



**MASTER BUILDERS**  
AUSTRALIA

# Submission to Safe Work Australia

10 March 2026



## Introduction

Master Builders Australia Ltd ('Master Builders') takes this opportunity to provide its response to the Improving the safety of earthmoving machinery used for lifting operations – Discussion Paper ('Discussion Paper'). We confirm the agreed extension of time for submission of our response to 10 March 2026.

The Discussion Paper has sought comments and feedback on options to improve the safety of earthmoving machinery used for lifting operations, such as excavators, backhoes and front-end loaders, which are commonly used in the construction industry to lift, lower and move items or loads. It has also sought to explore both the regulatory and non-regulatory options aimed at ensuring that the use of this equipment is carried out safely and in accordance with the intent of the model WHS legislation.

It is understood that feedback received will be used to inform advice to Safe Work Australia Members as well as advice provided to WHS Ministers.

Master Builders overarching position is that the work, health and safety (WHS) legislation should always aim to improve safety outcomes, while balancing the need to limit administrative and cost burden upon businesses. Policy and regulatory settings must be practical, balanced and sensible and it is essential that there is practical, audience-focused guidance made available to ensure that the regulatory obligations are clear and are able to be met.

## Background – who are we?

Master Builders is the nation's peak building and construction industry association, which was federated on a national basis in 1890. Master Builders' Members are the Master Builder State and Territory Associations. Over 130 years, the Master Builders network has grown to more than 32,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association representing all three sectors: residential, commercial, and civil construction. For noting, the membership contingent is made up predominantly of small and medium-sized enterprises.

Master Builders' vision is for a profitable and sustainable building and construction industry. Master Builders appreciates the opportunity to provide feedback on matters that are relevant to our industry for the purposes of ensuring suitability and sustainability of practices but to also hold fast to our vision for the industry.

A balanced, sensible and practical WHS framework (amongst others such as industrial relations) is critical and ultimately underpins a competitive, modern and productive economy. A solid framework, that is also considerate of meeting safety objectives without imposing unnecessary costs and regulatory burden on the industry is fundamental to the growth of the building and construction industry, increased job opportunities and in turn a thriving economy.

Master Builders supports policies that promote safer and more productive workplaces but also encourages the Government through consultations processes like this, to consider the broader consequences of legislative and regulatory changes. Master Builders acknowledges the importance of the work currently being undertaken and has responded to the questions contained in the Discussion Paper below.

Master Builders would welcome further discussions with Safe Work Australia (SWA) on matters contained in this response, if required.

## Summary of Recommendations

- ▶ Master Builders recommends that the status quo, currently provided by Option 1, be maintained.
- ▶ Master Builders strongly supports the development of clear and concise industry-specific information being made available for the building and construction industry engaging in lifting operations using earthmoving machinery, such as backhoes, excavators and front-end loaders.
- ▶ Master Builders opposes the introduction of high-risk work (HRW) licences for earthmoving machinery generally.
- ▶ Master Builders opposes the requirement for mandatory training unless it is specified for lifting operations for earthmoving machinery.

## General Feedback

The Discussion Paper contains four (4) options for improving the safety of using earthmoving machinery in lifting operations in the workplace.

For the reasons set out below, Master Builders has only considered matters relevant to the building and construction industry in response to the abovementioned options. Overall, Master Builders does not support the proposed Options 2, 3 and 4, as presented and suggests that the status quo – which is provided in Option 1 be maintained.

A cautious approach must be taken when considering changes to the model WHS laws. Where there is to be consideration given to the introduction of mandatory training and/or a high-risk work licence to operate earthmoving machinery, these matters must be carefully considered to prevent unintended consequences for the industry, particularly for those currently involved in this type of work or who might potentially engage in such operations in the future.

Careful consideration must also be given to additional costs and regulatory burdens that might intentionally (or unintentionally) impact on an already heavily regulated and stressed industry.

Over the past decade, no industry has performed worse than construction when it comes to productivity. The effects of this have been grim: ever deteriorating housing affordability, insufficient volumes of new home building and delays in the delivery of new homes. The poor performance of construction productivity means that it costs more to create the vital infrastructure that we need. As a result, government capital and infrastructure budgets don't stretch as far. One of the most problematic aspects of weak construction productivity is the way it infects other parts of the economy and erodes the buying power of families' pay packets. Regulations also act as one of the biggest drains on productivity in the construction industry.

Master Builders recommends that in the first instance, an understanding of the existing regulatory framework and obligations imposed on the person conducting a business or undertaking (PCBUs) and a review of whether these obligations are clearly understood must be the priority. Based on member feedback in response to this review, it is clear that this is not the case and consequently, further work must be done to confirm and clarify the PCBUs obligations in this space.

Master Builders emphasises that the role of SWA must be to focus on improving safety outcomes, where required, and, where relevant, generating materials and research that is practical, relevant and useful to industry participants. Consequently, it must stay true to this purpose for the benefit of improving safety rather than presenting ideological reform ideas without substantiation or consideration of the practical implications of such changes.

## Reasons for support of Option 1

Master Builders supports maintaining the status quo of Option 1 and emphasises the need for the development of clear and concise industry-specific information being made available for the building and construction industry engaging in lifting operations using earthmoving machinery, such as backhoes, excavators and front-end loaders.

### Existing obligations for a PCBU to identify and manage risks

The model WHS laws already place strong and enforceable obligations on a PCBU to identify and manage risks associated with powered mobile plant, which captures earthmoving machinery including:

- ▶ Ensuring that hazards are identified;
- ▶ Ensuring that risks are eliminated, or where that is not reasonably practicable – minimised through the use of appropriate control measures;
- ▶ Implementing safe systems of work;
- ▶ Ensuring that plant is safe and appropriate for the task/s to be carried out,
- ▶ Ensuring that appropriate information, training, instruction and supervision is provided to workers who operate and/or work around mobile plant;
- ▶ Complying with consultation requirements with workers other duty holders in relation to the tasks and the safe systems of work to be carried out;
- ▶ Ensuring that plant is only operated by competent persons with the necessary skills, knowledge and experience; and
- ▶ Ensuring that there is a mechanism for monitoring and reviewing the control measures to ensure they remain effective and the most suitable work the carrying out of the works.

It is broadly understood that the duties of the PCBU, when read in conjunction with guidance material that has been produced by SWA, is what Regulators rely upon to be able to determine what is reasonably practicable. This, however, must be taken a step further and dedicated guidance in relation to lifting operations undertaken by operators using earthmoving machinery must be developed.

It is important that operators, and others within the chain of responsibility, understand, and are able to comply with their duties to identify and manage the risks of such operations being undertaken.

Feedback from members indicated that the main issue relates to inconsistencies regarding the understanding and application of the *existing requirements* rather than an absence of regulation. There is already guidance available which provides some information about how to identify risks and how to implement control measures, however, there is no National industry-specific guidance tailored to lifting operations for earthmoving equipment.<sup>1</sup>

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<sup>1</sup> There is some state-specific information available, such as 'Excavators Used to Lift and Suspend Loads' produced in Victoria. National guidance is only available in 'Using other powered mobile plant as a crane' however this document is not specific to earthmoving machinery.

Master Builders strongly supports the development of clear and concise industry-specific information being made available for the building and construction industry engaging in lifting operations using earthmoving machinery, such as backhoes, excavators and front-end loaders.

This information must contain information that is suitable for the audience it is intended for and must assist with providing clarification on specific matters such as when lifting is/is not permitted, expectations for engineering controls, clarification and interaction of operator competency requirements and expectations and importance of use and understanding of manufacturer's instructions and relevant Australian Standards.

### **High risk work licences and cost benefits (or lack thereof)**

Master Builders does not support additional and unnecessary costs being imposed on industry where there is no direct benefit to the operator and/or where there is no correlation between training and incident reporting data. There is no current requirement for an operator of earthmoving machinery, such as an excavator, backhoe or front-end loader, to hold a high-risk work (HRW) licence and there has not been for quite some time. Master Builders submits that this position should be maintained.

It is also noted that there is insufficient evidence to support that HRW licences actually improve safety outcomes.

Cost impacts associated with the introduction of a license or additional mandatory training are not confined to slower productivity or increased time but add to labour costs. The costs of training, the time spent at training and the cost of the licence itself which is then multiplied over the number of workers who operate the earthmoving machinery and who might engage in a lifting operation as part of their work, but which might be a sporadic requirement all add up and are imposed on the PCBU.

It is also acknowledged that the use of dedicated lifting machines, such as cranes, and the requirement for qualified and licensed dogmen to carry out lifting operations would lead to unnecessary additional costs both from an operational and labour perspective, has the potential to increase safety risks with additional plant and personnel being present on site, which might also increase the time required to complete construction project (such as a civil project), which ultimately leads to increased costs for the end user without any significant increase to overall safety on the construction site.

### **Verification of Competency (VOC) v mandatory training and HRW licences**

From a practical perspective and in accordance with the current WHS framework, the operator of the earthmoving machinery must be deemed to be suitably competent and to have met the verification of competency (VOC) to operate the relevant earthmoving machinery. The VOC must be provided by a person who is suitably skilled and/or qualified to make that determination.

Similarly, the person operating the machinery must have a clear understanding of the operation and use of the machinery. This includes an understanding of the manufacturer's user guide, specifications and procedures, which also includes lifting capabilities and methods of appropriate use. These capabilities are very different to machines whose purpose is for lifting of suspended loads.

There is, however, further consideration that must be given to the extension of the usual operations or duties of the operator who may be required to undertake lifting operations, as discussed in the Discussion Paper. Should lifting operations be required as a part of the operator's tasks, these are likely discussed between the supervisor and the operator and should be considered by the supervisor if and/or when determining the VOC of the operator.

On this note, regardless of the timing of the VOC, it is also critical to determine where the lifting instructions are deriving from and how decisions are being made as to the process and lifting gear that is required to carry out the task. Based on member feedback, it is the supervisor who provides the direction and the lifting instructions to the operator unless it is deemed that the operator is competent in this regard. In any event, and on a strict interpretation of the WHS laws, it should be the supervisor providing the direction to the operator at all times to ensure that it is being done in consideration of the identified risks and implementing the appropriate risk mitigation strategies.

It is also important to note that supervisors need to be cognisant of the fact that lifting is very different to operating, and that lifting should not be the core function of the earthmoving machinery but part of a range of functions that it carries out.

As mentioned previously, lifting operations generally carried out with earthmoving machinery, whilst common, are simply as task that is undertaken to continue the progress of works on site and are generally undertaken in accordance with a direction received, which is also likely to describe the lifting gear and technique required to carry out the lifting operation.

This varies significantly from a specific lifting operation, which is generally undertaken by a qualified and licensed person such as a crane operator and a dogman. A dogman receives training on how to select appropriate lifting gear – such as chains, slings, etc., how to correctly calculate weights and select appropriate lifting techniques.

Upon review of the current licensing requirement, it is noted that this HRW licence, together with consideration of the mandatory training to obtain the HRW licence relates specifically to dogging operations that are typically performed with a crane of various lifting capacities are significantly different to lifting operations undertaken using earthmoving machinery. This training does not, nor should it, consider the use of earthmoving machinery in lifting operations.

### **Engineering controls**

Master Builders acknowledges that consideration must be given to engineering controls for the purposes of a wholistic review of the existing framework and whether amendments to the model laws are required.

Master Builders would oppose the imposition of additional engineering controls which might be prescribed in the model WHS laws, however, acknowledges that the introduction of controls such as burst protection or mechanisms that prevent a machine from operating when exceeding its lifting capability must be properly considered and supported with the appropriate evidence and/or data to support the requirement for such controls.

For the reasons outlined, Master Builders strongly encourages the development of clear, practical and industry-specific guidance material which is tailored for earthmoving machinery used for lifting operations.