



Robin Scott MP

Minister for Finance
Minister for Multicultural Affairs

1 Macarthur Street
Melbourne Victoria 3002



28 SEP 2016

Coroner Jamieson
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3000

Dear Coroner Jamieson

Thank you for your letter dated 24 June 2016 regarding your investigation into the death of Thomas Kelly, enclosing the Finding without Inquest including your recommendations.

Your Honour has recommended amendments to sections 27, 29 and 30 of the *Occupational Health and Safety Act 2004* (the Act) to specifically require appropriate staffing, or the availability of a spotter. I note that these recommendations were also made in Your Honour's previous investigation into the death of Gregory Andrews.

I continue to share your desire to ensure that occupational health and safety laws are as effective as possible in preventing death and injury, and ensuring that Victorian workers return home safe every day.

WorkSafe Victoria (WorkSafe) has advised that a spotter is a defined role within the industry which applies specifically when working in close proximity to power lines. A spotter is not permitted to perform any other function while engaged as a spotter. In this instance the truck and concrete boom had not been set up in accordance with the manufacturer's manual, and the correct inspections had not been undertaken including the marking of a safety observer zone.

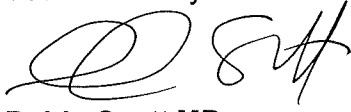
In light of this it is uncertain whether another person spotting would have prevented this tragic incident. I am also advised the specificity of regulating for appropriate staffing would not be in character with the general duties imposed on designers, manufacturers and suppliers of plant, which is defined very broadly in the Act.

WorkSafe has advised that the industry standard on concrete pumping issued in April 2004 provides guidance to concrete pump and boom operators and states that the operator of concrete pumping equipment should be trained and not leave operating equipment unattended. The operator is required to be located at the pump controls or, if using a remote control, have a clear view of either the hose-hand or the hopper.

WorkSafe will review this industry standard as part of the implementation activity for the proposed Occupational Health and Safety Regulations in 2017. I have also been advised that WorkSafe will produce and disseminate a letter to industry associations to reinforce safe industry practice regarding the operation of concrete pumping trucks.

Thank you for bringing this important matter to my attention.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Scott', written in a cursive style.

Robin Scott MP
Minister for Finance