

## **Submission on Model Work Health and Safety Regulations and Model Codes of Practice**

The Shire of Capel is a Local Government organisation based in Capel, Western Australia. The Shire of Capel covers approximately 554 square kilometres, and takes in the town sites of Capel and Boyanup, the beachside estates of Dalyellup and Peppermint Grove Beach, and the semi-rural settlements of Gelorup and Stratham. Activities performed by Shire of Capel employees include maintenance of parks and gardens, playgrounds, Shire buildings and facilities, and roads, as well as planning and overseeing the development of communities, buildings and public facilities. Three libraries are operated by the Shire of Capel, and a Home and Community Care service is also provided, shared with the Shire of Dardanup.

This submission has been prepared in response to a request for submissions on the Model Work Health and Safety Regulations and Model Codes of Practice. We aim to provide general comments on how the implementation of the model WHS Regulations will assist or affect our organisation, and also provide comments on any wider community benefits or costs that may arise. We have also provided comment on the model definitions, as the definition of a volunteer as a **worker** (as per the Model Work Health and Safety Bill 23/06/2011), has some implications for our organisation.

### **Comments on Model Work Health and Safety Regulations**

#### Asbestos: air monitoring and clearance (Regs. 473-75, 477(6), 495)

Delays in removing the asbestos from public areas are likely to be caused if a licensed asbestos assessor must provide a clearance certificate and conduct air monitoring before and during removal. Currently air monitoring results take approximately one week to be returned after testing, meaning that if asbestos is illegally dumped, or a building is being demolished which contains unidentified asbestos, it could potentially stay in a public area and risk public health while waiting for results.

A solution would be to have a licensed asbestos assessor on staff, but this would require training and significant skills upgrades for at least one employee. If this training is to involve a tertiary qualification, as the new regulations state, this could cost up to \$3,000.00, plus costs of equipment and testing – otherwise outsourcing to a contractor, raising the issues of cost and service availability in a regional area.

Another concern is due to increased compliance requirements and potential delays in getting licensed asbestos assessors to regional areas such as Capel, illegal dumping of asbestos may increase. This would result in significant financial cost, as the Shire is then responsible for removing it.

#### Asbestos: training (Regs. 460, 493, 495)

If there is no training course currently in WA this could create long delays in getting personnel trained to the relevant standard, or significant cost if they are required to train in another State or Territory. There are likely to be time delays and extra costs involved if asbestos removal is not able to take place until the training courses are set up and relevant personnel are trained.

#### Construction projects: appointment of a principal contractor (Reg. 292)

This will not directly impact our organisation as we already require the appointment of a main contractor and the preparation of occupational health and safety management plans, regardless of the job size or cost.

However, we have concerns that this proposed regulation is detrimental to general health and safety at the workplace. If a 'construction project', requiring the appointment of a principal contractor and preparation of a Work Health and Safety Management Plan, is defined as a project costing \$250,000.00 or more, employers may split the task into two or more projects to avoid these requirements to the detriment of workplace safety and health. As there is no provision for how the construction work costs are calculated, a basic task in remote WA could easily cost \$250,000.00 but only require two workers, whereas a city project could cost much less and require at least five workers, which under current legislation would require the 'main contractor' to ensure an occupational safety and health management plan is prepared and kept up to date.

#### Hazardous chemicals: risk assessment and record keeping

There is a potential increase in efficiency for our organisation, as Risk Assessment Reports can be done as required, rather than as a requirement for every hazardous chemical used in the workplace. All chemicals used in the workplace have an MSDS which adequately outlines safe handling and storage.

#### Health monitoring: reports to the regulator (Reg. 376)

It is in the best interests of the employee that they should be entitled to a copy of the health monitoring report, as in current WA legislation. There does not appear to be a provision for this in the Model WHS Regulations.

#### High risk work licences (HRWL) – Dogging and "slinging techniques"

Currently employees do not have to exercise judgement regarding the method of lifting an item if all items lifted with machinery have lifting points, and therefore do not require a HRWL. However, the new legislation would require them to have a HRWL, as they need to exercise judgement in relation to the suitability and condition of the lifting equipment. There would be increased costs due to administration and training and licensing fees. However, we feel that the financial costs would not be significant, and that any safety education and training, and further skill development, will help to improve health and safety in the workplace.

#### Incident notification: prescribed serious illnesses (Reg.699(a))

With our Rangers working with animals and our Health Services team working in mosquito borne disease prevention, the new regulations would be an improvement in how illnesses/infections in the workforce are monitored. Currently only a limited number of prescribed diseases are reportable to the WorkSafe WA Commissioner.

#### Noise: audiometric testing (Reg. 58)

There would be an increased cost to the Shire of Capel for audiometric testing. There would be a large one-off cost to test all employees regularly required to wear hearing protection, but then costs would be fairly insignificant, as each employee would be tested at the start of employment and then every two years thereafter.

There may be an initial spike in workers' compensation claims if employees receive poor audiometric results. However, there would be long term benefits in testing the hearing of employees and this may help prevent hearing loss and workers compensation claims by allowing us to monitor and manage hearing loss in the early stages, as well as identify areas of noise exposure.

#### Personal protective clothing and equipment (PPE) (Regs. 36, 44)

This will not affect our organisation, as we would continue to provide employees with Personal Protective equipment which meets Australian and Australian and New Zealand standards.

We do have concerns that this is detrimental to health and safety in the workplace. No part of the new legislation states that PPE must be in compliance with Australian or Australian and New Zealand Standards. This is a reduction in the current requirements and puts the health and safety of employees at greater risk. PPE must be of the highest quality and must conform to Australian or Australian and New Zealand standards. Not having this legislated means that many employers and self employed persons will tend to use cheaper, substandard products. A concern with using PPE that is not of a recognised standard is that it can be years before any health problems occur, this is especially so with regards to any pulmonary or hearing difficulties as they may take some years to become apparent.

#### Plant: item of plant registration – renewals (Regs. 272, 273)

This would increase financial cost of registrations, but no likely workplace health and safety benefit to the Shire of Capel. Under new legislation, "prescribed" items of plant will need to be registered and renewed every 5 years. "Prescribed" items are not identified, so it is difficult to assess the cost when the model regulations do not specify this. Associated with this are likely increased administration costs, increased costs of registration and renewals. Currently the WA legislation requires certain prescribed plant registrations be renewed only

when there is a change of ownership, it is relocated or altered. This begs the question – what is the point of registrations to be renewed every 5 years, is this a revenue-raising activity for Safe Work Australia or the body responsible for the registrations?

#### Thermal comfort

This will not affect our organisation, as we would continue to provide employees with comfortable working environments, as far as is practicable.

There is some concern that this would lower workplace health and safety standards for working environments generally, as no prescription is given for this in the new legislation.

### **Comment on definitions in the Model Work Health and Safety Act**

#### Definition of 'volunteer' as a **worker** under the Model Work Health and Safety Act (23/06/2011)

The Shire of Capel relies on volunteers as an integral link to fostering communities through our libraries, Home and Community Care services, community development programs and volunteer Bushfire Brigade. Volunteers may work on a regular weekly basis, or as little as 40 hours per annum. If volunteers are to be classified as 'workers', this may result in the requirement for the same training to be delivered to volunteers as employees. Volunteers may also need to undergo medical and suitability screening before starting volunteer work, which will have a significant increase in administration and administration costs. The combination of these factors could well result in a decline in volunteers, as they often do not wish to give more of their own time to meet these requirements. Declining volunteers will decrease the services that the Shire is able to provide, and will result in significant financial cost where a person/s must be employed to continue to provide these services, and erode community participation. Therefore we see that this change would negatively impact community volunteering.