CONSULT AUSTRALIA

Safety in Design Tool Kit

October 2012

ABOUT THE TOOL

This tool has been designed to provide general guidance for consultants requiring assistance in meeting their safety in design obligations. It will be particularly useful for those consultants who are faced with the potentially daunting transition to the national WHS laws, but require assistance in developing policies and procedures.

It is important that firms familiarise themselves with all relevant codes of practice. The codes apply to anyone who has a duty of care in the circumstances described in the code, including for example, designers, clients and owners. In most cases, following the approved code of practice will achieve compliance with the health and safety duties in the WHS Acts, in relation to the subject matter of the code. Like regulations, codes of practice deal with particular issues and do not cover all hazards or risks which may arise. The health and safety duties require duty holders to consider all risks associated with work, not only those for which regulations and codes of practice exist.

Codes of practice are admissible in court proceedings under the WHS Acts and Regulations. Courts may regard a code of practice as evidence of what is known about a hazard, risk or control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates. Compliance with the WHS Act and Regulations may be achieved by following another method, such as a technical or an industry standard, if it provides an equivalent or higher standard of work health and safety than the code.

It should be noted that safety in design requirements cannot be met with a simple checklist. Rather, there is a duty for consultants to envisage a wide range of possibilities that may not always be easily foreseen. For this reason, it is crucial that this tool be used as a guide only, and that specific policies and practices are tailored specific to the client, type of work and individual sites and projects that a consultant is working on.

Indeed, the safest outcomes will occur when this tool is used as a first step on the road to thinking about and addressing potential hazards and their consequences.

Supporting documents such as the client letter, hazard risk register template, or the safety report template provide useful support to consultants in meeting their legal requirements. However, the list of guidewords and risk matrix (for example) that will be used to generate the hazard risk register and final safety report will be most effective when it is developed by the designer and other stakeholders through a tailored approach.

WHS IN AUSTRALIA

Workplace health and safety laws in Australia have been evolving over the last couple of years from a patchwork of different regulatory environments, towards a national harmonised system of laws. Although this transition is still taking place, a clearer picture has emerged of the position each state/ territory jurisdiction will take, and what the relevant codes of practice will be.

At the time of release, NSW, QLD, ACT, NT and the Commonwealth had commenced the new harmonised laws, while Tasmania had passed the laws with a commencement date of 1 January 2013, the Western Australian Government has indicated they will pass the laws in the 2012/13 financial year, the legislation is still before the South Australian Parliament, and Victoria have indicated they will not be joining the national harmonised system. Members should ensure they are aware of the latest legislative developments.

The new national Code of Practice for the Safe Design of Structures has been finalised and is now subject to ratification by individual state/ territory regulators, while the Code of Practice for the Safe Design, Import, Manufacture and Supply of Plant is nearing finalisation by Safe Work Australia before requiring the same ratification process by the ministerial council and then individual regulators.

Consultants using this tool should familiarise themselves with the legislative and regulatory environment in which they are operating, as there will still be some differences between each jurisdiction.

TRANSITIONAL ARRANGEMENTS

Transitional arrangements under the model Work Health and Safety Act and model Work Health and Safety Regulations in each jurisdiction allow duty holders a period of time to make necessary adjustments in order to comply with any new requirements. Model Codes of Practice are based on existing codes and guidance that are currently available in the states and territories. Existing jurisdictional codes will remain in place until replacement model Codes of Practice are approved.

Safe Work Australia has published a Policy for transitioning to new requirements in approved codes of practice. This is available to download from www.safeworkaustralia.gov.au. The transitional policy provides information about the approach work health and safety regulators will take to assist businesses to transition to any new requirements contained in approved Codes of Practice from 1 January 2012.

Further advice is available from each state or territory regulator, and we strongly advise you to familiarise yourself with the situation in each jurisdiction.

HOW TO USE THIS TOOL

Once you have read this cover note and have understood how it is to be used, click on "I agree" down the bottom of this page.

You will then be directed to a page containing a flowchart, which forms the basis of this guidance tool. Start at the beginning of the flowchart, and following the arrows you will be guided through a series of suggested action items, coloured orange. Where the flowchart refers to a template or example document, you can click on the relevant box, coloured blue, and you will be directed to that document.

It is important at each stage that at each stage of this process, you consider how the guidance applies to your specific work and the site where that work will take place. This includes the supporting documents that should be adapted specifically for your situation.

DISCLAIMER

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I AGREE

By clicking on this link, you are agreeing that you understand that these tools are merely guidance, and that you are ultimately responsible for the safety in design policies and practices of your firm.

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