

AIRAH Presentation - Safety in Design

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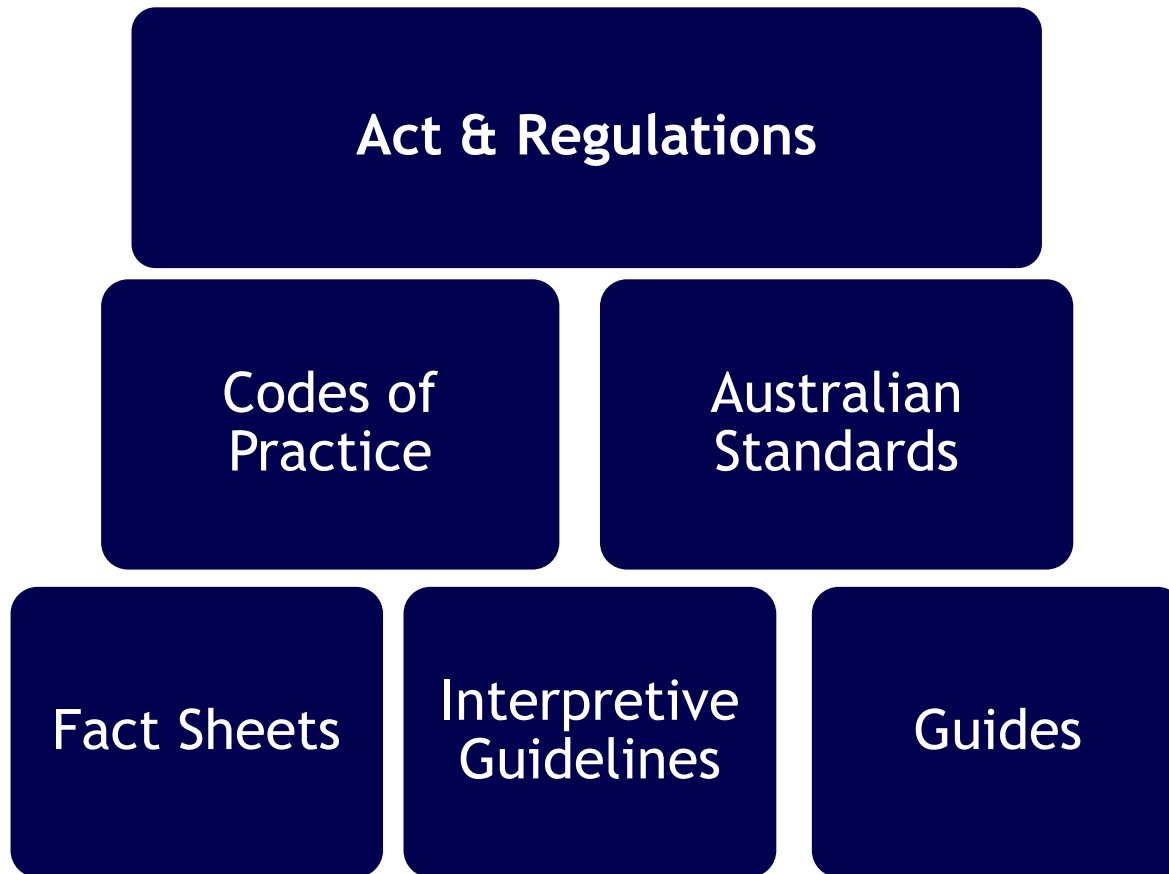
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- Safety in Australia
- Legal framework
- Safety in Design
 - Statutory obligations & penalties
 - Guidance material
 - Important considerations



- Current state of play
- Move to WHS



Compliance
&
Enforcement
Policy



Act & Regulations

Approved
Codes of
Practice

Australian
Standards

Codes of
Practice
(not
approved)

Australian
Standards

Guidance
Notes

Mines Safety
Dangerous
Goods
Energy Safety



Penalties

WA OSH Act		Green Bill / WHS Act	
Level 4	Corp: \$625,000 Individual: \$312,500 / 2 yrs	Category 1	Corp: \$3 Million Ind PCBU: \$600,000 / 5 yrs Individual: \$600,000 & 5 yrs
Level 3	Corp: \$500,00 Individual: \$250,000	Category 2	Corp: \$1.5 Million Ind PCBU: \$300,000 Individual: \$150,000
Level 2	Corp: \$250,00 Individual: \$125,00	Category 3	Corp: \$500,000 Ind PCBU: \$100,000 Individual: \$50,000
Level 1	Corp: \$62,500 Individual: \$31,250 Employee: \$6,250	N/A	N/A



Multiple duty holders

Employees
(s. 20)

Employers
(s.19)

Designers
structures /
buildings (s.
23(3a))

Designer for
commercial
construction
client
(r. 3.140)

OSH Act &
Regs

Employers) &
Self-employed
persons (s. 21)

Designs,
supplies,
imports,
manufactures
plant (s.23(1))

Erects /
installs plant
(s. 23(2) Act)



Duty of employers - section 19 OSH Act

(1) An employer shall, so far as is practicable, provide and maintain a working environment in which the employees of the employer (the employees) are not exposed to hazards and in particular, but without limiting the generality of the foregoing, an employer shall -

...

(e) make arrangements for ensuring, so far as is practicable, that -

(i) the use, cleaning, maintenance, transportation and disposal of plant; and

(ii) the use, handling, processing, storage, transportation and disposal of substances,

at the workplace is carried out in a manner such that the employees are not exposed to hazards.



- Well recognised principal and contractor relationship
- Principal is treated as employer of contractor and any person employed or engaged by the contractor
 - Section 19 OSH Act applies
 - Duty owed akin to that of an employer towards an employee
 - Over matters principal has capacity to exercise control
- Similar for labour hire arrangements



(1) A person that **designs**, manufactures, imports or **supplies** any plant for use at a workplace shall, **so far as is practicable** -

- ensure that the design and construction of the plant is such that persons who properly install, maintain or use the plant are not in doing so, exposed to hazards;
- test and examine, or arrange for the testing and examination of, the plant so as to ensure that its design and construction is as above;
- provide adequate information when plant is supplied and subsequently whenever requested ...



Adequate information in respect of -

- dangers associated with the plant;
- specifications of the plant and the data obtained on testing of the plant;
- conditions necessary to ensure that persons using the plant are not, in so doing, exposed to hazards; and
- proper maintenance of the plant.



(2) A person that **erects or installs any plant** for use at a workplace shall, so far as is **practicable**, ensure that it is so erected or installed that persons who properly use the plant are not subjected to any hazard that arises from, or is increased by, **the way in which the plant is erected or installed.**



- (3a) A person that **designs** or constructs **any building or structure**, including a temporary structure, for use at a workplace shall, so far as is **practicable** ensure that the **design and construction** of the building or structure is such that -
- (a) persons who properly construct, maintain or repair or service the building or structure; and
 - (b) persons who properly use the building or structure,
- are not, in doing so, exposed to hazards.



- **Employees** must take reasonable care for their own safety and health at work and avoid adversely affecting that of co-workers through any act or omissions at work



Reg 3.140 Designer of work for commercial client to give report

- The designer must give a written report to the client setting out:
 - hazards;
 - the designer's assessment of the risk of injury or harm to a person resulting from those identified hazards;
 - what things the designer has done to reduce those risks (for example, changes to the design, changes to construction methods); and
 - which of those hazards the designer has not done anything in respect of to reduce those risks.
- **Note:** Reg 3.138: if no one designer in charge of the whole design, then provisions of this Division apply to or in relation to each designer who, to some extent, is in charge of the design, to that extent



Reasonably practicable - s 3 OSH Act

Practicable means reasonably practicable having regard, where the context permits, to -

- (a) The severity of any potential injury or harm to health that may be involved, and the degree of risk of it occurring;
- (b) The state of knowledge about:
 - (i) The injury or harm to health referred to in paragraph (a); and
 - (ii) The risk of that injury or harm to health occurring; and
 - (iii) Means of removing or mitigating the risk or mitigating the potential injury or harm to health; and
- (c) The availability, suitability, and cost of the means referred to in paragraph (b)(iii).



Codes of Practice:

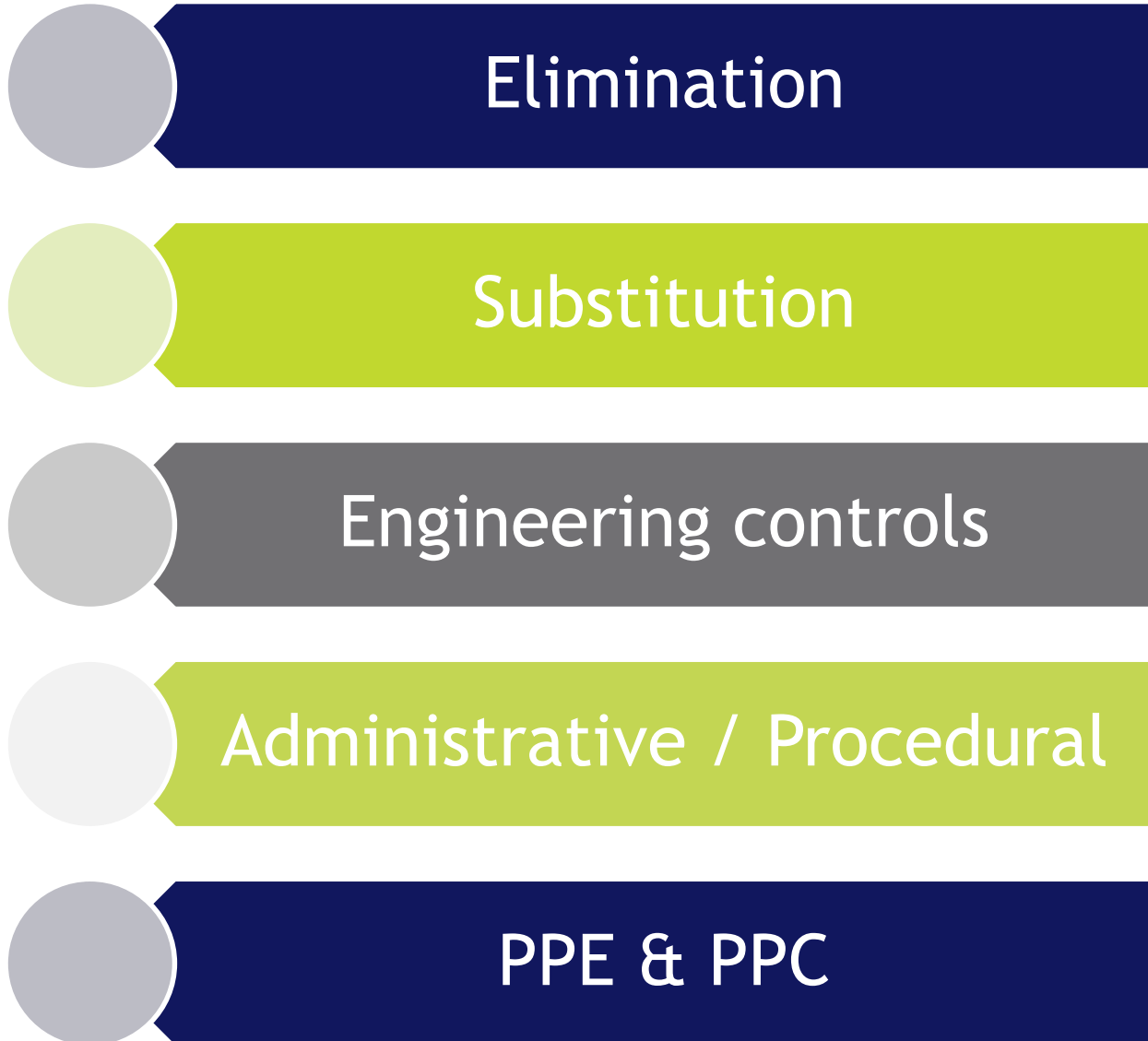
- WA: Code of Practice: Safe Design of Buildings and Structures 2008
 - Commission for Occupational Safety & Health (WA)
 - Approved Code of Practice

Guidance Note:

- Plant Design: Making it Safe - a guide for designers, manufacturers, importers, suppliers and installers of plant
 - WA 2001



Hierarchy of controls





The most effective and durable means of creating a healthy and safe working environment is to **eliminate hazards and risks during the design** of new plant, structures, substances and technology and of jobs, processes and systems. This design process needs to take into account hazards and risks that may be present **at all stages of the lifecycle** of structures, plant, products and substances.



- National activities support the following outcomes:
 - Structures, plant and substances are designed to eliminate or minimise hazards and risks before they are introduced to the workplace.
 - Work, work processes and systems of work are designed and managed to eliminate or minimise hazards and risks.





For thought ...

- Contracting out
- Non delegable duties
- Multiple duty holders
- Ongoing process and duties
- Be proactive

Hazards and risks are most effectively controlled at the source

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