

Inquest into the death Christopher Ian Powell

On Monday, 14 December 2015, in the course of his employment as a professional photographer, Christopher Powell was elevated approximately 50 metres above the ground in an elevated work platform. The rear passenger side outrigger leg suddenly sank 1.7 metres into the ground and the driver's side outrigger legs lifted off the ground, rotating and overturning the elevated work platform. The boom crashed through the boundary fence and on to Longland Street, Newstead.

Coroner Donald MacKenzie delivered his findings of inquest on 8 March 2022.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendation is delivered. Further information relating to the implementation of recommendations can be obtained from the responsible minister named in the response.

Recommendation 1

Elevated work platforms (EWP), in excess of 5 tonnes, performing work on complex ground that requires the operator to have a high risk work licence and with a boom of 11 metres or more are recommended to:

- (i) be incorporated into the definition of a mobile crane so that the relevant provisions in Mobile Crane Code of Practice 2006 (Qld) apply to an elevated work platform.
- (ii) have their own elevated work platform code of practice which incorporates the set up and the maximum permissible ground bearing pressure values and ground capacity calculations as set out in the Mobile Crane Code of Practice 2006 (Qld).

Specifically, this must be a code of practice not just a set of industry guidelines. It should mandate that an elevated work platform in excess of five tonnes, performing high risk work with a boom of 11 metres or more, before setting up on a complex ground site must obtain a geotechnical report specific for the purpose of the elevated work platform machinery being brought on site.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Office of Industrial Relations.

On 16 March 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

The Office of Industrial Relations is considering this recommendation together with the findings of the inquest.

On 24 August 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

Codes of practice (COP) can be approved by the Minister for Industrial Relations under section 274 of the *Work Health and Safety Act 2011*. Some of the COP in force in Queensland are codes based on a national model COP written by Safe Work Australia and adopted in Queensland. SWA is an Australian government statutory body, established in 2009 to develop national policy relating to work health and safety and workers' compensation. SWA's membership includes the Australian Council of Trade Unions, Australian Chamber of Commerce and Industry and the Australian Industry Group as well as all Australian work health and safety regulators.

The coroner's recommendations were tabled at the June 2023 meeting of SWA. SWA has agreed to commission an expert study on the assessment of ground conditions for mobile plant to inform further consideration of the coroner's recommendations.

The Queensland Mobile Crane Code of Practice 2006 (mobile crane COP) is not based on a national model COP and is a standalone Queensland COP. OIR is continuing to assess the coroner's recommendation that an EWP, in excess of 5 tonnes with a boom of 11 metres or more, performing work on complex ground that requires the operator to have a high-risk work licence, be incorporated into the definition of a mobile crane so that relevant provisions of the mobile crane COP apply to the EWP.

On 24 April 2024 the Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing responded:

The coroner's recommendation in relation to Queensland codes of practice and EWPs remains under assessment. At a national level, following Safe Work Australia's (SWA) agreement to commission an expert study on the assessment of ground conditions for mobile plant, a suitably qualified expert was engaged in December 2023. The report was finalised in March 2024 and it is anticipated that it will be considered at the SWA Strategic Issues Group WHS in May 2024.

On 23 September 2024 the Office of Industrial Relations responded:

Consideration has been given to recommendation 1(i) that specified elevated work platforms (EWPs) be incorporated into the definition of a mobile crane so that relevant provisions in the Mobile Crane Code of Practice apply to an EWP. Although EWPs are a type of plant that share similarities with cranes, hoists and winches, they do not operate in the same manner or for the same purpose as cranes. In addition, a large portion of the content in the Mobile Crane Code of Practice is not applicable to EWPs and including some EWPs within the partial scope of the Mobile Crane Code of Practice may be confusing to EWP operators and other duty holders. For these reasons, it is not considered appropriate to include EWPs in the *Mobile Crane Code of Practice 2006*.

Following SWA's consideration of the expert study commissioned in December 2023 on the assessment of ground conditions for mobile plant SWA members have recently agreed for SWA to develop:

- an interactive guide on managing the risks associated with ground conditions related to the set up and operation of mobile plant such as EWPs; and
- a model Code of Practice for EWPs.

These will complement already existing specific national guidance published by SWA in September 2021: *the Guide to managing the risks of elevating work platforms* (National Guide), on the safe use of EWPs to support operators and duty holders.

The Office of Industrial Relations (OIR), as a member of SWA, will contribute to the development of the model code of practice.

On 10 March 2025, the Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations responded:

Both the Safe Work Australia (SWA) interactive tool and the model Code of Practice (COP) for Elevated Work Platforms are expected to be finalised by March 2025. The design process for the interactive guidance is being informed by consultation with technical networks and tested with industry. The COP will be based on existing guides.

SWA's interactive guidance and model COP is expected to:

- improve training for mobile plant operators to increase their awareness of hazardous ground conditions, including knowing when to seek advice from professional geotechnical services, and

- improve existing guidance and materials to help persons conducting a business or undertaking (PCBU) and plant operators to assess ground condition risks.

Recommendation 2

The relevant provisions of the Mobile Crane Code of Practice 2006 (Queensland) should be incorporated into the Queensland Safe support of mobile plant guide (2018), Safe Work Australia Guide to managing the risks of elevating work platforms and the Elevated Work Platform Association Good practice guide dealing with:

1. the risks associated with mobile crane operations overturning because of unstable ground and failure to use or fully extend outriggers or stabilisers: s. 5
2. lifting capacity of a crane limited by structural strength when the working radius is small and stability when the working radius is greater: s. 8.1
3. planning and coordinating operations to include ensuring that the ground conditions have adequate support: s. 9(e)
4. failure to maintain stability is a key factor associated with serious incidents concerning the ground conditions and means of supporting the outrigger pads against overturning: s. 10(c)
5. stability function of load charts when 'short-legging': s. 10.1.1
6. ground conditions varying dramatically from one workplace to another, and within the one workplace where there is a failure to address poor ground conditions and to ensure crane stability causing overturning, resulting in serious injury to the crane operator and other people in the vicinity: s. 10.2
7. the type of ground (e.g. clay, sand, rock or a mixture of these) and backfilled ground that was previously an excavation or trench: s. 10.1.2.
8. risks that increase with softer ground such as the presence of groundwater: s. 10.2.2
9. the use of dunnage and stabiliser pads and the use of outriggers set according to the manufacturer's operating instructions for the specific type: s. 10.2.5
10. certification of the ground bearing capacity by a geo-technical engineer before performing high risk lifting: s. 10.2.4
11. more generally, the:
 - roles and responsibilities regarding crane stability: s. 10.5
 - roles and responsibilities: s. 13
 - load Chart: s. 15.2
 - lifting points: s. 15.3
 - training: s. 17.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Office of Industrial Relations.

On 16 March 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

The Office of Industrial Relations is considering this recommendation together with the findings of the inquest.

On 24 August 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

The Office of Industrial Relations (OIR) had the coroner's recommendations tabled at the June 2023 meeting of Safe Work Australia (SWA). SWA is an Australian government statutory body, established in 2009 to develop national policy relating to work health and safety and workers' compensation. SWA's membership includes the Australian Council of Trade Unions, Australian Chamber of Commerce and Industry and the Australian Industry Group as well as all Australian work health and safety regulators. At the meeting, SWA proposed, and its members supported, the following recommendations:

- For SWA to commission an expert study on the assessment of ground conditions for mobile plant; and
- Amend the SWA Guide to managing the risks of elevating work platforms (EWP Guide) to include more information on ground conditions, including OIR's strong view that EWP guidance be widened beyond just ground stability. However, rather than incorporating provisions of the Queensland Mobile Crane Code of Practice 2006, SWA members agreed the updated information should be made directly relevant to EWPs as mobile cranes and EWPs carry drastically different loads and are used for very different purposes. Tailored EWP information will better assist duty holders to manage the risks of an EWP overturning.

The outcome of the expert study is expected to inform all jurisdictions as to what steps can be taken with respect to high risk work licences for EWP operators and amendments to other guidance material including Queensland's *Safe support of mobile plant guide*.

On 24 April 2024 the Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing responded:

Following Safe Work Australia's (SWA) agreement to commission an expert study on the assessment of ground conditions for mobile plant, a suitably qualified expert was engaged in December 2023. The report was finalised in March 2024 and it is anticipated that it will be considered at the SWA Strategic Issues Group WHS in May 2024. The recommendations made in the final report will inform all jurisdictions as to what steps can be taken with respect to high risk work licences for EWP operators and amendments to other guidance material including Queensland's *Safe support of mobile plant guide*.

On 23 September 2024 the Office of Industrial Relations responded:

The Office of Industrial Relations (OIR) will partially implement this recommendation through an alternative method. OIR acted in a timely manner to publish the Safe Support of Mobile Plant Guide (the Safe Support Guide) in 2018 in response to two plant incidents, including the death of Mr Powell. The Safe Support Guide applies to all mobile plant (including EWPs).

The Safe Support Guide appropriately addresses the hazards and associated risks of using EWPs, particularly emphasising unsafe ground conditions, proximity to excavations and trenches, and short legging of outriggers. OIR considers the Safe Support Guide to offer comprehensive guidance for operators and users of EWPs. The Safe Support Guide also notes that risk management principles should be applied to the planning, pre-start and duration of the works phases including an assessment of ground conditions, and that only a deemed competent person can make such an assessment. Instead of duplicating information from the Mobile Crane Code of Practice, which is unlikely to enhance an already comprehensive resource, utilising the Safe Support Guide serves as a viable alternative.

Following SWAs consideration of the expert study commissioned in December 2023 on the assessment of ground conditions for mobile plant SWA members have recently agreed for SWA to develop:

- an interactive guide on managing the risks associated with ground conditions related to the set up and operation of mobile plant such as EWPs; and
- a model Code of Practice for EWPs.

These will complement already existing specific national guidance published by SWA in September 2021: *the Guide to managing the risks of elevating work platforms* (National Guide), on the safe use of EWPs to support operators and duty holders; and the Queensland Safe Support Guide.

OIR, as a member of SWA, will contribute to the development of the model code of practice.

On 10 March 2025, the Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations responded:

Both the Safe Work Australian (SWA) interactive tool and the model Code of Practice (COP) for Elevated Work Platforms are expected to be finalised by March 2025. The design process for the interactive guidance is being informed by consultation with technical networks and tested with industry. The COP will be based on existing guides.

SWAs interactive guidance and model COP is expected to:

- improve training for mobile plant operators to increase their awareness of hazardous ground conditions, including knowing when to seek advice from professional geotechnical services, and
- improve existing guidance and materials to help PCBUs and plant operators to assess ground condition risks.

Recommendation 3

Elevated work platform (EWP) licenced operators and applicants for an EWP operator's licence should receive additional training by geotechnical experts regarding the identification of hazardous and unsure ground conditions for operating any EWPs and how to interpret geotechnical reports. There should be a 'review of units of competency' to ensure operators have a continued understanding of the geotechnical hazards during the set up and operation of EWPs.

On 16 March 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

The licensing requirements for elevated work platform (EWP) operators are part of a standardized national licensing scheme administered by Safe Work Australia (SWA). SWA is an Australian Government statutory body established in 2008 to develop national policy relating to work, health and safety and workers' compensation. Units of competency are developed by Australian Industry Standards, an independent government-funded skills services organization that supports industry through the development of training packages. Applicants for an EWP operator's licence must complete training in the relevant unit of competency and progress to formal assessment using the national assessment instruments (NAIs) relevant to the unit of competency. NAIs are developed by SWA in consultation with all state and territory work health and safety regulators. One of the purposes of the NAI is to ensure that all candidates are assessed against a consistent minimum standard of competency. The Office of Industrial Relations will ensure SWA is provided with the coroner's recommendation and findings.

Recommendation 4

Queensland Government, industry groups and regulators consult with each other and Commonwealth and interstate and territory work health and safety regulators about these proposed amendments in context with national model work health and safety laws.

Response and action: implementation of the recommendation is in progress.

Responsible agency: Office of Industrial Relations

On 16 March 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

The Office of Industrial Relations is considering this recommendation together with the findings of the inquest.

On 24 August 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing has responded:

The Office of Industrial Relations (OIR) had the coroner's recommendations tabled at the June 2023 meeting of Safe Work Australia (SWA). SWA is an Australian government statutory body, established in 2009 to develop national policy relating to work health and safety and workers' compensation. SWA's membership includes the Australian Council of Trade Unions, Australian Chamber of Commerce and Industry and the Australian Industry Group as well as all Australian work health and safety regulators. At the meeting SWA proposed and its members supported the following recommendations:

- For SWA to commission an expert study on the assessment of ground conditions for mobile plant; and
- Amend the *SWA Guide to managing the risks of elevating work platforms* (EWP Guide) to include more information on ground conditions, including OIR's strong view that EWP guidance be widened beyond just ground stability.

OIR will continue to consult with industry groups and regulators as consideration of the coroner's recommendations and the SWA recommendations progress.

On 24 April 2024 the Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing responded:

Following Safe Work Australia's (SWA) agreement to commission an expert study on the assessment of ground conditions for mobile plant, a suitably qualified expert was engaged in December 2023. The report was finalised in March 2024 and it is anticipated that it will be considered at the SWA Strategic Issues Group WHS in May 2024.

The final report will be considered by SWA members with whom the Office of Industrial Relations (OIR) will continue to work closely.

On 23 September 2024 the Office of Industrial Relations responded:

The Office of Industrial Relations (OIR) will continue to consult with industry groups and regulators as consideration of the coroner's recommendations and the development by SWA of an interactive guide on managing the risks associated with ground conditions related to the set up and operation of mobile plant such as EWPs; and a model Code of Practice for EWPs progresses.

On 10 March 2025, the Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations responded:

The Office of Industrial Relations (OIR) continues to consult as necessary, through the development by Safe Work Australia of an interactive guide on managing the risks associated with ground conditions related to the set up and operation of mobile plant such as Elevated Work Platforms (EWP), and a model Code of Practice for EWP.