18 January 2019

Independent Reviewer

Asbestos Safety and Eradication Act Review

Work Health and Safety Policy Group
Department of Jobs and Small Business

**Asbestos Safety and Eradication Act Review 2018**

Thank you for the opportunity for input.

These observations and comments are provided as an individual with over 30 years’ experience in work health and safety (WHS), in operational and policy roles. This includes my role with the original Asbestos Management Review (AMR), as an observer on ASEA Council and now as an independent member on ASEA Council.

As Director Work Health and Safety and Workers Compensation Policy at the Australian Chamber of Commerce and Industry I was the members’ representative on Safe Work Australia (SWA) when the WHS regulatory package was being developed through to end of 2016. I am currently consulting.

I understand that under Section 47 of the Asbestos Safety and Eradication Agency Act 2013 (the Act) a review of the Asbestos Safety and Eradication Agency’s (ASEA) ongoing role and functions must be conducted five years after its establishment.

I offer these comments to that review as an experienced professional with an interest in improving health and safety, including in the asbestos field, and in fostering a flourishing healthy community.

**About Asbestos in Australia**

* The **legacy of asbestos** remains. Asbestos exists in government, commercial and residential buildings, plant and equipment, and contaminated soil. There is also a background level of asbestos fibres in the air.
* **Protecting the community from exposure to asbestos fibres** is important, not only in workplaces but in homes and in the environment, including soil and air.
* Some asbestos is well encapsulated but a substantial amount is **degrading** as it ages. Degradation increases the risk of exposure.
* Given Australia’s legacy, it is expected that **as asbestos deteriorates it will enter the waste stream in increased quantities and result in more asbestos-related disease**.
* **Uncontrolled exposure also occurs through natural disasters** such as bushfires, cyclones and flooding.
* Responsibility for protecting the community from exposure to asbestos fibres crosses agencies and borders, from the asbestos that remains in the built environment through to the asbestos in the natural environment e.g. soil and water and to any uncontrolled exposures caused for example by natural disasters. The **Australian government has a role** in minimising risks of exposure through its agencies and state/territory governments.
* The Australian Government has shown it is committed to working with the states and territories to facilitate a nationally coordinated approach to minimising asbestos exposure. **ASEA can deliver this. It represents an opportunity to coordinate nationally, to collaborate and to communicate on asbestos**.
* ASEA currently **acts as a catalyst** to create a nationally consistent approach to asbestos management and awareness, but it lacks needed formal structure for commitment from Australian state and territory governments.
* The Asbestos Safety and Eradication Agency (ASEA) was established on 1 July 2013 to provide a national focus on asbestos issues that goes beyond workplace safety to encompass environment, planning and public health. It is **built on the findings of AMR** (published 2012).
* ASEA **develops,** **monitors, reviews and amends the National Strategic Plan** for Asbestos Management and Awareness (the NSP) in Australia and forms the basis for an agreed national coordinated approach. It is necessarily high level. The NSP has a phased approach.
* **The NSP establishes a framework within which the states and territories are able to work cooperatively and independently to achieve agreed objectives**. The setting of objectives should be done through consultation with stakeholders on a mandatory and agreed list/template.
* ASEA has worked with all levels of government and stakeholders to act as a catalyst to create a nationally consistent approach to asbestos management and awareness, **through the NSP**. The Agency’s work includes:
	+ identifying gaps in policy and in evidence
	+ reducing duplication
	+ increasing transparency of governance for asbestos across Australia
	+ coordinating evidence.

Through collaboration ASEA has already

* **Encouraged and improved** government consistency
* **Filled identified** **emerging gaps** in research or activities and consolidated information available
* **Avoided duplication** where possible
* **Built awareness** through voluntary stakeholders
* **Commissioned national research to inform and influence** policy and activities
* **Identified and completed priority actions**
* **Enhanced Australia’s international leadership** to reduce illegal asbestos-containing products and to monitor international emerging issues

**Principle Activities have been undertaken through**

* Collaboration
* Coordination
* Communication

**ASEA has an ongoing role.** Australia has a legacy of asbestos and therefore an ongoing role for government at all levels and so there is a continuing role for ASEA.

**Current functions of ASEA under the ASEA Act 2013**

ASEA’s functions under the Act (emphasis added) are to:

* encourage, coordinate, monitor and report on the implementation of the National Strategic Plan (NSP)
* review and amend the NSP as required
* publish and promote the NSP
* provide advice to the Minister about asbestos safety
* liaise with Commonwealth, state, territory, local and other governments, agencies or bodies about the implementation of the NSP and asbestos safety
* commission, monitor and promote research about asbestos safety
* anything incidental or conducive to above

In summary ASEA was established to **encourage, coordinate, monitor and report on implementation** of the National Strategic Plan (NSP) across a wide range of government agencies from border protection, environmental protection agencies, emergency services, planning, work health and safety and health departments; and **review or amend the NSP, liaise and provide a research function**.

**ASEA’s role does not include implementation. Its role is not a duplication of any other body’s**. However, the community may have a misunderstanding of the role of ASEA under the current ASEA Act and hence its activities. This review is an opportunity to clarify an important national role.

**About National Strategic Plan 2014-2018**

The overall aim of the National Strategic Plan (NSP) (2014-2018) and its work is to prevent exposure to asbestos fibres in order to eliminate asbestos-related disease (ARD) in Australia.

The NSP is an agreed document that provides guidance for a national coordinated approach. It outlines Australia’s strategies for priority. It is high level and establishes a framework within which the states and territories are able to work **cooperatively and independently** to achieve agreed objectives.

The current NSP builds on existing evidence for asbestos management. It involves six strategies to minimise risk of exposure:

1. Awareness
2. Best practice
3. Identification
4. Removal
5. Research
6. International leadership

Using this evidence and commissioned research, ASEA compiles and provides reports, supporting tools and options to help stakeholders achieve reduction in risks of exposure to asbestos fibres.

**A Future NSP**

The NSP should be **strengthened so that signatories commit to measureable outcomes – using an agreement similar to an Inter-Governmental Agreement (IGA) or Charter.**

ASEA **needs a mandate** to collect, collate, analyse and report on national data. This is necessarily based on data provided by Commonwealth, state, territory governments and therefore requires an enforceable commitment from these bodies. The data must be consistent and collatable across agencies and jurisdictions. ASEA can then analyse the data sourced across Australia, collate it, and communicate consistent national information. ASEA can also then base reports and guidance on credible, nationally consistent information, and share them with stakeholders. Improvement to this data can be used to collaborate and better coordinate responses to assist stakeholders implement NSP. ASEA should be enabled to provide nationally consistent communication of this information.

The framework established in NSP should enable **objectives to be measurable to show success and make performance more visible for each stakeholder**.

The signatories should also consider providing **supplementary supportive funding** to maintain ASEA’s role, thereby strengthening and reinforcing commitment from each Commonwealth, and state and territory government.

**An advisory committee of ASEA** including representatives of each state and territory government and Commonwealth could also help achieve this stronger commitment, advise on activities, monitor outcomes and communicate messaging. Similar to Safe Work Australia, representatives would need to be high-level, to have authority to make decisions and to report back to governments. I see this as a committee that would provide input to the tripartite ASEA Council.

**About Current Roles**

**Australian government Role**

The **Australian government has a role** protecting the community by minimising risks of exposure to asbestos fibres through its agencies and state/territory governments. This role crosses agenciesand borders, from asbestos remaining in built environment through to natural environment e.g. soil and water, and to uncontrolled exposures e.g. natural disasters. **To enhance the cross-agency and cross-border collaborations**, **consideration should be given to locating** **ASEA in Department of Premier and Cabinet** rather than in the Department of Jobs and Small Business.

**State and Territory government Role**

The **role of state and territory governments should be strengthened** in the next phase of ASEA and next NSP. Commitment to supporting the work of ASEA should be codified into the new ASEA Act with a clear statement of role, responsibilities, benefits, measurable objectives and therefore accountability. Each state/territory should **commit** by signing on to an Inter-Governmental Agreement (IGA), Charter or similar agreement and provide **supplementary funding** towards functions of ASEA. A similar structure exists for Safe Work Australia.

ASEA should be able to rely on Commonwealth, state, territory governments to work with their local government and other agencies or bodies to implement an agreed national approach to the NSP. An example would be the work of the Victorian Asbestos Eradication Agency (VAEA) on government buildings. This work is not duplication of ASEA but highlights an approach consistent with NSP that could be applied by others. ASEA is a national body similar to SWA in that **it does not implement** but relies on its members to do so based on nationally agreed (and consistent) actions.

**NSP Role**

To be effective the role of state and territory governments should be strengthened in the next phase of NSP. An Inter-Governmental Agreement (IGA) through COAG or similar such as a Charter, would provide commitment to support the work of ASEA. This commitment should be required through the new ASEA Act. The ASEA Act should not prescribe the NSP.

**ASEA Role**

ASEA should **continue to coordinate and facilitate a nationally consistent approach. It should continue to provide a national focus and to coordinate the NSP**. ASEA itself does not implement the NSP. The NSP for Asbestos Management and Awareness helps provide a national coordinated approach. **The NSP establishes a framework within which the states and territories are able to work cooperatively and independently to achieve set (measurable) objectives.**

ASEA’s role as a national body should continue to be

* + **Improving data collection, reporting, monitoring and analysis** for stakeholder implementation of an agreed National Strategic Plan
	+ **Delivering coordinated asbestos safety and innovation research** that impacts cross portfolio and jurisdictional issues
	+ **Coordinating, promoting and sharing of nationally consistent information** about asbestos through committed state/territory governments and stakeholders. And **communicating** these nationally consistent messages.

This will:

* + **deliver improved evidence** to guide and influence all levels of government and stakeholders to implement the NSP, including the priority areas defined under Section 5A of the existing ASEA Act
	+ **support** improved understanding, evidence and knowledge about emerging **asbestos risks, and responses** that are best addressed with a coordinated approach
	+ **facilitate coordination of known and emerging issues**
	+ **improve reporting** on the NSP

ASEA should be given more authority and structure to achieve the following functions:

* **coordinate a consistent national approach to minimising the risks of exposure**
* **commission, monitor and promote research** to support implementation of NSP by all stakeholders
* **liaise and collaborate** with Commonwealth, state, territory governments and their local and other agencies or bodies about **nationally consistent** **implementation** of the NSP
* **collate national data and information** from Commonwealth, state, territory governments about **nationally consistent implementation** of the NSP
* **analyse, monitor and report** on Commonwealth, state, territory, governments implementation of the NSP
* **review and amend,** **publish and promote** the NSP as required
* **provide advice** to the Minister about asbestos safety
* **anything incidental or conducive to above**

**ASEA Act Review Questions – Current Role**

**Taking into account the national framework for policy and management of asbestos-related issues, and the roles and functions of Commonwealth, state and territory agencies:**

1. **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? If so, which organisations?**

ASEA has endeavoured to ensure that any of its own undertakings minimise any duplication. Where possible ASEA has advised its stakeholders accordingly. However, at the moment each State and Territory is undertaking activities of its own. ASEA has no jurisdictional control over these actions. Under the existing ASEA Act, ASEA can **encourage and provide advice**.

I believe that locating ASEA in **Department of Premier and Cabinet with an IGA or Charter** would minimise the risk of any duplication across agencies and strengthen ASEA’s role as coordinator and facilitator. It could also commit the stakeholders to achieving measurable outcomes. Further if each government was to provide supplementary funding this would engender commitment and support towards the outcomes. This would be similar to operation of SWA.

The review of the ASEA Act should seek to obtain commitment from state and territory governments to minimise potential for duplication and to provide better data. The Act could establish an **advisory committee of ASEA** with all State and Territory governments and Commonwealth represented. **The ASEA Advisory Committee would then have a single representative (the Chair of Advisory Committee) on the tripartite ASEA Council. The social partners role remains critical to success. ASEA Council should remain.**

Research on asbestos is currently conducted across a variety of agencies. ASEA should maintain a **register of asbestos-related research**, and have authority to liaise and collaborate to minimise duplication. ASEA should also have authority to continue to commission research in the gaps. For example, Data61 identified the need for research into new technologies and for market monitoring. The National Profile also noted the need for ASEA to coordinate research. I support both these findings.

1. **Are ASEA’s activities well targeted to achieve its objectives?**

The ASEA Act must be strengthened to enableimproved collection, collation and analysis of data to influence all levels of government and community to action the NSP and achieve its objectives. Clear reporting requirements, and data from across governments would provide more measurable information, reduce potential for duplication and would improve analysis and reporting on NSP aims, objectives and activities.

To achieve its objectives the Act should provide ASEA with the authority to

* **improve data** to influence all levels of government and community to action NSP
* **improve national evidence e.g. about emerging asbestos risks**
* assist governments and community deliver **coordinated and nationally consistent actions and responses to issues**
* **identify gaps and avoid overlap activities** to deliver highest benefit
* **improve community awareness** of asbestos (through stakeholders using nationally consistent behaviour change programmes and communication)
* **enhance international leadership** to reduce illegal asbestos-containing products and monitor international emerging issues
1. **What are the Agency’s strengths and key achievements? What are its weaknesses?**

**Current Strengths**

* National focus – national consistent approaches and messaging
* Collaborative supportive style
* Delivery of outcomes for the Agency’s resources
* Ability to assist by working through voluntary actions of stakeholders- strong opportunity for partnerships
* Support from all stakeholders– e.g. tripartite structure of Council
* Consolidation of information and resources including research so far
* Building of awareness through voluntary actions of stakeholders
* Ability to minimise duplication - where possible
* Provision of advice and support to stakeholders, both general and

 through commissioned research/reports

* Collaborating and developing NSP and promoting and monitoring

 activities of NSP

* Representation and advocacy internationally

**Current Weaknesses**

* No authority nor ability to collect the range of national data required
* No authority over the activities of stakeholders
* Limited capacity to register all current research. Research register could be useful. It could help minimise overlaps – need authority to establish and monitor a register
* Limited capacity for mapping and scoping asbestos risk. A register such as that used by VAEA for government buildings would be a useful undertaking.
* Stakeholders should be required to commit to agreed achievable national priority actions and to report to ASEA in national format
* Resources are limited

Key achievements of ASEA are captured in the strengths and as listed above includes

* **Encouraged and improved** government consistency
* **Filled identified** **emerging gaps** in research or activities and consolidated information available
* **Avoided duplication** where possible
* **Built awareness** through voluntary stakeholders
* **Commissioned, supported or collected national research to inform and influence** policy and activities
* **Identified and completed priority actions**
* **Enhanced International leadership** to reduce illegal asbestos-containing products and to monitor international emerging issues
1. **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 organisations?**

ASEA is working and has always worked, within the confines of the Act.

Asbestos management, awareness and the risks of exposure traverse agencies such as border protection, environmental protection, emergency services, planning, work health and safety and public health departments. ASEA has worked hard to avoid work that could be or is undertaken by another agency. It has, in line with its current function, encouraged, liaised and collaborated with these agencies. Similarly, it has worked with other stakeholders, industry/unions, support groups, other research organisations e.g. Asbestos Disease Research Institute (ADRI), NHMRC and international agencies. Stakeholders have reported in annual surveys, that the support and advice from ASEA is within confines of the existing Act and has been effective and appreciated.

Clinical research cannot be undertaken by ASEA and is best undertaken and evaluated by clinical health professionals. However, collaborations across the network of researchers could be facilitated if it is known what research is undertaken. Hence the suggestion for an authorised register. Authority for development and maintenance of such a register by ASEA should be enshrined in the Act.

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

Evidence-informed decision making is of prime importance. Research is needed to support and provide credible information, to provide sound direction and support any decisions. Research is fundamental to future direction and actions taken under NSP. Both Data61 Future of Work report and National Profile identified need for a research function.

**5.1 Research**

With appropriate empowerment, ASEA could and should do more to provide a **national focus and facilitative research role**.

An ASEA Research Roadmap may be able to assist with direction of any commissioned, supported or collated research for identified gaps and align any other identified priority research. The draft Roadmap identifies research undertaken that aligns with current NSP.

With a research network and a register ASEA could:

* + - **facilitate evaluation of new and emerging** technologies
		- **develop best practice** for asbestos issues
		- **identify any duplication or gaps** in existing research

ASEA needs more resources to **improve translation, communication** of reports and other work already undertaken by ASEA to **facilitate adoption by different target groups**. Experts in translation and communication are available who might do this work or who might further train current staff.

Australia needs a monitored database of international research on asbestos. ASEA should be responsible for it but would need appropriate resources in partnership with others. The Asbestos Disease Research Institute has done a literature search and may be able to assist.

More work could be done on the evaluation of existing approaches to asbestos identification and management (including removal and disposal) used by jurisdictions. The pending VAEA report may be a helpful guide.

**5.2 Training and Education**

Industry has participated in ASEA activities and has a lot to offer. Enhanced promotion of good work would be of value. Industry has training programmes and could assist in development of core principles for further training programmes, i.e. tap into the work already undertaken and modify rather than reinventing, e.g. MBA, Master Plumbers, NECA and their unions etc.

In partnership, ASEA could collate core principles and share and facilitate training and education by all stakeholders. Nationally agreed, joint programmes with all stakeholders are proven in other WHS areas and would be worthwhile.

**5.3 Data collection and reporting**

ASEA could develop a standard data set for jurisdictions to provide to ASEA and this data set would be useful within their own jurisdiction. ASEA can then compile and analyse the data and produce a report similar to other national comparative performance reporting. Data and information for reports would benefit from nationally consistent messaging that is targeted to stakeholders as noted above.

* 1. **Evaluate and promote the work and success of the national focus that ASEA provides**

It is my belief that ASEA is a success that the Australian government should be proud of, especially given its listed functions under the ASEA Act. ASEA represents an opportunity to show what can be achieved when working in a tripartite environment and where collaboration across agencies can lead to the best outcome. **Australia is already seen as a successful model and international leader in this area. Promotion by Australian Government and its constituents as an example of a successful tripartite forum and coordinator would help establish and promote ASEA’s work and clarify its role**.

**Joint representation from the Agency and its stakeholders in public forums** would further assist.

**A nationally consistent coordinated Communications Programme** would further the aims of ASEA and the Government in minimisation of asbestos harm. It would also help with this positive success modelling.

Surveys and reviews/inquiries of ASEA have been undertaken. A regular survey of stakeholders is currently conducted by Ithaca. This survey provides valuable feedback and insights and should be ongoing.

The **national comparative reporting** in 5.3 above would also assist achieve measures of jurisdictional activity and could be framed to measure functions outlined for ASEA.

The work undertaken by Colmar Brunton gives a measure of jurisdictional impact of the goals of the NSP (rather than the Agency), but likewise can show the effect of ASEA as a catalyst or coordinator.

The ASEA functions should be constructed so they are achievable for such a micro agency and should be measurable. This review is an opportunity to ensure that functions are appropriate for a small agency to achieve its main aim of minimising the risks of exposure to asbestos and hence further asbestos related disease.

### **ASEA Act Review Questions – ASEA’s role and functions in relation to the NSP**

1. **What should the Agency’s role and functions be in relation to the NSP?**

**Through tripartite collaboration**

* + **monitor, collate, analyse and coordinate research** consistent with NSP, and where necessary commission or support research to meet ASEA’s functions
	+ **liaise and collaborate** with Commonwealth, state, territory governments and their local governments and other agencies or bodies about nationally consistent implementation of the NSP
	+ **collate national data** from Commonwealth, state, territory governments about nationally consistent implementation of the NSP
	+ **analyse, monitor and report** **on implementation** of the NSP by Commonwealth, state, territory, governments
	+ **coordinate a consistent national approach** to minimising the risks of exposure
	+ **review and amend** the NSP as required (5 years)
	+ **publish and promote** the NSP to stakeholders and the wider community
1. **Is the purpose and focus of the NSP clearly defined in the Act? What amendments would be appropriate?**
	* **Refine the deliverables** **for ASEA** on the NSP to actions that ASEA itself can achieve - **collaboration, coordination, communication**.
	* ASEA’s stakeholders should act in a **consistent national framework** (NSP) with actions to improve awareness, identify and share practical approaches to legacy asbestos management; prioritise appropriate management of the chain of removal and waste disposal. So, set **measurable targets** for each of these three ASEA deliverables and allow for **measurement and monitoring of stakeholders specific actions on NSP.**
	* ASEA should continue to represent Australia and collaborate **internationally** with the aim of minimising illegal imports.
	* Strengthen the requirement for **commitment from government stakeholders** for supply of data and for delivery of measurable outcomes. Sign a Charter or IGA to enhance commitment and provide supplementary funding.
2. **Should the Act continue to prescribe the NSP ‘priority areas’? Should there be more flexibility for new priority areas?**

Less prescription in the Act should be considered. What is needed is support for ASEA’s functions by establishing in the Act the framework for clear roles and responsibilities of its stakeholders. **An ASEA Act that provides right structure, responsibility and accountability for stakeholders** will help. The ASEA Act can also set the framework for mandatory or enforceable standardised reporting and delivery of actions but cannot provide greater specificity.

Priority Areas do not need to be specified or set by ASEA Act but

* + Priority areas for NSP are established through the tripartite process of ASEA
	+ Through ASEA priority areas could be given a timeframe, recognising that they may change – flexibility is important
	+ Priority actions enable focus and provide aims for the next level an individual action plan for each stakeholder.

**The ASEA Act should not prescribe NSP but should strengthen the requirement for commitment from government stakeholders**. This would aid in national consistency, facilitate cross agency communication and the supply of **data and delivery of measurable outcomes**. Provide for a signed Charter or IGA to enhance commitment and set provision of supplementary funding.

1. **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?**

Stakeholder engagement is a means to sharing information, raising awareness and collecting consistent data. It enhances commitment to outcomes. Certainly, the ASEA Act could strengthen ASEA’s ability to collect data and analyse and report. The Act could structure committees to enhance commitment from key stakeholders. Refer to comments above in Section 2. However, the functions should not be too detailed. The ASEA Act needs to be high level.

ASEA functions in Act should however meet need to achieve

* + **Improvements to collection, collation and analysis of data** to influence all levels of government and community to enact 4 NSP targets/deliverables above (awareness, legacy management and prioritisation and international collaboration)
	+ **Improvements to sharing and communication of data, information and reports**
	+ **Improvements to national evidence about emerging asbestos risks**
	+ **assisting governments and community deliver coordinated and nationally consistent responses to emerging issues**
	+ **mapping and prioritising actions** to fulfil aims of the NSP
	+ evaluate and report on the economic and social burden of asbestos-related diseases whilst **identifying gaps and avoiding overlap**
	+ commissioning or supporting research on the NSP, **emerging technologies and work/supply demand**
	+ collaborating and assisting **national coordination with all stakeholders to implement national strategies**
	+ improving **community awareness** of asbestos (through stakeholders using **nationally consistent behaviour change programmes**)
	+ **enhancing international leadership** to reduce illegal asbestos-containing products and monitor international emerging issues

The ASEA Act Review is an opportunity to provide structures to facilitate ASEA functions as listed. The Review should consider how best to provide a strong focused structure.

1. Cross-agency and department collaboration would be enhanced by **locating ASEA in Premier and Cabinet.** This would further enhanceinformation sharing, awareness raising, data collection, stakeholder engagement and coordination and also its international role.
2. **The NSP establishes a framework within which the states and territories are able to work cooperatively and independently to achieve set (measurable) objectives.**  The NSP for Asbestos Management and Awareness helps provide a national coordinated approach. ASEA should continue to administer the NSP although ASEA itself does not implement the NSP.
3. NSP could be strengthened so that **signatories** **commit to measureable outcomes** – an agreement similar to an IGA or Charter. ASEA needs a mandate to collect, collate, analyse and report on national data. This is necessarily based on data provided by Commonwealth, state, territory governments and therefore requires an enforceable commitment from these bodies. ASEA can analyse the data sourced across Australia and communicate consistent national resources and information. ASEA can then also base reports and guidance on credible, nationally consistent information, and share them with stakeholders. This data can be used to collaborate and better coordinate responses to assist stakeholders implement NSP.
4. The signatories could consider providing **supplementary supportive funding** to maintain ASEA’s role, thereby strengthening commitment from each Commonwealth, and state and territory government.
5. **An advisory committee of ASEA** with representatives of each state and territory government and Commonwealth could also help achieve this stronger commitment. Similar to Safe Work Australia, representatives would need to be high level to have authority to make decisions and to report back to governments. Each state and territory could establish its own “Asbestos Agency” or IDC that coordinates across their own internal departments/agencies and their local governments within their own jurisdictions and each CEO (or their representative) could be on this Advisory Committee of ASEA
6. **ASEA Council (the tripartite Council) would then focus on its high level advisory role** with specific representation from industry, unions, medical, the ASEA Advisory Committee (i.e. representative of governments as noted above in Item 5.) and independent or technical representatives

### **ASEA Act Review Questions – Future Challenges**

1. **What are the future challenges facing asbestos management and awareness in Australia?**

The current challenges are

* **Improving collection, collation and analysis** of data
* **Improving the commitment** of stakeholders and the authority of ASEA
* **Ensuring** all stakeholders are **aware of** **and using nationally available resources and information**
* **Obtaining reliable, comprehensive and nationally consistent data**
* **Sharing** the outcomes of the available body of **research in** **simple and effective ways**
	+ **Mapping and prioritising actions** to fulfil aims of NSP
	+ **Identifying gaps and avoiding overlap**
* **Communicating** with stakeholders to support the implementation of the NSP
	+ **Commissioning or supporting research** on the NSP, emerging technologies and work/supply demand
* **Co-ordinating** **community awareness** of asbestos (through stakeholders) using **nationally consistent programmes**

Risks are

* Limit of Available Funding - resources and oversight
* Reduction in levels of collaboration and commitment
* Access to jurisdictional and agency data
* Statutory function is limited to encouragement only
* Capacity to prepare translation\* and communication tools for desired outcomes
1. **What should the Agency’s role and functions be in relation to these future challenges?**

ASEA functions could be more specific to

* + **improve collection, collation and analysis of data** to influence all levels of government and community to enact 4 NSP targets/deliverables above (awareness, legacy management and prioritisation and international collaboration)
	+ **improve sharing and communication of data, information and reports**
	+ **improve national evidence about emerging asbestos risks**
	+ **help governments and community deliver coordinated and nationally consistent responses to emerging issues**
	+ **map and prioritise actions** to fulfil the aims of the NSP
	+ evaluate and report on the economic and social burden of asbestos-related diseases whilst **identifying gaps and avoiding overlap**
	+ commission research on NSP, **emerging technologies and work/supply demand**
	+ collaborate and assist **national coordination with all stakeholders to implement national strategies**
	+ improve **community awareness** of asbestos (through stakeholders using **nationally consistent behaviour change programmes**)
	+ **enhance international leadership** to reduce illegal asbestos-containing products and monitor international emerging issues

These do not need to be detailed in the ASEA Act.

### **ASEA Act Review Questions – Agency Name**

1. **Does the title of the Agency clearly reflect its role?**
2. **If not, what alternative title should be considered?**

Title (or tagline) should capture (or imply) and at least not preclude

* National focus
* Collaborative, tripartite advisory role supported by stakeholders
* That ASEA is not a regulator, nor implementor but is a coordinator
* Data collection, collation and analysis role
* Develops, monitors and promotes the aims of an agreed NSP enacted by stakeholders. Aims such as awareness, legacy management and prioritisation of activities and international collaboration
* Monitoring role for delivery of NSP targets/outcomes
* National role in consolidation of information and resources and hence ability to identify gaps and avoid overlap
* Building nationally consistent awareness through stakeholders
* Provision of advice and support to stakeholders, both general and through commissioned research/reports
* Should not raise expectations of delivery of “safe” or zero harm
* Should not raise expectations of complete eradication
* Should be careful not to create or exacerbate fear

Could consider renaming as

* National Asbestos Commission (or Agency) or ‘Australian’ instead of ‘National’
* Could consider including the word Plan or Planning so NAPA has a ring to it… National Asbestos Planning Agency
* National Asbestos Coordination Agency - NACA
* Asbestos Coordination & Planning Agency - ACPA
* **Australian Asbestos Planning and Co-ordination Agency - AAPCA**
* **Australian Asbestos Agency - AAA**

Other such Commissions/Agencies for comparison

The **Australian Public Service Commission** is a [statutory agency](https://en.wikipedia.org/wiki/Statutory_agency) of the [Australian Government](https://en.wikipedia.org/wiki/Government_of_Australia) that acts to ensure future capability and sustainability within the approximately 160,000 people (or 0.8 per cent of the Australian workforce)[[4]](https://en.wikipedia.org/wiki/Australian_Public_Service_Commission#cite_note-4) that comprise the [Australian Public Service](https://en.wikipedia.org/wiki/Australian_Public_Service). The Commission was established pursuant to the [*Public Service Act, 1999*](http://www.austlii.edu.au/au/legis/cth/consol_act/psa1999152/) (Cth) and is led by the [Australian Public Service Commissioner](https://en.wikipedia.org/wiki/List_of_Commissioners_of_the_Australian_Public_Service).

The **Australian Human Rights Commission** is a [national human rights institution](https://en.wikipedia.org/wiki/National_human_rights_institutions), established in 1986 as the **Human Rights and Equal Opportunity Commission** and renamed in 2008. It is a statutory body funded by, but operating independently of, the [Australian Government](https://en.wikipedia.org/wiki/Government_of_Australia). It is responsible for investigating alleged infringements of Australia's anti-discrimination legislation in relation to Commonwealth agencies.

The **Australian Law Reform Commission** (often abbreviated to **ALRC**) is an [Australian](https://en.wikipedia.org/wiki/Australia) independent statutory body established to conduct reviews into the [law of Australia](https://en.wikipedia.org/wiki/Law_of_Australia). The reviews, also called inquiries or references, are referred to the ALRC by the Attorney-General of Australia. Based on its research and consultations throughout an inquiry, the ALRC makes recommendations to government so that government can make informed decisions about law reform. The ALRC is part of the Attorney-General's portfolio, however it is an independent statutory authority constituted under the *Australian Law Reform Commission Act 1996* (Cth), and the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). As an independent agency, it is able to undertake research, consultations and legal policy development, and to make recommendations to the Parliament, without fear or favour.

The ALRC's objective is to make recommendations for law reform that:

* bring the law into line with current conditions and needs
* remove defects in the law
* simplify the law
* adopt new or more effective methods for administering the law and dispensing justice, and
* provide improved access to justice.

The **Productivity Commission** is the [Australian Government's](https://en.wikipedia.org/wiki/Australian_Government) principal review and advisory body on [microeconomic](https://en.wikipedia.org/wiki/Microeconomic) policy, regulation and a range of other social and environmental issues.

The Productivity Commission was created as an independent authority by the *Productivity Commission Act 1998*, an Act of the [Australian Parliament](https://en.wikipedia.org/wiki/Parliament_of_Australia).

The Commission operates within the Treasury portfolio and its core function involves responding to references from the [Treasurer](https://en.wikipedia.org/wiki/Treasurer_of_Australia), which can request a commissioned study or a public inquiry. References to the Commission stipulate the length and terms of the project and may cover any sector of the [Australian economy](https://en.wikipedia.org/wiki/Economy_of_Australia); address a particular industry or cut across industry boundaries; and involve wider social or environmental issues.

**Safe Work Australia (SWA)** is an Australian Government statutory agency established in 2009 under the Safe Work Australia Act 2008. Their primary responsibility is to improve [work health and safety](https://en.wikipedia.org/wiki/Occupational_safety_and_health) and workers’ compensation arrangements across Australia.

They represent a genuine partnership between governments, unions and industry, working together towards the goal of reducing death, injury and disease in the workplace.

Safe Work Australia is jointly funded by the Commonwealth, state and territory governments through the Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety signed in July 2008

(Reference: Wikipedia accessed December 2018)

**Summary ASEA Act suggestions**

ASEA could be located in **Department of Premier and Cabinet**. This would provide a **national focus with cross-border and cross-agency support**.

Some of the aspects of SWA structure would seem appropriate for the **facilitative and nationally coordinating role** of an independent statutory authority such as ASEA. The Agency Council should **remain tripartite** and adopt some of the tripartite **partnerships.**

**The Act should strengthen commitment through an IGA or similar** and provide for **some supplementary funding** similar to that of SWA.

ASEA **needs a mandate** to collect, collate, analyse and report on national data. This is necessarily based on data provided by Commonwealth, state, territory governments and therefore requires an enforceable commitment from these bodies. The data must be consistent and standardised across agencies and jurisdictions. ASEA can then analyse the data sourced across Australia, collate it, and communicate consistent national information.

**Certainly, reconsider the name** of the Agency to properly reflect its functions for example the Asbestos Coordination & Planning Agency (ACPA) or Australian Asbestos Agency (AAA).

The Act should **enable strong partnerships** so Agency can partner with range of stakeholders (including industry), to facilitate research (including national data collection), to assist stakeholder implementation activities, communicate nationally consistent information and training or education initiatives.

The Agency should also retain its **advocacy and representation internationally**.

The Agency would retain its role in developing, monitoring and promoting the aims of an agreed **NSP**. The details of the NSP should not be outlined in the Act. The NSP is high level and establishes a framework within which the states and territories are able to work **cooperatively and independently** to achieve these agreed objectives.



Carolyn Davis