



FINPRO: Legal Outlook - Safety

Presentation By

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- The reach of OHS law
- Current issues
 - Psychosocial hazards
 - Councillor behaviour
 - Contractor Management

General Principles of OHS Law

Significant duty

‘The importance of health and safety requires that employees, other persons at work and members of the public be given the highest level of protection against risks to their health and safety that is reasonably practicable in the circumstances.’

Broad public safety remit, especially in this sector

Arises from the ‘conduct of Council’s undertaking’
Not necessary that Council creates the risk
Applies to duties to volunteers, customers, passerby's, members of the public

Active regulator

WorkSafe – wide powers and remit

“Officer” liability

Applies to CEO and Executive Team
Workplace Manslaughter
Issues about Councillor liability for their conduct due to drafting of the relevant provisions



Approach to OH&S duties

- Risk based approach



What are Psychosocial Hazards & Risks?

**Not the same thing as
psychological safety**

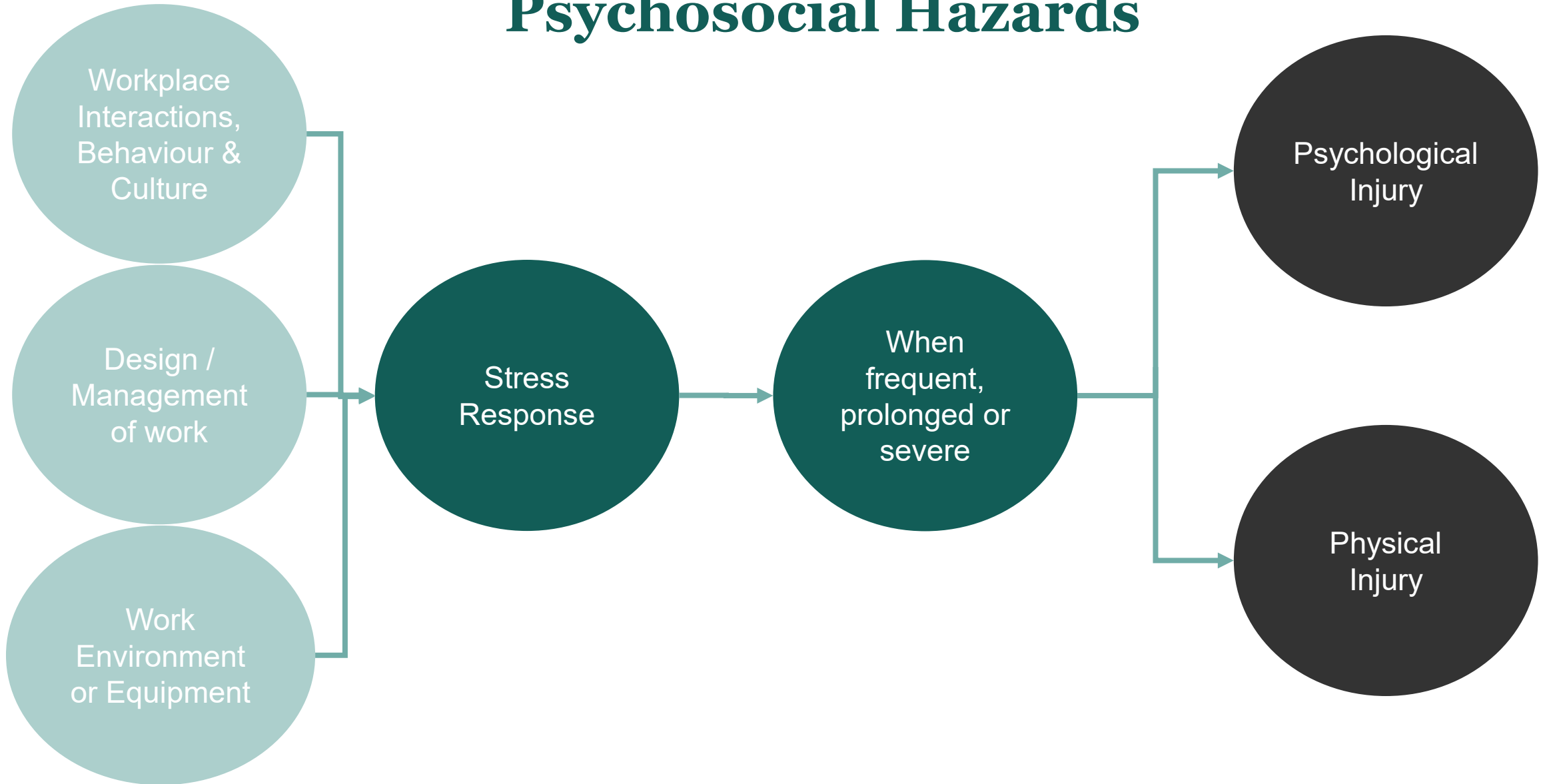


What are psychosocial hazards?

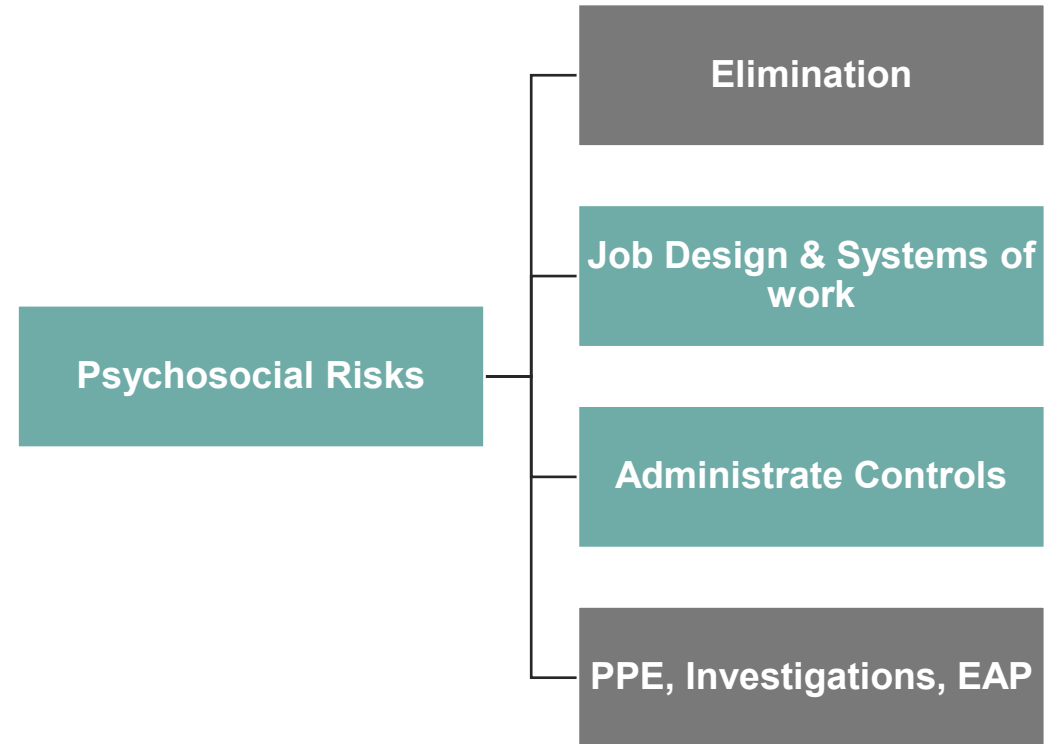
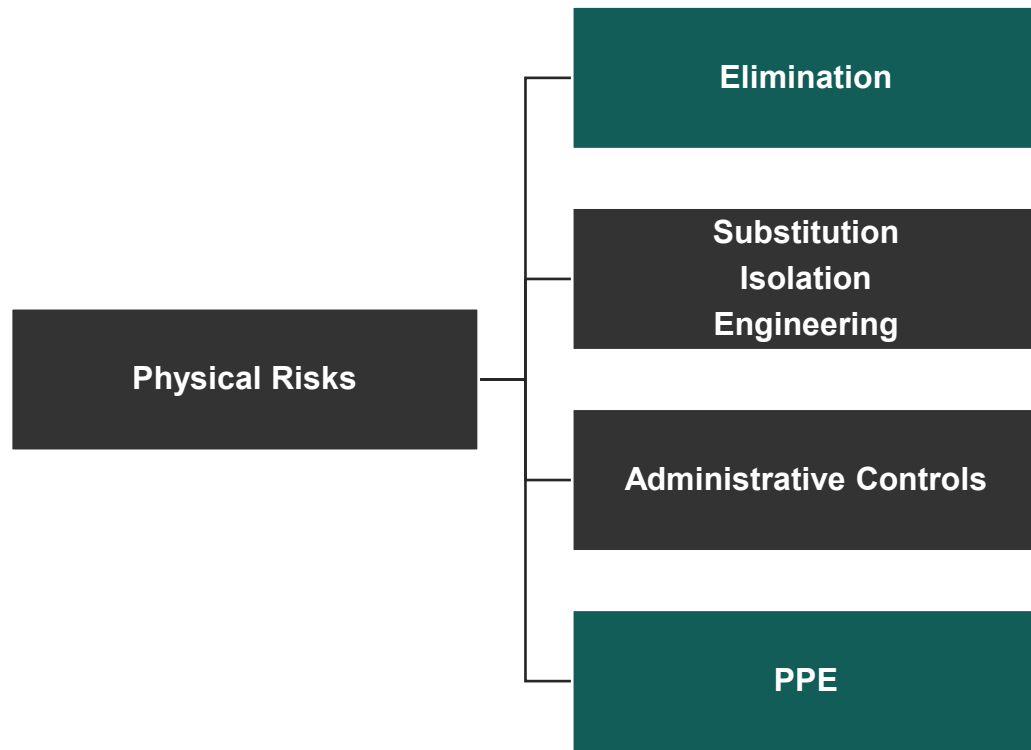
- High Job Demands
- Fatigue
- Bullying
- Sexual harassment
- Exposure to traumatic events or content/Vicarious Trauma
- Poor leadership practices & workplace culture
- Poor support/Poor organisational justice
- Exposure to occupational violence/threats
- Alcohol/Drug use
- Poor physical health
- Low job demands
- Low job control
- Low role clarity
- Remote or isolated work
- Poor organisational change management
- Low recognition and reward



Psychosocial Hazards



Hierarchy of Control



Councillors

Liability depends on Council breaching the Act

Issues

Increase in uncivil behavior

Staff unprepared to accept such behavior

Increasing polarization and inability to accept opposing views

Measures

Risk assessments and graduated responses

Staff/Councillor interaction protocols

‘Grey Rock’ training

WorkSafe/Fair Work Commission

Contractor Management

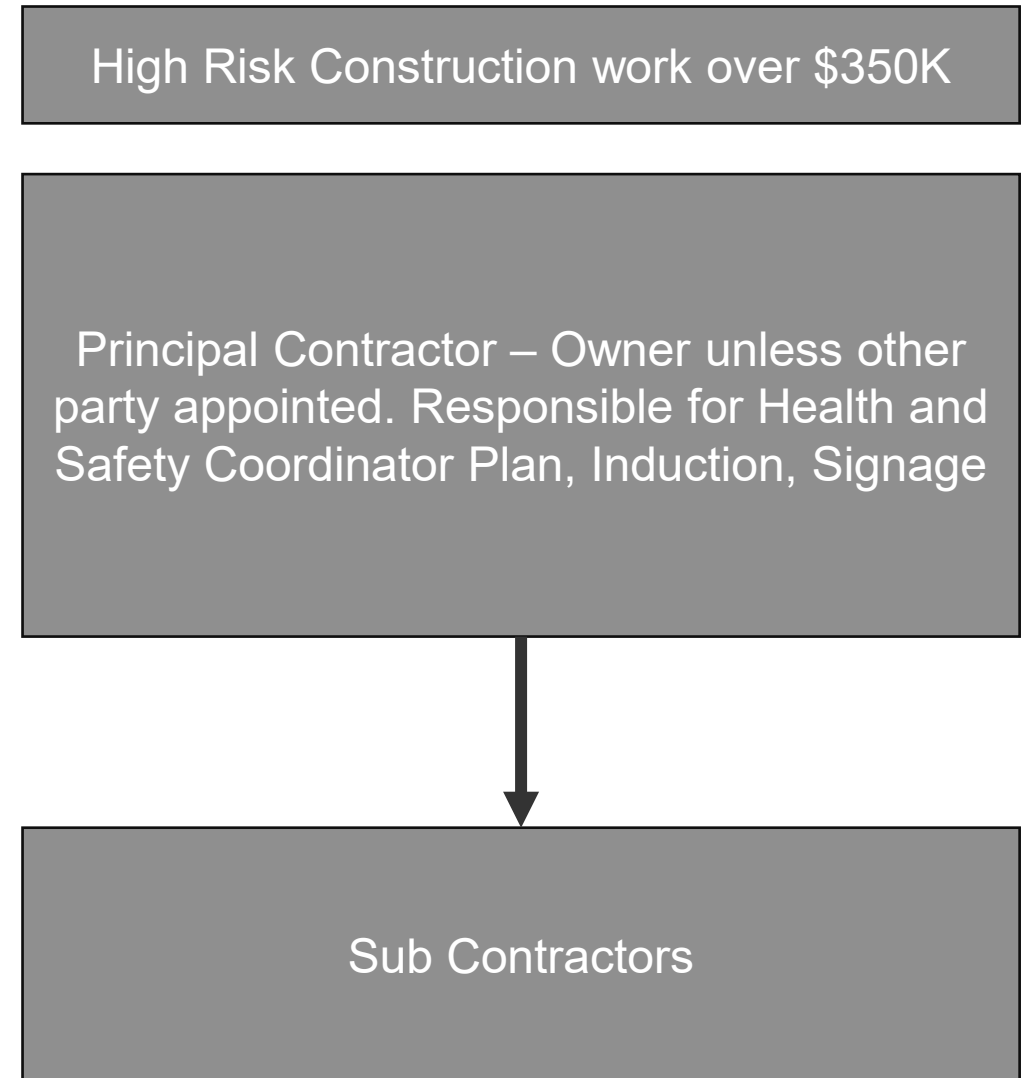
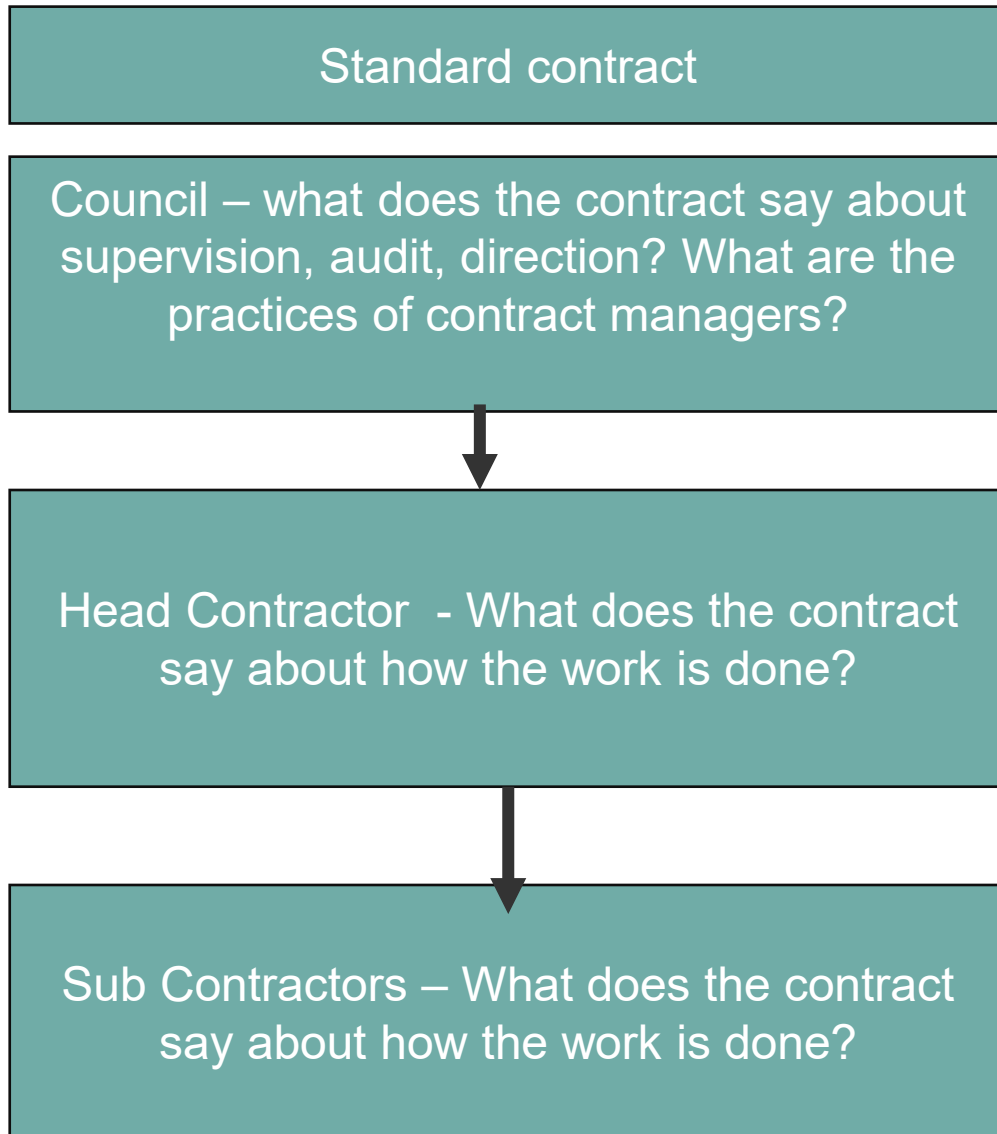
Council duty for contractors (and subcontractors) so far as is reasonably practicable

What is the issue:

- A WorkSafe view that Council must actively supervise work
- Contractual provisions that give Council a high degree of control
- Collection of documents and no audit
 - SWMS for the wrong job and date
- Difficulty in one-size fits all approach when dealing with smaller contractors
- Misunderstanding of role of Principal Contractors



Contractor Management



Questions

Procurement



What do you ask for? What do you do with it?
What do you share?
What do you record?
Appointment of Principal Contractor



Approach to :

- Right to direct work
- Request for documents/Audit
- Checking/Right to request



Contract supervision



Directions and Control



Audit and Inspection



What are you on notice of?



Questions



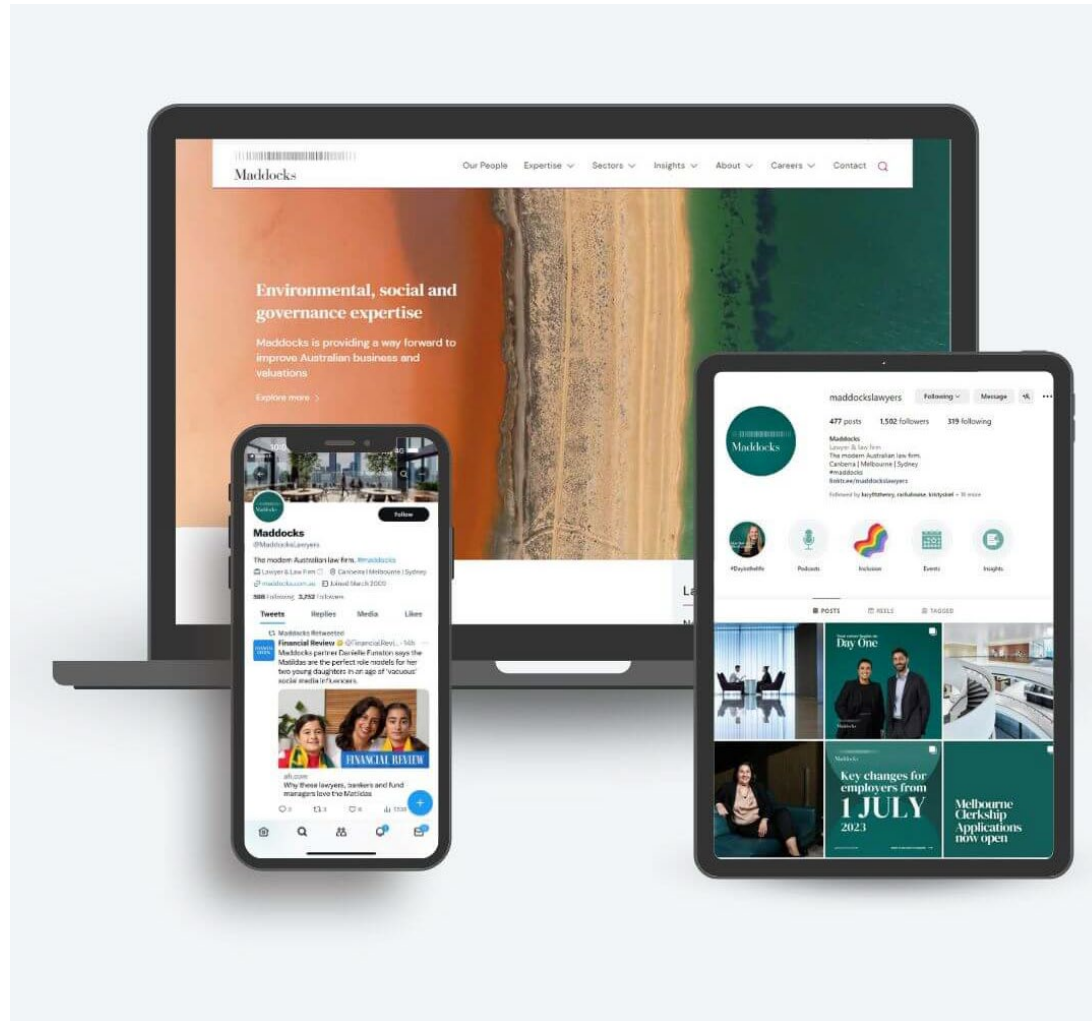


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