

# Consultation RIS – 2018 Review Recommendations

## Submission template

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What is your name? Andrew Cashin

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### Psychosocial risks (Recommendation 2)

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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- What practical impact, including the costs and benefits, would the options set out in this Consultation RIS have on you, your organisation or your stakeholders? Please provide evidence of the impacts wherever possible.

Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review findings? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- Is the state of knowledge on psychosocial hazards, risks and control measures widely accepted and well established? Please support your answer with evidence.

Type answer here

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- Do you have suggestions for what prescriptive psychosocial regulations might look like?

Type answer here

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### Work Groups and HSRs in small businesses (Recommendation 7a)

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- If you are part of a business with 15 or fewer workers, are workers in that business represented by HSRs? If so, how many workgroups, HSRs and deputy HSRs are there?

Type answer here

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- If you are part of business or undertaking with 15 or fewer workers, would a default position of one work group, an HSR and a deputy HSR suit your workplace? Please provide evidence of the costs and benefits of the default position at your workplace.

Type answer here

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### **Workplace entry by HSR assistants (Recommendation 8)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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Type answer here

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Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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### **Cancelling a Provisional Improvement Notice (Recommendation 9)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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- What practical impact, including the costs and benefits, would the options set out in this Consultation RIS have on you, your organisation or your stakeholders? Please provide evidence of the impacts wherever possible.

Type answer here

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Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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### **Choice of HSR training course (Recommendation 10)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings? What do you consider to be the cause and extent of disagreement over HSR training?

Type answer here

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- What practical impact, including the costs and benefits, would the options set out in this Consultation RIS have on you, your organisation or your stakeholders? Please provide evidence of the impacts wherever possible.

Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- What do you consider as the main cause of disagreements over HSR training? How often do these disagreements occur, and to what extent do they affect you, your workplace or your stakeholders?

As a business we provide the HSR's training based on the expiry which allows a number of our HSR's to attend courses together. If the HSR was to source their own training this would impact our business as we need to create vendors for numerous providers which entails an evaluation process to ensure they are a suitable provider. This could create some issues and disruption if the vendor did not meet the requirements of the business.

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### **Referral of disputes (Recommendation 13)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review findings? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- If Option 2 is adopted, would you seek to refer issues that are not resolved under s 82 or 89 of the model WHS Act to a court or tribunal? Please explain why.

Type answer here

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### **WHS entry permit holders – prior notice of entry (Recommendation 15)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent? In your experience, is the extent of the problem different across industry sectors?

Type answer here

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- What practical impact, including the costs and benefits, would requiring or not requiring a WHS entry permit holder to provide prior notice of entry have on you, your organisation or your stakeholders? Do you think the impacts would be different across industry sectors? Please provide evidence of the impacts wherever possible.

Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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### **Inspectors' powers (Recommendation 17)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings outlined above?

Type answer here

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- What practical impact, including the costs and benefits, would the options set out in this Consultation RIS have on you, your organisation or your stakeholders? Please provide evidence of the impacts wherever possible.

Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review findings? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- If Option 2 is adopted, should exercise of the power within 30-days after entry by an inspector be limited to only obtaining information that is related to the reason that inspector first entered the workplace?

Type answer here

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### **The Category 1 offence and industrial manslaughter (Recommendation 23a & b)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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- What practical impact, including the costs and benefits, would the options set out in this Consultation RIS have on you, your organisation or your stakeholders? Please provide evidence of the impacts wherever possible.

- Do you have suggestions for other options to address the problems identified in the 2018 Review? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- What do you see as the main limitations of the model WHS laws in deterring breaches of the health and safety duties?

Type answer here

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- What benefits and costs are associated with Category 1 offence including two alternative fault elements? If available, please provide evidence of these costs and benefits.

Type answer here

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- What do you consider the practical impacts of industrial manslaughter to be for you, your business and your stakeholders? What need, if any, would they address? Please provide evidence of how an industrial manslaughter offence would address this need.

Type answer here

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### **Prohibit insurance for WHS fines (Recommendation 26)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review findings? Please provide information and evidence on the impacts of your

suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Type answer here

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- In your experience, how common are insurance policies or arrangements that provide indemnity for breach of the WHS laws? Please support your answer with evidence.

Type answer here

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- Do you consider that health and safety is affected by the availability of these arrangements? How?

Type answer here

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### **The risk management process (Recommendation 27)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

Type answer here

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Type answer here

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Type answer here

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Type answer here

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### **Safe Work Method Statements (Recommendation 29a & b)**

- How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

We are a business that for a period of time (3 months) we become a construction site. The contractor we utilise for Outages has basically transformed as I suspect most contractors have the JSEA template they utilised into a SWMS. Which means there is a SWMS for every task whether it contains HRW or not. For our business we have created what the regulations ask for, the PCBU to prepare SWMS or basically approve the contractors. The SWMS's as required by legislation for HRCW which is very clear within the regulations demand identification and control of risk. This does not necessarily mean that every single task needs to have a SWMS. As a business that engages contractors to conduct work within our construction zone we have developed a SWMS for the HRCW we are exposed to during an Outage, which contains the relevant and expected controls for Mobile Powered Plant, Lifting, etc in a single document for each HRCW task. This then requires a cascaded approach whereby the contractor must include in the risk management tools either

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JSEA or their own SWMS (if this is what they wish to use) the applicable controls for HRCW outlined in our SWMS's.

If we are to start becoming more prescriptive (which we went away from) having a legislated SWMS template would greatly effect our business and the expected risk controls. I see a bigger issue with the lack of understanding identified in the submission as the regulations are very clear on what requirements need to be met. I would be incline to suggest that the people who should understand this requirement do not which is a bigger picture issue in our current training requirements for Health and Safety practitioners. A new wave of H&S practitioners are starting to come through from doing as little as an online course to the OHS Cert IV level completed online without any requirement for practical application.

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- What practical impact, including the costs and benefits, would the options set out in this Consultation RIS have on you, your organisation or your stakeholders? Please provide evidence of the impacts wherever possible.

Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review findings? Please provide information and evidence on the impacts of your suggested option, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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- What is your preferred option and why will it be best for you, your organisation and your stakeholders?

My preferred option would be to provide a guidance note with a SWMS option for small business. As stated above the legislation is very clear on what is expected. I could understand that small business may not have a clear understanding of the requirements as typically there would not be a H&S Professional employed in a small business.

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- Do you already have systems in place for developing customised (workplace specific) SWMS?

Our SWMS are developed using all the relevant pieces of legislation including the AS and covering the required control measures.

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- What barriers may prevent you using an online SWMS tool in your workplace?

The SWMS we have developed are very detailed

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- Does your business derive an income from developing SWMS? If so, do you expect to incur a financial loss if Safe Work Australia develop an on-line interactive tool to assist in developing SWMS? Can you predict the extent of this loss?

No income. However this would take our maturity level a couple of steps back as if we are to develop a SWMS for each task for an outage which entails approx 500 SWMS this would be a huge resource impact and encourage businesses to have the wrong people developing these documents. The risk is that an office based person would be tasked with this job not the people who are performing the task.

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## Appendix A – Recommendations likely to have nil or minor impacts

- If you do not agree that one or more of recommendations in Appendix A will have minor or no impacts, please provide your assessment of the impacts for each, supported with evidence if possible.

Type answer here

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- Do you have suggestions for other options to address the problems identified in the 2018 Review for recommendations in Appendix A? Please provide information or evidence on the impacts of your suggested option, if possible, including how it would improve the WHS outcomes or reduce compliance costs.

Type answer here

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