



Tabled, by leave, MS Sharpe.

MS Sharpe

Clerk of the Parliaments

18 / 03 / 2025

## WORK HEALTH AND SAFETY AMENDMENT (STANDALONE REGULATOR) BILL 2025

### STATEMENT OF PUBLIC INTEREST

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

In October 2022, the former Government commissioned the Honourable Robert McDougall KC to carry out an Independent Review of SafeWork NSW (the Review) to assess the performance and effectiveness of SafeWork NSW's regulatory functions. The Review received submissions from a wide range of stakeholders, including current and former SafeWork NSW staff, union representatives and advocates, industry experts, members of the public, and families of injured and deceased workers. These submissions identified and provided evidence of several shortcomings in SafeWork NSW's performance, prompting the Review to recommend various changes, including to the structure and governance arrangements of SafeWork NSW.

The Review found that SafeWork NSW could perform its regulatory functions more effectively if it were separated from the Department of Customer Service, granted greater autonomy and independence, and provided an opportunity to rebuild its identity and public image. The Bill aims to address these policy concerns by establishing the SafeWork Commissioner as the Regulator under *the Work Health and Safety Act 2011* and introducing new governance arrangements to support the Commissioner. This includes the creation of an Advisory Council to support the SafeWork Commissioner to carry out their functions.

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

The Review heard from the public on a range of issues concerning SafeWork NSW's regulatory performance. Issues included perception that the regulator had a 'reduced public face', that the regulator had a diminished ability to regulate other agencies and concerns about the visibility and involvement of families of injured and deceased workers.

This Bill's objective is to address these concerns and improve SafeWork NSW's effectiveness. It will establish that the Work Health and Safety Regulator will be the SafeWork Commissioner, instead of the Secretary of the Department of Customer Service, and establish an Advisory Council with formal membership requirements that include key stakeholder voices: employees, employers, experts and people with lived experience.

SafeWork NSW is the state's primary work health and safety regulator. It is crucial that SafeWork NSW be able to address emerging issues and trends and be accessible to the public, transparent and accountable.

#### **Options: What alternative policies and mechanisms were considered in advance of the bill?**

The Department of Customer Service considered included not establishing the Advisory Council in legislation. An alternative is to establish an advisory body to operate informally, without legislating its functions or membership requirements.

#### **Analysis: What were the pros/cons and benefits/costs of each option considered?**

Establishing an informal advisory body without legislation would be insufficient to adequately address the concerns raised by the Review. It is essential for the advisory body to have a defined composition to ensure a broad range of stakeholder voices are formally represented, while maintaining a balanced membership.

Given the strong public sentiment reflected in the Report, which emphasised the need for formal and stronger channels for stakeholder voices to inform the regulatory environment, the Department thought it preferable to legislate specific functions of the Advisory Council. Additionally, in response to criticisms about SafeWork NSW's identity as the state's primary work health and safety regulator, the creation of a dedicated statutorily-recognised body known as the SafeWork Advisory Council was considered a strong and appropriate response.

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

On 1 July 2025 an Administrative Order will establish the SafeWork NSW Agency as a public sector executive agency. This aligns with the commencement date of the Bill to ensure that the new governance arrangements can be rolled out simultaneously.

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

The draft Bill was not shared externally for public feedback due to sensitivity concerns. However, the policy was developed in consultation with SafeWork NSW and the draft Bill was shared with key internal government stakeholders for review and input.

The Review sought input from affected stakeholders through a call for submissions. Over 50 submissions and 3,500 documents were received from individuals and organisations including current and former SafeWork NSW staff, families of injured or deceased workers, unions and peak bodies, employer groups and professional bodies and experts. Some participants that made submissions were interviewed and invited to provide additional comments. These contributions informed the Review's findings and recommendations, which shaped the policy positions for this Bill.