within the modelling estimates. The sales program commenced in April 2016, with 10 blocks being offered to the public. When a more representative number of blocks has been sold, land values and sales revenue will be able to be more accurately estimated.

The cost of borrowings for the Scheme is not included with reporting on the costs of the Scheme. 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.

## GOVERNANCE AND RISK MANAGEMENT

The Taskforce governance arrangements, including the reporting framework and risk management arrangements, underpin its ability to deliver its project outcomes effectively and within budget. The Royal Commission Report into the Home Insulation Program (HIP) and the subsequent Shergold report, *Learning from Failure*, both emphasise the desirability of creating positive risk cultures. The Taskforce was mindful of the findings in the HIP report in the development of the Taskforce and the implementation of its mandate. The report of the Shergold inquiry, established in December 2014 to review government processes for implementing large programs and projects following the findings of the HIP Royal Commission, was released in February 2016. This report reinforces the desirability of providing robust advice, creating a positive risk culture, enhancing program management and embracing adaptive management. All of these the Taskforce has managed.

The Taskforce's approach to governance and risk management reflects better practice. Despite being established and becoming operational within a very short space of time, the Taskforce has mature and practical arrangements in place, to the extent that risk management is embedded into its daily processes. The Taskforce has actively reviewed its governance and risk management arrangements and continues to refine them, either through formal review processes or in one case, in response to an incident which prompted a review of risk management arrangements for demolition sites.

Reporting arrangements provide regular information on a range of Taskforce activity to stakeholders and governance bodies. Reports on each phase of the Scheme are provided to the primary governance body, the Eradication Scheme Steering Committee. Taskforce matters are a regular agenda item on the Chief Minister, Treasury and Economic Development (CMTEDD) Audit and Risk Committee and quarterly reports are tabled in the Legislative Assembly. From early July 2014, the Taskforce provided weekly briefs to the Chief Minister which gave a picture of events which had taken place in the past week, what was happening and what was imminent.

The risk management arrangements are detailed and targeted. Individual positions are identified with responsibilities under the scheme and risk mitigation strategies specified. As noted above these are reviewed and amended, formally and when circumstances require it. The Taskforce is responsive to the emergence of risks and has assessed its risk management strategies in response to events.

## MANAGEMENT OF FINANCE AND RISK FOR EACH PHASE OF THE SCHEME

Effective financial management arrangements have been implemented in the Taskforce for the delivery of the Scheme. The Taskforce has developed administrative processes to manage the delivery of the Scheme. The customised settlement process gave the Taskforce the ability to settle a large number of properties within a short space of time. This process as developed allowed the Taskforce to purchase the majority of the affected properties within a few months, fulfilling a major objective of the Scheme.

The phased approach of a pilot demolition program, incorporating a lessons learned exercise, is an effective means of implementing a program for which there was little previous experience. It enabled the better scoping of the asbestos removal and demolition process itself and the testing of contractors' abilities and capacity to undertake the necessary activities. This approach has meant that risks were being managed at both a strategic and operational level, although the cost of the demolition phase remains a risk.

The sales program is in its early stages with only 10 properties having been offered to the public. Land valuations of the remediated blocks are difficult to assess and estimates of revenue from sales remain uncertain.

The record keeping in the initial stages of its operation was inadequate. While records are being progressively transferred to Objective, the Taskforce's record keeping system, some historical records are yet to be captured. It is important that the Taskforce completes the migration of records to Objective expeditiously.

## Key findings

### PLANNING AND FINANCING THE SCHEME

Paragraph

The ACT Government sought financial assistance from the Commonwealth Government, initially on the basis of the 1991 Memorandum of Understanding between the two governments, which set out a funding formula for the 1988-1993 asbestos removal program and which provided for the formula to be invoked should further work be required 'at any time'. Had the funding formula been applied, the Scheme costs would have been shared between the two governments in accordance with the formula.

2.18

The Commonwealth Government has limited its financial commitment to the implementation of the Scheme to the provision of a loan over a period of 10 years at a concessional interest rate, which comes at no cost to the Commonwealth.

2.19

Overall, the financial modelling for the Scheme was found to be adequate, in that it provided a prudent range of expected financial outcomes. However, it would have been an improvement if the audit trail of different versions of the model was clearer and the narrative around the explanation of the scenarios and underlying assumptions, and the results generated from the scenario analysis, had been better documented.

2.31

The contingency amount included in the cost estimates provided some scope to accommodate the recognised shortcomings of the initial assumptions in the model. However, the amount of the contingency funding appears to be a balancing item to align with the full amount of the \$1 billion loan and does not appear to have been informed by the scenario analysis.

2.32

The value of the loan arrangement to the ACT was enhanced by the ACT Treasury's negotiation of amended loan arrangements. These arrangement provided the ACT Treasury with flexibility in the application of the loan monies, a principal repayment schedule which was weighted towards the latter years (2018- 2024) of the loan, and a simple loan repayment arrangement which did not require the ACT Government to comply with onerous reporting requirements as originally specified in the draft loan agreement.

2.48

The loan is being managed as part of net government borrowings. To that extent, it will be managed in the context of the fiscal strategy of the ACT Government as reported in the annual budget statements.

2.57

The total cost of the Scheme needs to be provided to stakeholders and the public in a readily accessible manner. Accordingly, whole-of-life reporting on revenue and costs (including borrowing costs) from the Scheme's inception to completion needs to be presented in a publicly available document, for example, in the Chief Minister, Treasury and Economic Development Directorate annual budget papers.

2.61

## GOVERNANCE AND RISK MANAGEMENT

Paragraph

The Taskforce has developed and implemented appropriate governance and risk management frameworks. It has put into place governance arrangements which promote transparency and accountability and a risk management framework which is actively managed and embedded in the day to day operations of the Taskforce.

3.25

Key roles and responsibilities of the respective entities are identified, including those of Taskforce staff involved in the delivery of the Scheme. The framework provides for regular reporting to the main governance bodies of CMTEDD'st Audit and Risk Committee and the Eradication Scheme Steering Committee.

3.26

The Taskforce has reviewed its governance arrangements in response to the movement through the phases of the Scheme and changing priorities, as well as lessons learned processes. 3.27

Taskforce risk documentation is clear, comprehensive and provides a framework for managing risk in the context of the implementation of a complex program, containing a high degree of risk and uncertainty. Risks have been clearly identified and responsibility for risk management and mitigation strategies assigned to individuals. 3.34

The Taskforce consulted widely in the development of its risk register, both with industry and with ACT Government agencies. It was informed by key findings from the Royal Commission into the Home Insulation Program and industry workshops. There is an underlying work plan actioned by the Taskforce risk coordinator for the purpose of ensuring high level oversight of the risk register. 3.35

Review of risks and the management of risk have been embedded into Taskforce administrative processes. The Taskforce's operationalising of risk means that it has incorporated the identification of risks into its daily activities, providing a high level of awareness throughout the Taskforce of the importance of recognising, mitigating and managing risk. 3.36

The Taskforce actively reviews its risk management strategy and corresponding risk mitigation controls, as is evidenced by the prompt and decisive action taken to do so, after being advised of an electrical incident at a demolition site in February 2016. 3.39

The monthly reporting to the Eradication Scheme Steering Committee (ESSC) provides comprehensive information which enables the ESSC to perform its oversight functions. The quantum and format of the financial information are clear, making it possible for the ESSC to identify potential issues quickly. 3.48

The distribution of the monthly ESSC report to the Minister with responsibility for the Taskforce and appropriate senior executives facilitates transparency of Taskforce processes and high level oversight of Taskforce activities. 3.49

The weekly briefings to the Chief Minister provide a wide-ranging guide to the progress of the Taskforce. In terms of the implementation of public policy, the briefings provide information on the policy options, key issues and decisions, including financial issues, immediate priorities, Taskforce communications, progress on practical matters, stakeholder concerns, and potential obstacles, which were the subject of political and administrative consideration. 3.54

The disclosures in the annual financial statements contribute to the transparency of the Scheme's financial commitments. In the interests of ongoing transparency, these disclosures should continue to be a feature of the financial statements for the duration of the Scheme. 3.56

The Taskforce has provided its stakeholders, including the Legislative Assembly, homeowners and occupiers of contaminated properties and the ACT community generally, with a range of opportunities and mechanisms for engagement with the Taskforce. 3.59

#### **MANAGEMENT OF FINANCE AND RISK FOR EACH PHASE OF THE SCHEME** Paragraph

The immediate priorities for expenditure by the Taskforce were the personal support program and the buyback program. The financial management arrangements adopted for the personal assistance scheme/relocation assistance grant were effective in delivering a fast response within risk tolerances. 4.29

The Taskforce developed innovative administrative processes to manage the delivery of the buyback program effectively. The customised settlement process enabled the settlement of a large number of properties within a short space of time. 4.30

The Taskforce used a lessons learned workshop approach early in the demolitions program to contribute to the identification of risks for the demolitions phase. This is an effective mechanism for managing the risk of a program for which there exists little prior knowledge. The outcomes of the workshop helped to define the ongoing management of the demolition phase. 4.46

The demolition phase was one which contained a high degree of risk, both financial and operational. Costs were an unknown quantity and operational procedures were required to be developed. For these reasons, the Taskforce and Procurement and Capital Works developed a staged approach to the demolition program in order to develop expertise in the program, gain better knowledge around costs and assess the skills and capacity of the industry. 4.47

The implementation of a graduated sales program continues the approach applied in the demolitions phase; that is, small numbers of properties are to be offered initially to assess the market and to provide better information to inform the development of subsequent sales programs. 4.61

The sales program is now in the early stages, having commenced in April 2016, and a total of between 30 to 50 sales is forecast to be undertaken by the end of financial year 2015-16. Following the first sale of properties, the Taskforce and the Land Development Agency (LDA) held a lessons learned workshop approach (similar to that held in the demolitions phase), in order to better manage future sales. 4.62

## Recommendations

### RECOMMENDATION 1 REPORTING OF THE TOTAL COST OF THE SCHEME

The Chief Minister, Treasury and Economic Development Directorate should provide information on the total costs of the Scheme by publicly reporting on the revenue and costs (including borrowing costs) of the Scheme from its inception to completion in the annual budget papers.

### RECOMMENDATION 2 DISCLOSURES IN FINANCIAL STATEMENTS

The Chief Minister, Treasury and Economic Development Directorate should continue to provide disclosures about the financial impact of the Loose-fill Asbestos Eradication Scheme in future financial statements.

### RECOMMENDATION 3 RECORDS MANAGEMENT

The Asbestos Response Taskforce should continue to migrate all relevant Taskforce records to the Objective system and complete this process by December 2016.

## Agency response

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the Chief Minister, Treasury and Economic Development Directorate was provided with:

- a draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report; and
- a final proposed report for further comment. As part of this process, the Chief Minister, Treasury and Economic Development Directorate was also asked to provide comments for inclusion in the final report in the Summary chapter.

The Chief Minister, Treasury and Economic Development Directorate did not provide comments for inclusion in the Summary chapter of this report. However, all comments regarding the factual accuracy of material in this report were brought to the attention of the Auditor-General and amendments made to the report.

# 1 INTRODUCTION

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- 1.1 From 1968 until 1979 loose-fill asbestos (LFA) insulation was pumped directly into the ceilings of domestic homes in the ACT. It was predominantly supplied by a firm run by a Mr Dirk Jansen, even though concerns were raised in 1968 about the operations of the business and the suspected dangers of the product. During the 1980s, the Commonwealth Government commenced asbestos removal programs, firstly in 1983 when it commenced removal of asbestos from public buildings, such as the National Library, and then in 1988, when it began to remove LFA from Canberra’s domestic housing stock. The domestic program was undertaken from 1988 until 1993. In 1989 the ACT had been granted self-government status by the Commonwealth and responsibility for continuation of the asbestos removal was transferred to the ACT. The asbestos removal program was ultimately discovered to be inadequate, although it was considered to meet the standards of the day.<sup>1</sup> The history of LFA insulation in domestic housing in the ACT and related activities is set out in Appendix A. A timeline of activity in the ACT relating to asbestos is at Appendix B.
- 1.2 Following the discovery of a seriously contaminated house in Downer in 2011 and subsequent asbestos testing on known previously cleaned properties, the ACT Government decided that an ‘enduring solution’ to the problem was required. In June 2014 it established the Asbestos Response Taskforce to liaise with homeowners and occupants of affected houses as well as to provide advice on a policy solution.

## The Loose-fill Asbestos Insulation Eradication Scheme

- 1.3 The Government’s guiding principles for the Loose-Fill Asbestos Insulation Eradication Scheme (the Scheme) are to:
- eliminate, by demolition of known affected houses, the ongoing risk of exposure to loose-fill asbestos for homeowners, tenants, tradespeople and the wider community;
  - provide a fair outcome for owners of affected homes;
  - provide, so far as possible and reasonable, flexibility and options for informed choices to be made by owners of affected homes; and
  - minimise overall net costs to the Canberra community and ACT Government.<sup>2</sup>

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<sup>1</sup> On completion of the removal program, homeowners were sent a copy of the “certificate of completion of asbestos removal work” from the ACT City Operations Branch, Asbestos Program section. The certificate confirms removal of asbestos according to the standards of the day. The certificate contained a caveat, indicating that: *Residual fibres may still be present in the wall cavities of the building. Prior approval of the Building Controller is to be obtained for any building work involving the alteration or removal of internal wall sheeting or external brickwork. It may be necessary for a licensed asbestos removalist to attend this work.*

<sup>2</sup> ACT Asbestos Response Taskforce, The ACT Government’s Preferred Way Forward on Loose-fill Asbestos: Overview, p 3.

1.4 Essentially, the Scheme comprises four phases:

- personal support for home owners and occupiers and emergency financial assistance;
- the buyback program;
- maintenance of purchased houses, asbestos removal from these houses prior to demolition, demolition and removal of all waste, remediation of the soil; and
- re-sale of the property.

1.5 The Scheme is expected to take approximately six years to complete.

### **The personal support arrangements**

1.6 The personal support arrangements comprised an initial financial assistance package – an emergency response payment, which was aimed at providing for temporary short term accommodation and hazard reduction works to deal with identified risks in the short to medium term for those wanting to remain in affected properties. It also provided for the reimbursement of the cost of asbestos assessment reports and for the replacement of contaminated goods. The package was capped at \$10,000 per household plus \$2000 per child.

### **The buyback program**

1.7 The eradication scheme enables owners of LFA affected houses to sell their properties to the ACT Government for remediation and demolition. Under the buyback program, the ACT Government offered to buy all houses contaminated with LFA and some impacted properties. The buyback is at market value as at 28 October 2014 for the affected properties (the date the Scheme was publicly announced) as if the property were not impacted by LFA contamination and was ‘free of defects and well presented for sale’.<sup>3</sup>

### **Maintenance and demolition**

1.8 Once the properties are owned by the ACT Government, the ACT Property Group manages the properties until they are ready for the asbestos removal and demolition process. After purchase, the properties are made secure. Maintenance, such as lawn mowing and vermin control, is continued to minimise hazards and maintain amenity. Once demolition is scheduled, Procurement and Capital Works (PCW) manages the demolition process. Removing an affected house generally takes four to six weeks, which includes preparation, removal and remediation of the block.

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<sup>3</sup> Many properties were not free of defects and not presented for sale, given the suddenness of having to relocate due to asbestos contamination.

## The sale of remediated blocks

1.9 Once affected houses are surrendered and demolished, contaminated soil is removed and the blocks are removed from the Affected Residential Premises Register. Blocks are to be resold at market value, with the Land Development Agency (LDA) setting the value for the block.

1.10 To date (25 May 2016), of the 1022 affected properties:

- 982 owners have opted into the Scheme;
- 23 owners are not participating;
- there have been 12 assisted private demolitions; and
- 5 of the properties belonged to the ACT Property Group.

1.11 As at 25 May 2016 Taskforce statistics are:

**Table 1-1 Key statistics (16 May 2016)**

No of properties	Participation in the Scheme
1022	Affected properties
11	Eligible impacted properties
1011	Participating in the programs
23	Not participating in the Scheme buyback program
982	Participating in the Scheme buyback program
864	Properties purchased
176	Properties demolished under the Scheme
116	Properties removed from Affected Residential Premises Register

Source: Asbestos Response Taskforce website

1.12 The Scheme will cost the ACT almost \$1 billion, with approximately \$600 million expected to be recovered from the sale of remediated blocks. To put the financial impact on ACT finances into perspective, the Taskforce report equated the cost of the Scheme to one quarter of the ACT's total annual revenue base, approximately the annual expenditure on health in the ACT or its 2014-15 capital works program, increased by 25 percent.<sup>4</sup>

<sup>4</sup> ACT Asbestos Response Taskforce, The ACT Government's Preferred Way Forward on Loose-fill Asbestos: Supporting Detail, pp 7-8.

## Audit objective, scope and criteria

1.13 The objective of this audit was to provide an independent opinion to the Legislative Assembly on the effectiveness of the ACT Government's planning for, and management of, the financial arrangements for the Loose-fill Asbestos (Mr Fluffy) Insulation Eradication Scheme. The audit did not consider the policy development process.

1.14 The audit scope comprised a review of the development of the financial arrangements, governance and risk management, and the administrative arrangements that support the financial arrangements for the Scheme. A key focus of the audit was whether the financial risks associated with the implementation of the Scheme have been identified and whether appropriate governance and risk management strategies have been implemented. The audit therefore included an examination of:

- the development of the costs estimates for the Scheme and the loan arrangements with the Commonwealth Government;
- the governance, management and administrative arrangements for the Scheme, including whether:
  - the financial risks associated with the Scheme have been identified; and
  - there are effective mitigation strategies in place to manage these risks, such as the measurement and reporting of the major activities for key emerging risks; and
- whether accurate and timely information on the risk and management strategies is communicated to the ACT Government and the community.

1.15 The audit criteria are:

- the planning for the financial arrangements for the Scheme was effective:
  - the estimates of the cost of the scheme were robust; and
  - the financial provision (the loan arrangement) for meeting the costs of the Scheme was an appropriate arrangement;
- governance and risk management for the Scheme is effective:
  - governance arrangements are sound;
  - governance arrangements promote accountability;
  - potential risks to the financial parameters of the Scheme have been identified; and
  - strategies are in place to manage and mitigate identified financial risks; and
- the management of financial arrangements for the Scheme is transparent:
  - performance measures for the Scheme have been established; and
  - there is regular and effective reporting to stakeholders on the administration of the Scheme.

## Audit approach and method

- 1.16 The audit adopts the Office's Performance Audit Methods and Practices (PAMPr) and related policies, practice statements and guidance papers. These policies and practices have been designed to comply with the requirements of the *Auditor-General Act 1996* and relevant professional standards (including *ASAE 3500 – Performance Engagements*).
- 1.17 The audit approach and method comprised:
- fieldwork, including:
    - detailed questions and documentation in relation to the development of the cost structure and loan arrangement for the Scheme; and
    - interviews with key staff in the Taskforce and selected agencies;
  - identifying and documenting controls and procedures used to give effect to the Scheme; and
  - identifying and reviewing relevant information and documentation relating to agencies' governance and accountability frameworks, related policies and procedures, research documents and relevant reports.
- 1.18 The audit team also reviewed relevant information and documentation held by the Taskforce, including financial modelling information, the governance and accountability framework and related policy and procedures, research documents, and relevant reports. In December 2015, the ACT Audit Office appointed Resolution Consulting to provide technical analysis of the financial documentation for the Scheme, including the modelling used to inform the loan submission and Taskforce operations to deliver the Scheme.
- 1.19 This audit is the first in a series of three planned audits of the Scheme. The Scheme is a large financial commitment for the ACT Government and the Audit Office intends to audit the Scheme as it is implemented, in order to provide ongoing audit assurance as it progresses. The next audit to be undertaken will consider the personal support arrangements, the buyback program, the demolition of houses and the sale of the remediated blocks acquired during the buyback phase. The final audit will examine the completion of the program, including final costs, achievement of outcomes against objectives and lessons learned.
- 1.20 Auditing Standard ASAE 3500 requires that an audit consider events up to the date of the report. To achieve this, the audit team, when seeking comments on the draft report, asked the agency to inform the team of any significant events affecting audit findings since fieldwork ceased.



## 2 PLANNING AND FINANCING THE SCHEME

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2.1 The decision to purchase all affected houses and remediate the blocks required estimated funding of almost \$1 billion. This chapter discusses:

- the impact on the ACT of the cost of the Scheme;
- the development of the financial arrangements (the loan arrangement):
  - the financial modelling underpinning the cost estimates for the scheme; and
  - the financial provisions including the negotiations for Commonwealth Government support, the offer of a loan and the arrangements for the loan and the ACT Treasury’s management of the funds; and
- the net costs of the Scheme.

### Summary

### Conclusion

Initially, the ACT Government anticipated a cost sharing arrangement with the Commonwealth Government, on the basis of the 1991 Memorandum of Understanding (MoU) between the two governments for the 1988-1993 asbestos removal program. That MoU set out a funding formula for apportioning costs of the initial asbestos removal and any future remediation work. In September 2014, the ACT Government made a submission to the Commonwealth for funding support to implement the Scheme. In that letter the ACT Government sought to rely on the undertakings set out in the 1991 MoU and requested the Commonwealth Government to agree to fund two thirds of the overall net cost of the proposed buyback and demolition program.

However, the Commonwealth Government decided to provide assistance in a form that did not incur any net cost to the Commonwealth, by providing the ACT Government with a loan at a concessional rate of interest which did not satisfy the ACT Government’s funding request. The ACT Government therefore assumed full financial responsibility for the eradication of asbestos from ACT domestic housing.

The Asbestos Response Taskforce and ACT Treasury successfully negotiated terms and conditions for the loan which benefited the ACT. The concessional loan arrangement provided modest interest savings and the negotiated loan arrangements enabled the ACT to put in place appropriate financial arrangements.

The early months of the Taskforce operations in 2014 had the characteristics of an emergency situation. At this time, the assumptions underpinning the modelling, although imperfect, were developed and agreed with the ACT Treasury. The financial estimates have been revised as new information became available. Acknowledging the uncertainty associated with the various phases of the Scheme, the Taskforce produced a range of estimates and scenarios to support the

development of the costings for the Scheme. Differences in the scenarios could have been better explained.

The total cost of the Scheme is still uncertain. As at mid April 2016, the estimated total cost of the buyback program is just over \$700 million. The demolition program has resulted in 152 houses being demolished to date, and the costs of demolishing the houses have exceeded the target budget, but are within the appropriations for the demolition phase and are within the modelling estimates. The sales program commenced in April 2016, with 10 blocks being offered to the public. When a more representative number of blocks has been sold, land values and sales revenue will be able to be more accurately estimated.

The cost of borrowings for the Scheme is not included with reporting on the costs of the Scheme. 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.

## Key findings

	Paragraph
The ACT Government sought financial assistance from the Commonwealth Government, initially on the basis of the 1991 Memorandum of Understanding between the two governments, which set out a funding formula for the 1988-1993 asbestos removal program and which provided for the formula to be invoked should further work be required 'at any time'. Had the funding formula been applied, the Scheme costs would have been shared between the two governments in accordance with the formula.	2.18
The Commonwealth Government has limited its financial commitment to the implementation of the Scheme to the provision of a loan over a period of 10 years at a concessional interest rate, which comes at no cost to the Commonwealth.	2.19
Overall, the financial modelling for the Scheme was found to be adequate, in that it provided a prudent range of expected financial outcomes. However, it would have been an improvement if the audit trail of different versions of the model was clearer and the narrative around the explanation of the scenarios and underlying assumptions, and the results generated from the scenario analysis, had been better documented.	2.31

The contingency amount included in the cost estimates provided some scope to accommodate the recognised shortcomings of the initial assumptions in the model. However, the amount of the contingency funding appears to be a balancing item to align with the full amount of the \$1 billion loan and does not appear to have been informed by the scenario analysis.	2.32
The value of the loan arrangement to the ACT was enhanced by the ACT Treasury's negotiation of amended loan arrangements. These arrangement provided the ACT Treasury with flexibility in the application of the loan monies, a principal repayment schedule which was weighted towards the latter years (2018- 2024) of the loan, and a simple loan repayment arrangement which did not require the ACT Government to comply with onerous reporting requirements as originally specified in the draft loan agreement.	2.48
The loan is being managed as part of net government borrowings. To that extent, it will be managed in the context of the fiscal strategy of the ACT Government as reported in the annual budget statements.	2.57
The total cost of the Scheme needs to be provided to stakeholders and the public in a readily accessible manner. Accordingly, whole-of-life reporting on revenue and costs (including borrowing costs) from the Scheme's inception to completion needs to be presented in a publicly available document, for example, in the Chief Minister, Treasury and Economic Development Directorate annual budget papers.	2.61

## The financial impact on the ACT of the Loose-fill Asbestos Insulation Eradication Scheme

- 2.2 The Scheme comprises four distinct, but overlapping, phases: the personal support program; the purchase of the properties; asbestos removal from the houses and their demolition, and the disposal of all waste from the block; and the sale of the remediated blocks. The net cost of the Scheme, which will not be known until almost all the blocks have been bought, remediated and sold, has implications for all ACT residents, given the potential long term impact on ACT Government finances and thus on other infrastructure projects and services.
- 2.3 The initial cost estimates for the Scheme in September 2014 amounted to approximately \$890 million, with a contingency component of \$110 million. The original modelling in 2014 estimated that approximately \$519 million would be recovered through land sales of remediated blocks. The contingency amount included in the cost estimates was to accommodate the recognised shortcomings in the knowledge bases around the costings.

2.4 Table 2-1 shows the estimated costs as originally modelled.

**Table 2-1 Scheme financial modelling as at 2 September 2014**

Item	Total cost (\$'million)
House purchase costs	639.6
Costs to secure property for demolition	5.3
Demolition costs	153.7
Net loss on stamp duty (stamp duty concession)	9.8
Environmental site analysis (waste disposal site)	1.0
Remediation of waste disposal site	10.0
Financial assistance package	15.7
Taskforce costs	35.1
Holding costs	15.1
<b>TOTAL</b>	<b>885.3</b>

Source: Asbestos Response Taskforce, financial model, 2 September 2014

2.5 The net cost of the Scheme, which the Supporting Detail report put at between \$300 and \$500 million, represents approximately 10 per cent of the ACT Government's annual budget.<sup>5</sup> The Government noted that 'meeting this cost will require a reprioritisation of funding with a consequent impact on service delivery'.<sup>6</sup> The total cost of approximately \$1 billion was to be offset to a large extent from revenue from the sale of the sites, post remediation.

2.6 On 24 March 2015, the Chief Minister advised the Legislative Assembly:

Even when blocks are sold after remediation to assist in offsetting some of the costs of this program, it will still cost the ACT community at least \$400 million. This is significant and, as analysts have predicted, it will impact our bottom line for years to come after the Mr Fluffy response.<sup>7</sup>

## Funding the Scheme

2.7 Once the extent of asbestos contamination was made known to the ACT Government, and that options to remediate the properties would require significant funding, the ACT Government sought to re-open negotiations with the Commonwealth Government with a view to securing funding assistance for any remediation program.

<sup>5</sup> ACT Asbestos Response Taskforce, The ACT Government's Preferred Way Forward on Loose-fill Asbestos: Supporting Detail, p 8.

<sup>6</sup> ACT Asbestos Response Taskforce, The ACT Government's Preferred Way Forward on Loose-fill Asbestos: Supporting Detail, p 8.

<sup>7</sup> Hansard, ACT Legislative Assembly, 24 March 2015, p 1007.

2.8 The ACT position was to view the LFA insulation problem as a shared responsibility between the two levels of government, specifically because:

- the Commonwealth Government was the governing body of the ACT from 1968 for the period LFA was pumped into Canberra’s domestic housing;
- the Commonwealth Government’s failure through the Department of Works to heed the advice of staff from the ACT Health Services Branch as a result of the Major report<sup>8</sup> in 1968, which recommended putting a stop to the Mr Fluffy operation and banning LFA from being used as domestic insulation, because of its potential for harm;
- the Commonwealth Government’s role in the initial clean up program, which was a Commonwealth instigated and designed program, and for which the Commonwealth funded \$56 million,<sup>9</sup>and
- the MoU signed by the Commonwealth and ACT governments in 1991 which set out the financial arrangements for the original asbestos removal program and any future loose fill asbestos related action. No end date for the arrangement was specified.<sup>10</sup>

### The 1991 Memorandum of Understanding and financial assistance from the Commonwealth Government

2.9 After the ACT had been granted self-government in 1989 and the asbestos removal program had been transferred, the Commonwealth and ACT governments signed a memorandum of understanding (MoU) which set out the respective financial responsibility of the two governments for the asbestos removal program and for any future activity resulting from LFA contamination. The 1991 MoU also contained an indemnity provision protecting the ACT from liability for all future actions and liabilities arising out of or connected with the performance of the program as well as a clause setting out the future cost sharing arrangements if future work needed to be undertaken.<sup>11</sup>

<sup>8</sup> G Major, Physicist, Occupational Health Section, Health Services Branch, July 1968 as reproduced in the Taskforce report, *Long term management of loose-fill asbestos insulation in Canberra homes*, 2014, Appendix II.

<sup>9</sup> While the design of the program may have been appropriate for the standards of the day, the Taskforce report notes that from conversations with asbestos assessors it was clear that the quality of the cleaning improved over the period of the cleanup and there was inconsistent or incomplete application of the bonding spray inside the roof cavities. Further, because the original removal program’s specifications did not permit modification to the structure of the house beyond the removal of the roof tiles, more asbestos than might otherwise have been the case was left behind in cornice cavities. (Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra homes*, 2014, p 18.)

<sup>10</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra homes*, 2014, Appendix IV.

<sup>11</sup> Memorandum of Understanding between the Commonwealth of Australia and the ACT, 7 June 1991, clause 9 (indemnity clause), and clauses 2.1 (funding formula) and 6.3 (future application). The indemnity clause stated: *‘The Commonwealth hereby indemnifies and agrees that it will continue to indemnify the Territory, its servants and agents from and against all actions, claims, suits or demands brought, maintained or made*

2.10 The funding formula for the remediation of the asbestos affected properties was set out in Clause 2.1 of the MoU, which apportioned the financial responsibility as follows:

- the ACT Government to pay the first \$10 million;
- the next \$20 million to be shared dollar for dollar by the two governments; and
- any further costs to be met by the Commonwealth Government contributing two thirds and the ACT Government one third.

2.11 There was an implied recognition within the MoU of ongoing financial liability on the part of both parties. Clause 6.3 in the MoU provided:

The parties agree that should it become necessary at any time to expand the Program to further residential properties or to subsequently remove additional asbestos from properties previously subject to the Program (the Additional Program), all costs associated with the Additional Program will be calculated in accordance with the terms and conditions of the Memorandum of Understanding.<sup>12</sup>

2.12 The 1988-93 asbestos removal program cost approximately \$100 million in 1993 dollar values. The ACT contributed \$44 million and the Commonwealth Government \$56 million.<sup>13</sup> The recognition of ongoing financial liability was confirmed in 1995 in correspondence between the ACT and Commonwealth governments.

## Approaches to the Commonwealth

2.13 Approaches to the Commonwealth for funding support to deal with asbestos contamination were made as follows:

- in June and November 2012, the ACT had sought assistance for the remediation of legacy contaminated sites in parts of the ACT and also to continue remediation of homes affected by loose fill asbestos insulation;
- on 15 April 2014 the Chief Minister wrote to the Prime Minister seeking to re-open negotiations in relation to both contaminated land and LFA insulation, and reminding the Commonwealth of the provision in the 1991 MOU for a funding formula to apply to the Commonwealth Government and the ACT in the event of further remediation or missed properties being discovered in the future;
- on 5 June 2014 Minister Corbell wrote to Minister Eric Abetz, as Minister for Employment, on the same matter, (to which a response was provided on 19 June 2014), advising that developments in the ACT were being closely monitored and recognising the discussions at officials level;

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*against the Territory, its servants and agents arising out of or connected with the performance of the Program or any Additional Program together with any costs associated with defending or settling such actions, claims, suits or demands'.*

<sup>12</sup> Memorandum of Understanding between the Commonwealth of Australia and the Australian Capital Territory, 7 June 1991.

<sup>13</sup> ACT Government, *Submission to the Commonwealth Government Asbestos Management Review*, 2011, p 5.

- on 25 June 2014 the Chief Minister wrote to the Prime Minister, this time seeking assistance with support for families displaced as a result of their homes being contaminated with LFA; and
  - on 3 July 2014 the Chief Minister wrote to the Prime Minister advising of the announcements in relation to the assistance package for those homeowners and occupants affected by asbestos contamination.
- 2.14 The Prime Minister responded to the correspondence of 15 April 2014 and 25 June 2014 on 14 July 2014, encouraging continued discussions with the Commonwealth Government 'to garner the necessary technical advice and guidance on appropriate management strategies' and advising that Minister Abetz as Minister for Employment was the appropriate contact point for future discussions.
- 2.15 During this period, conversations in person and via email were being held at officials level between the ACT and a range of Commonwealth Government agencies, predominantly SafeWork Australia, Prime Minister and Cabinet, the Department of Defence, the Department of Employment and the Department of Infrastructure and Regional Development (previously the Department of Regional Australia, Local Government, Arts and Science). The conversations were initially about contaminated land as well as asbestos contamination, but in 2014 centred around the ACT's uncovering of the LFA insulation contamination in domestic housing.
- 2.16 The Taskforce report into LFA contamination was provided to the ACT Government in August 2014. Discussions continued at officer level and on 11 September 2014, the Chief Minister submitted a formal request for assistance to the Commonwealth Government. The ACT based initial approaches to the Commonwealth Government for financial assistance on 'the Commonwealth Government's responsibility for LFA insulation in homes in the first place, its responsibility for the design of the original removal program, and the provisions of the Memorandum of Understanding between the Commonwealth and the ACT for that program'.
- 2.17 The formal funding request to the Commonwealth Government sought funding under the agreed funding arrangements entered into by the Commonwealth through the 1991 MoU. The Chief Minister requested that the Commonwealth '...agree to fund two-thirds of the overall net cost of the proposed buyback and demolition program'. The ACT Government was advised on the evening of 27 October 2014 that the Commonwealth Government would provide a loan of \$1 billion at a concessional interest rate. The next day, on 28 October 2014, Minister Abetz, then Minister for Employment, and Chief Minister Gallagher held a joint press conference, during which the loan offer was announced.
- 2.18 The ACT Government sought financial assistance from the Commonwealth Government, initially on the basis of the 1991 Memorandum of Understanding between the two governments, which set out a funding formula for the 1988-1993 asbestos removal program and which provided for the formula to be invoked should further work be

required 'at any time'. Had the funding formula been applied, the Scheme costs would have been shared between the two governments in accordance with the formula.

- 2.19 The Commonwealth Government has limited its financial commitment to the implementation of the Scheme to the provision of a loan over a period of 10 years at a concessional interest rate, which comes at no cost to the Commonwealth.

## The modelling for the Scheme

- 2.20 The Taskforce developed a number of financial models for estimating the costs of the Scheme to support the following processes:

- the loan negotiations with the Commonwealth Government, dated 2 September 2014;
- the 2014-15 supplementary appropriation and the 2014-15 mid-year budget review process; and
- the 2015-16 budget and mid-year budget review process.

## Analysis of the modelling

- 2.21 The modelling to determine the cost of the Scheme was developed by the Taskforce in consultation with the ACT Treasury to support the application to the Commonwealth Government for financial assistance and for the ACT's own requirements for budgetary certainty over the cost of the Scheme.

- 2.22 The initial financial modelling was undertaken over a short period of time which constrained the ability of the Taskforce and ACT Treasury to develop the models, collect evidence to underpin the key assumptions and quality assure the results. The Taskforce advised that the accuracy of the modelling and underlying assumptions were refined as circumstances changed and additional information became available.

- 2.23 In November 2014, in briefing the Treasurer prior to releasing modelling for the Scheme, the ACT Treasury cautioned that:

[T]he information and modelling provided ... includes the caveat that the financial and cash impacts of the Scheme are indicative and based on a range of assumptions using the best estimates currently available.

The actual costs will depend on a range of factors including the cost of purchasing houses, the cost of demolition and remediation and the proceeds on the resale of land.

## Initial modelling

- 2.24 Initial financial modelling indicated that the Scheme would cost approximately \$885 million, including \$640 million for the property buyback program to purchase,

by 30 June 2015, 1025 properties at an average cost of \$620,000 each. As at 29 February 2016, \$587 million had been spent purchasing 833 properties, which equates to an average price of \$703,304 per property. At 22 April 2016, 981 offers had been accepted, costing a total of \$704 million. This means that the average price per property will be approximately \$80,000 more than the original estimate.

- 2.25 The assumption on which the property buyback cost was predicated, i.e. the weighted average of current house price sales data by suburb in 2013-14, meant that the buyback costs were underestimated. The increased purchase costs have used up the majority of the contingency funds available.
- 2.26 The costs of maintenance, demolition and disposal of waste, and estimates from sales remain uncertain. The demolitions phase costs are currently higher than the target budget but are within the appropriations for the demolition phase and are within modelling estimates. The Taskforce and PCW continue to work through the demolition program with contractors to gain better information about scoping of demolitions and pricing. The revenue estimates from land sales are dependent on a number of factors, including the first right of refusal for former owners and access to the land rent scheme. Until factors such as the take up rate of blocks offered to first right holders and the extent of access to the land rent scheme (discussed in Chapter 4) are known, the revenue effect of these aspects of the Scheme is uncertain.

### Modelling uncertainty

- 2.27 The Taskforce was required to develop a financial model with a number of uncertain parameters. The Scheme is fundamentally a property purchase, demolition, and sales program. Changes to costings in all three phases impacted on the modelling outcomes. Complicating factors included the volatility of the property market and the novel undertakings as part of the Scheme, for example the large scale demolition of contaminated domestic housing. Allowing for these factors was a challenge for the development of the initial modelling.
- 2.28 In such circumstances the use of scenario analysis provides a broader set of results depending on changes to the underlying assumptions of the financial model. That is, scenario analysis allows the modeller to anticipate the impact of multiple changes and their impact on the financial outcome. Sensitivity analysis changes a single variable to test the impact of the change of that variable. Scenario analysis enables a model to test multiple sensitivities at the same time.
- 2.29 The value of sales for the remediated blocks will determine the net cost of the Scheme to the ACT. Sales revenues estimation could benefit from the application of scenario analysis. Variables include, but are not limited to, the unimproved land value (ULV) of the block, the application of an uplift factor for Variation 343 and the taking up of the first right option and access to land rent by former owners (discussed in Chapter 4).

- 2.30 The initial modelling included some sensitivity analysis, to enable a comparison of best, worst and most likely outcomes. A key parameter in the worst case scenario was to increase the average property purchase price from \$620,000 to \$750,000. The modelling underpinned advice to the ACT Government about the ultimate cost of the Scheme amounting to between \$300 and \$500 million.
- 2.31 Overall, the financial modelling for the Scheme was found to be adequate, in that it provided a prudent range of expected financial outcomes. However, it would have been an improvement if the audit trail of different versions of the model was clearer and the narrative around the explanation of the scenarios and underlying assumptions, and the results generated from the scenario analysis, had been better documented.
- 2.32 The contingency amount included in the cost estimates provided some scope to accommodate the recognised shortcomings of the initial assumptions in the model. However, the amount of the contingency funding appears to be a balancing item to align with the full amount of the \$1 billion loan and does not appear to have been informed by the scenario analysis.

## The terms and conditions of the loan

- 2.33 Following the announcement of the loan arrangement on 28 October 2014, negotiations took place between the ACT Treasury, the Taskforce and Commonwealth Government officials around the terms and conditions for the loan. These conditions included:
- the timing of the loan;
  - the rates of interest;
  - the repayment schedule; and
  - reporting arrangements.
- 2.34 The key loan terms and conditions accepted by the ACT Government included:
- a loan of \$1 billion to be drawn down in two tranches, \$750 million in January 2015 and \$250 million in July 2015;
  - a loan term of 10 years from January 2015 to 30 June 2024;
  - a fixed interest rate based on the Commonwealth Government 10 year bond rate as published on the Reserve Bank of Australia's website at the time of each drawdown;
  - interest to be paid annually in arrears; and
  - a repayment of principal schedule comprising the first payment in the fourth year of \$50 million, increasing to \$100 million in year seven and \$550 million in 2024, the last year of the loan.

- 2.35 The main obligation on the ACT Government under the loan agreement is meeting the loan repayments in accordance with the repayment schedules. Other loan conditions negotiated by the ACT Government included:
- no liability indemnity for previous events;
  - no loan transaction costs;
  - no onerous reporting and governance requirements; and
  - the ability to repay the principal at any time without penalty.
- 2.36 The Chief Minister had also explicitly requested that any assistance provided by the Commonwealth should be excluded for any equalisation processes under the Commonwealth Grants Commission. This was a significant issue for the ACT as financial assistance provided by the Commonwealth to states or territories for various projects (for example infrastructure works such as the Majura Parkway) could be offset from other funding streams, such as GST revenue.

### The ACT Government's credit rating

- 2.37 It was important to the ACT Government that the financing arrangements for the Scheme did not adversely affect its credit rating. In the event, the liability generated by the Scheme did not impact on the credit rating, as noted in the Standard and Poor's Bulletin, dated 27 November 2014:

We expect the ACT's budgetary performance to weaken substantially between 2015 and 2016 compared to previous forecasts. However, we consider this program to be a one-off hit to the budget rather than a long-term structural issue because most of its costs will be incurred upfront from purchasing affected homes and land. The ACT's budgetary performance should strengthen in the medium-to-long terms as it begins to sell decontaminated land to help repay its concessional loan from the Commonwealth Government.

### The draft agreement

- 2.38 The draft funding agreement prepared by the Commonwealth Government was initially not acceptable to the ACT Government. The ACT Treasury advised that the template appeared to be based on an agreement for grants funding to local governments and the terms and conditions contained within that initial draft were unacceptable in an inter-governmental agreement. In particular, the administrative arrangements required under the initial draft agreement were problematic to the ACT Treasury. Advice prepared by the ACT Treasury notes:

Whether this offer is of financial benefit to the Territory will depend on the details of the loan – if the Commonwealth seeks to place a significant administrative burden on the ACT in terms of reporting, compliance and other terms and conditions, it may well be that the cost to the ACT government in complying with those terms and conditions outweigh the relatively minor financial benefit the ACT receives from the lower financing costs.

2.39 The administrative requirements of most concern required the ACT Government to:

- hold the advances in a specified account in order to identify transactions;
- keep financial accounts and records relating to the loan so as to enable all receipts and payments related to the loan to be identified;
- report to the Commonwealth Government annually (within 60 days of 30 June each year) information relating to the properties sold, demolished, reconstructed and re-sold; a summary of program costs and revenue, and ‘any other information requested by the Commonwealth at any time in its absolute discretion’.

2.40 The ACT officials were of the view that these requirements were unnecessary in an intergovernmental loan agreement and successfully negotiated their removal.

### **The loan to be cost neutral to the Commonwealth Government**

2.41 A key objective for the Commonwealth Government was to ensure that there was no adverse impact on its own financial position, i.e. that the loan did not have an overall impact on the Commonwealth’s budget. A number of clauses in the loan agreement were designed to ensure this result. This means that there is no direct contribution from the Commonwealth Government towards the cost of the Scheme.

2.42 While the ACT Government did not agree to the Commonwealth’s requirement for an indemnity for previous events, it was required to indemnify the Commonwealth in respect of legal action by former owners participating in the Scheme in relation to any losses or claims in connection with the real property. The indemnity did not encompass personal injury.

### **The timing of the loan and the interest to be applied**

2.43 The Commonwealth initially planned to advance the loan monies in April 2015. However, this was a concern for the ACT Treasury as the ACT Government had anticipated introducing supplementary appropriation legislation in November 2014 to fund the personal support and buyback programs. The Commonwealth Government agreed to provide the first tranche of the funds (\$750 million) in January 2015 and the remainder in July 2015.

2.44 The loan was provided at the concessional interest rate of 2.605 per cent for the initial advance of \$750 million and 3.015 per cent on the second advance, the balance of \$250 million. A fixed rate of interest, based on the Reserve Bank of Australia (RBA) 10 year government bond rate at the time of the draw down, was negotiated by the ACT Treasury to ensure that the interest liability was fixed from the outset. During negotiations the Commonwealth Government sought to reset the interest rate every 12 months. The argument put by the ACT Treasury was that the fixed interest rate based on the RBA 10 year government bond rate reflected the real cost of providing the loan to the ACT by the Commonwealth Government and that accepting a floating interest rate could have

resulted in the ACT Government paying more for the loan than if the ACT Government had borrowed the funds privately. The ACT Treasury succeeded in obtaining a fixed interest rate for the period of the loan. The repayment schedules and interest rates are set out at Appendix C.

## The ACT's management of the funds

- 2.45 CMTEDD provides services to the ACT Government including 'financial asset and liability management through the establishment of investment and borrowing policies and objectives, and the coordination and implementation of cash management, investment and borrowing activities'. These activities are undertaken via the Territory Banking Account (TBA).
- 2.46 The TBA recognises the government's investment assets and debt liabilities. Revenues on behalf of the ACT Government are transferred to the TBA and fortnightly appropriation disbursements are made to agencies. When the Scheme loan monies were received from the Commonwealth, they were credited to the TBA, in accordance with requirements under the *Financial Management Act 1996*. The operating and capital expenditure for the Scheme is then funded through the normal appropriations process. Once the loan had been announced, the ACT Government passed the necessary supplementary appropriation bill to allocate monies for the Scheme, which were then drawn down from the TBA as required.<sup>14</sup> The loan is recognised as a borrowing in the TBA.
- 2.47 The ACT Treasury was able to negotiate loan terms which resulted in the characterisation of the loan being flexible and fungible, that is, the loan monies, while advanced for a specific purpose, were not quarantined. Further, while a formal schedule of repayments was agreed, the loan agreement provided for the ability to make repayments in advance at any time without penalty.
- 2.48 The value of the loan arrangement to the ACT was enhanced by the ACT Treasury's negotiation of amended loan arrangements. These arrangement provided the ACT Treasury with flexibility in the application of the loan monies, a principal repayment schedule which was weighted towards the latter years (2018-2024) of the loan, and a simple loan repayment arrangement which did not require the ACT Government to comply with onerous reporting requirements as originally specified in the draft loan agreement.

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<sup>14</sup> *Appropriation (Loose-fill Asbestos Insulation Eradication) Act 2014*.

## Capacity for repayment of the loan

- 2.49 The loan repayment schedules for repayment of the principal and interest are set out in Appendix C. Repayments of the loan are to be made in accordance with the schedules. The interest payments over the period of the loan amount to just over \$215 million. Because the interest negotiated is at a fixed rate the amount of interest payable will not change. However, over the period of the loan, the impact on the ACT financial position at any given time will be impacted by the rate of take-up of the buyback offer, the cost of remediation and demolition of houses and the rate at which this will occur, and the sales program.
- 2.50 Repayments of interest commenced in 2015, with the first payment of \$8.1 million. The second payment is due on 30 June 2016 and will amount to \$26.8 million. Repayments of the principal commence on 30 June 2018 and are to be paid annually on that date until 30 June 2024. Repayments of the principal are as follows:
- \$50 million at the end of June each year from 2018 to 2020;
  - \$100 million at the end of June each year 2021 to 2023; and
  - \$550 million at the end of June 2024.
- 2.51 The repayment of the principal has been weighted towards the end of the loan period to reduce the initial impact on the ACT budget. The late repayment also provides an opportunity for the ACT Government to generate the capacity required to meet principal and interest repayments, some of which will come from the sale of remediated blocks. As previously noted, repayments can be made in advance of the repayment schedule without penalties being applied.
- 2.52 The management of government borrowings is an implicit element of overall budget planning in the context of the Government's established fiscal strategy as published in the ACT Government's annual budget statements and reported through the financial statements. The Commonwealth loan is not individually itemised in the financial statements but is included with other debts to the Commonwealth. The ACT Treasury advised that the loan was not being treated differently from any other government debt.
- 2.53 In advice to the Assembly's Public Accounts Committee, Treasury stated:
- ...the actual financing costs and their impact on cash and the Headline Net Operating Balance (HNOB) will ultimately be determined by the timing of all revenues and payments flowing through the Territory's accounts, including the specific timings of cash flows associated with the Loose-fill Asbestos Insulation Eradication Scheme.<sup>15</sup>

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<sup>15</sup> ACT Treasury advice to ACT Legislative Assembly Standing Committee on Public Accounts, November 2014, p 2.

- 2.54 Treasury has also advised that there are multiple factors which could potentially impact on the ACT's total debt position during the ten years of the loan. As noted above, this situation is managed in the context of the annual budget process. Former Chief Minister Gallagher stated to the Assembly that financing the Scheme would impact on ACT services and Chief Minister Barr, as Treasurer, flagged in a statement to the Public Accounts Committee that the loan would impact on capital works and 'that there are some projects which will now not proceed in the time frame that we had originally anticipated'.<sup>16</sup>
- 2.55 The ACT Treasury advised that the loan repayments will be managed in the context of the management of the overall budget position of the ACT Government over the period of the loan. In the response to the draft report, the ACT Treasury and the Taskforce advised that, while the Treasury has not formulated a specific repayment strategy for the capital balance of the loan:
- The Government does have a strategy in place to manage overall debt levels. This strategy deals with all debt as consolidated debt which is far more effective. In no case does the Government maintain an issue-specific or program specific debt strategy. Total debt is managed at a whole of government level, as is the case in all Australian jurisdictions.
- 2.56 The ACT Government's Management Discussion and Analysis accompanying the ACT Government's Annual Financial Statements for the year ended 30 June 2015 notes the following underpinning strategy for the budget:
- In 2015-16 and through to 2018-19 (the forward estimates), the Territory will continue its focus on mitigating financial risks by maintaining expenditure levels within budget in an environment where pressures on the net cost of service delivery are significant.
- 2.57 The loan is being managed as part of net government borrowings. To that extent, it will be managed in the context of the fiscal strategy of the ACT Government as reported in the annual budget statements.

## Reporting the costs of the Scheme

- 2.58 The costs of the Scheme, excluding borrowing costs relating to the Scheme, are recorded in the financial statements of the Chief Minister, Treasury and Economic Development Directorate. Borrowing costs are not recorded because the borrowing of \$1 billion was taken out by the TBA and is therefore recorded as part of the borrowing costs disclosed in the financial statements of the TBA.

<sup>16</sup> ACT Legislative Assembly Standing Committee on Public Accounts, *Inquiry into proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-15*, 28 November 2014, pp 92-93.

- 2.59 ACT Government borrowings are centrally managed through the TBA and borrowing costs are not allocated to individual reporting agencies. While this approach may be appropriate for financial management purposes, it does not result in providing the full cost to the ACT Government of the Scheme in a readily accessible manner either to stakeholders or to the public.
- 2.60 The ACT Treasury indicated in evidence to the ACT Public Accounts Committee that it would recommend to the Government that more detail on how the financing cost is calculated could be provided in the budget update.<sup>17</sup>
- 2.61 The total cost of the Scheme needs to be provided to stakeholders and the public in a readily accessible manner. Accordingly, whole-of-life reporting on revenue and costs (including borrowing costs) from the Scheme's inception to completion needs to be presented in a publicly available document, for example, in the Chief Minister, Treasury and Economic Development Directorate annual budget papers.

#### RECOMMENDATION 1

#### REPORTING OF THE TOTAL COST OF THE SCHEME

The Chief Minister, Treasury and Economic Development Directorate should provide information on the total costs of the Scheme by publicly reporting on the revenue and costs (including borrowing costs) of the Scheme from its inception to completion in the annual budget papers.

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<sup>17</sup> ACT Public Accounts Committee, *Inquiry into proposed Appropriation (Loose-fill Asbestos Insulation Eradication) Bill 2014-15*, 28 November 2014, p 93.

## 3 GOVERNANCE AND RISK MANAGEMENT

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- 3.1 This chapter focuses on the governance model and its risk management framework and assurance strategy and the Taskforce's reporting arrangements.

### Summary

### Conclusion

The Taskforce governance arrangements, including the reporting framework and risk management arrangements, underpin its ability to deliver its project outcomes effectively and within budget. The Royal Commission Report into the Home Insulation Program (HIP) and the subsequent Shergold report, *Learning from Failure*, both emphasise the desirability of creating positive risk cultures. The Taskforce was mindful of the findings in the HIP report in the development of the Taskforce and the implementation of its mandate. The report of the Shergold inquiry, established in December 2014 to review government processes for implementing large programs and projects following the findings of the HIP Royal Commission, was released in February 2016. This report reinforces the desirability of providing robust advice, creating a positive risk culture, enhancing program management and embracing adaptive management. All of these the Taskforce has managed.

The Taskforce's approach to governance and risk management reflects better practice. Despite being established and becoming operational within a very short space of time, the Taskforce has mature and practical arrangements in place, to the extent that risk management is embedded into its daily processes. The Taskforce has actively reviewed its governance and risk management arrangements and continues to refine them, either through formal review processes or in one case, in response to an incident which prompted a review of risk management arrangements for demolition sites.

Reporting arrangements provide regular information on a range of Taskforce activity to stakeholders and governance bodies. Reports on each phase of the Scheme are provided to the primary governance body, the Eradication Scheme Steering Committee. Taskforce matters are a regular agenda item on the Chief Minister, Treasury and Economic Development (CMTEDD) Audit and Risk Committee and quarterly reports are tabled in the Legislative Assembly. From early July 2014, the Taskforce provided weekly briefs to the Chief Minister which gave a picture of events which had taken place in the past week, what was happening and what was imminent.

The risk management arrangements are detailed and targeted. Individual positions are identified with responsibilities under the scheme and risk mitigation strategies specified. As noted above these are reviewed and amended, formally and when circumstances require it. The Taskforce is responsive to the emergence of risks and has assessed its risk management strategies in response to events.

## Key findings

	Paragraph
The Taskforce has developed and implemented appropriate governance and risk management frameworks. It has put into place governance arrangements which promote transparency and accountability and a risk management framework which is actively managed and embedded in the day to day operations of the Taskforce.	3.25
Key roles and responsibilities of the respective entities are identified, including those of Taskforce staff involved in the delivery of the Scheme. The framework provides for regular reporting to the main governance bodies of CMTEDD'st Audit and Risk Committee and the Eradication Scheme Steering Committee.	3.26
The Taskforce has reviewed its governance arrangements in response to the movement through the phases of the Scheme and changing priorities, as well as lessons learned processes.	3.27
Taskforce risk documentation is clear, comprehensive and provides a framework for managing risk in the context of the implementation of a complex program, containing a high degree of risk and uncertainty. Risks have been clearly identified and responsibility for risk management and mitigation strategies assigned to individuals.	3.34
The Taskforce consulted widely in the development of its risk register, both with industry and with ACT Government agencies. It was informed by key findings from the Royal Commission into the Home Insulation Program and industry workshops. There is an underlying work plan actioned by the Taskforce risk coordinator for the purpose of ensuring high level oversight of the risk register.	3.35
Review of risks and the management of risk have been embedded into Taskforce administrative processes. The Taskforce's operationalising of risk means that it has incorporated the identification of risks into its daily activities, providing a high level of awareness throughout the Taskforce of the importance of recognising, mitigating and managing risk.	3.36
The Taskforce actively reviews its risk management strategy and corresponding risk mitigation controls, as is evidenced by the prompt and decisive action taken to do so, after being advised of an electrical incident at a demolition site in February 2016.	3.39

The monthly reporting to the Eradication Scheme Steering Committee (ESSC) provides comprehensive information which enables the ESSC to perform its oversight functions. The quantum and format of the financial information are clear, making it possible for the ESSC to identify potential issues quickly.	3.48
The distribution of the monthly ESSC report to the Minister with responsibility for the Taskforce and appropriate senior executives facilitates transparency of Taskforce processes and high level oversight of Taskforce activities.	3.49
The weekly briefings to the Chief Minister provide a wide-ranging guide to the progress of the Taskforce. In terms of the implementation of public policy, the briefings provide information on the policy options, key issues and decisions, including financial issues, immediate priorities, Taskforce communications, progress on practical matters, stakeholder concerns, and potential obstacles, which were the subject of political and administrative consideration.	3.54
The disclosures in the annual financial statements contribute to the transparency of the Scheme's financial commitments. In the interests of ongoing transparency, these disclosures should continue to be a feature of the financial statements for the duration of the Scheme.	3.56
The Taskforce has provided its stakeholders, including the Legislative Assembly, homeowners and occupiers of contaminated properties and the ACT community generally, with a range of opportunities and mechanisms for engagement with the Taskforce.	3.59

## Governance arrangements on establishment of the Taskforce

### 3.2 Governance in the public sector can be defined as:

...the set of responsibilities and practices, policies and procedures, exercised by an Agency's executive, to provide strategic direction, ensure objectives are achieved, manage risks, and use resources responsibly and with accountability.<sup>18</sup>

### 3.3 On establishment in June 2014, the challenge for the Taskforce was to balance an urgent and responsive approach to rectifying the asbestos contamination problem with one that was underpinned by effective governance and project management frameworks, once the Scheme had been announced. At first the Taskforce relied on existing CMTEDD structures, policies and guidelines, including controls relating to financial processes, fraud, work health and safety, and risk management. Once the more pressing matters of formulating

<sup>18</sup> ANAO, Department of Prime Minister and Cabinet, Australian Public Service Commission, *Implementation of program and policy initiatives: Making implementation matter*, 2006.

the policy response (which resulted in the eradication scheme) and dealing with the urgent needs of homeowners and occupants had been addressed, the Taskforce was able to consider more permanent administrative arrangements. These arrangements prioritised the recruitment of appropriate senior project management staff and the implementation of the necessary administrative procedures to underpin the operations of what would be a highly visible public policy response to a serious social, public health and financial problem in the ACT. These administrative arrangements included the governance framework and risk management procedures.

## The Taskforce governance framework

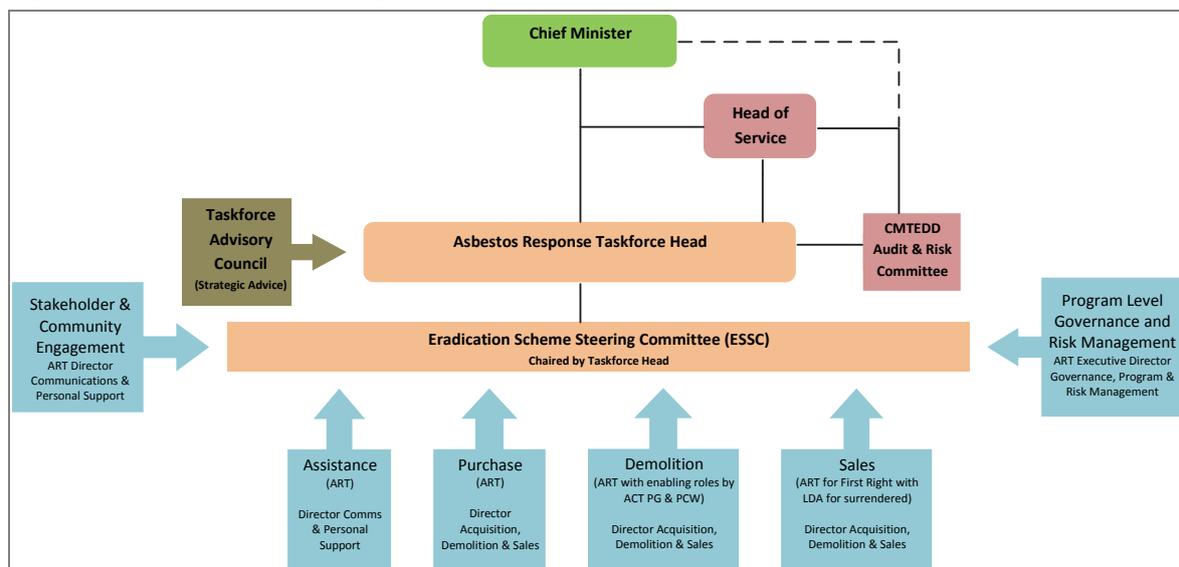
- 3.4 Shergold notes that the ‘management of uncertainty’ should sit at the core of public policy design and that ‘major programs, if they are to be fit for purpose, need to be able to achieve intended outcomes even in adverse circumstances’.<sup>19</sup> Appropriate governance arrangements, including effective risk management, are central to the successful implementation of a major project.
- 3.5 While this audit has a focus on the financial arrangements for the implementation of the eradication scheme, the governance and risk management framework is an overarching framework, covering all the activities of the Taskforce and developed around the phases of the scheme. Many of the risk categories have a financial consequence or are financial in nature. For this reason, the discussion below considers the Taskforce’s governance framework and risk management arrangements generally, with a focus on how governance and risk is managed in the context of financial responsibility and accountability. More detailed discussion on the financial risks within each phase is found in Chapter 4.
- 3.6 The governance framework and documentation ‘to ensure the efficient delivery of the Eradication Scheme and the management of risks’ is built around the Scheme’s phase structure. The four overlapping phases comprise:
- the personal assistance program (July 2014 – present);
  - the buyback program (purchase of properties) (December 2014 onwards);
  - the maintenance, clean and demolition of the properties (December 2014 onwards); and
  - valuation and sale (April 2016 onwards).

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<sup>19</sup> P Shergold, *Learning from Failure: an independent review of government processes for implementing large programs and projects*, August 2015, p 41.

- 3.7 In developing the initial governance framework, the comments and recommendations from the report of the Royal Commission into the Home Insulation Program were a consideration.<sup>20</sup> According to the Taskforce report to CMTEDD’s Audit and Risk Committee, the Taskforce has given ‘considerable attention to ensuring the Royal Commission’s findings on risk, governance, communication, safety, and the requirements of industry to assist the taskforce have been incorporated into risk controls and operational management frameworks’. Consultations around effective governance requirements were also held with senior officials of similar entities such as the ACT and Victorian bushfire recovery taskforces and the Queensland Reconstruction Authority.
- 3.8 The initial governance framework was developed and approved by the Chief Minister in December 2014. In March 2015, the Taskforce, through the CMTEDD Audit and Risk Committee, initiated an internal review of the governance arrangements. The report was finalised in September 2015. The November 2015 amendments to the governance arrangements built on the recommendations of the internal audit of the governance arrangements and an internal review ‘to refine the existing governance and delivery arrangements to recognise the changing focus and understanding of the Taskforce’s work and to take account of lessons learned from the earlier stages and identified better practice’. The update did not result in fundamental changes to the original structure, but a clarification of roles and responsibilities. The Eradication Scheme Steering Committee (ESSC) remained the primary key officials’ level decision making forum and continued to meet monthly. By this time, the Taskforce had also established regular reporting arrangements to the CMTEDD Audit and Risk Committee. The governance entities and their relationship to one another are shown in Figure 3-1.

Figure 3-1 The Taskforce governance framework<sup>21</sup>



Source: Asbestos Response Taskforce

<sup>20</sup> Ian Hanger AM QC, *Report of the Royal Commission into the Home Insulation Program*, 2014.

<sup>21</sup> Diagram supplied by the Asbestos Response Taskforce.

3.9 The governance framework comprises:

- at officials' level, overall accountability and control sitting with the Head of the Taskforce;
- CMTEDD's Audit and Risk committee, which provides high level oversight of the program and review of risk management processes, and the effectiveness of the mitigation processes being implemented; and
- the ESSC, which is the 'key controlling and performance driving element of the governance structure'.

3.10 A Community and Expert Reference Group (CERG) was established in August 2014 to provide a link between the Taskforce and homeowners and occupiers affected by LFA, to facilitate direct input to the Taskforce from those most affected. The CERG has been meeting regularly, with minutes of meetings posted on the Taskforce website. While this body is not a formal part of the governance arrangements, the risk summary incorporates such items as damage to community confidence in the ACT Government, and reliance on incomplete, misleading or inconsistent advice. The operation of the CERG group is a factor in the mitigation of these particular risks in its role as a conduit of information both to the Taskforce and the ACT community.

3.11 The 2014 framework also provided for an Advisory Council/Board, as an alternative source of information and for advice on community and stakeholder engagement, policy and emerging issues and advice and assistance with Scheme performance. The Advisory Council or a similar body has not yet been appointed, however, the appointment of an advisory group is currently under internal consideration, pending the expansion of the Taskforce's efforts from a largely community focus to one which includes the management of procurement, contract management and sales issues.

## Internal audit of Taskforce governance arrangements

3.12 In March 2015, the Taskforce, through CMTEDD's Audit and Risk Committee, commissioned an internal audit of the Taskforce governance arrangements to:

- determine whether there were any opportunities to improve the success of the Scheme through improvements to governance arrangements, including any dependencies of responsibilities outsourced to other Directorates;
- ascertain that adequate processes and procedures have been developed for the program;
- provide assurance regarding the management of key risks and that risks have been identified and treatment actions have been documented, implemented or considered to reduce the risk as much as is practicable; and
- ensure governance processes are adequate and propriety of process is maintained.

3.13 The scope of the internal audit included the assessment of governance arrangements and reporting framework for the implementation and management of the Scheme. The report identified that key governance elements were in place and operating appropriately ('in a manner which is both fit for purpose and pragmatic to manage the risks and remedial activities required'). The report made many positive observations and several recommendations to improve or build on existing practices. The most significant of these recommendations were:

- the development of a quality plan to strengthen controls for ensuring the desired levels of compliance and behaviours are being adhered to by the Taskforce and its partner agencies (high priority);
- while the key elements for effective risk management had been developed, the audit identified capacity for the refinement and streamlining of the key risk management documents (medium priority), including a statement of risk tolerance;
- the development of a global (dashboard) financial report to complement the existing financial reporting (medium priority);
- the necessity for effective and efficient integration of industry into the project through identifying opportunities to strengthen the control framework in place for the management of suppliers (medium priority); and
- the requirement for the Taskforce to ensure sound governance arrangements, including record keeping practices, were in place as the project continued to mature (medium priority).

3.14 Progress by the Taskforce in implementation of the recommendations is as follows:

- the current development of a quality plan as part of the assurance strategy;
- the streamlining of the risk management documentation;
- the incorporation of a one page high level snapshot (dashboard) report, which forms part of the financial reporting to the ESSC (as at September 2015);
- the involvement of industry partners, who are actively participating in the delivery of the Scheme through management of the valuations process for the buyback scheme, as contractors undertaking demolitions and related activity and in assisting the LDA with the sales program; and
- the development of a statement of risk tolerance, which has been included in the Taskforce's risk management plan.

- 3.15 The implementation of a quality plan was a high priority recommendation but is still being implemented. The Executive Director, Program, Governance and Risk, advised that:

To operationalise the expected performance and achieve the required quality of outcomes the Taskforce is establishing a quality strategy as identified in the PWC audit. This strategy will include actual quality targets and measures. However, as discussed the Taskforce will be consolidating the current Risk Assurance Strategy and Framework with the quality strategy into a Quality and Risk Assurance Strategy as we believe, after careful consideration, the two issues are closely related and dependant on each other and will be more affective if the assurance and risk aspects were integrated into how we will achieve quality outcomes.<sup>22</sup>

## The risk management framework and assurance strategy

- 3.16 The risk management framework and assurance strategy are overarching documents which aim to minimise Taskforce exposure to significant risks and enhance the Taskforce's ability to capitalise on opportunities through minimising risk and improving overall performance. In its statement of risk tolerance, the Taskforce notes that its 'approach to risk management supports the ACT Government's commitment to the social and community benefits of the Scheme while also managing risk to meet its fiscal ... responsibilities'.

- 3.17 Effective risk management requires the 'development, monitoring and maintenance of risk management plans'<sup>23</sup>. In November 2014 the Taskforce developed an Asbestos Response Taskforce Strategic Risk Register, and a Risk Treatment Action Plan, both of which were presented to the CMTEDD Audit and Risk Committee in February 2015. Following receipt of the internal review, the Taskforce reviewed and updated its governance documents. Following this review and updating the major documentation supporting the risk framework comprises:

- the risk management plan;
- the assurance strategy and framework;
- the strategic risk register, by phase; and
- a risk summary document, which sets out the strategic and program risks by phase.

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<sup>22</sup> Taskforce advice to the Audit Office, 25 February 2016.

<sup>23</sup> P Shergold, *Learning from Failure: an independent review of government processes for implementing large programs and projects*, August 2015, p 42.

## The risk management plan

- 3.18 The risk management plan establishes the processes for risk management in the Taskforce. Its objective is to 'minimise the Taskforce's exposure to significant risks, through the identification, assessment, management, monitoring, review and reporting of risk; and minimise risk and improve overall performance'. In developing the risk management documents, the Taskforce also consulted with ACT Government stakeholders, such as the Property Group, PCW and the LDA. These agencies have responsibilities for delivering elements of the different phases of Taskforce activities: maintenance and security of properties prior to demolition, the demolition itself, clearing of blocks and their subsequent sale. Other key stakeholders contributing to the risk management workshops included ACT NoWaste, Treasury and WorkSafe ACT.
- 3.19 The risk management plan includes a statement of risk tolerance: the plan notes that risk is inherent in all Taskforce functions and risk management principles are to be integrated into all aspects of Taskforce work. The plan acknowledges that retaining an extreme or high risk rating is not something to be avoided and, further, that 'an appropriate measure to consider in accepting an extreme or high risk rating is how well the risk is managed'.

## The assurance strategy and framework

- 3.20 The Taskforce engages in a range of activities, from personal support to the demolition of houses, with these activities being delivered at times by external agencies. In order to manage the inherent risks the Taskforce relies on an assurance approach. The assurance strategy identifies who has lead responsibility for activities within phases and the parties who perform functions under the Scheme. Table 3-1 sets out the identified parties.

**Table 3-1 Entities with functions under the Scheme – roles and responsibilities**

Phase	Identified Parties
Phase 1- Support (Lead: Taskforce)	Taskforce – Support Teams (Emotional Support to affected parties) Taskforce – Finance Team (Financial Assistance) Taskforce – Communications Teams
Phase 2 - Buyback (Lead: Taskforce)	Taskforce – Buyback Team Taskforce – Financial Team Taskforce – Communications Teams Taskforce – Support Teams (Emotional Support to affected parties) ACT Procurement and Capital Works WorkSafe ACT Contractors – Home Valuations Contractors – Asbestos Assessors
Phase 3 – Demolition (Lead: PCW)	ACT Procurement and Capital Works ACT EDD – Property Security and Maintenance Taskforce – Demolition Team Taskforce – Communications Teams Taskforce – Support Teams (Emotional Support to affected parties) Taskforce – Finance Team (Reimbursement for services provided) WorkSafe ACT ACTEW Contractors – Demolition Contractors – Asbestos Assessors
Phase 4 - Sales (Lead: LDA)	ACT Land Development Agency ACT EDD – Property Security and Maintenance Taskforce – Communications Teams Taskforce – Support Teams (Emotional Support to affected parties) Taskforce – Sales Team Taskforce – Finance Team (Reimbursement for services provided)

Source: Asbestos Response Taskforce, ART Assurance Strategy and Framework.

3.21 One of the features of the Taskforce operation is the preparedness to use existing ACT resources within CMTEDD and elsewhere. While the Taskforce is responsible for the Scheme as a whole, elements of the phases of the Scheme are delivered by specialist agencies from within CMTEDD. The risk management framework relies on an assurance process from its program delivery partners in relation to each of their areas of responsibility. The CMTEDD program delivery partners are:

- the ACT Property Group – once settlement has taken place on the properties, the Property Group secures the site and manages ongoing maintenance and security issues until the property is handed on to PCW for demolition;
- PCW – PCW is the ACT’s contract manager and as such manages the demolition contracts and oversees the demolition process; and

- the LDA – the LDA is responsible for marketing and sales of remediated blocks. As such it has only recently become involved in Taskforce operations, as the blocks are removed from the Affected Residential Premises Register and made available for sale.
- 3.22 The assurance framework requires that non-Taskforce entities report to the Taskforce about their risk management activities. The entities are required to meet the objectives of the Scheme and the milestones, and provide assurance ‘that each phase of the Scheme is delivered in accordance with community expectations’. In fulfilling this obligation, program entities are required to provide written assurance statements in conjunction with the monthly ESSC reporting.
- 3.23 Because of the nature of this strategy, i.e. reliance on partner agencies to undertake their own risk management activity and report back to the Taskforce, the Taskforce has strategies in place to review the arrangements of the partner entities. These strategies primarily include:
- monthly reporting to the ESSC by Directorates with responsibility for key functions on the activities for which they are responsible, including how project/program risk is being managed; and
  - measuring the implementation and effectiveness of risk treatments through governance reviews and desk audits.
- 3.24 The monthly ESSC reporting provides confirmation that milestones and performance indicators are on track. Within each of the four phases sits a range of key milestones representing critical performance and reporting indicators and a range of performance requirements across all phases, the Scheme Life Cycle performance measures. The Life Cycle performance measures, owned by the Taskforce, deal with top tier risks such as client and community management, safety, reputation, confidence in the Scheme and value for money.
- 3.25 The Taskforce has developed and implemented appropriate governance and risk management frameworks. It has put into place governance arrangements which promote transparency and accountability and a risk management framework which is actively managed and embedded in the day to day operations of the Taskforce.
- 3.26 Key roles and responsibilities of the respective entities are identified, including those of Taskforce staff involved in the delivery of the Scheme. The framework provides for regular reporting to the main governance bodies of CMTEDD’s Audit and Risk Committee and the Eradication Scheme Steering Committee.
- 3.27 The Taskforce has reviewed its governance arrangements in response to the movement through the phases of the Scheme and changing priorities, as well as lessons learned processes.

## The risk register and summary

3.28 The Taskforce aims to manage risks both at a strategic level and across the individual phases of the scheme. In assessing risk, the Taskforce takes into consideration such matters as:

- the potential impact of a risk;
- the timing and spatial nature of the risk;
- the likelihood of the issue continuing or being repeated;
- the availability of alternative solutions;
- any legal implications of a risk event;
- the duration of the risk event; and
- any aggravating or mitigating circumstances.

3.29 While the Taskforce is ultimately accountable for the achievement of the activities in each of the phases, the non-Taskforce entities delivering the services to maintain properties, demolish the houses and effect the sales process also have responsibility for the delivery of their respective responsibilities to performance standards, safely and within budget. The Taskforce held a two day workshop in February 2015, prior to developing its risk register, with workshop participants from PCW and the ACT Property Group, the LDA, NoWaste in Territory and Municipal Services, Environment and Planning Directorate, ACT Insurance Authority and WorkSafe ACT. These workshops were ‘the foundation for the development of risk registers and controls, by area of functional responsibility and for the delivery of outcomes in each phase of the Scheme’.

3.30 Amendments to the risk register have streamlined the identified risks by phase and decreased the number of identified risks from 120 to 16 across the four phases of the Scheme. There are an additional six strategic risks. The risk summary identifies the owner of the risk and the responsible executive staff member. Because there was potential for confusion as to where responsibility for individual risks lay, given that the operations of the Taskforce touched on so many areas, risks were identified within the Taskforce’s operational phases and responsibility for the management of the risk was allocated in accordance with responsibility for the task. Therefore, the Taskforce Head ‘owns’ the strategic risks, while the Executive Director Governance, Program and Risk owns the remainder. Beneath this overarching ownership structure, the line responsibility for each risk lies with the phase director, who manages the implementation of risk controls. The register also contains an annual work plan for the Taskforce Risk Coordinator, which sets out activities, deliverables and timeframes for management of the risk register.

- 3.31 The Taskforce actively reviews its risk arrangements and has documented its approach to monitoring and review in its risk management plan. The Taskforce acknowledges that risk management is an ongoing process, which needs to be subject to structured monitoring and review to:
- identify changes to risk profile and if necessary add new risks;
  - provide feedback on control effectiveness;
  - track progress of risk treatment actions;
  - identify whether any further treatment is required;
  - provide a basis to reassess risk priorities; and
  - capture lessons learned from event failures, near misses and successes.
- 3.32 Risk management has been integrated into the day to day operations of the Taskforce to create a risk-conscious organisational culture. For example, a new policy requires consideration of risk factors, and a check of the risk register to determine whether an amendment to existing risks or the addition of a new risk and appropriate mitigation strategies is required. Reports to the ESSC require directors responsible for each of the phases to address risk management and related issues which may have arisen during the preceding month. The Taskforce has appointed a Risk Coordinator, who has responsibility for drafting risk documentation and for ensuring the necessary reviews take place.
- 3.33 The risk management strategy also incorporates a proposed schedule of compliance reviews of administrative processes. This schedule is currently with CMTEDD's Audit and Risk Committee to determine priorities for review for the remainder of 2016. As at March 2016, an internal review of the overarching governance framework has taken place, as well as reviews into the pilot demolition process, presidential determinations (see Chapter 4) of valuations (initial review and follow up) and personal support payments compliance.
- 3.34 Taskforce risk documentation is clear, comprehensive and provides a framework for managing risk in the context of the implementation of a complex program, containing a high degree of risk and uncertainty. Risks have been clearly identified and responsibility for risk management and mitigation strategies assigned to individuals.
- 3.35 The Taskforce consulted widely in the development of its risk register, both with industry and with ACT Government agencies. It was informed by key findings from the Royal Commission into the Home Insulation Program and industry workshops. There is an underlying work plan actioned by the Taskforce risk coordinator for the purpose of ensuring high level oversight of the risk register.

- 3.36 Review of risks and the management of risk have been embedded into Taskforce administrative processes. The Taskforce's operationalising of risk means that it has incorporated the identification of risks into its daily activities, providing a high level of awareness throughout the Taskforce of the importance of recognising, mitigating and managing risk.

#### **Review of the risk management framework – on site incident**

- 3.37 The Taskforce is ultimately accountable for work health and safety at demolition sites. The Taskforce also has a responsibility under its risk management strategy to ensure adequate health and safety of program stakeholders (strategic risk six). To this end the assurance process requires all ACT Government partners, in this case PCW, which is responsible for managing contractor work health and safety requirements on behalf of the Taskforce, to report on work, health and safety issues arising during the course of demolition operations. Further, the Taskforce maintains an incident register, which forms part of its monthly reporting to the ESSC.
- 3.38 An electrical incident at a demolition site in February 2016 provided the trigger for the assurance and risk mitigation strategies to be reviewed and additional mitigation strategies implemented. While the incident was not a direct financial risk, the consequences of such incidents necessarily mean additional costs to the Scheme through delays to the completion of the phases. The Taskforce initiated a review of its risk management framework and documentation immediately it learned of the incident. Within hours of notification of the incident an email was forwarded to senior executives in the Taskforce to discuss review of the risk controls and their implementation. The risk register was subsequently amended to require principal contractors to provide to PCW and WorkSafe ACT additional certification prior to commencing demolition activity at a worksite. A further email was forwarded to all contractors, advising of this requirement and a reminder about work health and safety obligations was sent to all principal contractors requesting that they review work health and safety procedures in relation to electrical safety.
- 3.39 The Taskforce actively reviews its risk management strategy and corresponding risk mitigation controls, as is evidenced by the prompt and decisive action taken to do so, after being advised of an electrical incident at a demolition site in February 2016.

## Reporting on performance

- 3.40 Reporting against performance, particularly in a complex project environment, gives the governance body visibility over the implementation of a project and the ability to track performance and expenditure against milestones. The Taskforce produces a comprehensive set of reports for a range of stakeholders, with monthly reporting to the ESSC and regular reporting to the Legislative Assembly and the Chief Minister, as well as providing input to the CMTEDD annual report. In addition, the Taskforce, as part of CMTEDD, provides input to the latter's annual report.
- 3.41 The ESSC is the primary governance committee established to oversee the effective delivery of all phases of the Scheme. It is chaired by the Head of the Taskforce and membership comprises senior staff from Treasury and Economic Development (PCW and LDA). Senior staff with line responsibility for program delivery also attend the meetings. The ESSC has been established to control value for money, program implementation, risk, client management, broader scheme community engagement. It is also the single point for reporting. The ESSC also provides the Head of the Taskforce with a forum to, among other things:
- monitor key milestone progress and performance across the four phases of the Scheme;
  - monitor work health and safety issues; and
  - control the Scheme budget through approvals and funding release.
- 3.42 Reporting to the ESSC comprises:
- a summary scheme progress report, including progress towards the achievement of key milestones and key statistics and an overview of key Taskforce activities by phase (personal support, buyback, demolition and sales);
  - a Finance report, including the one page dashboard report (recently amended to reflect the changes in focus for the Taskforce);
  - reports from the Executive Director, Program, Governance and Risk, Director, Acquisition and Sales, Director, Communications and Personal Support, the ACT Property Group, Procurement and Capital Works; and
  - other business, including items requiring decisions as opposed to delivery of information.
- 3.43 The primary report to the ESSC is a comprehensive progress report across all four phases, supplemented by reports addressing each of the major phases of the Scheme. Initially the focus of reporting was on the personal support program and the buyback scheme. Subsequently, reporting has included the maintenance and security of properties and the progress of demolitions. Most recently, reporting on the proposed sales program has been prepared for the ESSC. As recommended by the internal audit report, financial reporting now includes a dashboard report, which provides: an overall picture of the financial status

of the Scheme and expenditure to date, by financial year and by total scheme appropriation; expenditure by phase; and purchase costs of properties – actual and by budget and property status – properties held by the Taskforce, properties yet to be purchased, properties demolished and properties sold. This one page document is highly informative.

- 3.44 Responsibility for individual reports is set out in the governance framework. For example, reporting for phases one and two (personal support and the buyback) lies with the Taskforce, while reporting responsibility for phases three and four (demolition and sales) lies with the EDD, which provides services across these phases. The services provided include the management of purchased properties by the ACT Property Group, contract management for the demolition of houses and remediation of blocks by PCW and management of the sales program by the LDA. The Property Group, PCW and the LDA all provide reports to the Taskforce via the Director (Acquisition, Maintenance and Sales) at the Taskforce.
- 3.45 Program reporting, which includes risk, work health safety, key performance indicators (KPIs) and issues, is provided for the assistance, buyback, property security and maintenance, demolition and sales and marketing phases of the Scheme. For example, in relation to property security and maintenance, reporting comprises activity and budget expenditure, security performance (incidents), work health and safety events and advice on risk management. The report also provides progressive figures on the number of properties being managed and the number handed over to PCW on a rolling three month basis. Reporting for the demolition phase comprises the number of properties under contract and costs, including budget, committals and forecast end costs. The sales program was reported for the second time at the meeting of 17 March 2016, with five remediated blocks having been offered to previous owners under the first right of refusal option.
- 3.46 The reporting to the ESSC provides timely advice on major issues, including financial trends. For example, following a meeting of the ESSC on 28 April 2015, in which the possible budget over-run of \$100 million on the purchase of properties was raised, a comprehensive report was provided to the Chief Minister on the matter (in addition to the 15 January 2015 briefing already provided to him on the issue). There was high level visibility, both within the Taskforce, at ESSC level and politically, of the higher purchase prices than had been originally anticipated at an early stage.
- 3.47 The monthly ESSC summary report is provided to the Minister with responsibility for the Taskforce (initially the Chief Minister and now the Minister for Workplace Safety and Industrial Relations) and copied to the Chief Minister, the Head of Service, the Director-General, EDD/Chief Executive Officer, LDA and the Under-Treasurer for their information.
- 3.48 The monthly reporting to the Eradication Scheme Steering Committee (ESSC) provides comprehensive information which enables the ESSC to perform its oversight functions. The quantum and format of the financial information are clear, making it possible for the ESSC to identify potential issues quickly.

- 3.49 The distribution of the monthly ESSC report to the Minister with responsibility for the Taskforce and appropriate senior executives facilitates transparency of Taskforce processes and high level oversight of Taskforce activities.

### Reporting to the Chief Minister and the Legislative Assembly

- 3.50 From July 2014, the Taskforce provided regular briefings to the Chief Minister and from January 2016 also to the Minister for Planning and Land Management. From the establishment of the Taskforce quarterly reports were provided to the Legislative Assembly. Initially these were verbal reports and later they were provided as written documents for tabling. The Taskforce also provides input to CMTEDD's annual report.
- 3.51 From early July 2014, comprehensive regular (predominantly weekly) briefings were prepared for the Chief Minister, copied to the Head of Service, on the operations of the Taskforce and key events during the preceding period and upcoming events. This weekly briefing did not supplant other briefings where decisions were required or where matters of an urgent nature required the attention of the Government, nor were they formalised reports. They were an information tool to keep the relevant Minister informed about Taskforce activity. There were 21 briefings over the course of 2014 and 22 in 2015.
- 3.52 These briefings provide an account of events during the first 18 months of the Taskforce operations. One of the criticisms of the HIP program was the failure of public officials to provide frank and fearless advice to their ministers. Analysis of the briefing material in relation to the Scheme shows that the Chief Minister was kept informed of emerging issues as they arose. For example, early in the buyback program the Chief Minister was alerted to potential risks to the budget due to an increased cost of the buyback program. Briefing to the Chief Minister on 15 January 2015, titled 'House Purchase Budget Risk', advised the Chief Minister that, as a result of the completion of valuations on 288 properties, the average house price had been estimated at \$721,347 or over \$101,000 more than the original forecast figure of \$620,000. The brief included analysis of the reasons for the variation and the impact on the budget over the short term, with some consideration of long term implications.
- 3.53 A quarterly report is provided to the Legislative Assembly to update it on the progress of the Scheme. Initially this report was in the form of a statement from the Chief Minister, but is now a tabled document.
- 3.54 The weekly briefings to the Chief Minister provide a wide-ranging guide to the progress of the Taskforce. In terms of the implementation of public policy, the briefings provide information on the policy options, key issues and decisions, including financial issues, immediate priorities, Taskforce communications, progress on practical matters, stakeholder concerns, and potential obstacles, which were the subject of political and administrative consideration.

- 3.55 The CMTEDD annual report contains information about the establishment of the Taskforce and progress of the Scheme. In the 2014-15 financial statements, CMTEDD made disclosures on the impact on the budget of the funding for the LFA eradication scheme. The financial statements noted that the Scheme, along with the changes to the Administrative Arrangements, meant that the comparison to the 2013-14 actual result was significantly higher, owing to the grants and purchases services for the Scheme and the financial assistance payments to homeowners associated with the Scheme.<sup>24</sup>
- 3.56 The disclosures in the annual financial statements contribute to the transparency of the Scheme's financial commitments. In the interests of ongoing transparency, these disclosures should continue to be a feature of the financial statements for the duration of the Scheme.

#### RECOMMENDATION 2 DISCLOSURES IN FINANCIAL STATEMENTS

The Chief Minister, Treasury and Economic Development Directorate should continue to provide disclosures about the financial impact of the Loose-fill Asbestos Eradication Scheme in future financial statements.

### The Taskforce's relationship management

- 3.57 Relationship management is at the forefront of the Taskforce's risk strategy and its communications, and is fundamental to this element of its operations. One of the strategic risks in the risk summary is the damage to community confidence. A potentially mitigating factor in the operations of the Taskforce has been its relationship management: with the Chief Minister and the Legislative Assembly, CMTEDD, other ACT Government partners, the industry participants in the Scheme and, most importantly in the early phases of the Scheme, with the homeowners and occupants who have been affected by the contamination issue.
- 3.58 The Taskforce established a number of mechanisms to enable the Government and the community to be kept informed of developments in asbestos removal and the Government's response. The initial communication of the policy, face-to-face communication with the public, both individually and in group forums, the use of social media and a comprehensive website, and the direct written and in person communications with homeowners and occupants has meant that there has been comprehensive information published to the ACT community and a range of avenues for citizens to engage with the Taskforce. The extent to which these communication strategies have been effective will be examined in the next audit.

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<sup>24</sup> CMTEDD Annual Report 2014-15, Vol 2, financial statements, p 58.

3.59 The Taskforce has provided its stakeholders, including the Legislative Assembly, homeowners and occupiers of contaminated properties and the ACT community generally, with a range of opportunities and mechanisms for engagement with the Taskforce.



## 4 MANAGEMENT OF FINANCE AND RISK FOR EACH PHASE OF THE SCHEME

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4.1 This chapter considers the management of finance and risk by phase of the Scheme.

### Summary

### Conclusion

Effective financial management arrangements have been implemented in the Taskforce for the delivery of the Scheme. The Taskforce has developed administrative processes to manage the delivery of the Scheme. The customised settlement process gave the Taskforce the ability to settle a large number of properties within a short space of time. This process as developed allowed the Taskforce to purchase the majority of the affected properties within a few months, fulfilling a major objective of the Scheme.

The phased approach of a pilot demolition program, incorporating a lessons learned exercise, is an effective means of implementing a program for which there was little previous experience. It enabled the better scoping of the asbestos removal and demolition process itself and the testing of contractors' abilities and capacity to undertake the necessary activities. This approach has meant that risks were being managed at both a strategic and operational level, although the cost of the demolition phase remains a risk.

The sales program is in its early stages with only 10 properties having been offered to the public. Land valuations of the remediated blocks are difficult to assess and estimates of revenue from sales remain uncertain.

The record keeping in the initial stages of its operation was inadequate. While records are being progressively transferred to Objective, the Taskforce's record keeping system, some historical records are yet to be captured. It is important that the Taskforce completes the migration of records to Objective expeditiously.

### Key findings

The immediate priorities for expenditure by the Taskforce were the personal support program and the buyback program. The financial management arrangements adopted for the personal assistance scheme/relocation assistance grant were effective in delivering a fast response within risk tolerances.

Paragraph

4.29

The Taskforce developed innovative administrative processes to manage the delivery of the buyback program effectively. The customised settlement process enabled the settlement of a large number of properties within a short space of time. 4.30

The Taskforce used a lessons learned workshop approach early in the demolitions program to contribute to the identification of risks for the demolitions phase. This is an effective mechanism for managing the risk of a program for which there exists little prior knowledge. The outcomes of the workshop helped to define the ongoing management of the demolition phase. 4.46

The demolition phase was one which contained a high degree of risk, both financial and operational. Costs were an unknown quantity and operational procedures were required to be developed. For these reasons, the Taskforce and Procurement and Capital Works developed a staged approach to the demolition program in order to develop expertise in the program, gain better knowledge around costs and assess the skills and capacity of the industry. 4.47

The implementation of a graduated sales program continues the approach applied in the demolitions phase; that is, small numbers of properties are to be offered initially to assess the market and to provide better information to inform the development of subsequent sales programs. 4.61

The sales program is now in the early stages, having commenced in April 2016, and a total of between 30 to 50 sales is forecast to be undertaken by the end of financial year 2015-16. Following the first sale of properties, the Taskforce and the Land Development Agency (LDA) held a lessons learned workshop approach (similar to that held in the demolitions phase), in order to better manage future sales. 4.62

## Identification of financial risks by phase of the Scheme

4.2 The identified financial risks in the individual phases include:

- inappropriate expenditure for delivery of the assistance phase;
- inappropriate expenditure for delivery of the purchase/buyback program;
- management of the property maintenance, security and demolition phases;
- the inability to meet the demolition schedule;
- the requirement of additional expenditure to prepare blocks for sale; and
- the failure to maximise net revenue associated with land sales.

- 4.3 Of the identified phase risks, the personal support grants and the buyback program are largely complete or the extent of the financial commitment is known. The demolition schedule is on track, however, the maintenance and demolition costs are still being determined. Where there are known financial commitments, the extent of these and the extent to which they differ from the original estimates are discussed, as well as the risk management and mitigating strategies. Where costs are not yet defined the report considers the mitigating strategies for managing the risk.

## The personal assistance phase

- 4.4 The ACT Government agreed on 1 July 2014 to a range of financial assistance payments to affected homeowners and occupiers, including a grant of \$10,000 per household plus an additional \$2,000 per child. These payments were for the purpose of out of pocket expenses such as temporary accommodation, temporary remediation of the property and the replacement of contaminated clothing.
- 4.5 The principles agreed by the ACT Government to attach to this payment included:
- families to be reimbursed for reasonable out of pocket expenses as quickly as possible;
  - the Taskforce to pay directly for assistance where practical;
  - the Taskforce to have regard to public service travelling allowance rates in determining the reasonable costs (noting that families' needs are not the same as those of officials travelling alone);
  - families not to be required to acquit all expenditure to receive appropriate assistance.
- 4.6 On 28 October 2014, the date the eradication scheme was announced, the ACT Government announced the extension of the emergency assistance package to owner occupiers and tenants living in properties as at 28 October 2014 and vacating them after that date. The Relocation Assistance Grant replaced the emergency assistance package and any payments received under the former package were deducted from an approved application for the latter. The payments under the packages were the same - \$10,000 per household and \$2000 for each dependent child. The original estimate for the financial assistance program was \$15.7 million and the amount originally budgeted was \$13.5 million. To date the expenditure on this program has been \$11.7 million.
- 4.7 In order to make a payment under either program the Taskforce did not require the normal receipt and acquittal processes, as set out in the approved policy. If an applicant fulfilled the eligibility criteria (either the owner or tenant was residing in the property as at 18 February 2014 or for the latter grant, at 28 October 2014) then the grant was paid. The owner was required to make certain commitments on application for the assistance, which included not returning to the property or allowing others to live there.

- 4.8 Soon after the establishment of the Taskforce, in August 2014 a Client Relationship Management (CRM) database was established, to hold case files for any affected homeowner, impacted homeowner or tenant. The database was modified from an existing system used by Shared Services to incorporate Taskforce specific fields so that only relevant information was captured. The CRM database records personal details, property details, and payments to the homeowner, including the financial assistance payments. A financial assistance policy is available on the website and a standard operating procedure (SOP) for the administration of financial assistance has been developed for Taskforce use. That SOP requires preliminary approval by the Director Communications and final sign off by a senior finance manager. Documentation is filed in the CRM.

### **Internal review of financial assistance policy compliance, CRM access and relocation assistance grant**

- 4.9 The financial risks attaching to this aspect of the Scheme included over-payments or duplicate payments to homeowners or occupiers and payments for dependent children who did not exist or who were not normally resident with the parent.
- 4.10 A desk review of compliance with the financial assistance policy was undertaken by the Taskforce's finance section. The desk review examined compliance in assessing and approving payments under the Scheme. The review comprised a random sample of 11 properties for the 2014-15 financial year, which included a mix of owner/occupier and leased properties, families with children, payments for house contents and second payment recipients. The payment amounts, second package amounts and information such as the number of children were checked against information collated in the CRM database and also in the financial payment paperwork on file. The desk review showed that payments had been made in accordance with the principles approved by the ACT Government<sup>25</sup> and that record keeping was accurate.
- 4.11 The personal assistance phase is now largely complete. Payments have been made in accordance with the agreed government policy and compliance activity undertaken to provide assurance that payments have been made appropriately.

## **The property buyback program**

- 4.12 The property buyback program is the single most expensive phase of the Scheme. The buyback phase comprises a valuation, offer and settlement process. Risks have been identified in the valuation and settlement processes. The settlements process in particular required careful consideration from the Taskforce, given the predicted concentration of activity within a short period of time and the quantum of funds involved.

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<sup>25</sup> The principles centred around minimal dislocation of families, making the payment of financial assistance simple and rapid and ensuring that claimants did not have to acquit all expenditure.

4.13 The risk summary identifies difficulties with valuations process and inappropriate expenditure for the purchase/buyback program as high level risks. At the operational level, the risks are documented as:

- the existence of poor financial controls which could facilitate fraud;
- a valuations process which delivered too many valuations going to arbitration (presidential determination) for resolution;
- mistakes in the cheque issuing process resulting in cheques being made out to the wrong recipient and for the wrong amounts;
- inadequate record keeping; and
- insufficient funds in the settlement account to cover purchase costs.

4.14 Once the Scheme was announced on 28 October 2014, it was open to eligible homeowners to 'opt in' to the buyback program. The process is:

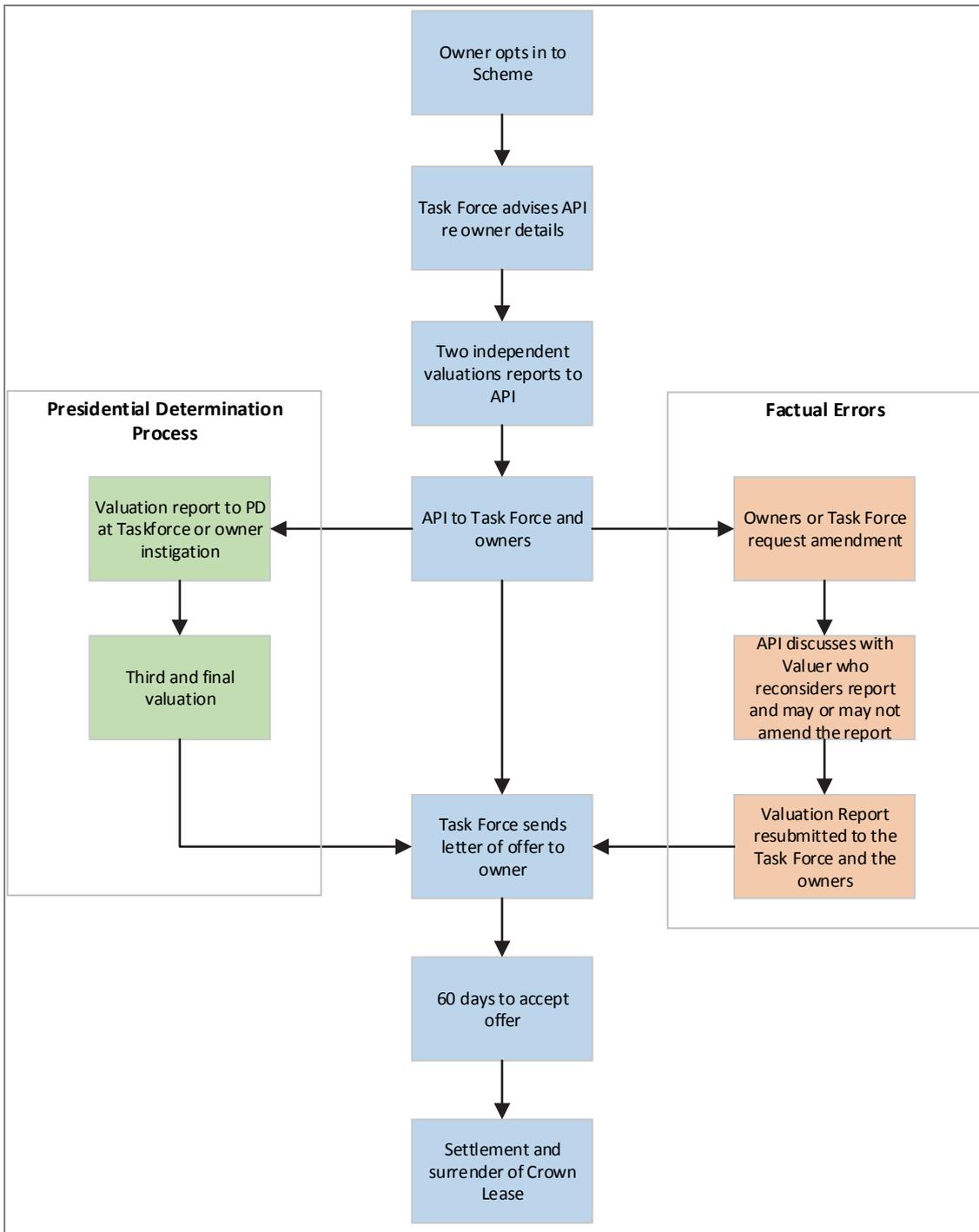
- the owner completes an application form by 30 June 2015 and the valuations process commences;
- once the valuation is finalised, the Taskforce makes an offer on the property and the owner has 60 days to respond (if the offer lapses the owner must re-apply and it must be within the application period, i.e. by 30 June 2015);
- the owner completes the election form to accept the offer or withdraw from the Scheme; and
- settlement and surrender of the Crown lease take place and the owner is paid out.

### The valuations process and the offer

4.15 Valuations are managed by the Australian Property Institute (API) under contract to the Taskforce. The Taskforce has developed, in consultation with the API, a process for undertaking valuations. At the commencement of the process, the challenge for the Taskforce was prioritising the valuations for owners opting into the Scheme and owners who had already departed the premises. The development of a management schedule formed the basis for a weekly meeting between the API and the Taskforce, during which priorities for valuations for the following week would be determined and any other issue requiring resolution would be considered. The weekly meetings between the API and the Taskforce commenced on 17 December 2014 and continue to date, although they are now less frequent and there are fewer properties to consider. This process provides the Taskforce with oversight and control of the valuations program.

- 4.16 The Taskforce has documented procedures for the valuations process for the original purchase of the properties (the valuations process for the sales phase is a different process), including:
- valuation and surrender;
  - valuations received and updating the property database;
  - eligibility criteria for valuations review;
  - submission of valuation review;
  - the presidential determination process; and
  - seeking a third valuation to replace an existing valuation.
- 4.17 The valuations process comprises an initial valuation by two independent valuers, report to the API and quality assurance, submission of the valuation report to the Taskforce and the owner at the same time, either acceptance of the resulting offer letter by the owner or the submission to the presidential determination process and final valuation. The offer letter is then triggered automatically once the final valuation is entered into the property database unless the presidential determination process comes into play. Figure 4-1 shows the valuation process.
- 4.18 When the homeowner receives the valuation report there is provision for factual errors in the report to be corrected. The homeowner makes a submission to the Taskforce, which is then referred to the API to liaise with the valuers, who will consider the information supplied and may submit a revised report. The amended report may or may not contain a revised valuation.

Figure 4-1 The valuations process



Source: ACT Audit Office analysis

### The presidential determination process

4.19 Under certain circumstances the presidential determination (PD) may need to be invoked. The PD is an arbitration process which is either automatically triggered if the two valuations vary by more than 10 per cent, or is requested by the owner, if they are dissatisfied with the outcome of the initial valuations process. The PD process is separate from the review to correct factual errors and managed by the API. The API appoints a

senior valuer to assess the initial valuations and to provide a third valuation. This third valuation is final and the offer is made on the basis of this valuation. Depending on the reason for the trigger, either the Taskforce or the owner will pay for the PD process. Once the PD process has been completed an offer is made to the owner. If accepted the settlement process commences.

4.20 As at 16 March 2016, 61 of 998 total valuations (or 6 per cent) have been submitted to the presidential determination process.

**Table 4-1 Total number of valuations completed and valuations submitted to the presidential process**

Activity	Number	Percentage
Total valuations	998	
Total number of presidential determinations	61	6%
Referred automatically (i.e. the original valuations vary by more than 10 per cent)	26	3.6%
Requested by owner	25	2.6%
Special (homeowner activated, paid for by Taskforce)	10	1%

Source: Asbestos Response Taskforce

4.21 An internal compliance review was conducted on purchase phase valuations and offers in October 2015. The review comprised:

- policy compliance associated with the use of presidential determinations, including how they were triggered and who paid for them; and
- identification of instances where there were gaps in documentation around decision making or administration of presidential determinations or corrections to errors/reviews of valuation reports leading to offers made.

4.22 The Taskforce policy on presidential determinations provided for the payment of the review by the Taskforce in extenuating circumstances. The review found that there was no evidence of sign off by the Taskforce Executive of this policy decision in the documentation. It was noted by the Head of the Taskforce on the covering minute endorsing the recommendations of the Review that ‘I note the now settled procedure documented arrangements to which Taskforce Executive had agreed and developed as issues emerged during the Buyback Program. I note I personally endorsed the approach on a number of occasions.’ The recommendation from the policy review included a review of standard operating procedures and the requirement that a record be kept of endorsement by the Taskforce Executive.

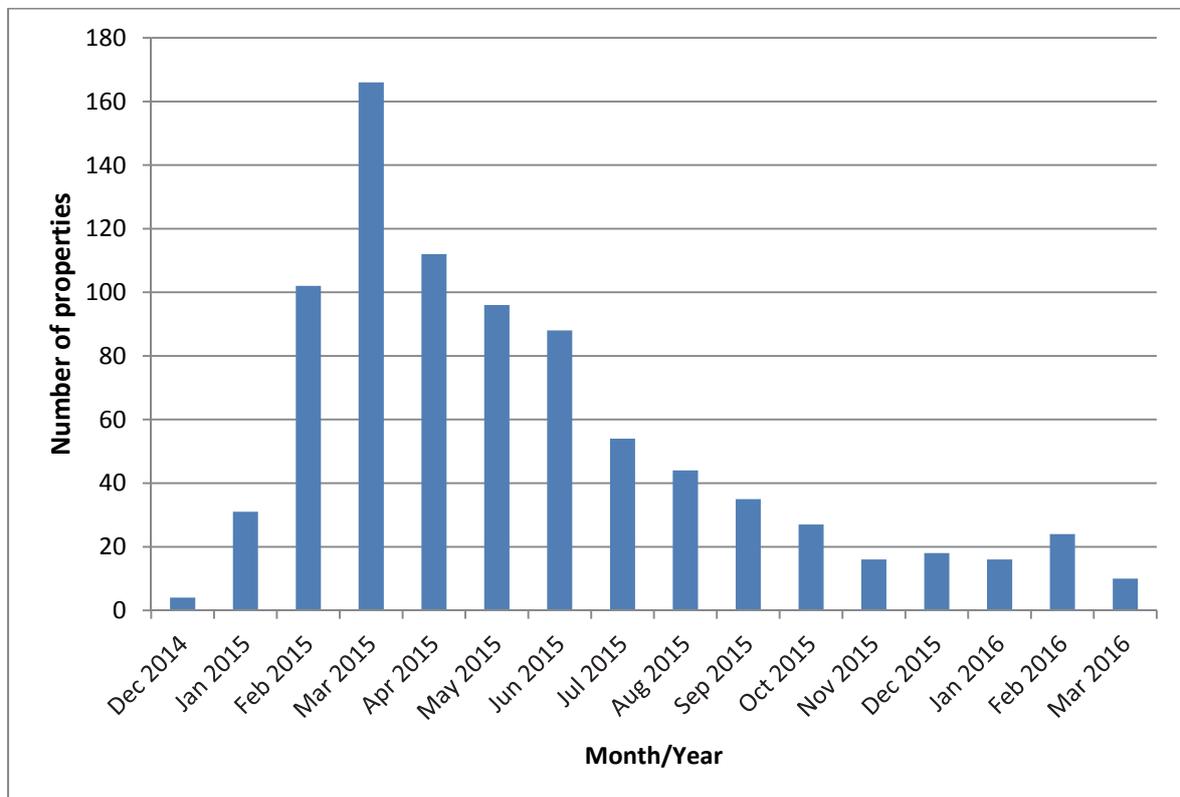
4.23 The initial review considered eight randomly selected PDs in October 2015. Of the eight properties reviewed, four were found to have deficiencies in their documentation. The review recommended that all documentation, including correspondence, revised valuations and presidential valuations be saved in Objective, the Taskforce’s records

management system, and that all documentation be migrated from the G drive to Objective. An additional recommendation was for a further review of all PDs to ensure there was 'appropriate documentation to support instances where the Taskforce had paid for Presidential Valuations where there is a variance of less than 10 per cent'. This follow up review was finalised in April 2016, to 'allow the second phase of the review to include the final PDs which are almost complete'. It found that records management was deficient in three of the 61 properties reviewed, with one property having no copy of the signed election form on file and two others containing no documentation supporting the payment of the PD by the Taskforce. The Taskforce procedures identify the responsible officer for actioning the recommendations and the person responsible for closing out the review in the issues log. These action items were to be completed by April 2016.

## The settlement process

4.24 The first purchases took place in the week commencing 22 December 2014, with four properties being purchased during the week. The graph below show the level of activity in relation to the purchase of properties over the period December 2014 to 31 March 2016 inclusive. The height of activity in the buyback phase was March 2015, when 166 properties were purchased at a cost of \$116 million. There were 22 working days in March 2015 which means on average 7.5 properties were being purchased each day at an average price of \$696,000, i.e. an expenditure of \$5.2 million per day. Figure 4-2 shows the purchase of properties by month from December 2014 to March 2016.

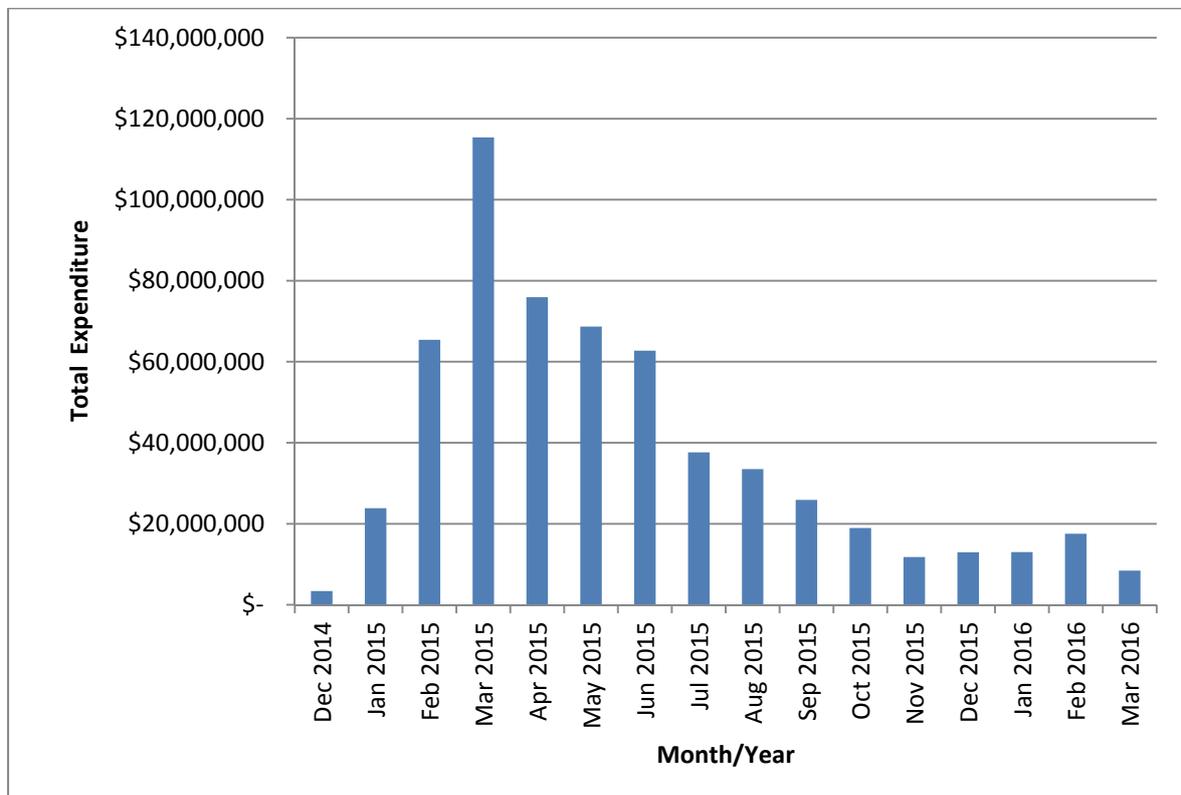
**Figure 4-2 Property purchases by month and year**



Source: Asbestos Response Taskforce data

- 4.25 The Taskforce developed administrative procedures to facilitate settlements to make them more timely and flexible. The Taskforce negotiated with Shared Services in CMTEDD, the ACT Government Solicitor, the Taskforce’s bank and the legal team to develop the arrangements. These arrangements included the establishment of a dedicated bank account, from which cheques would be drawn, as notified to the bank by the Taskforce through Shared Services (following the advice from the settlements solicitor), to complete the settlement process. The settlement time was compressed into a matter of weeks in order to handle the volume. The time required from exchange of contracts to finalisation (with all cheques exchanged) in some cases could be as short as three hours.
- 4.26 A cash deposit into the settlement account each fortnight was made as part of the normal budgetary processes. The Taskforce, through CMTEDD Strategic Finance, would estimate settlements for the coming fortnight to ensure sufficient funds were available in the bank account to draw cheques. Prior to settlement, cheque directions were provided from the solicitor to the Taskforce’s financial team, the cheque amounts were reviewed within the Taskforce and an accounts payable form was created by a finance officer. This form was checked and initialled by a second finance officer and then signed off by two financial delegates.
- 4.27 Figure 4-3 shows the expenditure by month by the Taskforce to purchase the affected properties. In March 2015, the most active month, monthly expenditure totalled \$116 million.

**Figure 4-3 Property purchases by dollar value per month**



Source: Asbestos Response Taskforce data

## Purchase reporting

- 4.28 The Taskforce monitors the expenditure on properties and trends. Monthly reports to the ESSC have been provided by the Taskforce since March 2015 and expenditure has been tracked since commencement of the Scheme. The Taskforce was able to identify early in the buyback program (within six weeks) that properties were costing more than the modelling had predicted and that the overall program was likely to be approximately \$100 million overspent by the time all properties had been purchased. This situation was flagged with the Chief Minister in mid-January 2015 and advice provided to the ESSC at its first meeting in March 2015.
- 4.29 The immediate priorities for expenditure by the Taskforce were the personal support program and the buyback program. The financial management arrangements adopted for the personal assistance scheme/relocation assistance grant were effective in delivering a fast response within risk tolerances.
- 4.30 The Taskforce developed innovative administrative processes to manage the delivery of the buyback program effectively. The customised settlement process enabled the settlement of a large number of properties within a short space of time.

## The maintenance and demolition phase

### Maintenance activity

- 4.31 Once houses are purchased by the Taskforce, they become the responsibility of the ACT Property Group to secure and maintain until they are handed over to PCW for demolition. The Property Group manages each house as a separate cost centre. As at February 2016 the Property Group was managing 711 houses, having handed 114 to PCW for demolition.
- 4.32 Since February 2015, reports have been developed for consideration at a fortnightly coordination meeting of the Project Coordination Group (PCG) chaired by the Director Commercial Branch of PCW. Information in the Property Group report comprises:
- property information – properties settled and advised to Property Group, properties processed/waiting processing, properties currently with Property Group, properties handed to PCW;
  - incident reporting; and
  - issues of note for consideration by PCG.
- 4.33 The monthly report to the ESSC comprises property statistics, a detailed breakdown of expenditure and notifiable incidents as well as photographic evidence of the condition of some of the properties. The initial projected cost per property in the first of the models (the 2 September 2014 model) estimated a holding cost of approximately \$15,000 per property, but later models estimated the costs at between \$10,100 and \$12,449. Initially

the Taskforce estimated that properties would need to be maintained for an average of 2.3 years.

- 4.34 Since the commencement of the Property Group's management of purchased houses, savings in relation to the ongoing holding costs have been made. The most recent report to the ESSC indicates that the actual cost per property for holding costs is currently \$7,909 against an initial estimate of \$12,500, a variance of \$4,591 or 37 per cent. Costs are currently within budget. Whether they remain so will depend on the pace of the demolition program as some houses will require maintenance activity for several years.

## Demolitions

- 4.35 The Taskforce demolition schedule concludes in 2021, with the majority of activity taking place up to the end of 2018. The demolition phase contains the following financial risks:
- additional or inappropriate expenditure required to manage property maintenance, security or demolition; and
  - failure of contractor processes.
- 4.36 Both categories of risk have consequences for the program and potentially result in the possible failure to meet demolition schedule, with consequential impacts on the sales process and additional costs to the program. There is a risk of cost overruns as early indications of costs to demolish the properties have exceeded modelling estimates. Practical risks with the demolition program include industry capability and capacity, particularly for licensed asbestos assessors and removalists, as well as the availability of trucks to remove the rubble from the worksite and the daily capacity of the waste facility. At the commencement of the pilot demolition program, there was general concern around the potential for inflating prices for demolition work, which in turn would impact on the costs of the demolition program.

## Strategic procurement plan for the demolition of properties

- 4.37 The demolition phase contains a high degree of risk, both financial and operational. At the commencement of the program, costs were an unknown quantity and operational procedures were required to be developed. For these reasons, the Taskforce and PCW developed a staged approach to the demolition program in order to develop expertise in the program, gain better knowledge around costs and develop the ability to better assess the skills and capacity of the industry.
- 4.38 At its first meeting in March 2015, the ESSC considered a procurement strategy for the engagement of demolition contractors. The Taskforce and PCW had already briefed the Government Procurement Board on the procurement process for the pilot demolition project. The proposal initially considered by the ESSC was for a three stage procurement which would enable scoping and costs to be refined as the program matured and would also test contractors' capacity and capability. The proposed staged approach was intended to enable PCW and the Taskforce to develop a better idea of the scope of works required

and their costs. The data from the initial demolitions was to be used as a basis for letting further contracts.

- 4.39 The initial pilot demolition of five houses was managed by PCW, with contracts being let on an 'at cost' basis, to two demolition contractors, one working southside on three properties and one working northside on two properties. These contractors were selected from the existing Project Management (PM) Panel. The PM panel is an existing engagement of a number of locally based building contractors to undertake projects for the ACT Government under the Project Management Agreement. The pre-engagement of project management contractors in this way enables quick commencement and high visibility of subcontractor arrangements offset by low price or time certainty. Because the trade costs are visible, the PCW can gain price information on how asbestos work is being priced and the real costs of the activity. Under the PM arrangement the project manager acts as an agent of the ACT Government in engaging sub-contractors and PCW is able to guide the selection of suitable companies and also the scope of work.
- 4.40 The aim of the pilot was to focus on understanding the asbestos removal and demolition process and increase public and industry knowledge for the safe demolition of LFA affected houses. The first demolitions provided the Taskforce and PCW with 'visibility of the various costs attributed to the various sub-contractors and assisted in building a reference knowledge base about contamination location and extent'. As the phase evolved, the pilot project became a two part pilot, with contracts being let to the same two contractors who had demolished the first five houses for an additional 38 houses to be demolished.
- 4.41 Following the demolition of the first five houses, the Taskforce undertook a two day seminar with contractors and ACT government stakeholders to understand the lessons learned during the pilot demolitions and to guide future demolition activity. The objectives of the workshop were to:
- share and capture knowledge from the pilot program;
  - identify what contributed to the success of the pilot program and what could have been done better; and
  - transfer knowledge from the pilot program into roll out of the major demolition program activity.
- 4.42 The initial and extended pilots for the demolition phase enabled PCW and the Taskforce to pursue the program with better knowledge about the demolition process, from project scope, demolition design, asbestos assessment and soil sampling, the work health and safety framework, and disposal and waste management. Aspects of program management which could be improved were identified, including reporting from contractors to PCW, services disconnection and establishment and streamlining approval processes, as well as clarification of lines of communication and better definition of projects handover requirements.

- 4.43 The cost of the pilot demolitions was higher than anticipated by the Taskforce, although considered by the Taskforce to be achieving value for money. Two critical factors in the cost of demolitions are the expertise and experience of the contractors and individual house characteristics: 'every house is different'. The Taskforce has advised that it continually refines the cost estimates and also monitoring against budget, which indicates that costs are trending down.
- 4.44 The final stage of demolitions is being undertaken under a Head Contractor panel arrangement set up specifically for the asbestos eradication demolition program and informed by the previous demolitions. After a public tender, these contracts were let late in 2015.
- 4.45 The demolition of the majority of the houses (approximately 800) is anticipated to be completed by the end of 2018.<sup>26</sup> There will then be a period of less intense activity until 30 June 2020, when there will be a slight increase in activity when those homeowners who have opted for an extended settlement date will surrender their leases.
- 4.46 The Taskforce used a lessons learned workshop approach early in the demolitions program to contribute to the identification of risks for the demolitions phase. This is an effective mechanism for managing the risk of a program for which there exists little prior knowledge. The outcomes of the workshop helped to define the ongoing management of the demolition phase.
- 4.47 The demolition phase was one which contained a high degree of risk, both financial and operational. Costs were an unknown quantity and operational procedures were required to be developed. For these reasons, the Taskforce and Procurement and Capital Works developed a staged approach to the demolition program in order to develop expertise in the program, gain better knowledge around costs and assess the skills and capacity of the industry.

## The sales phase

- 4.48 The risks identified in the sales program include:
- the preparation of blocks for sale incurs additional expenditure;
  - the failure to maximise net revenue associated with land sales; and
  - the original owner having taken up the first right option, failing to complete the contract to buy back the site.
- 4.49 A substantial financial risk to the Scheme is a lower than expected return from land sales. The buyback and personal support costs are now largely known, demolition costs are higher than the target budget but are expected to reduce, and there is limited sales data

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<sup>26</sup> <http://www.asbestostaskforce.act.gov.au/demolition/demolition-schedule/schedule-summary>

to assist in estimating the value of the blocks on the open market. Land sales are therefore only able to be estimated. The Taskforce has prepared modelling for the upcoming budget process, but as the deadline for input into that process precedes completion of the first sales process, the modelling has been undertaken on the basis of assumptions agreed by Treasury.

- 4.50 The first 10 blocks were offered at public auction on 12 and 14 April 2016. The Taskforce advised that ‘the first 9 blocks had sold in line with budgeted expectations’, with one block still to be sold. A further 18 blocks are scheduled for sale by auction on 26 and 31 May 2016.

### Sales program revenue impacts

- 4.51 There are three policy components of the Scheme, two of which may diminish the return to the ACT Government and one which has the potential to increase the return. These are:
- the first right of refusal option and access to land rent by purchasers exercising their first right option, both of which may diminish the return to the ACT Government; and
  - Variation 343, which has the potential to increase the return from sales to the ACT Government through the capacity to unit title dwellings on RZ1 blocks of 700 square metres or larger.

### The first right option and access to land rent

- 4.52 In setting the policy parameters of the Scheme, the ACT Government recognised that many owners had long standing links to their former communities. In response the first right of refusal option was developed. Under the first right rules, owners can purchase their remediated block at full market value, determined at the time of sale. The sale price offered to first right holders for remediated blocks is not negotiable. The sale valuation is determined by the LDA, taking account of independent market valuations, in keeping with its normal land sale practices. A block offered under a first right option cannot be tested at auction and the valuation is final. Access to the first right option for owners comes at a potential financial cost to the ACT Government, given that a competitive auction sale might result in a higher price. The first right option therefore imposes a risk to the anticipated overall sales figures for the blocks will not be met as a first right sale is a non-market competitive process. Because the first right option price reflects the LDA’s assessment of the value of the block at its ‘highest and best use to the Territory’, the sales revenue should still reflect the value of the block to the Government even if unit titling is not proceeded with, but will not reflect the potential price at auction because there is no competitive process.
- 4.53 Further, if a first right holder declines to exercise their first right option, the block is then put on the open market. If that first right holder has requested retention of such items as structures and landscaping features and subsequently does not take up the offer, there may be additional expenses in preparing the block for public auction. The first right holder can delay a sale by several months if they decide against exercising their option at a late

stage. This risk is identified in Taskforce risk registers and is controlled through sales contractual terms that include an at risk deposit security arrangement.

- 4.54 Another decision taken by the ACT Government is to enable former owners who purchase their blocks to have access to the land rent scheme. The land rent scheme provides a lessee with the option of renting land rather than purchasing it to build a home. Under a land rent lease, normally only applied to a greenfields site, the land is subject to payment of an annual land rent charge. The extension of land rent arrangements to LFA owners allows owners who meet income thresholds (\$160,000 for a couple) to take advantage of the option. However, they are distinguished from land renters on greenfields sites by the different arrangements applicable if they decide to buy the block at any stage, when they will be required to purchase the land at market value and not at the ULV. Nor are owners able to transfer the land rent arrangement. The blocks can be sold but the land rent arrangement must be converted to a standard lease. The arrangement is a personal concession to those original owners of the blocks to be able to return to their former community.

### Variation 343

- 4.55 During the policy development phases of the Scheme, options to decrease the Scheme costs through improvement of the net sales figures for the remediated blocks were explored. One of these options was Territory Plan Variation 343 to allow unit titling for dwellings on blocks of 700 square metres or more in RZ1 zones. Prior to Variation 343, two dwellings could be erected on an 800 square metre block but they could not be sold separately. Variation 343 allows the remediated blocks of 700 square metre or more to be unit titled and therefore capable of being sold separately, making the block of land more valuable. Eighty eight per cent of the affected blocks are more than 700 square metres in size. The original revenue forecast from the sale of properties was based on the 2014 ULV plus an estimated uplift value of 22 per cent as a result of the potential increase in value from Variation 343, giving an estimated price of \$520,000 per block.
- 4.56 The forecast revenue based on the application of a global uplift factor may be unrealistic. The initial estimate of the land sales was based on the 2013-14 ULV and an uplift factor on the ULV based on an assumption that the value of the land will increase by 25 per cent for the 88 per cent of eligible blocks. However, not all of these blocks will be suitable for unit titling. It may have been more informative to have assumed nil qualification as an option and the proceeds from unit titling as a second option. It is acknowledged that there is a high level of difficulty in estimating the market value of the land without actually testing the market.
- 4.57 Variation 343 was passed by the Legislative Assembly on 11 February 2016. The more blocks suitable for unit titling, the greater the increased return to the ACT from the sale of remediated blocks.

## Planning for the sales process

- 4.58 Planning for the sales process commenced early in 2015. The Deputy Chief Executive Officer of the LDA is now a member of the ESSC and has been attending meetings of the committee since November 2015. A report to the ESSC noted the following matters which would impact on the final programming and costing of the sales program:
- the uncertainty of the timing of demolitions, processes and capacity of contractors. There was more certainty around this once the pilot demolition of 42 houses was completed, but at the time of the meeting it was anticipated that it would take eight weeks for completion of demolition processes;
  - following demolition LDA would need one month's lead time to 'finalise sales collateral, marketing material and press booking prior to the four week advertising period;
  - the impact of Variation 343 – LDA recommended at this time that a conservative approach be taken with any forecasting; and
  - the requirements of the Community Services Directorate (CSD) in relation to their holdings and requirements. CSD is to confirm within five working days whether they have an interest in any sites which will then be removed from the sales program.
- 4.59 In the ESSC report, LDA advised that it was seeking quotes from sales agents to assist with the sales and marketing program, that it was planning to appoint a sales agent to be seconded to the LDA and who would report to a senior member of the Sales and Marketing Team. The brief for the sales program included a breakdown of known overall costs for personnel, entities and the management of the sales program, with the exception of the consultancy fee and sales commission for the sales agent and legal costs. The report to the ESSC set out indicative staffing and consultancy costs for the sales program.
- 4.60 At present the outcome of the sales program is an unknown quantity. Planning for the sales program commenced in the first half of 2015. The sales program could be affected by the progress of the demolitions program and by the take-up of first right options and access to land rent but the extent of the impact of these policies is not able to be estimated at this time.
- 4.61 The implementation of a graduated sales program continues the approach applied in the demolitions phase; that is, small numbers of properties are to be offered initially to assess the market and to provide better information to inform the development of subsequent sales programs.
- 4.62 The sales program is now in the early stages, having commenced in April 2016, and a total of between 30 to 50 sales is forecast to be undertaken by the end of financial year 2015-16. Following the first sale of properties, the Taskforce and the Land Development Agency (LDA) held a lessons learned workshop approach (similar to that held in the demolitions phase), in order to better manage future sales.

## Records management

- 4.63 Records management was inadequate during the early months of Taskforce operations. Prior to implementing the Objective records management system, many records, particularly those of the Head of the Taskforce, remained in personal email accounts. The Taskforce received approval to use the Objective records management system as the primary record keeping tool in November 2014. The Objective system was implemented to improve the Taskforce's own record keeping, as well as simplifying access to the Environment and Planning Directorate's records, including building approvals, lease records and development approvals. The use of Objective also provides the Taskforce with the ability to file certain records directly into the file held by the Environment and Planning Directorate to maintain a single source of truth for documentation relating to land transactions.
- 4.64 The early records are being gradually migrated to the Objective system. However, there are still documents which are not stored in Objective, including documents stored in staff email accounts and documents relating to email traffic between the Taskforce and other ACT and Commonwealth Government agencies. These documents need to be migrated to Objective so that there is a comprehensive and permanent record of Taskforce activity from this critical initial phase of its existence through to the end of its life.
- 4.65 While records management was not well organised during the first six months of Taskforce operationsthe Taskforce advises that the initial lack of organisation of records was a result of the necessary focus on the personal support and development of a policy approach to the asbestos contamination problem.
- 4.66 The Taskforce has advised that its records management processes now mandate that all records are filed in Objective and it is no longer possible to use the G drive to save records and that the migration of earlier records will take approximately four to six months. The Taskforce acknowledges that greater timeliness in transferring records into the network and Objective storage systems could have occurred, but notes that no records have been lost. The Taskforce also has action plans in place for the migration of all old records onto the Objective system.

### RECOMMENDATION 3 RECORDS MANAGEMENT

The Asbestos Response Taskforce should continue to migrate all relevant Taskforce records to the Objective system and complete this process by December 2016.

# APPENDIX A: BACKGROUND TO THE LOOSE-FILL ASBESTOS INSULATION ERADICATION SCHEME

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## Background to the Scheme

The presence of asbestos fibres in domestic housing is dangerous to occupants and visitors, including tradespeople, with long-term potential for severe health threats to those who come into contact with the fibres. In 2014, 1022 houses were identified as being contaminated with loose-fill asbestos (LFA) insulation, commonly known as ‘Mr Fluffy’ insulation. A report was prepared for Government, which advised that the only enduring solution to the contamination problem was to purchase and demolish all the homes identified as containing LFA. The Government established the Loose-fill Asbestos Insulation Eradication Scheme (the Scheme) as the policy response to this problem.

In 1988 the Commonwealth Government instituted an inspection and cleaning program for all houses contaminated with LFA in the ACT. While the management of asbestos has been an ongoing policy matter for the ACT, particularly since banning of the use of asbestos in Australia in 2003, concern about LFA insulation in domestic housing was heightened during the renovation of a house in the suburb of Downer, when it became clear that loose-fill asbestos remained in dangerous quantities. Following this discovery, in February 2014 owners of houses that were part of the asbestos removal program in 1988-1993 were contacted and advised to have asbestos assessments. The number of owners contacting the ACT’s asbestos team and the concern expressed by asbestos assessors at the extent of contamination in the houses in which they were undertaking assessments led to the ACT Government establishing the Asbestos Response Taskforce to liaise with residents and owners and to develop an enduring solution to the asbestos problem.

That solution is the LFA eradication scheme, which aims to address in a durable way the potential ongoing health risks posed to residents, visitors and workers by the continued presence in domestic buildings of loose-fill asbestos and the attendant social, financial and practical consequences.<sup>27</sup> The Chief Minister, in a statement to the Legislative Assembly on 24 March 2015 advised:

...in more than 60 per cent of the 1000 asbestos assessments undertaken to date..., fibres have been detected in living areas. This means that some 600 Canberra families were living with raw amosite asbestos fibres inside their houses. I want to make it very clear that this does not mean that the other 40 per cent of homes where fibres have not been found in the living areas are safe. We know the fibres are in the ceilings, walls and subfloors, and it is

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<sup>27</sup> ACT Asbestos Response Taskforce, The ACT Government’s Preferred Way Forward on Loose-fill Asbestos: Overview, p 2.

inevitable that these fibres will eventually find their way into the living spaces of these homes. We, as a government and a community, had to act, and we did, even without the support from the commonwealth government that was expected, given the history of this issue. We have done the best we can to respond quickly, fairly and within our means.<sup>28</sup>

## The history of asbestos in the ACT

Asbestos is the generic name for a group of fibrous silicate materials that occurs naturally in the environment. It is a class one carcinogen and poses a risk to health when fibres of respirable size become airborne and are inhaled. For that reason asbestos is most often found in bonded form and was commonly used in the building industry up until the late 1980s.

LFA insulation was installed in Canberra houses over more than a decade from 1968 until 1978-79, principally by Dirk Jansen Pty Ltd and his successors. LFA is finely crushed raw asbestos not bonded in any way with other materials. It contains microscopic fibres (up to two million in a sample the size of a 50 cent piece) and is a particularly dangerous form of asbestos, because of the size of the fibres and the ease with which they can be inhaled. However, even in bonded form, once the bonding is weakened, there is potential for the fibres to become airborne and the substance can be dangerous. LFA also has the potential to migrate from the original roof spaces into which it was pumped, into other cavities in the walls and ceilings of houses, including air conditioning ducts and vents, and through small gaps in such areas as cornices into cupboards, wardrobes and other spaces.<sup>29</sup>

The installation of LFA insulation in ACT domestic housing occurred during the period that the Commonwealth Government had responsibility for the ACT. In 1968, the Acting Director of the ACT Health Services Branch of the Department of Health warned the Department of Works of the dangers this kind of asbestos posed and recommended that the operator (Mr Jansen) be 'dissuaded or even prevented from using asbestos as insulation material in houses'.<sup>30</sup> The letter further stated that 'in view of the harmful nature of this substance the use of asbestos fluff for insulation should be discontinued'. Although the Commonwealth Government commenced an asbestos removal program of government facilities in 1983, no further action in relation to ACT domestic housing was taken by the Commonwealth until 1988, when it undertook an inspection of the then 65,000 houses built before 1980 in the ACT.

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<sup>28</sup> Hansard, ACT Legislative Assembly, 24 March 2015, p 1007.

<sup>29</sup> Asbestos Response Taskforce, *Long term management of Loose Fill Asbestos Insulation in Canberra Homes*, August 2014, p 4.

<sup>30</sup> Asbestos Response Taskforce, *Long term management of Loose Fill Asbestos Insulation in Canberra Homes*, August 2014, Appendix II Historical Advice, pp 27-28.

The use of asbestos was banned Australia wide from 31 December 2003. Prior to that date, asbestos containing materials were being phased out but asbestos products in the form of bonded asbestos (or asbestos containing material (OCM)) in the built environment remains a problem. It is classified as a dangerous substance under the ACT's *Dangerous Substances Act 2004* and accompanying regulations<sup>31</sup> and is a class 9 substance listed under the Australian Dangerous Goods Code.<sup>32</sup>

## The legislative framework

The need to manage asbestos as a dangerous commodity was reviewed a decade after the conclusion of the asbestos removal program. Following the passing of the *Dangerous Substances (Asbestos) Amendment Act 2004*, the ACT Government established the first asbestos taskforce, the Asbestos Review Task Force (ARTF), to oversight new asbestos management arrangements in the ACT. The ARTF identified the broad intentions of these arrangements as providing:

- general community awareness of asbestos hazards and safe management;
- an enduring system for managing asbestos in the community;
- continuity of knowledge and advice about the location and condition of asbestos (i.e. fair disclosure as to the presence of asbestos); and
- education and warning for people at risk, whether undertaking an activity disturbing materials containing asbestos, or subject to environmental exposure.<sup>33</sup>

Much of the activity around the review of asbestos took place in the context of the nation-wide activity around harmonisation of work health and safety legislation and state and Commonwealth government regulatory arrangements. The ACT's *Dangerous Substances Act 2004* also regulates asbestos, including in the domestic environment.

The August 2005 Asbestos Review Task Force report recommended that an ACT Asbestos Management Strategy be developed and this recommendation was implemented by the ACT Government of the day.<sup>34</sup> Following the 2005 report of the Review Task Force, correspondence was again sent to homeowners. The letters to homeowners specifically stated that loose fill asbestos could still be present in inaccessible wall cavities.<sup>35</sup>

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<sup>31</sup> <http://www.legislation.act.gov.au/a/2004-7/default.asp>

<sup>32</sup> V 7.4, available online at < [http://www.ntc.gov.au/Media/Reports/\(6DDF9385-CCB9-4CB8-95E7-3D5296001894\).pdf](http://www.ntc.gov.au/Media/Reports/(6DDF9385-CCB9-4CB8-95E7-3D5296001894).pdf)> (accessed 14 January 2016)

<sup>33</sup> ACT Asbestos Management Review, 1 September 2010, p 4.

<sup>34</sup> The Strategy was to be based on the report's recommendations, accompanied by a five year implementation period, together with the establishment of an asbestos management team to provide effective coordination during implementation of the strategy.

<sup>35</sup> N Savery, Chief Planning Executive and L Hawkins, Chief Executive Asbestos Task Force, correspondence to home owners, 2005.

The Asbestos Management Strategy Review was established in 2010 to:

- review progress in implementing the Government's response to the Report by the ACT Asbestos Task Force, August 2005;
- review the effectiveness of coordination and information sharing across relevant agencies in the ACT with respect to asbestos;
- assess the adequacy and effectiveness of legislative provisions governing asbestos including measures to regulate asbestos related risks and hazards through training, licensing and enforcement regimes;
- assess the adequacy of current education and health strategies that address the incidence and management of asbestos related disease and the enforcement of asbestos related laws and regulations; and
- identify opportunities to further improve the management of asbestos.<sup>36</sup>

The 2010 Review identified that the asbestos management arrangements in the ACT were dispersed, with a total of six agencies having responsibility for an aspect of asbestos management:

- the **Office of Industrial Relations** had policy responsibility for the *Dangerous Substances Act 2004* and the associated regulations dealing with asbestos management and asbestos registers for non-residential premises; ownership of the asbestos website and the ACT's training course materials about asbestos;
- the **Department of Justice and Community Safety (JACS)** dealt with asbestos issues related to the sale of property transactions. Within JACS, the **Office of Regulatory Services (ORS)**, WorkSafe ACT has regulatory responsibility for the *Dangerous Substances Act 2004* and *Work Safety Act 2008*. The ORS regulates the management and safe handling of asbestos and the asbestos register, including the provision of advice, response to complaints, investigation and enforcement, and compliance action;
- the **ACT Planning and Land Authority (ACTPLA)** had responsibility for all inquiries about building approvals, development applications and demolitions (including renovation work, identification and removal, laws and obligations and complaints);
- the **Department of Territory and Municipal Services (TAMS)** dealt with all reports and inquiries about the dumping of asbestos on public land;
- the **Department of the Environment, Climate Change, Energy and Water (DECCEW)** (now the Environment and Planning Directorate) administered the *Environment Protection Act 1997*, which covers waste classification and disposal; and
- **ACT Health**, which dealt with public health aspects of asbestos management.<sup>37</sup>

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<sup>36</sup> ACT Asbestos Management Review, 1 September 2010, p 3.

<sup>37</sup> ACT Asbestos Management Review, 1 September 2010, p 5.

The 2010 Review recommended that the ACT establish:

- a coordinated action response model for the management of significant asbestos incidents in the ACT (Recommendation 1);
- an ACT Asbestos Regulator Forum, which should develop a strategic plan and oversee implementation (Recommendations 2 and 4); and
- monitoring and evaluation mechanisms to assess the implementation and effectiveness of asbestos legislation (Recommendation 3).

The 2010 Review further recommended that the proposed Asbestos Regulator Forum should prioritise the ongoing need for further community awareness and education (Recommendation 5).

The ACT Government accepted all five recommendations of the 2010 Review.<sup>38</sup>

## The original asbestos removal program

In 1988, a year before self-government,<sup>39</sup> the Commonwealth Government commenced a program for the identification, sealing and removal of LFA insulation from affected residential properties in the ACT. The original removal program had three phases:

- a survey of approximately 65 000 Canberra houses;
- the sealing of affected homes at all points where it was considered asbestos could enter into living areas; and
- the removal of loose-fill asbestos insulation involving encapsulation of the roof and vacuuming and sealing accessible areas.<sup>40</sup>

The Commonwealth Government commenced the asbestos removal program, but responsibility for the program was transferred to the ACT on self-government.<sup>41</sup> Even though the program was completed in 1993, it had not been possible to remove all the asbestos. The Taskforce report describes the process and its limitations as follows:

The removal phase involved cleaning loose asbestos from the ceiling cavity and accessible wall cavities, but it was accepted that because of the nature of the task and of asbestos itself it was likely that some asbestos would still be present in places such as internal and external wall cavities, subfloor spaces and behind cornices.

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<sup>38</sup> Government Response to the ACT Asbestos Management Review (2010) Report, 2011.

<sup>39</sup> The ACT became a self-governing entity on 10 May 1989.

<sup>40</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos in Canberra homes*, p 7.

<sup>41</sup> Memorandum of Understanding between the Commonwealth of Australia and the Australian Capital Territory, 7 June 1991, cl. 1.2.

The inside roof and accessible wall cavities were sealed with a spray designed to bind any remaining asbestos fibres to the structure of the house to minimise the risk posed, but this spray was not able to fully penetrate wall cavities.<sup>42</sup>

The Taskforce report notes that homeowners were made aware that asbestos fibres remained in inaccessible areas of the home.<sup>43</sup> There were two separate communications to homeowners: one dated 5 May 1993, which included a copy of a certificate of completion of asbestos removal and another on 7 July 1993, reminding owners to contact the Building Controller before undertaking any renovations.<sup>44</sup>

## The Downer property

Six affected properties had been missed during the survey phase of the original cleanup program. During the period 2005-2012, five properties were discovered to contain loose fill asbestos and were remediated. The average cost of remediating these missed houses and funding alternative accommodation and incidentals for the occupants was \$200,000. The amount was wholly funded by the ACT, which did not seek to enforce the MOU at this time because the scope of work did not trigger the funding threshold.

A sixth property in the suburb of Downer about to undergo maintenance work was discovered to contain significant amounts of LFA. The usual process of undertaking cleaning to the standard employed in the original clean up proved to be inadequate to deal with the extent of the contamination in the house, which was then deemed to be uninhabitable. The Government purchased the Downer house in December 2012. Between July and September 2013 the asbestos was removed and the house forensically deconstructed to assess the extent of contamination. In November 2013, the Government received the final report on the property. The report recommended that Government again write to all residents of homes included in the asbestos removal program to advise them of the potential for residual asbestos being present and to obtain an asbestos assessment.

A media campaign on general asbestos awareness was put in place for the Christmas 2013 period and in February 2014, the ACT Work Safety Commissioner wrote to homeowners, 're-emphasising the need for careful management of loose-fill asbestos insulation and encouraging homeowners to engage a licensed assessor to provide advice in relation to their property'.<sup>45</sup> As the results of the assessments came in, it became increasingly apparent that the problem had not been resolved by the initial cleanup program and the presence of LFA represented a significant ongoing threat to homeowners and occupants.<sup>46</sup>

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<sup>42</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos in Canberra homes*, p 7.

<sup>43</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos in Canberra homes*, p 7.

<sup>44</sup> The *Certificate of Completion of Asbestos Removal Work* was placed on the building file, which was annotated to the effect that some asbestos remained in walls, behind cornices and in inaccessible places.

<sup>45</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos in Canberra homes*, p 9 and p 42.

<sup>46</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos in Canberra homes*, p 18.

Approximately six to eight weeks after the 2014 asbestos assessments commenced, ACT Government officials engaged with WorkSafe ACT, the Commonwealth Government Department of Employment, Comcare and SafeWork Australia and industry experts to seek advice to determine how affected homes might be managed in future and how the risks could be managed, including:

- how risk could be quantified and whether there was an acceptable level of risk of exposure to amosite asbestos fibres in residential properties for residents and visitors;
- if the risk could be managed, what were the evidence-based minimum standards for conducting asbestos assessments of affected homes; and
- what were appropriate research and evidence-driven mitigation recommendations to manage risks in affected homes.<sup>47</sup>

In a statement to the Legislative Assembly on 5 August 2014, the then Chief Minister stated:

In 2014 it is very clear that the Commonwealth designed program which attempted the original removal of Mr Fluffy asbestos did not work as it was intended. Twenty years on, some families have pure, raw asbestos inside their homes, in the linen presses, in their wardrobes, on their fridges, in their heating ducts, on their pillows and carpets and even on their children's teddy bears. We cannot get this wrong again, and it is time for the ACT government and the commonwealth government to join forces to provide an enduring solution to this problem.<sup>48</sup>

The Chief Minister was advised in early July 2014 that it needed to plan for the situation in which technical advice indicated that the houses could not be made safe. Further, social consequences were following from affected houses:

- a number of house sale processes had collapsed, residential tenancies had been abandoned and it was becoming impossible to lease out an affected dwelling; and
- negative social consequences flowing from anxiety about health and the value of affected homes, from self-imposed isolation for people refusing visitors to their homes and from others such as carers and tradespeople refusing to attend affected homes.<sup>49</sup>

## The Asbestos Response Taskforce

The Government announced the establishment of the Asbestos Response Taskforce (the Taskforce) in 25 June 2014, to 'identify and implement a solution and manage arising issues'. The Taskforce was established within the Chief Minister Treasury and Economic Development

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<sup>47</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos in Canberra homes*, p 9.

<sup>48</sup> Hansard, ACT Legislative Assembly, 5 August 2014, p 1934.

<sup>49</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra Homes*, August 2014, p 3.

Directorate (CMTEDD). The role of the Taskforce initially was to provide a coordinated, compassionate response to asbestos contamination across three key functions:

- responding to the needs of affected families including by administering the ACT Government's emergency financial assistance package;
- providing information to affected families and the wider community; and
- providing advice on approaches to securing an enduring solution to the presence of loose-fill asbestos insulation in the affected homes.<sup>50</sup>

This role was, on the one hand, a community engagement function, primarily with affected occupants and homeowners, but also with the wider community, as well as a policy development role in an emergency response situation. The Taskforce developed a range of communication channels and established personal support teams, the primary function of which was to maintain contact with affected occupants and owners. The emphasis on ongoing personal support and direct communication with affected families was critical to underpinning good relationships between the Taskforce and the community.

Initially the Taskforce focused on the provision of emergency financial assistance (which later become relocation assistance) and personal support programs. At the same time, a report containing some of the history and a comprehensive analysis of the issue together with policy options was developed for government consideration. In developing the policy response, the Taskforce worked with Commonwealth Government identified experts to establish a way forward. As time went by, the Taskforce's understanding about the level of contamination inside living areas of homes developed and expert advice was sought in relation to:

- an appropriate sampling methodology;
- an appropriate framework for remediation; and
- a standard approach to demolition.

While formally part of CMTEDD, the Taskforce is operationally separate. It works with a number of other CMTEDD agencies for the delivery of elements of the program, such as maintenance of acquired properties and management of the demolition contracts. The Head of the Taskforce reported initially directly to the Chief Minister and from January 2016 to the Minister for Workplace Safety and Industrial Relations.

## The policy options

The Taskforce was charged with providing advice to Government on an enduring solution to the asbestos contamination problem. After much consultation with experts, asbestos assessors and homeowners, the Taskforce concluded that the only option which would deliver an appropriate

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<sup>50</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra Homes*, August 2014, p 2.

and enduring solution was the demolition of all affected dwellings, and that this should be undertaken sooner rather than later:

Given the original removal program's unsuccessful attempt to solve this problem, the inevitable second program should, in the view of the Taskforce, place a premium on certainty and comprehensiveness. Above all, and recognising the magnitude of what is being recommended, it must pursue an enduring solution.<sup>51</sup>

The Taskforce presented its report to Government in August 2014.<sup>52</sup> The report set out the chronology of the LFA problem, the potential health impacts of exposure to asbestos, government activity to manage the problem over the years and the most appropriate course of action for the future. The report advised that:

The consistently held view throughout the Taskforce's consultations on this issue is that there is no effective, practical and affordable method to render houses containing loose fill asbestos insulation safe to occupy in the long term. It is the similarly consistent view that most houses can, with significant effort, be rendered safe to occupy in the short to medium term. To do so would, however, require a level of restriction of the normal use of a property, vigilance and ongoing assessment and remediation that would be economically and socially unsustainable in the long term and for some people even in the short term.<sup>53</sup>

The report further stated:

It is the view of the Asbestos Response Taskforce that all Canberra homes affected by loose fill asbestos insulation should be demolished because there is no effective, practical and affordable method to render them safe to occupy, except perhaps in the short to medium term. Even in that time frame, the risks of exposure to the form of asbestos present in affected homes a very significant level of restriction of the normal use of a property.

The Taskforce has reached this conclusion cognisant of the practicalities of the necessary sealing measures, the reality of living in ageing homes that cannot easily be worked on or maintained, the already manifest negative market responses from prospective renters and purchasers, the social isolation – self-imposed and otherwise – of people fearful about contamination in their homes affecting loved ones and strangers, and above all the risks to mental and physical health.

Any program of demolition will need to take account of the desires of individual families and permit them to make informed choices about their own homes and their own lives. The Taskforce also acknowledges that demolition

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<sup>51</sup> Asbestos Response Taskforce, *Long Term Management of Loose-fill Asbestos Insulation in Canberra Homes*, August 2014, p 3.

<sup>52</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra Homes*, August 2014.

<sup>53</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra Homes*, August 2014, p 2.

of more than 1000 homes would be a very significant undertaking and would take a number of years.<sup>54</sup>

The Taskforce's advice to the Government therefore was that any solution involved ultimate demolition, and that interim arrangements were impractical.<sup>55</sup> The Government therefore made a policy decision on 26 August 2014 to purchase and demolish all affected homes in order to eradicate LFA from the domestic housing stock in the ACT. Contingency planning for the scheme continued throughout the negotiation of funding with the Commonwealth Government. However, the ACT Government was unable to release the report or announce its intended policy response until the financing for the Scheme had been guaranteed. The announcement of the eradication scheme was therefore delayed until 28 October 2014, when the Commonwealth Government announced its offer of a concessional loan arrangement.

## The Loose-fill Asbestos Insulation Eradication Scheme

The Government's guiding principles for the Scheme are to:

- eliminate, by demolition of known affected houses, the ongoing risk of exposure to loose-fill asbestos for homeowners, tenants, tradespeople and the wider community;
- provide a fair outcome for owners of affected homes;
- provide, so far as possible and reasonable, flexibility and options for informed choices to be made by owners of affected homes; and
- minimise overall net costs to the Canberra community and ACT Government.<sup>56</sup>

Essentially, the Scheme comprises four phases, set out in more detail below:

- personal support for home owners and occupiers and emergency financial assistance;
- the buyback program;
- maintenance of purchased houses, the asbestos removal of these houses prior to demolition, demolition and removal of all waste, remediation of the soil; and
- re-sale of the property.

The eradication scheme is expected to take approximately six years to complete.

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<sup>54</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra Homes*, August 2014, pp 24-25.

<sup>55</sup> Asbestos Response Taskforce, *Long term management of loose-fill asbestos insulation in Canberra Homes*, August 2014, p 3.

<sup>56</sup> ACT Asbestos Response Taskforce, *The ACT Government's Preferred Way Forward on Loose-fill Asbestos: Overview*, p 3.

### *The personal support arrangements*

The personal support arrangements comprised an initial financial assistance package – an emergency response payment, which was aimed at providing for temporary short term accommodation and hazard reduction works to deal with identified risks in the short to medium term for those wanting to remain in affected properties. The Relocation Assistance Grant replaced the initial assistance package, although if assistance had been received under the initial emergency payment, payments under the relocation grant were reduced accordingly. The Relocation Assistance Grant, was provided to eligible occupants of LFA contaminated properties to enable them to move out of their affected properties. It comprised:

- a payment of up to \$10,000 for each household plus an additional \$2,000 per dependent child residing at the property, to cover the costs of emergency accommodation and other necessities such as food and clothing, and immediate remediation work;
- counselling and support services delivered by ACT Medicare Local;
- arranging and meeting the costs of asbestos assessments on LFA contaminated homes; and
- deferral of rates for the period of time in which occupiers have to vacate their homes following advice from a licensed asbestos assessor.<sup>57</sup>

Other forms of financial assistance, negotiated by the Taskforce on behalf of affected residents, were also provided by utility providers and financial institutions to assist with minimising the expense outlays required by an unplanned and at times sudden, requirement to vacate the home. The Government also approached the Commonwealth Government in relation to impacts on social security entitlements and capital gains tax.

### *The buyback program*

The eradication scheme enables owners of LFA affected houses to sell their properties to the ACT Government for remediation and demolition. Under the buyback program, the ACT Government offered to buy all houses contaminated with LFA and some impacted properties. There are an additional 11 impacted properties which are eligible to be purchased under the Scheme. Impacted properties are properties that share a wall, roof space or sub-floor space with one or more adjoining LFA affected properties. In such cases, it may not have been possible to safely and efficiently demolish the LFA contaminated property and completely remove the risks of LFA insulation unless some or all of the adjoining property was also demolished.

The buyback was at market value as at 28 October 2014 (the date the Scheme was publicly announced) as if the property were not impacted by LFA. The market value ignored general maintenance issues and general 'wear and tear'. The offer applied only to houses on blocks of land with their own Crown lease. Where a unit governed by the *Unit Titles Act 2001*, was affected, the same principles applied but the Taskforce dealt individually with the owner and not with the

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<sup>57</sup> ACT Government media release, 3 July 2014.

corporate body. Owners must have opted into the program by 30 June 2015. Owners who have not opted in by this date and who subsequently decide to sell their property can sell to the ACT Government, who will be the buyer of last resort and the property will be purchased at market value at the time and including consideration of the presence of LFA contamination.

Under the buyback program, owners receive:

- the value of the affected block (house and land) as at 28 October 2014, including improvements up until that date;
- an additional \$1000 to cover or contribute to legal fees related to the sale;
- a right to a waiver of stamp duty on a property purchased in the ACT, up to the value of the surrendered/transferred property;
- for owners of Crown lease blocks, a first right of refusal to re-purchase the block after it is remediated (at full market value); and
- other benefits as outlined from time to time on the website (for example waiver of payment of rates for a period of time for people forced to evacuate their homes at short notice).

Where the affected block was purchased under a contract exchanged after 18 February 2014, there is no valuation process. The Crown lessee will be paid the amount paid for the block and will not be entitled to a waiver of stamp duty or a first right of refusal. For Crown lease holders the interest in the block is surrendered and for unit title holders ownership passes to the ACT, as in a normal sale. A condition of the buyback offer is that owners relinquish the right to pursue legal action against the ACT and the Commonwealth Government in relation to any economic loss related to the property. This waiver does not extend to claims for sickness or health issues suffered by people as a result of exposure to LFA insulation.

Valuations are managed by the Australian Property Institute, pursuant to an arrangement with the ACT. The value of the property is determined by the average of two independent valuations, with a presidential determination (PD) process in certain circumstances. These circumstances include where the valuations vary by more than 10 per cent, in which case there is an automatic referral to the PD process and also where owners themselves are not satisfied, in which case they can request a PD at their own expense.

Settlement dates are flexible with some owners opting to remain in their properties until 30 June 2020, the last possible date, although most owners have opted for quicker settlements. To date (25 May 2016), 864 of 1022 properties have been purchased by the ACT Government. The remaining properties are either not in the Scheme or are still going through the valuation process.

### *Maintenance and demolition*

Maintenance and demolition are the responsibilities of the ACT Property Group and Procurement and Capital Works (PCW) respectively, with oversight by the Taskforce.

Once the properties are owned by the ACT Government, the ACT Property Group manages the properties until they are ready for the clean and demolition process. After purchase, the properties are made secure. Maintenance, such as lawn mowing and vermin control, is continued to minimise hazards and maintain amenity. As at January 2016, 689 properties were being maintained, while 114 had been transferred to PCW for demolition.

PCW manages the demolition process. A pilot demolition process involving five houses in four suburbs commenced the process with the objective of developing 'a best practice model for the removal of these affected houses in the Canberra community'.<sup>58</sup> Each site is overseen by a principal contractor with licensed contractors undertaking the removal and demolition works. WorkSafe ACT conducts compliance visits as required. Removing an affected house generally takes four to six weeks, which includes preparation, removal and remediation of the block.

### *The sale of remediated blocks*

Once affected houses are surrendered and demolished, contaminated soil is removed from the demolition works area and the blocks are taken off the Affected Residential Premises Register. Blocks are to be resold at market value, with the Land Development Agency (LDA) setting the value for the block. A remediated block may be subject to planning changes before a development application can be lodged and the rebuild process started. It is anticipated that the first blocks will be offered to the market in March 2016 with a substantial sales program in the following years as blocks are remediated and removed from the register.

The LDA valuation process will be used to set the price for the remediated block to be offered to a First Right Holder. Blocks, with new planning options, will be offered to former homeowners wishing to return or prepared for sale on the open market if the block is not subject to a first right of refusal. A first right option is available to homeowners who have surrendered their Crown Lease but who wish to have a first right to purchase the remediated block.

In order to optimise returns from the sale of cleaned blocks, the ACT Government introduced Variation 343, which applies to residential blocks surrendered under the LFA insulation eradication scheme. The variation will permit the cleared blocks in RZ1 planning zones to be unit titled, thereby enabling dual occupancy on the same block but under separate title. The variation applies to blocks of 700<sup>2</sup> metres or greater in size. Exceptions to the variation include blocks subject to registration under the *Heritage Act 2004*. Previously, it was possible to construct two dwellings on the same block in an RZ1 zone but they were required to be on the same title. Application of the variation to the territory plan will enable the ACT to optimise the value of some of the cleared blocks when these blocks are placed on the market.

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<sup>58</sup> Asbestos Response Taskforce, *Information Sheet: Pilot demolition of affected houses*, 27 May 2015.

## Progress on the Scheme to date

The priority for the Taskforce on establishment was personal support arrangements, including the payment of financial assistance (which was ultimately rolled into the re-location assistance grant) and communications: the provision of information to those affected and to the ACT public generally. Communications ranged from individual interviews, to community forums, the development of a comprehensive website and the use of social media. Personal contact was a priority, particularly as the final date for opting in to the scheme became closer. During the course of the following year the emphasis shifted from personal support to the active purchase program and most recently to the clean up and demolition phase. Correspondingly, the communications approach, which had originally centred on individuals, moved to focus more on the general community.

## The size of the problem in the ACT

There are 1022 blocks in 56 suburbs and in surrounding rural areas and 11 additional impacted properties.<sup>59</sup> The number of blocks in each suburb varies; Kambah has more than 100 blocks while there is one property in Barton, two in Braddon and 16 in Ainslie. As at 25 May 2016, 864 affected properties had been purchased by the ACT Government.<sup>60</sup> The purchased properties are maintained by the ACT Property Group, pending clean up and demolition. The majority of demolitions will take place over the period 2016-18, with a small number being demolished in the latter half of 2020, after the 30 June 2020 final settlement date (for those owners opting for an extended settlement period) for the surrender of the Crown lease. As at 11 May 2016, 152 properties have been demolished through the government program and 11 privately demolished.<sup>61</sup>

**Table A-1 Loose fill asbestos houses by suburb**

Suburb	No of properties	Suburb	No of properties
Ainslie	16	Hughes	17
Aranda	17	Kaleen	6
Barton	1	Kambah	102
Braddon	2	Latham	21
Campbell	7	Lyneham	3
Chapman	24	Lyons	31

<sup>59</sup> An impacted property is a property which does not have LFA contamination itself but which shares a roof space, sub-floor or wall of an affected (contaminated) property, which cannot be demolished without damaging the impacted property.

<sup>60</sup> <http://www.asbestostaskforce.act.gov.au/> <accessed 18 March 2016>

<sup>61</sup> An assisted private demolition apply to owners who had entered into contracts to demolish their homes between February and 28 October 2014 and had demolished their home or had a valid contract to do so. In these cases, the Taskforce refunded the cost of the demolition and the value of the demolished house.

Suburb	No of properties	Suburb	No of properties
Charnwood	13	Macgregor	26
Chifley	17	Macquarie	15
Cook	14	Mawson	14
Curtin	40	Melba	23
Deakin	12	Narrabundah	20
Dickson	5	O'Connor	15
Downer	6	Page	5
Duffy	21	Pearce	36
Evatt	9	Phillip	2
Farrer	34	Red Hill	7
Fisher	30	Reid	3
Flynn	26	Rivett	27
Forrest	5	Scullin	13
Fraser	11	Spence	11
Garran	21	Stirling	9
Giralang	11	Torrens	32
Griffith	11	Turner	3
Hackett	29	Wanniassa	23
Hall	4	Warramanga	18
Hawker	11	Watson	16
Higgins	15	Weetangera	17
Holder	28	Weston	31
Holt	17	Yarralumla	15
Rural properties	4	<b>TOTAL PROPERTIES</b>	1022

Source: Asbestos Response Taskforce, List of Affected Properties as published on 29 June 2014

There is a small number of owners (23) of LFA contaminated premises who have decided not to participate in the scheme. If, at a future date, these owners decide to sell their property privately but no buyers are willing to purchase the property, the ACT will become the 'buyer of last resort' at the independently assessed market value. These homeowners will be unable to take advantage of stamp duty concessions, nor will they be able to access the first right of refusal for their block when it is ultimately sold.

## Affected properties in NSW

- 4.67 NSW has a number of LFA affected properties in 11 identified local government areas, although the NSW Government is offering free testing in a total of 28 local government areas.<sup>62</sup> In June 2015, the NSW Government announced that it had accepted the recommendations of its own Taskforce and implemented a buyback and demolition program. The NSW program, managed by the Office of Fair Trading, is largely consistent with the ACT program, adopting many of its components and operational procedures. The NSW Scheme provided two choices for owners of LFA affected houses:
- 1) the government purchases the premises and land at market value as if the property was free of LFA; or
  - 2) the government purchases the premises only, with the property owner retaining the land, demolishes the premises and remediates the block of land. The owner is then free to re-build on the block of land.
- 4.68 Option one is the only suitable option for owners of strata titled properties, and option two will be the only option for rural properties, although it is open to others.
- 4.69 The ACT Asbestos Response Taskforce continues to have ongoing discussions with NSW Government officials.

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<sup>62</sup> [http://www.fairtrading.nsw.gov.au/ftw/Tenants\\_and\\_home\\_owners/Loose\\_fill\\_asbestos\\_insulation.page?](http://www.fairtrading.nsw.gov.au/ftw/Tenants_and_home_owners/Loose_fill_asbestos_insulation.page?)

## APPENDIX B: ACT ASBESTOS TIMELINE

Date	Activity
<b>2016</b>	
<b>5 April 2016</b>	Quarterly Report No 5 (1 October 2015- 31 December 2015) to ACT Legislative Assembly tabled.
<b>16 February 2016</b>	Regulations requiring Asbestos Management Plans came into force.
<b>12 February 2016</b>	Variation 343 passes the Legislative Assembly. The Variation allows RZ1 blocks of 700 <sup>2</sup> metres or more to be unit titled.
<b>11 February 2016</b>	ACT land rent scheme extended to LFA blocks with the same eligibility and criteria, with the distinction that if an owner decides to convert the lease it will be at market value and not unimproved land value, which is available for greenfields lease arrangements. A land rent lease cannot be transferred to other users as the basis on which it has been enabled is to allow the original occupants of the block to return to the community.
<b>2015</b>	
<b>19 November 2015</b>	ACT Government announces eligible impacted property buyback program, to apply to properties not affected by LFA but required to be purchased to facilitate the safe and efficient demolition of an affected property.
<b>16 November 2015</b>	Quarterly Report Number 4 (1 July 2015 - 30 September 2015) to ACT Legislative Assembly tabled.
<b>28 October 2015</b>	The first two properties are removed from the Affected Residential Properties Register.
<b>27 October 2015</b>	The Building (Loose-fill Asbestos Eradication) Legislation Amendment Bill passed. The Bill amended several separate pieces of legislation to enable: <ul style="list-style-type: none"> <li>- efficiencies in the demolition process for LFA properties generally and specific amendments which apply to heritage listed properties;</li> <li>- access to the land rent scheme on remediated LFA blocks;</li> <li>- changes to legislation to ensure responsibility lay with the asbestos removal business and not the individual undertaking the work.</li> </ul>
<b>27 October 2015</b>	ACT Legislative Assembly Planning Committee Report on DV343 (Residential blocks surrendered under the LFAIES) tabled.
<b>July 2015</b>	All five properties in pilot program demolished (Wanniassa, Melba, Evatt and Farrer).
<b>9 July 2015</b>	Update Number 3 by Chief Minister to ACT Legislative Assembly (period 1 April to 30 June 2015).

Date	Activity
6 July 2015	The first house demolished under the pilot demolition program in Sternberg Crescent, Wanniasa.
1 July 2015	Public release of the list of affected houses (enabled by amendment to the <i>Dangerous Substances Act 2004</i> ).
July 2015	Plant retrieval from blocks permitted for one month. Former occupants allowed access to their properties to collect garden plants.
30 June 2015	Applications for Buyback Program closed, i.e. 'opt-in' deadline expires.
April 2015	Amendments to the <i>Dangerous Substances Act 2004</i> require Asbestos Management Plans to be in place by 1 February 2016 for residential properties affected by loose fill asbestos insulation where occupants have not opted into the Scheme or have requested an extended settlement period beyond 1 July 2016.
24 March 2015	Update Number 2 by Chief Minister to ACT Legislative Assembly (period 1 October 2014 to 31 Dec 2014 and 'recent activity').
17 March 2015	<p>Dangerous Substances (LFAIES) Legislation Amendment Bill 2015 passed:</p> <ul style="list-style-type: none"> <li>- requiring the Minister to maintain a register of residential premises affected by loose-fill asbestos legislation;</li> <li>- authorising the Minister to publish a list of residential premises that contain or have contained LFA;</li> <li>- authorising the Minister to publish a list of residential premises that have been acquired by the ACT Government under the buyback program;</li> <li>- creating an administrative interest under the <i>Land Titles Act 1925</i> over the parcels of land on which listed residential premises are located, with removal of the administrative interest once the land is remediated and removed from the register;</li> <li>- giving permission to terminate tenancies in affected properties by the tenant or the lessor (amendment to <i>Residential Tenancies Act 1997</i>);</li> <li>- permitting transfer of feed-in tariff contracts to new premises.</li> </ul>
24 January 2015	The loan agreement signed with Commonwealth Government.
1 January 2015	Mandatory tagging of asbestos contaminated homes required.
<b>2014</b>	
24 December 2014	Purchase of first four affected properties under the buyback program.
4 December 2014	Appropriation (LFAIES) Act passes the ACT Legislative Assembly to enable

Date	Activity
	the implementation of the buyback and demolition scheme.
<b>3 December 2014</b>	Report of the ACT Legislative Assembly Public Accounts Committee Inquiry into the Supplementary Appropriation (LFAIES) Bill 2014-15 tabled.
<b>25 November 2014</b>	Supplementary Appropriation (LFAIES) Bill 2014-15 introduced into the ACT Legislative Assembly.
<b>30 October 2014</b>	Update Number 1 by Chief Minister to ACT Legislative Assembly.
<b>28 October 2014</b>	ACT Government announces the Loose Fill Asbestos Insulation Eradication Scheme (LFAIES) supported by a loan of \$1 billion from the Commonwealth Government. The ACT is to buy back affected properties at market rate as at 28 October 2014 and to demolish each affected house as an 'enduring solution to the LFA problem'.
<b>11 September 2014</b>	Letter from Chief Minister to Minister Abetz – formal funding request from ACT Government.
<b>2 September 2014</b>	Draft funding proposal from Head of the Taskforce to Dept of Employment.
<b>29 August 2014</b>	Response from Department of Employment to the Head of the Taskforce requesting a detailed proposal.
<b>27 August 2014</b>	Letter from Taskforce Head to the Department of Employment seeking funding assistance from the Commonwealth Government.
<b>26 August 2014</b>	Taskforce reports to the ACT Government with the recommendation that the long term management of LFA insulation in Canberra homes required the demolition of all affected homes.
<b>12 August 2014</b>	Appointment of the Community and Expert Reference Group (CERG).
<b>5 August 2014</b>	Chief Minister's first statement to the Legislative Assembly outlining proposed arrangements for dealing with the LFA problem. Issues included the establishment of the Taskforce, the register of impacted people, latest statistics, partnership with ACT Medicare Local, health information forums, the establishment of a Community and Expert Reference Group. The Chief Minister advised that the ACT had been given a commitment that the Commonwealth Government would work with the ACT Government to respond to the LFA problem, and an employee of SafeWork Australia had been seconded to the Taskforce. Engagement with NSW officials and premiers, the commitment to fix the issue once and for all and engagement with international experts on long term strategies 'to render homes safe' were included in the statement.
<b>17 July 2014 and 3 August 2014</b>	Health Forums held by the ACT Government to discuss health impacts of LFA.

Date	Activity
<b>3 July 2014</b>	First Asbestos Response Taskforce weekly newsletter (Edition 1) released: <ul style="list-style-type: none"> <li>- 390 names on our register;</li> <li>- the number of registrations with the Taskforce in excess of 800 by 11 July.</li> </ul>
<b>3 July 2014</b>	ACT Government announced assistance package to Mr Fluffy homeowners. Chief Minister wrote to Prime Minister Abbott, NSW Premier Baird and all South East Region Organisation of Councils (SEROC) mayors updating them on new knowledge in the ACT and ACT's response.
<b>1 July 2014</b>	The ACT is the first jurisdiction to introduce mandatory asbestos awareness training for all workers, including those in the construction industry, who might come into contact with asbestos.
<b>July 2014</b>	Taskforce wrote to all LFA owners and residents outlining the current situation and providing preliminary information, including: <ul style="list-style-type: none"> <li>- the need to register with the Asbestos Response Taskforce;</li> <li>- the availability of emergency financial assistance and details of what this assistance entailed;</li> <li>- other support programs, including health and wellbeing support; and</li> <li>- preliminary information on obligations of owners and occupants.</li> </ul>
<b>25 June 2014</b>	ACT Government commenced harmonisation of the ACT's asbestos legislation to adopt the nationally uniform model work health and safety asbestos regulations 2011 to improve the suite of regulatory tools available to WorkSafe ACT to manage its compliance and enforcement response to the LFA crisis and asbestos management more broadly. It also provided an updated Code of Practice on the Removal of Asbestos to guide contractors carrying out asbestos removal in the ACT.
<b>25 June 2014</b>	The ACT Government announced the establishment of the Asbestos Response Taskforce to coordinate the response to the legacy asbestos problem. Taskforce begins implementing asbestos assessment program and delivery of emergency assistance.
<b>25 June 2014</b>	ACT Chief Minister wrote to the Prime Minister: <ul style="list-style-type: none"> <li>- seeking an urgent meeting to develop a joint approach from the ACT and the Commonwealth Government in relation to providing necessary support arrangements for ACT families displaced as a result of their homes being contaminated with LFA;</li> <li>- advising of the establishment of the Asbestos Response Taskforce; and</li> <li>- noting that it was essential that there be regular and close coordination between both governments in dealing with the issue.</li> </ul>

Date	Activity
<b>19 June 2014</b>	Senator Abetz, Minister for Employment wrote to Mr Corbell, Minister for Workplace Safety and Industrial Relations, re acknowledgement of letter of 5 June 2014 (same letter to Prime Minister from Chief Minister)
<b>15 April 2014</b>	Chief Minister wrote to Prime Minister seeking to re-open negotiations with the Commonwealth Government in relation to funding for contaminated land and LFA contamination of domestic housing. Assistance was sought firstly, on the grounds of polluter pays principle and secondly, on the basis of the 1991 MoU provisions which set out a funding formula to pay for subsequent remediation.
<b>April 2014</b>	The Chief Minister wrote to NSW Premier with new information from the ACT and providing the report on the forensic deconstruction of the Downer property.
<b>March 2014</b>	Contract of sale and building and development applications required by the Environment and Planning Directorate to indicate when a home is affected by loose-fill asbestos insulation.
<b>February – June 2014</b>	<p>Around 300 asbestos assessments were carried out under the assumption that roof and sub-floor cavities were contaminated. The assessments found:</p> <ul style="list-style-type: none"> <li>- uniform entry of asbestos through cracked cornices;</li> <li>- common entry of asbestos through the tops of wardrobes and around ceiling vents;</li> <li>- in some cases visible asbestos in cupboard tops and on fridges;</li> <li>- asbestos fibres through wardrobes, children’s toys and cots; and</li> <li>- common presence of asbestos fibres in heating/cooling ducts.</li> </ul>
<b>February 2014</b>	Letter to Prime Minister from Chief Minister raising concerns about contaminated lands and loose fill asbestos insulation.
<b>18 February 2014</b>	ACT Work Safety Commissioner wrote to LFA affected homeowners/residents reminding them of the fact that the dwelling was part of the 1993 program and that the material, if disturbed, could present a risk. For this reason the letter recommended that owners seek a new asbestos assessment.
<b>2013</b>	
<b>December 2013</b>	Asbestos awareness advertising campaign by the ACT Government over the Christmas period to coincide with the increase in homeowner renovations.
<b>November 2013</b>	Final report on Downer house received by the Office of Industrial Relations. Report advised extensive contamination found in the heating system, roof space, wall cavities, sub-floor and living spaces.

Date	Activity
<b>July – September 2013</b>	ACT Government commissioned the forensic deconstruction of the Downer house.
<b>2012 and earlier</b>	
<b>December 2012</b>	ACT Government purchased Downer house.
<b>November 2012</b>	Letter to Prime Minister from Chief Minister seeking assistance to continue remediation of homes affected by loose fill asbestos insulation.
<b>June 2012</b>	Letter to Prime Minister from Chief Minister seeking assistance to continue remediation of homes affected by loose fill asbestos insulation.
<b>Mid 2012</b>	2012-13 Budget - \$142,000 allocated in 2012-13 for a dedicated resource to assist with the effective management of asbestos incidents in Canberra. These funds were to help improve coordination of asbestos removal incidents, and address future government risk and potential liabilities in relation to asbestos.
<b>Mid 2012</b>	The ACT Government made a comprehensive submission to the national review, outlining best practice asbestos management regime.
<b>November 2011</b>	Downer house discovered when owners undertaking maintenance work. Visible LFA insulation found in a Downer house which had not been part of the remediation program. The house was subsequently purchased in 2012 and the very significant degree of contamination ultimately led to demolition of the house. (see above)
<b>2005 - 2011</b>	Four missed homes found and remediated.
<b>2011</b>	Letter to the Prime Minister from Chief Minister - Regarding the management of asbestos including loose-fill asbestos in the ACT.
<b>2011</b>	Asbestos information website - The government revised and relaunched a new dedicated asbestos website at <a href="http://www.asbestos.act.gov.au">www.asbestos.act.gov.au</a> .
<b>2011</b>	Enactment by the ACT of the nationally harmonised legislation, the <i>Work Health and Safety Act 2011</i> , (which varied only slightly from the 2008 Act given the approach the ACT had taken).
<b>2011</b>	Ministerial statement (Minister for Industrial Relations) - Government response to the Asbestos Management Review (2010) report: "The government has agreed to implement all of the recommendations in the review, including the appointment of a response coordinator as suggested in the coordinated action response model."
<b>2011</b>	The Government accepted the recommendations of the 2010 review with the establishment of asbestos regulators forum. This group of senior

Date	Activity
	officials from all ACT government directorates was charged with formulating and overseeing a strategic plan for asbestos management over the ensuing five years.
2010	The ACT Asbestos Management Review (2010) reviewed the 2005 ACT Asbestos Management Strategy and found that the majority of the recommendations in the strategy had been completed. The review made five specific recommendations.
2008	ACT Government participated in national discussions relating to the proposed harmonisation of work health and safety laws.
2008	ILO ratification - The ACT government agreed to ratification of International Labour Organisation Convention 162 which accepts that there is no safe level of exposure, and to support the World Health Organisation in the elimination of the use of asbestos.
2008	The ACT government developed generic advice about the likely location of asbestos in residential properties built before 1985.
2008	The ACT Government Property Forum endorsed the "2008 Asbestos Management in Non-Residential Government Properties Guidelines". The ACT government had developed data management methods for the storage and management of asbestos registers.
2008	The ACT Government introduced and enacted the <i>Work Safety Act 2008</i> - the only jurisdiction to implement the draft core principles. The legislation also applied to the safe handling of asbestos in a workplace setting.
2007/08	The ACT Government contributed to national development of core principles for WHS laws.
2006	Improved disclosure of 'Mr Fluffy' homes on the building file for a property and lease conveyance inquiry (a required document for a contract of sale) - this included awareness raising measures for the real estate and conveyance lawyers. (As set out in the Historical Timeline, Asbestos Response Taskforce website)
2006	<p>Enactment of <i>Dangerous Substances Amendment Act 2006</i> - Amendments were made to various laws to introduce a best practice asbestos management regime. Asbestos is regulated under a number of laws including:</p> <ul style="list-style-type: none"> <li>- <i>Building Act 2004</i>;</li> <li>- <i>Building (General) Regulation 2008</i>;</li> <li>- <i>Civil Law (Sale of Residential Property) Act 2003</i>;</li> <li>- <i>Construction Occupations (Licensing) Act 2004</i>;</li> <li>- <i>Construction Occupations (Licensing) Regulation 2004</i>;</li> </ul>

Date	Activity
	<ul style="list-style-type: none"> <li>- <i>Dangerous Substances Act 2004;</i></li> <li>- <i>Dangerous Substances (General) Regulation 2004;</i></li> <li>- <i>Environment Protection Act 1997;</i></li> <li>- <i>Residential Tenancies Act 1997;</i></li> <li>- <i>Work Health and Safety Act 2011</i></li> </ul> <p>(As set out in the Historical Timeline, Asbestos Response Taskforce website)</p>
<b>June 2006</b>	<p>The government provided \$750,000 in the 2006-07 budget toward improving the management of asbestos, and supporting compliance with new asbestos regulations for non-residential buildings - including government-owned buildings as follows:</p> <ul style="list-style-type: none"> <li>- \$400,000 to the Department of Territory and Municipal Services for removal of asbestos and other hazardous materials in government properties used for community purposes;</li> <li>- \$150,000 to the Department of Education and Training for the development of asbestos management plans at all schools; and</li> <li>- \$200,000 to the Chief Minister’s Department to support the implementation of the new non-residential regulations.</li> </ul>
<b>2005-2006</b>	<p>The first Task Force developed training programs and printed information resources for tradespeople that have been modified in partnership with industry associations (MBA and HIA) and unions to include asbestos awareness.</p>
<b>2005</b>	<p>The Government launched the dedicated asbestos website at <a href="http://www.asbestos.act.gov.au">www.asbestos.act.gov.au</a>.</p>
<b>2005</b>	<p>Second letter to Mr Fluffy homeowners. In this letter, occupants were advised that while the initial clean comprised removal of the asbestos from the ceiling and all accessible roof and wall cavities were sealed with PVA adhesive. The letter further stated: ‘While the PVA acted to bond and make safe any possible residual loose asbestos in accessible locations, some residual fibres may remain in inaccessible wall cavities.’ The letter reinforced the initial message re renovations/extensions and included a booklet on new laws applying to home owners regarding asbestos.</p>
<b>August 2005</b>	<p>Task Force report - In August 2005 the Task Force issued a report on asbestos management in the ACT in relation to residential properties, commercial properties and the building trades and asbestos industry. The Task Force recommended that an ACT Asbestos Management Strategy be developed based on the report recommendations, accompanied by a five year program of implementation, together with an asbestos management team to provide effective coordination during implementation of the strategy.</p>

Date	Activity
	The ACT Government Response to the Task Force Report formed the basis for the strategy. It was agreed the Strategy would be reviewed after five years.
2005	<b>Task Force Review</b> undertook extensive analysis to determine the extent and impact of asbestos in the ACT. This analysis was based on empirical data and included a representative sample of buildings. A survey was conducted to complete the analysis to obtain information which, in conjunction with existing data sources supplementary research findings, would inform an analysis of the extent and impact of asbestos.
2005	Queanbeyan City Council approached the Commonwealth Government offering to share costs of a remediation program for its residents. This approach was refused by the Commonwealth Government.
2004	As a result of the Task Force, an extensive and ongoing communication and information campaign was undertaken. This campaign included various advertisements and fact sheets targeted at home renovators, tradespeople and the general community to increase awareness of asbestos, the associated risks and where to go to obtain further information.
November 2004	ACT Asbestos Task Force (Task Force and Implementation Group continued to 2006/07) identified the broad intentions of new asbestos management arrangements in the ACT as providing: <ul style="list-style-type: none"> <li>- general community awareness of asbestos hazards and safe management;</li> <li>- an enduring system for managing asbestos in the community;</li> <li>- continuity of knowledge and advice about the location and condition of asbestos (i.e. fair disclosure as to the presence of asbestos); and</li> <li>- education and warning for people at risk, whether undertaking an activity disturbing materials containing asbestos, or subject to environmental exposure.</li> </ul>
19 March 2004	Enactment of <i>Dangerous Substances Act 2004</i> - Introduced and enacted the <i>Dangerous Substances Act 2004</i> - model legislation governing explosives and chemicals, including asbestos. ACT is one of the few jurisdictions to regulate dangerous substances (including asbestos) in non-workplace settings.
31 December 2003	National ban by the National Occupational Health and Safety Commission (NOHSC): In 2001 the NOHSC declared a prohibition on all uses of chrysotile asbestos from 31 December 2003, subject to a very limited range of exemptions, and confirmed earlier prohibitions of the use of amosite and crocidolite asbestos. The prohibition of chrysotile was adopted simultaneously under regulations in each Australian OHS jurisdiction, as well as Australian Customs, on 31 December 2003.

Date	Activity
7 July 1993	Additional general letter to home owners following clean up, advising future administrative arrangements. The letter included the instruction that, prior to undertaking any building alterations to internal or external walls or ceilings, occupants needed to contact 'Building Control' to ascertain any specific requirements of the building regulations. This letter did not make any reference to remnant asbestos fibres.
5 May 1993	<p>On completion of the removal program, homeowners were sent a copy of the 'certificate of completion of asbestos removal work' from the City Operations Branch, Asbestos Program section. The certificate confirms removal of asbestos according to the standards of the time. At the foot of the certificate was the caveat: <i>Residual fibres may still be present in the wall cavities of the building. Prior approval of the Building Controller is to be obtained for any building work involving the alteration or removal of internal wall sheeting or external brickwork. It may be necessary for a licensed asbestos removalist to attend this work.</i></p> <p>The certificates were specific to the dwelling and the accompanying letter was addressed to 'dear homeowner'.</p>
7 June 1991	Removal program transferred to ACT Government under a Memorandum of Understanding (MoU), which set out a funding formula for the cost of the program (essentially the Commonwealth bore two thirds of the cost and the ACT one third. Under clause 6.3 of the MoU, the parties agreed that should it become necessary to expand the program to further residential properties or to subsequently remove asbestos from properties previously subject to the program, all costs associated with the additional program would be calculated in accordance with the terms and conditions of the MoU. The MoU also outlines the Commonwealth's intention to indemnify the ACT from all future actions and liabilities arising out of or connected with the performance of the program.
1988	Commonwealth Government initiates a program of asbestos removal based on the assessment of visible and accessible LFA in homes, based on a visual inspection of 65,000 homes built before 1980. Remediation work was carried out between 1989 and 1993.
1987	'Let's talk about asbestos in your home' pamphlet published.
1983	Around 1983 the Commonwealth commenced a program to remove asbestos from Commonwealth owned buildings.
1983	Department of Territories and Local Government reviewed the existing controls on asbestos in buildings in the ACT in line with the NHMRC's 1982 publication entitled ' <i>Report on the Health Hazards of Asbestos</i> '. Amendments were made to the Building Manual, which prescribed controls on the use of asbestos.
1980	Clarification to 1978 advice stating that asbestosfluf presented a distinct risk. A direction on the 'control of asbestos hazards' prohibited further

Date	Activity
	installation of asbestos in Commonwealth premises.
<b>1978</b>	Office of the Capital Territory Health Commission released a public statement specifically addressing the growing concern about the health risks of asbestos. However, the document stated: <i>'[CTHC] did not agree that undisturbed asbestosfluff in place in domestic ceilings poses a health risk to occupants of the dwellings. However, the Commission has for some time opposed use of asbestosfluff for insulation.'</i>
<b>August 1971</b>	Canberra Times article warning of the potential for workers who had sprayed asbestos to develop asbestosis and advising that ACT Health offered free chest x-rays and lung ventilation checks to workers in the industry.
<b>1960s – 1980s</b>	At different stages, advice provided about the dangers of LFA. Similar documents exist post self-government. Key documents included the 'Major' report which is a public document (available in 1988 and released under FOI earlier in 2014 and published in the report of the Asbestos Response Taskforce, <i>Long term management of loose-fill asbestos insulation in Canberra homes</i> ).
<b>20 December 1968</b>	Written advice from the Acting Director, Mr Arthur Spears, ACT Health Services Branch to the Director, Department of Works, quoting the Major report:  <i>It is considered desirable that D Jansen and Company Pty Ltd [Mr Fluffy], should be dissuaded or even prevented, if possible, from using asbestos fluff as insulation material in houses ... The results of our investigations have disclosed what appears to be a serious exposure to asbestos dust. In view of the harmful nature of this substance the use of asbestos fluff for the purpose of insulation should be discontinued and less hazardous material such as rockwool, insulwool, or fibre glass should be substituted. (As published in the report of the Asbestos Response Taskforce, Long term management of loose-fill asbestos insulation in Canberra homes)</i>
<b>July 1968</b>	Mr G Major report to the ACT Health Services Branch by the Occupational Health Section, highlighting potential dangers of asbestos and stating that the use of asbestos as insulation undesirable. Mr Major noted that evidence of adverse health impacts is 'not completely convincing but being taken seriously by experts in the field'. (As published in the report of the Asbestos Response Taskforce, <i>Long term management of loose-fill asbestos insulation in Canberra homes</i> ).
<b>1968-1978/79</b>	LFA pumped into around 1100 homes in Canberra and an unknown number of homes in NSW.
<b>June 1968</b>	Mr D Jansen sought permission to have asbestos fluff used in Commonwealth buildings. Request referred to the Health Services Branch (now ACT Health) which arranged for an 'asbestos hazard report' to be prepared by Mr G Major, then a physicist at the University of Sydney.



## APPENDIX C: COMMONWEALTH GOVERNMENT LOAN REPAYMENT SCHEDULE

### ACT Government Loan – Loose Fill Asbestos Remediation – Payment Schedule and Interest for the Loan

Advance	1st	2nd	Total
Advance Amount	\$750,000,000.00	\$250,000,000.00	\$1,000,000,000.00
Advance Date	29-Jan-15	15-Jul-2015	
Interest Rate	2.605%	3.015%	

Date	Opening Balance (\$)	Interest Accrued (\$)	Principal Repayment (\$)	Interest Repayment (\$)
29-Jan-15	-	-	-	-
30-Jun-15	750,000,000.00	8,189,691.78	-	8,189,691.78
15-Jul-15	750,000,000.00	-	-	-
30-Jun-16	1,000,000,000.00	26,786,680.33	-	26,786,680.33
30-Jun-17	1,000,000,000.00	27,075,000.00	-	27,075,000.00
30-Jun-18	1,000,000,000.00	27,075,000.00	50,000,000.00	27,075,000.00
30-Jun-19	950,000,000.00	25,721,250.00	50,000,000.00	25,721,250.00
30-Jun-20	900,000,000.00	24,367,500.00	50,000,000.00	24,367,500.00
30-Jun-21	850,000,000.00	23,013,750.00	100,000,000.00	23,013,750.00
30-Jun-22	750,000,000.00	20,306,250.00	100,000,000.00	20,306,250.00
30-Jun-23	650,000,000.00	17,598,750.00	100,000,000.00	17,598,750.00
30-Jun-24	550,000,000.00	14,891,250.00	550,000,000.00	14,891,250.00
			<b>1,000,000,000.00</b>	<b>215,025,122.11</b>

Source: ACT Treasury



## Audit Reports

<b>Reports Published in 2015-16</b>	
Report No. 03 – 2016	ACT Policing Arrangement
Report No. 02 – 2016	Maintenance of Public Housing
Report No. 01 – 2016	Calvary Public Hospital and Performance Reporting and Management
Report No. 10 – 2015	2014-15 Financial Audits
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<b>Reports Published in 2013-14</b>	
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Report No. 03 – 2014	Single Dwelling Development Assessments
Report No. 02 – 2014	The Water and Sewerage Pricing Process
Report No. 01 – 2014	Speed Cameras in the ACT
Report No. 08 – 2013	Management of Funding for Community Services
Report No. 07 – 2013	2012-13 Financial Audits
Report No. 06 – 2013	ACT Auditor-General's Office Annual Report 2012-13
Report No. 05 – 2013	Bushfire Preparedness
<b>Reports Published in 2012-13</b>	
Report No. 04 – 2013	National Partnership Agreement on Homelessness
Report No. 03 – 2013	ACT Government Parking Operations
Report No. 02 – 2013	Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010-11 Financial Statements and Annual Report 2011
Report No. 01 – 2013	Care and Protection System
Report No. 10 – 2012	2011-12 Financial Audits
Report No. 09 – 2012	Grants of Legal Assistance
Report No. 08 – 2012	Australian Capital Territory Public Service Recruitment Practices
Report No. 07 – 2012	Annual Report 2011-12
Report No. 06 – 2012	Emergency Department Performance Information

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