

DEPT. MINES,
INDUSTRY REGULATION
& SAFETY

19 DEC 2019

CORPORATE
INFORMATION

THINK BRICK
AUSTRALIA

CMAA
CONCRETE MASONRY
ASSOCIATION OF AUSTRALIA



A30248610

5 Dec 2019

Department of Mines, Industry Regulation and Safety
Government of Western Australia
WorkSafe WA
EAST PERTH WA 6892
e-mail: WHSreform@dmirs.wa.gov.au

SCANNED

19 DEC 2019

Dear Madam/Sir,

WS 1036/2019
Anj Sasi

Model Work, Health and Safety (WHS) Act adoption in Western Australia

Think Brick Australia (TBA) and the Concrete Masonry Association of Australia (CMAA), the peak industry bodies representing the clay brick, concrete masonry, and concrete and clay paver manufacturers of Australia. As a way of background, in Australia the clay brick, concrete block and masonry paving industry generate \$5.3 billion in revenue, contributes more than \$3.6 billion to the Australian economy and employs more than 36,000 people.

TBA and CMAA would like to take this opportunity to make a submission in response to the 'Consultation Package' released by the Department of Mines, Industry Regulation and Safety to develop regulations in support of the anticipated adoption of the *Model Work, Health and Safety Act in Western Australia*.

While we welcome the consultative process and are supportive of a fair, equally stringent regulation among Australia to maintain the work, health and safety of workers, it is also critical that any arrangements are appropriate and practical, reflect and give due consideration to the circumstances applying in different jurisdictions.

Safety is of paramount importance in the residential building industry and the TBA and CMAA have been very proactive in the safety domain hosting a series of Industry Safety Forums and enacting practical measures such as drafting industry safety fact sheets and checklists to provide guidance to industry participants on workplace health and safety matters. In our view, any regulatory approach to work, health and safety should be based on the following four key principles:

- Compliance should take a pragmatic approach;
- Industry participants should have the capacity to comply and be steered towards practical safety solutions for achieving compliance;
- Enforcement of the laws should be fair; and
- Liability should be based on "actual" control. The notion and application of the 'PCBU (person conducting a business or undertaking)' under the model work, health and safety laws diverges from this approach.

T +612 8448 5500

PO Box 275, St Leonards
NSW 1590 Australia

Suite 7.01, Level 7, 154 Pacific Highway
St Leonards NSW 2065 Australia

thinkbrick.com.au | info@thinkbrick.com.au
ABN 30 003 873 309

cmaa.com.au | info@cmaa.com.au
ABN 33 065 618 840

Any reforms or changes to the laws must foster positive reform and deliver health and safety improvements. Nevertheless, we are concerned that the outcome arising out of Western Australia adopting the harmonised WHS legislative and regulatory framework to the residential building industry will be adverse – **particularly due to the unique profile of double brick residential construction methods used in Western Australia, which are distinct from those used elsewhere in the country.**

TBA and CMAA like to express concern that the new framework will impose unnecessary additional cost, red tape and regulation, especially the model WHS falls provisions and the subsequent hierarchies of control contained in the *model WHS Act*. **Adoption of this in Western Australia will require the use of physical fall prevention measures at any height, which is clearly impractical and will substantially increase the cost of housing, particularly for single storey homes.**

This proposed requirement contradicts OSH regulation 3.55, which requires edge protection to be provided only when work is conducted from a scaffold, fixed stair, landing, suspended slab, formwork and falsework from which there is a risk of falling greater than 2 metres. For all other edges from which there is a risk of falling greater than 3 metres, edge protection or a “fall injury prevention system” is required.

Moreover, if the proposals are adopted, a significant amount of uncertainty will be created over what type of control measures should be used for low risk height issues. **Simply adopting these regulations can place the Western Australian residential market in a disadvantaged position compared to other states – due to the predominance of double brick construction in Western Australia, many cost-effective single-storey scaffolding approaches such as “bracket scaffolding” that are primarily utilised in other states, which could be easily attached to brick veneer system, do not represent a viable option in Western Australia. As a result, these proposed regulations could potentially see all single storey homes constructed using scaffolding incur a cost that would exceed \$6,000 per house and could be up to \$12,000^[1].**

Given the issues and concerns outlined in this submission, TBA and CMAA recommend the Department of Mines, Industry Regulation and Safety keep the status quo or at a minimum place restriction for scaffolding’s use in single storey domestic construction.

Flexibility should be inherent in any proposed legislation and regulations to accommodate the unique Western Australian residential construction landscape. The masonry industry recommends the Western Australian Government take the above concerns into consideration while making the final decision on the adoption of the model WHS Act, otherwise there will be serious cost and compliance burdens placed on small businesses.

I hope the issues raised in this submission will contribute to the development of practical yet effective arrangements that will address work, health and safety issues. While the overall goal of achieving harmonisation is important, regional and sectoral differences must be

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cmaa.com.au | info@cmaa.com.au
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acknowledged and reflected as is clearly the case for Western Australia with its unique double brick construction aspect.

If you have any queries regarding this submission, please do not hesitate to contact me on

[REDACTED]

Yours sincerely,

[REDACTED]

Elizabeth McIntyre
Chief Executive Officer

Reference:

[1] Housing Industry Association, 26 November 2019, Submissions in Response to Work Health and Safety Regulations Package, Australia.