Australian Government

National Occupational Health and Safety Commission

Mr Tony Hinton
Productivity
Commission PO Box 80
BELCONNEN ACT 2616

Reform of Building Regulation Study

Dear Mr Hinton

Thank you for the opportunity on 8 June 2004 to discuss the study that you are undertaking. I have attached a paper from the NOHSC Office identifying some potential approaches to improving the OHS performance of the building and construction industry that you may wish to consider in your study. I emphasise that the paper does not represent the views of NOHSC nor of its members.

The paper focuses on the issue of safe design and the building life cycle, the potential for better integrating OHS requirements into building regulation, and NOHSC's current and planned initiatives that will affect health and safety in the building and construction industry.

As you are aware, we are discussing with the Australian Building and Construction Board how to strengthen the linkage between safe design for OHS purposes and the Building Code of Australia. So far our discussions have focused on exploring the opportunities for integrating safe design into the Building Code of Australia. We will keep you informed of developments.

If you have any questions, please contact Ms Louise McSorley of this office on (02) 6279 1060.

Yours sincerely

Louise McSorley
Executive Manager

1 July 2004

Productivity Commission Research Study into Occupational Health and Safety in the Building and Construction Industry - Paper supplied by the NOHSC Office

Introduction

1.. The National Occupational Health and Safety Commission (NOHSC) is constituted by members nominated by the peak employer and employee bodies, the Australian Chamber of Commerce and Industry (ACCI); and the Australian Council of Trade Unions (ACTU); as well as the Australian, state and territory governments.

2. NOHSC's vision is Australian workplaces free from injury, death and disease. Through its National OHS Strategy 2002-2012 (the Strategy), NOHSC leads and coordinates national efforts to prevent workplace death, injury and disease in Australia.

3. The Strategy sets out five initial national priority areas for action to achieve short-term and longer-term improvements. They recognise that cooperation among OHS stakeholders will lead to more efficient and effective prevention efforts. The priorities are:

- reduce high incidence/severity risks;
- improve the capacity of business operators and workers to manage OHS effectively;
- prevent occupational disease more effectively;
- eliminate hazards at the design stage; and
- strengthen the capacity of government to influence OHS outcomes.

Safe Design

4. The final Report of the Royal Commission into the Building and Construction Industry supported the principle that good OHS should begin at the design stage of a project and not await the commencement of construction. This is consistent with the National OHS Strategy.

5. The opportunities to create safer building and construction workplaces are most cost effective in the earliest life cycle phases. A life cycle approach to OHS in building and construction projects should have regard to:

- workers in the construction phase, and others who could be affected by this work (which includes construction, modification/renovation and demolition);
- workers who service, clean, repair and otherwise maintain the building or structure after it has been constructed, and others who could be affected by this work; and

- end users - those who use and occupy completed buildings and structures as workplaces.

Building Code of Australia

6. The Building Code of Australia 1996 (BCA) covers such matters as structural safety, fire resistance, access and egress, fire-fighting equipment, mechanical ventilation, lift installations and certain aspects of health and amenity relevant to building occupants and end users. Current OHS regulations require consideration of a range of issues, some of which the BCA covers. However, the BCA does not deal with the OHS of those constructing the building, nor does it deal with a wider range of OHS matters related to building design, which may affect those who occupy the building or those maintaining, cleaning or servicing the building.

7. There is some divergence in the aims and operation of the BCA and of the various OHS regulatory instruments. The principal issue is that, in contrast to the provisions of OHS legislation that applies in most jurisdictions, the BCA does not take a building life cycle approach to design issues that will impact on the health and safety of all workers who will be working in, or on, the building at some stage. For example, the BCA does not require that the health and safety requirements of maintenance workers (eg. window cleaners) or workers involved in repairing or servicing equipment/machinery located outside the building (eg. air conditioning units) be taken into account in the design and construction phases.

8. This difference in regulatory provisions is reflected in a number of instances where some conflict exists between OHS legislation and the building code requirements. A couple of specific examples of where such divergence or inconsistency exists in one or more jurisdictions in Australia are:

- provision for permanent anchorage points on buildings and structures for working at height is not required under the BCA (although the Queensland Appendix to the BCA - reference G101.1 - requires anchorage points according to the specifications of Australian Standard *AS 2626 Industrial safety belts and harnesses - Selection, use and maintenance);* and

- the height requirement for barriers for fall protection on, and in, buildings (such as balustrades, parapets and guard rails) - for example, the *ACT Safe Demolition Work Code of Practice 2000* requires adherence to Australian Standard *AS 1657 Fixed platforms, walkways, stairways and ladders - Design construction and installation* while the BCA specifies different height requirements depending on the location and use of the barrier.

9. From the NOHSC Office's viewpoint, it is desirable to address inconsistencies in the regulation so that the requirements complement each other. For example, as a minimum, regulation designed to ensure the structural integrity and safety of persons in

the building should not compromise the safety of persons working in or on the building during its life cycle.

10. To this end, several meetings have been held with officers of the Australian Building Codes Board (ABCB) to discuss the National Standard for Construction Work, the Future Building Code (FBC) and ways to influence better integration of OHS and safe design principles into the FBC. One strategy to influence OHS as a priority for the FBC that has been identified at the meetings, is gaining the support of state and territory ABCB members for the safe design work of NOHSC. Consultation with these representatives is continuing.

NOHSC activities in relation to OHS in the building and construction industry

11. NOHSC has developed a draft National Standard for Construction Work and a draft National Code of Practice for the Prevention of Falls from Height in Construction. These documents respectively (i) seek to provide a framework for consistent national regulation of OHS in the construction industry and (ii) provide examples of appropriate work practices for prevention of falls from height. NOHSC has also prepared a public comment paper and a preliminary regulation impact statement for both the standard and the. code. This material has now been released for public comment. The public comment period closes on 8 September 2004.

12. Safe design principles are integrated into the draft standard and code including a provision relating to the responsibilities of clients and designers. The designer will be expected to ensure, as far as they have control over the design of a structure, that it can be safely erected, repaired, cleaned, maintained, and demolished without risk to the health and safety of any person arising from the design.

13. Over the next year NOHSC[*], in the context of the National OHS Strategy, will undertake a number of activities to improve the OHS performance of the building and construction industry. As well as finalising a new construction industry standard and related codes, activities will include:

- development of a safe design guideline providing practical examples of the application of safe design principles in the construction industry. -
- researching the exchange of appropriate information (relating to residual risk) between designers, constructors and owners;
- reviewing other relevant standards and codes (relating to for example, manual handling, plant, certification of operators of plant, asbestos and noise);
- reviewing the hazardous substances regulatory framework;

[*] NOHSC may be replaced in 2004-05 as the peak tripartite OHS body by the Australian Safety and Compensation Council - see the response of the Australian Government (24 June 2004) to the Productivity Commission's Report on National Workers' Compensation and Occupational Health and Safety Frameworks, 6 March 2004.

- work on occupational disease; and
- OHS education (including induction training in the construction industry.

Conclusion

14. There are a number of OHS issues that are currently not being addressed by, and which could usefully be covered in, the BCA. The requirement for building designers to give consideration to ensuring a safe working environment for workers, maintaining, servicing and demolishing buildings is fundamental to improving OHS in the industry. It may be possible to more closely align OHS requirements to the approval process required under the BCA. For example, there may be scope for a revised BCA to include a requirement to notify the project to OHS authorities and/or submit an OHS plan for the construction project at the same time as building plans are submitted.

15. It is understood that the broad goals proposed to be addressed in the Future Building Code (FBC) are: Safety; Health and Amenity; and Sustainability. Consequently, development of the FBC provides an opportunity to coherently address safe design throughout the building life cycle. It is in this context that NOHSC is seeking to obtain the support of state and territory members of the ABCB to have OHS and, in particular safe design, included in the review of the FBC. ABCB members have been asked to consider and respond to the December 2003 NOHSC issues paper on safe design, in particular, options suggested to improve construction industry outcomes. In addition, NOHSC is pursuing strategies to assist the ABCB to consider the draft National Standard for Construction Work from the perspective of promoting consistency with, and integration into, the FBC.

16. The study into reform of building regulation currently being undertaken by the Productivity Commission might identify other potential mechanisms for better integrating OHS requirements into building regulation. Improved alignment of relevant regulatory instruments should lead to better health and safety outcomes for all persons involved in constructing, maintaining, servicing and occupying buildings.