



# Asbestos Council of Victoria

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Whom it may concern

**RE: Asbestos Council of Victoria/GARDS Inc. submission to the Review of the Asbestos Safety and Eradication Agency**

The Asbestos Council of Victoria and GARDS Inc. (ACV/GARDS) was established in 1991 to support asbestos sufferers in Gippsland and throughout Victoria. We are the largest asbestos support and advocacy group in Victoria.

While ACV/GARDS has operated across Victoria, our focus has been on the Gippsland area. Gippsland has been affected by asbestos more than any other area in Victoria. The Victorian State Government conducted an epidemiology study of Latrobe Valley in 2003 and found the area had seven times the state average for mesothelioma and for every mesothelioma there were more than four asbestos related lung cancers and 10 other asbestos related diseases. This was mostly due to the power industry. The consistent public health research is to the effect that we have not yet reached the peak incidence of mesothelioma, and that exposures to asbestos which will lead to that cancer continue, with insufficient public awareness of risks associated with asbestos products or precautions that need to be taken to prevent the risk of disease.

ACV/GARDS believes that the Asbestos Safety and Eradication Agency (ASEA) has played an important role in promoting the dangers of asbestos and enacting public health initiatives in the period since its establishment. ACV/GARDS believes that the role of ASEA should be expanded, with greater funding and policy influence provided to enable it to perform its stated objective to of *"prevent exposure to asbestos fibres in order to eliminate asbestos-related disease in Australia."*

ACV/GARDS provides the following responses to the specific questions posed.

**Current Role**

- *Do ASEA's Functions, or the way those functions are performed by ASEA, duplicate effort or include activities that would be more appropriately performed by other organisations?*

ASEA was established with the intention of avoiding a scatter gun approach to asbestos where multiple agencies, often without the expertise or time to devote to the issue, were dealing with different aspects of asbestos management in Australia.

ACV/GARDS does not believe that ASEA performs any tasks or functions that would be more appropriately performed by other organisations. Rather, to the extent that the functions currently performed by ASEA duplicate or include activities performed by other organisations, ASEA should be preferred as the appropriate organisation to perform such activities. Further, where issues regarding asbestos are currently being dealt with by other agencies, ACV/GARDS submits these issues would more appropriately be dealt with by ASEA.

An example is the Governments approach to the attempt to ban asbestos under the Rotterdam Convention. ACV/GARDS believes that the allocation of primary responsibility to the Department of Environment was in error and meant that the impact of the Australian contribution was reduced. With respect, the Department of Environment lacks the specific expertise and relationships that were required. ACV/GARDS believes that an approach should have been to focus action through ASEA.

Generally, given ASEA is now well-established, ACV/GARDS believes that all asbestos issues should be co-ordinated by and through the Agency.



- *Are ASEA's activities well targeted to achieve its objectives?*

ACV/GARDS commends ASEA's focus and activities.

Within its resource constraints ASEA has targeted its activities well.

However, given the importance of its role, ACV/GARDS is concerned by the limited resources provided to ASEA. These resource constraints means that the ASEA has not done as much as it could have to achieve its targets.

As discussed below ACV/GARDS believes that a crucial recommendation of the review should be to increase funding and staffing to appropriate levels to enable the ASEA to deliver its statutory purpose.

- *What are the Agency's strengths and key achievements – What are its weaknesses?*

ACV/GARDS believes that ASEA's unique strength is its singular focus on asbestos management. A further strength is the breadth of the stakeholders involved in its work. No other government (or non-government) agency has the dedicated infrastructure, knowledge or stakeholder relationships in relation to asbestos.

These strengths have meant that the Agency has become central to asbestos policy in Australia and has allowed it to develop expertise and relationships with key stakeholders. In a short time ASEA has established a reputation both nationally and internationally.

ACV/GARDS notes that these strengths are directly correlated to key achievements:

- its annual conference which brings together over 300 individuals representing support groups, Australian and international researchers, regulatory bodies, unions, industry groups, asbestos removalists and representatives of federal, state and local governments. There is no other organisation or entity that has a similar reach or breadth of relationships.
- new and important research in areas such as asbestos awareness (a yearly benchmark survey); the economic burden of asbestos disease; barriers to removing asbestos in the residential and commercial sector, and the impact of the asbestos legacy on indigenous communities.
- The establishment of stakeholder committees and working groups. ASEA has established four committees and working groups - Building, Construction and Demolition Sectors Committee, Technical Research Advisory Committee, Asbestos Waste Working Group and Asbestos Communications Working Group. Through these committees ASEA brings together relevant stakeholders to exchange information and inform on relevant issues.
- the Asbestos Safety Eradication Council (which advises the CEO and the Minister) which brings together representatives from State and Federal government, unions, industry groups and support groups and enables the sharing of information and consensus policy making.

As noted elsewhere, ACV/GARDS believes that weaknesses, and instances where ASEA has failed to fulfil its mandate or potential are caused by inadequate resourcing, and limits to its role imposed by legislation.

- *Is the Agency doing work outside its functions under the Act? If so, is this work valuable and should it be continued and provided for under the Act, or should it be discontinued/performed by other organisations If so, which?*

ACV/GARDS does not believe ASEA is doing work outside its functions under the Act.

ACV/GARDS supports a liberal construction of ASEA's functions, and more generally would support ASEA being allocated a greater role and expanded functions.

The longstanding failure of asbestos management in Australia arises from a lack of coordination, or allocation of responsibility for the development of asbestos management policy to any single agency or entity. ASEA is, ACV/GARDS believes ASEA is the best vehicle to address this issue.

To the extent that any of ASEA's work to date has been arguably outside its functions under the Act, ACV/GARDS believes that the legislation should be amended.

ACV/GARDS believes that ASEA should not be limited to a co-ordination role but should be able to carry out its own research and projects that further its aim to prevent exposure to asbestos fibre in order to eliminate asbestos-related disease in Australia.

- *Is the Agency not doing work that it should be? Are there gaps in the national framework that ASEA should fill?*

ACV/GARDS believes that there is significant work that ASEA should be doing, that it has not been doing.

ACV/GARDS identifies three central issues relevant to this question:

1. A failure to ensure ASEA is the central and primary entity responsible for the development of programs and policy for asbestos management. This failure arises from limitations in the functions allocated to the ASEA under the Act, and from competition with other parts of government.

ACV/GARDS believes that a reason that Australia has failed to do enough to prevent future instances of asbestos disease is the lack of an effective single organisation empowered to oversee asbestos management.

ASEA should have control or input into all decisions of government involving asbestos.

2. Structural issues around the operation of ASEA including particularly the need to operate on a consensus basis. While stakeholder engagement and involvement are crucial, too great a reliance and focus on achieving consensus on matters can frustrate the critical work ASEA should do.
3. Inadequate funding and resourcing. Given the cost of asbestos disease to the community (both in dollars and human suffering) ACV/GARDS believes that significantly greater investment is warranted. ACV/GARDS has observed a lack of resources as a significant reason for ASEA not achieving its potential to date.

### **The Agency's relationship with the NSP**

- *What should the Agency's role and functions be in relation to the NSP?*

The National Strategic Plan for Asbestos Management and Awareness (the NSP) was developed by ASEA working with all state and territory governments. It represents the most substantial attempt at a national, co-ordinated response to the dangers posed by asbestos to our communities.

While the need to operate in consultation with all stakeholders in developing the NSP is noted, ACV/GARDS believes that, given ASEA's expertise and focus, its role and responsibility should be promoted.

ASEA should develop and implement the NSP. It is clearly the best positioned organisation to undertake this role.

ACV/GARDS notes concerns that the current wording of the Act which provides that ASEA "encourage, coordinate, monitor and report on the implementation of" the NSP is ambiguous. ACV/GARDS believes that this ambiguity can be simply resolved by amendment to the legislation to make clear that ASEA implement the NSP including carrying out research and projects under the NSP rather than being reliant on others to do so.

- *Is the purpose and focus of the NSP clearly defined in the Act?*

ACV/GARDS believes that the purpose and focus of the NSP is clearly defined by the Act and that no amendment is required,

- *What amendments would be appropriate?*

ACV/GARDS notes its submission as to what role ASEA should play in relation to the NSP above.

Amendments to the legislation that ensure that ASEA can fulfil the role it should play are warranted. Such amendments should include:

- explicit allocation of responsibility to ASEA for the implementation (as opposed to coordination) of the NSP.
- ensuring that ASEA can design and carry out its own research and projects.

- *Should the Act continue to prescribe the NSP "priority areas"?*



ACV/GARDS believes that the Act should continue to prescribe the NSP “priority areas”.

- *Should there be more flexibility for new priority areas?*

ACV/GARDS believes that there should be more flexibility for new priority areas.

- *Should the Agency’s functions be more specific in relation to, for example: information sharing, awareness raising, data collection, stakeholder engagement and coordination, International leadership?*

ACV/GARDS does not believe that ASEA’s functions should be more specific.

As detailed elsewhere, ACV/GARDS believes that ASEA should be allocated more, rather than less functions. Making ASEA’s functions more specific is likely to, when viewed overall, limit ASEA’s functions.

ACV/GARDS notes that issues that have arisen around the work of ASEA have included tension around whether specific initiatives which would support asbestos management are within the scope of ASEA. Such issues should be resolved by broadening ASEA’s functions, and enabling it to respond flexibly to issues and opportunities as they arise.

## **Future Challenges**

The primary challenges facing asbestos management and awareness in Australia concern in situ asbestos cement building materials. The extent of these challenges is enormous. ACV/GARDS notes:

- Australia was the highest country consumer of asbestos per capita. More than 80% of homes built since the 1980’s contains some fibre cement sheeting. For homes built before 1983 this sheeting contained asbestos. Very little of the sheeting (only a portion of the sheets manufactured between 1977 and 1983) contains a warning, or label that it contains asbestos. Fibre cement containing asbestos and asbestos free fibre cement are broadly indistinguishable. The fact that all the asbestos sheeting is now at least 30 years old means that, increasingly, the sheeting is in deteriorated condition, or will need to be replaced.
- Natural disasters including fires, major storms, floods and cyclones result in asbestos cement sheeting being damaged and expose rescue workers and the general public to the risk of contracting an asbestos disease from inhaling asbestos dust and fibre during the after math and clean up.
- Significant infrastructure (particularly water and sewerage pipes, and telecoms pits) are made of asbestos cement. The cost and occupational health and safety issues associated with this infrastructure is enormous.
- The incidence of mesothelioma has remained relatively constant for several years. As there is no safe level of exposure to asbestos dust below which there is no risk of developing mesothelioma, exposures to asbestos that will cause Australians to develop mesothelioma continue to occur.

While a focus on treatment for mesothelioma is important, ACV/GARDS notes the need to identify and remove asbestos is becoming increasingly urgent. Given the age of the sheeting, it is likely to be replaced soon. There is an urgent need to ensure this is done in a cost effective, methodical and safe manner. Further there is a need to avoid costly haphazard issues arising after natural disasters.

A national targeted approach is essential. Education and awareness need to be increased and targeted to tradies, DIYs, general community, local government and anyone else that deals with asbestos or makes decisions around asbestos. Mapping of asbestos disposal sites, creating new disposal sites and making sure that those sites are specifically targeted in areas where there will be known removal into the future. Old asbestos disposal sites should be investigated and mapped so that they are not disturbed into the future.

There needs to be a greater emphasis on addressing all the issues around importation of asbestos and greater effort in prosecutions with large penalties for offenders. Penalties should also include removal of illegal asbestos by the developer and the importer.

- *What should the Agency’s role and functions be in relation to these future challenges?*

ACV/GARDS believes that ASEA should be at the policy and action centre of facing challenges.

An approach where responsibility has not co-ordinated, but shared across levels of government, and different departments has not worked.

ACV/GARDS supports ASEA being promoted as the central entity responsible for the oversight of asbestos management. To this end (and without limiting other functions) ASEA Agency should:

- have a proactive role in developing asbestos management policy;
- implement asbestos management policy;
- have responsibility to prosecute businesses or individuals who illegally import asbestos;
- undertake carry out its own research and programmes.

Legislation needs to give ASEA a proactive role in advising and carrying out the government's asbestos policy. ASEA needs to be able to carry out its own research and programmes. It needs to be able to partner with other bodies. It should also be the body responsible for all legislation relating to asbestos and recommending the prosecution of businesses or individuals who illegally import asbestos.

### **Agency Name**

- *Does the title of the Agency clearly reflect its role?*

ACV/GARDS believes that ASEA's title clearly reflects its role.

ASEA's primary function should be to foster the eradication of asbestos materials and asbestos disease from our community. This includes overseeing the removal of asbestos from the built environment and supporting research into eradicating asbestos disease. ASEA has played a leadership role overseas with our closest neighbours who need guidance and a role model around the eradication of asbestos in their communities.

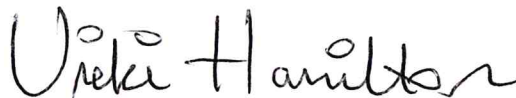
- *Should an alternative title should be considered?*

As noted above, ACV/GARDS believes that the current title is appropriate.

ASEA has developed a public profile. There has begun to be significant public awareness of ASEA both nationally and internationally under its current name. A change to that name would mean the work done on developing a public profile would be lost.

In such circumstances, the review should not recommend any change to the title of ASEA .

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If you require further information on our submission please contact at any time.