**ASEA Review – Department of Jobs and Small Business Submission**

### **Overview**

The Australian Government acknowledges the significant impact on the health and safety of the Australian community that may arise from exposure to asbestos and is committed to working with states and territories to minimise these impacts to the greatest extent possible.

The Asbestos Safety and Eradication Agency (ASEA) is a statutory authority established under the *Asbestos Safety and Eradication Agency Act 2013* (the Act). It performs a key role in developing the National Strategic Plan for Asbestos Management and Awareness (the Plan), and driving a national focus on asbestos safety and management.

Commonwealth, state, territory and local governments are responsible for managing asbestos within their jurisdictions. This includes areas of focus such as work health and safety (WHS), public health, consumer safety, environmental regulation and border controls. All tiers of government work together closely to develop consistent regulatory and policy frameworks. The Australian Government established and funds ASEA to support a strategic national approach to addressing Australia’s asbestos legacy.

The Government provided ASEA with additional ongoing funding of $1.7 million per annum, commencing in 2018–19, in the 2017 Mid-Year Economic and Fiscal Outlook (MYEFO). This more than doubled ASEA’s base level of funding from $1.6 million to $3.3 million per annum. The additional funding ensures ASEA can work effectively with state, territory and Commonwealth governments to implement the Plan to protect workers and the community from Australia’s deadly asbestos legacy. It supports ASEA’s continued engagement with a wide variety of stakeholders to maintain a collaborative and informed approach.

ASEA’s role is not to take over the functions that rightly sit with state and territory governments, but to drive and coordinate strategic national effort. This recognises the significant expertise and resources which exist at the state and territory level, as well as federal division of powers and legislative responsibility. While there is a range of areas where ASEA could direct its effort, a wider role may distract ASEA from performing this essential national leadership function.

### **ASEA - Objectives, role, functions and activities**

ASEA was established following the Australian Government’s 2012 *Asbestos Management Review*, which found asbestos management and awareness raising activities in Australia to be fragmented and inconsistent. The review found that a National Strategic Plan was needed to better drive, focus and coordinate efforts to address asbestos-related issues across Australia’s various jurisdictions. The review therefore recommended the establishment of a national coordinating body to ensure stakeholders are engaged and implementation is effective. This rationale remains relevant today.

ASEA is responsible for developing the Plan and overseeing its implementation. Fundamentally, its role is one of strategic leadership. ASEA works across jurisdictions, coordinating and maintaining stakeholder momentum so that Australia’s long-term goal of eliminating asbestos related disease in Australia is realised.

ASEA’s functions are set out in the *Asbestos Safety and Eradication Agency Act 2013* and can be summarised into three broad categories:

1. Developing the Plan (including reviewing, amending, publishing and promoting the Plan);
2. Driving implementation of the Plan (including coordinating, monitoring and reporting on progress); and
3. Building and disseminating knowledge of asbestos management among stakeholders (including through providing advice to the responsible Commonwealth Minister as required, and commissioning, monitoring and promoting research).

These functions should remain ASEA’s primary focus and be clearly articulated to stakeholders. It is essential that all parties responsible for implementing the Plan have a strong understanding of their respective roles and responsibilities.

ASEA’s role in relation to the Plan

The Department of Jobs and Small Business considers that ASEA’s primary role should continue to be its focus on driving implementation of the Plan by Commonwealth, state and territory agencies.

The Plan’s objective is set out under section 5A of the Act, which broadly describes it as aiming “to prevent exposure to asbestos fibres in order to eliminate asbestos-related disease in Australia.” This remains a useful overarching objective.

However, prescription under the Act could be reduced. While some prescription is useful to guide development of the Plan, the legislation needs to provide sufficient flexibility to address emerging issues and changing operating environments. For example, priority areas to be addressed by the Plan are set out under section 5A. Ideally, these should be kept at a high level, as specific priorities may need to change over time.

Developing the Plan

ASEA’s leadership in developing and coordinating the Plan has led to a step change in the national management of Australia’s asbestos legacy. This process has brought to the fore jurisdictional efforts to eradicate asbestos related disease and provided a forum for responsible agencies at all levels of government to share expertise and direct thinking towards shared strategic priorities for future work.

ASEA continues to perform an important role in revising the Plan, applying new knowledge and information to identify changing priorities and supporting continued progress towards national objectives.

Driving implementation of the Plan

*Driving implementation*

All jurisdictions are responsible for implementing the actions set out under the Plan. ASEA’s role is to drive and coordinate this implementation. This is consistent with the Asbestos Management Review, which noted that:

*“Under any or all of the above approaches, jurisdictions would continue to have direct carriage of many of the activities under the National Strategic Plan. States and territories currently have the majority of responsibility for management of asbestos matters, and consequently the greatest levels of existing expertise and resources.”[[1]](#footnote-1)*

ASEA should generally avoid taking on work and filling gaps where such work is the responsibility of a particular jurisdiction. While there may be scope to increase ASEA’s functions under the Act, there is a risk that this could distract it from its key work objectives. Instead, ASEA should seek to influence, enable or facilitate the required action by the relevant jurisdiction.

Evaluation of the Plan’s outcomes is a key way in which ASEA can identify gaps and drive effective action. Evaluation of the impact of activities across jurisdictions will also help to identify best practice and support the most appropriate and efficient programs and policies.

However, ASEA’s performance as an agency should not be measured directly against the achievement of the goals of the Plan, but instead its efforts to drive implementation by stakeholders.

*Coordination and consultation*

ASEA works in partnership with a wide range of stakeholders, including other government agencies, researchers, industry, employer groups, employee representatives, not-for-profit organisations and public health bodies. ASEA performs an important function in bringing diverse views together to discuss issues of common concern, and to develop collaborative and consistent approaches.

ASEA has been instrumental in establishing coordination mechanisms including committees and working groups. This is particularly useful where there would otherwise be no natural coordinating body.

For example, ASEA provides secretariat support for the for the Heads of Workplace Safety Authorities Imported Materials With Asbestos Working Group (HWSA Working Group) which was established to deal with incidences of asbestos-containing materials being imported into Australia in contravention of the *Customs (Prohibited Imports) Regulations 1956*. As part of this, ASEA administers the HWSA Working Group Rapid Response Protocol, which enables rapid and effective communication and collaboration between government agencies. Over time, jurisdictions could take up and share this secretariat function.

While ASEA performs a valuable role in bringing together key parties and catalysing coordinated action, it would be easy for coordination functions to subsume the resources of the agency. Where possible, ASEA should seek to support the establishment of appropriate coordination mechanisms, rather than taking on an ongoing coordination role. This will help to ensure that ASEA has capacity to maintain a strategic focus on priority and emerging issues.

*Building and disseminating knowledge of asbestos management among stakeholders*

ASEA plays a key role in helping to build knowledge of asbestos-related issues among stakeholders. As a point of connection between the various jurisdictions, ASEA facilitates discussion, information sharing and the development and dissemination of evidence based research to define and promote best practice. Covering a relatively broad stakeholder base, ASEA is ideally positioned to identify shared needs and facilitate the development of key materials or messaging which can be adopted by different jurisdictions, helping to reduce duplication, create efficiencies of scale and guide evidence-based responses.

Public awareness

Well established policy and regulatory bodies exist in each jurisdiction to oversee asbestos related matters. For workplaces, WHS regulators are the key points of contact for queries and remain the primary source of authoritative information about the regulatory framework in each jurisdiction. ASEA supplements this role by providing a national point of referral for asbestos-related inquiries. In addition to information provided on its website, ASEA operates a national hotline directing inquiries to the appropriate authority in each state and territory.

Raising public awareness of asbestos risks is critical to reducing the incidence of asbestos related-disease. All levels of government have responsibilities in relation to asbestos awareness. There may be benefit in ASEA having the legislative power to develop national awareness strategies and materials to support a coordinated and consistent message and prevent duplication. States and territories would retain the need to authorise and fund these activities in their respective jurisdictions.

Research

The ASEA Act provides that a key function of ASEA is to commission, monitor and promote research about asbestos safety, but provides considerable flexibility as to how this function is carried out. It is important that this work has a strong strategic outcomes focus and that ASEA continues to work with stakeholders when setting its research agenda to ensure research addresses gaps in the current knowledge base that prevent effective implementation of key priorities under the Plan. To support evidence-based implementation of the Plan, it may also be useful for ASEA to have a legislated data collection function. This could support ASEA to collect specific data from jurisdictions to assess whether the Plan is achieving desired outcomes, identify areas of priority and guide future actions.

International role

In recommending the establishment of ASEA, the Asbestos Management Review also recommended the Australian Government continue to play a leadership role in international efforts to ban the production and trade of asbestos and more effectively prevent its illegal entry into Australia.

A number of Australian Government agencies advocate internationally to pursue Australia’s interests in relation to asbestos:

* the Department of Home Affairs and Australian Border Force engage on import issues
* the Department of Environment and Energy leads action in relation to dangerous chemicals under the Rotterdam and Basel Conventions, and the movement of hazardous waste
* the Department of Jobs and Small Business leads engagement on industrial relations and work health and safety, and also has a whole of government role in relation to the policy and regulatory framework for asbestos, and
* the Department of Foreign Affairs and Trade engages on trade related issues and international development.

Through its role in driving the implementation of the Plan, ASEA may seek to encourage international engagement by Commonwealth departments where it identifies gaps in implementing the Plan.

It is important that Australian Government policy departments continue to lead international engagement on policy issues for which they have responsibility, with whole of government coordination driven by the Department of Foreign Affairs and Trade. As an independent statutory agency, it would not be appropriate for ASEA to lead international engagement on behalf of the Australian Government on policy related matters.

However, Australia’s national experience and deadly asbestos legacy provides a strong narrative to encourage regional countries to implement domestic bans, and guidance on the range of policy and programs necessary to effectively manage asbestos risks. ASEA’s role makes it well placed to engage internationally to share this national narrative, as well as research findings and best practice information.

Import permission

Importing goods containing asbestos into Australia is prohibited except under very limited circumstances requiring Ministerial approval. Applications for permission are currently lodged with and assessed by ASEA. ASEA is well placed to process such applications within established government policies due to its asbestos expertise, public facing role, and strong cross-jurisdictional relationships. The Department considers that ASEA should retain this role at this time.

### **Future Challenges**

Workplace health and safety policy makers and regulators across the Commonwealth, states and territories have well established and effective coordination mechanisms and a long experience in managing asbestos issues in the workplace. While there is always room for improvement, workers in high risk environments, such as the construction industry, have relatively high knowledge and awareness of asbestos safety and are well equipped to deal with it when encountered.

Significant challenges, however, remain. ‘Gig’ or other short term or temporary workers may not have the same degree of awareness as the more established workforce. Likewise, those undertaking residential DIY renovation work require greater awareness of asbestos risks. It is important that regulators and policy makers maintain efforts in these areas.

There is a continuing need for a central point of coordination and communication to work with the different jurisdictions to ensure consistent messaging and ongoing engagement on asbestos related matters, particularly on emerging issues.

ASEA should continue to monitor known issues, such as the management of asbestos containing materials in aging infrastructure and areas impacted by natural disasters, and work with stakeholders to ensure that sufficient forward planning is in place and the necessary momentum to address these issues in a timely manner is maintained. ASEA has an important role in monitoring emerging issues and ensuring it has the flexibility and agility required to respond to these as necessary.

1. *Asbestos Management Review Report*, June 2012, p48 [↑](#footnote-ref-1)