

Terms of Reference: Review of Work Health and Safety Regulatory Framework in the Building and Construction Industry

Background

Building and construction is a national priority industry under the Australian Work Health and Safety Strategy 2012-2022, however the rate of serious injury and fatality remains relatively high. The proposal for a review of work health and safety (WHS) laws in the building and construction industry arose during the Senate debate on the Building and Construction Industry (Improving Productivity) Amendment Bill 2017 (Cth), reflecting a shared desire to improve safety in this priority industry.

The Review

The Review will focus on the effectiveness of specific aspects of the WHS regulatory framework that address the top three mechanisms of injury over the 10-year period 2007-2016 that accounted for the highest proportion of fatalities in the building and construction sector. They are:

- falling from a height or being hit by a falling object (40% of fatalities)
- vehicle incidents (16% of fatalities)
- contact with electricity (12% of fatalities).

The Review will assess the effectiveness of the WHS regulatory framework, consistent with the scope outlined at Annexure A, in preventing such incidents. The Review will examine the efficiency and effectiveness of all relevant WHS regulations and the regulatory tools in use. The Review will also examine the performance of companies accredited by the Federal Safety Commissioner (FSC), including any aspects of the building and construction WHS Accreditation Scheme (the WHS Accreditation Scheme) administered by the FSC, that could inform options to improve outcomes related to these mechanisms across the industry.

Scope of the Review

The Review may, where appropriate, draw on (but will not duplicate) the work of other recent or current reviews.

The Review will take into account the views of stakeholders and make observations and recommendations on ways in which the WHS regulatory framework could be improved to enhance safety outcomes.

The Review will not assess the effectiveness of practical compliance and enforcement strategies implemented by regulators to address these issues.

The outcomes of the Review will inform the 2018 Review of the model WHS laws being conducted by Safe Work Australia.

Principles for the Review

The Review will be guided by the following principles:

- that the needs of all sectors within the building and construction industry are appropriately considered, particularly noting the high number of small businesses within the industry
- any recommended amendments to existing laws, regulations, codes or guidance material are to be supported by substantial evidence of their effectiveness in improving safety, enabling the development of any required Regulation Impact Statements

- that recommendations do not undermine the model WHS legislation and a harmonised approach to WHS.