



BRIEFING

Finalised Cabinet Paper on Plant and Structures Regulatory Reform

Date:	4 May 2021	Priority:	Medium
Security classification:		Tracking number:	2021-3467

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister for Workplace Relations and Safety	<p>Note the additional details on MBIE's engagement with the forestry sector provided in response to your request</p> <p>Agree to lodge the attached finalised Cabinet paper</p>	5 May 2021

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Lisa Collins	Manager, Health and Safety Policy	04 897 6436	Privacy of natural persons	✓
Alannah MacShane	Principal Policy Advisor, Health and Safety Policy	Privacy of natural persons		
Bob White	Senior Advisor, Health and Safety Policy	Privacy of natural persons		

The following departments/agencies have been consulted
<p>On the related Cabinet paper: Ministries of Education, Social Development, Defence, Transport, Justice and Health; Ministries for Women, Culture and Heritage, Primary Industries, Housing and Urban Development, Environment, Pacific Peoples; Departments of Prime Minister and Cabinet, Internal Affairs, and Corrections; Treasury, Te Puni Kōkiri, Office of Ethnic Communities; New Zealand Police, New Zealand Customs Service; WorkSafe New Zealand, Civil Aviation Authority, Maritime New Zealand, Accident Compensation Corporation; Tertiary Education Commission; Fire and Emergency New Zealand; Waka Kotahi/New Zealand Transport Agency, Environmental Protection Authority, and Kāinga Ora – Homes and Communities.</p>

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



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Purpose

This briefing:

- responds to your request for additional information on the Ministry of Business, Innovation and Employment's (MBIE's) discussions with the forestry sector, undertaken to inform the draft Cabinet paper on *Health and Safety at Work regulatory reform: Protecting people working with plant, structures, and doing hazardous work*
- seeks your agreement to lodge the finalised Cabinet paper by 6 May 2021, for consideration by Cabinet Economic Development Committee (DEV) on 12 May.

This material supplements the previous Cabinet paper drafts [2021-1680 and 2021-1999] and further supporting information [2021-2898, 2021-3311 and 2021-3312] already provided to you.

Executive summary

For several years, MBIE has been developing improvements to plant and structures regulations, in response to the significant harm associated with the use of plant and structures (79 percent of work-related deaths from injury, which is 54 deaths annually). The reforms under consideration continue the implementation of the Royal Commission and Independent Taskforce on Workplace Health and Safety recommendations arising from the Pike River Coal Mine tragedy.

Overall, stakeholders are broadly supportive of the proposed reforms and the greater clarity they will provide. For the selected changes where views have been more mixed, MBIE has engaged extensively with the relevant stakeholder groups. For the forestry sector, we have engaged in-depth with major operators, plant manufacturers and others to better understand the impacts and costs for industry from the changes proposed for high-risk plant. Our discussions have resolved concerns about the protection of intellectual property and have enabled us to conclude that the additional costs involved for the sector are moderate. From the feedback provided, our assessment is that the changes proposed are a proportionate and equitable response.

Agency consultation on the draft Cabinet paper was carried out through January and February 2021, with only minimal adjustments required as a result [2021-1680 and 2021-1999].

A final version of the Cabinet paper is attached, addressing your latest feedback. The adjustments made in finalising the paper have been mostly minor aside from two areas:

- clarifying the coverage of road and railway vehicles, and military aircraft, ships and plant
- **Free and frank opinions, Confidential advice to Government**

We seek your agreement to lodge the Cabinet paper on 6 May, for consideration by DEV on 12 May. Policy approval by DEV will enable staged implementation of the changes to begin from approximately July 2022.

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

a **Note** that officials have engaged intensively with the forestry sector on the changes under consideration and that the level of opposition that remains is at the margins

Noted

b **Note** that officials have revised the Cabinet paper on *Health and Safety at Work regulatory reform: Protecting people working with plant, structures and doing hazardous work* to incorporate your final feedback and minor adjustments from agency consultation

Noted

c **Agree** to lodge the Cabinet paper on Thursday 6 May for consideration by DEV on 12 May.

Agree / Disagree

L Collins

Lisa Collins
Manager, Health and Safety Policy
Labour, Science and Enterprise, MBIE

4.5.2021

M Wood

Hon Michael Wood
Minister for Workplace Relations and Safety

5.5.21

Background

1. On 8 January 2021, you provided input into a draft Cabinet paper on *Health and Safety at Work regulatory reform: Protecting people working with plant, structures and doing hazardous work*, seeking improvements in associated regulations [2021-1680].
2. Through January and February 2021, MBIE consulted with multiple agencies on a revised draft that incorporated your initial feedback. As previously advised [2021-1999], the feedback was constructive and mostly minor, with a number of agencies specifically indicating support for the changes. Subsequent to this feedback, some adjustments were made, most notably to clarify the coverage of road and railway vehicles, and military aircraft, ships and plant.
3. To support the process of Ministerial consultation starting in March, MBIE has provided you with a range of supplementary materials [2021-2898, 2021-3311 and 2021-3312]. You have since requested further detailed information on our engagement with the forestry sector, which we provide below.
4. A revised Cabinet paper, incorporating your final feedback is attached at **Annex One** for your approval to lodge by 6 May. We have also provided, as **Annex Two**, MBIE’s accompanying Regulatory Impact Analysis and Stage One Cost Recovery Impact Statement, for your information.

Additional information on forestry sector engagement and concerns

5. Paragraph 80 of the Cabinet paper notes there were submissions from the forestry sector made against proposals to require compulsory registration of designs of items of plant used in harvesting logs on steep slopes, and refers to further discussion with the forestry sector to resolve concerns.
6. You have asked for further information on this feedback and our discussions with the sector to date.

Background details on the proposals for high-risk plant design and item registration

7. The proposals involve two classes of equipment. The first is winch-assisted mechanical harvesting equipment, where an adapted excavator, or “feller buncher” (see **Figure 1**) is lowered down a steep slope on a steel cable from a remotely controlled winch machine at the top of the slope. From the side of the hill, the driver controls the feller buncher’s mechanical head – equipped with a cutting edge – to grasp, saw, and lay down logs onto the ground. This type of machinery has been designed and manufactured locally over recent years, and there are three major suppliers and about 120 such pieces of winding equipment currently in use. They are being exported in increasing numbers.

Figure 1 – Illustrations of feller bunchers used in steep slope harvesting



8. The second class of equipment is cable logging yarders/haulers used to extract logs from steep country (see **Figure 2**). These are mainly manufactured in North America and have been in use in New Zealand increasingly over the last 30 or more years. They are operated from above the slope and to date they have mainly been used to lift logs that have already been felled below, but there are developments towards attaching saw units to them which could be operated remotely. There are about 180 of such machines in use and many of them are older models experiencing corrosion and wear and tear. Inspection and maintenance levels are variable.

Figure 2 – Illustrations of a cable logging yarder/hauler



9. WorkSafe and others in the sector have observed increasing numbers of failures and collapse of hauler “poles” from which cables are suspended and other failures of safety critical components. This puts operators and other workers at significant risk. In response, the industry has been working to improve inspection standards and is considering its own registration system, comparable with cranes and similar equipment, and using the same engineering personnel. MBIE and WorkSafe have supported this development, as have the Forestry Industry Contractors Association (FICA), the engineering profession and others in the industry.

Forestry sector views

10. The sector submitted in unison that it supports improved inspection but does not support mandatory requirements or a central register for either class of equipment.
11. During and after public consultation, MBIE and WorkSafe officials have worked closely with the sector to resolve the issue. This has involved:
- two extended meetings with the FICA, the Forest Owners Association (FOA), and the Forest Industry Safety Council (FISC) in Wellington and Rotorua
 - field visits by officials to a winch assist manufacturer in Rotorua and a steep slope harvesting site in the Kaingaroa Forest, in January 2021
 - discussions with the Certification Body for Inspection Personnel, and specialist engineering staff that complete inspections currently
 - discussions with a professor of forestry engineering at Canterbury University.
12. During this engagement, industry representatives supported all elements of proposals except the mandatory nature of registration and inspection, Confidentiality

13. We met with two manufacturers, who both said that they used independent design verification (engineering peer review) in developing designs of equipment **Confidentiality**

Confidentiality

MBIE supports the changes as a proportionate and equitable response

14. MBIE's view, represented to FOA and FISC consistently, is that a non-regulatory system such as proposed by industry would not be as durable and raises equity issues for forestry workers, who would not be afforded the protections that workers in other sectors are. This view was strongly reflected in submissions from the New Zealand Council of Trade Unions (NZCTU) and the engineering profession, who are in full support of consistent standards for forestry as for other comparable types of equipment.
15. MBIE has assessed the costs of the proposals as only marginally greater than the costs of the industry's own proposed registration and inspection scheme [2021-3311 refers].

Progressing Cabinet decisions

16. A finalised Cabinet paper, seeking agreement to the final recommended package of reforms, is attached as **Annex One**.
17. This revised version incorporates your final comments and other minor adjustments, including the clarification that the proposals allow for WorkSafe to recognise third parties to implement the scaffolding licensing regime (continuing the current practice). More substantively, it updates the paper for:
- further details on the coverage of road and railway vehicles, and military aircraft, ships and plant, requested during agency consultation
 - **Free and frank opinions, Confidential advice to Government**
18. MBIE's supporting Regulatory Impact Analysis and Stage One Cost Recovery Impact Statement is provided for your information at **Annex Two**.

Next steps

19. We are seeking your agreement to lodge the Cabinet paper by 6 May, for consideration by DEV on 12 May. Officials are available to discuss with you any further materials you may require to support DEV consideration.
20. An indicative overview of residual next steps is set out below:

Step	Indicative timing
Stage 1 Cabinet DEV Committee policy approvals	12 May 2021
Drafting of new regulations	May – October 2021
Consultation on exposure draft and remaining policy matters	December 2021 – February 2022
Stage 2 DEV Committee policy approvals	March 2022
Cabinet LEG Committee Approval	June 2022
Staged implementation begins	July 2022