Impact Analysis Statement

Summary IAS

Details

Lead department	Department of State Development, Infrastructure and Planning
Name of the proposal	Proposed amendments to the *Work Health and Safety Regulation 2011* (WHS Regulation) to: • prescribe high risk plant at non-workplace premises for the purpose of Schedule 1, Part 1 of the *Work Health and Safety Act 2011* (WHS Act); • make a minor amendment to clarify the exclusion of lifts in private residences from the annual plant registration requirement under the WHS Regulation; • make minor amendments regarding procedural aspects of major amusement park and demolition work licences; and • make minor technical amendments regarding respirable crystalline silica.
Submission type	Summary IAS
Title of related legislative or regulatory instrument	*Work Health and Safety Regulation 2011*
Date of issue	12 March 2026

Proposal type	Details
Minor and machinery in nature	**Proposal 1: Minor amendment to clarify the exclusion of lifts in private residences from plant item registration** Under the WHS Regulation, lifts in a private residence within the meaning of AS 1735.1.2003 (*Lifts, escalators and moving walks – General requirements*) are excluded from annual plant registration requirements (see Schedule 5, Part 2 of the WHS Regulation). AS 1735.1.2003 states that a private residence is '*A separate dwelling and its enclosed grounds or a separate apartment in a multiple dwelling that is occupied only by the members of a single family household unit*'. AS 1735.1.2003 has been superseded, however, the definition of 'private residence' in both the superseded standard and AS 1735.1.2022 does not clearly align with the intended scope of the exclusion. In particular, the reference to separate apartments in multiple dwellings occupied only by members of a single family household unit creates some confusion and ambiguity. The proposed amendment will clarify the exclusion of lifts in a private residence from plant item registration requirements under the WHS Regulation. It is proposed that the exclusion from plant item registration for lifts in private residences be linked to well understood concepts for classification of dwellings in the *National Construction Code* rather than refer to AS 1735.1. This means excluding the following from plant item registration: • a lift installed in a class 1a building (e.g. detached houses and townhouses); and • a lift installed within a sole occupancy unit of a class 2 building which is only used to access more than one level of the unit (e.g. a stairlift installed for mobility assistance within a two-level apartment). Removing the reference to a superseded Australian Standard and clarifying the exclusion of lifts in private residences from plant item registration can only be achieved by legislative amendment.

	The proposed amendment to clarify the exclusion of lifts in private residences from plant item registration was outlined in the discussion paper published for the high risk plant regulatory proposals (see Proposal 4 below). No feedback was received on the proposed clarification through the public consultation process. The proposed amendment does not place any additional financial burden on owners of lifts in a private residence. **Proposal 2: Minor machinery amendments regarding major amusement park and demolition work licences** Minor amendments are proposed to clarify procedural aspects relating to major amusement park (MAP) and demolition work licences and provide consistency with other licensing provisions in the WHS Regulation. *Clarifying the status of a MAP licence following a decision by the regulator to refuse renewal of a licence* An amendment to section 608ZZA (Status of major amusement park licence during review) of the WHS Regulation is proposed to clarify the status of a MAP licence following a decision by the regulator to refuse renewal of the licence. This proposal will clarify the status of the licence in both the following circumstances: • the operator applies for an internal review of the decision; and • the operator does not apply for an internal review of the decision. The proposed amendment will provide procedural fairness for the licence holder and ensure section 608ZZA is consistent with other comparable licensing provisions in the WHS Regulation, such as section 519 regarding the status of asbestos licences following the regulator refusing to renew a licence. *Clarifying timelines for internal review of deemed regulator refusals regarding a MAP licence or demolition work licence* An amendment to section 678 (Application for internal review) of the WHS Regulation is required to clarify the timeframes for an internal review of any deemed regulator refusal under the WHS Regulation of a demolition work licence under section 144F(5) or a MAP licence under section 608ZG(7). The proposed amendment will ensure consistency in the approach to applications for internal reviews of licensing decisions by updating section 678 to include decisions relating to applications for MAP and demolition work licences. *Definition of 'licence holder' updated to include reference to the holder of a MAP licence* It is proposed to include a reference to a MAP licence holder in the definition of 'licence holder' in Schedule 19, WHS Regulation. This is a drafting style amendment which is minor and will provide internal consistency for terminology within the WHS Regulation. Addressing these anomalies regarding MAP and demolition work licences can only be achieved by legislative amendment. The proposed amendments do not place any additional financial burden on licence holders or applicants. **Proposal 3: Minor amendments regarding requirements for processing crystalline silica substances** On 1 September 2024, the WHS Regulation was amended to introduce specific requirements for working with crystalline silica substances (CSS). The amendments sought to align the WHS Regulation with nationally agreed model regulations for working with CSS. The following amendments are required to the CSS provisions to ensure they achieve consistency and alignment with the national model regulations.

	Section 529CA(3) Section 529CA of the WHS Regulation requires a person conducting a business or undertaking (PCBU) to identify processing of CSS that is high risk. This includes specifying, in section 529CA(3), matters PCBUs must not factor in when assessing if CSS processing is high risk. An amendment to section 529CA(3) is required to ensure the factors listed in section 529CA(3) are consistent with the national model legislation and do not unintentionally create a higher threshold in Queensland for the assessment of high risk CSS processing. Section 529CD(4) Section 529CD(4) of the WHS Regulation provides the definition of crystalline silica training. This includes detail regarding the meaning of training approved by the regulator. An amendment to section 529CD(4) is required to ensure the definition of crystalline silica training is consistent with the national model legislation by clarifying that training approved by the regulator relates to both the health risks associated with exposure to respirable crystalline silica and the need for, and proper use of, control measures required under the regulation. Achieving consistency with the model CSS regulations can only be achieved by legislative amendment. The proposed amendments do not place any additional financial burden on PCBUs.

What is the nature, size and scope of the problem? What are the objectives of government action?

Proposal 4: High risk plant at non-workplace premises

The WHS Act and Regulation apply to certain types of 'high risk plant' affecting public safety even if the plant is not situated, operated or used at a workplace or used for carrying out work.

Since 1 January 2012, the following types of plant have been prescribed as 'high risk plant' in Schedule 1, Part 1 (Dangerous goods and high risk plant) of the WHS Act:

- air conditioning units which incorporate a cooling tower or one or more compressors and the power rating required for the unit is 50kW or more
- amusement devices
- cooling towers
- escalators
- lifts
- liquefied petroleum (LP) gas cylinders[1].

This means that upstream duty holders in the WHS Act (i.e. designers, manufacturers, importers and suppliers of plant) must discharge their duties in relation to these types of plant regardless of whether it is used at a workplace.

In addition, owners of 'high risk plant' at non-workplace premises also have duties under Chapter 12 (Public health and safety – schedule 1, part 1) of the WHS Regulation. This includes ensuring, so far as is reasonably practicable, the health and safety of people who may be affected by the operation of the 'high risk plant', and responsibilities relating to the inspection and maintenance of the plant. An example of this is a lift in a high-rise apartment building which is on common property and under the management or control of the body corporate for the community titles scheme for the building.

The public safety risks associated with 'high risk plant' have a clear linkage with members of the public who may use or be in the vicinity of these types of plant. For example, the public safety risk associated with cooling towers is linked to the risk of exposure to legionella bacteria and developing Legionnaires' disease. This may affect people who live in the same building where a cooling tower is located or other people in the vicinity (for example New

[1] Prior to 1 January 2012, the repealed Workplace Health and Safety Act 1995 similarly regulated public safety associated with the same types of plant at non-workplace premises.

South Wales Health has been investigating the source of an outbreak in Sydney over May-June 2025 and reminding building owners about cooling tower maintenance).[2]

The *Work Health and Safety and Other Legislation Amendment Act 2024* will amend the WHS Act, from 29 March 2026, to enable 'high risk plant' to be prescribed by regulation instead of being prescribed in Schedule 1 of the WHS Act. The approach of relocating 'high risk plant' from being prescribed in the WHS Act to instead being prescribed in the WHS Regulation will allow greater flexibility in updating definitions and resolve the issue of having the same types of plant defined differently in the WHS Act and WHS Regulation. This approach is also consistent with the model Work Health and Safety Act (model WHS Act) developed by Safe Work Australia, which provides for 'high risk plant' to be prescribed by regulation.

The objective of government action is to continue prescribing particular types of plant as 'high risk plant' for the public health and safety purpose established under Schedule 1, Part 1 of the WHS Act. As part of developing the proposal to prescribe 'high risk plant' by regulation, consideration was given to examining the definitions of plant currently prescribed in Schedule 1, Part 1 of the WHS Act to ensure these are current and achieving intended public health and safety benefits.

What options were considered?

Proposal 4: High risk plant at non-workplace premises

Option 1 – No action

Option 1 is to take no further action. The automatic commencement of section 68 of the *Work Health and Safety and Other Legislation Amendment Act 2024* on 29 March 2026 would mean that no types of plant are prescribed as 'high risk plant' for the purpose of Schedule 1 of the WHS Act.

Option 2 – Amend the WHS Regulation to prescribe five types of plant as 'high risk plant' for the purpose of Schedule 1, Part 1 of the WHS Act

Option 2 is to amend the WHS Regulation to prescribe particular items of 'high risk plant' for the public safety purpose of Schedule 1, Part 1 of the WHS Act. This option is consistent with the model WHS Act which provides for 'high risk plant' to be prescribed by regulation.

Prescribing 'high risk plant' in the WHS Regulation rather than in the WHS Act allows greater flexibility in updating definitions and will resolve an existing problem of having the same types of plant defined differently in the WHS Act and WHS Regulation.

Items of plant proposed to be prescribed as 'high risk plant'

It is proposed that the following be prescribed as 'high risk plant' for the purpose of Schedule 1 of the WHS Act:

- amusement devices
- escalators
- lifts
- LP gas cylinders
- cooling towers.

This will mean upstream duty holders in the WHS Act (i.e. designers, manufacturers, importers and suppliers of plant) must continue to fulfil their duties in relation to these types of plant regardless of whether the plant is used at a workplace.

In addition, owners of 'high risk plant' at non-workplace premises would continue to have duties under Chapter 12 (Public health and safety – schedule 1, part 1) of the WHS Regulation. This includes ensuring, so far as is reasonably practicable, the health and safety of people who may be affected by the operation of the 'high risk plant', and responsibilities for inspection and maintenance.

It is proposed the definition of 'lift' be updated to omit the reference to escalators and moving walkways, which is consistent with the definition of 'lift' in the model WHS Regulation. The definition of 'LP gas cylinder' is proposed to be modified to align with terminology in the WHS Regulation.

It is proposed that air conditioning units no longer be prescribed as 'high risk plant'.

[2] Update: Legionnaires' CBD outbreak | South Eastern Sydney Local Health District

What are the impacts?

Proposal 4: High risk plant at non-workplace premises

Option 1 – No action

No action would mean a gap in the regulatory framework for public health and safety as no types of plant would be prescribed as 'high risk plant' despite a head of power being established for this in the WHS Act.

A gap in the regulatory framework would mean:

- the public safety purpose of Schedule 1, Part 1 of the WHS Act is not fulfilled in relation to particular types of 'high risk plant' which present a risk to health and safety for members of the public who use such plant or are in the vicinity of such plant.
- different standards applying to designers, manufacturers, importers, suppliers and installers of 'high risk plant' simply depending on whether the plant is to be operated at a workplace or non-workplace premises.
- a lack of clarity for owners of 'high risk plant' operated at non-workplace premises in relation to their obligations to ensure the plant is inspected and maintained so it does not present a risk to people's health and safety.
- the WHS regulator would not be able to monitor compliance or take enforcement action in relation to 'high risk plant' where it is operated at non-workplace premises, other than when a person conducting a business or undertaking is carrying out work associated with the 'high risk plant' and the issues relate to the work conducted by the PCBU.
- items of 'high risk plant' at non-workplace premises which require plant item registration, such as lifts in high rise apartment buildings, would no longer require registration. This would result in automatic invalid registrations for those lifts on 29 March 2026 and require the regulator to provide pro-rata refunds for plant item registration fees for the 2026 registration period.

Option 2 – Amend the WHS Regulation to prescribe five types of plant as 'high risk plant' for the purpose of Schedule 1, Part 1 of the WHS Act

Option 2:

- provides continuity in the regulatory framework for public health and safety by continuing to regulate five types of plant as 'high risk plant'.
- ensures clear accountability for upstream duty holders in requiring them to meet their duties under the WHS Act in relation to these types of 'high risk plant', regardless of whether the plant is to be used at a workplace or non-workplace premise.
- ensures the prescription of 'high risk plant' is contemporary by updating definitions and aligning with terminology in the WHS Regulation. This provides greater clarity for both duty holders and the regulator.
- does not create additional financial or regulatory burden as a result of prescribing the 'high risk plant' in the WHS Regulation rather than the WHS Act.
- reduces an unnecessary layer of regulatory burden by no longer prescribing air conditioning units as 'high risk plant' and allows this type of plant to be regulated under existing legislative frameworks for plant and electrical equipment.

There are no additional compliance costs associated with prescribing 'high risk plant' for non-workplace premises via the WHS Regulation instead of the WHS Act.

Who was consulted?

Proposal 4: High risk plant at non-workplace premises

A discussion paper outlining the proposed approach for prescribing high risk plant by regulation was published on WorkSafe.qld.gov.au from Monday, 29 September 2025 and submissions were invited from the public by Monday, 27 October 2025. In addition, the following organisations were invited to provide feedback on the discussion paper:

- Queensland Health
- Resources Safety and Health Queensland
- Department of Housing and Public Works
- Department of Justice
- Office of the Commissioner for Body Corporate and Community Management
- Australian Institute of Refrigeration, Air Conditioning and Heating

- Strata Community Association Queensland
- Australian Amusement Leisure and Recreation Association
- Fuel gas suppliers
- Australian Elevator Association

Information provided by organisations informed the development of the proposed regulatory approach in Option 2.

The Australian Institute of Refrigeration, Air Conditioning and Heating and two other individual submissions did not agree with the proposal to cease prescribing air conditioning units with a power rating of 50kw or more as 'high risk plant'. These submissions raised concerns with the increase in use of flammable refrigerants and carbon dioxide in both high-capacity air conditioning and refrigeration used at workplaces as well as plant designed for domestic use.

Overall, OIR does not consider there is a public health and safety legislative gap that needs to be addressed by continuing to prescribe high-capacity air conditioning units as 'high risk plant' for non-workplace premises. A combination of work health and safety, electrical safety, and petroleum and gas legislative requirements apply to high-capacity air conditioning units as well as any refrigerants used in such plant. These units are highly likely to be under the management or control of a PCBU, and work carried out on them must be carried out by a PCBU which ensures there are legislative requirements to protect both workers and members of the public.

Government agencies either supported the regulatory proposal in Option 2 or did not raise any concerns during consultation.

What is the recommended option and why?

Proposal 4: High risk plant at non-workplace premises

Option 2 (Amend the WHS Regulation to prescribe five types of plant as 'high risk plant' for the purpose of Schedule 1, Part 1 of the WHS Act) is preferred as:

- it will fulfil the public safety purpose of Schedule 1, Part 1 of the WHS Act in relation to those types of plant. Queensland has applied the WHS Act to particular types of 'high risk plant' to provide a public safety benefit for decades, both under the current WHS Act and the repealed Workplace Health and Safety Act 1995.
- there are public health and safety risks associated with particular types of 'high risk plant' at non-workplace premises and it is reasonable to require various parties with responsibilities in relation to those types of plant to fulfil health and safety duties to eliminate or minimise those risks so far as is reasonably practicable.
- prescribing particular items of 'high risk plant' for a public safety benefit is consistent with the object of the WHS Act to protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from particular types of plant.
- applying the WHS Act to particular types of plant at non-workplace premises ensures the same standards required for that plant at a workplace must be upheld for the same plant operating at non-workplace premises (for example, a lower standard is not permitted for a lift installed in a high rise residential building compared to a lift installed in a commercial building).

Option 1 (no action) is considered undesirable for the following reasons:

- a regulatory gap would mean the WHS regulator could not direct the owners of 'high risk plant' to ensure safety standards were followed and the WHS regulator's ability to take action in the event of an incident would be limited to the extent of legislative coverage.
- a regulatory gap would mean that any 'high risk plant' requiring plant registration, such as lifts in residential apartment buildings, would no longer require plant registration after 29 March 2026, and a refund of registration fees paid to the regulator would be required.

Impact assessment

All proposals – complete:

	First full year	First 10 years**
Direct costs – *Compliance costs**	**Nil expected**	Nil expected
Direct costs – *Government costs*	**Nil expected**	Nil expected

* The *direct costs calculator tool* (available at www.treasury.qld.gov.au/betterregulation) should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.

Signed

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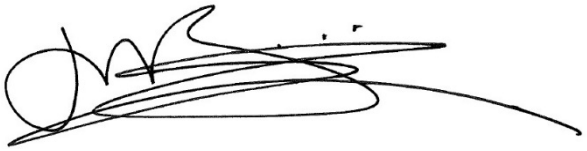
John Sosso

Director-General

Department of State Development, Infrastructure and Planning

Date: 20/02/2026



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Jarrod Bleijie MP

Deputy Premier,

Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations

Date: 25/02/2026