MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

BRIEFING

Plant, Structures and Working at Heights Regulatory Review: Report back on issues requiring further investigation

Date:	20 February 2020	**Priority:**	High
Security classification:	In Confidence	**Tracking number:**	2133 19-20

Action sought		
	Action sought	**Deadline**
Hon Iain Lees-Galloway **Minister for Workplace Relations and Safety**	**Give direction** on the remaining set of reforms to be progressed into a draft Cabinet paper **Note** that officials are preparing a draft Cabinet paper on the full suite of proposals for regulatory change, and intend to provide it to you in March	27 February 2020

Contact for telephone discussion (if required)				
Name	**Position**	**Telephone**		**1st contact**
Lisa Collins	Manager, Health and Safety Policy	04 901 8569	Privacy of natural persons	✓
Alannah MacShane	Principal 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
WorkSafe New Zealand, Maritime New Zealand, Civil Aviation Authority

Minister's office to complete:

- ☐ Approved
- ☐ Noted
- ☐ Seen
- ☐ See Minister's Notes
- ☐ Declined
- ☐ Needs change
- ☐ Overtaken by Events
- ☐ Withdrawn

Comments

BRIEFING

Title

Date:	20 February 2020	**Priority:**	High
Security classification:	In Confidence	**Tracking number:**	2133 19-20

Purpose

1. This briefing seeks your direction on outstanding policy considerations remaining in the Plant, Structures and Working at Heights Regulatory Review, to inform the process of preparing a draft Cabinet paper.

Recommended action

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

a **Note** that in December you agreed in principle to a number of policy proposals to progress into a Cabinet paper following the *Plant, Structures and Working at Heights* consultation process [Briefing 1862 19-20 refers]

Noted

b **Note** that the proposals generated diverse views but, on balance, broad support – primarily due to the additional clarity the proposals will provide regarding existing Health and Safety at Work Act 2015 obligations

Noted

c **Note** that there were a handful of issues where officials wanted to do further work or have targeted conversations with stakeholders in order to determine the best way forward

Noted

d **Note** that this briefing provides recommendations on these outstanding policy considerations following further analysis and targeted consultation in January and February 2020

Noted

e **Note** that our recommendations respond to the substantive concerns of stakeholders in the refinements we have made to selected details of original consultation proposals (as identified below)

Noted

f **Agree in principle** to progress or not progress (as indicated) the following proposals:

General requirements for plant

Regulations that provide for the safe use of equipment used for lifting loads apply consistently across industries, including forestry	Agree / Discuss
Regulations exclude aircraft and plant on board aircraft	Agree / Discuss
Not progressing customised requirements for robotics in regulations	Agree / Discuss

Mobile plant

In relation to mobile plant, progressing: - generally applicable regulatory standards requiring operator protective devices, so far as reasonably practicable	Agree / Discuss
- requirements specifying that collision risks are to be managed so far as reasonably practicable **[a refined variant of the consultation proposal]**	Agree / Discuss
- minimum regulated forklift protections Confidential advice to Government **[a refined variant of the consultation proposal]**	Agree / Discuss

Upstream duties

Regulations provide for a safe work instrument to recognise conformity testing from other jurisdictions, including where New Zealand already has an agreement in place to do so **[a refined variant of the consultation proposal]**	Agree / Discuss

Work at heights and scaffolding

Regulations impose a hierarchy of controls for work at height in construction work at all heights (ie without a 2m threshold)	Agree / Discuss
Regulations list criteria for determining the circumstances in which work may be undertaken from a ladder in construction work (ie a new requirement in addition to the hierarchy of controls) **[a refined variant of the consultation proposal]**	Agree / Discuss
In relation to scaffolding: - retaining the existing threshold of 5m for the height of the working platform for requiring notification to the regulator	Agree / Discuss
- introducing an inspection only qualification for scaffolds that may be constructed by "elementary" or "intermediate" scaffolders **[a refined variant of the consultation proposal]**	Agree / Discuss
- requiring engineering (CPEng) involvement in the design of some scaffolds (to be specified by a safe work instrument or WorkSafe guidance)	Agree / Discuss
- not requiring licensing of PCBUs that install scaffolding in other workplaces (ie in addition to workers)	Agree / Discuss
Requiring design registration for scaffolding and falsework/construction support systems as "high-risk plant" (but not subject to further controls on manufacturing/quality) **[a refined variant of the consultation proposal]**	Agree / Discuss
Excluding cleaning and electrical line maintenance work from the definition of 'construction work' **[a refined variant of the consultation proposal]**	Agree / Discuss

Excavations

Introduce an explicit duty on the PCBU with site control to do what is reasonably practicable to check for underground services and provide information to other PCBUs involved in the work.	*Agree / Discuss*
Not introducing a requirement that utility asset owners must provide information on the location of underground services, but referencing existing requirements for providing information in the *National Code of Practice for Utility Operators' Access to Transport Corridors* **[a refined variant of the consultation proposal]**	*Agree / Discuss*

High-risk plant

Allow operators of large scale bespoke pressure equipment systems that: - operate under an approved safety case under the Major Hazard Facilities Regulations; or - meet other audit and quality systems accreditation criteria contained in the regulations to apply to WorkSafe to operate associated pressure equipment without central design registration or item of plant registration, but with inspection personnel and inspection body accreditation, and all other requirements for high-risk plant under the regulations **[a refined variant of the consultation proposal]**	*Agree / Discuss*
Require winch-assisted steep slope forest harvesting machinery and logging haulers/yarders to be design registered and registered as items of high-risk plant and inspected under the regulations **[a refined variant of the consultation proposal]**	*Agree / Discuss*
Provide for the certification of people who undertake design verification for different classes of equipment by Engineering NZ (status quo)	*Agree / Discuss*
For imported plant, provide for situations when New Zealand design registration is not available as a prerequisite for registration of an item of plant, there is provision for seismic performance and other matters to be considered in addition to and overseas design registration, by a suitably qualified CPEng or other person from a list maintained by Engineering NZ for different classes of equipment **[a refined variant of the consultation proposal]**	*Agree / Discuss*
Continue the current Model Engineering Association New Zealand (MEANZ) certification process for registration as an amusement device Require also that MEANZ is to be accredited as an inspection body under the regulations (ie its processes for auditing the inspection carried out by individual clubs and maintaining standards is audited by International Accreditation New Zealand (IANZ) as for other inspection bodies) **[a refined variant of the consultation proposal]**	*Agree / Discuss*
Require territorial authorities to continue to permit temporary amusement devices determined to be risk level 3 and above only (as assessed on a scale of 1-5 by a CPEng under section 2.1 of AS 3533:2009), ie no longer permitting permanent or lower-risk amusement devices **[a refined variant of the consultation proposal]**	*Agree / Discuss*
Include a provision for making Safe Work Instruments to clarify geotechnical requirements, clarify risk levels for different classes of equipment and other matters relating to the obligations of territorial authorities under the regulations **[a refined variant of the consultation proposal]**	*Agree / Discuss*

f **Agree** that officials will provide you with additional reporting on the proposals regarding lasers and recommendations regarding applicability to vessels and ships – to be supplied in time for the draft Cabinet paper we are preparing for your consideration

Agree / Discuss

g **Discuss** the proposals in this paper with officials at the next officials' meeting

Discuss / Not discuss

h **Note** that officials intend to provide you with a draft Cabinet paper in March reflecting these decisions and the decisions you made in December 2019

Noted

i **Note** that in March we will update you on financial implications of the proposed registers, fees, offences and penalties and transitional provisions

Noted

Lisa Collins
Manager, Health and Safety Policy
Labour and Immigration Policy, MBIE

20 / 2 / 2020

Hon Iain Lees-Galloway
Minister for Workplace Relations and Safety

09 / 03 / 20

Further analysis of remaining issues

2. In December we briefed you on the submissions received on MBIE's *Plant, Structures and Working at Heights* consultation document, and sought your direction on selected proposals to develop into a Cabinet paper [1862 19-20 refers]. The proposals generally received broad support from submitters, and you agreed to progress the majority of the proposals as identified in the consultation document.

3. We also identified a handful of areas where you gave your approval for us to seek more information from submitters to inform our analysis. In January and February MBIE, supported by WorkSafe, met with stakeholders and completed the further analysis on the remaining issues. This additional information from submitters has helped us determine whether to:

   - progress proposals in the form consulted on
   - make any refinements to the consultation proposals, and the shape these refinements should take
   - not progress with a consultation proposal.

4. **Annex One** below summarises each issue, what stakeholders said (including both in submissions and the further information provided at the stakeholder meetings in January and February), and our analysis and recommendation. We are available to discuss any of the topics in this paper at the next officials' meeting.

Next steps

Pursuing cabinet policy decisions

5. Subject to your agreement to the proposals in this paper, we will draft a Cabinet paper containing these and the proposals for which you have previously given in-principle agreement. We propose that the Cabinet paper seeks policy decisions concerning coverage and processes for the regulations in a similar level of detail to what we have presented in this and the prior briefing, with drafting at a further level of detail to occur on the basis of these decisions.

6. We intend to provide you with the draft Cabinet paper in March, with Ministerial consultation to follow in April, with the aim of seeking Cabinet decisions in June. MBIE is developing our regulatory impact analysis concurrently, and will provide you this to assist in your conversations with your colleagues.

7. Subject to Cabinet's agreement in June, drafting of the regulations will take place in the latter half of 2020, and coming into effect in 2021 (subject to any transitional arrangements). Stakeholders were supportive of the release of an exposure draft of the regulations given the inherent technical nature of the changes under consideration.

8. MBIE is also preparing a summary of submissions received. In supplying you with our draft Cabinet paper we will seek your decision on the timeframes for public release of this.

Fees, offences and penalties, and transitional provisions

9. We are working with WorkSafe to determine the financial implications of the proposed registers. This work is feeding into the regulatory impact analysis, and will be available to support Cabinet policy decisions. We will update you on progress in determining the financial implications through the process of developing the draft Cabinet paper.

10. We intend to use the exposure draft of the regulations to consult with WorkSafe and designated agencies, and approved stakeholder groups on the fees, offences and penalties and transitional provisions.

Annexes

Annex One: Issues and recommendations

Annex One: Issues and recommendations

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
General plant protections	Whether to include customised requirements regarding the **use of lasers** in regulations - We needed to ascertain whether the risks presented from lasers are sufficiently different and significant enough to warrant specific requirements within the regulations, any risks of unintended consequences from doing so, or, as an alternative course of action, whether the general duties in the HSWA and broader aspects of our proposals would be sufficient to address the risks involved. - We asked submitters if customised requirements were to be introduced, whether we should adopt the Australian Model Regulations regarding design and operational standards for laser equipment, and expressly prohibiting the use of certain lasers in construction work.	Only a small proportion of submitters (~15%) responded in any detail about the proposals as they relate to lasers. While the majority of those who provided a view were in favour of additional regulatory controls (17 in favour vs. six opposed and five unsure), only three indicated explicit support for these being introduced in the form of the Australian Model Regulations. The remainder of those favouring additional regulatory controls did not engage on the features of the Australian Model Regulations in their feedback. Australian Model prohibitions attracted feedback from a smaller subset of submitters again (~10%). Opinions were divided among these submitters, with eight submitting in support of the prohibitions and five against. From the construction sector there were no consistent views – with Civil Contractors in favour of prohibitions, but Construction Health and Safety New Zealand (CHASNZ) against, citing reasons of stymying safe usage (for imaging and scanning) and the prospect of barriers to innovation as reasons for their view. WorkSafe supports new regulations, based on the Australian Model Regulations, given a growing prevalence of lasers across a variety of sectors (medical, manufacturing, and construction, for example). Although the regulatory proposals haven't attracted much attention from submitters now, trends indicate much greater use of lasers in future and WorkSafe thinks the regulations should anticipate this. WorkSafe is concerned about the growth of imported 'unbranded' lasers with limited safety features. WorkSafe is also concerned that the general machine guarding requirements (which will apply to lasers in the absence of specific laser regulations) are not fully appropriate for lasers because standard guarding requirements do not fully take into account their unique risks, such as radiation. WorkSafe recommends further targeted consultation on this issue, for example with laser manufacturers. For the years 2014-2018, lasers were a causal factor in 33 injury incidents requiring more than a week's absence from work.	**MBIE's recommendation is that we work with WorkSafe to obtain further input from manufacturers of laser equipment**, prior to reaching any relevant recommendations. We anticipate this can be carried out without compromising our intended timeframes for preparing a draft Cabinet paper. Irrespective of whether customised requirements are adopted, the use of lasers will remain subject to HSWA duties of care. By virtue of the inclusion of lasers as items of plant, wider proposed regulations will also apply – inclusive of: - mandatory application of the Prescribed Risk Management Process - a requirement to ensure that hot parts of plant are guarded or insulated, so far as reasonably practicable - a requirement on PCBUs to ensure maintenance, inspection and testing is carried out by a competent person with regard to manufacturer's recommendations - the requirement for designers, manufacturers, importers, and suppliers to ensure plant is without health and safety risks, so far as reasonably practicable, and provide information regarding the safety of plant to others within the supply chain.
	Whether to include customised regulatory requirements for **robotics** - In a similar vein to our considerations regarding lasers, we needed to ascertain whether the risks presented from robots are sufficiently different and significant enough to warrant specific regulatory requirements, any risks of unintended consequences, or, as an alternative course of action, whether the general duties in the HSWA and broader aspects of our proposals would be sufficient to address the risks involved. - Were customised requirements introduced, we asked submitters' views on these adopting the form of the design and operational requirements of Australian Model Regulations.	Of those that submitted on the consultation proposal regarding application of customised Australian Model requirements (~23%), a weak majority were in favour of the changes (20 in support, with 9 opposed and 10 unsure). Those who were opposed were concerned about the general risk of impeding innovation. Supporters provided limited detail as to their reasons. WorkSafe supported adopting the Australian Model Regulations as a means of responding to the growth of robotic plant. MBIE officials understand there is good uptake of official Australian (AS) standards in the design of robotic plant, ensuring extensive safety by design. We are advised also that robotic technology is continuing to evolve rapidly, particularly with regards to collaborative types that work in close proximity to workers. WorkSafe acknowledges that there are international standards on robotics that can be used as a benchmark of good practice in this rapidly developing area. For the years 2014-2018, robotic plant was a causal factor in six injury incidents requiring more than a week's absence from work.	**We do not support progressing customised regulations for robotics** as innovation in this field continues, and on the basis that we consider general HSWA duties and wider changes proposed for plant generally adequately cater to the risks involved. The use of robotics will remain subject to HSWA duties of care. Broader proposed regulations will also apply, such as: - mandatory application of the Prescribed Risk Management Process to the risks of plant generally but also those particular to mobile plant - ensuring appropriate warning devices, to manage the risks of collision - guarding requirements - the requirement for designers, manufacturers, importers, and suppliers to ensure plant is without health and safety risks, so far as reasonably practicable, and provide information regarding the safety of plant to others within the supply chain. WorkSafe will remain able to produce workplace guidance as a means of clarifying expected standards relating to robotics.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	Customised operational and design rules for **plant used to lift or sling loads – as applicable to forestry**, where plant used for lifting includes plant not designed for the purpose of lifting - We needed to ascertain whether the risks presented from lifting plant – as a general category of plant, distinct from cranes and other types of high-risk plant – warrant specific requirements within regulations, and any potential unintended consequences from doing so. As an alternative, we considered whether the general duties in the HSWA and broader aspects of our proposals would instead be sufficient. - You have previously agreed in principle to provisions that relate to lifting plant, however the forestry industry often uses excavators and other hydraulic equipment (ie plant not designed for lifting) to lift or sling loads, and we wanted to get further information on impacts for the sector.	Overall there was support for the proposals, including from the agriculture sector. The forestry sector indicated some concerns, particularly for older excavators and other equipment not designed for lifting or carrying suspended loads, or where workers are not proximate to the lifting activity. There was acceptance that the provision should apply to new equipment, and also that engineered safeguards (such as hydraulic hose failure controls) should be installed for equipment loading and unloading near people, but that guidance should allow administrative controls (ie safe distances) in other situations, such as log handling or processing, where personnel are clearly separated from the work. The forestry sector also suggested that the existing regulatory requirement in the General Risk and Workplace Management regulations concerning work under raised objects was sufficient, but discussions established that the situations and controls required by the proposed regulation are broader and encourage the use of engineering controls ahead of administrative controls (eg separation distances), which the current regulation often leads to.	**We recommend regulations for the safe use of equipment used for lifting apply consistently across all industries, including forestry** given the significant and distinct risks this type of plant presents. These general regulations would cover plant used for lifting even when it has not been designed for that purpose. For the forestry sector, a provision that is clear and consistent with other industries will provide a basis for all new plant to have hose burst protection and other safety devices installed, along with plant used in proximity of workers. Guidance may provide for separation distances, work phasing, or other administrative controls for older equipment not used in close proximity to workers. This will provide a consistent level of worker protection across industries including the forestry sector. In other sectors, notably the construction sector, similar protections are already in place and there was good support for a regulatory provision.
	How to best provide for appropriate health and safety standards **on vessels** – whether through HSWA regulation, or by reliance on “offshore” sector-specific Maritime Rules - Vessels are included in the HSWA definition of plant. Maritime New Zealand is the designated health and safety regulator under HSWA for ships. - With vessels not subject to the Australian Model Act, we needed to determine the appropriate extent of coverage of the proposed regulations as they relate to ships and vessels, and their onboard plant. In doing so, we needed to ensure consistency with the standards to be set for other sectors, while also considering the sector specific rules already applicable.	The concept of having the regulations apply to the sector was met with resistance from some submitters – inclusive of the New Zealand Fishing Health and Safety Forum, the sector’s main health and safety advocacy body for large commercial operators. A central concern among these submitters was that dual regulatory rules – as specified under maritime law and health and safety legislation applicable to plant and structures – would reduce clarity for fisheries operators and produce regulatory standards that are ill-suited to the specifics of the marine operating environment. We have had preliminary discussions with Maritime New Zealand to clarify and evaluate the inter-relationships between existing Maritime Rules and proposed changes to Health and Safety regulations under consideration. With vessels outside of the types of plant proposed to be regulated as “high risk” (a concept also attracting adverse submitter feedback), broader aspects of our proposals applicable to general categories of plant formed the focus of these discussions. Maritime New Zealand is yet to determine a firm view on a preferred approach for catering to plant on board vessels.	**We recommend we continue to work with Maritime New Zealand** prior to reaching any conclusions as to whether and how plant on vessels should be incorporated into the new regulations.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	How to best provide for appropriate health and safety standards **on aircraft** (including airplanes, helicopters and drones) – whether through HSWA regulation, or by reliance on sector-specific rules (ie the Civil Aviation Rules) - Aircraft are included in the HSWA definition of plant. The Civil Aviation Authority (CAA) is the designated health and safety regulator under HSWA for aircraft while in operation. - We needed to determine the appropriate extent of the coverage of the proposed regulations as they relate to aircraft, and the onboard plant. We wanted to seek input from the Civil Aviation Authority (CAA) before making a recommendation.	There was limited feedback from submitters in response to this question, and we received no submissions from those in the aviation industry. We received two submissions from those who used aircraft within their industry, but not as their primary industry – Civil Contractors New Zealand for use in construction and maintenance work, and Federated Farmers for use in agriculture. Civil Contractors NZ noted that further discussion was needed, and Federated Farmers noted that it would add unnecessary costs for no or marginal benefit. Other submitters that opposed inclusion thought we should avoid creating confusion or duplication issues with the Civil Aviation Rules, or creating conflicts where rules are inconsistent. Some submitters suggested the aircraft should be excluded from regulations but plant onboard aircraft should be included; while others supported complete inclusion, noting that risks still apply in the air. MBIE met with CAA to discuss the proposed regulations as they related to the Civil Aviation Rules and agree an approach. In principle, the CAA considers that the Civil Aviation Rules are comprehensive, and there is limited safety risk if the regulations do not cover aircraft.	**MBIE recommends that aircraft are excluded from the regulations** on the basis that the Civil Aviation Rules and the general duties under the HSWA are sufficient to cover aircraft and the plant onboard aircraft. CAA agrees with this recommendation. Civil Aviation Rules are set by the Minister of Transport on the advice of CAA, and prescribe the minimum safety standards for every aspect of aviation, including the certification of products and parts, general maintenance rules and aircraft registration. Any additional regulations pertaining to plant and structures could adversely detract from the detailed and specialised nature of the sector-specific regime. Note the proposed Civil Aviation Bill, which is seeking (among other things) to enhance safety in civil aviation, further supports this recommendation. The absence of this Bill would not change our recommendation.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
Mobile plant	Whether to have **regulated mobile plant protections apply generally**, or subject to certain exclusions (including the 700 kg *de minimus* exemption relating to requirements for rollover protective devices currently). - We needed to determine whether there were grounds to retain, remove or modify existing exemptions – as they would apply to a variant of current requirements for roll over protective devices – on the basis of a comparison of the benefits to health and safety against the regulatory costs and risks that could arise from doing so. - As a concept, the modified version of current roll over requirements consulted on attracted support from a clear majority of submitters. In the same vein as Australian Model Regulations, this would take the form of an obligation on PCBUs to ensure, where reasonably practicable, the provision, maintenance and use of "suitable operator protective devices" for mobile plant. - Divisions among submitters, particularly those within the agricultural community, were focussed around whether the proposed requirements should apply generally or be subject to specified exclusions. Seeking to understand these different perspectives has been the focus of our further investigations. - Vehicle overturning incidents are a major source of workplace harm. Upwards of 90 per cent of workplace quad bike fatalities (on 2000-2017 WorkSafe data) were attributable to entrapment caused by overturning. In overall terms, this equates to around 73 deaths for this period. By virtue of applicable minimum weight thresholds quad bikes are currently exempt from regulated roll-over protection requirements.	We met with the Agricultural Leaders' Health and Safety Group (ALHSAG) (representing, among others, Dairy NZ), Horticulture New Zealand, the Motor Industry Association of New Zealand (MIA) and Federated Farmers (as a separate follow up meeting) to discuss the group's divergent viewpoints on this topic. The discussions provided the opportunity to clarify key elements of the proposals, in particular the following: - in the same vein as the Australian Model Regulations, that the provision would be structured to specify suitable operator protective devices as required with a supplementary definition featuring guide examples to assist with interpretation - that PCBUs with management or control of mobile plant at a workplace would be the ones to determine what "suitable devices" are - that determining what is "suitable" is intended to be led by a risk assessment in accordance with guidance produced by WorkSafe - that the long-standing series of exemptions, including the current exemption for plant under 700 kg, were devised to cater to vastly different circumstances. In more specific detail, these exemptions, set originally to establish a minimum weight for tractors requiring safety frames, have yet to be revisited since lighter types of mobile plant (e.g. quad bikes) have proliferated. As an outcome of our further targeted stakeholder engagement we are satisfied that the substantive concerns of selected stakeholders are adequately addressed by detailed design features – that is, a requirement which is levelled on PCBUs which allows for suitability of the protections to be determined by that PCBU, informed by WorkSafe guidance. The grounds for modernising the regulations were generally accepted across the group. Confidentiality In our further consultations, ALHSAG and Horticulture New Zealand reaffirmed their support for having operator protective devices regulated as generally applicable requirements. Confidentiality Federated Farmers has yet to provide any additional feedback on the changes proposed. Prior to submitting its feedback to the review, we note however WorkSafe's Policy Clarification on Crush Protective Devices elicited firm support from Federated Farmers, as communicated in a public media statement. In essence a variant of the proposal under consideration, we are unsure as to the basis for the difference with the dissenting view submitted, from the details provided. We will provide you with a further update, should we receive additional clarification. WorkSafe is opposed to exemptions, given the inherent flexibility of the provisions proposed and the scale of the incidence of harm involving quad bikes and other forms of plant subject to exclusions currently. On average, there are around five work related quad bike fatalities occurring annually in New Zealand.	**We recommend the introduction of regulations for mobile plant operator protective devices – levelled on PCBUs, and with the requirements to be prescribed as general standards, without exclusions.** Premised on what is "suitable", the approach recommended responds to the preferences of submitters for requirements that can be adapted to varied circumstances, and, as a consequence, we do not consider exemptions from the provisions to be necessary. Ensuring breadth of coverage will also bring regulatory rules into line with prevalent areas of risk – mobile plant of under 700 kg in weight – and preserve equity – for PCBUs and workers. Transitional arrangements for older plant can be accommodated for in devising the specific details of the regulations.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	Whether to **regulate an express prohibition on collisions** - We needed to determine whether there were grounds to introduce an express ban on collisions – operating in support of broader proposals under consideration, and as featuring within Australian Model Regulations – on the basis of a comparison of the benefits to health and safety against the regulatory costs and risks that could arise from doing so. - Collisions are a significant cause of harm – for instance with 38 per cent (10) of vehicle-related fatalities on construction sites for the years 2008-2016 linked to this type of incident.	Submitters predominantly supported regulating standards for collision management and the use of appropriate warning devices, as required. This was confirmed by many as accepted standard practice, given advancements in technology underway (e.g. camera assist technologies, in construction). The concept of a strict collisions ban (i.e. that is categorical, and applicable even in exceptional circumstances) was met by some opposition from submitters, on the grounds that this could prove unduly onerous in circumstances (reckless driving by another vehicle, resulting in collision, for instance).	**We recommend regulations require the risks of collisions are to be addressed, so far as reasonably practicable** for instance through the use of suitable warning devices, where appropriate. We consider this will better clarify the intent of the proposal in a way that ensures unintended consequences are avoided. While broader aspects of our proposals also will work to ensure that collisions are effectively managed, in accordance with the Prescribed Risk Management Process, on balance our view is that a supplementary provision will be of value in improving clarity over expected standards. More generally the adoption of a specific regulatory provision will also reinforce standards of best practice, as confirmed by submitter feedback.
	Whether to **regulate specific forklift protections**: - In place since 1995, the Approved Code of Practice (ACOP) for Training Operators and Instructors of Powered Industrial Lift Trucks currently offers guidance on risk management for operators of forklifts. Operator certification is carried out under a voluntary scheme, albeit with very high rates of uptake across industry. This practice differs from those of Australia which regulates licensing of forklift driving as a category of high risk work. - We needed to determine how well the distinct risks of forklifts are being managed in the absence of specific regulated standards and whether there are any grounds for change – as effected through a revised ACOP, the introduction of supplementary regulations, or some combination of the two. - To support our considerations, submitters were asked to provide views on customised design and operational forklift requirements derived from Australian Model Regulations, and on the concept of introducing tickets of operator competency as a firm regulatory requirement. Consistent with the feedback we have heard from stakeholders, we have chosen to align our consideration of broader design and operational standards with our considerations around operator licensing. - Following a period of significant and sustained reductions in workplace forklift incidents, attributable harm has recently begun to trend back up. In 2018, forklifts caused some 800 injury incidents requiring more than a week's absence from work – a record high as compared against the 11 years prior and a 60 increase on the year 2011.	Submitters were predominantly in favour of specific operational and design requirements for forklifts, given the degree of associated risks involved. Opinions were more finely balanced on whether the requirements should be introduced as regulations or an ACOP and on the specifics of the rules that should be introduced – with the Australian Model Regulations approach attracting limited feedback. With regards to introducing certified competency as a required base level standard – whether enabled through a licence or certificate of competence – this was met with near universal support among submitters. A clear majority of submitters considered the current ACOP scheme to be deficient in addressing the risks forklifts present. Variability in current training standards and the need for greater re-focussing on competency (rather than generalised training per se) were cited as central to these views. WorkSafe's view is that forklift operator standards are an important component of effective risk management Confidential advice to Government WorkSafe is also of the view that improving how work with forklifts is organised in workplaces, e.g. traffic management, must be part of achieving safer forklift use. WorkSafe supports specific regulations requiring PCBUs to manage the risks of systems of work and wider environmental factors more generally.	**We recommend introducing minimum regulated protections regarding forklifts – based on amended Australian Model Regulations** Confidential advice to Government MBIE's view is that targeted regulatory requirements are warranted, because of the complexities and the significance of the risks involved and to address the widely held concerns (the extent of which were not previously known to MBIE) about the deficiencies of current operator training arrangements. Progressing regulations regarding the work system with operator licensing regulations together in tandem responds to the preferences of submitters. The adjusted Australian Model Regulations we are recommending would operate to require PCBUs to ensure: - the forklift has lifting attachments suitable for the load - operation of a forklift in a manner that ensures the risks that arise from systems of work and the environment for use are eliminated, so far as reasonably practicable, or otherwise minimised. Broader proposed regulations will also complement this by requiring: - mandatory application of the Prescribed Risk Management Process to the risks of plant generally but also those peculiar to mobile plant - appropriate warning devices, to manage the risks of collision - general operational and design standards for broader types of lifting plant. Confidential advice to Government

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
Upstream duties	Whether we should **recognise certain overseas jurisdictions** as having equivalent health and safety standards for plant and structures that importers could rely on to ensure plant meets New Zealand health and safety requirements - We needed to further consider if a focus on jurisdictions or international Standards might be more appropriate, or whether it would be possible to implement this proposal without requiring a considerable resource commitment - We also looked further into conformity assessments/certification marks, and the possibility of accepting plant or structures from specified overseas jurisdictions with the relevant certification mark	Of the 38 submitters who responded to this question 24 supported, 4 opposed, 6 were unsure and 4 offered no opinion but otherwise made a comment. Supporters thought recognising a jurisdiction as having equivalent health and safety standards as New Zealand would add clarity, reduce doubling up of checks, and some noted that New Zealand was a small market for most suppliers. Submitters also noted that the quality of equipment from different jurisdictions can vary. Those who opposed thought that equipment would still need to be verified for New Zealand use.	**We recommend that we do not progress the proposal recognise jurisdictions as having equivalent health and safety standards,** as we think a focus on conformity acceptance is more appropriate. **We recommend we allow in regulation for a safe work instrument to recognise conformity testing from other jurisdictions.** This would allow us to accept the process of another jurisdiction for checking conformity with standards (rather than accepting the standards themselves), which would mean that plant from those jurisdictions would not need to be re-tested in New Zealand, except for any required New Zealand specific checks (for example seismic risk). We propose that a safe work instrument would provide for the appropriate level of flexibility and oversight, as a SWI is approved by the Minister and has the legal effect given to it in regulations. It would also allow us to formalise the process for implementing New Zealand's conformity assessment mutual recognition agreements as they relate to health and safety. Mutual recognition agreements (MRAs) provide for recognition of testing, certification and inspections between countries or economies. New Zealand has existing MRAs with agreements with: - the European Union. The coverage of the agreement includes machinery (such as cranes) and pressure equipment. For health and safety requirements this is currently managed via an Approved Code of Practice (ACOP), and requires additional seismic testing for certain types of plant - Australia through the Trans-Tasman Mutual Recognition Arrangement - The United Kingdom, the timing of which coming into force depends on the arrangements for its exit from the European Union. As well as these existing agreements, we propose to allow for the regulator to add conformity assessments from jurisdictions that are not subject to a MRA, subject to appropriate process.
Working at heights	Whether we should include a **2m or 0m threshold** for mandatory hierarchy of controls for constructions heights work - We did not get a consensus on this in submissions, so we wanted to get more information from stakeholders.	We met with Scaffolding, Rigging and Access NZ (SARNZ), Construction Health and Safety New Zealand (CHASNZ), SiteSafe, and other construction sector groups and companies to discuss the proposals concerning work at heights and scaffolding There was no clear consensus for creating a 2m threshold in the regulations. Industry were of the view that all risks of falls from height need to be managed and a 2m threshold would make the obligation less clear.	**We recommend regulations do not contain a threshold at which the hierarchy of controls for work at height in construction work apply**. Instead, guidance on what is reasonably practicable will be able to indicate how the hierarchy of controls applies at lower working heights.
	Describing circumstances where it is acceptable to work from a **ladder**	There was clear support for regulations containing a provision which describes the circumstances in which construction work may be conducted from a ladder.	**We recommend regulations contain a provision, lists criteria for determining situations where work may be undertaken from a ladder** (as distinct from using ladders to move from one level to another). This provision would be in addition to the hierarchy of controls for work at height in construction work. This is consistent with ILO guidance and other jurisdictions, and its absence in the Australian Model Regulations was felt to be a deficiency.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	Supplementary competency **scaffolding requirements,** including: - Licensing of PCBUs that install scaffolding in other workplaces	There were limited submissions on the question regarding licensing scaffolding businesses, in addition to requiring licensed scaffolders (workers). Discussions with the sector showed support for increased emphasis on the adequacy of componentry and safe methods of work. This would be at the cost of auditing and registration costs and potentially reduced competition in the market.	**Not recommended at this stage**. MBIE agree with the health and safety benefits of the proposal. Further work is required to determine impacts on competition in the sector, and whether it would undermine or support current worker competency arrangements, or high-risk work licensing.
	- Licensing of inspectors of scaffolds	Currently only scaffolding CoC holders may inspect scaffolds. Some construction firms referred to unnecessary costs of inspection by scaffolding companies. SARNZ and industry have proposed a lower-level inspection of scaffolding of different classes. This could be used by medium to larger construction firms or those in remote locations facing high costs of inspection currently.	**MBIE recommends the introduction of an inspection only qualification for scaffolds** that may be constructed by "elementary" or "intermediate" scaffolders (ie not "advanced" or where an engineer reviews the design)
	- Requiring review of designs by engineer	Industry describe a range of situations where a CPEng or other engineering expertise is required to design scaffolding. These are varied and may include height of structures, wind loadings, loads supported or other factors. Listing the factors where engineering expertise is required was considered too complex for the regulations, and could result in unnecessary compliance or omissions.	**MBIE recommend the inclusion of a general provision requiring engineering involvement where necessary**. Further work can be completed during drafting to determine if the circumstances are better specified by Safe Work Instrument or WorkSafe guidance.
	- Retaining current 5m threshold	There was very clear support for keeping the current threshold of 5m for notification to WorkSafe, and for requiring a certificated scaffolder. There was also clear support for removing the difference in the way the two are worded, to achieve consistency. The view was that the 5m should be the height of the working platform that the scaffold is supporting or providing fall protection to.	**MBIE recommend retaining the existing threshold of 5m and recommend drafting refer to the height of the working platform that the scaffold is supporting or providing fall protection to**. This will include "falsework" and other supporting equipment only to the extent that it is supporting workers, not structural components.
	Requiring **registration of designs of scaffolding systems**, versus individual components, including transitional provisions for scaffolding providers - Manufacturers and others advised that it was not practical to require registration of individual items of scaffolding componentry, but that scaffolding systems may be independently design verified to ensure that key safety and structural aspects are fit for purpose. We wanted to check with the scaffolding sector and construction sector more broadly that this was workable and would achieve the desired results.	There was a good level of support in submissions for design registration of scaffolding systems. We discussed with stakeholders whether registering the designs of scaffolding systems, as distinct from individual components, would provide sufficient assurance of quality and fitness for purpose. Stakeholders supported registration of systems alone, but suggested further regulatory controls on manufacturing of componentry to ensure quality. They suggested that the scaffolding industry would be willing to see non-galvanised mild steel ("black steel") tubing and fittings phased out in the short-term (2-5 years). This would be consistent with a transitional provision for introducing a registration requirement, but other equipment would need to be phased out over a longer period consistent with its expected service life. There was support for requiring registration of certain proprietary construction support systems ("Acrow" props etc.).	**MBIE recommend that scaffolding and construction support systems (as distinct from individual components) are included in the schedule of "high-risk plant" requiring design registration**. MBIE do not recommend further controls on manufacturing/quality as applies to high-risk plant such as pressure equipment and cranes requiring item registration. Our view is the proposed upstream duties for suppliers, manufacturers etc. of scaffolding componentry etc. will provide a sufficient level of assurance for businesses.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	Whether to exclude **electrical lines maintenance work and cleaning** from definition of *construction work* - Window cleaning and building washing work is usually performed using work positioning systems which are not practical for construction or more substantial building maintenance work. Electrical lines work is similar and has its own well developed work positioning systems. - We wanted to check with the construction industry whether excluding both types of work from the definition of "construction work" would have unintended consequences.	Submitters noted that the hierarchy of controls proposed for construction work had less application for window cleaning and related work which makes use of work positioning systems (eg abseiling) in the first instance. The same point was made for electrical lines work, where the work is specialised and involves only the one class of worker completing a narrow range of tasks. Industry support the removal of "cleaning" and "electrical lines maintenance work" but are concerned that any exclusion from the definition of "construction work" doesn't exclude more extensive maintenance or construction work on buildings or electrical infrastructure.	**MBIE recommends that the definition of "construction work" exclude cleaning and electrical line maintenance work**, subject to drafting ensuring the exclusion is clearly bounded. We accept industry's views that these activities involve their own distinct practices for working at height and that there is guidance available. Requiring the hierarchy of controls for work at heights is inconsistent with the policy rationale for the proposal and would potentially lead to confusion for the respective industries. The Prescribed Risk Management process will apply to each class of work and there is a comparable situation with forestry pruning and other work which is not included. The planned review of the licensing of high-risk work, will include both these classes of work.
Excavations	Who should hold a **duty to check for underground services**, and what form a duty for checking for underground services should take - Underground services, particularly electrical cables, present a risk to those who may need to do excavation work - We consulted on who should hold a duty to identify the services, but did not receive consensus through submissions. We met with stakeholders to understand their existing practice, and the impacts on their activity from any new regulations	Stakeholders indicated that the current practice with excavation work is that the PCBU with management or control of the workplace carries out a check for services through a combination of looking at plans, using third party sources of plans (e.g. the beforeUdig process) and with the use of scanning devices. Submitters in the meetings thought MBIE should ensure that any regulations maintain the existing good practice, and are consistent with the existing guidance, such as the WorkSafe good practice guide. Any regulations should continue the operational practice of a person on-site checking for services. Some stakeholders thought we should introduce a complementary duty for utility asset owners. Others noted there are existing requirements in place for these utility providers through the Utilities Access Act, which is implemented through the National Code of Practice for Utility Operators' Access to Transport Corridors (the Code). The experience of stakeholders was that practice in complying with the Code is inconsistent, and that all plans have some level of inaccuracy, owing to changes to the ground through subsequent roadworks, and a lack of locator indicators on some legacy excavation installations. In practice, relying on plans alone does not provide sufficient clarity and operators need to check for services on site. There are concerns about legacy underground services, which are hard to identify.	**MBIE recommends that we introduce an explicit duty on the PCBU with site control to do what is reasonably practicable to check for underground services and provide information to other PCBUs involved in the work.** This is similar to the Australian Model Regulation that was included in the discussion document. This would support existing good practice, without introducing undue burden or an alternative process with limited health and safety benefits. This should be general, rather than prescribing one of many commercial plan checking processes (such as beforeUdig) or particular tools used for identifying services. **MBIE does not recommend a requirement that utility asset owners must provide information on the location of underground services.** There are existing requirements in place through the Code for excavations in the road corridor, and a new series of requirements under the HSWA would create a risk of confusion between two overlapping regimes, and force undue burden on operators to comply with both. Our preferred option is to reinforce the existing requirements utility asset owners have under the Utilities Access Act, currently through the Code. We consider that if the code is followed more reliably then the number of underground service "strikes" will reduce and worker safety will improve. Drafting the regulation to reinforce the practices set out in the Code will achieve this.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
High risk plant	Application of **central registration requirements for** high-risk plant to certain classes of equipment/sectors: **operators of large scale "bespoke" pressure equipment in the energy and manufacturing sectors** - Although there was a good level of support for central registers for designs and items of high-risk plant, several operators of large scale plant objected to the central register as against current PECPR requirements which allow them maintain their own records, and/or use an inspection body. They said the central registers would breach intellectual property and commercial confidentiality requirements, would be expensive, and would not achieve improvements in safety. - We wanted to talk with them about current practices and what could be done to make records of equipment design verification and inspection more transparent to the regulator without imposing an undue compliance burden.	MBIE met with energy and large scale manufacturers to explore ways for them to maintain their own registers of large scale, "bespoke" pressure equipment, while allowing third party or regulator audits. Several of these operations are currently recognised to maintain their own inspection and design verification processes under PECPR regulations. Operators were concerned about design registration requirements in particular imposing unnecessary and expensive design work for existing legacy equipment. Some operators also suggested central registration of plant would not be sufficiently flexible to support the customised inspection cycles they are recognised to operate under current regulations. We discussed operator concerns about central registration of designs and items of plant potentially revealing intellectual property or commercially sensitive information. Some operators referred to new safety management and audit requirements under the Major Hazard Facility (MHF) Regulations 2016	**MBIE recommend the regulations allow operators of large scale bespoke pressure equipment systems** that: - operate under an approved safety case under the Major Hazard Facilities Regulations or - meet other audit and quality systems accreditation criteria contained in the regulations **to apply to WorkSafe to operate associated pressure equipment without central design registration or item of plant registration**, but with inspection personnel and inspection body accreditation, and all other requirements for high-risk plant under the regulations MBIE will also be working further with the sector to determine which installations of pressure equipment operators may apply to WorkSafe for recognition as inspection bodies (i.e. not independent) and to apply risk-based inspection cycles, and/or maintain their own design verification and inspection records, subject to independent audit and disclosure requirements to WorkSafe. We expect this could apply to lower tier major hazard facilities under those regulations, or other facilities determined by criteria contained in the proposed regulations.
	Application of central registration requirements for high-risk plant to certain classes of equipment/sectors: **steep slope harvesting equipment increasingly used in the forestry sector** - The forestry industry has developed its own inspection regime for these types of equipment, but the practice is at variance from that in other industries or for other classes of high-risk plant. We wanted to check with industry why there was this variation and whether it was acceptable to allow a lower standard of inspection and assessment for these types of equipment.	We met with key forestry sector stakeholders – the Forest Industry Safety Council (FISC), Forest Owners' Association, Forest Industry Contractors' Association, Farm Forestry Association – to discuss their concerns about requiring item registration of two types of plant increasingly for mechanised steep slope harvesting – winch assisted harvesting machinery, and logging haulers/yarders. The sector proposed a range of improvements to current voluntary inspection requirements for both classes of machinery. The proposals do not include independent design verification, involve limited assessment of fitness for purpose and risk based inspection regime, limited regulator involvement and access to records or notification requirements, and non conformities are not enforceable by WorkSafe. There is also limited consideration of alterations and type faults of plant which is not supportive of improvements to plant and processes. The sector questioned whether the limited proximity of workers to these types of plant warranted their inclusion as "high-risk" plant. Conversely, WorkSafe advise that there are increasing numbers of incidents involving the equipment, for which there is no notification requirement and which are often unreported and not evaluated effectively. Workers are often proximate to the equipment in use, and the risks to workers are comparable to those for cranes and other lifting equipment in the construction sector and elsewhere. The engineering sector is supportive of the equipment being covered by the regulations. We raised these concerns at the meeting, alongside the worker equity issues raised by other sectors and worker representatives in consultation, and also the recommendation of the 2014 Independent Forestry Safety Review that the sector is subject to more regulation of critical safety features. The sector raised similar objections to proposed requirements for excavators and other equipment not designed for lifting or carrying suspended loads, and responses from WorkSafe and engineers were similar.	**MBIE recommend that winch assisted harvesting machinery, and logging haulers/yarders are required to be registered as items of high-risk plant in all cases**. In addition, new plant would be subject to design registration. We consider that the voluntary system of inspection for these types of equipment that is proposed by the sector would benefit from the consistent and rigorous approaches required for other high risk plant, and that the risks are comparable. Design verification of plant is an important component of the process that is needed. There would be improved transparency of process and enforceability for the forestry inspectorate, more consistent reporting of incidents and faults. The October 2014 report of the Independent Forestry Safety Review recommended more regulation for the sector, and that it would improve worker equity and safety relative to other industries. We think the case is well made out with regard to these types of equipment. Confidentiality [redacted] We will be considering the potential for high-risk work licensing in connection with these types of equipment in the planned review.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	Classes of equipment where Australian state design registrations and/**or design verification from other jurisdictions should be recognised**, subject to review - We received mixed views on whether or not to accept design registrations from Australian registers, and suggestions that there are other jurisdictions where comprehensive design verification processes are in place and which should be acceptable here. - We wanted to talk with the engineering profession about the level of acceptance of overseas jurisdictions that was desirable, and how the regulations might allow for this.	We met with Engineering NZ, IANZ, CBIP and engineering professional groups to discuss processes of design verification and how best to consider seismic performance and other factors when presented with designs from overseas – including from the Australian state design registers. We discussed the things engineering professionals and the regulator need to consider when determining whether individual items of plant are fit for purpose and able to be registered and inspected as individual items of plant. For plant from overseas, designs should be registered by WorkSafe on the basis of overseas registration or an approved design verification process, so long as checks of seismic performance (where relevant) and other NZ specific requirements are completed. Where additional assessments are needed for item registration, these may be made on the basis of stated assumptions or key specifications available from the design registration. ***Legacy equipment*** There was agreement that engineers cannot be asked to certify legacy equipment for the sake of the register if they cannot complete a full design verification process. Where design verification is not able to be completed, with legacy equipment (ie pre 1996) individual items may be registered on the basis of earlier certification (eg M&I or Ministry of Transport) and/or an inspection body and competent person prescribing a risk-based inspection programme.	**MBIE recommend that certification of design verification personnel for different classes of equipment is completed by Engineering NZ as at present**. In addition that the regulations provide for WorkSafe to develop Safe Work Instruments specifying overseas design verification agencies/processes which are acceptable in lieu of design registration of different classes of plant in New Zealand. This will streamline processes for imported serially produced equipment requiring design registration before use in New Zealand, while maintaining international standards. **MBIE recommend that where a New Zealand design registration is not available as a prerequisite for registration of an item of plant, but a design verification or design registration is available from another country**, there is provision for seismic performance and other matters to be considered in addition to the design verification/registration, by a suitably qualified CPEng or other person, and who is employed by a WorkSafe recognised body from a list maintained by Engineering NZ for different classes of equipment. This responds to the request for more flexibility for engineers who are often presented with plant of overseas design and construction that requires assessment as a prerequisite to being inspected and issued with an inspection certificate for use in New Zealand.
	Whether to retain current **Model Engineering Association of NZ (MEANZ) inspection processes** as meeting requirements for registration as an amusement device - MEANZ members were in strong support of retaining existing club-led inspection processes, with MEANZ auditing to achieve standards. - We also heard from WorkSafe and local authorities that there were variable practices and standards amongst clubs and that MEANZ audits did not always detect these or drive improvements required. - We wanted to talk to MEANZ about how audit processes might be enhanced and how this might improve inspection and standards at the club level.	We met with MEANZ and the professional body, Recreational Engineering NZ, to learn more about existing inspection and audit processes used by MEANZ to certify affiliated model engineering clubs a prerequisite to registering each facility as an amusement device under current regulations. MEANZ described well documented and instituted processes, but with some variation in practice and conformity among different clubs. They described model engineering as a distinct activity with individual members owning much of the equipment and operating in shared facilities that need consistency of standards and practices to maintain safety.	**MBIE recommend that the current MEANZ certification process remain, but that MEANZ becomes an inspection body in terms of the regulations**. This would mean MEANZ's processes for auditing the inspection carried out by individual clubs and maintaining standards would be audited by IANZ as for other inspection bodies, but with emphasis on maintaining the standards of clubs that complete equipment and track inspections themselves. We agree with WorkSafe, and there was some acceptance from MEANZ, that there were variable standards of inspection Confidentiality Auditing will provide an independent measure of standards and encourage continuous improvement by MEANZ and affiliated clubs. We consider the MEANZ certification process to be appropriate because of the club nature of activities, and the private ownership and operation of machinery. The inclusion of model engineering as "high-risk plant" and amusement devices is also appropriate, as most clubs are "voluntary associations" and do not have the duties of a PCBU under the HSWA. No other licensing or regulation applies to the activity, other than controls under the RMA or Building Act, and removal from the regulations would therefore be a significant omission in terms of public safety and accountabilities.

Topic	Issue	What submitters / stakeholders said	MBIE recommendation
	Replacing the current requirement for territorial authority **permitting of all amusement devices** with a requirement to permit only temporary installations and/or installations above a defined level of risk - Territorial authorities were agreed on current permitting fees being too low, but described varying inspection and permitting practices and standards. Some supported retaining permitting for higher risk amusements only, while others did not support any permitting. Operators of portable amusement devices were generally in support of permitting. - We wanted to talk about the desirable level of involvement by authorities and how the regulations might be streamlined to assist their role and improve practices.	We met with territorial authorities involved in permitting amusement devices, operators, and engineering professionals to clarify the role of the authorities in permitting, refine coverage and develop proposals for improving operator training and amusement device inspection. Authorities and operators were agreed that Building Act and RMA provisions mean permitting of permanent amusement device installations is no longer necessary. Territorial authorities do not see public safety being undermined by lower-risk amusement devices operating without a permit, but are concerned to retain inspection of larger scale higher risk amusement devices. They would like to streamline and clarify inspection processes associated with the permitting of devices, while limiting them to matters currently covered. They are seeking clarification of legal expectations and standards for aspects such as geotechnical matters. Fees are accepted by all as out of date and artificially low.	**MBIE recommend that territorial authorities continue to permit temporary amusement devices determined to be risk level 3 and above only (as assessed on a scale of 1-5 by a CPEng under section 2.1 of AS 3533:2009).** **MBIE recommend that the regulations include a provision for making Safe Work Instruments to clarify geotechnical requirements, clarify risk levels for different classes of equipment and other matters relating to the obligations of territorial authorities under the regulations**. The existing permitting requirements predate the Resource Management Act and the Building Act consenting requirements, and the development of most permanent amusements. Territorial authorities were agreed that they did not need to inspect lower risk amusements, also that numerous shows and events were held on land they owned or administered. Operators of rides said that they welcomed the quality and safety checks that permitting provided. We consider this to be a workable balance between risks to the public and the costs and risks to territorial authorities in permitting amusements. The SWI provision will allow WorkSafe to provide clarification to avoid the situations resulting from uncertainty in the regulations that authorities described to us.