AUGUST Edition

Newsletter

2022

Elliott Safety

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Message from the Director

For this August newsletter edition I have taken topics that have been recommended by our team of Safety Advisors. We will be covering the following focus areas:

- Elevated Work Platform – Safe operations.
- Silica Dust Management.
- Traffic Control – New initiatives to protect traffic controllers.
- WorkSafe Victoria intruducing on the spot infrigement notices.
- Victorian Environmental Protect Act Update.

And of course we will also cover what's happening in the courts and changes to legislation across Australia and New Zealand.

Training Update

In between various lockdowns Elliott Safety was once again able to host a face to face (rare right now) Risk Management for Supervisors training for our clients in partnership with PeopleSafe Australia. We had 17 participants from various construction companies including Lloyd Group, BuildCorp, Arc3, Ducon, LSR and Castlerock. Some of the feedback...

"Best trainer I have ever had. Loved the introduction of personal experiences"

"Very engaging, involved people in discussions, shared great experiences"

"Very engaging and informative. Wealth of Knowledge"

"Ilija is a great trainer. His passion for WHS is evident! Enjoyed the army anecdotes"

"Great communication and engaging stories. Thanks"

"Excellent broad knowledge. Excellent engaging delivery"

Let us know if you would like to organise training. It can also be done online via zoom.

New Clients & Projects

We welcome the following new clients and projects:

- 500 Bourke Street – Monthly HSE Auditing for ISPT.
- 150 Lonsdale Street – Quarterly HSE Auditing for Charter Hall.
- CIP Constructions – HSE Auditing.
- CCB Envico/Reeves International – Federal Safety System Development, training and site auditing.
- Department of Parliamentary Services – HSE auditing on Parliament House (Vic) Upgrade works.
- Ducon Building Solutions – Federal Safety System Development and audit assistance, HammerTech training.
- Ryman Health Care – Quarterly HSE site audits.
- Total Construction – HSE Site audits and general consultancy services.
- Mirvac – HSE Auditing.
- Universal Constructions (WA) – Integrated Management System Development.

Please contact us if we can be of assistance to your business.

Kate Elliott
Director, Elliott Safety

Elliott Safety

The absense of incidents does not imply the presence of safety!

Focus Area

Elevated Work Platforms

Worksafe Victoria has recently published a new Industry Standard for Elevated Work Platforms. The industry standard provides advice on the safe use and maintenance of mobile Elevated Work Platforms and includes the principles and requirements for using EWP's that are common across a broad range of industries. It is a well written and practical document. A good one to ensure your site teams have access to.

Elevated Work Platforms Industry Standard - WorkSafe

We have captured some of the key elements for you below.

Overview

There are several types of EWP's available. Typically there are two main types of EWP's commonly used across the construction industry: Scissor Lifts and Boom-type EWP's.

Training

Operators must be trained and competent to operate an EWP. Different models and brands can have significantly different controls. Incorrect use can lead to a serious incident or injury. Legislation across the country consistently calls for the provision of Information, instruction, training and supervision to be provided to those involved with the operation of EWP's.

A High risk work licences (HRWL) may also be required, depending on the type of EWP being operated:

- **Boom-type EWP (Boom length >11m)** High risk work licence with boom type Elevated Work Platform operation (WP) licence class. Note: this training covers use of EWP's less than 11m.
- **Scissor-type EWP** Training should be provided by a Registered Training Organisation (RTO) however this is not mandatory. There are other ways to to prove competency however training via an RTO is the easiest and most reliable. Proof of competency evidence should be available for the site team to check prior to starting works. For example, an Elevated Work Platform Association of Australia (EWPA) yellow card or certification of EWP training from a registered training organisation (RTO).

Familiarisation training should be undertaken for operators if the EWP model is different to the model used during training and assessment. EWP designs can differ between manufacturers and even models by the same manufacturer.

Fall Prevention

To prevent the risk of persons falling from the platform of the EWP the new Industry Standard specifies that:

- A full body safety harness needs to be worn by every person on the platform of a boom-type EWP or vertical mast EWP's fitted with a jib.
- The harness needs to be specifically designed for attachment to a lanyard assembly and include a personal energy absorber.
- The harness needs to be secured to the designated anchor point on the EWP, not the handrail.
- A safety harness system only needs to be used for a scissor-type EWP if advised by the manufacturer or indicated in the risk assessment.

Dropped Objects

Within the construction industry, falling objects are a leading cause of death and serious injury and pose a hazard to people in workplaces or in areas adjacent to them. Even relatively light and small objects such as a nut or bolt can cause serious or fatal injuries if it falls from height and hits a worker or a member of the public.

Controls to minimise the risk of dropped tools/objects/materials form heights:

- Tool lanyards/tethers to be fitted (ensure they are rated to suspend the weight of the tool).
- Hire the right EWP for the job as some EWP's are fitted with perimeter mesh containing the bucket.
- Establish and maintain exclusion zones with barricading and visual control measures (i.e signage).
- Ensure spotters are in place (where required).
- Ensure material attachments for the EWP have been designed and approved by the manufacturer/designer and use as required.

> **"There have been five deaths and 721 injuries caused by falling objects at construction sites in the past five years"**
> WorkSafe Victoria

Electrical Testing

Don't forget that some EWP's need to be routinely tested and inspected by a competent and suitable qualified person (as per AS/NZS 3760), to detect electrical faults and deterioration that cannot be found by visual inspection. The below table has been taken from the new Industry Standard.

EWP Type	Test Type	In accordance with
Engine powered, with GPO and RCD	Monthly, Trip in time test	Electrical installations on construction sites, Industry standard
Engine powered, without GPO	N/A	N/A
Battery powered, with GPO supplied from an RCD protected inverter	RCD Monthly: Trip in time test Electrical asset test	Electrical installations on construction sites, Industry standard EWP testing per AS/NZS3012
Battery powered, without GPO	Electrical asset test (Plant)	AS/NZS3012

Note:
On a construction site AS/NZS 3012 takes precedence over AS/NZS 3760 in regards to testing time frames.

Crush Protection

The risk of serious or fatal injury due to crush incidents needs to be assessed in each work zone. Look for the following:

- Roofs.
- Structural beams.
- Cable trays.
- Pipework.
- Low ceilings.
- Restricted or low doorway openings.

Control measures to consider:

- Use an EWP fitted with secondary guarding (barriers/sensors).
- Operate the EWP in creep mode when near fixed structures.
- Walking' the EWP with the operator at ground level using the removable controls or other mobile control device through areas with restricted headroom.
- Never operate an EWP alone.
- Use spotters.
- Have an emergency rescue procedure in place.

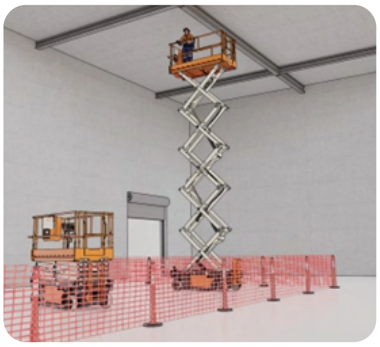
RELATED INCIDENTS – Crush protection

2014 Royal Adelaide Hospital - Jorge Castillo-Riffo died after suffering serious head, neck and back injuries when he was crushed between a scissor lift and a concrete slab.

20/2/16 Royal Adelaide Hospital – This accident claimed the life of a 63 year old man who was crushed between a lift an the top of a doorway while operating a scissor lift.

26/10/2016 - A 54 year old man was been killed after a fatal crushing incident involving a boom lift at the Melbourne Convention Centre construction site.

Separation of plant and people



It is highly important to ensure that people and plant are separated to avoid collision incidents.

Figure 30 – Example of an exclusion zone.

Overturning

Overturning and tip-overs of EWP's are a leading cause of incidents involving the use of EWP's. The following controls must be considered:

- Use suitable EWP's for the task and conditions i.e. all terraine type for outdoor use.
- Lower the EWP prior to travelling.
- Cover ground voids or holes with suitable load bearing material such as road plates, or make them visible so they can be avoided.
- Ensure the EWP platform is levelled prior to use.
- Cease to use the EWP in winds that exceed the designed maximum allowable wind speed limit.
- Use outriggers where provided.
- Assess and ensure the ground bearing capacity upon which the EWP is to be travelled and operated has the capacity to support the EWP and any imposed loads.
- Identify underground services or recently disturbed ground.
- Physically protect and highlight slab drop-offs.

This last point is something that we regularly see on site that is not always considered. The use of spotters and/or bump rails should be considered when plant is operating close to a slab edge. Temporary handrails are generally not engineered to prevent an EWP from going over an edge.

Relevant Australian & New Zealand Standards

- AS/NZS 1891 – Industrial fall arrest systems and devices series.
- AS/NZS 1891.4:2009 – Industrial fall-arrest systems and devices – Selection, use and maintenance.
- AS 2550.10:2006 – Cranes, Hoist and Winches – Safe use – Mobile Elevated Work Platforms.
- AS/NZS 3012:2019 – Electrical installations – Construction and demolition sites.
- AS/NZS 3760:2010 – Information about: In-service safety inspection and testing of electrical equipment.

Silica Management

Crystalline silica is a common mineral found in the earth's crust. Materials like sand, stone, concrete and mortar contain crystalline silica. It is also used to make products such as glass, pottery, ceramics, bricks and artificial stone.

Respirable crystalline silica (RCS) – very small dust particles at least 100 times smaller than ordinary sand you might find on beaches and playgrounds – is created when cutting, sawing, grinding, drilling, and crushing stone, rock, concrete, brick, block and mortar.

Sand (left) and crystalline silica (right)

Silicosis, an incurable lung disease caused by inhalation of Respirable crystalline silica that can lead to:

- Disability and death.
- Lung cancer.
- Chronic obstructive pulmonary disease.
- Kidney disease.

Symptoms

- Symptoms of lung diseases associated with silica exposure include shortness of breath and coughing. In some employees, these symptoms can get so severe that they cannot work or do common, everyday activities. For example, someone with silicosis might have trouble walking at a normal speed or going up stairs.
- Fever, weight loss, exhaustion, and coughing up blood can occur with severe lung disease, lung cancer, and lung infections.
- People who have lung diseases, such as silicosis, have a greater chance of developing lung infections such as the flu and pneumonia.

Use only industrial vacuum cleaners and filters that comply with M or H class requirements of AS/NZS 60335.2 2017

Construction activities that typically generate silica

The following construction works could result in silica exposure:

- Cutting of hebel type products.
- Abrasive blasting with sand.
- Sawing bricks.
- Concrete cutting, grinding, drilling, sawing & polishing.
- Sanding or drilling into concrete walls.
- Grinding mortar.
- Tuck pointing.
- Cutting tiles.
- Cutting stone countertops, or ceramic products.
- General housekeeping, sweeping etc.

Workers who inhale these very small crystalline silica particles are at increased risk of developing serious silica-related diseases.

Control the Risks

Eliminating exposure to RCS is the most effective control measure for managing the risk of work related illness. Where exposure cannot be eliminated, any exposure to RCS must be minimised so far as is reasonably practicable. This includes short term or one-off tasks.

Elimination

- Order the right size of building materials so less cutting or preparation is needed.
- Use products with a lower crystalline silica content.
- Use fibre cement sheet sheers instead of circular saws.
- Housekeeping – dry sweeping dust and debris can generate high levels of airborne RCS and other respirable dust. Suitable respiratory protection must be used when dry sweeping. **Dry sweeping should be avoided where possible, particularly in indoor environments and areas with little or no ventilation.** Alternative methods include:
  - Wet sweeping.
  - Hosing down/wiping/mopping of surfaces.
  - vacuuming up dust and debris containing silica Using an M or H-class vacuum cleaner.
  - Using ride-on floor cleaners (HEPA filtered or water scrubbing).

Respirators are effective if they are properly selected, fitted, maintained, and worn. However, they protect only the people wearing them.

- **waste disposal** – you can reduce dust associated with waste by:
  - Bagging waste material such as debris and empty cement bags before putting them into the bin or skip.
  - Locating bins and skips outdoors where possible.
  - Using water misting systems to keep waste materials damp where possible.

Only use industrial vacuum cleaners and filters that are M or H class.

Engineering controls

- The three major types of engineering controls for silica dust are wet methods, vacuum dust collection systems, and isolation.
- Fully enclosed operator cabins fitted with HEPA air filtration i.e for excavators during demolition works.
- Wet methods involve using water or a foam to keep dust down and out of the air.

Respirators (PPE)

- Even when respirators are used, you must still use engineering and work practice controls to lower exposures as much as possible.
- One of the major reasons why engineering and work practice controls must always be used before respirators is because they decrease dust at the point where it is made. As a result, they protect everyone in the area.
- Respirators are effective if they are properly selected, fitted, maintained, and worn. However, they protect only the people wearing them.
- Respirators should be properly fitted and worn only when clean shaven.

No respirator will prevent all airbourne silica from being breathed in.

Cutting concrete block with water

Cutting concrete block dry

The pictures above show how water greatly reduces the dust released into the air.

Grinding mortar using dust vacuum device

Grinding mortar with no controls

Training

Pinnacle Safety & Training have recently introduced an online Silica Awareness training course. It takes about 1 hour to complete and it only costs $59 - Silica Awareness Online Course: Brisbane, Gold Coast, Sydney, Melbourne and Perth | Pinnacle Safety and Training

Additional Resources

WorkSafe QLD Guideance:

- Fit-testing requirements for tight-fitting respirators.
- Work-related respiratory diseases.
- Health monitoring.
- Silica – Technical guide to managing exposure in the workplace.
- Silica – Identifying and managing crystalline silica dust exposure.
- Silica and the lung.
- Selecting the right portable extractor or industrial vacuum cleaner for hazardous dusts.
- Managing respirable crystalline silica dust exposure in the construction industry - Information for employers.
- Managing respirable crystalline silica dust exposure in the construction industry - Information for workers.

Safe Work Australia guidance:

- Crystalline silica - Hazardous Chemicals Requiring Health Monitoring.
- Health monitoring when you work with hazardouschemicals guide.
- Health monitoring for persons conducting a business or undertaking guide.

OSHA Guideance

OSHA have numerous fact sheets available on how to manage silica exposure for all type of construction tools and mobile plant- Silica, Crystalline - Construction | Occupational Safety and Health Administration (osha.gov)

Australian & New Zealand Standards

Selection of RPD should be undertaken in accordance with *AS/NZS 1715:2009 Selection, Use and Maintenance of Respiratory Protective Devices.*

Construction Workers Fatalities

YEAR - TO - DATE 8th July 2020	YEAR - TO - DATE 8th July 2021
17	9

Total (All Industry) Workers Fatalities

YEAR - TO - DATE 8th July 2020	YEAR - TO - DATE 8th July 2021
109	58

Keep your traffic controllers safe!

Fulton Hogan has develop a higher standard to keep traffic controllers safe. Fulton Hogan's new initiative to move traffic controllers out of live lanes is a fantastic step forward towards better safety outcomes for traffic controllers and road workers.

Traffic controller incident - WorkSafe Tasmania
https://worksafe.tas.gov.au/ .../safety-alerts/traffic-controller
Traffic controller incident. **A traffic controller** was positioned in the left lane of a public road, directing traffic around road works. A vehicle failed to stop as directed by the controller. The traffic controller was struck by the vehicle and fatally injured. The configuration of traffic management consisted of speed reduction signs from ...

It's an alternative to the STOP/SLOW bat, but it moves traffic controllers out of live lanes - a necessary step to improve the safety and wellbeing of our people in the industry.

Male traffic controller killed after being hit by car near...
https://tmaa.asn.au/male-traffic-controller-killed-after-being-hit-by...
Six months ago, Perth traffic controller Mike Janssen was killed after a car crashed into him on Reid Highway in June. The 27-year-old was put into a coma after the violent crash in Beechboro and remained in the intensive care unit for two weeks until his family ...

Want more information: Fulton Hogan's Gibney Barrier

WorkSafe Victoria Introduces Infringement Notices

On August 1 Worksafe Victoria will introduce 54 infringeable offences. Infringement notices can be issued by inspectors to body corporates, sole traders and individual employees. Some of the common construction related offences include the following:

- Failing to fit warning devices to powered mobile plant that could collide with pedestrians.
- Failing to keep a copy of a Safe Work Method Statement for the duration of high risk work.

Maximum fine for a company is
$1,817.40

Maximum fine for an individual is
$363.48

- Failure of a principal contractor to display a clearly visible sign containing their contact details outside a construction workplace.
- Failing to have a Health and Safety Coordination plan available for inspection.
- Failure of construction workers to have their Construction Induction Cards available for inspection.
- Failure to provide evidence of a high risk work licence while performing high risk work including operating plant requiring a high risk work licence.

A full list of offences will be published on the Worksafe website in due course. The fines included in infringement notices are made up of penalty units, a single penalty unit is $181.74 and the maximum fine for a body corporate is 10 penalty units or $1817.40 while the maximum fine for an individual is $363.48 or 2 penalty units.

New Victoria Environmental Protection Act

The **Environment Protection Act 2017** came into effect on 1 July 2021. It is the start of a fairer, more balanced era of environmental regulation for Victorian businesses. The Act aims for fairness for people who run their business legally and it strengthens the EPA's powers to investigate businesses. There are large increases to penalties for rogue operators. The **Civil construction, building and demolition guide** (publication 1834), advises normal working hours for commercial construction and demolition site noise are:

- weekdays – 7 am to 6 pm
- Saturday – 7 am to 1 pm.

The guidelines do allow for some flexibility for work hours, depending on the circumstances of the noise. Refer to the guide for more specific information.

1834: Civil construction, building and demolition guide | Environment Protection Authority Victoria (epa.vic.gov.au)

Increased maxmum penalties
Company = $3.2m
Individual = Up to 5 years in jail

In the **Courts**

VIC – A concrete manufacturer has been convicted and fined $120,000 after a worker was run over by a truck at its Pakenham plant in 2018.

Dandy Premix Concrete Pty Ltd was sentenced in the Dandenong Magistrates' Court on 10 May after being found guilty on 15 April of failing to provide a safe workplace by failing to take reasonably practicable steps to eliminate the risk of powered mobile machines colliding with pedestrians.

The company was also ordered to pay costs of $13,850.

The court heard that on 20 July, 2018 workers were cleaning up spilled slurry as a truck was loading concrete. Once the truck was full, it pulled out, passing the two workers.

One of the workers tripped and fell under the truck's rear wheels and his left arm was run over.

The worker suffered serious injuries, including amputation of his little finger and partial amputation of his ring and middle fingers. He has required multiple surgeries and ongoing rehabilitation.

Important for companies who have yards or warehouses with moving mobile plant

The court heard the company did not have a traffic management plan that identified hazards, including collisions between trucks and pedestrians while spilled slurry was being cleaned up, and that there were no risk control measures in place, such as exclusion zones or physical barriers to separate pedestrians from vehicles.

Employers using mobile plant should ensure:

- A traffic management plan is in place for pedestrians and powered mobile plant and that it is reviewed and updated as appropriate.
- Pedestrians are separated from moving machinery and that an effective communication system between operators, transport contractors and ground staff is in place.
- Signage is in place and barriers are erected where appropriate.
- Visibility issues are identified and controlled, particularly if lighting is poor.
- Workers operating equipment have the appropriate high risk work licences, as required.
- Machinery and vehicles are regularly inspected and maintained by a suitably qualified person.

VIC – Demolition company fined $100,000 after fatal wall collapse

A demolition contractor has been convicted and fined $100,000 following the death of a worker at a Ballarat building site in 2019.

Horsham Back-Hoe Hire was sentenced in the Ballarat Magistrates' Court on Friday after pleading guilty on 28 May to one charge of failing to maintain a safe workplace.

The company was also ordered to pay costs of $4213.

On 11 September 2019 a director of the family-run business was demolishing a fire damaged residential property at Mount Pleasant when he pushed over a timber support structure holding up a freestanding brick wall. This caused the wall to collapse, crushing him underneath.

To reduce the risks when undertaking demolition work employers should:

- Establish exclusion zones, including the use of physical barricades with adequate signage to prevent employees and other people, including members of the public, from entering potentially unsafe work areas.
- Provide information to employees and other people in the workplace advising them of the status of the exclusion zone and provide supervision so that no unauthorised person enters an exclusion zone.
- Separate pedestrians and employees from powered mobile plant.
- Use hard hats, steel cap boots, gloves and high visibility vests.
- Consult with employees, including HSRs, when making decisions about how to control risks.

NSW – Roofing company fined $400,000 for apprentice death

NSW - Landmark Roofing Pty Ltd v SafeWork NSW On 8 March 2018, Mr Brayden Asser, an apprentice roof plumber, was working for Landmark Roofing Pty Limited (the defendant) on the replacement of the roof of a commercial building.

Mr Asser fell through a brittle polycarbonate skylight and suffered severe injuries, from which he later died.

Landmark was replacing fire and storm damaged roofing on the main shed of the site in Mayfield. The roof of the main shed consisted of solid corrugated material, and incorporated a skylight made of polycarbonate sheeting within part of its roof structure.

Landmark employed 20-year-old apprentice roof plumber Brayden Asser; and Douglas Dart who was the supervisor of Mr Asser for that day. As Supervisor, Mr Dart provided direction for the roofing work being done by Mr Asser. Mr Asser was approximately nine months into the first year of his apprenticeship with Landmark.

Mr Dart worked with Landmark as a roofer since approximately Christmas 2017 and had supervised up to 17 or 18 workers at various sites which Landmark had been engaged.

Mr Asser went to lift up the sheeting immediately next to damaged skylights so that Mr Dart could slide the new sheeting underneath it. Mr Asser swung his left leg over the skylight and stepped onto it. As he transferred his weight, the skylight cracked, and he fell approximately six metres from roof level. As he fell, he struck his head on a steel crane rail inside the building and his legs became entangled in the rail causing him to be suspended upside down for a period before being rescued.

Mr Asser died in hospital as a result of a stroke nine days after the incident.

The judge convicted and fined Landmark $400,000 and ordered it to pay SafeWork's costs.

QLD – $240,000 for 6 year silica exosure

A QLD Company Fined $240,000 For Exposing Workers to Risk of Silicosis Ezystone Benchtops Pty Ltd was sentenced in the Redcliffe Magistrates Court for failing to ensure the health and safety of its workers contrary to Sections 19(1) and 32 Work Health and Safety Act 2011.

The offending occurred between 1 January 2012 and 1 November 2018, resulting in four employees being diagnosed with silicosis.

The defendant failed to appear and was sentence ex parte. The company was fined $240,000, and a conviction was recorded.

Queensland Company Fined After Workers Hand Injured by Mixer

A Brisbane and Gold Coast flooring company was fined $50,000 over a workplace safety incident on 16 November 2017, in which an 18-year-old labourer sustained a fractured left wrist and finger and some soft tissue injuries when his hand became caught in a portable mixer.

The Court heard that the family-owned flooring company should have provided adequate instruction, training and supervision on using the Hippo mixer; information to workers on its hazards (the manufacturer's instructions); and ensured workers followed the instructions, specifically to keep hands and objects clear while the machine was operating.

WA – Company Director Jailed for Record Term

The director of a shed building company became the first person to be sentenced to a term of imprisonment under Western Australia's Occupational Safety and Health Act 1984. MT Sheds (WA) Pty Ltd and company director Mark Thomas Withers pleaded guilty to a total of seven separate charges including charges in relation to the death of worker Jake Williams and serious injuries to Fraser Pinchin in March 2020.

Mr Withers was sentenced in the Esperance Magistrates Court to two years and two months' imprisonment following the death of a young worker and the serious injury of another. He was also fined $2,250 for operating a crane without the appropriate licence. The company was also fined a total of $605,000 for gross negligence and for breaching safety regulations. This is the highest fine to be issued in WA for breaches of WHS laws.

WA – Building Company Fined $175,000 After Death of Worker

Building company Gran Designs WA Pty Ltd was fined a total of $175,000 over the death of a contract worker in the south-west town of Yarloop in March 2017. The company pleaded guilty in the Bunbury Magistrates Court to five charges, the most serious of which was failing to provide and maintain a safe workplace and, by that failure, causing the death of the worker. On this charge the company was fined $150,000. Other charges involved workers not wearing safety helmets, not having a Safety Management Plan, not having a Safe Work Method Statement on-site, and workers not holding High Risk Work Licences. On these charges the company was handed a global fine of $25,000.

SA – Failure to Provide Asbestos Register to Regulator

SafeWork SA issued a $2,200 expiation notice to a person who manages and controls a workplace, after

they failed to comply with Clause 425 of the Work Health and Safety Regulations 2012. Investigations by SafeWork SA identified that an asbestos register was not available for the workplace that was constructed before 31 December 2003. SafeWork SA therefore fined the person $2,220 for failing to have an asbestos register. SafeWork SA Acting Executive Director, Glenn Farrell said pleading ignorance to legislative requirements is no excuse.

NT – Charges Laid Over Death of Worker in Excavator Incident

NT WorkSafe laid five charges under Section 31 of the Work Health and Safety (National Uniform Legislation) Act 2011 for reckless conduct, over the death of a 30-year-old worker who was fatally struck by an excavator bucket in 2019.

Titan Plant Hire Pty Ltd (trading as Territory Plant Hire) faced two charges; the first charge relating to its failure of its primary Duty of Care under Section 19(2) of the Act, and the second charge relating to its failure to ensure its workplace was without risk to the health and safety of any person under Section 20(2) of the Act. The Director of Titan Plant Hire also faced two charges for failing to exercise due diligence under Section 27 of the Act, which allowed Titan Plant Hire to breach its duties. A worker who was employed by a separate company to operate the excavator at the time of the incident faced one charge for failing his duties as a worker under Section 28(b) of the Act. The company faces maximum combined penalties of $6 million if found guilty. The Explanatory Paper could end up with a $1.2 million penalty or five years in prison, or both. The operator also faces five years in prison and a maximum penalty of $300,000, or both.

NZ – Failure to Maintain Edge Protection

The Wellington District Court fined Car Haulaways Limited $279,000 following an incident where it failed to inspect and maintain edge protection, resulting in the death of a worker in January 2019. Car Haulaways Limited was sentenced under Sections 36(1)(a), 48(1) and 48(2)(c) of the Health and Safety at Work Act 2015.

breaching safety regulations. This is the highest fine to be issued in WA for breaches of WHS laws.

Construction Related Legislation Updates

Don't forget to check your legal registers to ensure that they are up to date. The following updates have occurred:

VICTORIA

- **Environment Protection Act 2017**

QUEENSLAND

- **Work Health and Safety (Codes of Practice) (Scaffolding) Amendment Notice 2021** replacing Scaffolding Code of Practice 2009.
- **Queensland Building and Construction Commission and Other Legislation (Fire Protection Licensing) Amendment Regulation 2020.**
- **Building (Cladding) Amendment Regulation 2019**
- **Queensland Building and Construction Commission and Other Legislation Amendment Regulation 2021**

NSW

- **Code of Practice: Managing Psychosocial Hazards at Work:** New South Wales has become the first State in Australia to introduce an industry-wide Code of Practice to formally clarify the legal responsibilities businesses have to address hazards in the workplace that have the potential to cause psychological or physical harm. The Code of Practice: Managing Psychosocial Hazards at Work which encompasses risks to psychological health covering all NSW workplaces, applies to anyone who has a Duty of Care in the circumstances described in the Code of Practice.

WA

- **Occupational Safety and Health Amendment Regulations 2021** - New Health Surveillance Requirements for Silica in WA Amendments to the Occupational Safety and Health Regulations 1996 relating to health surveillance for workers exposed to respirable crystalline silica came into effect on 15 April 2021, following the commencement of the Occupational Safety and Health Amendment Regulations 2021. The amendments require employers to provide a lowdose HRCT scan, supervised by an appointed medical practitioner, instead of the previously required chest X-ray. Western Australia was the first jurisdiction to prescribe a low dose HRCT scan for crystalline silica health surveillance

ACT

- **Labour Hire Licensing Act 2020**. The Labour Hire Licensing Act 2020 established the first ever Labour Hire Licensing Scheme for the ACT which ensures all

labour hire providers meet the workplace obligations and responsibilities they have to their workers, with penalties applying to any providers in breach of the Scheme. The new Scheme forces labour hire companies to meet a 'suitable person' test and to demonstrate their compliance with industry standards and workplace laws. There is a 6-month transition phase to give labour hire providers time to apply for and receive their new licence. All labour hire providers need to hold a licence by 27 November 2021 under the Labour Hire Licensing Act 2020. Any individuals or organisations who don't have a licence by this date cannot supply labour hire services in the ACT.

- **Work Health and Safety Amendment Bill 2021.** The Work Health and Safety Amendment Bill 2021 proposes to repeal the industrial manslaughter provisions of the Crimes Act 1900, and to create the offence in the Work Health and Safety Act 2011, with jail terms of up to 20 years for officers and PCBUs that are individuals, and fines of up to $16.5 million for bodies corporate. The proposed amendments would increase the maximum fine for industrial manslaughter from less than $2 million to $16.5 million.

NT

- **Building Amendment (Wastewater Management Systems) Regulations 2021**

NZ

- **Exposure Monitoring and Health Monitoring Good Practice Guidelines** - WorkSafe New Zealand published guidance for businesses regarding exposure monitoring and health monitoring.
- **Group Standards (Amendment) Notice 2021** - The Group Standards (Amendment) Notice 2021 amended multiple Group Standards as a consequence of New Zealand's adoption of the seventh revised edition of the Globally Harmonised System (GHS 7) on 30 April 2021.
- **Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021.** The Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021 amends the Building Act 2004 by contributing to a programme of reforms to the building regulatory system that will lift the efficiency and quality of building work and provide fairer outcomes if things go wrong.

UPDATED STANDARDS

- **AS/NZS 3600:2018 Concrete structures** amended on 21 May 2021.

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