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Driving business success for consulting firms in the built and natural environment

7 August 2019

Safe Work Australia
2018Review@swa.gov.au

Dear Secretariat,

Safe Work Australia's Consultation Regulatory Impact Statement Recommendations of the Review of the Model WHS Laws – submission

I write on behalf of Consult Australia regarding Safe Work Australia's current consultation on its *Consultation Regulatory Impact Statement Recommendations of the Review of the Model WHS Laws* ('Consultation RIS'). We welcome the opportunity to contribute, with this letter outlining our response to relevant questions in the discussion paper.

For background, Consult Australia is the industry association that represents the business interests of firms who provide design, advisory and engineering services for the built and natural environment. Our industry employs over 240,000 people and generates a combined revenue of over \$40 billion per year.

Consult Australia is a member of the Australian Chamber of Commerce and Industry (ACCI) and we broadly support the submission made by ACCI. However, Consult Australia has a key focus on mental health in our sector and therefore wish to provide particular comments on the psychosocial risks aspect of the Consultation RIS.

Psychosocial risks

Question 1: How are you, your organisation or your stakeholders affected by the problems identified in the 2018 Review findings, and to what extent?

The Consultation RIS states that psychological health and safety was one of the most frequently raised issues by stakeholders and that Safe Work Australia data shows that workplace psychological injuries are one of the costliest forms of workplace injury. The Consultation RIS indicates that there was a widespread view that the model WHS laws inadequately protect psychological health and safety in the workplace.

Consult Australia agrees that psychological health and safety is an important concern for many workplaces and sectors. Consult Australia supports the recognition of psychological health in the model WHS laws and the need to take 'reasonably practicable' steps to mitigate related risks. However, it is also important to note that not all the challenges related to mental health in the workplace can be addressed through WHS legislation or a compliance focus. This includes issues such as the broader workplace culture, tackling mental health stigmas across society, and promoting thriving workplaces – all of which are also important factors for creating a mentally healthy work environment.

When it comes to mental health, a one-size-fits all approach does not work and a range of actions are needed to create a mentally healthy workplace. Consult Australia's *Striving for Mentally Healthy Workplaces* report outlines the importance of picturing our mental health as a continuum, where people are flourishing at one end and languishing at the other. A focus on encouraging individuals to remain thriving in the positive and healthy area of the continuum has been a recent focus of many mental health initiatives in the workplace, and Consult Australia recommends this approach be upscaled and promoted further by SafeWork Australia. As part of this approach Consult Australia's report shares case studies from member firms. This highlights how approaches can vary but also how measures are underpinned by considerable research and all form part of a connected approach to improving mental health in the workplace.

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These strategies have also allowed some Consult Australia members to develop performance measures for their initiatives, which provides a valuable insight into their effectiveness and to continuously improving workplace practices.

Many businesses could do more of these actions to have a positive effect for employee mental health, noting that many of the psychosocial safety components are adequately addressed by the current legislative approach.

Question 2: 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?

It would be expected that the status quo option supported by the relatively new guidance *Work-related psychological health and safety: A systematic approach to meeting your duties* ('the Guide') by Safe Work Australia would have minimal cost impact on member firms of Consult Australia. The addition of the Guide would be helpful resource for duty holders to understand their obligations under the existing model WHS laws.

The imposition of a requirement in the model WHS Regulations (Option 2 as proposed in the Consultation RIS) would likely impose a cost burden on member firms, and the level of that burden is difficult to quantify without detail of the regulation proposed. As outlined in the Consultation RIS, there is limited benefit of the Regulation over and above the existing obligation in the model WHS Act.

Question 3: 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.

Consult Australia is undertaking significant steps to tackle mental illness in our industry, but this is not through reforms to WHS law but rather through better mental health practices in the workplace. It is anticipated that over time this work will reduce compliance costs of member firms.

Question 4: What is your preferred option and why will it be best for you, your organisation and your stakeholders?

Option 1, the status quo with publication of the Guide is the preferred option of Consult Australia. As it provides more assistance to member firms than the model WHS law alone without adding further regulatory burden.

Question 5: Is the state of knowledge on psychosocial hazards, risks and control measures widely accepted and well established? Please support your answer with evidence.

ACCI's submission is that it is unclear whether the current knowledge about identifying and managing work-related risks to psychological health is settled enough to allow narrow prescription of known risks and detail effective controls. Consult Australia's view is that in any event all the challenges related to mental health in the workplace cannot be addressed through a WHS framework. It is vital that workplaces create a psychosocial safety culture, which is unlikely to be addressed through regulation and compliance activities. That is why we believe an incentive-based approach (which is the current focus of SafeWork NSW and WorkSafe Victoria) by WHS regulators will be more effective. This approach, as demonstrated in NSW included additional funding for industry partnered initiatives as well as a range of free targeted training for micro, small and medium sized businesses on tackling stigmas and providing appropriate support for staff.

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Question 6: Do you have suggestions for what prescriptive psychosocial regulations might look like?

Consult Australia support the need to take 'reasonably practicable' steps rather than prescriptive psychosocial regulations.

If you would like to discuss this submission further, please contact

Yours sincerely,

Nicola Grayson
Chief Executive
Consult Australia