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Anna Pejnovic
Coroner's Registrar
Coroners Court of Victoria
65 Kavanagh Street
Southbank VIC 3006

Coroners Court Ref: 2016 005097

By email: cpuresponses@coronerscourt.vic.gov.au

Dear Ms Pejnovic

Finding without inquest into the death of Ivica Andrijasevic

7. I refer to the findings and recommendations made by Coroner Jamieson in relation to the above fatality, received by WorkSafe Victoria (WorkSafe) on 19 May 2022, and to WorkSafe's previous letter in response dated 12 July 2022.
8. In this letter, WorkSafe indicated the need for additional time to provide a response to Her Honour's recommendations, given proper consideration of the recommendations required WorkSafe to consult with its internal and external stakeholders. This consultation has now taken place and the responses contained in this letter are informed by the stakeholder views expressed through the consultation process.
9. WorkSafe's response to Coroner Jamieson's recommendations regarding amendment of the of the WorkSafe publication, *Industry Standard for the Safe Use of Elevating Work Platforms*, published April 2021 (the Standard) is set out below.

Recommendation one

Revise Part 6 of the Standard to mandate pre-start operational checks of Mobile Elevating Work Platforms (MEWPs).

10. As a statutory authority, WorkSafe does not have jurisdiction to mandate actions in the Standard which are not mandated in the *Occupational Health and Safety Act 2004* (the Act) or the *Occupational Health and Safety Regulations 2017* (the Regulations). At present, pre-start operational checks of MEWPs are not mandated in the Regulation.
11. Consideration has been given to amending the Regulations to require pre-start operational checks, however it was ultimately determined that this type of prescriptive measure may, over time, result in the enforcement of risk control measures which fall below standard industry

practice. The Regulations are drafted to be performance-based, rather than prescriptive, to enable the selection and application of the most effective risk controls a duty holder has the capacity to implement having regard to a number of factors, including those set out at section 20(2) of the OHS Act. This approach also allows the means of compliance WorkSafe may enforce to evolve as industry practice develops and improves. It is WorkSafe's experience that prescribing specific risk control measures often leads to ineffective regulation of risk, as there is unavoidable lag time between changes in industry practice and review and revision of legislation and legislative instruments. WorkSafe acknowledges that at present pre-start operational checks will often be a reasonably practicable control measure and for this reason it has strengthened the language in the Standard about undertaking these checks, as set out below. However, WorkSafe is also aware of developments in the design of MEWPs which may ultimately make pre-start operational checks redundant.

12. In response to the Her Honour's recommendation WorkSafe has decided to include stronger language regarding pre-start operational checks in the Standard. This involves amending the following sentence at the end of the first column on page 64 as indicated in red:

'This may be achieved by adhering to the inspection and maintenance recommendations supplied by the manufacturer or by adhering to AS 2550.10 – Cranes, hoists and winches – Safe use – Mobile elevating work platforms, where inspections, such as pre-operational inspections are required by this standard.'

13. And the following sentence at the end of the second column on page 64:

'In accordance with the duties under the OHS Act and Regulations (see section 1.1), duty holders must have systems in place. Such systems need to ensure that regular inspections (including pre-operational inspections) are undertaken to monitor any risks associated with the use of the EWP.'

Recommendation Two

Review Part 6 of the Industry Standard for the Safe Use of Elevating Work Platforms to consider which elements of the MEWP inspection should be undertaken more regularly than only before the start of each shift or first daily use. The evidence in this matter supports a view that the testing of directional switch controls should occur throughout the day whenever there is a new incident or episode of MEWP operation.

14. WorkSafe will amend (as indicated in red) the following sentence at the top of the second column of page 64 of the Standard to read:

'At the start of each shift, before first daily use or when there is a change of operator, the EWP operator needs to.'

15. The list of bullet points underneath this sentence in the Standard refer to the various inspections and tests which need to be carried out including 'inspect (check) the EWP for any defects', 'test the functions', 'test the safety devices and interlock controls'.

Recommendation Three

Review Part 6 of the Industry Standard for the Safe Use of Elevating Work Platforms to consider the role of the supervisor in the inspection process. At present, the inspection process described in the Industry Standard addresses only the MEWP operator's role, and the example of a pre-operational inspection checklist does not include any supervisor input. The Victorian WorkCover Authority must consider the need for supervisors to countersign logbook entries completed by operators, and the need for supervisors to conduct weekly audits of logbooks to ensure the maintenance of complete and accurate.

16. Two key concerns were raised with WorkSafe in relation to this recommendation during the consultation process. Firstly, it was advised that supervisors on building sites may not have the expertise to understand the technical aspects of MEWP inspections and logbook entries (many supervisors do not hold high risk work licences), given their role is to co-ordinate the work taking place on site, rather than operate equipment. Secondly, on large construction projects, there may be significant numbers of MEWPS and not only would it be impractical for all of the corresponding documentation to be checked by the supervisor, but it would also take the supervisor away from their main job of co-ordinating the various tasks and broader safety functions on site and hence may actually undermine safety.
17. On the basis of this feedback, WorkSafe formed the view that other measures, in particular the frequency of operator inspections, would have a greater positive impact on health and safety outcomes.

Recommendation Four

Review Part 2.1 of the Industry Standard for the Safe Use of Elevating Work Platforms to consider recommendations about ongoing training and the regular reinforcement of safety messages.

18. WorkSafe will include the following sentence at the end of page 13 of the Standard.

'Information should be shared regularly (e.g. daily safety meetings/ toolbox talks) about the hazards and risks associated with using EWPs, how to safely operate the EWPs, and the importance of carrying out pre-operational inspections prior to use (see Part 6 for more information on Inspections).'

19. If you require any further information, please do not hesitate to contact Coronial Lawyer, Alexis Hurwitz, on 4243 7223 or coronerscourt@worksafe.vic.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Narelle Beer', with a small blue dot below the end of the signature.

Narelle Beer
Executive Director, Health and Safety
WorkSafe Victoria

Dated: 08/09/2022