



**Hon Bill Johnston MLA**  
**Minister for Mines and Petroleum; Commerce and Industrial Relations;**  
**Electoral Affairs; Asian Engagement**

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Our Ref: 71-00791

Ms Ros Fogliani  
State Coroner  
Office of the State Coroner  
Level 10, Central Law Courts  
501 Hay Street  
PERTH WA 6001

PERTH CORONERS COURT

13 JUL 2017

RECEIVED

Dear Ms Fogliani

**CORONER'S FINDING IN RELATION TO THE DEATH OF  
MR ROBERT STEPHAN HAMIORA SERJEANT**

Thank you for the correspondence of 1 May 2017 enclosing a copy of Coroner Barry Paul King's Finding in relation to the death of Mr Robert Stephan Hamiora Serjeant (the Coroner's Finding).

I thank Coroner King for his diligence in conducting the Inquest. The McGowan Labor Government believes every Western Australian should return home safely from work, and, as the Minister for Commerce and Industrial Relations, I am committed to improving workplace safety.

I acknowledge the Coroner's recommendation at paragraph 53 of the Coroner's Finding. I advise that I have instructed the Department of Commerce – WorkSafe division (WorkSafe) to commence work on a State Code of Practice, which would have the effect of creating suitable procedures for the use of pre-cast structures in civil construction.

I also acknowledge the Coroner's Finding and the accompanying recommendation in relation to Australian Standard *AS 3850:2015 Prefabricated concrete elements* (AS 3850:2015). As the Coroner's Finding identifies, AS 3850:2015 excludes civil work.

Unlike AS 3850:2015, the Western Australian Occupational Safety and Health Regulations 1996 (OSH Regulations) do not distinguish between building construction work and civil work. I am informed that before this recommendation can be considered further, AS 3850:2015 must be updated to include civil construction. I note advice in the Coroner's Finding at paragraphs 68 and 69 in this regard.

When I raised this matter with WorkSafe, I was advised that it does not have responsibility for updating AS 3850:2015 as it is not a member of the relevant Australian Standards Committee. Notwithstanding this, I have instructed WorkSafe to promote the amendment of AS 3850 to cover the use of pre-cast structures in civil construction. I will be pleased to consider an updated AS 3850 in the future.

Notwithstanding the need to amend AS 3850, I note that the Western Australian Commission for Occupational Safety and Health published a Guidance Note in 2005 titled *General Duty of Care in Western Australian Workplaces*. Information on the application of Australian Standards can be found on page 16 of that Guidance Note, relevantly:

- The Australian Standards may be used as a guide in determining compliance with general duties.
- The application of an Australian, a joint Australian/New Zealand or a National Standard varies according to their relevance to Western Australian industry.
- Common practice in an industry should be taken into account. If the majority are working to a particular standard that is not set in regulations, but rather clearly complies with general duty requirements and achieves safe work practices, then it is likely that others would be expected to apply the same standard.

I am advised this means that Australian Standards not referenced in the OSH regulations – for instance, AS 3850:2015 – can be used as guidance for appropriate workplace safety and health practices.

As you are aware, the Government is considering the modernisation of workplace safety laws. The national model Work Health and Safety laws (the WHS laws) are being considered as part of the modernisation. Relevantly, the WHS laws have minimal references to Australian Standards and therefore, depending upon the Government's final decision in this regard, there may be consequences for referencing Australian Standards.

I greatly appreciate the opportunity to respond to the Coroner's Finding.

Yours sincerely

**Hon Bill Johnston MLA**  
**Minister for Mines and Petroleum; Commerce and Industrial Relations;**  
**Electoral Affairs; Asian Engagement**

**7 JUN 2017**