



16 March 2026

Ms Marie Boland  
Safe Work Australia  
GPO Box 641  
Canberra ACT 2601

via email: [highriskwork@swa.gov.au](mailto:highriskwork@swa.gov.au)

Dear Ms Boland

### **Improving the safety of earthmoving machinery used for lifting operations**

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to make a submission to Safe Work Australia on improving the safety of earthmoving machinery used for lifting operations.

Small businesses are the engine room of the Australian economy. They make up approximately 97% of all Australian businesses, employing around 39% of the private sector workforce and contributing approximately one-third of Australia's GDP.<sup>1</sup> While small business is often defined as having an annual turnover of \$10 million or less, about 92% of these have a turnover of less than \$2 million.<sup>2</sup> This highlights that most Australian small businesses operate on a small or micro scale with resources and capabilities that differ markedly from those of larger enterprises.

As at June 2025, businesses operating in the site preparation services industry totalled 22,619, with 21,946 (97%) of these having less than 20 employees, 11,582 of which were non-employing businesses.<sup>3</sup> The sector is overwhelmingly comprised of small and micro businesses, for whom proposed changes to licencing/certification, training or regulations may impose disproportionate costs on their business operations.

With this in mind, the ASBFEO has made four broad suggestions for considering proposed changes to work health and safety (WHS) regulations for earthmoving machinery:

- small business impacts should be 'front of mind', informed by early and genuine engagement with small business stakeholders
- any regulations must be consistent across jurisdictions
- increase education and awareness of WHS in the construction sector
- improve data collection on injuries and fatalities in relation to earthmoving machinery, to strengthen the evidence base to justify any amendments to the model WHS regulations.

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<sup>1</sup> Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Small Business Data Portal: Number of small businesses in Australia; Contribution to Australian Gross Domestic Product; Contribution to Australian Employment*, ASBFEO, Australian Government, 2025.

<sup>2</sup> ASBFEO, *Number of small businesses in Australia*, ASBFEO, Australian Government, 2025.

<sup>3</sup> Australian Bureau Statistics (ABS), *Counts of Australian Businesses, including entries and exits, June 2021 to June 2025 Businesses by Main State by Industry Class by Annualised Employment Size Ranges, June 2025*, ABS, 2025



## Small business ‘front of mind’ and early engagement

While the ASBFEO does not hold a specific view on the proposed options, regulators and policymakers should have small business ‘front of mind’ when forming policy and designing regulations that will impact them. This includes recognising 64% of Australian businesses are self-employed or non-employing, with an additional 25% employing 1-4 people.<sup>4</sup> These businesses generally have less sophisticated administrative structures and fewer financial reserves to absorb regulatory change, including costs associated with additional training, certification, or suspending business operations while undertaking new certifications or upgrading machinery and equipment.

Further, we encourage early and genuine engagement with small business stakeholders as a core principle of effective regulatory design. Where a regulatory option is under consideration, engagement with small business should occur early in the policy development process when all options remain open, so potential impacts and implementation challenges can be identified and addressed. This includes understanding compliance burdens, regulatory overlap, and possible unintended consequences.

Considering small business impacts early in the policy development process, and incorporating these impacts into regulatory impact analysis, provides a strong evidence base for decision-making. This approach supports the development of regulation that is appropriately “right-sized” for small business, without undermining safety outcomes.

The ASBFEO encourages Safe Work Australia to consult with relevant industry bodies and small business owners involved in the supply and operation of earthmoving machinery. This could include, for example, organisations such as the Golden Bucket Allied Earthmovers Association, which represents small earthmoving businesses across New South Wales and a small number of members in Queensland. We encourage Safe Work Australia to consult with the Golden Bucket Allied Earthmovers Association to seek their views.

The General Manager, Ms Ann Callaghan can be contacted via email on [office@goldenbucket.com.au](mailto:office@goldenbucket.com.au) or via phone on 02 4732 5233. Other stakeholders relevant to this submission include the Civil Contractors Federation, which are a member based representative body of civil engineering contractors in Australia. They can be contacted on [ccfnat@civilcontractors.com](mailto:ccfnat@civilcontractors.com).

Please note that this is not an exhaustive list, however these stakeholders may be able to assist Safe Work Australia with identifying other relevant earthmoving stakeholders for further consultation.

## Consistent regulations across jurisdictions

Small businesses recognise that compliance with regulatory requirements supports the integrity and long-term sustainability of their operations. The ASBFEO consistently hears from small business stakeholders requesting that nationally consistent standards be adopted wherever possible, with clear expectations around compliance. This includes any licensing requirements and ongoing training or certification obligations, to provide businesses with assurance that the framework remains nationally consistent, stable and predictable.

When laws or requirements are unclear or inconsistently applied across jurisdictions, small and micro businesses, particularly those operating as contractors, are likely to be at a disadvantage. In

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<sup>4</sup> ASBFEO, *Small Business Data Portal: Number of small businesses in Australia*, ASBFEO, 2025



these circumstances, larger businesses higher up the supply chain may impose additional training, certification, and renewal requirements, including prescribing timing and scope. This can see small businesses bearing the cost of renewal and additional certifications and training that may be requested, and is at times unnecessary or duplicative.

Clear, consistent, and proportionate regulatory frameworks can help mitigate these risks and support safer, more sustainable WHS practices in both earthmoving and the broader construction sector.

Currently, licensing and training requirements for earthmoving machinery used in lifting operations lack a nationally consistent approach. While a high-risk work (HRW) licence is required for dogging work, where loads are slung and not always visible to the plant operator; earthmoving machinery used for lifting operations is generally regulated through the primary duty of care and general training requirements, without the need for a mandatory HRW licence. However, in 2025, Western Australia introduced a requirement under its WHS regulations for an HRW licence to operate earthmoving machinery as a crane. Elsewhere, there is no specific certificate to operate earthmoving machinery; instead, persons conducting a business or undertaking must ensure operators are competent, with evidence of competency recorded.

Option 3 in the discussion paper proposes establishing a mandatory training requirement for earthmoving machinery used in lifting operations. The ASBFEO's stakeholder consultations and research indicate that formalised training already exists for this work, including the nationally recognised training course *RIIMPO320F – Conduct civil construction excavator operations*.

The ASBFEO encourages Safe Work Australia to review existing training and competency requirements for earthmoving machinery operators. Current arrangements already require evidence of competency to operate equipment and lift loads, supported by risk assessment processes such as safe work method statements. Consideration should be given to whether strengthened guidance, consistency and recognition of existing training would achieve safer outcomes without imposing unnecessary regulatory burden on small businesses.

### **Increase education and awareness of work health and safety in the construction sector**

The ASBFEO supports safe work environments, including ensuring small business owners are equipped with the knowledge and tools to comply with WHS regulations relevant to their industry. Small businesses operating in higher-risk sectors, such as transport, construction, agriculture, forestry and fishing, where work can involve operating heavy machinery, working at heights, or exposure to moving plant and equipment, are more likely to have low awareness of regulatory settings and access to the appropriate systems for reporting and recording hazards. Therefore, these businesses are at increased risk of being involved in a workplace accident.

The construction sector is widely recognised as a hazardous industry and is characterised by a very high proportion of small businesses, with approximately 97% of firms classified as small businesses. Research by Jeffries et al. (2025) identified several barriers faced by small construction businesses in implementing WHS initiatives, including limited budgets, limited administrative systems and capacity, and capability gaps. As a result, these businesses may struggle to adopt



industry best practice. In addition, some small businesses do not comply with regulatory changes due to a lack of awareness or limited capacity to understand and implement new requirements.<sup>5</sup>

To support small construction businesses compliance with WHS laws and to improve workplace safety outcomes, the ASBFEO encourages Safe Work Australia to work with the sector to increase knowledge and capability to identify, manage and control workplace hazards.

### **Improve data collection**

The ASBFEO acknowledges Safe Work Australia's recognition of injuries and fatalities associated with using earthmoving machinery for lifting operations. However, Safe Work Australia's current data collection does not include a specific category for earthmoving machinery when used for lifting purposes. This data gap limits the ability to accurately assess the nature, frequency and severity of injuries and fatalities associated with these activities. Improved data would support a clearer understanding of risk, inform evidence-based regulatory and policy responses, and contribute to improved safety outcomes across the construction sector.

If you require any further information, please do not hesitate to contact the Policy and Advocacy team via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely

**Lynda McAlary-Smith**

Australian Small Business and Family Enterprise Ombudsman

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<sup>5</sup> Jeffries M, Newaz T, Ginnigaddara B, Egbelakin T, Tang M, Sunindijo R, *Identifying Barriers & Enablers to Improve WHS Outcomes in Australian Small Construction Businesses*, CIB Conferences, Purdue University, 2025