

In this issue, we cover two significant developments in Aotearoa New Zealand's health and safety system. Firstly, WorkSafe released a refreshed "back to basics" strategy which explains its role and where it will focus its effort in the coming years. Secondly, the Government announced the start of consultation on its promised review of the Health and Safety at Work Act (HASWA) and regulations. We also report on three recent prosecutions and a new enforceable undertaking (EU). One of the prosecutions and the EU involved serious injuries caused by forklifts striking pedestrians, a further prosecution was for exposure to silica dust at an Australian quarry and the final prosecution arose after a fishing charter vessel ran out of fuel 27 nautical miles off the Gisborne coast.

WorkSafe launches "refreshed" strategy as the Government moves to review HASWA

In late 2023, WorkSafe began to change the way it operates following wide recognition that it had taken on too much and spread itself too thin. As part of that change, it has now published a refreshed [strategy](#) that defines the wider health and safety at work system and reflects its role in the system. It also explains how it will undertake that role, where it will focus its effort, and how it will measure its impact. Overall, it appears WorkSafe is going "back to basics".

Those who follow WorkSafe will notice that the strategy shifts from the well-known three "E's" approach to influencing the system (engage, educate, and enforce) to a new "EEP" approach which explicitly acknowledges WorkSafe's permitting and authorising role. This means its engagement and enforcement role remains unchanged, and its role in permitting particularly high-risk industries, such as those in the major hazard regime, is given more visibility.

WorkSafe has also re-emphasised that given its limited resources, it must focus its effort and resource to make the biggest difference and address inequity. It appears its work will refocus on those industries that account for 55% of acute (single event) harm: construction, manufacturing, agriculture and forestry; and on the key risks that lead to most serious and fatal harm: vehicles and machinery, falls from height, falling and moving objects, and electrical and chemical hazards.

In the area of chronic harm (harm that is caused by exposures over time), WorkSafe notes that cancer and respiratory illness cause the largest proportion of deaths due to exposure to asbestos, silica and wood dust, and welding and engine exhaust fumes. As with acute harm, workers in the industries with the highest exposure to these hazards are found in construction, manufacturing and agriculture.

Although still to be fleshed out in its operating plans, it is therefore likely that businesses in construction,

manufacturing, agriculture and forestry will see more attention from the regulator in the coming years.

Meanwhile, the [Government](#) has begun consultation on reforming work health and safety law and regulations. The Government is seeking feedback on people's experiences with the health and safety system, including views on issues such as:

- Whether health and safety requirements are too strict, or too ambiguous, to comply with.
- Difficulties caused by the overlap between work health and safety legislation and other requirements.
- The actions that businesses undertake, the reasons behind these actions, and their effectiveness.
- Whether consequences for not complying with health and safety obligations are appropriately balanced and reasonable.
- Whether the threshold at which work-related risks need to be managed is under- or over-cautious.

Further information about the consultation and how to make a submission can be found [here](#).



Charter boat operator prosecuted for running out of fuel

The skipper of a fishing charter vessel has been fined [\\$3,900](#) for offending under HASWA after his vessel ran out of fuel 27 nautical miles off the coast of Gisborne. Four customers and another crew member were on board at the time. No one was harmed.

Maritime New Zealand said failing to ensure a vessel has enough fuel for a journey put everyone on board at the mercy of the weather and conditions at sea unless or until they could be rescued.

Forklift maintenance failures result in serious injuries

A 33-year-old worker suffered serious injuries, including a punctured lung and broken back, when a forklift tipped onto him. The man had been collecting rubbish when he parked the forklift and put the handbrake on. However, when he got out, the forklift started to roll down the slope and tipped onto him when he tried to recover it.

[WorkSafe's investigation](#) found the forklift hadn't been adequately maintained and serviced. There were serious safety issues with the handbrake such that it would never have been able to stop the forklift from moving even on a slight incline.

The company was sentenced to a fine of \$240,000 and ordered to pay reparations of \$62,279 to the injured worker.

To help ensure vehicles remain safe and fit for purpose, businesses should service and maintain vehicles in accordance with the manufacturer's instructions, as well as implementing an effective system to report, track and resolve faults in between services.

Enforceable undertaking includes AI technology to protect pedestrians around forklifts

In April 2022, a worker was struck while walking behind a reversing forklift in a kiwifruit packing and coolstore facility, and had his left leg and foot run over. When the driver moved the forklift forward, he ran over the victim's foot a second time. Unfortunately, the victim's lower left leg could not be saved, and it was amputated below the knee.

The WorkSafe investigation found that the traffic management plan for the site was deficient, with forklifts and workers not kept separate. The kiwifruit company was charged, but has now had an [enforceable undertaking](#) (EU) accepted by WorkSafe and the charges withdrawn.

The EU involves the company delivering a series of safety initiatives worth half a million dollars including reparation to the victim, investing in training to improve health and safety

competency across the business, as well as funding for a local amputee society and scholarships for the Health and Safety Association of New Zealand.

The EU also provides for fitting an AI pedestrian detection system to 40 forklifts to improve safety and reduce risks and collaborating with the kiwifruit industry to spread the uptake of this technology and enhance safety. WorkSafe commented that artificial intelligence brings significant possibilities for health and safety innovation. In this case, it uses algorithms and sensors to detect nearby pedestrians to reduce the risk of accidents and enhance workplace safety.

WorkSafe appears to find novel technological solutions to safety an attractive feature in EUs, and recently accepted another [EU](#) that involved the trial of an autonomous vehicle.

Large mining company fined in Australia for exposing workers to silica dust

A global [mining company](#) that runs a sand quarry and mill producing silica-based products has been fined AU\$400,000 and ordered to pay AU\$20,799 in costs after workers were exposed to silica dust. A number of workers were placed at risk between 2012 and 2020, including two who have since been diagnosed with silicosis.

One of victims received his diagnosis in 2019 after working in quarries for 28 years. He told the [ABC](#) that he was once an active man who loved hiking with his daughter, but now struggles to walk around the block. "I can't have long conversations without my lips turning purple from lack of oxygen," he said.

Workers at the site manually operated a machine to fill and palletise 25-kilogram bags of product for transportation to customers. During the process of bagging silica flour, workers described plumes of silica dust escaping from the bags at head height and, on occasion, faulty bags bursting and leaving the machine operator covered in material.

The court heard it was reasonably practicable for the company to reduce the risk of exposure to crystalline silica dust by having automated bagging and palletising systems in place, including an automated and enclosed bagging machine and the use of a robotic palletiser.

Silicosis is a progressive and deadly disease that causes fibrosis of the lungs from the inhalation of respirable crystalline silica (RCS) dust. RCS dust is a known carcinogen, and is created when materials containing silica are cut, ground, drilled, sanded, polished, or otherwise disturbed. Workers in quarrying, construction, [kitchen benchtop manufacturing](#) and abrasive blasting are amongst those most at risk of developing silicosis. Guidance on controlling the risk is available on WorkSafe NZ's [website](#).

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