

MUSEUMS OF HISTORY AMENDMENT (CHIEF EXECUTIVE OFFICER) BILL 2024
STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Museums of History NSW (MHNSW), from commencement of the *Museums of History Act 2022* in December 2022, assumed responsibility for collecting, managing, preserving, and providing public access to government archives, objects, buildings and places of historic, social, cultural or architectural interest to the people of NSW.

As the MHNSW was created, the renamed State Records Authority NSW (SRA) retained responsibility for the management of the regulatory, policy and monitoring of recordkeeping in public offices across NSW. The Executive Director, State Records Authority reports directly to the Chief Executive Officer (CEO), MHNSW.

These two institutions work closely together to manage the guidance and advice on records management, and the custodianship, preservation and sharing of the stories of the state through NSW's places, collections and archives.

The proposed Bill supports the NSW Government's agenda for NSW's cultural sector. In December 2023, the NSW Government launched its ten-year arts, culture and creative industries policy, *Creative Communities*, encompassing both the traditional arts sector and Cultural Institutions, and the broader creative industries.

A key objective for the policy is the provision of a strong and effective network of equitable and sustainable services, resources and spaces for creative development, expression, practice and engagement across NSW. NSW's Cultural Institutions, such as the MHNSW, are a crucial component of this network, leading their sectors and supporting creative activity in the State.

Chief Executive Officer

The *Museums of History NSW Act 2022* (in Schedule 2, Section 2(2)) currently provides that the office of CEO is a statutory office and the provisions of the *Government Sector Employment Act 2013* (GSE Act) relating to the employment of Public Service employees do not apply to the CEO office.

Part 2(8) of the *Museums of History NSW Act 2022* then provides the power for the Minister for the Arts to directly appoint the CEO, MHNSW in consultation with the MHNSW Board. Further, Schedule 2, Section 4(3) provides that the Minister may, in consultation with the Board, remove the CEO from office at any time.

Additionally, Schedule 2, Section 3 currently provides that the Minister may, in consultation with the Board, appoint a person to act in the office of CEO during the CEO's absence or a vacancy in the office of CEO. An acting CEO is entitled to be paid remuneration, including any allowances, as determined by the Minister.

Generally, as a matter of policy, staff of NSW government agencies are employed in the Public Service and are subject to the NSW Government wages policy and other employment conditions in the GSE Act and Government Sector Employment (General) Rules 2014.

The Heads of NSW's other State Cultural Institutions (Art Gallery of NSW, Australian Museum, Museum of Applied Arts and Sciences, State Library and the Opera House) are currently appointed by the Minister for the Arts, who exercises the employer functions of the Government under the provisions of the *Government Sector Employment Act 2013*. The proposed Bill aligns the employment arrangements for the CEO, MHNSW with the State's other Cultural Institutions.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill seeks to amend the employment arrangements for the CEO, MHNSW, so that the CEO would be a person employed in the Public Service under the GSE Act and Government Sector Employment Rules 2014, noting that:

- recruitment through this process is consistent with section 47A of the *Constitution Act 1902*, which provides that persons employed by the NSW Government in the service of the Crown are to be employed in the Public Service of New South Wales under the GSE Act or in any other service of the Crown established by legislation; and
- this amendment aligns with the appointment and employment arrangements of other Heads of NSW State Cultural Institutions.

Options and Analysis: What alternative policies and mechanisms were considered in advance of the bill? What were the pros/cons and benefits/costs of each option considered?

The current Act could remain unchanged and a CEO recruited as a statutory position. This would mean the MHNSW would remain out of step with the State's other Cultural Institutions, all of which provide for the Minister for the Arts to appoint the Head of those institutions under the provisions of the *Government Sector Employment Act 2013*.

The proposed approach allows the employment mechanisms for heads of State Cultural Institutions to be harmonised.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Act will be administered by the MHNSW within the Enterprise, Investment and Trade portfolio. The Bill will be introduced to the NSW Parliament in the week of 6 May 2024.

Should the Act be passed, following the Act's commencement, the Department of Enterprise, Investment and Trade would commence merit-based recruitment under the GSE Act to enable the Minister to appoint a public servant to the role of CEO, MHNSW.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Museums of History NSW and Department of Enterprise, Investment and Trade were consulted in the preparation of this Bill.