

Ref: BN16/3194 (01918/16)

Hon Shayne Mallard MLC  
Committee Chair  
Legislative Council Standing Committee on Law and Justice  
Parliament House  
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cc: Ms Sharon Ohnesorge, A/Director, Upper House Committees at  
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Dear Mr Mallard

**Review of the NSW Workers Compensation Scheme  
Transcript from hearing on 7 November 2016**

I refer to the hearing on 7 November 2016 of the Legislative Council Standing Committee on Law and Justice's First Review of the Workers Compensation Scheme, and the transcript recently provided to me for review.

I wish to clarify evidence I gave to the Committee regarding the regulation of pre-injury average weekly earnings (PIAWE). The transcript records that I provided the following evidence (at page 41) regarding the proposed 'PIAWE regulations':

- "We have developed some options and had a further round of consultation on a confidential basis with a range of stakeholders. We have taken their advice back on board and are working on that further"; and
- "The intention now is that we would provide further advice to government. It obviously needs to go through a machinery-of-government process and what is recommended is a regulation. We anticipate that being completed early next year."

On review of the transcript I believe I was mistakenly referring to the consultation progress on the work capacity review legal costs regulation rather than the PIAWE regulation consultation. I wish to clarify that while work is ongoing on development of options for a potential PIAWE regulation, no specific proposal has yet been put to Government regarding the form that any such change to the regulation regarding PIAWE may take. It is correct that further consultation is underway.

I also wish to clarify the response that I gave to the Hon Lynda Voltz MLC as part of the following exchange (also on page 41 of the transcript):

*The Hon. LYNDA VOLTZ: So you have put up an option to government to change regulations?*

*Ms DONNELLY: Yes, because there was a regulation-making power that was brought in in the legislative amendments 2015.*

I misheard the question and understood the Hon. Lynda Voltz was asking:

*"So you have to put up an option to government to change regulations?"*

As a result on reviewing the transcript I realised that my response may have been ambiguous. In my response to the Hon Lynda Voltz MLC, I was seeking to identify only that, in 2015, the Government provided a power in the *Workers Compensation Amendment Act 2015* to allow regulations to be made that change the way that PIAWE operates.

I confirm that while work is ongoing and progress updates have been provided to the Minister's Office, no specific proposal has yet been put to Government regarding the form that any such change to the regulation regarding PIAWE may take. SIRA has engaged an independent advisor to lead further stakeholder consultation, which will inform advice to be provided to the Government early next year.

For further information, please contact me at  
telephone to  
Yours sincerely

or by

**Carmel Donnelly**  
Executive Director  
Workers and Home Building Compensation Regulation