



## **SUBMISSION**

**To**

**Work Health & Safety Bill (WA) 2014**

**Prepared by:-**

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## **Background**

The Western Australian Farmers Federation (Inc) (WAFarmers) is WA's largest and most influential rural lobby and service organisation.

WAFarmers represents approximately 3,500 Western Australian farmers from a range of primary industries including grain growers, meat and wool producers, horticulturalists, dairy farmers, commercial egg producers and beekeepers.

It is estimated that collectively our members are major contributors to the \$6.9 billion gross value of production (2007/08 . ABS, WA Agri-Food Industry Outlook . December 2009) that agriculture in its various forms contributes to Western Australia's economy.

Additionally, through differing forms of land tenure, our members own, control and capably manage many millions of hectares of the State's land mass and as such are responsible for maintaining the productive capacity and environmental well being of that land.

## **Introduction**

WAFarmers welcomes the opportunity to provide comment to the Work Health & Safety Bill (WA) 2014.

WAFarmers acknowledges that agriculture has unfortunately proven itself to be one of the most dangerous occupations across many industries.

While only 3 percent of workers are employed in the agriculture sector (ABS . 2012), on average 44 farm workers, or one-in-six of all workplace fatalities are killed each year and another 17 400 suffer a work-related injury per annum (Safework Australia).

WAFarmers takes safety very seriously, with a dedicated policy unit and membership on a variety of councils and industry advisory groups, including Worksafe WA's Agricultural Industry Safety Group.

Its members, like most in the industry, take safety seriously, however the fact that agriculture has the highest proportion of self-employed workers in Australia, the spill-overs to include family, and the dynamics of working often alone, in isolated areas, add complexity to the overall risk in the workplace.



WAFarmers support any measure to help improve safety standards across all workplaces, particularly agriculture, where practical.

Its members are on average, in their late 50s; have a strong connection to their rural community, and often hold their workplace with the same affection as their home, which is usually one and the same.

**There are a number of concerns that WAFarmers has in relation to the WHS Bill (WA) 2014**

WAFarmers supports a regulatory framework that encourages a systematic methodology for efficiency in improving safety performance in the workplace; but that minimises the bureaucracy, confusion and mis-interpretation of the delivery of legislation.

Irrespective of whether society expect more or less governance within an agricultural businesses than what exists is superfluous. The fact is, most farms employ often two, and sometimes, three generations of families, with the older generation often in their seventies, and with limited education.

Furthermore, it is part of the systemic evolution of farming properties over centuries, that families; their workers and in turn, their families, co-inhabit farms/workplaces.

WAFarmers is deeply concerned that the way the proposed legislation is designed will have significant impositions on how farming families co-exist in a workplace.

Some practical, common and almost unchangeable realities in terms of how farming families live on farms is that everything outside the house, whether it be the shed/s, the horse paddock; the swimming pool, and all areas in between constitute a workplace. This very fact has serious ramifications for the employer/business owner in his management of non-workers on a worksite, if the WHS Bill (WA) 2014 is adopted in its entirety.

The term reasonably practicable gives insufficient clarity as to how an employer protects workers and their families under duty of care

Referring to the well-known hierarchy of control, it would appear that elimination of risk be the only plausible option in a family-farm situation if the Bill is interpreted the way it is written. This would be regarded as non-practicable by the farming community, but according to recent conversations with Worksafe employees, it is regarded as completely practicable to ban anyone other than an employee, from anywhere other than the immediate vicinity of the workplace, unless significant substation, PPE and administrative controls were installed to minimise risk.



Whilst WAFarmers supports practice change in how employees and non-employees adapt to increased safety management on and within a farming business, cultural adaptation from a century of just being careful to be as close as possible to being compliant, will take some time.

Because of the uniqueness of this dynamic, the current WHS Bill (WA) 2014 does not allow the necessary flexibility and clarity of how it is to be interpreted.

It is inconceivable to expect in the short-term, that the two options available to agriculture of either lifting compliance by 400-500% to a standard closer to other industries, or closing down farms as workplaces, will be achievable or sustainable.

A transitional process, combined with an educational and awareness support mechanism, is necessary to engage the rural community which will drive sustainable change. Too much complexity and rigidity will result in non-compliance, which WAFarmers wishes not for its industry.

Farming properties are inherently part of an environmental system full of uncertainty whether it be climate, terrain, biological risk (such as snakes, bees, unpredictable animals, etc) and isolation.

In the instance where an inspector deems it necessary to inspect the workplace (Section 163 of the WHS Bill 2014), The Bill does not clarify sufficiently for the average reader to believe anything other than the right for that inspector to enter a house, and/or an employee's house, given that the farm office is part of the house, and the immediate sheds, workshops and the like, are part of the house yard, and vice-versa.

According to the National Farmers Federation (NFF), over 99% are family farms, with over a third being the parents only, with another half having one or more children living on the farm.

Additionally, according to ABS, the majority of the 135,000 family farm businesses are considered small, with just over half turning over less than \$100,000 per annum. In 2011, the average weekly earnings of Australian farmers was \$568/week.

In all, this demonstrates an industry, although contributing over \$37 billion to the national account, dominant with families who do not have capacity to pay potentially tens of thousands of dollars to comply with WHS as interpreted via the WHS Bill (WA) 2014.

The imposition of the plethora of changes to a small business is considered extreme, and will likely result in non-compliance.



WAFarmers trusts and agrees with the majority of the contents of the Regulation Impact Statement (December 2012) . Model Work Health and Safety Regulations and Codes of Practice in WA (Marsden Jacob Associates), and supports the notion that there is little material gain in adopting the original WHS Bill, and is pleased that the Western Australian Government has recognised the need to hold firm in reducing unnecessary compliance costs that do not result in improved safety outcomes.

WAFarmers maintains the view that despite those exemptions, the compliance costs versus net benefits to agriculture are unknown, and are likely to exceed the benefits.

The uniqueness of agriculture; its people, its culture; require careful consideration when implementing WHS laws.

Although WAFarmers would tend towards outright rejection of the WHS Bill (WA) 2014, it would be an opportunity presented to the agricultural sector to customise the framework that improves safety in the sector by gradually changing the culture; by empowering its workforce to create change, and to promote safety in the workplace for farm businesses and their families, as opposed to promote a culture of restrictive compliance and enforcement.

Recent inspections of farm businesses by Worksafe WA, accompanied by a growing tendency by the inspectors to emulate what the new compliance focus may become, has seen a perceived change to an increased level of mistrust towards inspectors; compliance, and an indicative level of dissatisfaction towards the definition of ~~reasonable~~ ~~practicable~~

WAFarmers would like to see more clarity around the powers of the inspectorate; the framework that guides small business owners to improved safety outcomes; the flexibility for its unique situation involving farming families and the definition of a ~~workplace~~ and the way in which the industry can engage sustainably in improving farm safety.

WAFarmers thanks the Western Australian Government for the opportunity to provide comment.