

Construction project over \$250,000 involving high risk work



Case Study

This case study illustrates four key WHS principles that apply to all WHS duties in the model WHS Act.

See the Safe Work Australia website to learn more: swa.gov.au/law-and-regulation/duties-under-whs-laws/principles-apply-work-health-and-safety-duties



4 key principles that apply to all WHS duties in the model WHS Act



1. WHS duties are not transferable.



2. A person can have more than one duty.



3. More than one person can have the same duty.



4. Management of risks.



A private hospital (the Hospital) has decided to expand with the construction of a new wing. The Hospital engages Pickwell Construction Pty Ltd (Pickwell Construction) as the principal contractor who is authorised to engage contractors as needed. Pickwell Construction will manage and control the workplace. This includes the site of the new wing and other areas where work related to the build could take place. e.g. loading zones.

Pickwell Construction engages LoadUp Cranes, Lasso's Cranes and JB Facades (the contractors) to assist with the new wing. The Hospital retains oversight to ensure Pickwell Construction effectively manages its WHS duties.

WHS duties of Pickwell Construction as principal contractor

As a person conducting a business or undertaking (PCBU) Pickwell Construction has a primary duty to ensure, so far as is reasonably practicable, the health and safety of workers while they are at work in the business.

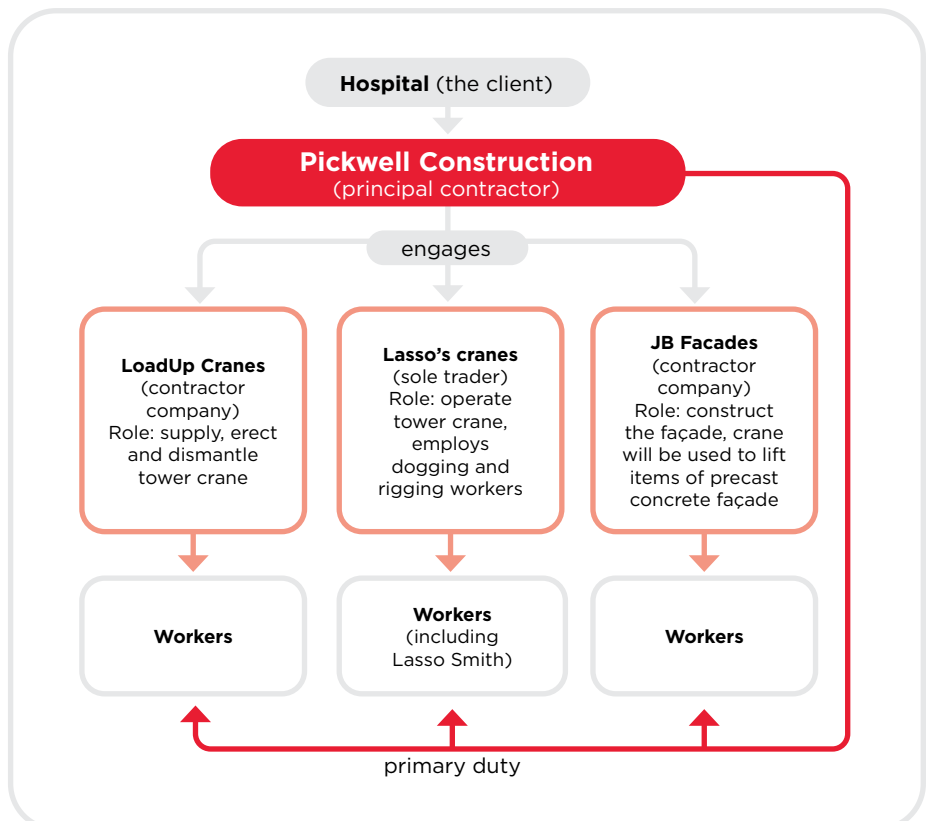
Pickwell owes a primary duty to the following workers:

- its employees and the contractors (including Lasso Smith) who it engaged; and
- the workers of each contractor

while they are at work on the construction of the new wing.

The contractors' workers are caused to be engaged by Pickwell when Pickwell contracted with each contractor to carry out work on the new wing.

Pickwell must also ensure other persons (e.g. hospital staff, visitors) are not put at risk from the work carried out in the construction of the new wing.





WHS management plan

As principal contractor, Pickwell Construction must prepare a WHS Management plan before work commences. The plan must always be accessible to contractors and workers.

A WHS Management plan is a written plan that sets out the arrangements for managing some site health and safety matters. This includes site-specific health and safety rules used to manage risks.

Pickwell Construction must consult with contractors on the site-specific rules for the health and safety matters for which it shares a duty with the contractor(s) e.g managing risks of noise.

The model WHS Regulations set out what must be included in the plan. See the model [Code of Practice: Construction Work](#) for more information.

WHS duties of contractors

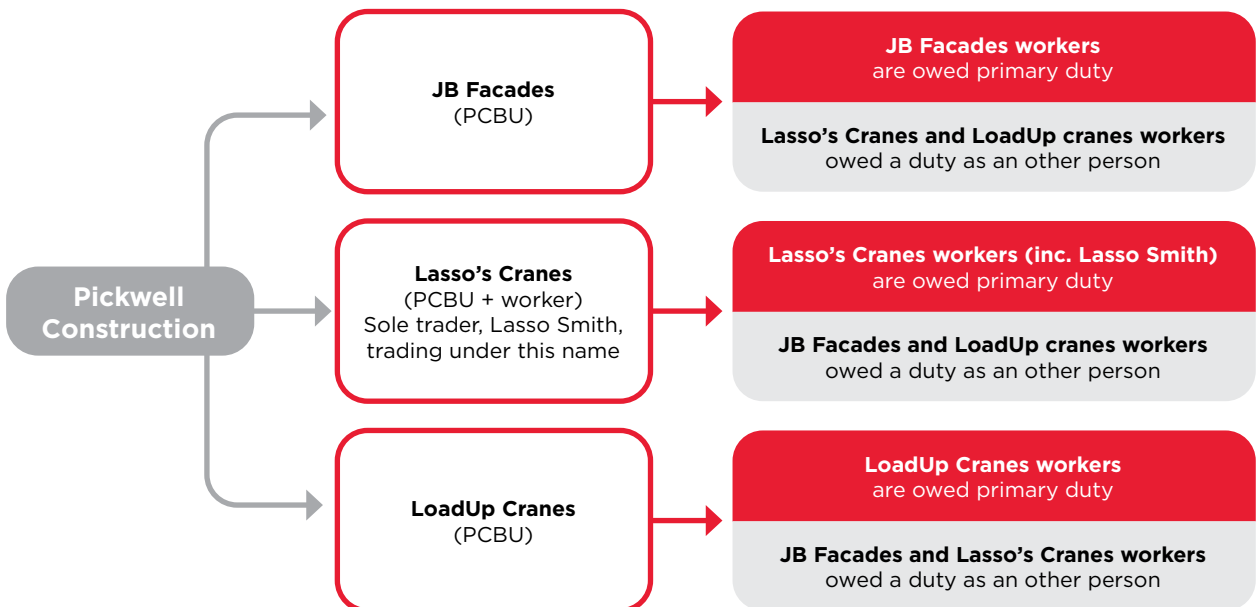
All contractors are PCBUs. Each contractor:

- has a primary duty to ensure so far as is reasonably practicable, the health and safety of its workers while at work in the business. Its workers include its employees.
- must ensure 'other persons' are not put at risk from the work it carries out in the construction of the new wing. 'Other persons' include workers of the other contractors on site and site visitors.



Lasso Smith, as a sole trader, has duties as a PCBU and also has duties as a worker in their business. To learn more see [principle 2: A person can have more than one duty](#) factsheet

Duties of contractors



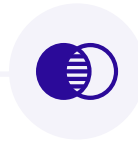


Sharing of WHS duties



Pickwell Construction and the contractors cannot contract out or transfer their WHS duties. To learn more see [principle 1: WHS duties are not transferable](#) factsheet.

Pickwell Construction also has other WHS duties which it shares with some or all of the contractors. These include a range of different duties in relation to managing the risks from tower crane activities (including erecting, operating and removal of the crane). The table below shows how these duties are shared with some or all of the contractors, depending on the duty.



Pickwell Construction has the same duty as each contractor in relation to that contractor's workers.

The contractors also have the same duty to each other's workers as 'other persons'. Pickwell Construction and the contractors all have the same duty to site visitors etc as 'other persons'. All PCBUs must discharge their shared duties to the extent they can influence and control the matter. They must also consult coordinate and cooperate their activities with other duty holders. To learn more see [principle 3: More than one person can have the same duty](#).

Duties owed by Pickwell Construction relating to the tower crane include:

Contractors who also owe the same duty:

Primary duty of care - including to ensure the provision and maintenance of safe plant including cranes, and safe use, handling, storage and transport of plant (s 19 model WHS Act)	LoadUp Cranes and Lasso Smith (T/A Lasso's Cranes).
PCBU involved in the management or control of the tower crane must ensure it is without risks to health and safety so far as is reasonably practicable (s 21 model WHS Act and Division 7 of Pt 5.1, Ch 5 model WHS Regulations)	
PCBU that installs constructs or commissions the tower crane must ensure it is without risks to health and safety so far as is reasonably practicable (s 26 model WHS Act and r 201, 204 model WHS Regulations)	LoadUp Cranes.
PCBUs must manage risks associated with the carrying out of construction work at the construction project (Pt 6.3 of Ch 6 model WHS Regulations)	All PCBUs.
PCBUs must prepare a Safe Work Method Statement (SWMS) prior to the erection, commissioning, operation and dismantling of the crane. This must be complied with and reviewed if control measures are revised (Division 2 of Pt 6.3, Ch 6 model WHS Regulations). Principal contractor (Pickwell) must also take reasonable steps to obtain a copy of the SWMS before work commences (r 312 model WHS Regulations).	Lasso Smith ((T/A Lasso's Cranes) and LoadUp Cranes. JB Facades to the extent it relates to the lifting of the precast concrete façade precast elements.
PCBUs must ensure the provision of information, training, instruction, and supervision relating to the erection, commissioning, operation, inspection, maintenance and dismantling of the tower crane (s 19 model WHS Act, r 39 model WHS Regulations)	

NB: This table is not an exhaustive list of all duties Pickwell Construction and the contractors may owe. Additional duties may include those relating to high-risk work licences, the design and item registration of the tower crane.



Consultation coordination and cooperation - planning of tower crane operations

Pickwell Construction consults, co-ordinates and cooperates with Lasso Cranes and LoadUp Cranes (the crane contractors) to plan the set up and operation of the tower crane:

! A Safe Work Method Statement (SWMS) is a document that sets out the high risk construction work activities to be carried out at a workplace, the hazards arising from these activities and the measures to be put in place to control the risks. The WHS management plan must be taken into account when preparing the SWMS as it is about work carried out as part of a construction project (r 299(3)(a)(ii)).

Pickwell Construction

- Checks with contractors a SWMS has been prepared for any high-risk construction work activities.
- Provides relevant information about the build to the crane contractors such as the site-specific geotechnical reports.
- Requests LoadUp Cranes to verify it has organised for an independent competent person to undertake commissioning, inspection and testing before the crane is put into service.
- Coordinates with the crane contractors to commission inspection and testing before the crane is put into service.
- Ensures all WHS responsibilities relating to licensing, training, inspection and maintenance requirements will continue to be met. This includes organising for the crane contractors to provide easy to understand training on crane operations as part of the site-specific induction training.
- Ensures the SWMS is implemented by monitoring what is happening on the ground.

Pickwell Construction cooperates closely with the crane contractors to ensure the system of work and SWMS are consistent with existing safe systems of work for the site, the WHS management plan (including the risk management process in place), traffic management plan and emergency procedures.

LoadUp Cranes, Lasso's Cranes and JB Facades

- LoadUp Cranes and Lasso's Cranes develop a safe system of work for tower crane operations including preparation of a Safe Work Method Statement (SWMS) for crane erection, climbing, and lifting of precast concrete facades.
- The crane contractors and JB Facades work together to manage risks involved in lifting the precast façade.
- JB Facades must also complete a SWMS for high-risk work relating to the installation of the precast concrete façade.
- During consultation, the contractors all agree to develop one SWMS, reducing the number of SWMS documents.
- Once the SWMS has been developed and it is time to erect the crane, the crane contractors coordinate to implement the SWMS including:
 - o providing training and instruction to the crane crew including the functions and limitations of the crane and the SWMS content;
 - o setting up an exclusion zone around the crane and any suspended loads during loading/unloading processes, and designated safety spotters are put in place to ensure safety;
 - o daily equipment safety checks are undertaken and constant communication is maintained between the crane operators and others working on and around the crane.

! **Consultation with workers and health and safety representatives**

All PCBUs have a duty to consult with workers, and any health and safety representatives (HSRs), who are (or are likely to be) directly affected by a health and safety matter, so far as is reasonably practicable. This includes when identifying hazards and assessing risks, and when making decisions about ways to eliminate or minimise those risks.

Throughout the planning stage all three contractors consult with workers and any HSRs on both the SWMS and safe systems of work. Workers have an opportunity to provide input and share their knowledge and experience in working with tower cranes or lifting of precast concrete.

To learn more, see the [Duty to consult, cooperate and coordinate with other duty holders](#) fact sheet.



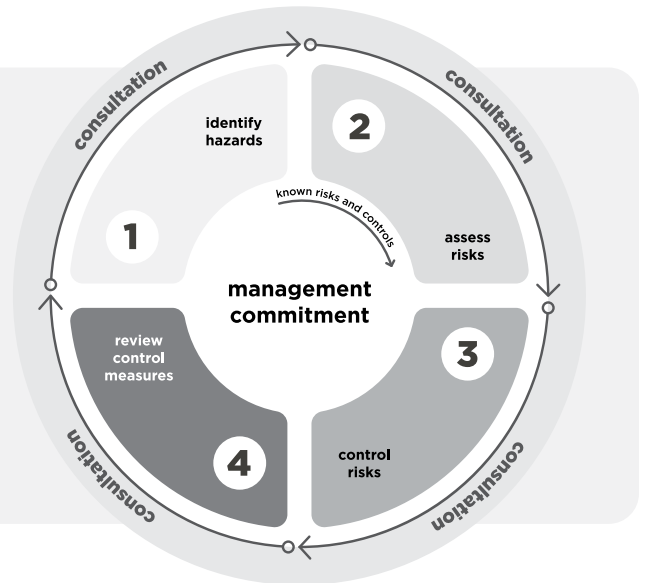
Risk management - removing the crane from the worksite

As PCBU Pickwell Construction and the contractors must manage risks to health and safety by eliminating the risks to health and safety, so far as is reasonably practicable, or if that is not possible, minimising those risks so far as is reasonably practicable. To learn more see [principle 4: management of risks](#) factsheet.

Pickwell Construction and the contractors apply a risk management approach as they work together to manage the risks of removing the crane from the worksite. Pickwell Construction must consult with workers and the contractors throughout the risk management process.

Identifying hazards

- LoadUp Cranes tells Pickwell Construction that dismantling the crane will result in increased traffic and use of heavy vehicles. Management of this hazard and its risks is set out in the SWMS and is sufficiently outlined in the site's traffic management plan.
- LoadUp Cranes learns there will be roadworks around the work site which will take several weeks to resolve. This creates a new hazard as heavy vehicles used as part of the process for dismantling the crane will now have to travel through the construction workers' carpark to avoid the roadworks.



Assessing and controlling the risks

- Pickwell Construction organises a meeting with the two crane contractors to review the SWMS. A JB Facades' representative and HSRs nominated to the project also attend.
- It is not reasonably practicable to eliminate the risk to workers' safety by closing access to the carpark during the dismantling phase, as there is no safe alternative place for workers to park.
- However control measures can still be implemented to minimise the risk. The contractors refer to the hierarchy of control measures to help rank possible control measures from the highest level of protection and reliability to the least. The PCBU agree:
 - o the carpark will be closed to vehicles and pedestrians intermittently when heavy vehicles and plant need to move directly through the carpark.
 - o during other times the carpark will remain open and additional measures put in place including temporary designated walkways with barriers, marked pedestrian crossings and presence sensing devices, and administrative controls such as additional signs and lighting.

Consultation with workers and HSRs must be undertaken

- Following consultation procedures documented in the WHS Management Plan, Pickwell Construction makes sure workers and HSRs are informed of the control measures. Workers are given an opportunity to provide feedback in person at their pre-work meeting or via their HSRs.

- The HSRs raise concerns about safe passage across pedestrian crossings as they extend around a corner. They suggest a dedicated traffic controller. The PCBU agree. The controller would communicate with plant and vehicle operators and let pedestrians cross when it is safe to do so.

Implementation and review of control measures

- Before the control measures are implemented the crane contractors revise the SWMS to include the new hazard caused by the roadworks. Pickwell Construction verifies the update has been made and also updates the traffic management plan.
- Pickwell Construction makes sure updates are provided to all PCBU and workers, including via notices around the site, email or other electronic communication (with permission) and at daily pre-work meetings.
- During the dismantling and removal of the crane, the PCBU meetings and toolbox talks are used to provide updates on the control measures, review them and adjust where necessary. All PCBU keep records of the risk management process as it demonstrates compliance with their duties.

Throughout the project, Pickwell Construction and its contractors continue to monitor the work environment to ensure the continued health and safety of workers and others on site.