



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2021-088

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	32
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Thursday, 13 May 2021 11:08:16 AM

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

Any report related to asbestos and its removal at [REDACTED] ACT.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-088



FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 13 May 2021.

Specifically, you are seeking: “Any report related to asbestos and its removal at [redacted], O’Connor ACT.”

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 11 June 2021 however, following on from third party consultations, the due date is now 5 July 2021.

Decision on access

Searches were completed for relevant documents and three documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

Third party consultation

In determining this access request, I identified that some of the information may reasonably be expected to be of concern of third parties. In accordance with section 38 of the Act, I have undertaken third party consultation. I have considered the contentions raised by the third parties in making this decision.

In accordance with section 54(2) of the Act a statement of reasons outlining my decision is below.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act;
- the content of the documents that fall within the scope of your request;
- the contentions of relevant third parties; and
- the *Human Rights Act 2004*.

Exemption claimed

I have decided to grant partial access to the three documents that fall within the scope of your request. My reasons for deciding not to grant full access to the identified documents and components of these documents are as follows:

Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the ‘public interest’.

Factors favouring disclosure in the public interest:

(a) disclosure of the information could reasonably be expected to do any of the following:

(xi) reveal environmental or health risks or measures relating to public health and safety;

(xiv) contribute to administration of justice for a person

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in the documents may contribute to revealing environmental and health and safety risks for the identified area which could contribute to the administration of justice generally by allowing you to have a copy of the documents that fall within the scope of your request.

Factors favouring nondisclosure in the public interest:

(a) disclosure of the information could reasonably be expected to do any of the following:

(ii) prejudice the protection of an individual’s right to privacy or any other right under the Human Rights Act 2004;

I consider that the protection of an individual’s right to privacy, especially in the course of dealings with the ACT Government is a significant factor as the parties involved have provided their personal contact information for the purposes of working with the ACT

Government. I have considered this information and in my opinion the protection of these individuals' personal details (such as names, addresses, emails addresses and personal phone numbers which are not publicly available) outweighs the benefit which may be derived from releasing them. I consider that these individuals are entitled to expect that the personal information they have supplied as part of this process to the ACT Government will be dealt with in a manner that protects their privacy.

Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of the individuals involved. I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information (names of individuals not employed by the ACT Public Service and their address, phone numbers and email addresses) could prejudice their right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

Access to documents

Pursuant to section 38(6) of the Act, I am required to defer access to all the identified documents as an affected third party has objected to disclosure. This third party may apply for review of my release decision within 20 working days after my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman. I will write to you to advise when access is no longer deferred.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2018* processing charges are not applicable for this request because the total number of pages to be released is less than the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log not earlier than 3 working days and not later than 10 working days after the date of my decision.. Your personal contact details will not be published. You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73

of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 02 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely



Angela Friend
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

30 June 2021



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Any report related to asbestos and its removal at [REDACTED], O'Connor ACT.	CMTEDDFOI 2021-088

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-4	Pre-demolition asbestos inspection report	17 Dec 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	5-9	Letter from BCA Certifiers	10 Feb 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
3	10-12	Asbestos clearance certification	29 Mar 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
Total No of Docs						
3						

NON-DESTRUCTIVE PRE-DEMOLITION ASBESTOS INSPECTION REPORT

SITE OF INSPECTION: [REDACTED]

DATE OF INSPECTION: 17 December 2020

SCOPE OF THIS REPORT:

This report outlines the results of the visual inspection for asbestos-containing materials (ACMs) of the residence at [REDACTED] (the site) on 17 December 2020 prior to their demolition and analysis of any samples collected from the site during the inspection. The results outlined in this report relate only to those parts of the site that were readily accessible and where samples were collected. While reasonable conclusions can be made about the presence of ACMs at the site from the results of the assessment, it is not possible to conclusively exclude the presence of ACMs in concealed, inaccessible and untested areas of the site. As the house was occupied at the time of inspection no destructive surveying was conducted.

This report must not be used to absolve any person of their legal obligations with respect to the management or disposal of ACMs. Any person present or conducting work at the site should handle materials in accordance with all relevant legal and work health and safety standards and seek further assessment and analysis of materials in the event of any uncertainty.

FINDINGS:

Friable asbestos:

- No loose asbestos ('Mr Fluffy') appears to have been present as ceiling insulation: synthetic mineral fibre batts were the only insulation materials observed and the roof trusses show no evidence of asbestos removal.
- No asbestos pipe insulation is suspected in the cavity walls.



Non-friable asbestos:

The following materials are identified, suspected or presumed non-friable ACMs:

1. External wall cladding

Asbestos cement external wall cladding may be concealed by the brick façade.



2. Eave & porch sheeting

The eave & porch ceiling sheeting are strongly suspected to be asbestos cement.



3. Bathroom walls & bathtub infills

The bathroom wall sheeting is presumed to be asbestos cement. Asbestos cement sheeting may be present behind the ceramic tiles around the bathtub.



4. Bathroom flooring

Asbestos-containing materials may be present as the bathroom flooring (e.g. asbestos cement floor tile underlay and/or original asbestos-containing vinyl floor tiles and/or tar paper underlay).



5. Toilet floor tile underlay

Fibre cement sheeting under the toilet ceramic floor tiles is strongly suspected to be asbestos cement.



6. Lower laundry wall sheeting

Asbestos cement may line the lower walls of the laundry. Plasterboard is present above the ceramic wall tiles.



7. Laundry original flooring

Asbestos cement floor tile underlay and/or original asbestos-containing vinyl floor tiles and/or tar paper underlay may be present under the laundry ceramic floor tiles.



8. Kitchen splashback

Asbestos cement sheeting may line the kitchen wall behind the splashback tiles and/or sink cabinet.



Notes:

- The bituminous coating on the pressed metal roof is not suspected to contain asbestos due to previous analyses of identical material.



- The electricity meter board is metal.



RECOMMENDATIONS:

1. Any materials revealed during demolition which are not readily identifiable as non-asbestos should be presumed to contain asbestos and handled accordingly.
2. Removal of asbestos and ACMs is to be conducted only by an appropriately licensed asbestos removalist¹ and in accordance with the ACT-approved *How to Safely Remove Asbestos Code of Practice*².

AUTHORISED ASSESSOR:

Sch 2.2(a)(ii)

**Class A Asbestos Assessor
NSW licence no. LAA001032**

¹ ACT Work Health and Safety Regulation 2011, section 458. <http://www.legislation.act.gov.au/si/2011-36/default.asp>, accessed 20 December 2020.

² Safe Work Australia & ACT Government, *How to Safely Remove Asbestos Code of Practice*; <https://www.legislation.act.gov.au/nl/2020-548/>, accessed 20 December 2020.

210214
10 February 2021

Sch 2.2(a)(ii)

Dear Patrick and Kalya,

Re: [Redacted]
Address: [Redacted] ACT 2602
Owner: Sch 2.2(a)(ii)
Description: Demolition
Building Classification: 1a and 10a

Attached is the Building Approval for the building work at the above site to be carried out in accordance with the following conditions of approval. A copy has been forwarded to the Construction Occupations Registrar in accordance with section 28 of the *Building Act*.

Upon completion of the project, certificates as per Schedule B must be submitted in support of an application for a Certificate of Occupancy or Use.

The plans registered by BCA Certifiers Australia Pty Ltd as 210214 have been assessed and approved subject to compliance with the Deemed-to-Satisfy Provisions of the *2019 Building Code of Australia - Volume Two*.

This approval contains drawings numbered 1 to 1 and is subject to the following conditions.

Public Safety

- Ensure adequate public safety is provided at all times. Protection shall be provided to public spaces and footpaths from debris, dropped materials, equipment storage or any other activity associated with construction work on the site.
- Owners and persons carrying out building work involving asbestos are duty bound under Section 42A of the Building Act 2004 to make sure all works are carried out in accordance the approved code of practice – Asbestos code.
- Hoisting of building materials or equipment over areas used by the public is not permitted without the prior consent of the relevant Authority.
- All materials and equipment are to be kept to the leased area. Any proposal to use unleased Territory land is to be lodged with ACT Planning & Land Authority (ACTPLA) and include a site plan with proposed safety measures. A license agreement for the use of unleased Territory land must be in place prior to the event and must be continuous for the life of the project.

CANBERRA

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BCA Certifiers (Aust) Pty Ltd
COLA Lic # 200714
ACN 119 755 734
ABN 58 119 755 734

Asbestos Removal

Asbestos removal to be in accordance with the Code of Practice for the Safe Removal of Asbestos (NOHSC:2002(2005))

Demolition

Demolition work is to be carried out in accordance with the ACT Building Act, the Building Code of Australia, AS 2601 Demolition of Structures and the ACT Demolition Code of Practice.

Note:

Inspections, as per Schedule A are required.

Authorities Requirements

Plans have been referred to the below entities, and their comments are attached.

- Jemena Gas Network
- EvoEnergy Electricity Network
- Icon Water and Sewerage Division
- Transport Canberra and City Services - LMPP
- Transport Canberra and City Services - Stormwater
- Transport Canberra and City Services - Waste Management Plan

If you have any enquiries I can be contacted on 02 6173 4600.

Yours faithfully,

Sch 2.2(a)(ii)

Jerome Monagle
General Building Surveyor
BCA Certifiers (Aust) Pty Ltd – COLA Lic. # 200714

Schedule A - Inspections

The builder is to notify BCA Certifiers upon reaching each inspection stage outlined below by telephoning 02 6173 4600. Note: The builder is not to proceed beyond an inspection stage until written approval to proceed has been given by BCA Certifiers. The stages are:

- Inspection at completion of Demolition.

Schedule B - Certificates

Note* All Certificates are required to be presented on the relevant companies letterhead (with company details, including ABN) as well as signed by a suitably qualified person and dated.

- **Note: ALL Plumbing and Electrical work MUST be inspected and cleared by the ACT Planning and Land Authority (ACTPLA). To avoid delays with the issue of the Certificate of Occupancy, please ensure that the Plumbing and Electrical works have been cleared. ACTPLA can be contacted on the following phone numbers:**
 - ACTPLA Electrical Section: (02) 6207 7775,
 - ACTPLA Plumbing Section: (02) 6207 6907.

Important Asbestos Advice for ACT homes built before 1985

Asbestos is hazardous but it can be managed safely.

Follow the three steps for managing materials containing asbestos (MCAs) in your home.

Step 1. Identify where MCAs may be in your home

When was your house built?

- If your house was built before 1985, the table below gives you an indication of where you are likely to find MCAs in your home. There is also a diagram on the back of this sheet showing where MCAs are commonly found.
- If your house was built after 1985, it is unlikely to contain MCAs.
- If in doubt, assume that materials DO contain asbestos.

Common locations of MCAs in ACT homes*

(Percentage (%) of properties sampled where asbestos was detected)

Location	Pre 1965	1965–1979	1980–1984	1985–now [†]
Eaves	86%	92%	40%	0%
Garage/shed	80%	70%	15%	0%
Bathroom	54%	75%	50%	0%
Laundry	75%	80%	50%	0%
Kitchen	52%	23%	15%	0%

*Results of 2005 Asbestos Survey of over 600 ACT Homes. [†]One MCA was found in a 1985 house supporting roof tiles on a gable end.

Step 2. Assess the risk

Visually check the condition of the MCA – is it cracked, broken, etc?

- If it's in good condition and left undisturbed, it does not pose a health risk.
- If you suspect it is not in good condition, arrange for appropriate maintenance or removal by a qualified person.

Step 3. Manage safely

Make sure you remember to:

- Keep an eye on MCAs to make sure they remain in good condition.
- Consider removal of the MCA by a qualified person, when renovating or doing home repairs.
- Inform tradespeople working on your home of the location of any possible MCAs.
- Engage a qualified person if you decide to obtain a professional asbestos report on MCAs in your home.

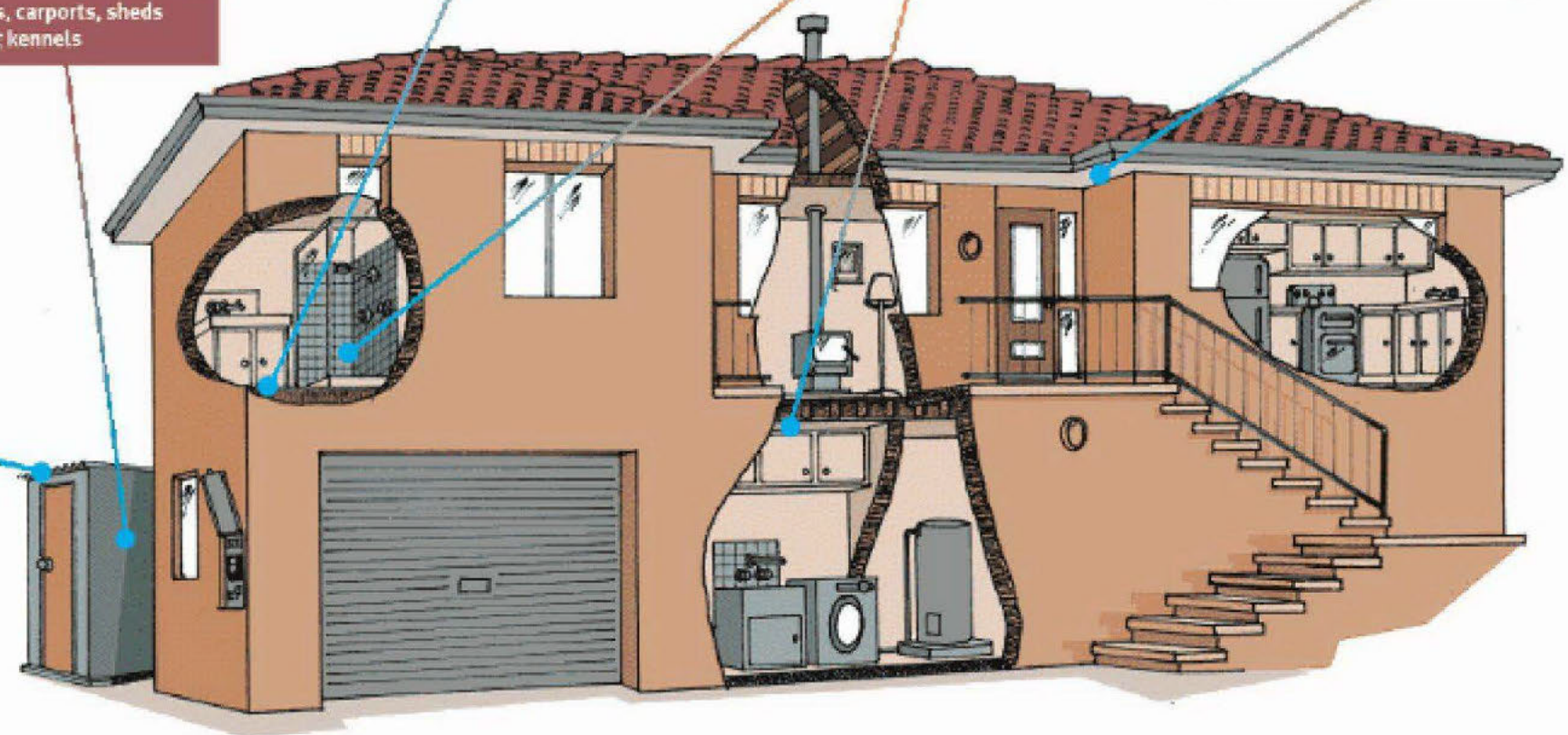
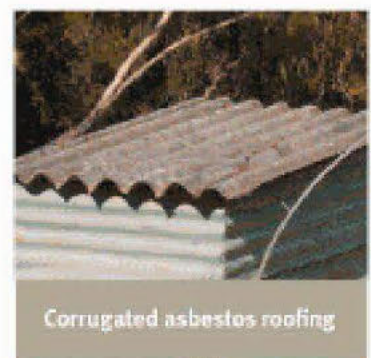
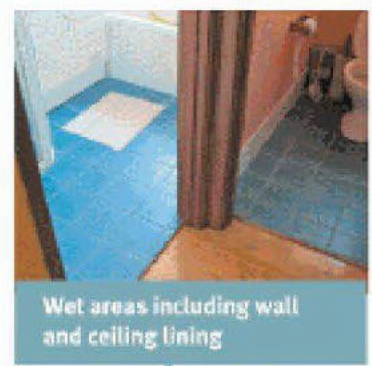
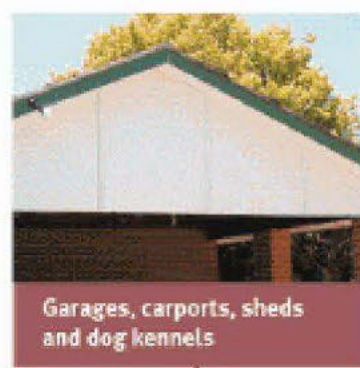
For further information or advice on managing asbestos or home renovations visit the asbestos website www.asbestos.act.gov.au or call 13 22 81.



Asbestos Awareness.
Helping everyone breathe easier.

Common locations of materials containing asbestos in ACT homes

If your house was built before 1985, some of the materials it was built from probably contain asbestos.



Asbestos Awareness.
Helping everyone breathe easier.

ASBESTOS CLEARANCE CERTIFICATION

SITE OF CERTIFICATION: [REDACTED]

TIME OF CERTIFICATION: 12:00 PM, 29 March 2021

BACKGROUND:

The residential premises at [REDACTED] was visually inspected on 29 March 2021 for the presence of asbestos and asbestos-containing materials following asbestos removal works conducted by Crown Independence Pty Ltd on 29 March 2021.

As shown below, the works involved removal of all ACMs identified in a previous survey¹:

- all asbestos cement eave sheeting from the house;
- all asbestos-containing wall sheeting, bathtub infill panelling & flooring from the bathroom; and
- all asbestos-containing flooring from the laundry & toilet.

Also removed were asbestos cement external infill panelling above & below the laundry back door and presumed asbestos-containing fibre cement sheet patches over the bedroom wall vents discovered during removal.



¹ Amphilytics, Non-Destructive Pre-Demolition Asbestos Inspection Report – [REDACTED]





CERTIFICATION:

As required under the ACT *Work Health and Safety Regulation 2011*¹ and in accordance with the ACT-approved *How to Safely Remove Asbestos Code of Practice*², visual inspection of the removal areas following the removal works showed no evidence of asbestos-containing dust or debris in or around the removal areas.

Notes:

1. Timber weatherboards are present behind the brick façade.
2. The front porch ceiling sheeting is plasterboard.
3. The fibre cement sheeting lining the lower laundry walls is labelled indicating its recent manufacture and is therefore not suspected to contain asbestos.
4. Plasterboard is present behind the kitchen splashback tiles.

AUTHORISED ASSESSOR:

Sch 2.2(a)(ii)

Class A Asbestos Assessor
NSW licence no. LAA001032

¹ ACT *Work Health and Safety Regulation 2011*, section 473, <http://www.legislation.act.gov.au/sl/2011-36/default.asp>, accessed 29 March 2021.

² Safe Work Australia & ACT Government, *How to Safely Remove Asbestos Code of Practice*, <https://www.legislation.act.gov.au/ni/2020-548/>, accessed 29 March 2021.