



**MASTER BUILDERS**  
A U S T R A L I A

2 December 2024

Ms Katherine Taylor  
Director – Psychosocial & Consultation Policy  
Safe Work Australia

By email: [REDACTED]

Dear Ms Taylor,

**RE: CONSULTATION ON DRAFT CODE OF PRACTICE – MANAGING FATIGUE RISKS AT WORK**

Thank you for the opportunity to provide feedback on the Draft Code of Practice – *Managing fatigue risks at work* ('the Draft Code'). In consultation with Master Builders' National Work Health and Safety Committee, we make the following brief comments with respect to the Draft Code, as well as on the application of Model Codes of Practice more broadly.

**Overarching Position - Consolidation and Simplification**

Noting that practical guidance is always preferable to prescriptive codes, Master Builders strongly supports a review of the full suite of Model Codes of Practice, with a view to simplifying and consolidating existing relevant content into one industry-based resource.

This approach would recognise the need for materials, seeking to target those in the building and construction industry, to be in plain English and remove existing duplication across an increasing number of cross-referenced Codes and Guides.

As part of the review, SWA must also update and reinstate its former guidelines established to determine whether a model Code of Practice, as opposed to practical guidance material, should be developed.

As building and construction is a priority industry, Master Builders would be happy to assist SWA in the development of an industry-based Code, as a potential pilot, to assist in the simplification and consolidation process.

**Codes v Guidance**

As noted herein, it is Master Builders long-established position that publication of guidance material is preferable to the development of Codes of Practice.

It is our strong view that Model Codes of Practice should only be produced and adopted if they meet specific development criteria, are clear, concise and limited to outlining duties and obligations under the law.

**Key points of Feedback on the Draft Code**

***Obligations should be clearly articulated and provide practical examples***

Regrettably, the Draft Code is considerably long and contains a significant amount of information with respect to a PCBU's general duties and other obligations, such as consultation and managing psychosocial hazards, as opposed to focussing on guidance specifically related to the control of fatigue risks.

It is not until section 3 (on page 15) that the Draft Code describes how to identify fatigue hazards and which of those create a risk of fatigue. The background information contained within the document prior to this section is not necessary for the purpose of a compliance code and would be better placed in supporting guidance.

The document should instead be presented in a way so that businesses are able to clearly understand fatigue hazards and how to mitigate any associated risks in their workplace. Contrary to this approach, page 11, for example, contains a detailed section on the risk management process, however, does not include any specific content related to managing fatigue.

The sections that relate to tangential matters (such as psychosocial hazards, musculoskeletal injuries and “burnout”) should also be removed as these issues are dealt with comprehensively in other Codes of Practice or guidance and add additional layers of complexity to the Draft Code.

In addition, the Draft Code fails to acknowledge the nuances across industries and the unique work arrangements that exist within the building and construction industry. A generic Code of Practice that seeks to mitigate fatigue risks across all industries and circumstances has little value in the absence of the inclusion of industry-specific hazards and controls.

### **Industrial elements**

Notwithstanding that there are some practical elements within section 3 of the Draft Code, we hold concerns with respect to the parts that reference break periods (at the top of page 16 and within the Risk Management Chart at Appendix B). Break times and arrangements pertaining to shift work are comprehensively dealt with under Modern Awards or other relevant industrial instruments, such as enterprise agreements.

Relatedly, the section at the bottom of page 24 entitled “Worker agreement to work high-risk shifts” creates further confusion by its statement that *‘The duty of the PCBU is not removed by hours set in employment contracts, enterprise agreements or awards or a worker’s preference for certain shift patterns, for social reasons, their willingness to work extra work or to come to work when fatigued.’*

While noting a PCBU’s concurrent duties under WHS laws, the inclusion of prescriptive guidance around break times, shift work and rostering has the potential to create confusion and inconsistencies with industrial laws and obligations. Master Builders would therefore caution against the inclusion of elements within the Draft Code that deals with matters such as break times and how and when employees should be required to undertake work.

If you have any further queries with respect to the comments expressed herein, please contact [REDACTED]

Yours sincerely,  
**Rebecca Sostarko**



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**MASTER BUILDERS AUSTRALIA**

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