

**Date: 20<sup>th</sup> September 2016**

### **Feedback on Health and Safety by design - draft WorkSafe document**

ACENZ represents business services and advocacy in the consulting industry for engineering and related professionals. We have over 185 Members directly employing in excess of 10,500 professional and technical staff. Our total member firms generate more than one and a half billion dollars turnover p.a. which translates to 15-20 billion dollars of completed capital plant and infrastructure. We are the Trusted Advisor to government, public sector, member firms and their clients. We're committed to achieving 'public good' outcomes in association with its representation of member firms & industry interests and in promoting health and safety in design.

ACENZ appreciates the request to comment on this draft document as part of Worksafe NZ's industry engagement process. We have sought feedback from a range of ACENZ members and have collated the following comments:

#### **A. General Comments**

1. The document appears to set out Worksafe NZ's expectations and broad principles regarding Health & Safety in Design. It is not exactly clear what the purpose or context of this document is. It would be helpful to be more explicit about this at the start.
2. There are some good guidelines being developed by industry (see NZTA Minimum Standard for Safety in Design and EEA Safety in Design Guide). Has there been any consideration of these documents in preparing this strategy? Allowing industry/clients to develop these based on broad principles is an effective way to maximise uptake.
3. Is the intention that WorkSafe will prepare a Code of Practice for Safe Design of plant, substances and structures (or separate codes for each of these) similar to the Safe Work Australia Codes of practice? If so, will industry be able to contribute to these?
4. What are the next steps? It would be good to see a roadmap for Worksafes Safety in Design Strategy – this may be part of it.
5. We suggest removing any reference to monetary costs

#### **B. Under 'Who is involved?'**

The document states 'Everyone involved in the lifecycle of the plant, substance or structure can be involved in health and safety by design.'

**We suggest:** The statement "can be involved" to be replaced with "are responsible for".

**Our comment:** Owners, accountants and other people who may not be the formally titled designers of a project but who can make unilateral decisions that reduce the safety of design, often for cost-saving reasons, need to be well aware that they should be held responsible for the potential downstream effects of those decisions.

#### **C. Under 'What legal duties apply to those in health and safety by design?'**

The document states "The PCBU's responsibilities include providing adequate information to those giving effect to the design about its purpose, the results of any testing, and any necessary conditions to ensure the substance, plant or structure is without risk to health and safety. "

**Our comment:** It's not practical or possible to eliminate all risks. This sets a higher standard than the Act itself as referenced in the Worksafe NZ' POSITION ON UPSTREAM PCBUs Document<sup>1</sup> which states that *"The law requires every PCBU to think about the potential health and safety risks of structures, substances or plant in a workplace, and then do what they reasonably can to reduce those risks."* We suggest the wording in the first sentence above *"as far as reasonably practicable"* be also used in this sentence.

## **D. Under 'How is health and safety by design applied? – Frequent monitoring and review'**

**Our comment:** How does this relate to PCBU, both those upstream and downstream? Defining the feedback loop would be preferable, and assigning some form of ownership/responsibility would be preferable. This is a good statement but how its implemented needs to be considered further (ie U/S, D/S PCBU's), and who is responsible, particularly when considering that infrastructure projects where the asset owner might be a separate PCBU to the operator (treatment plants etc.).

## **E. Under 'How will Worksafe engage with those working in health and safety by design?'**

1. The document states "We may work with designers in New Zealand...'

**We suggest** "We will engage with designers in New Zealand..."

**Our comment:** We would like to see WorkSafe provide greater confidence and authority on this matter.

2. On **Equipment/material designed and manufactured overseas**

**Our comment:** Importers, suppliers and installers are held responsible for the potential downstream effects of those decisions.

3. The document states: *"If we find a design or manufacturing fault has contributed to a health and safety risk at work, we may follow up with the upstream PCBU. We are more likely to follow up if we find a pattern of failures from a design or manufacturing fault."*

**We suggest:** Information and warnings on faults/failures can also be distributed more widely by way of Safety Bulletins or Notices so that other designers can learn from this.

## **F. Under "Why is it important to us?"**

**The documents states:** "good design can result in significant reductions in work-related illnesses, injuries and damage to property and the environment, and the attendant costs"

**Question:** Unsure what is covered by "attendant costs".

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<sup>1</sup> <http://www.worksafe.govt.nz/worksafe/information-guidance/all-guidance-items/position-statements/documents/upstream-pcbus.pdf>