

**Submission
No 9**

**STATUTORY REVIEW OF THE STATE INSURANCE AND
CARE GOVERNANCE ACT 2015**

Organisation: Safework NSW
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SafeWork NSW

**SafeWork NSW Submission
to the Legislative Council Standing
Committee on Law and Justice statutory
review of the *State Insurance and Care
Governance Act 2015***

October 2017

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1. BACKGROUND

SafeWork NSW understands the inquiry will review the *State Insurance and Care Governance Act 2015* (SICG Act) (including amendments made by the SICG Act) to determine whether the policy objectives of the Act or those amendments remain valid and whether the terms of the Act (or of the Acts so amended) remain appropriate for securing those objectives.

2. INTRODUCTION

SafeWork NSW welcomes the opportunity to make a submission to the Legislative Council Standing Committee on Law and Justice's statutory review of the SICG Act. With the commencement of the SICG Act in 2015, and subsequent abolition of the WorkCover Authority of NSW, SafeWork NSW was established as the State's new and independent work health and safety regulator (except in relation to mining workplaces) by way of amendments to the *Work Health and Safety Act 2011* (WHS Act) contained in the SICG Act.

3. SAFEWORK NSW

General

The WHS Act, which adopts the national model work health and safety laws, establishes SafeWork NSW as the NSW work health and safety regulator.

The functions and powers of SafeWork NSW are set out in the WHS Act.

SafeWork NSW functions include the following:

- advise and make recommendations to the Minister for Innovation and Better Regulation and report on the operation and effectiveness of the WHS Act
- monitor and enforce compliance with the WHS Act
- provide advice and information on work health and safety to duty holders under the WHS Act and to the community
- collect, analyse and publish statistics relating to work health and safety
- foster a co-operative, consultative relationship between duty holders and the persons to whom they owe duties and their representatives in relation to work health and safety matters
- promote and support education and training on matters relating to work health and safety

- engage in, promote and co-ordinate the sharing of information to achieve the object of the WHS Act, including the sharing of information with a corresponding regulator
- conduct and defend proceedings under the WHS Act before a court or tribunal, and
- any other function conferred on the regulator by the WHS Act.

SafeWork NSW also administers the *Explosives Act 2003* and *Rural Workers Accommodation Act 1969* and is a co-regulator for the *Dangerous Goods (Road and Rail Transport) Act 2008*.

In 2015/2016 the newly formed SafeWork NSW engaged with the NSW workplaces to develop the *Work Health and Safety Roadmap for NSW 2022* (NSW Roadmap). A key Roadmap Action Area is building SafeWork NSW into an exemplar regulator.

NSW continues to experience ongoing reductions in injury and illness rates and the 2017 customer service survey results show very high levels of satisfaction with the quality of SafeWork NSW staff and the services it provides, with indicators showing increases in customer satisfaction compared to results in previous years. The overall customer satisfaction score was 90.4 per cent. In addition, 90 per cent of respondents believe safety makes their business more productive and 88 per cent stated that safety saves their business money. The survey results indicate that businesses see the value of safe work practices.

Governance

Schedule 2 of the WHS Act establishes the Secretary of the Department of Finance, Services and Innovation as the work health and safety regulator for NSW¹ to be known as SafeWork NSW.

SafeWork NSW is subject to the control and direction of the Minister except in relation to:

- a. the contents of any advice, report or recommendation given to the Minister, or
- b. any decision that relates to proceedings for offences under the WHS Act, or
- c. any decision that relates to a work health and safety undertaking.

¹ Except in relation to a mine or petroleum site to which the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* applies or a workplace at which activities under the *Petroleum (Offshore) Act 1982* are carried out.

Key Achievements

Work Health and Safety Roadmap for NSW 2022

Launched by the NSW Government on 22 August 2016, the *Work Health & Safety Roadmap for NSW 2022* is a six year strategy aligning with the *Australian Work Health and Safety Strategy 2022* and the national targets committed to by the NSW Government in 2012.

The Roadmap identifies three key action areas of embedding a work health and safety landscape in NSW workplaces, focusing on high risk sectors, harms, workers and workplaces and building exemplar regulator services.

New South Wales has exceeded the target of a 20% reduction in fatalities and is on track to meet the national targets of a 30% reduction in serious injuries and illnesses and serious musculoskeletal illnesses and injuries by 2022.

Towards Zero is a strategy within the WHS Roadmap for NSW 2022 which targets those harms which continue to cause unacceptable fatal and serious injury rates in NSW workplaces.

By targeting 5 high risk harms of quad bikes, forklifts, falls from heights, electrical safety and traumatic injury from unguarded machinery, the program aims to reduce the incidence to as close as zero as possible by 2022.

If achieved this extremely ambitious goal will see a dramatic decrease in the most serious injury outcomes in NSW workplaces.

The focus on the delivering both prevention programs and targeted regulatory response key initiatives include state-wide campaigns, innovation in design, supply chain improvements, education and targeted regulatory approaches.

Working alongside key stakeholders and leveraging off other programs will provide the greatest chance of success. SafeWork NSW is delivering on multiple Roadmap initiatives including:

- a three year safety culture advertising campaign '*Safety starts with you*' was launched on 26 February 2017. The campaign exceeded its targets for website visits, media and social media reach and engagement. The budget for year 1 was \$3.2 million;
- the Consultation@Work Strategy, aimed at supporting improved consultation and issues resolution in NSW workplaces;
- working with key groups to develop high risk sector plans to identify baselines and strategies that will protect workers most at risk in NSW workplaces;

- harm prevention programs to reduce exposure to hazardous chemicals and substances, asbestos safety, musculoskeletal injuries and illnesses, and mental health disorders;
- cooperative projects with the Data Analytics Centre aimed at predicting workplace fatalities and serious injuries;
- targeted compliance of high consequence low frequency (HCLF) risk areas which if unmanaged have the potential to cause serious human, social, reputational or economic impacts in the NSW. Examples include crane incidents, scaffold collapses, amusement device failures;
- the introduction of penalty notices for working at heights and high risk work licensing;
- working with other regulators through the Better Regulation Program on the delivery of easy to do business projects;
- the launch of the Centre for WHS at the end of 2017 which, through targeted research, data analytics and insights, will provide evidence to inform improved work health and safety policy, practices and innovative WHS approaches.

Quad bikes

The \$2 million NSW Quad Bike Safety Improvement Program is the most comprehensive in the country, addressing issues around vehicle design, retrofitting of safety devices, training, helmets, safe use and education. It includes:

- establishing long term partnerships with the farming community and NSW Farmers to change the culture of safety on farms;
- Free training and helmets to participants along with two rebates of up to \$2,000 for the purchase of side-by-side vehicles or operator protective devices;
- a comprehensive regional radio, print and television awareness campaign delivered strong, confronting quad bike safety messages related to farmers, farming community and child safety; and
- creating the Quad Bike Safety Industry Action Group, which plays a critical role in promoting the program through industry and community networks.

Since the launch of the program from July 2016, farmers have claimed more than 1500 rebates worth over \$1 million. This represents a total investment from farmers of \$12.9 million. Over 500 farmers and farm workers participated in free quad bike

safety training, with more than 100 training events delivered across regional and remote NSW.

Mental health

New South Wales' is holding the first ever summit aimed at developing a statewide strategy to improve mental health in the workplace.

The Minister for Innovation and Better Regulation and the Minister for Mental Health have released a discussion paper ahead of the summit, which examines issues around mental health in the workplace and will guide the conversation in the lead up to and during the summit.

Australia's leading mental health experts will help develop the strategy and attend the summit with business leaders, union representatives and government officials.

The Summit is part of SafeWork NSW's Roadmap, a six-year plan that aims to reduce serious work-related injuries and illnesses, including mental illnesses, by 30 per cent.

The strategy will align closely with the NSW Government's decade-long Living Well reform, which aims to shift the focus of mental health care from hospitals to the community.

Consultation and workplace engagement activities

Consultation

SafeWork NSW consults with stakeholders on a regular basis as and when new issues arise and new programs are developed. For example, SafeWork NSW undertook regular consultation with unions and employer associations as a key component in the *Work Health and Safety Roadmap for NSW 2022* particularly in relation to embedding the health and safety landscape in NSW workplaces. .

Following a recently completed statutory review of the WHS Act, SafeWork NSW is considering a model for a safety tripartite consultation mechanism. It is engaging with stakeholders to ensure that the appropriate model enables stakeholder input to be considered and their needs and issues addressed in the development and application of policy, reforms and programs.

It is intended that the proposed model will be used to advise on work health and safety issues related to the NSW context and provide evidence and/or support to

ensure that NSW's position in relation to various matters are adequately considered at the national level when required.

Key engagement activities

SafeWork NSW engagements in 2016/17 included:

- 3.8 million reach on social media;
- 780,366 website visits;
- 73,746 licences issued;
- 35,847 'Get Health at Work' checks; and
- 2,698 webinar participants.

Compliance and Enforcement Approach

SafeWork NSW undertakes advisory, compliance monitoring and enforcement activities. The type of interaction depends on a range of factors. Our graduated approach to compliance and enforcement takes the level of risk, public interest and due diligence effort into consideration. Our inspectors are guided by Safe Work Australia's National Compliance and Enforcement Policy.

In November 2016, SafeWork NSW released *Our Approach to Work Health and Safety Regulation*. The document explains our regulatory functions and services and how we secure compliance.

SafeWork NSW enforcement actions in 2016/17 included:

- 32,056 inspector interactions;
- 10,496 inspectors notices issued;
- 33 successful prosecutions; and
- 10 enforceable undertaking.

Transfer of assets, rights and liabilities

Schedule 4, clause 3 of the SICG Act provided for transitional arrangements of the assets, rights and liabilities of the WorkCover Authority, and incomplete proceedings commenced by or on behalf of the WorkCover Authority, to SafeWork NSW. This occurred as at 1 September 2015.

SafeWork NSW maintained its primary funding source under the Workers Compensation Operational Fund as per section 35, of the *Workplace Injury Management and Workers Compensation Act 1998*.

4. CONCLUSION

SafeWork NSW would be pleased to assist the Committee with any further information it may require to assist it report within the review's Terms of Reference.