



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEES

BUDGET ESTIMATES 2022-2023 Supplementary Questions

Portfolio Committee No. 4 – Customer Service and Natural Resources

Fair Trading

Hearing: Friday 28 October 2022

Answers due by to Committee from MO: Thursday 24 November 2022

Budget Estimates secretariat
Phone (02) 9230 3783
BudgetEstimates@parliament.nsw.gov.au

FAIR TRADING

Questions from Mark Buttigieg MLC (on behalf of the Opposition)

Question

The passing of Christopher Cassaniti

1. Regarding the workplace incident in which young worker Christopher Cassaniti lost his life, how many Requests for Service for the site did SafeWork NSW receive in the year before the fatality?
 - (a) What were these requests for service for? Please provide details.
 - (b) How did SafeWork respond to these requests for service?
2. Regarding the workplace incident in which young worker Christopher Cassaniti lost his life, how many Notifiable Incidents for the site did SafeWork NSW receive in the year before the fatality?
 - (a) What were these Notifiable Incidents for? Please provide details.
 - (b) How did SafeWork respond?
3. In 2017, Landcom wrote to SafeWork stating their 'grave concerns' about the site and the safety risk to workers. Did the Minister responsible at the time sight Landcom's letter?
 - (a) Did the Minister at the time reply to the letter?
 - i. If so, when?
 - ii. If not, why not?
 - (b) Was SafeWork aware of the letter in 2017?
 - i. If not, when did SafeWork become aware of the letter?
 - (c) Did SafeWork reply to the letter?
 - i. If so, when?
 - ii. If not, why not?
4. How does SafeWork classify whether a death at a site is a workplace death or not?
 - (a) What criteria is followed for this?
 - (b) When a notifiable incident is received, how does SafeWork classify if the incident is a workplace incident or not?
 - i. How is this done if SafeWork does not perform physical site inspections to all notifiable incidents received?

ANSWER

1. In the year before the fatal workplace incident involving Mr Christopher Cassaniti, one Request for Service (RFS) was received by SafeWork NSW in relation to the workplace. The RFS was received on 3 May 2018.
 - (a) The RFS concerned an allegation of a crane being operated with a load over the public road and traffic without there being a designated dropping zone.
 - (b) In response to the RFS, a SafeWork NSW Inspector conducted a site inspection on 10 May 2018. On the basis of that inspection, the allegations made in the RFS were not substantiated. Consequently, no further action was taken.

2. In the year before the fatal workplace incident involving Mr Christopher Cassaniti there were seven notifiable incidents in relation to the workplace.

The notifiable incidents on 26 September 2018, 13 December 2018 and 20 December 2018 are in addition to those provided in the responses to the additional Supplementary Questions provided to the Committee on 20 October 2022. The additional incidents were identified through searching variations to the site address description in the data repository for SafeWork NSW.

(a)

Date received	Subject of Notifiable Incident	How did SafeWork respond?
30/07/2018	A concreter was pouring into a column when the concrete hose connection malfunctioned hitting him in the head.	Inspector response with 3 site visits. Notices issued: <ul style="list-style-type: none"> • 1 Prohibition Notice • 4 Improvement Notices • 2 Section 171 notices issued to produce documents. All notices were complied with.
22/09/2018	Hammerhead crane jib collided with the dropped rope of luffing crane. Minor damage to cranes. No injuries.	Inspector response with 2 site visits. Notices issued: <ul style="list-style-type: none"> • 2 Improvement Notices issued. Both Notices were complied with.
26/09/2018	2 scaffolders identified that a scaffold on site was bowing. Work was ceased and the area was sealed off. Scaffolding engineer found a component wasn't braced properly.	Inspector response with site visit. No notices served as the PCBU had conducted a review and had implemented control measures by the time of the inspection.
20/11/2018	Loading platform on building was being extended to relocate. One component of the platform (prop) fell from Level 5 to the exclusion zone below during the lifting process. No injuries.	Inspector response with site visit. Notices issued: <ul style="list-style-type: none"> • Section 171 Notice issued to produce documents. Notice was complied with.
13/12/2018	While workers were stripping timber on level 13, a piece of timber fell between the scaffolding and the building and hit the ground on level 10 then a bricklayer causing a small bruise to his shoulder. Work was ceased.	Inspector response with site visit. Notices issued: <ul style="list-style-type: none"> • Section 155 Notice issued to produce documents. Notice was complied with.

20/12/2018	A concrete pour was occurring on site. The concrete line exploded and whipped around injuring workers. Workers were assessed at a hospital with advice that minor injuries were sustained.	Inspector response with site visit. Notices issued: <ul style="list-style-type: none"> • 3 Improvement Notices issued. All notices were complied with.
21/01/2019*	Bricklayer fell 3 metres from the scaffold. It was identified that the spreader bar had been removed.	Inspector response with site visit. Notices issued: <ul style="list-style-type: none"> • Improvement Notice • Section 171 Notice issued to produce documents. Both notices were complied with.

*This date was previously advised to the Committee as 22ul January 2019. On further review of the file, the date should read 21 January 2019.

(b) Refer to the answer to 2 (a).

3. A search of SafeWork NSW records did not identify a letter received from Landcom in 2017 to the effect described in the question. SafeWork NSW did however receive an email from Landcom on 1 December 2017. SafeWork NSW is aware that Landcom also sent an email to the then Minister's Office on 5 December 2017.

(a) The then Minister's Office referred the 5 December 2017 email to a SafeWork NSW Executive Director who requested SafeWork NSW raise a Request for Service for inspector response to undertake a site visit. The concerns raised to the then Minister's Office were similar to those raised in the email Landcom sent to SafeWork NSW on 1 December 2017. The concerns included a pedestrian gate, sediment, parking of machinery and fall protection.

(i) A search of SafeWork NSW records did not identify a response from the then Minister to the Landcom email sent to the then Minister's Office.

(ii) Refer to the answer to Question 3(a)(i).

(b) Refer to the answer to Question 3.

(i) Refer to the answer to Question 3.

(c) Refer to the answer to Question 3. A search of SafeWork NSW records has not identified a written response from the then Executive Director to Landcom's email. SafeWork NSW responded to the concerns raised in the email and the related Request for Service via an Inspector visit to the site on 6 December 2017. The visit resulted in three improvement notices being issued. The response to Question 24 provides further detail.

4. SafeWork's jurisdiction is governed by the legislative determination of what is notifiable incident (see Part 3 'incident notification' of the *Work Health and Safety Act 2011*). A death is notifiable if it arises out of the conduct of a business or undertaking. Whether it is the result of a work activity is determined by the circumstances of the death. [Safe Work Australia](#) has published an Information Sheet in this regard.

(a) Refer to the answer to Question 4.

(b) For the matter to be "work related", the incident must have been the result of the activities arising from the conduct or undertaking of the business. See sections 35 and 38 of the *Work Health and Safety Act 2011* that should be read together.

- (i) Every incident notified to SafeWork NSW is triaged by an Inspector (during normal business hours) or by an on-call Duty Manager after hours. Calls to SafeWork NSW are assessed against the notification requirements of the *Work Health and Safety Act 2011 (Act)*.

In all instances involving a notifiable incident the matter is referred to a rostered SafeWork Inspector, who assesses each event, determines if an inspector response is required, and addresses any necessary site preservation requirements.

SafeWork NSW reviews all notified incidents to assess jurisdictional relevance and responsibility, known facts and circumstances provided at the time of notification which could include the likely causation and the PCBU's culpability. SafeWork cannot undertake compliance and / or enforcement action where a matter is outside its jurisdiction. In some cases, there are cross jurisdictional issues and other NSW Regulators will take the lead role, for example a rail transport system matter.

Workplace culture within SafeWork NSW – The PMES

5. How is SafeWork NSW taking into consideration the results of the PMES (People Matter Employee Survey) for 2021?
 - (a) What has SafeWork done previously to take the results into consideration?
6. Grievance handling has been unfavourable for SafeWork as shown in the PMES. What is currently being done about addressing grievance handling processes within the agency?
7. Recruitment processes have been unfavourable for SafeWork as shown in the PMES. What is currently being done about addressing Recruitment processes within the agency?
8. Witnessing and experiencing bullying has been an issue for SafeWork as shown in the PMES. How will SafeWork address the bullying within the workplace?
 - (a) How will instances of sexual harassment be addressed?
 - (b) How will discrimination and racism be addressed?
 - (c) How many instances of bullying, sexual harassment, and racism have been reported in SafeWork?
9. How can bullying, sexual harassment, and discrimination be addressed if grievance processes in SafeWork are unfavourable for workers?
10. According to the 2021 PMES for the WHS Metro division, 53% did not agree that the organisation meets the needs of communities, people, or businesses of NSW. Did SafeWork NSW know about these concerns prior to the PMES results being released?
 - (a) How will SafeWork address these concerns?
 - (b) Has there been any consultation with workers by SafeWork executives as to how they think the organisation meets the needs of the people of NSW?
 - (c) Have workers raised these concerns with SafeWork executives?
 - i. What have executives done about this?

ANSWER

5. Results from SafeWork staff members are collected from the various functional areas within the Better Regulation Division (BRD).

In 2021, follow receipt of the results there were 'deep-dives' at a functional level, team level and BRD level to gain greater understanding of the results of the survey and consultation sessions were held with staff on areas of concern and where there are opportunities to improve.

Feedback provided in the survey is used to drive action and positive change across multiple areas. Of particular focus in the 2021 survey was employee wellbeing, recruitment, and learning and development. Amongst other programs, action on these areas included the launch of the Wellbeing Hub, the Healthy Hybrid Habits (HHH) program, formation of a DCS Diversity, Equity and Inclusion Talent team, the expansion of the Learning Experience Platform (LXP), and increase in leadership initiatives.

Each of the BRD functional streams developed tailored action plans based on the results for their area.

(a) Refer to the answer to Question 5. On receipt of the PMES results, the functional streams, and teams where data is available undertake 'deep dives' and action planning in consultation with staff to develop meaningful change plans based on staff feedback.

6. The responses to the question "I have confidence in the ways my organisation handles grievances" should be read in context of the results over the last 5 years set out below:

- 2017 Better Regulation Division (BRD) PMES Result – 31% favourable response (Note: in 2017, BRD included SafeWork, State Insurance Regulatory Authority, Office of the Registrar General and BRD functional streams).
- 2018 SafeWork NSW PMES Result – 28% favourable response.
- 2019 SafeWork NSW PMES Result – 32% favourable response.
- 2020 BRD PMES Result – 47% favourable response.
- 2021 BRD PMES Result – 52% favourable response (noting this is 6% above the NSW Government Sector result).

A similar question was asked by the Public Service Commission in the most recent 2022 PMES – "If I raised a grievance in my organisation, it would be handled in a fair and objective manner". The BRD Result for this question was 64% favorable and 11% above the NSW Government Sector result.

While this result can be improved, the results have shown a steady improvement in respect of employee confidence in grievance handling processes.

BRD puts people at the heart of everything we do and have focused on improving grievance handling processes over the last few years. This includes the introduction and improvement of policies and procedures that provide principles and guidance for our employees to follow within the Department such as the Positive and Productive Workplace Policy, the DCS Code of Conduct and Ethics and the Respectful Workplace Policy.

We encourage our staff members to seek support or raise grievances through a variety of anonymous channels including the DCS Integrity Hotline, MySafety Incident Reporting, the Employee Assistance Program (EAP), the HR Business Partner team, the Safety & Wellbeing team, Mental Health First Aiders and Health & Safety Representatives.

7. We acknowledge there are still opportunities to improve confidence in our recruitment processes. Over the last few years, we have improved our recruitment practices and processes within the frameworks of the regulations we are required to comply with, to enhance candidate and hiring manager experiences.

We have focused on increasing transparency of recruitment processes, availability of information for career opportunities and increasing information provided about recruitment decisions including feedback provided to candidates.

We are exploring new technologies, recruitment channels and new methods for advertising have been developed in metropolitan and regional areas by leveraging local radio, newspapers, and other industry publications.

Recruitment roadshows have been established to promote opportunities within SafeWork NSW and provide prospective candidates with additional role information.

In July 2022 the Diversity, Equity and Inclusion Talent Team was brought together with the goal of ensuring our recruitment practices are inclusive and that we are attracting a diverse candidate pool to better reflect the communities we serve.

8.

Workplace bullying is never acceptable and BRD is committed to providing a safe and inclusive environment for all staff.

Over the last few years, meaningful work has been undertaken in preventing workplace bullying but also providing safe environment for staff to raise concerns of workplace bullying or other unacceptable workplace behaviours. We have focused on providing and promoting to staff anonymous reporting channels to encourage reporting so that any issues can be addressed quickly and staff can feel safe in reporting any concerns.

We also launched the Respectful Workplace Behaviours guide in May 2022 with supplementary guides regarding bullying, harassment, and discrimination. These guides describe disrespectful behaviours in detail and set out the steps that staff can take to identify, report, find support through internal and external resources and address disrespectful workplace behaviour.

(a) Any reported incident of sexual harassment is treated seriously and in accordance with our Departmental policies. All staff are encouraged to report witnessing or experiencing sexual harassment via a range of different methods including anonymously with the Department.

We also launched the Respectful Workplace Behaviours guide in May 2022 with supplementary guides regarding bullying, harassment, and discrimination. These guides describe disrespectful behaviours in detail and set out the steps that staff can take to identify, report, find support through internal and external resources and address disrespectful workplace behaviour. We will look at opportunities to further promote the Respectful Workplace Behaviours Guide.

(a) Discrimination and racism is never acceptable and BRD is committed to providing a safe and inclusive environment for all staff. DCS places a strong focus on providing a safe and inclusive environment for all staff, yet unfortunately discrimination and racism are still present in our workplaces.

Any reported incident of racism or harassment will be treated seriously and in accordance with our Departmental policies. All staff are encouraged to report witnessing or experiencing discrimination or racism via a range of different methods including anonymously with the Department.

We also launched the Respectful Workplace Behaviours guide in May 2022 with supplementary guides regarding bullying, harassment, and discrimination. These guides describe disrespectful behaviours in detail and set out the steps that staff can take to identify, report, find support through internal and external resources and address disrespectful workplace behaviour. We will look at opportunities to further promote the Respectful Workplace Behaviours Guide.

(c) In FY23 (1 July 2022-8 November 2022) there have been two instances of bullying, sexual harassment or racism reported to Human Resources.

9. BRD has significantly improved its employee confidence in the grievance processes from 34% favourable responses in 2017 PMES results to 63% favourable responses in the 2022 BRD PMES results. We now sit at 11% above the NSW Government Sector results for grievance handling.

BRD takes seriously the work health and safety of all its workers and strives to provide a safe and inclusive environment for all staff. We will continue to put people at the heart of everything we do.

We will continue to promote awareness of the Positive and Productive Workplace policy, the DCS Code of Conduct and Ethics and the Respectful Workplace Policy. BRD will continue to ensure that support is available to staff and a variety of reporting channels (including anonymous reporting channels) such as the DCS Integrity Hotline, MySafety Incident Reporting, the EAP, HR Business Partner teams, the Safety & Wellbeing team and Mental Health First Aiders are available.

BRD will continue to treat any reported incident of inappropriate workplace behaviour (including bullying, sexual harassment and discrimination) seriously and in accordance with our Departmental policies. All staff are encouraged to report witnessing or experiencing inappropriate workplace behaviours via a range of different methods including anonymously with the Department.

10. No. SafeWork NSW received the answer to this question as part of the 2021 PMES results.

While the WHS Metro team response to this question was low at 53%, the BRD 2021 PMES Result for the question “My organisation meets the needs of the communities, people, and/or businesses of NSW” was 75% favourable and 5% above the NSW Government sector average for this question.

- (a) After each yearly PMES, the WHS Metro Directorate conducts a ‘deep dive’ into the results and conducts consultation sessions with staff on areas of concern and where opportunities to improve have been identified. During these team sessions, discussions are held with staff to better understand the results and action plans are developed and implemented.
- (b) Refer to the answer to Question 10(a). In 2022, BRD launched a new vision to be Australia’s most trusted and customer centric regulators. As part of the introduction of the new vision, BRD has engaged KPMG to support SafeWork NSW and NSW Fair Trading with a review in consultation with staff and customers on ways to improve customer experience when engaging with SafeWork NSW and NSW Fair Trading. A new team has been established to champion this work across SafeWork NSW and NSW Fair Trading and BRD are always looking for opportunities for continuous improvement.
- (c) We are not aware of any notification outside of the PMES result.
 - (i) Refer to the answer to Question 10(a) and 10(b).

Questions not answered from Further Answers to Budget Estimates Supplementary Questions

11. From Q2 of Answers to Supplementary Budget Estimates questions, it was stated “SafeWork NSW does not have data on how many risk assessments for minimising noise were provided to SafeWork NSW. Inspectors most often sight documentation during a workplace visit”. Why is this data not kept?
- (a) How are risk assessments recorded and kept on file?
 - (b) Are there follow ups to risk assessments that are concluded?
 - (c) How are risk assessments monitored for quality assurance if they are not recorded?

ANSWER

11. In accordance with Section 165 of the NSW *Work Health and Safety Act 2011* (the Act) Inspectors may inspect, examine, or make enquires about any document, object, thing or activity at a workplace. In order to comply with privacy legislation, SafeWork Inspectors only collect data or evidence where there is a legitimate need to do so for the purposes of their investigation.

SafeWork NSW does not collect data on risks assessments for minimising noise as there is no discrete duty to undertake a noise risk assessment within the NSW Work Health & Safety Regulation 2017 (the Regulation). A PCBU can demonstrate compliance with the Regulation without the use of a risk assessment.

- (a) Noise risk assessments are generally not kept as they are not required by the Regulation. If a PCBU has completed a noise risk assessment, the document may be collected if it has value as evidence and only when necessary to ensure compliance with privacy legislation. There is no prescribed format for businesses to record or file a risk assessment. Documentation collected by SafeWork is maintained in a centralised information storage system called TRIM.
- (b) When undertaking a risk assessment, a PCBU may increase what they ought to reasonably know about the risk of hearing loss in their workplace and must act to manage any noise exposure risks they have identified. SafeWork NSW responds to requests for service or incidents if raised. PCBUs should regularly review and act on risk assessments as part of their safety management system as they are required to do for other hazards in the workplace. Inspectors may ask about their review procedures onsite as part of an inspection; however, it would be rare for inspectors to retain this information unless part of an investigation.
- (c) The role of the Regulator is to monitor compliance with the Act and the Regulation. As noise risk assessments are not required under legislation, they are not monitored or collected unless a PCBU has voluntarily completed one and the review or taking of the document is relevant to an investigation or inspection so as to ensure compliance with privacy legislation.

12. From Q3 of Answers to Supplementary Budget Estimates questions, it was stated “SafeWork does not keep a register of businesses that use audiometric testing as part of their risk management procedures for managing the risk of hearing loss from noise.” Why does SafeWork not keep a record of this information?

- (a) How does SafeWork ensure that businesses using the exemption are not imposing any breach of WHS on their workers?
- (b) Are onsite inspections for audiometric WHS risks at workplaces that use the exemption conducted by SafeWork NSW?

ANSWER

12. SafeWork Inspectors only collect data or evidence where there is a legitimate need to do so for the purposes of their investigation.

- (a) SafeWork NSW utilises a range of education and compliance processes to monitor if businesses are managing the risks associated with noise, including responding to reports of uncontrolled noise at workplaces, proactive field inspections and awareness raising. In addition to this, SafeWork NSW also provides information on managing risks associated with noise on its website and has delivered a series of “Ask An Inspector about Noise” webinars promoted via social media channels.
- (b) No. SafeWork NSW responds to Requests for Service and incidents regarding noise. Responses may include onsite inspections. These workplaces may or may not be undertaking audiometric testing. SafeWork also undertakes proactive compliance programs in respect of noise.

13. From the Budget Estimates Hearing, it was stated that a “cost benefit analysis as well, as required by clause 58” regarding testing exemptions. In the Answers to Supplementary Budget Estimates questions, it was stated that “there has been no formal cost-benefit analysis. However, SafeWork

NSW will undertake public consultation as to the costs and benefits to determine whether the provision should be repealed or remain.” When will the cost benefit analysis occur?

- (a) Why has a cost benefit analysis of testing exemptions not taken place since the introduction of testing exemptions by SafeWork?
 - i. Why has it not taken place despite being required as stated at the Budget Estimates hearing?
- (b) How does SafeWork know the benefits of testing exemptions for businesses when a formal cost benefit has not been done?
- (c) To what extent will the public be consulted regarding the cost benefits?
 - i. Who will be consulted?
 - ii. When will consultation take place?

ANSWER

13. The NSW Government invited public comment on the costs and benefits of audiometric testing through a public consultation process which concluded on 7 November 2022. Following public consultation, feedback and comments received are being reviewed (as at 15 November 2022).
- (a) In granting an exemption, SafeWork NSW is required to have regard to the matters listed in clause 685 of the Work Health and Safety Regulation 2017 (the regulation). These matters do not include a formal cost-benefit analysis. In 2016, Safe Work Australia (SWA) published a national report and Decision RIS on reducing regulatory burden in the model work health and safety regulations. This report included costs and benefits regarding clause 58 of the regulation– audiometric testing.
 - (i) Refer to the answer to Question 13(a).
 - (b) In granting an exemption, SafeWork NSW is required to consider whether there is an equivalent level of safety in the workplace to the standard achieved by compliance with the relevant provision. Compliance with other requirements to manage the risks of noise has been considered to provide this equivalent level.
 - (c) Consultation on the audiometric testing provisions has been conducted publicly via the Have Your Say website.
 - (i) Key stakeholders were notified of the public consultation including unions, industry, and experts.
 - (ii) The consultation opened on 10 October 2022 and closed on 7 November 2022.
14. From Q37 of Answers to Supplementary Budget Estimates, as of 23 September 2022, 60 onsite manufactured stone site inspections were completed. How many desktop inspections of manufactured stone sites have been completed this year?
- (a) How many notifiable incidents were received in 2022 for a manufactured stone site but did not result in an onsite inspection?
 - (b) How many Requests for Service were received in 2022 for a manufactured stone site but did not result in an onsite inspection?

<p>(c) How many Notifiable Incidents received in 2022 for a manufactured stone site but did not result in neither an onsite inspection nor a desktop inspection?</p> <p>(d) How many Requests for Service received in 2022 for a manufactured stone site but did not result in neither an onsite inspection nor a desktop inspection?</p>
<p>ANSWER</p> <p>14. 41. The vast majority of these relate to the notification workers diagnosed with occupational disease silicosis. The occupational disease notifications will often receive a desktop review, and are also likely to have already received an onsite inspection via the proactive engineered stone visit program, of which SafeWork NSW has completed two rounds to engineered stone PCBUs.</p> <p>(a) 54. The vast majority of these relate to the notification of workers diagnosed with occupational disease silicosis. The occupational disease notifications will often receive a desktop review, and are also likely to have already received an onsite inspection via the proactive engineered stone visit program, of which SafeWork NSW has completed two rounds to engineered stone PCBUs.</p> <p>(b) 5.</p> <p>(c) 13. Note these are currently with inspectors to action and take next steps – onsite inspection or desktop review are not assigned.</p> <p>(d) 4. These matters were triaged for an educational letter response from SafeWork NSW with the PCBU advising of the concern, recommended actions, and next steps.</p>
<p>15. From Q43 of Answers to Supplementary Budget Estimates, it was stated “Between Jan 2020 and 19 Sep 2022, there were 53 Requests for Service for dry cutting of engineered stone. 42 of these resulted in workplace visits by an inspector.” Did the remaining 11 requests receive a desktop inspection?</p> <p>(a) Why were these requests not physically visited/inspected?</p> <p>(b) Were there any Requests for Service that did not result in any type of inspection?</p>
<p>ANSWER</p> <p>15. No.</p> <p>(a) No onsite inspections were conducted for the eleven Requests for Service as:</p> <ul style="list-style-type: none"> • An inspector had already visited the site on another issue and had taken compliance action on an observed dry cutting issue; and/or • It was a duplicate Request for Service; and/or • Incorrect workplace address/contact details were provided; and/or • There were insufficient details about the PCBU and location of workplace. <p>(b) Yes. Refer to the answer to Question 15(a).</p>
<p>16. From Q45 of Answers to Supplementary Budget Estimates, it was stated “208 requests for service regarding silica received by SafeWork in the last two years and 153 were followed up by an inspector visit.” How many resulted in a desktop inspection?</p> <p>(a) How many of these did not end up in an inspection desktop or otherwise?</p> <p>(b) Why did 55 requests for service not result in an onsite visit?</p>

i. What was the recommendation by those who reported/ made the RFS for these instances?

ANSWER

16. Nil.

(a) 55.

(b) Those RFS that did not result in an on-site visit were triaged in accordance with National Triage Decision Making model, the SafeWork NSW Categorisation matrix, and the NSW High Profile Events matrix, with some triaged for an alternative response. Reasons for not undertaking an on-site visit can include duplicate RFS, matter outside of SafeWork NSW's jurisdiction, incorrect or incomplete information, or reported location is no longer a workplace.

(i) From the 55 RFS, 8 instances of feedback were received from the person who had made the RFS. Feedback included requests for further attention or action from SafeWork NSW.

17. From Q49b of Answers to Supplementary Budget Estimates, it was found that regarding foundry sites, no inspections were conducted in 2022 and 2021, and only 10 were conducted in 2020.

How many requests for service at foundry sites were made in 2020, 2021, and 2022?

(a) How many notifiable incidents were made for foundry sites in 2020, 2021, and 2022?

(b) How many RFS' resulted from a desktop inspection from 2020-2022?

(c) How many RFS' resulted in no inspection from 2020-22?

18. From Q49c of Answers to Supplementary Budget Estimates, it was found that regarding onsite inspections of tunnelling sites, none were conducted in 2022. How many requests for service at tunnelling sites has SafeWork received thus far in 2022?

(a) How many desktop inspections have there been of tunnelling sites in 2022?

ANSWER

17. For the period 2020 to 2022 (as at 7 November 2022), one RFS was received for a foundry site.

(a) For the period of 2020 to 2022 (as at 7 November 2022) three notifiable incidents were received for foundry sites.

(b) Nil.

(c) Nil. The RFS resulted in a workplace inspection.

18. Question 49c of the Answers to Supplementary Budget Estimates referred to onsite inspections which focused specifically on silica and dust. On further review, SafeWork's response to this question was inaccurate. There were 4 RFS related to silica at tunnelling sites as at 23 September 2022.

As at 7 November 2022, seventeen RFS have been received for all tunnelling construction sites. An onsite visit has been conducted for all seventeen RFS received.

(a) Nil. Desktop inspections are not undertaken for tunnelling construction sites.

Case Studies- Snowy 1 water tank

19. Regarding the 2020 incident when a water tank (The Snowy 1) exploded and flooded homes with mud and asbestos, this incident was categorised as a Category 2 response, however SafeWork management stated 2 weeks after that no further investigation was required. What was the basis for this decision?
- (a) Was there an investigation as to why this decision was made by SafeWork?
 - (b) What reports have been conducted on this case?
 - (c) When did the IDMP investigate the event?
 - (d) What was the timeframe?
 - i. Why did it take this long to investigate the event?
 - (e) Were there any RFS to the site prior to the event?
 - i. What was the result to the RFS' by SafeWork?
 - (f) Did members of the general public voice their concerns to SafeWork about the possibility of danger at the site?
 - i. How many complaints did SafeWork receive?
 - ii. When were these received?
 - iii. How were these acted upon?

ANSWER

19. The determination not to progress the matter to further investigation with a view to prosecution by the SafeWork NSW Inspector was guided by the following factors:
- Public interest: NSW was under a Declared State of Emergency from a catastrophic fire event. The decision of the duty holder to fill the tank was made solely on the basis of preventing harm to the community.
 - Culpability: The state of the tank was known to the duty holder. A council engineer was overseeing staged load testing to manage the risk, indicating low culpability.
 - Recidivism: There was no existing, and a low likelihood of future recidivism. Deterrence action was not required to secure future compliant behaviour. Ongoing risk to the community had been managed.
 - Actual Harm: No person was identified as being injured in the event.
 - Recommendation of the Inspector: An inspector attended site, reviewed the incident, obtained confirmation of the status of the tank and the circumstances surrounding the incident. The inspector reviewed the make safe activities undertaken by a licensed contractor post incident. The Inspector recommended no further action in the circumstances.
- (a) No.

<p>(b) One RFS Inspector’s Report, two Incident Inspectors Reports and one Investigations Decision Making Panel (IDMP) Submission.</p> <p>(c) The IDMP do not investigate incidents. The IDMP reviewed a submission on the RFS/Incident on 11 August 2021.</p> <p>(d)</p> <ul style="list-style-type: none"> • January 2020: Incident occurred. SafeWork first response conducted, and matter closed. • July 2021: RFS lodged with SafeWork NSW by community member raising further concerns • August 2021: SafeWork conducted further enquiries and prepared the IDMP submission • August 2021: IDMP reviewed submission and matter closed. <p>(i) The first response investigation was completed in 9 days. Additional investigation (and subsequent IDMP submission) was completed within 35 days of receipt of request for service in July 2021.</p> <p>(e) No.</p> <p>(i) Refer to the answer to Question 19 (e).</p> <p>(f) No concerns were raised with SafeWork NSW prior to the event occurring.</p> <p>(i)-(iii) Refer to the answer to Question 19(f).</p>
<p>20. Regarding the 2022 barge services fatality when a man passed after a crane lost its load and he was crushed. Over a month prior there had been no inspections conducted by SafeWork. How many RFS’ did SafeWork receive regarding the site from 2020-22?</p> <p>(a) How many Notifiable Incidents did SafeWork receive regarding the site from 2020-22?</p> <ul style="list-style-type: none"> i. How many of these RFS’ and Notifiable incidents resulted in a desktop inspection by SafeWork? ii. How many resulted in an onsite inspection by SafeWork?
<p>ANSWER</p> <p>20. Three.</p> <p>(a) One.</p> <p>(i) Nil.</p> <p>(ii) Three.</p>
<p>21. Given there was an inspector on the Aussie Skips site when the tragic fatality occurred, did the inspector close down the facility before the death occurred?</p>
<p>ANSWER</p> <p>21. No. SafeWork NSW did not shutdown the site. The SafeWork Inspector was waiting in the site office for the PCBU representative when the fatality occurred.</p>
<p>Risk based framework</p>

<p>22. According to page 2 of the transcript where Ms McCool states ‘if you look at any of our employment schedules, the majority of it will be proactive where it’s unannounced’, is this referring to inspection schedules of PCBU’s?</p> <p>(a) Does this mean that most inspections are unannounced?</p> <p>23. When Ms McCool states on page 2 of the transcript that ‘the majority of our work is in the proactive space’ does this refer to educational functions of SafeWork?</p>
<p>ANSWER</p> <p>22. Ms McCool stated and was referring to “deployment schedules” not employment schedules on page 2 of the Transcript from the Budget Estimates Hearing. This transcript correction will be provided separately to the Committee.</p> <p>(a) Yes. In 2021/22 63% of intervention and education activities were proactive.</p> <p>23. Refer to the answer to Question 22. Proactive includes workplace interventions and education activities.</p>
<p>Cassaniti case</p> <p>24. Why were no details about notices given as a result of Safework’s inspection of the Lachlan’s Line site on 6 December 2017 given to the committee, when SafeWork NSW was asked in Budget Estimates about its response to the Landcom request for service that occurred on 1 December where Landcom stated ‘Landcom is greatly concerned that a major incident, or worse a fatality may occur from Greenland’s poor management practices’ and then again on 8 December 2017?</p> <p>(a) Please give details of what notices were given as a result of this inspection of the site by SafeWork.</p>
<p>ANSWER</p> <p>24. This question was taken on notice as the information was not available at that time at the 7 September 2022 Budget Estimates hearing.</p> <p>(a) As a result of the inspector visit on 6 December 2017, three Improvement Notices were issued:</p> <ul style="list-style-type: none"> • Falls from Heights due to incomplete barriers at the Halifax St end of the excavation. • Slips, Trips and Falls due to inadequate flooring on the pathway at the Halifax St end of site. Partially obstructed with water filled barriers, star spikes, timber beam and uneven ground. • Slips, Trips and Falls due to inadequate flooring at the Halifax St End of the site, where a pier hole cover was not secured to the ground.
<p>25. What did SafeWork do with the information that included photos from 2 safety inspections undertaken by Landcom personnel sent to them on 8 December 2017?</p> <p>(a) Were any notices given with regard to the matters highlighted in these emails, including concerns around falls from heights?</p> <p style="padding-left: 40px;">i. If so, what were they for?</p> <p>(b) Did SafeWork consider the email from 8 December 2017 as a second request for service, following the request for service on 1 December?</p>

- (c) Did the Minister responsible for SafeWork NSW at the time respond to the Landcom letter of 22 November which noted the ‘severe nature of these issues and poor response from Greenland’ as well as requests for the company to ‘install appropriate fall protection’?
- i. If so, when did the Minister respond to the Landcom letter?
 - ii. What undertakings did the Minister make in this letter?
26. On the 2nd of February 2018 the Development Director at Landcom emailed SafeWork NSW stating they ‘understood SafeWork had been on the site recently’, was this the case?
27. In the answer found in question 10 of further supplementary questions regarding what notifications or requests for service were there in the year before the tragic death of Christopher Cassaniti, the answer starts in July 2018. Does this mean there were no requests for service or notifiable incidents between April 2018 and July 2019?
28. Given the fact that the reference number starting with a number 2 referred to on page 4 of the transcript from the WSMS reporting system refers to a notifiable incident, why were no incidents with the number 1 - a request for service - included in the table around events prior to the tragic death of Christopher Cassaniti on 2 April 2019?

ANSWER

25. On 1 December 2017, Landcom raised concerns with SafeWork NSW about the Greenland Developments. The matter was allocated to an Inspector on 5 December 2017, with the Inspector attending the site on 6 December 2017. Three improvement notices were issued on 7 December 2017. Other allegations were unable to be substantiated or were outside SafeWork NSW jurisdiction. The improvement notices were complied with. The Inspector followed up with Landcom on 13 December 2017. No new issues were raised by Landcom with SafeWork NSW.
- Landcom was advised to lodge any further concerns through Safework NSW reporting channels
- (a) Refer to the answer to Question 24 (a).
 - (i) Refer to the answer to Question 24 (a).
 - (b) No.
 - (c) A search of SafeWork NSW records did not identify a letter from Landcom dated 22 November 2017.
 - (i). Refer to answer to question 25(c).
 - (ii). Refer to answer to question 25(c).
26. A SafeWork NSW Inspector attended the site at Macquarie Park on the 14 December 2017.
27. A summary of the Request for Service and Notifiable Incidents are provided in response to question 2 above. A search of SafeWork NSW records reflects there were no relevant RFS or notifiable incidents between 1 April 2018 and 29 July 2018 inclusive.
28. We refer to our answer to question 2 above. An RFS for received on 3 May 2018 and was not identified as part of the original search of SafeWork NSW records.
29. Why does Ms McCool refer to the reference number starting with a number 2 referred to on page 6 of further supplementary questions, as a Category 2 incident?
- (a) If Ms McCool believes that number refers to categorisation not type of notification, why was Christophers death on 1 April not then categorised as a Category 1 in the table?

30. Why is notifiable incident 2-1422433, which occurred on 20 December 2022, not included in the table on page 6 of answers to further supplementary questions?
31. Given that in November 2018 two falls from heights – (a loading platform falls 5 levels and on 22 January 2019 a bricklayer falls from an unsecured scaffold) - how is it that Ms McCool can contend that these indications of seriously unsafe workplace practices at the Lachlan’s line site are irrelevant to the tragic death of Christopher Cassaniti when his scaffold collapses?
32. Given the serious nature of the notifications in the year before Christopher Cassaniti tragic death, is the regulator satisfied that they were dealt with in an appropriate manner, for example issuing section 171 notices following a loading platform falling five levels on 20 November 2018?
33. Were there any HSR’s on the site in the 2 years before the tragic death of Christopher Cassaniti?
 - (a) If so, were they involved in ‘a walkaround’ as noted by Ms McCool on page 5 of the transcript?
34. Please provide all requests for the service, and SafeWork responses to those requests at the Lachlan’s’ Line site from 2017 to 2020.

ANSWER

29. The response provided in the hearing was incorrect. Triage categories were referred to instead of reference numbers. Incidents are classified with a 2 prefix-to the WSMS number, while RFS are classified with a 1 prefix to the WSMS number.
 - (a) Refer to the answer to Question 29.
30. We refer to the answer to question 2 above.
31. Ms McCool’s evidence is on the record.
32. The notifications were managed in accordance the National Triage Decision Making model, the SafeWork NSW Categorisation matrix, and the NSW High Profile Events matrix. In the timeframe available to respond, SafeWork NSW has been unable to conduct a review of the incident responses to form a view on the appropriateness or otherwise of the Inspector response.
33. SafeWork engaged with Health and Safety Representatives (HSRs) on the relevant site at various times throughout the two year period prior to the incident.
 - (a) We do not have records on whether a HSR attended site walkarounds. However, generally, if a HSR is available during a SafeWork NSW inspection they would generally be included on a walkaround.
34. All requests for service and Safework responses at the Lachlan’s Line site between 2017 and 2020:

Date received	PCBU	Subject of RFS	How did SafeWork respond?
4/12/2017	Sydney Excavation Group Pty Ltd	Safety complaint - Multiple safety issues at site managed by Greenland Australia	Inspector Response- site visit. No Further Action 3 Improvement Notices issued to Sydney Excavation for: 2 for housekeeping/site layout 1 for slips, trips and falls risk

6/12/2017	Greenland Developments	Refer to answer to question 3 (a and c).	Refer to answer to question 3 (c) and question 24.
3/05/2018	GN Residential Pty Ltd	Crane with load over the traffic, no designated dropping zone	Inspector Response - site visit. No further action.
6/05/2019	GN Residential Construction Pty Ltd	Mould odours and stains in the utility shed	Inspector Response - site visit. No Further Action.
8/05/2019	GN Residential Construction Pty Ltd	Falls and Scaffolding (Post incident compliance check)	Inspector Response - site visit. Multiple Notices issued to Ganellen (prohibition and S.171)
5/01/2020	Ganellen Pty Ltd	Temporary fencing fell onto footpath leaving site exposed	Inspector Response - site visit. Fencing complied - no further action.

Note: GN Residential commenced on the project (handed over from Greenland Developments) on 15 December 2017.

Cooma watertank explosion

35. In relation to the Cooma incident, why was the WSMS RFS Report 1-409990 filed in by a manager at SafeWork rather than an inspector?
- (a) For WSMS RFS Report 1-409990 'Other Agencies' section, what are the two agencies listed in the report?
- (b) Why is it that for WSMS Incident Notification Report 2-153021 which was deemed a Category 2 incident 'due to media interest and impacted public', it is closed off with 'no further investigation needed by 14/1/20'?
36. Given most submissions for an IDMP (Investigation Decision Making Panel) are completed 30 days after a serious incident, when was the report to the IDMP completed for the Cooma incident?
- (a) Did the inspector who completed the IDMP on the Cooma incident recommend further investigation?
- (b) Did the inspector who completed the IDMP on the Cooma incident recommend prosecution?
37. Given SafeWork was sent the most recent Public Works report on the tank by concerned residents. which noted that filling the tank would result in catastrophic danger to person and property, was this document discussed at the IDMP meeting on 11 August 2021?
- (a) Please confirm when SafeWork first received the report from concerned residents.
38. How is it that Ms McCool indicated that SafeWork had "no information to indicate it was false information" on page 7 of the transcript when SafeWork was sent the latest Public Work report showing that the initial information given to SafeWork was deliberately misleading?

39. Why is it that Ms Mann states to Mr Banasiak that if he does 'have further information about council somehow misleading SafeWork NSW I'd be keen to obtain the information', when SafeWork has already been alerted to the fact that misleading information was given to the regulator?
40. Did the Minister for Regional New South Wales, who was at the time responsible for Emergency Committees responses during bushfires, contact SafeWork about the Cooma incident in any capacity?
- (a) If so, on what date did this occur?
41. When Mr Press referred to the issue being 'statute barred' on page 8 of the Supplementary hearing transcript, is he referring to the ability to prosecute or further investigate the case?
42. Given the statute of limitations refers to prosecutions – not to investigations. Why then given the serious nature of these allegations, is the Minister not investigating this issue further?

ANSWER

35. The regional manager saw the incident through news media and took action to have the matter notified. It was later notified by the PCBU.
- (a) NSW Police and NSW Ambulance.
- (b) Refer to the answer to Question 19.
36. The IDMP Submission was completed on 9 August 2021 and reviewed by the IDMP on 11 August 2021.
- (a) Yes.
- (b) No.
37. The existence and findings of the 2018 report were noted and discussed at the IDMP meeting on 11 August 2021.
- (a) SafeWork NSW was first informed of the 2018 report by a concerned resident in July 2021 however was not provided with a copy of the report by the resident.
38. SafeWork NSW currently has no evidence to support the concern raised that council provided false and misleading information.
39. Refer to answer to question 38.
40. No.
- (a) Refer to the answer to Question 40.
41. Mr Press was referring to the ability to prosecute the incident, that is, to bring a proceeding for an offence pursuant to Section 232 of the *Work Health and Safety Act*.
42. SafeWork NSW continued to work with the PCBU, relevant to ongoing worker/community risk, to ensure adequate remediation of the site and to ensure similar assets were adequately managed.

Qualifications of Investigation Decision-Making Panel Members

43. Please provide information about the qualifications of the 7 directors or any other personnel sitting on the IDMP in the last two years.

<p>44. When were IDMP matters changed from being reviewed by Team Managers to Directors?</p> <p>45. Ms Mann stated on page 14 of the transcript that the two directors ‘sitting with us today’ are eminently qualified, what are their qualifications?</p> <p>(a) Have they undertaken the Advanced Diploma of Government Inspection course that SafeWork inspectors are required to undertake before embarking on inspections under WHS legislation?</p> <p>(b) How many Assistant State Inspectors have this diploma?</p>
<p>ANSWER</p> <p>43. The ‘qualifications’ of each Director vary. It is not a requirement for any Director to have specific qualifications. Decisions made by the IDMP are focused on ensuring best practice regulatory decisions and outcomes.</p> <p>44. The structure of SafeWork NSW changed in 2016. Team Manager roles were replaced with Director roles. It was determined that the new Director roles would sit on the IDMP moving forward.</p> <p>45. The ‘qualifications’ of each Director vary.</p> <p>(a) Directors are not appointed under the Crown Employees (Department of Customer Service – SafeWork NSW Inspectors 2007) Award and are not required to hold an Instrument of Appointment and Authorisation, although some of them have been through the SafeWork Inspector training and have been SafeWork Inspectors themselves.</p> <p>(b) There are 11 Assistant State Inspectors (ASIs) who hold the Advanced Diploma of Government (WI) issued by the SafeWork NSW's Registered Training Organisation (RTO). SafeWork NSW does not have data on inspectors who may have attained the Advanced Diploma through another RTO.</p>
<p>IDMP matters</p> <p>46. Please provide information about how many referrals have been considered by the IDMP for the last 5 years?</p> <p>(a) For each year, please provide a breakdown of how many matters that the inspector briefs or reports had recommended for further investigation or further prosecution?</p> <p>i. How many of these were further investigated or prosecuted?</p> <p>ii. How many of these matters were closed?</p>
<p>ANSWER</p> <p>46. Refer to the response to Questions taken on Notice from 28 October 2022 hearing.</p> <p>(a) Refer to the response to Question 46.</p> <p>(i) Refer to the response to Question 46.</p> <p>(ii) Refer to the response to Question 46.</p>
<p>McDougall Review</p> <p>47. Given that on page 15 of the supplementary hearing transcript Ms Mann states that ‘ultimately it will be something that Mr McDougall and I will look at’, is this appropriate for the regulator under review to be closely involved in writing the terms of reference?</p> <p>48. Why are the terms of reference not the ones Mr McDougall recommended in Recommendation 49?</p>

ANSWER

47. The Terms of Reference were revised, settled and finalised by the Hon. Robert McDougall SC and Minister Dominello. The Terms of Reference have been finalised and are published at www.nsw.gov.au/customerservice/publications-and-reports.
48. Recommendation 49 in the [icare and State Insurance and Care Governance Act 2015 Independent Review report](#) contained no proposed terms of reference. Rather, it stated: *'the Responsible Minister for SafeWork NSW should conduct, or commission, a public review of SafeWork's performance of its regulatory and educational functions under the Work Health and Safety Act 2011.'*

NUMBER OF INSPECTORS

49. Of the current 370 inspector roles in SafeWork, how many of these are Manager roles?
- (a) Given question 23 in supplementary questions showed that 79 of the 89 inspector roles in Building and Construction were unfilled, how many are currently unfilled as of 1 November 2022?
50. How many of the current inspectors need to be accompanied by another inspector when visiting PCBU's?
51. How many active inspectors are there who are not Managers, or not on probation, or have to be accompanied by other inspectors?
52. How many current inspectors have 'partial authority' referred to on page 17 of the supplementary hearing transcript?
53. How many new inspectors were recruited in 2022, 2021 and 2020?
- (a) How many inspectors recruited since 2021 have had their authorities fast tracked prior to completion of their training?
54. In terms of people with inspector authority under the WHS Act, how many Directors have resigned since March 2021?
- (a) In terms of people with inspector authority under the WHS Act, how many Managers have resigned since March 2021?
- (b) In terms of people with inspector authority under the WHS Act, how many Inspectors have resigned since March 2021?

ANSWER

49. As at 31 October 2022, there are 33 manager roles in SafeWork NSW.
- (a) As at 31 October 2022, there are 15 unfilled roles in the SafeWork Construction Services Group.
50. As at 31 October 2022, there are 26 inspectors and one manager who have not received their authority and need to be accompanied by another inspector when visiting PCBUs.
51. 278 (As at 31 October 2022).
52. A 'partial authority' does not exist, however SafeWork has a 'fast tracked' authority process where an inspector is eligible to receive their authority upon completion of identified modules in the training program.

53. A total of 93 new inspectors were recruited between 1 January 2020 and 16 August 2022 (19 in 2020, 20 in 2021 and 54 to 16 August 2022, when the last inspector commenced).

- (a) In 2021, nil inspectors had their authorities fast tracked prior to completing their training. In 2022, 38 inspectors have had their authorities fast tracked. There are a further 17 inspectors that are due to receive their fast-tracked authorities.

54. Since March 2021, no Directors have resigned.

- (a) Since March 2021, one manager has resigned. This figure does not include anyone who transferred to another role in the Department of Customer Service.
- (b) Since March 2021, 17 inspectors have resigned. This figure does not include anyone who transferred to another role within the Department of Customer Service.

Mining Regulator Investigations

55. How many matters have been referred to the Resource Regulator from SafeWork NSW in the last 10 years? Please provide a breakdown by year and by type of matter.

- (a) How many of the matters that were submitted to SafeWork to be investigated were actually followed through with an investigation by the Resource Regulator? Please provide a breakdown by year.
- (b) How many of matters which have been submitted to SafeWork to be referred to the Resources Regulator have been in relation to bullying in SafeWork NSW?

ANSWER

55. In the last 10 years, SafeWork NSW has referred 18 matters for investigation to the Resources Regulator.

- 2015: three bullying referrals.
- 2016: three bullying referrals and two requests for service.
- 2017: three requests for service and two notifiable incidents.
- 2018: nil.
- 2019: one request for service, one bullying referral and one notifiable incident.
- 2020: one provisional improvement notice and one bullying referral.
- 2021: nil.
- 2022: nil.

(a) All referral requests are considered by the Resource Regulator.

(b) Refer to answer to question 55.

External investigations into bullying

56. How much money has been spent on external reports into bullying or workplace culture from 2019-22?

57. Have any investigations been conducted into bullying allegations against SafeWork executives from 2019-22?

58. Have any investigations been conducted into bullying allegations against SafeWork directors from 2019-22?

ANSWER

56. 2019 – Budget is allocated into the central DCS budget People and Culture unit to deal with bullying complaints. Figures are not available at the Safework level
 2020 - Budget is allocated into the central DCS budget People and Culture unit to deal with bullying complaints. Figures are not available at the Safework level
 2021 - Budget is allocated into the central DCS budget People and Culture unit to deal with bullying complaints. Figures are not available at the Safework level
 2022 (to 8 November 2022) – \$10,767.27
57. We advise that Executives include Directors also included in response to question 58.
 2019 – Nil
 2020 – Nil
 2021 – 2
 2022 (to 8 November 2022) – Nil
58. 2019 – Nil
 2020 – Nil
 2021 – 2
 2022 (to 8 November 2022) – Nil

SafeWork lost in Department of Customer Services

59. Given Jim Kelly stated at the recent 2022 Review of Workers Compensation Scheme that ‘SafeWork as an agency doesn’t exist anymore’ should there be concerns that SafeWork has lost its status as a separate entity, and this is impacting on its effectiveness?
- (a) Why has SafeWork ceased to be its own agency?
 (b) How has this affected workplace matters for workers at SafeWork including issues of workplace culture?

ANSWER

59. SafeWork NSW is an entity provided for at [Schedule 2](#) of the *Work Health and Safety Act 2011*. SafeWork NSW staff, budget and functions sit within the Better Regulation Division (BRD) in the Department of Customer Service. While some officers within BRD work across BRD regulators, at the director level the inspectors are clearly defined in their particular roles.

A functional realignment of the Better Regulation Division commenced in June 2019 and was finalised in April 2020. At a high level, the purpose of the realignment was to bring together regulators creating a centre of regulatory best practice, enabling the sharing of knowledge and data across the regulators to wholistically look at entities from multiple perspectives rather than in siloed specialisation. This, by way of example, has enabled Fair Trading and SafeWork inspectors to go to construction sites together to consider the worksite and entity as a whole.

We have also seen steady improvements to the PMES results in the years since SafeWork NSW formed part of BRD – for example employee engagement has improved from:

- 2017 – 63%
- 2018 – 63%

- 2019 – 65%
- 2020 – 67%
- 2021 – 70%
- 2022 – 71%

We acknowledge that there is still work to improve our employee engagement but the PMES results show a steady improvement with the transition to BRD.

- (a) Refer to the answer to Question 59.
- (b) Refer to the answer to Question 59.

Friable asbestos matter

60. With respect to the friable asbestos matter referred to in the Sydney Morning Herald article by Adele Ferguson on 14 October 2022, please provide information about how SafeWork responded with the Ombudsman's request that SafeWork follow up on a 'directed engagement' with the PCBU?
61. Did SafeWork follow up on the Ombudsman's letter to SafeWork in 2020 requesting SafeWork change their IDMP Terms of Reference to state that there was an expectation that operational areas should consult with the Panel if any of their recommendations were not fully implemented?
- (a) If so, when were the terms of reference for the panel updated?
- (b) Was this change sent to the Ombudsman and communicated to staff?
- i. If so then did this occur?

ANSWER

60. SafeWork NSW acknowledged and accepted the recommendation by the NSW Ombudsman for further regulatory action by SafeWork NSW. SafeWork NSW committed to monitoring the work health and safety performance of Byrne Demolition Pty Ltd. Specifically, SafeWork NSW committed to the following targeted monitoring program to be undertaken by its Asbestos and Demolition Services Team for the six-month period from 1 July to 31 December 2020:
- desktop assessment of all Byrne Demolition Pty Ltd asbestos removal notifications, including verification of health monitoring for all workers and clearance certificates;
 - conducting two compliance inspections with inspectors based at our Dubbo office;
 - liaison with the NSW Environment Protection Authority (EPA) regarding the safe disposal of asbestos at waste facilities, following the notifications; and
 - partnering with Local Government NSW to present an information session for Councils during November 2020 in either Dubbo or Orange.
- Since 2018, there has been 520 asbestos work notifications from Byrne Demolition. Three RFS with two requiring visits with no notices issued; and eight proactive reviews (onsite and desktop) with no notices issued.
61. Yes. The change related to the requirement to action recommendations made by the IDMP and to report back if alternative actions are implemented.

- (a) SafeWork NSW amended the IDMP's terms of reference, and the changes were recorded in its minutes of 10 June 2020.
- (b) A letter dated 25 June 2020 was sent from the Secretary Department of Customer Service to the NSW Ombudsman confirming the amendment to the IDMP terms of reference.
 - (i) Refer to answer to question 61(b).